



EMBASSY OF ITALY

STATEMENT OF

ITALY

By H.E. Ambassador FRANCESCO AZZARELLO

Head of Delegation

**ASSEMBLY OF STATES PARTIES OF THE
INTERNATIONAL CRIMINAL COURT**

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GENERAL DEBATE

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Madam President,

Italy fully supports the statement delivered by Cyprus on behalf of the European Union.

In the first ten years of the International Criminal Court its universality has steadily advanced, and we are pleased that in 2012 Guatemala has joined the Rome Statute system as a new State Party. Also, the independence of the judicial functions has been successfully protected, and the operations of the Organization have effectively achieved a number of its objectives: investigations and trials are a reality at the ICC, and the institution is increasingly playing a recognized role in contributing to international peace and security.

Yet the challenges ahead are multi-fold and complex, and the effectiveness of the Rome Statute system needs to be enhanced taking into account the lessons learnt by the ICC, but also based on the established practices of international and national jurisdictions.

Italy is fully committed to ensuring that the mandate of the Court is fulfilled, and will continue to support its independence and its operations in all relevant fora and contexts. The Court has the burden of conducting reliable proceedings, where justice is also seen as being administered fairly and independently, within the existing resources and expeditiously. States, on their side, cannot deprive the system of their crucial contribution to ensure that trials are made possible by the provision of the necessary judicial cooperation and assistance. As without cooperation the Court cannot be expected to deliver, the extent of the commitment of States and of the Security Council to cooperation with the Court should be factored in specific arrangements at the time of considering any referral of a situation to the jurisdiction of the ICC.

The correct functioning of the principle of complementarity also depends on the extent States fulfil their primary duty to trigger their own jurisdictions, under the two parameters of the ability and willingness to genuinely carry out investigations and prosecutions. In this regard, much of the debate has thus far focused on the ability of States, and on the efforts the international community undertakes to strengthen the national capacity to address statutory crimes. However, situations pending before the Court are often characterized by the unwillingness of national jurisdictions to proceed, rather than by their inability. Willingness and ability should be jointly considered and addressed, as it was successfully experienced in the situations falling in the jurisdictions of the *ad hoc* Tribunals. Consequently, actions to reinforce national capacities should be linked to objective expressions of willingness to carry out genuine domestic proceedings.

Madam President,

the Assembly has to remain fully aware of its policy and oversight role, which is intended to strengthen the understanding for and the credibility of the Court itself. In this regard, we look at the urgent full operationalization of the Independent Oversight Mechanism as an essential step to safeguard institutional relationships in the ICC system and, among other matters, to provide a professional evaluation of the institutional framework.

A strong and credible ICC also requires that lesson learnt urgently inspire a strengthening of its internal functioning, both through the policies and practices of the Court and with

an update of the applicable legal framework. States Parties have engaged in a structured dialogue on the efficiency of the Court, and we are confident that substantive progress can be made in adapting the Rules of Procedure and Evidence to expediting proceedings. However, the principle of legality is a limit to this process, and a ten year long test of the Rome Statute now justifies that States Parties should look openly into strengthening the legal framework with any changes that are justified by sufficient experience. The timeframe for such a review and its implementation cannot be short, but a clear process has to be initiated soon, to prevent that changes are driven only by urgency and that they appear not to conform with the Statute.

The Court has developed a remarkable experience on participation and representation of victims. The previously unheard voices of those who suffered the most heinous international crimes have finally been allowed to access justice. Still, for too many victims the courtroom doors remain closed. This situation has to change, so as to allow that all victims of any situations can participate in the proceedings. Both States Parties and the Court should prioritize their efforts to achieve this result through the appropriate urgent changes in the Rules.

Madam President,

Italy is firmly convinced that States Parties should continue to provide the ICC with all the means it requires to conduct efficiently and effectively the fight against impunity. The budget of the ICC has grown steadily over its life and the current level of resources ensures that the mandate of the Court be carried out in a sustainable manner. In this regard, while fully supporting the valuable review of the 2013 budget carried out by the Committee on Budget and Finance, we reiterate our appeal for the Court to establish clear priorities, with a focus on the judicial mandate of the institution, and to achieve highest levels of efficiency by conducting a thorough review of its policies and practices, also increasing its reliance on lessons learnt from other international jurisdictions. Further opportunities for efficiencies should also be sought by the Court in preparation of the transition to the Permanent Premises.

Italy is honoured to inform that it has entirely paid upfront its contribution the permanent seat of the Court, and invites the other States Parties which have not done so to consider the substantial benefits for all the ICC membership of a one-time payment.

Madam President,

Italy congratulates the new elect Deputy Prosecutor, and is convinced that the added value of this highly skilled professional will greatly benefit the Office of the Prosecutor. We also wish to congratulate the elected members of the Board of Directors of the Trust Fund for Victims, who will be called to make important decisions in redress of the victims.

Thank you, Madam President

Speech delivered at the General Debate by H.E. Mr. Francesco Azzarello, Ambassador of Italy to The Netherlands and Head of the Italian delegation to the eleventh session of the ASP (The Hague, 14 – 22 November 2012).