

Letter of 23 December 2022 to the House of Representatives from the Minister of Defence, the Minister of Foreign Affairs and the Minister for Foreign Trade and Development Cooperation, presenting the government's response to AIV advisory letter no. 37, 'The War in Ukraine: a Geopolitical "Time Shock"'

Below is the government's response to the advisory letter 'The War in Ukraine: a Geopolitical "Time Shock"' by the Advisory Council on International Affairs (AIV). The AIV drafted and published the letter (on 20 October 2022) at the request of the House of Representatives.

The government appreciates the AIV's broad perspective on the war in Ukraine and shares its opinion that the conflict started by Russia has far-reaching repercussions. Russian aggression poses a direct threat to security in Europe. Russia perceives this war as a conflict with the West. The impact of the war can also be felt beyond Europe, as illustrated by the severe impact it has had on global food supplies. As the AIV notes, the Russian invasion is a grave violation of international law, specifically the prohibition on the use of force enshrined in Article 2, paragraph 4 of the UN Charter. There is no justification whatsoever for the violence being committed by Russia.

The government shares the AIV's view that, on the basis of Article 51 of the Charter, Ukraine has the right to defend itself against this armed attack. It is a vital security interest for the Netherlands to continue providing political and military support that enables Ukraine to defend itself. Ongoing military, economic and humanitarian assistance to Ukraine is needed. This has become all the more clear now it has emerged that Russia is intentionally targeting power plants and other utilities in Ukrainian cities with missile attacks. With Russia having to abandon previously conquered territory and with winter setting in, this is a deliberate attempt to increase the pressure on Ukraine by other means, namely by making civilians' lives even more difficult.

Below the government will address the AIV's recommendations in detail.

Degree of support for protecting the international legal order

Russia's military aggression, which has already claimed many innocent lives in Ukraine and driven millions of civilians from their homes, is unacceptable and calls for a firm, clear response from the entire international community. In line with the AIV's recommendations in section 2.1, the government has been clear from the start that protecting the international legal order is of great value and comes at a high cost. After all, this legal order forms not only the basis of our freedom, security and stability; it is also the primary prerequisite for peace and prosperity. The government also endorses the AIV's observation that this war and its repercussions will have a negative effect on security across the continent in the years ahead. Defending Dutch interests in a geopolitical context marked by war in Europe requires not only additional efforts to boost the Netherlands' security and resilience, but also solidarity and a willingness to offset the negative effects of the war. In light of the far-reaching consequences of the war, including for the Netherlands itself, the government will continue to press for ongoing support for Ukraine, both nationally and internationally, together with measures that will reduce Russia's ability, in military, political and economic terms, to continue waging war.

When it comes to preparing for a possible escalation (section 2.2), the government can confirm that it is monitoring the situation in Ukraine closely and that it regularly discusses (on a confidential basis) escalation scenarios and options for de-escalation. These scenarios are subject to continual change due to the dynamics of the war and the broader geopolitical context. NATO is taking account of all scenarios, and has strengthened its deterrence and defence posture, particularly on the eastern flank of the Alliance. At the moment there is no prospect of negotiations between Ukraine and Russia. The government remains of the opinion that the Ukraine must take the lead in any negotiations. The initiative put forward by Ukrainian President Volodymyr Zelenskyy for a 10-point peace plan deserves our support. It is up to Ukraine to decide when and under what conditions peace talks might be held.

