



Embassy of the United States of America
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Statement by the United States of America

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Thank you, Madame President.

It is a pleasure to be back in The Hague for the annual meeting of the Assembly of States Parties of the International Criminal Court, and I am honored to address you on behalf of the U.S. observer delegation. Since we last met in New York in December 2011, Fatou Bensouda has assumed the duty of Prosecutor of the ICC, and Judge Song has enjoyed reelection as President of the Court. We thank them both for their long and dedicated service, and look forward to continuing to work together.

Madame President, members of the ASP: by now you are used to seeing our placard at these sessions, hearing our views, and engaging with our diplomats and advisors. This is the fourth time I have stood before this body representing the United States. We also participated actively in the Review Conference in Kampala in 2010. We are pleased to have joined consensus on each of the last two General Assembly Resolutions on the ICC and last year's OAS Resolution. My colleagues in New York and The Hague regularly make positive contributions to meetings, working groups, and formal multilateral sessions devoted to various aspects of the work of the Court.

As Ambassador-at-Large of the Office of Global Criminal Justice, I have traveled around the world, working to bolster national capacities while urging cooperation with the ICC's work in all of the situations where the Court has launched investigations and prosecutions. I regularly enjoy speaking to students, diplomats, and civil society about the United States' commitment to international justice. And, of course, during the past four years, President Obama and Secretary of State Clinton have consistently championed the cause of pursuing accountability for the world's worst crimes and preventing these crimes in the future.

In short, ensuring the prevention and deterrence of atrocities and making good on the promise of justice to the victims of these crimes, is an urgent priority for the highest levels of my government, one we see as both a moral imperative and a matter of national security. We have worked diligently to promote an end to impunity and have been supporting the work of the ICC in each of its current cases.

When I visit the places where grave crimes have occurred, I meet with the victims and members of civil society who stood up bravely and demanded justice in the aftermath of conflict. Our work is driven by their consistent calls for truth, accountability, and reparation. Victims the world over have seen that even a “big man” like Charles Taylor must account for his actions and face judgment, and they have heard the promise of accountability implicit in the international community’s commitment to his prosecution and to the prosecution of other defendants, at many levels, for their involvement in the commission of international crimes. The United States is dedicated to helping shape and deliver on this promise.

What does it mean for an institution like the ICC to succeed in ensuring justice for victims, and what has my government done to contribute to this project and advance our shared interests and values? There are a few issues that I would particularly like to focus on today that deserve the attention of friends of the Court, parties and non-parties alike. This list is not exhaustive of our work or our priorities, but each of these concerns is fundamental to the way forward, in the service of those most affected by crimes that shock our collective conscience.

First, it is essential that the fugitives who currently remain at large in the ICC’s cases are apprehended. And when the Court is successful in bringing them to trial, it is imperative that the witnesses who testify and the victims who wish to participate in the proceedings are assured of their safety. These are basic obligations for any court, anywhere in the world, but they pose particularly vexing challenges in the context of the ICC, in light of its structural constraints, its scope of work, the extreme vulnerability of victims, and the circumstances of the places where fugitives are able to elude capture. Without adequate solutions, the Court will eventually cease to be able to conduct its work or meet the expectations of victims and affected communities. I speak about these issues frequently, because they are so crucial and because so much work remains to be done.

On these issues, Madame President, the United States has been a stalwart advocate. We use an array of tools to advance the causes of apprehension and witness protection.

On apprehension, we send clear messages: we forcefully and consistently speak out about the need to bring to justice individuals like Omar al-Bashir of Sudan, Joseph Kony of Uganda, Bosco Ntaganda and Sylvestre Mudacumura of the DRC, and their co-accused. We sponsor and impose sanctions on such individuals and the groups they head. We work to cultivate international support and consensus in multilateral fora around their apprehension. And, we integrate all these objectives into our regional and bilateral diplomatic strategies on a regular basis.

