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The Tenth Anniversary of the Rome Statute

Statement

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English Version

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Royal Highness,  
Excellencies, Ladies and Gentlemen

I would like to join the President of the Court, Philippe Kirsch, in thanking our Host country and champion, the Kingdom of the Netherlands, as well as France, which has assumed the EU Presidency, for creating this opportunity to celebrate the first 10 years of the Rome Treaty.

The Netherlands and France approached the Rome Conference from different perspectives but with the same sense that this was not just an exercise in putting ideas on paper. They knew that the legal design would profoundly affect international relations. And they made a conscious decision.

The Dutch Minister for Foreign Affairs during the Rome Conference in July 1998, clearly “advocated an overall system for the exercise of jurisdiction by the Court. We do not want the Court to be depending on the ad hoc consent of States.”

The French Minister for Foreign Affairs at the Rome Conference insisted: “France considers that no substantive issue should be passed over if we really want this new jurisdiction to assert itself, curb impunity, deter new atrocities and withstand the test of time. We want to succeed.”

Two different perspectives, but the same vision that the Rome Statute was creating a system so different from past models that we would have to rethink how the law works, in the Courtroom, and beyond. The Rome Statute establishes a global criminal justice system without the apparatus of a State and without a specific territory, but with the aim to protect each citizen of the world. It is a criminal justice system based on the interaction between 106 national states and an independent permanent International Criminal Court, an interaction embodied in two principles: complementarity and cooperation.

Humanity is learning. After the Holocaust, the atrocities of the Khmer Rouge, and the Rwanda genocide, we are creating a global community based on respect for the law.

I would also like to thank the Coalition for the International Criminal Court for this invitation, their commitment in the past and their permanent support. They represent citizens, citizens that understand the contemporary meaning of the word “community”. In the 21st century my community is my neighborhood, my city, my country and my world.

Let me emphasize the role of the citizens. Judges and Prosecutors, States and International Organizations will not be enough; we need global citizens to create a global community. Citizens with solidarity for remote victims or a wise self interest in preventing crimes that can affect them and their children in the future. Citizens living in The Hague concerned about what happens in Gulu, living in Paris but requesting solutions for Darfur. If this is not happening, if citizens from peaceful countries are not interested, out of solidarity or self interest, their political leaders will not cooperate with the Court, will not enforce the Court’s decisions. In order to support the Court whenever and wherever the Court decides to act, political leaders from peaceful countries need the support of their constituencies.

Ladies and Gentlemen,

5 years and 17 days ago I took office as the first Prosecutor of this innovative design. It is an honour, a privilege and a responsibility. As the President of the Court explained, we had to transform the Rome Statute from a document into a living, breathing system.

My mandate is clear. I have to apply the law. The selection of cases is, at the end of the day, straightforward. I have to select those most responsible for the most serious crimes of the gravest situations under our jurisdiction. Nothing more. Nothing less. So that is what we did and what we will continue to do.

We are prosecuting Thomas Lubanga for recruiting child soldiers and using them in hostilities. The Trial Chamber will hear the evidence of former child soldier witnesses. They were thirteen, twelve, eleven and ten years old when they were taken to the Lubanga's military training camps. Their fate represents the fate of hundreds of children of their age and younger recruited by Thomas Lubanga. There were children as young as seven, eight and nine years.

They were abducted on the road, abducted from schools. Abducted in the presence of their parents.

To be a Child and a Soldier is a shocking combination. Children at this age should go to school, instead they were trained to be soldiers. Those children were forced to kill. And those children were killed.

We are prosecuting Germain Katanga and Matthew Ngudjolo for the attack against the inhabitants of small villages like Bogoro in Ituri, who awoke early one morning to gunfire as more than 1,000 militia members entered their village with the intent to wipe it out.

We are prosecuting Jean-Pierre Bemba, whose forces in 2002-2003 in the Central African Republic (CAR) brutalized innocent civilians during a campaign of massive rapes and pillages.

The Court is also showing how the complementarity system can work in practice. We are monitoring cases in Colombia, Afghanistan, Kenya, and Cote D'Ivoire.

To present our cases in Court we had to overcome many difficulties. In fact the challenges increased in scope: in Uganda, the investigation proceeded during ongoing violence. In Ituri, we faced the additional difficulty of the collapse of functioning local institutions. Darfur was the most difficult challenge because it was impossible to protect witnesses in Darfur.