Military, economic and humanitarian support

Together with our international partners, the Netherlands remains as committed as ever to providing military support to Ukraine. We take our cue in this regard from Ukraine's own needs. On 16 December 2022 the Minister of Defence informed the House that the Netherlands had thus far provided approximately €1 billion in military support. The effect of the support provided to date on the readiness of the Dutch armed forces has been deemed acceptable by the Ministry of Defence, given the current circumstances. The government will consider any future requests in the light of the impact on the Netherlands' military readiness. It also realises that additional deliveries from operational and non-operational stocks could have implications for the Netherlands' own readiness and deployment capabilities. These deliveries could also, to a certain extent, impact the speed with which we are able to achieve the planned increase in equipment stocks. With this in mind the Ministry of Defence is formulating a long-term plan for military support for Ukraine while seeking to minimise the impact on our own national military capabilities. In that connection the government is actively seeking closer cooperation with its partners and allies, and with the defence industry. Together with the US and the Czech Republic, for example, we have purchased T72 tanks, which are being supplied to Ukraine. In order to expedite the procurement of arms for Ukraine from the defence industry, an International Fund for Ukraine has been set up, to which the Netherlands is contributing a total of €100 million. The Netherlands will be partially compensated for lethal and non-lethal assistance for Ukraine via the European Peace Facility (EPF). The Netherlands is also contributing to international, joint training courses for the Ukrainian armed forces, for example through Operation Interflex (UK) and the EUMAM mission. In addition, the Netherlands is contributing €25 million to NATO's Comprehensive Assistance Package for Ukraine (NATO CAP), to which the Netherlands is the largest donor. The European Defence Fund (EDF) is not suited for purchasing military equipment: its focus is on research and development. The European Defence Industry Reinforcement through common Procurement Act (EDIRPA), which should be established next year, is intended for this purpose, however.

The government is currently developing a medium-term strategy, and once that has been formulated, it will turn its attention to a long-term strategy for military support for Ukraine (extending to 2030). In the medium-term the emphasis will

be on defending Ukrainian territory and retaking occupied areas, with military systems that can be deployed promptly. In the longer term the focus will be on strengthening the Ukrainian army with systems that are more interoperable and compatible with NATO and with European defence systems.

NATO is also looking ahead to what form medium- and long-term support for Ukraine will take. At the meeting of NATO foreign ministers in Bucharest, the Allies affirmed their willingness to increase assistance to Ukraine, in the form of contributions to the CAP. NATO supports Ukraine through its CAP, by means of fuel deliveries, medical supplies, winter equipment and drone jammers. NATO is also exploring options for an even closer partnership between Ukraine and NATO, at both practical and political level. This could help Ukraine strengthen its institutions and transition from Soviet materiel to NATO-standard materiel.

This will aid the country in defending against (and deterring) current and future Russian aggression. It will also boost interoperability between Ukraine and NATO. In the light of the dramatic deterioration in the security situation in Europe, the government decided this year to increase defence spending with a view to meeting the 2% guideline in 2024 and 2025 (Parliamentary Paper 36 120, no. 1), as agreed at the NATO Summit in Wales in 2014. The majority of the Allies have recently increased defence spending or are in the process of doing so, and a majority of NATO members are expected to meet the 2% guideline by 2024. This requires cooperation, in order for Europe to achieve the necessary aim of taking greater responsibility for its own security.

The government intends to pay its fair share of Ukraine's recovery and, in the future, reconstruction. When the time comes for more specific decision-making, the government will consider each phase of the country's reconstruction separately, based on the individual level of urgency. On this basis, the government anticipates taking the action described in its letter of 27 September 2022 to the House on the status of aid to and the recovery and reconstruction of Ukraine (Parliamentary Paper 26 045, no. 113) and its letter of 23 December 2022 on support for Ukraine in 2023. Obviously, this will depend in part on developments in Ukraine. The government has taken due regard of the motion submitted by MPs Joris Thijssen and Tom van der Lee, requesting that the bulk of financial assistance intended for the reconstruction of Ukraine come from additional funding (Parliamentary Paper 36 045, no. 100). The government will also take due regard of the point that additional ODA funding is necessary in order to build equal partnerships.

