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Dutch courts talk the language of international dispute resolution

The Netherlands, with the Rotterdam port, Amsterdam Schiphol Airport, multinational corporations such as Shell, Unilever and Philips, and a large international services economy, traditionally has a very open economy. As a result, the courts in the large economic centres, especially Amsterdam and Rotterdam, are well accustomed to dealing with disputes with an international character.

These days, most international agreements and correspondence are in the English language. Traditionally, however, proceedings before the Dutch courts must be conducted in the Dutch language (with Frisian allowed in the Frisian parts of the Netherlands). Where all documents are in the English language, and the parties often also communicate in English, the use of Dutch in litigation sometimes proves impractical. The Dutch courts have tried to solve this problem and increase their attractiveness as forums for international dispute resolution with two recent initiatives.

On 1 January 2016, the Rotterdam District Court started a pilot project allowing cases involving maritime and transport law and international sale of goods to be conducted in English. The Maritime Chamber of the Rotterdam District Court is specialised in these types of court cases. Often these cases involve international parties, and they will now be able to jointly request the Rotterdam District Court to conduct the process in English instead of Dutch.

At hearings and in correspondence with the Rotterdam District Court, the working

language shall be English. Decisions, however, will always be rendered in Dutch. Also, the pilot covers only the proceedings at first instance. Proceedings in the Court of Appeal and the Supreme Court shall still be conducted in Dutch, although these courts have declared that they are willing to adjudicate on the basis of the English-language procedural documents from the first-instance court.

Language issues also loom large in the setting up of the Netherlands Commercial Court (NCC) as a special division to settle large national and international trade disputes. The NCC is intended to open on 1 January 2017, assuming the Dutch Government will be able to pass the legislation that facilitates proceedings in English. The Government has announced that it will introduce legislation by mid-2016.

The NCC will support itself financially by charging higher-than-average fees. The judges, who will have specialised knowledge of trade conflicts, will come from the various courts and tribunals in the Netherlands and, importantly, are expected to speak impeccable English, as it will be the working language of the NCC.

Since the Dutch court system proves to be efficient, fast and relatively inexpensive, and since judgments rendered by Dutch courts are enforceable in the whole European Economic Area, the possibility of litigating in English before the Rotterdam District Court and NCC may open interesting possibilities for international business.