

Statement delivered by
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**Assembly of States Parties to the Rome Statute
of the International Criminal Court
Eighth Session**

Statement of Denmark

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Mr. President,

The ambition of the Rome Conference, the establishment of a universally accepted International Criminal Court, is being fulfilled. We now have before us a fully functional Court, with cases being adjudicated and jurisprudence developing.

The increasing number of countries – in different regions – where the Court is active is a testimony to the importance of the ICC in bringing peace, stability and justice to areas ridden with conflict. In this regard Denmark welcomes the willingness of the Prosecutor to respond to the recommendations of the Waki-Commission, and of former UN Secretary General Kofi Annan by planning to request authorization for an investigation into the post-election violence in Kenya, in cooperation with Kenyan authorities. The Prosecutor has for the first time exercised his proprio motu powers, yet another sign of the Court making full use of the Statute's provisions.

At the same time, the cases and situations before the Court show the complexity and challenges we face, challenges we must meet together. Perceived or real tensions between peace and justice, difficulties in enforcing arrest warrants, securing protection of witnesses and enforcement of sentences, to mention some of them. Denmark will work with all partners - the Court, other States Parties and civil society – in order to overcome these challenges, and meet the common aim of ending impunity.

Mr. President,

Denmark strongly believes that those bearing the greatest responsibility for the most serious crimes must be held accountable for their actions. No one can be above the law. We urge all States to fulfill their obligations under the Rome Statute and relevant instruments of international law.

States must continue to provide their full cooperation to the Court in all aspects of its activities, as provided for in the Statute. This is a fundamental prerequisite for the fulfillment of the aspirations of the Rome-conference. It is of equal importance that

the Court engages in constructive and positive dialogue with States on issues of mutual interest. Cooperation is a two-way street.

At the same time it is worth reiterating, that while the Court is dependent on the second pillar of the Statute in many aspects, it is a judicial – and judicially independent – institution. Political interests cannot not be allowed to override the judicial process once the Court exercises its jurisdiction. Denmark remains committed to ensuring full support for the Court and protecting its independence in all aspects of its judicial work.

Mr. President,

The Review Conference scheduled to begin in May next year is approaching rapidly. It is essential for a positive outcome that we accelerate preparations and work together to align expectations. This Assembly must work hard to achieve this.

We have before us a number of proposals for statutory amendments, proposals that we look forward to discussing over the coming days, in order to assess whether they have matured enough to be brought forward to the Conference. We echo your call, Mr. President, to work carefully towards finding broad agreement on possible amendments. In our view, only proposals which command close to unanimous support should be put on the agenda.

Apart from addressing possible amendments to the Statute, the Review Conference also provides an excellent opportunity to take stock of developments in international criminal law and look at ways in which we can strengthen the Rome Statute System in the future.

The stocktaking exercise should be broad with a view to sending a clear signal of unwavering support for the International Criminal Justice System, possibly through the adoption of a ministerial declaration.

Under the Rome Statute, the International Criminal Justice System consists of two independent but connected parts, the ICC and the national jurisdictions. The Court

itself is the court of last resort. In this regard an issue of particular interest to Denmark is positive complementarity – understood as support for national jurisdictions to enable them to better deal with their obligations in cooperation with the Court. Denmark has a long history of supporting the development of rule of law institutions through technical assistance. Thus, we see the issue of positive complementary not only as flowing from the activities of the Court, but as part of a broader and sustained effort of promoting justice and good governance for the benefit of all. Linking the work of the Court with these broader efforts will hopefully help give momentum to both, and we believe that consideration of such synergies may form part of the stocktaking exercise. Denmark stands ready to take this issue forward with partners, and has together with South Africa initiated informal discussions on the topic. Let me take this opportunity to thank the representatives of all three organs of the Court for their support for this initiative as expressed in their opening statements yesterday.

Mr. President,

Again, all States Parties should fully cooperate with the Court. In turn this also implies that the Court should fully cooperate with States. This is essential for preparing for instance the sessions of this Assembly and for the work of the Bureau.

Any organization derives its support not only from its fulfilling its objectives and achieving results, but also from aspiring to the highest standards of good governance and management, transparency and efficient and cost-effective operations. Denmark welcomes the measures undertaken by the Court in this regard, and urges further measures to be taken by the Organs of the Court in unison. We attach great importance to the one-court principle, in all aspects, as a prerequisite for the constructive dialogue with states.

On their part, as the Court matures and processes and procedures become routine, States should be careful not to micro-manage different aspects of the Courts operations. We have said this before, and consider it to be of considerable importance. The Assembly is a policy-making institution not an implementing one. Furthermore, when states collectively seek to maximize control the result is more often than not the

opposite. To achieve a desired equilibrium in this regard, the Court and States must continually reinforce the relationship of mutual trust, which exists between them.

Mr. President,

Denmark remains fully committed to the Court. We look forward to this session of the Assembly and trust it will be conducted in an atmosphere of cooperation and compromise under your able stewardship. We are confident that your tireless efforts in support of the Court will allow us to reach our common goals and bring us well underway towards the first Review Conference.

Let me finally add our congratulations to Chile and The Czech Republic with their ratification of the Rome Statute and to the two new judges of the Court, Ms. Kuniko Ozaki and Ms. Silvia Fernández de Gurmendi, elected yesterday.

Thank you.