In regard to the large-scale 'winterisation' programme (which precedes the phases of early recovery and reconstruction) the government is setting aside €180 million, financed through general public funds (letter to parliament on increasing financial resources for acute winter-related assistance for Ukraine; Parliamentary Paper 2022D47083). This assistance to help Ukraine through the winter will be a mix of multilateral support (via the World Bank and the European Bank for Reconstruction and Development, EBRD) and bilateral support (via the Ministry of Economic Affairs and Climate Policy). The World Bank and the EBRD are specialised in coordinating and mobilising financial aid. These are institutions with the capacity and expertise to bring this about in the shortest possible timeframe, on a large scale and with due care and sound risk

management. What is more, various international financial flows converge in these organisations, thereby reducing fragmentation of aid to Ukraine. The government has also earmarked financial resources to enable the delivery of equipment such as generators, transformers and cables through the Ministry of Economic Affairs and Climate Policy. The first deliveries have already reached Ukraine.

Resources have also been set aside for business-related instruments (mainly through Invest International and the Netherlands Enterprise Agency (RVO)), and in this connection the Netherlands will work hard to promote investment in Ukraine so as to facilitate both Dutch and Ukrainian businesses as soon as the recovery and reconstruction phase begins.

The government recognises the necessity and importance of an internationally coordinated and inclusive approach to winterisation and the reconstruction of Ukraine (see also the recommendations in section 2.6). Major donors, such as the EU and its member states (including the Netherlands), the US, the UK, Canada, Japan, the G7 countries and the international financial institutions, such as the World Bank, IMF, EBRD and EIB, are working together systematically to this end, on the basis of a Ukrainian-led reconstruction strategy. As also noted in the letter to parliament on reconstruction and aid to Ukraine of 17 May 2022 (Parliamentary Paper 36 045, no. 88) and the government's assessment of the Commission Communication 'Ukraine Relief and Reconstruction' (Parliamentary Paper 36 045, no. 92), and in line with the motion by MP Mustafa Amhaouch (Parliamentary Paper 21 501-20, no. 1768), the government sees a key role for the EU in the reconstruction process.

The exact duties of a possible special EU envoy who can focus on reconstruction will have to be discussed further at EU level. In the short term a national Special Envoy will also be appointed to facilitate the involvement of the Dutch business community in the reconstruction of Ukraine.

In the government's opinion the reconstruction needs to be well aligned with Ukraine's EU reform agenda and the EU acquis. Good governance and the rule of law are explicitly mentioned as priorities in the Ukrainian government's National Recovery Plan. Although the Dutch government appreciates that the war is limiting the implementation of reforms, we will seek to ensure that previously agreed reforms are carried out, including rule of law reforms, with the help of MATRA funds and other resources.

Political, economic and social resilience

The government endorses the AIV's recommendation in section 2.4 with regard to the establishment of a National Security Council (NSC). On 4 November the NSC met for the first time. The NSC aims to conduct a more in-depth threat assessment, formulate a government-wide strategy and specify the best course of action for the Netherlands. In this way the NSC will enable the government to focus not only on known issues but also on less familiar territory in the realm of national security policy. It is important to continually maintain a balance between ensuring transparency and actively addressing vulnerabilities. This requires good interministerial strategy formation, coordinated oversight and a

broad-based perspective on events in Ukraine and the negative consequences of Russia's actions, both for the world and for the Netherlands.

The government shares the AIV's view that hybrid threats underscore the importance of economic, political and social resilience at both national and European level (section 2.4). At national level the government is working on a government-wide security strategy, an overarching initiative for the next six years that aims to boost the resilience of the Kingdom of the Netherlands to threats to national security. The government is also working to advance the EU's open strategic autonomy (Parliamentary Paper 2022D46237). In addition the government is taking measures to mitigate or prevent possible adverse effects of the war in Ukraine on the Netherlands' economic, political and social stability. The government agrees with AIV that there is an urgent need to identify the threats, the effects of the war, and the measures that need to be taken. The government is also working on a coordinated approach to boosting resilience with our EU partners and NATO Allies. The Netherlands plays an active role in this regard, for example by raising the issue of combating cyberattacks as part of the hybrid and cybersecurity toolboxes of the EU and NATO. Together with EU partners, the Netherlands is actively pursuing dialogue with third countries on this topic.

