Letter of 10 July 2020 to the President of the House of Representatives from the Minister of Foreign Affairs in conjunction with the Minister of Justice, on the submission of an intervention and inter-State application to the European Court of Human Rights against the Russian Federation for the downing of Flight MH17

I am writing to inform the House that the government has today decided to submit an inter-State application to the European Court of Human Rights (ECtHR) against the Russian Federation for its role in the downing of Flight MH17. By submitting this application, the Netherlands will furnish the ECtHR with all relevant information available to the government regarding the downing of Flight MH17. In doing so, the government is offering maximum support to the individual applications submitted by victims' next of kin to the ECtHR and stands by all 298 victims of the downing of Flight MH17 and their next of kin. In line with UN Security Council resolution 2166, the Security Council will also be informed of this step.

In the government's previous letters to parliament of 10 May 2019 (Parliamentary Paper 33 997, no. 138), 12 February 2020 (Parliamentary Paper 33 997, no. 150) and 1 May 2020 (Parliamentary Paper 33 997, no. 151), the House was informed about the government's decision to submit an intervention to the ECtHR in the individual applications brought by next of kin against the Russian Federation for the downing of Flight MH17 and the current status of that effort. This intervention will be submitted today, together with the inter-State application.

The submission of an inter-State application is a new step in our efforts to establish truth, justice and accountability. This has priority for the government, and that will not change. This step also fulfils the motion submitted by MP Han ten Broeke et al. regarding the Russian Federation's state responsibility for the downing of Flight MH17 (Parliamentary Paper 33 997, no. 119).

The individual applications submitted by the next of kin to the ECtHR, the inter-State application to the ECtHR, the criminal proceedings against the four defendants and the associated criminal investigation, and the trilateral meetings between Australia, the Netherlands, and the Russian Federation are separate tracks in the pursuit of truth, justice and accountability for all 298 victims and their next of kin. This new step will be included in the overview (www.MH17tijdlijn.nl) that has been sent to the House in the letter to parliament of 1 May 2020.

Timing and considerations underlying the inter-State application and intervention
The Netherlands' intervention in the individual applications of the next of kin at the ECtHR includes the contents of the inter-State application, and in doing so it incorporates all the information from the inter-State application, and the legal assessment thereof, into the individual applications.

In light of, inter alia, the ECtHR's timeline for considering the individual cases and other ongoing proceedings related to the downing of Flight MH17 (including an inter-State application by Ukraine against the Russian Federation), the government believes that now is the right time to take this course of action. This will ensure that the ECtHR receives the relevant information available to the government regarding the downing of Flight MH17 in a timely manner.

The timing of this decision corresponds with recent developments in the criminal trial, in particular the Public Prosecution Service's in-depth explanatory presentation of the criminal investigation.

In the government's view, an inter-State application is the appropriate means of sharing such an extensive body of information regarding the actions of a third country, along with a legal assessment of that information, with the ECtHR. By submitting an inter-State application, the Netherlands can participate fully as a party, vis-à-vis the Russian Federation, in the consideration of the information (from Dutch and other sources) regarding the downing of Flight MH17. The Netherlands will thus have the right to take part in hearings, answer any further questions the ECtHR may have and, if applicable, provide new information in the case concerning the downing of Flight MH17.

Trilateral talks with the Russian Federation
In early 2019 the government announced that Australia and the Netherlands had entered into talks with the Russian Federation about the downing of Flight MH17. This process is still ongoing. As previously stated in the letter to parliament of 9 March 2018 (Parliamentary Paper 33 997, no. 114) regarding state responsibility for MH17, it should be borne in mind that it may take years for the parties concerned to reach a solution through negotiations. The government would like to stress the importance it attaches to the continuation of these talks between the Netherlands and

Australia, on the one side, and the Russian Federation, on the other, to find a solution that does justice to the enormous suffering and damage caused by the downing of Flight MH17.

Conclusion
Next week will mark the sixth anniversary of the downing of Flight MH17. The government would like to emphasise its ongoing commitment to the pursuit of truth, justice and accountability with regard to the downing of Flight MH17, for all the victims and their next of kin.