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# JAPAN

**Statement**

**by**

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**At the Eleventh Session of the Assembly of States Parties to the  
Rome Statute of the International Criminal Court (ICC)**

**The Hague, 15 November 2012**



H.E. Madam Tiina Intelmann, President of the Assembly of States Parties,  
Judge Sang-Hyun Song, President of the International Criminal Court,  
Madam Fatou Bensouda, Prosecutor of the International Criminal Court,  
Ms. Silvana Arbia, Registrar of the International Criminal Court,  
Excellencies,  
Distinguished Delegates,  
Ladies and Gentlemen,

Let me begin by congratulating the International Criminal Court (ICC) on its tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court. Allow me to also express the sincere appreciation of the Government of Japan for the excellent leadership of President Sang-Hyun Song, as well as all the efforts made by other judges, the Prosecutor, the Registrar and the staff of the ICC in building the credibility of the Court.

The objective of the ICC—namely, to punish and prevent the most serious crimes of concern to the international community as a whole—is the long-cherished wish of people throughout the world. In March this year, the ICC achieved significant progress in reaching this goal; it rendered the very first judgment in the Lubanga case. Japan welcomes this significant step toward a fully operational international criminal justice system and the development of international criminal law.

Since the days of active engagement with the drafting process of the Rome Statute, Japan has maintained a consistent policy towards the Court, which aims to create and foster an international criminal justice institution that can function effectively on the basis of total confidence of the international community.

In the past 10 years, the ICC enjoyed increased credibility in the world. The number of the States Parties was 60 when the Statute came into force in July, 2002, and now it is 121. Japan would like to extend a warm welcome to Guatemala, which joined after the Assembly of the last year. Promoting the universality of its membership is essential for the Court to effectively undertake its mandate. Japan would like to reiterate its commitment to continue encouraging States, especially those in the Asia-Pacific region, which have not yet done so, to ratify or accede to the Statute by providing to them legal assistance concerning the incorporation of the Rome Statute into their respective legal system. We are always more than happy to be approached by any State which is seriously considering the ratification of the Rome Statute.

Madam President,

While such wonderful progress has been made, the ten-year experience of the ICC also reveals some challenges that the Court needs to address. One of the major challenges is how to gain the cooperation of States in executing the arrest warrants of suspects or collecting evidence for criminal trials. The effective implementation of the Statute can be realized only through full cooperation of

States with the Court. It should be also recalled that a lack of cooperation can not only cause the failure to bring perpetrators of the most serious crimes to justice, but also undermine the Court's credibility by betraying the expectation of the victims and the international community. All States Parties are called upon to fully cooperate with the ICC in accordance with their obligations under the Statute.

Furthermore in cases where situations in a non-State Party are referred to the Court by the United Nations Security Council, cooperation between the Court and the United Nations is crucial. The Court is expected to deepen dialogue and cooperation with the UN, including on the financial implications of the Council's referral.

The second challenge that the ICC faces is improvement of efficiency. The independence of the Court must be respected but it does not mean that the ICC should be immune from any examination of its management and governance. In order to ensure that both the legitimacy of and the support for the Court are "sustainable," both the ICC and the international community must discover how best to address the Court's long-term "cost drivers" within its limited resources. Japan takes the view that streamlining or expediting criminal process of the Court and addressing the "cost drivers" of the activities of the Court are two aspects of the same coin. In this regard, my delegation welcomes the "Lessons Learnt" initiative conducted by the Court and wishes that, under this initiative, the Court carry out not only a comprehensive review of its criminal justice system but also a thorough reassessment of its management and governance. We also continue to take

a close look at the work of the Study Group on Governance which achieved a significant progress this year by adopting the Roadmap on reviewing the criminal procedure of the Court and the report on enhancing the transparency and predictability of the budget process. Japan, as a leading contributor, would like to continue to assist such efforts of the Court and the ASP.

The third challenge is the importance of the principle of complementarity. The ICC is a court of the last resort. Every State has a duty to exercise its criminal jurisdiction over those responsible for the most serious crimes, and the role of the ICC should, in principle, be complementary to national criminal jurisdiction. States Parties, on their parts, must first and foremost make their best efforts to exercise national jurisdiction rather than “dumping” a situation on the ICC simply because they face difficulties in handling it domestically.

In order to ensure the sustainability of the Court, States Parties would be prudent not to overburden the Court at this stage of the Court’s development with a large number of additional crimes which may be politically controversial or may be more effectively prosecuted and punished under national jurisdiction.

Madam President,

Looking back the last 10 years of the ICC, the agreement on the crime of aggression in the Review Conference in Kampala is one of the great accomplishments of the ICC. Japan appreciates the historic importance of the

agreement. At the same time, my delegation would like to highlight again the necessity of the legal integrity of the Rome Statute, as the ICC is a judicial institution to deal with criminal responsibility of individuals. To eliminate legal ambiguity as much as possible, we continue to support a quiet dialogue among interested parties with a view to narrowing the gaps among them concerning the interpretation of the agreement.

Madam President,

In closing, I wish to reiterate the sincere appreciation of Japan for the accomplishments of the ICC to date. The development of the ICC has contributed to raising awareness of the importance of Rule of Law in the international community. It is our hope that the ICC will continue to function effectively in the fight against impunity and to consolidate its credibility and reputation both inside and outside the Rome Statute system. In this regard, Japan is determined to continue and strengthen its contribution to the ICC and thus to the establishment of the rule of law in the international community.

Thank you.