The government is also working on an enhanced approach to protecting critical infrastructure. This is a two-part approach. On the one hand, it seeks to deepen our understanding of critical infrastructure resilience and provides for improvement measures where necessary. On the other, it seeks to better protect the Netherlands' critical infrastructure by revising relevant policy, the policy cycle and the system for dealing with critical sectors, as noted in the letter to the House of 28 November 2022 on dealing with state threats and presenting the second Threat Assessment on State-Sponsored Actors (ref. 2022Z23347). As part of these efforts, relevant legislation is being reviewed and where necessary expanded or amended. In light of the transnational nature of these issues, the government is also fostering international cooperation on protecting critical infrastructure. For example, in line with the motion submitted by MP Peter Valstar,¹ the Netherlands envisions a larger role for NATO and the countries surrounding the North Sea when it comes to protecting maritime data and energy infrastructure. The Netherlands is also pressing for the EU to play a central role in increasing the resilience of, and building redundancy in, the infrastructure itself. At EU level, the Critical Entities Resilience Directive (CER) and the second Network and Information Security Directive (NIS2) offer scope for protecting critical infrastructure. The implementation of these two directives is part of the government's enhanced approach to protecting critical infrastructure.

The government endorses the importance the AIV attaches to a united, coordinated EU approach to the energy crisis and efforts to boost the long-term resilience of the European energy market. In the government's view the war has made clear that the EU needs to phase out its dependence on fossil fuels from Russia as soon as possible. With that in mind, and in line with the AIV's recommendations, the government is working to accelerate the energy transition, the diversification of energy sources and supply routes, and the

¹ Parliamentary Paper 36200 X no. 26.

reduction of energy consumption, both nationally and within the EU. At national level, the following measures have been taken: the planned offshore wind capacity will be doubled by 2030, LNG import capacity will be doubled this year (which will specifically benefit other EU member states too) and a campaign to reduce gas use has been launched. Within the EU the government is pressing for the elaboration and implementation of the REPowerEU plans and the measures set out in the Save Gas for a Safe Winter package, the European Green Deal, the Fit for 55 package, NextGenerationEU and other initiatives. At the same time the energy mix is a national matter, about which member states can make their own decisions. EU legislation provides a framework of rules in this regard, for example when it comes to minimum percentages of renewable energy or energy savings. In the light of the high energy prices, the European Commission has also announced it is developing a proposal to reform the electricity market. This proposal is expected to be presented in the first quarter of 2023.

With regard to the reception of displaced Ukrainians, the government supports extending the Temporary Protection Directive until March 2024. The government also endorses the importance of close coordination between member states. With winter setting in, the government is closely monitoring the situation with respect to the reception of displaced persons in Ukraine and neighbouring countries. If there is cause to do so, the government will look into where additional Dutch humanitarian assistance is necessary for the reception of refugees. With regard to the special attention the AIV's report draws to the potential security risk posed by Russian deserters who apply for asylum, the government informed the House of its position when replying to questions asked by MPs Jasper van Dijk (SP) and Marieke Koekkoek (Volt) (Parliamentary Papers ref. 2022Z17606 and 2022D45827).

The EU and its neighbours

With regard to the AIV's recommendations about the EU and its neighbours (section 2.5), the government would stress that where EU enlargement is concerned it is strict, fair and engaged, including in regard to the steps Ukraine will have to take to make progress on the technical dimension of the EU accession process. The government's position is that, over the long term, enlargement will strengthen the EU. To that end, it is important that the candidate countries implement far-reaching reforms to advance democracy and the rule of law (the Copenhagen criteria). The government firmly backs the European Council's decision of 23 June 2022 to give Ukraine candidate-country status. The European Council concluded that each country's progress towards EU membership must be assessed on its own merits, in light of the Copenhagen criteria. In this regard the government is prepared to support the efforts of Ukraine (and other candidate countries), both bilaterally and through the EU. A Special EU Envoy for Ukraine is not on the cards, given that the accession process is based on the principle that all candidate countries are treated equally and assessed on their own merits where progress is concerned. Creating a special envoy for one candidate country would be at odds with the methodology of the merit-based process.

