

Statement by

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Madam President, your Excellencies - dear colleagues and friends from civil society,

To start with, Denmark would like to associate herself with the statement delivered on behalf of the European Union.

I would like to address three issues of importance to this session of the Assembly. The first is complementarity. As many of you know, Denmark has for the last four years, together with our friends from South Africa, acted as the ASP focal point on complementarity. It was here in The Hague, in the margins of the ASP prior to the Kampala Review Conference, that we initiated discussions on the notion of “positive complementarity.” Strengthening national judicial systems and enabling them to deal with Rome Statute Crimes is vital to making the Rome Statute System work. States themselves are the first line of defense against impunity and they have the primary responsibility to investigate and prosecute. Where the will to do so exist we should stand ready to help each other in building the necessary capacity. This is what positive complementarity is all about – States helping States fight impunity.

Since 2009 the ASP has come a long way. No longer do we only speak of complementarity as a cornerstone of the Rome Statute. The magnitude of the work that needs to be done to enable national systems to address impunity gaps even in those situations where the ICC is active has become clear. We have learnt how much courage and effort it takes from the victims and judicial officers to investigate and prosecute atrocity crimes at the national level. And that these efforts need all our support. In this context I would like to recall the testimony we heard at last year’s ASP when the Attorney General from Guatemala, Claudia Paz y Paz, spoke about her important ongoing work to address the tragedies in her own country and the challenges she faced.

Since 2009, it has therefore also become evident that the task of making complementarity work in practice cannot be shouldered alone by the diplomats and legal advisers assembled in this meeting. Positive complementarity means we have to reach out to our national judicial systems. We need to go beyond the ASP and continuously engage national prosecutors, rule of law officers and international development experts. With rule of law being higher on the UN development agenda than ever before and with agencies like the UNDP demonstrating strong leadership in this area, there is a unique opportunity for promoting and mainstreaming positive complementarity. We as ASP members, as custodians of the Rome Statute System, should seize this opportunity.

No review of the ASP’s dealings with the complementarity principle would be complete without thanking civil society for their commitment to this topic. The many side events

organized by NGOs at previous ASPs and again this year are essential in highlighting the importance, needs and benefits of complementarity in practice. I want to especially thank our friends from the International Centre for Transitional Justice who for several years now has contributed immensely to advancing the positive complementarity agenda, not least through the Greentree meetings.

Madame President,

This brings me to my second point: the challenge of non-cooperation. When we 15 years ago in Rome established the International Criminal Court, we decided to establish a court that as a ground rule would rely on state cooperation; cooperation that we all committed to when ratifying the Rome Statute.

One key aspect in this regard is the execution of arrest warrants. Since the last ASP we have seen some progress in this regard. For example, one of the suspects in the situation concerning the Democratic Republic of Congo, Bosco Ntaganda, surrendered to the Court. Our special appreciation goes in this context to two non-states parties – the United States and Rwanda – for their support in this operation.

However, many arrest warrants remain outstanding and we need to redouble our efforts in securing the arrest and surrender of suspects.

In this context we must also support those governments which for various reasons encounter problems in complying with the Court's requests for cooperation, including arrest warrants. Instances of non-cooperation should lead to a clear response from us as States Parties, but we should also together search for ways to avoid repetition of such instances in the future.

In the context of cooperation, the notion of abstaining from “non-essential contacts” with persons subject to an arrest warrant is important. The term is well known from the clear guidance the UN Secretary General has issued on how to handle contacts with such persons. The term also forms part of the policy framework of many States Parties, including my own. It helps us to calibrate the appropriate response to non-cooperation in light of the requirements the Rome Statute sets for cooperation and the execution of arrest warrants. For this Assembly it remains a key undertaking to turn non-cooperation today into cooperation tomorrow.

Madame President,

Let me come to my final point: the concerns raised by the African Union on the implementation of the Courts mandate. We are all aware of the difficult political situation which forms the background for this. For us it is important that we as an Assembly fully realize our role in governing the application, present and future, of the Rome Statute. We have to listen carefully to each other's point of view as we have a collective responsibility to safeguard our treaty and work towards achieving its universality. We therefore welcome the opportunity to have a thorough and open discussion on proposals put forward to make the Court an even stronger and even more legitimate institution as a key tool in our common fight against impunity.

My delegation will work hard to identify ways, within the framework of the Rome Statute, in which these issues could be addressed. One could imagine possible adjustments to the rules of the Court and maybe other steps to address the concerns raised. In our view any such measures must be fully consistent with the basic principles and values underlying the Rome Statute.

We also welcome the special segment suggested by the African Union on indictments of sitting heads of states and the implications thereof for peace, justice and stability. Being in the Hague, it is worth recalling that we this year marked the 20th anniversary for the establishment of the International Criminal Tribunal for the Former Yugoslavia. A tribunal which went on to indict, amongst others, a sitting head of state and other top-level government officials. This was a difficult but necessary process for Europe, and maybe one which holds some lessons also for our coming deliberations on how we best promote peace, justice and stability.

In conclusion, Madame President, let me reaffirm Denmark's unwavering commitment to the International Criminal Court. The objectives we jointly agreed on in 1998 remain of essential importance also today. Let me take this opportunity to thank the staff of the ICC for their dedication and work towards ending impunity for mass atrocity crimes. Let us continue to work together on this challenging task and do so mindful of the victims of the atrocities that we aim stop.

Thank you, Madame President.