On witness protection, we seek to focus international resources and attention on these challenges, both at the national and international level. As you may recall, last year, we co-hosted a side event at the ASP on this topic. We have offered assistance and training to states seeking to protect witnesses in their own cases. We have worked with the ICC to respond positively to its requests for assistance relating to witness protection issues. And various parts of the U.S. government, including the Departments of Justice and State, are currently seeking to strengthen and expand our capacity to assist courts and tribunals on the protection of witnesses and judicial personnel.

A *second* issue of great importance: it is crucial that members of the international community continue to reinforce the legal norms and prohibitions that led to the creation of institutions such as the ICC. Here, I am particularly pleased to report on President Obama's initiative on preventing atrocities. Since I last addressed this body, the United States has established the Atrocities Prevention Board, composed of high-ranking officials from across the government, to put in place a whole-of-government approach to detecting, preventing, deterring, and responding to atrocities. We are working to ensure that our government can effectively address this imperative, and we are socializing this work with our partners and colleagues around the world—in governments, in the NGO sector, and at the UN.

We are exploring ways to expand available tools for preventing and responding to atrocities, from additional financial measures, to early risk detection, to rapid response “surge” capacities in potential trouble spots, to improved information sharing, to expanded legal authorities on the domestic front. The APB has focused on strengthening accountability tools and efforts, and my office has worked with others to coordinate assistance to states and international institutions with respect to their investigations and prosecutions. It is not always easy, but it is imperative that we keep our sights focused on these broader goals: namely, to prevent and deter would-be perpetrators of such heinous acts, and in that way to assure victims of past crimes that we have learned from what they have suffered.

Third, we must continue to strive to improve our system of international justice. We do not yet have all the answers, and the ICC, even for its ten years' experience, is still very much in its early stages. I and my colleague Harold Koh, Legal Adviser of the Department of State, have often spoken of the need for the ICC to build a solid jurisprudence, navigate challenges that arise in international cooperation, and establish legitimacy in the years to come as a fair and efficient criminal justice institution that makes prudent decisions in the cases it pursues, and those it declines to pursue. Moreover, the international community must continue to search within itself for creative and innovative solutions to the problems that are sure to arise—some of which I have already focused on today.

For our part, in engaging constructively with the Court and supporting its work on a case-by-case basis as consistent with our laws and policy, we have examined our arsenal and pursued an array of tools in an effort to identify what works. Sometimes, diplomacy alone is the most powerful tool. We stand up for justice, such as when we issued strong statements of support from both the White House and the State Department upon Thomas Lubanga's conviction for the war crime of conscripting and using child soldiers; or when President Obama made strong statements about the importance of accountability and cooperation with the ICC's efforts in Kenya and Côte d'Ivoire.

We also work to calibrate decisions about assistance and sanctions to take into account concerns about accountability and atrocity crimes. We were pleased, for example, that following the suspension of Malawi's Millennium Challenge Corporation compact and under President Joyce Banda's strong leadership, Malawi has taken a number of positive steps toward democracy and good governance, and refused to host President Bashir for

the July 2012 African Union summit. We welcomed this decision and the example it set. President Banda has demonstrated strong leadership and democratic commitment, and we were gratified to be able to reinstate the MCC compact in June 2012.

Fourth and finally, we all must continue to recognize that the ICC cannot and must not operate alone. States retain primacy, both legal and moral, in ensuring justice for grave crimes. Justice closer to the victims is always preferable, in a system that can account for local laws and custom, in a familiar language, and in an accessible setting. Even where the ICC does operate, tremendous work will remain to be done at the national level. We, as members of the international community, have an obligation to focus our resources and energies here as well. Much of my own work, and the time I spend in foreign capitals, is aimed at helping local systems build their own judicial capacities. I've been pleased to see the parties to the Rome Statute and civil society partners begin a concerted effort to coordinate resources on the work of complementarity, including through the Greentree process organized by Denmark and South Africa, and the United States looks forward to continuing to collaborate in promoting this crucial work. We also welcome the ASP session on complementarity scheduled for this Monday, November 19, where I plan to discuss the United States' work in assisting national systems.

Madame President, many U.S. government officials have spoken of our evolving relationship with the ICC over the past four years. We look forward to continuing our engagement in the future, and to advancing justice and combating impunity as both a moral imperative and a stabilizing force in our world.

Thank you.