

**Cour
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**International
Criminal
Court**

**Judge Sang-Hyun Song
President of the International Criminal Court**

Remarks to the 11th Session of the Assembly of States Parties

*The Hague
14 November 2012*

Your Excellency, Madam President of the Assembly of States Parties,
Excellencies, Distinguished delegates,
Elected Officials of the Court, Ladies and Gentlemen,

This morning we commemorated the 10th anniversary of the ICC in the presence of Her Majesty the Queen of the Netherlands. We reflected together on how far the Court and the Rome Statute system as a whole have developed over the last decade.

We have achieved a great deal together, but we are all well aware that it is still a long way to go before the Rome Statute, the ICC and the values they represent are fully embedded in the life of the international community. The tenth anniversary is an opportunity for us to re-commit ourselves to that fundamental objective.

Allow me to say that it is a special honour for the ICC that His Excellency Macky Sall, the President of Senegal – the first State Party to the Rome Statute – took time from his busy schedule to attend these celebrations and this Assembly. We are much grateful for his and his country's support.

The last year has been one of landmarks for the ICC. A new Prosecutor has taken office. New judges elected at the last ASP have been sworn in, though most have yet to be called to full-time service. Our first trial reached its conclusion with a guilty verdict and decisions on sentencing and reparations, and I would like to pay tribute to the departing judges for their distinguished personal and collective contributions.

Today the ICC is busier than ever at all levels. This makes it all the more important for us to reflect carefully on the experience we have accumulated so far and to look for ways to improve the way we work.

International trials are by their nature far more complex and extended than trials at the national level. It was inevitable too that the first ICC trials would have to resolve a large number of novel issues as the Statute and the Rules of Procedure were implemented for the first time. But we can now draw on that experience to explore and implement practical ways of improving the efficiency of our proceedings while protecting the rights of the participants.

That is the purpose of the “lessons learned” exercise, which will be one of the issues for your consideration at this Assembly, and which will be a major feature of our work for some years to come. Our judges have a large number of practical ideas for procedural improvements which will require further development and discussion by all interested parties before decisions are taken on them.

I would like to commend the Road Map which has been proposed to you as a basis for managing these discussions over the period ahead. I would also like to commend strongly the first proposal to have emerged from the discussions with States Parties so far, namely the introduction of the possibility of using a single judge to carry out certain aspects of trial preparation.

The Statute provided specifically for a single judge to carry out similar functions at the pre-trial stage. This has worked very successfully, and the overwhelming majority of judges believe that introducing a system of this kind at the trial preparation level, subject to appropriate safeguards, would increase judicial efficiency.

I also look forward to your discussions on cooperation, complementarity and universality. All three issues are of central importance for the proper functioning, not just of the ICC, but of the Rome Statute system as a whole. These are also issues in which the States Parties have a particularly important role to play.

The ICC is wholly dependent on the cooperation of states for the effective fulfilment of its mandate, from facilitating the investigation of potential crimes and securing apprehension of suspects to the freezing of assets and enforcing sentences. The Court is immensely grateful for the extensive cooperation which it already receives from states, but we are all aware that there are some important gaps and problem areas, and we have to look to States Parties in particular to address these. In this context the open debate on peace, justice and the role of the ICC held in the Security Council on 17 October was an important opportunity to highlight the importance of cooperation in the implementation of Security Council referrals, as well as the issue of the financing of such referrals.

The existence or absence of complementarity in particular country situations obviously has a direct impact on the ICC's work. But more generally the effective promotion of complementarity is fundamental if we are to realise the goals of the Rome Statute system as a whole. I hope that this Assembly will be able to give a new impetus to these efforts, drawing on the collective experience that has been gained over the last decade and taking advantage of the many sources of supporting advice and assistance which are now available.

The pursuit of universality remains of course a fundamental goal of the Rome Statute. We have come a long way, with 121 States Parties after 10 years and some more who have pledged to join. But we need to maintain the dynamic of forward progress.