The government endorses the importance of the European Political Community (EPC). The EPC provides scope for engaging in political dialogue and

partnerships with other European countries on matters of common interest, such as security, the economy and energy. This offers new opportunities for strengthening the relationship between European leaders that goes beyond the EU. As the Netherlands continues to emphasise, cooperation in this forum must not be seen as an alternative to EU enlargement.

In the framework of the Strategic Compass, the High Representative announced his intention to hold the Schuman Forum on Security and Defence in March 2023. The Netherlands sees the Forum as an opportunity to engage with a wide range of countries on matters of security and defence, particularly non-EU NATO Allies, and countries from the Indo-Pacific region, Africa, the Eastern Partnership and the Western Balkans.

The government endorses the EU prospects of the countries of the Western Balkans and is supporting their efforts to implement the necessary reforms. The government's recent assessment of the 2022 enlargement package (Parliamentary Paper 23 987, no. 394) illustrates the government's involvement in these countries' EU accession processes. The government will step up its efforts in this area, in accordance with the coalition agreement.

In addition, the government supports the recently presented plans by the European Commission to support the Western Balkans in the energy crisis, in order to help address immediate needs and promote the energy transition in the future.

The government agrees with the AIV's observation that, when it comes to EU enlargement, it is important to determine what is necessary in order to maintain internal cohesion within the Union. Questions have already arisen in this area, for example in relation to improving the effectiveness of decision-making within the Union. Members of the public are demanding such improvements, for example during the recent citizen consultation 'Vision of Europe' in the framework of the Conference on the Future of Europe.² Enlargement makes it all the more crucial to consider, prior to the accession of future member states, whether changes to current decision-making procedures can contribute to that goal and, if so, what those changes should be.

The government also endorses the importance that the AIV attaches to an effective European defence policy. The Netherlands plays an active role in regard to the development of European defence capabilities, and will accordingly join in the growing consensus on mutual recognition of licences. The Netherlands seeks to play a leading role in European cooperation and in the design and enhancement of the Common Security and Defence policy (CSDP).

Europe needs to take more responsibility for its own security. In this connection the Strategic Compass serves to guide the CSDP by determining what the EU should be capable of in terms of security and defence in the next five to ten years. Russia's invasion of Ukraine has only made this more urgent. It is therefore vital for the EU institutions and member states to expedite the

² The final report (in Dutch) can be consulted at:
<https://www.kijkopeuropa.nl/resultaten/documenten/verslagen/2022/03/08/kijk-op-europa-eindrapport>

implementation of the Compass. Key issues in this connection include crisis management (missions and operations), resilience, the development of defence capabilities and closer cooperation with partners, including NATO. Developments in Ukraine also highlight the importance of the current higher defence expenditure of European countries. In addition European countries must collaborate more effectively on developing and jointly purchasing defence equipment. The government therefore supports the new proposals put forward by the Commission and the High Representative to encourage this. The European Defence Agency (EDA) has a major role to play in this area, and forms a key part of the initiatives designed to increase the EU's self-reliance. The EDF finances R&D projects intended to improve defence (and defence-industry) cooperation between member states and promote the joint development of European defence capabilities, preventing duplication and fragmentation and/or improving standardisation and interoperability. In this connection it is important for the government to continue pressing for an open and accessible European defence market, with sufficient access for suppliers from medium-sized and smaller EU member states (such as the Netherlands) to the defence supply chains. The government sees the European Peace Facility (EPF) as a crucial instrument in the CSDP, especially when it comes to military support for Ukraine, and it is committed to continuing support for partner countries. In line with this, the Council has decided to raise the overall financial ceiling by €2 billion, with the option of a further increase at a later stage. The government welcomes this decision. The raising of the general financial ceiling is a clear political signal of the EU's ongoing commitment to providing military support to Ukraine and other partners. The decision ensures that the EPF will have sufficient financial resources to continue providing tangible military support to our partners' armed forces.

