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Statement of Denmark

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Delivered by

H.E. Ambassador Kirsten Malling Biering

at the General Debate of the Fifth Assembly of States Parties to the Rome Statute
of the International Criminal Court, 23 November 2006 – 1 December 2006

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Mr. President,

Earlier this month, the confirmation hearing in the trial against Thomas Lubanga Dyilo commenced. The start of these proceedings marks a historic moment for the Court. Not only because this is the first case to reach the stage of confirmation hearing, but also because the hearing gave promise of a Court where the interests of victims are centrally placed in the proceedings. The moving submission by the victims' representative in the Lubanga case reminded us why we are here, what we are working for and how important it is, that we deliver on the promises we made in Rome.

And we are delivering. The Court has come into operation remarkably quickly and is steadily gaining universal recognition and legitimacy. Already the Court is actively engaged in a number of situations, bearing witness to the fact that the Court will have a crucial role to play in ensuring justice in the wake of the most horrendous conflicts. At the same time, the situations on the Court's case list show the complexity and the challenges the Court will face in its work. And these challenges are substantial. Perceived or real tensions between peace and justice, difficulties in enforcing arrest warrants, securing protection of witnesses and obstacles to collecting evidence are but some of the challenges faced by the Court today.

This makes it all the more crucial that States Parties are ready to provide the necessary support to and cooperation with the Court. The Rome Statute relies on the Court as well as it relies on cooperation between the Court and States Parties. To achieve the aim of international justice it is essential that both are committed to cooperation. Without endangering the Court's independence States Parties must be ready to facilitate the Court's work and promote the interests of the Court wherever possible.

Of course, there are a number of different initiatives, which are already being taken. As the EU presidency has pointed out on behalf of the European Union in its statement, to which we fully subscribe, the EU and its member states are already engaged in a host of activities aimed at promoting the universality of the Court. But more needs to be done. Allow me to highlight just one other area we believe merits special attention: The Security Council. For many reasons the relationship between the Court and the Council is not a simple one. But it is no doubt an important one.

As has been the case so far, it would seem almost certain that the vast majority of situations where the Court is engaged will also be on the Council's agenda. And we will continuously have to deal with the interplay between the Court and the Council in situations of mass atrocities committed during conflict. In this respect it is crucial that States parties on the Council have the interest of the Court clearly in mind. They should in every possible way, while respecting the independence of the Court, strive to contribute to fighting impunity where we face war crimes, crimes against humanity or genocide.

Denmark's elected membership of the Security Council comes to an end later this year. Throughout the last two years, we have worked to protect and promote the interests of the Court. There is a growing realisation, also in the Council, that sustainable and lasting peace goes hand in hand with justice. This is in itself an important achievement. During a thematic debate under Danish presidency in June this year, the Security Council subscribed to this view when it stated that – and I quote – ‘ending impunity is essential, if a society in conflict or recovering from conflict is to come to terms with past abuses committed against civilians and to prevent future such abuses’. We, as States Parties, need to ensure that the Council follows through on this statement and remains committed to fighting impunity as an integral part of maintaining international peace and security.

Mr. President,

During the coming days this Assembly will discuss a number of topics related to the functioning of the Court: The Draft Budget for 2007, the Strategic Plan, Outreach to name but a few. There will undoubtedly be long and hard discussions, sometimes conflicting views, sometimes disagreement. But we share a common aim. We all strive for a stronger, more efficient, more effective Court. The efficiency and transparency of the Court will be of importance to the long-term success of our endeavour, also in terms of increasing the number of state parties and the mutual cooperation with states and international organs.

A frank and direct dialogue between friends is the best guarantee that we can move this young institution even further forward. It will be a task for all of us to listen to different points of view, to learn from them and to ensure that the right solutions for the Court are found. Only through strong, continuous and mutually trustful cooperation, also on issues such as the role and size of the Court, can we ensure the best possible support for the Courts activities. Denmark will do her part to make this fifth Assembly of States Parties a success. And perhaps even more important: Also after this Assembly will we have to work to ensure that a stronger, more strategic and continuous dialogue takes place between the Court and States Parties, both here in the Hague and in New York. The Working Groups have served this purpose well. We will look at lessons learnt and where existing fora for dialogue could possibly be even further strengthened. To echo the words of the President of the Court when he spoke earlier today: We should develop a sustained strategic dialogue between the Court and the State Parties on one common effort to carry out the mandate of the Rome Statute.

Mr. President,

Before I conclude, allow me a few comments on the up-coming Review Conference.

As we see the Statute being applied and tested in practice today, it is already time to start looking ahead and consider the experience gathered so far. As we all know the Statute prescribes that a Review Conference must be convened 7 years after the entry into force.

For a young institution like the ICC it is essential that we as States Parties and all other supporters of the Court have realistic expectations for the first Review Conference, bearing in mind that we will be meeting less than a decade after the entry into force of the Statute. It will be an opportunity to take stock of achievements already made. And perhaps to move forward if there are provisions of the statute which could work better or otherwise need to be amended. But in our view it is crucial that the Review Conference should be a uniting and consolidating event where results achieved has the requisite strong support among States Parties to make the Court even stronger. Where commonly held expectations lead to commonly accepted results.

Also for this reason it is essential that the Review Conference is prepared in a transparent, orderly and inclusive manner. There are various ways of proceeding. One option would be the creation of a new working group. Another would be establishing an open-ended mechanism under the Bureau. Denmark believes that already during this Assembly of States Parties it will be necessary to start looking carefully at how we want to prepare the Review Conference. The Focal Point, Mr. Rolf Einar Fife, has already done extremely valuable work as reflected in his report to this Assembly. We thank him for his effort so far and look forward to working closely with him on this very important issue also in the future.

Thank you, Mr. President,