The protection of witnesses, victims and staff is our duty in accordance with the Statute; is part of fair trial concept; and is one of the most serious challenges we are faced with. During the last four years, no ICC witnesses or staff have been wounded or killed. This must remain so.

Ladies and Gentlemen,

In the Courtroom, as Philippe Kirsch noted, we are setting the framework for entirely new procedures:

- Victims are participating at all stages, with a right to send information to the Prosecutor to form the basis of the opening of an investigation, and to present their views and concerns during proceedings; they will benefit from a comprehensive system of reparations.
- We are establishing procedures to maintain the protection of witnesses while at the same time disclosing information to the defendants.
- We are establishing Procedures to respect the confidentiality required by providers of information to protect the security of their staff and procedures to disclose all the relevant information to the defence.

I am absolutely confident that in the days to come we will harmonise the requirements for fair trials and the respect we owe to all those who are providing assistance to the Court, the witnesses, the victims, the NGOs and the United Nations. There will be justice for Lubanga's victims.

This Court is building the foundations of an international criminal system for centuries, based on the highest standards. This is justice done and not only seen to be done.

We will be all right in the Courtroom. And I trust also that the international community will adjust to the new system; that together we will ensure the end of impunity for the most serious crimes and will contribute to the prevention of such crimes. The Rome Statute is a fantastic opportunity to better control violence in the world.

There have been significant achievement already. Armies around the world are adjusting their regulations to avoid the possibility of their personnel committing acts that would fall under the Court's jurisdiction. This is the way to stop crimes. The law makes the difference between a soldier or a terrorist, a policeman or a criminal.

With such a system in action, there is a possibility to use the law to manage and prevent violence in the world. The arrest and surrender of Jean-Pierre Bemba is a text book example: it is the full respect by all States concerned of their statutory obligations which makes the Court a reality.

We can do more with States and multilateral institutions to find better solutions to arrest, to update and harmonize old conflict management strategies with the new reality created by the Rome Statute. The negotiations have to respect and enforce this new legal framework; they have to enforce the arrest warrants.

Royal Highness, Your Excellencies, Ladies and Gentlemen,

10 years ago, countries from all continents adopted a new tool, the law, to manage violence and international conflicts. It was not a naïve decision; the Rome Statute was

not drafted overnight. Their decision was based both upon values as well as on self interest.

Massive crimes are not just a moral problem or the concern of one or two territorial States; massive crimes affect world security, they cross borders and affect different regions or the world. The LRA was committing crimes against humanity in Northern Uganda, then moved to Southern Sudan, then crossed to DRC; now they are in CAR.

As Madame Rama Yade declared to the UN Security Council on 20 May, “combating impunity [...] is the main condition for a genuine conciliation, without which no lasting peace or development is possible.” Indeed, impunity is not an abstract notion.

Today in Darfur, Ahmed Harun a man indicted by this Court, is attacking his victims in the camps. As Minister of State for Humanitarian Affairs, he is hindering humanitarian aid. As a member of the UNAMID oversight committee, he is affecting the deployment and safety of peacekeepers.

Today, Joseph Kony, the first man indicted by this Court, a man who kidnapped thousands of children; transforming them into killers or sexual slaves is attacking in the Central African Republic and in the DRC. This did not happen by chance. It happened because the international community lacked resolve and let him use the time and the resources of the Juba talks to promote his criminal goals. He is now inflicting violence on a new generation of victims.

The ICC represents a unique opportunity for the communities in conflict-torn regions around the world to come together. Our cases are about the individual responsibility of criminals. There can be no solidarity with individuals alleged to have committed massive crimes. There can be no solidarity with ICC indictees and fugitives from the Court. The work of justice can help communities to come together and move forward.

I know there are skeptics. People saying : what can I do? Let me give you one example.

Rafael Lemkin. A citizen who decided to do something. A citizen who worked tirelessly to promote a Treaty prohibiting the crime of Genocide. He defined his own mission in the following terms: “my basic mission in life is: to create a law among nations for the protection of national, racial and religious groups from destruction.”

He sent thousand of handwritten letters to Ambassadors. He said, and I quote him “I learned to love the obstacles by making them a test of my moral strength.” And you know what? He succeeded. The Genocide Convention was signed in 1948. He succeeded. The Rome Treaty, creating a permanent court to prosecute massive crimes and genocide was approved in 1998. The Court is in motion. Lemkin succeeded. Humanity can learn.

Thank you for your attention.