The EU defence ministers meet formally at least twice a year in the Foreign Affairs Council. In addition to these meetings, there are also at least two informal EU Defence Councils a year. The possible formation of a separate Council of Defence Ministers and the appointment of a European Commissioner for Security are decisions that will not be considered until the formation of the next European Commission.

In line with the coalition agreement the government is exploring the options for a European Security Council. The government has already raised this matter on multiple occasions with its European partners. Support for this proposal among these partners is thus far limited.

Global coalitions and reconstruction

The government endorses the AIV's recommendations in section 2.6 on the need to build new global coalitions. Votes taken in the UN have shown that there is broad disapproval of Russia's aggression against Ukraine. At the same time, many UN states in Africa and Asia abstained from voting. With that in mind the government and like-minded countries are actively engaging in outreach, at both bilateral and multilateral level, with this group of countries.

Around the world, many countries are seeing the impact of the Russian war in higher food and energy prices, and they are concerned that the war is diverting

attention from problems on their own continent. These concerns and effects demand a response. The Netherlands is therefore contributing, both bilaterally and through the EU, to a renewal of global partnerships with African countries, including through the EU Global Gateway. In its recently announced Africa Strategy (which is expected to be presented in the first quarter of 2023), the government will explain how the Netherlands intends to strengthen its relationship with Africa so that a dialogue, rooted in equality, can be pursued in regard to shared interests in a stable international legal order.

There are a number of striking abstainers in the UN system. The government appreciates that the relationship between China and Russia is multi-layered. With regard to India, the government is aware of the history, concerns and dependencies that influence the country's position, as well as its relationship to its neighbour China.

The government is also aware of the special role played by both China and India in the Group of 77 and with respect to countries outside the traditional group of like-minded countries of the Netherlands and the EU. The government remains committed to pursuing diplomatic initiatives involving China. The Netherlands' relationship with India is close and wide-ranging, at both bilateral and multilateral level.

The government endorses the AIV's recommendation that the Netherlands should play a driving role in investigating and prosecuting war criminals and facilitating international legal investigations. The government has been doing this since the war broke out, with an emphasis on supporting the work of the International Criminal Court (ICC) and the Prosecutor General of Ukraine and the Ukrainian Public Prosecution Service. A major dimension of the Netherlands' efforts is the recognition that (international) accountability initiatives need to dovetail with the needs of the ICC and Ukraine itself.

On 2 March 2022 the Netherlands was one of the 39 (now 43) countries that referred the situation in Ukraine to the prosecutor of the ICC. This state party referral enabled the prosecutor to immediately open an investigation into war crimes. The Netherlands also supports the ICC through financial assistance and personnel. In late October, for example, the government sent a second forensic and investigation team to Ukraine under the aegis of the ICC. A third and fourth mission are planned for 2023, providing the situation on the ground allows it. In addition, the Netherlands hosted the Ukraine Accountability Conference, with prosecutor Karim Khan of the ICC and European Justice Commissioner Didier Reynders as co-hosts.

In accordance with the motion submitted by MP Sjoerd Sjoerdsma (Parliamentary Paper 21 501, no. 1841), the Netherlands supports the establishment of a special tribunal to try individuals responsible for the Russian aggression in Ukraine, provided that this is complementary with the accountability activities of the ICC and meets with broad international political and financial support. Within the UN the Netherlands is actively involved in combating impunity. For example, the Netherlands was co-facilitator of a UN General Assembly resolution that called for the creation of a register to document war damage. It is also a co-founder and co-chair of the Group of Friends of Accountability Following the Aggression against Ukraine, a platform

for documenting existing and future initiatives and sharing information between states and with international organisations and civil society. The Netherlands has also been pressing for the UN Human Rights Council to establish an investigation committee with a focus on gathering evidence of violations committed in Ukraine.