



Statement by New Zealand

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to the Rome Statute of the International Criminal Court
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Madam President

New Zealand has long been and remains a strong supporter of the International Criminal Court. We were among those countries which strove during the negotiations of the Rome Statute for an independent international court to which the perpetrators of war crimes and crimes against humanity could be brought and as a means to end impunity.

Today the International Criminal Court is facing its greatest challenge. As we have heard from a number of African leaders, a rift has grown between Africa and the Court – which is perceived by the Continent as unresponsive to Africa’s legitimate concerns. Put bluntly, the Court is seen by its African members as failing them. There is a very real possibility that a significant number of parties to the Rome Statute – all from Africa – will leave the Court if their concerns are not addressed. That would be a disaster for the Court and for all of its members

Whatever one thinks of the merits of last week’s decision by the Security Council on Kenya’s request for deferral - and from New Zealand’s point of view we found the outcome very disappointing - it was most unfortunate that the Council and the African members were not able to reach a mutually acceptable solution. Last week’s events have raised the stakes for this Assembly, whether we like to acknowledge that reality or not.

Clearly, there are very important principles at stake: principles regarding impunity, the fair application of law and process, consistency of approach and precedent. How to apply those principles and to reconcile their application in any particular situation is very difficult. But it is something that has to be done and it is something that Courts all around the world have to face up to. Preservation of principle in the abstract is not enough and is not consistent with the sound administration of justice.

Rightly, the focus of this Assembly is on the rules, procedures and administration of the Court. We welcome the indications from a range of States parties that they stand ready to work on the rules of evidence and the Court's procedures to try to address the concerns that have been raised about the practical difficulties of conducting trials of persons who want to cooperate with the Court but also have important elected functions to perform. The Assembly should be pragmatic when it considers these amendments; substance is more important than process.

While mindful of the need for fiscal restraint, we also recognise that the Court needs adequate funds to carry out its work. So too does the Office of the Prosecutor. However, if the Office of the Prosecutor is to retain our confidence and to receive additional funding it is imperative that the prosecutorial functions are carried out with restraint and discipline and with due regard to the essential role of the Prosecutor which is to serve the court.

In summary, New Zealand supports amendments to the Rules of Procedure that deal with the practical problems that can arise where defendants wish to cooperate with the Court, but where extraordinary circumstances exist. Our focus must be on facilitating cooperation, not hindering it. And we should be open to the use of modern technology where this will aid cooperation and the sensible administration of justice.

New Zealand is aware that amending the rules may not be enough and that we may need to consider amendments to the Statute. We recognise, however, that that is a more difficult proposition. Nevertheless, amendments should be considered in order to ensure the on-going relevance and credibility of the Rome Statute system.

Madam President,

The challenges confronting us are not easy. I can assure you and fellow Assembly members that New Zealand is ready to play its part in helping to chart a course that will address the concerns of our African members and in so doing will make the Court stronger, more effective and more relevant.