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Statement to the 9th session of the Assembly of States Parties to the Rome Statute of the International Criminal Court New York, 6 December 2010

Thank you Mr. President.

Amnesty International would like to thank the Bureau and the Conference for the opportunity of addressing all of you today.

Ensuring the fullest cooperation of states parties and inter-governmental organizations is the most important challenge facing the International Criminal Court today.

Most states parties have yet to enact legislation to cooperate with the Court. 51 of the 114 states parties have yet to ratify or accede to the Agreement on Privileges and Immunities of the International Criminal Court. Only five of the 114 states parties have entered into agreements with the Court to enforce sentences in their national facilities. Only a small number of states have entered into agreements to relocate victims and witnesses. In practice, the Court reports numerous instances of states failing to respond to requests for cooperation.

In the important debate on cooperation during the Review Conference, as well as in the Declaration on Cooperation, states parties promised to focus future attention on addressing many of these challenges. Despite these important commitments, in the months following the Review Conference the challenges related to cooperation are becoming more complex.

Amnesty International is seriously concerned that since the Assembly's last session, some states are continuing to question their obligations to cooperate fully with the Court in arresting Sudanese President Omar al-Bashir. Indeed, two states parties allowed official visits by President Omar al-Bashir. Both states refused to fulfil their obligations under Articles 59, 86 and 87 of the Rome Statute to arrest and surrender President Omar al-Bashir to the Court.

In May and August 2010 the Pre-Trial Chamber issued decisions relating to instances of non-cooperation in the Darfur situation, requesting that both the Security Council and the Assembly take the action it deemed appropriate.

Amnesty International has published a legal memorandum (*Bringing Power to Justice*)¹ rejecting arguments that any state could refuse to arrest and surrender President Omar al-Bashir claiming that he enjoys immunity as a head of state.

Despite welcome efforts by the Bureau's Facilitator to promote cooperation in the last year, additional mechanisms are urgently required to build cooperation with regional and inter-governmental organizations, including the African Union; and for the Assembly to respond effectively and consistently to instances of non-cooperation when they occur.

Amnesty International calls again on the Assembly to take positive measures to avoid a cooperation crisis. In particular, **Amnesty International urges the Assembly to establish a Working Group on Cooperation, that would, among other things, respond to situations of non-cooperation** that are referred by the Court under Article 87(7).

Thank you Mr. President.

¹ Amnesty International, *Bringing Power to Justice*, Index: IOR 53/017/2010, December 2010.