After some very successful years in this respect, it seems that this year the dynamic has slowed. I hope that the Assembly will be able to give it renewed impetus.

You will also be electing a new Deputy Prosecutor, and offering advice to the Judges whose responsibility it will be to elect the next Registrar. The Court needs elected officials of the highest quality, and I welcome the vital role which the Assembly plays in ensuring this.

The ICC's budget will be another important issue before the Assembly. Last year, after some difficult discussions, a budget was agreed which was well below what the Court had requested, and also below what the Committee on Budget and Finance had recommended, but which still represented a modest increase in both nominal and real terms.

Implementing that budget this year has been difficult given such factors as the ICC's growing caseload, the increasing number of victims to be assessed and represented, the Court's contractual obligations to its staff in terms of salaries, and the impact of price inflation. All Major Programmes have had to make hard choices in order to live within their budgets, for example by leaving operational posts vacant for long periods, cutting temporary staff support for budgetary rather than workload reasons, and deferring expenditure on essential investments and maintenance.

The latest expenditure forecast which has been provided to you shows that the ICC has indeed been very rigorous in implementing its budget, to the extent that we have slightly overshot our savings target, which should result in a correspondingly reduced need for replenishment of the Contingency Fund.

I believe therefore that we have been responsible managers of the funds which the States Parties have provided. But this has come at a price. In the Judiciary, for example, we have learned that cutting legal support staffing beyond a certain point inevitably causes delay in judicial proceedings. Such delays in turn will result in higher costs for the organisation as a whole, whether these arise from the extended provision of legal aid for defence or victims, witness protection, courtroom services or, in some cases, further extension of the terms of judges.

The ICC fully recognises the continuing difficulties in the world economy, and the extent to which this continues to impose budgetary constraints on many States Parties. Last year at this Assembly I said that we needed a budget outcome which reflected a rational balance between the task-driven needs of the court and the requirements of economy and efficiency. I still believe that to be the case.

The draft budget which the Court put forward this year takes account of unavoidable cost increases in staff salaries and inflation. But these have been substantially offset by a wide range of detailed cost savings and efficiencies. The result was a relatively modest proposed increase in the budget. The one element which the Court could not realistically manage to offset was the new bill for the rent of the interim premises. I shall return to that in a moment.

The Committee on Budget and Finance had extensive discussions with the Court and received a great deal of supporting information before reaching its conclusions and recommendations. Although the Court has difficulty with some of the Committee's recommendations, taken as a whole we believe that they would enable the ICC to discharge its mandates next year without compromising essential prosecutorial and judicial operations or independence. Let me stress, however, the words of the CBF Chair that with the CBF recommendations the Court will be operating at its very limits. We hope therefore that the CBF recommendations will ultimately prove acceptable to States Parties.

I recognise that the rent for the interim premises represents an unwelcome additional cost to States Parties for the next three years, although the risk of this has been foreseeable for some time. The Host State has just made a proposal in this respect, which I hope will be a helpful element in the discussions of this issue. I would just like to underline that, given the combination of workload and cost pressures on the ICC's operating budget as amended by the CBF, it would cause serious disruption to the Court's operations if it additionally had to absorb a proportion of the rent bill as well.

Finally on the budget I would also like to underline the Court's commitment to achieving continuing savings wherever possible. It is in this spirit that the Court proposed further potential savings in the legal aid system, which have been adopted in the CBF recommendations. It is also in this spirit that we have embarked on an independent review of the Court's structure, from which we expect the first conclusions to be presented to the CBF at its next meeting in April 2013.

As the ICC moves into its eleventh year, we must learn from the experiences of the last decade. We must preserve and strengthen what has worked well, but not hesitate to review and revise areas where improvement is needed. I know that we can count on the assistance and cooperation of States Parties in fulfilling that task.

Thank you.