



**At the Twelfth Session of the Assembly of States Parties
To Rome Statute of the International Criminal Court**

Statement by

Mr. Ma Xinmin,

**Counsellor of the Department of Treaty and Law of Ministry of
Foreign Affairs of the People's Republic of China**

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Madam President, Excellencies, Distinguished Delegates,

It is an honour on behalf of my country to address here. First of all, the Chinese delegation would like to thank President Song, Prosecutor Madam Bensouda, for their well-prepared reports as well as their personal contributions to the work of International Criminal Court. We also welcome Mr. Herman Von Hebel as the new Registrar of the Court.

Madam President,

China has always been committed to upholding international justice, and supporting the establishment of an independent, fair and universal international judicial body with complementary jurisdiction, in order to punish the most serious international crimes. China attaches great importance to the Court's role in maintaining international peace, security and justice, punishing international crimes and furthering international law. It's true that the Court has made some progress in certain areas over the past 11 years since its establishment. However, we have also noticed that recently, the Court's approach to some cases is raising a broad concern and controversy in the international community. In this context, we should reflect on how the Court carries out its duty in conformity with the Rome Statute so as to improve its judicial credibility. In this regard, we would like to share some views with our colleagues:

Firstly, the Court should fully respect national jurisdiction's primary role and strictly adhere to the principle of complementarity under the Rome Statute. It is the sovereign state that assumes primary responsibility to punish serious crimes, eliminate impunity and realize the justice. The Court is designed to complement, rather than substitute, national jurisdictions. Thus, the Court must earnestly recognize the sovereign state's primary jurisdiction over the international crimes, and moreover, encourage and support relevant states to exercise their jurisdictions over such crimes, especially by strengthening judicial capacity building based on state's judicial sovereignty. We believe it is the most effective and economic way to end impunity and punish serious international crimes.

Secondly, the Court should pay equal attention to peace and justice. As the core values pursued by the Court, peace and justice complement each other, and should be given equal importance. The Court, especially the Prosecutor, while deciding whether to open investigation and prosecution in various situations, should keep in mind the goal of pursuing both peace and justice. The Court should serve as an effective mechanism to promote justice and secure peace and stability. To equate punishing crimes with justice, sometimes even at the expense of national reconciliation process and regional peace and stability, certainly goes against the

purposes and principles of the Rome Statute. At the same time, regarding the relation between peace and justice, especially when the two contradict each other, we should not rigidly insist on the absolute priority of one or the other, but take into consideration the practical needs of relevant states and achieve both peace and justice to the maximum. Only in this way, will the fundamental goal of the Court be achieved.

Thirdly, the Court should handle with prudence its relationship with the UN Security Council. The Court and the Security Council are two independent bodies, though interconnected with each other, having common interests in the prevention and punishment of most serious crimes which are of concern to the international community as a whole. The Council is conferred with primary responsibility for the maintenance of international peace and security. And with the power to refer situations to the Court, defer its investigations or prosecutions and determine the existence of act of aggression, the Council can play an important role in promoting accountability for grave crimes threatening the peace and security, while the Court's important mission is to punish such grave crimes. Meanwhile, the two institutions play complementary role to each other in safeguarding peace and justice. In most circumstances, the preventive diplomatic efforts under the Security Council's auspice are by no means excluding but actually conducive to the law enforcement and justice administered by the Court and vice versa. Therefore, the Court and the Council should respect each other's competence, strengthen their cooperation, and formulate a constructive and cooperative partnership in the legal framework established by the UN Charter, relevant resolutions of the UN General Assembly and the Council as well as the Relationship Agreement between the International Criminal Court and the United Nations. Only through this way can both institutions' interests be served well.

Fourthly, cooperation between the Court and States Parties should be enhanced. The Court belongs to all States Parties, and its effective operation and success very much depend on its cooperation with these States Parties. As a newly born international institution of criminal justice, the establishment of the Court's credibility rests upon consensus among these States Parties and their recognition thereof. Recently, the Court's dealing with Kenyan national leaders' appearing before the Court invites widespread controversy. We have taken note that the Court has decided to defer the said case until early next year, and we hope the Court will respect the legitimate concerns of African states, show flexibility allowed under the Rome Statute, solidify the consensus from more States Parties, and secure more support from international organizations, in seeking best solution to the issue. At the same time, China would like to emphasize that the rights and entitlements enjoyed by non-States Parties under international law should be accorded due respect, and no obligation on cooperation can be imposed on them in this regard.

Fifthly, all states and parties related to conflicts should be treated on equal basis.

Equality is the inherent demand of justice. All states and parties related to conflicts should be treated equally before the Court and its Rome Statute. All laws should be applied with the same equality, and no distinction should be made to different parties in every step of the proceedings of the Court, from situation referral, investigation to trial of a case or compensation stage. Any double standard, selective enforcement of law or selective justice is a violation and betrayal of justice itself.

Sixthly, both punishment of crimes and compensation to victims should be taken into account. While punishing the most serious international crimes and reparations to victims are two main goals of the Court, the work of the Court should pay attention to the reparations and let them play their full role in the protection of victims' interests as well as punishing the most serious international crimes.

In conclusion, Madam President, peace, justice and rule of law are what human beings all value, cherish and pursue. China hope the Court plays a positive role in materializing these noble goals and in the future the Court, through its concrete actions, could win trust and support of the international community, as well as States Parties, thus making its due contribution to ending impunity, punishing the most serious international crimes and promoting human rights and rule of law.

Thank you, Madam President.