



**STATEMENT BY H.E. WILFRIED I. EMVULA, AMBASSADOR AND
PERMANENT REPRESENTATIVE OF THE REPUBLIC OF NAMIBIA TO
THE UNITED NATIONS, AT THE GENERAL DEBATE OF THE 11TH
SESSION OF THE ASSEMBLY OF STATE PARTIES TO THE ROME
STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

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Madam President, Allow me to congratulate you on your election as you steer the work of the Assembly during its 11th Session to its successful conclusion, and I assure you of my delegations full support and cooperation. I also take this opportunity to congratulate the Chief Prosecutor of the International Criminal Court, Ms. Fatou Bensouda who assumed her duties in July 2012, and to wish her good health and success during her term in office.

During this Session we celebrate the 10th anniversary of the entry into force of the Rome Statute of the International Criminal Court. The establishment of the Court signifies the foundation of the principal forum for international criminal justice. As the number of State Parties continues to increase, we are making good progress in realizing the full implementation of, and the universal participation in the Rome Statute. In this regard, we congratulate and welcome Guatemala and Tunisia as new members of the Court.

Madam President,

The history of the ICC's creation and the engaged involvement of African States demonstrates that the Court was created for the benefit of victims of serious crimes around the world, in particular those in Africa. It is thus not surprising that African States Parties constitute the biggest bloc in the membership of the Court, which is a clear demonstration of the Continent's commitment to the work of the Court.

As we commemorate the 10th Anniversary of the coming into force of the Rome Statute, we also celebrate the achievements of the Court, which includes the deliverance of the Court's first judgment. It is thus important for this Assembly to reflect on the achievements of the Court so far, as well as the prospects for the future work of the Court. Against this background, I wish to briefly share with you my delegation's views on Cooperation and Complimentarity which is the bedrock for the work of the Court.

Madam President,

The cooperation of State Parties with the Court is critical to the effectiveness and credibility of the Court. Article 86 imposes an obligation on State Parties to "co-operate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court". The extent to which States render co-operation to the Court, as envisaged in Article 86 and other forms of co-operation in Part 9 of the Rome Statute, depend on the manner in which the Court came to assume the jurisdiction in the situation in question. Where referrals have been made by State Parties, co-operation from such States has invariably been forth-coming. This has largely been demonstrated in the co-operation of States such as the DRC, Central African Republic and Uganda, which has resulted in the surrender of most of the suspects to the Court. As a result of

such cooperation indictees are in custody and trials in some of these cases are at an advanced stage.

However, with regard to referrals by the Security Council, State co-operation in effecting arrests mandated by the Court pursuant to such referrals, has largely not been forthcoming. Non-co operation of some states has been informed by different considerations about the relative balance between the pursuit of justice and peace making efforts in conflict situations. In both the Darfur and Libya situations indictments were issued without adequate regard for the impact of such indictments on the prospects of ending the conflicts there. The referral of situations to the ICC by the Security Council has proven to be highly political and controversial and also enjoy the lowest degree of state co-operation in the enforcement of court orders.

Madam President,

As the primary enforcer of international peace and security, the Security Council was conferred the power to ensure that there is no impunity for international crimes. The prospect that a non-state party may be subjected to the Court's jurisdiction underlines the commitment of the international community that there should be accountability for international crimes, where ever they are committed.

The problem which has been experienced in practice is that referrals could be politically-motivated, which might result in certain situations being referred while others may be blocked by the veto-wielding states. This leads to paralysis and does not contribute to ending conflicts around the world. It is against this background that greater understanding and consideration of the concerns of the African Union in calling for the amendment of Article 16 of the Rome Statute should be appreciated.

Madam President,

We urge the Court to intensify its efforts to promote the universality of the Statute through increased ratification and implementation of the Rome Statute. Such Increased membership Rome Statute will reduce the need to rely on Security Council referrals as the Prosecutor and State Parties would readily invoke their respective powers of referral, as provided for in the Rome Statute.

While we welcome the positive role played by non-states parties in the activities of the Court, we urge them to underscore their commitment to the suppression of international crimes by joining the Rome Statute of the ICC and smoothen its effectiveness and credibility.

Madam President,

The Court is intended to be a court of last resort in the exercise of jurisdiction over crimes within the jurisdiction of the Court, State Parties have the primary responsibility to facilitate the legal and technical capacity of their domestic institutions, to investigate and adjudicate international crimes without reference to the International Criminal Court.

We welcome the Court's efforts to promote the adoption of implementing legislation and the review of domestic laws to facilitate different forms of co-operation with the Court when it exercises complimentary jurisdiction, in respect of international crimes. An increase in the availability of domestic avenues for the prosecution of international crimes, will not only reduce the number of cases coming before the Court, but will immensely contribute to the suppression of international crimes, as mandated by the Rome Statute. As State Parties, it is our responsibility to play our respective roles to investigate and try international crimes in our domestic jurisdictions.

In conclusion, Madam President, the International Criminal Court relies on State Parties to effectively execute its mandate. I assure you of Namibia's willingness to cooperate with the Court in the execution of its mandate.

I thank you,