



NIGERIA'S COUNTRY STATEMENT
AT THE
19TH SESSION OF THE ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE OF
THE INTERNATIONAL CRIMINAL COURT,
DELIVERED BY THE LEADER OF NIGERIA'S DELEGATION,
HIS EXCELLENCY, ABUBAKAR MALAMI, SAN,
HONOURABLE ATTORNEY-GENERAL OF THE
FEDERATION AND MINISTER OF JUSTICE,
FEDERAL REPUBLIC OF NIGERIA

14TH -16TH DECEMBER, 2020

Mr. President

It is with great pleasure that I welcome participants to this year's session. It is gratifying to note that despite the ravaging corona virus pandemic, we are still able to hold this year's session with such a large turnout. This is a testimony of the great esteem and importance that States Parties attach to the International Criminal Court.

Since my delegation is taking the floor for the first time, let me on behalf of His Excellency, President Muhammadu Buhari, the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, my delegation, the Government and the good people of Nigeria congratulate the President and other members of the Bureau for their successful tenure at the helm of the Assembly as they have displayed exemplary leadership qualities for taking charge of this year's session despite the ravaging pandemic. Nigeria is confident that the incoming President, Vice Presidents and members of the Bureau would build on the successes recorded by the outgoing President and his team. We look forward to greater progress for this body under the new leadership that would be elected and assure of

Nigeria's continued support in the discharge of the onerous responsibilities of successfully conducting the affairs of the Assembly of States Parties (ASP). I also wish to congratulate in advance the new members of the Committee on Budget and Finance and charge them to build on the achievements of their predecessors.

My delegation's compliments will be incomplete, if I fail to appreciate the works and efforts of the outgoing Prosecutor – Mrs. Fatou Bensuoda, a courageous, diligent, intelligent and hardworking African Ambassador. I have had occasions to work closely with her with regard to the preliminary examinations on Nigeria arising from the ongoing war against the Boko Haram terrorists. All I can say is that Mrs. Fatou Bensuoda was thorough, firm, unbiased and unwavering all through the years of examining the accusations against Nigeria. If in the nearest future Mrs. Fatou Bensuoda wishes to contest for any position, either at the ICC or elsewhere, Nigeria will readily stand firm and support her. I wish her all the best in her future endeavors.

Mr. President,

Since this is the last time that my country man and brother - President Eboe-Osuji will be with us, I wish to seize this opportunity to express Nigeria's pride and appreciation for his leadership of the Court in the last three years as President and his defining contributions to the jurisprudence of the Court throughout his nine-year tenure. As President, he has brought enduring reforms to the Court and spearheaded efforts that have led to a better understanding of the Court on the world stage. African leaders, in particular, have related better with the Court through his efforts.

We have also been particularly impressed with his relentless assertion of the Court's independence, including through efforts he led to improve the conditions of service of judges, in order to ensure that jurists of the highest caliber will always aspire for appointment to the Court's judiciary, thereby strengthening the quality of the bench as a whole. Nigeria is particularly proud of the fact that in all these efforts and contributions, President Eboe-Osuji has been guided by his conscience and his views of

the law, and not by the winds of political popularity. For that, he deserves the respect of all of us.

Nigeria has taken note of efforts to reform the conditions of service of ICC judges. Nigeria is concerned about the rationale that has now disconnected those conditions from their traditional alignment with the conditions of service of the judges of the International Court of Justice. It is true that the conditions of service of the ICC judges need not be formally linked to those of ICJ judges. But it is important to stress that ICC Judges are not inferior to their counterparts at the ICJ or at the other International Courts in Europe. That equality of stature must also be reflected in parity of treatment in conditions of service.

Nigeria also underscores the importance of maintaining the usual arrangement in the administration of international justice, according to which judges of International Courts are compensated at a level above Under Secretaries General in the UN system (USGs). That is the system the ICJ; as it was at the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone. So far, that has been the system at the

ICC. There is no rational ground to change that arrangement at the ICC, by downgrading ICC Judges to the USG level. Such downgrading will also result in difficulties in the orderly conduct of ICC proceedings and may result in discouragement.

Nigeria has taken note of the review report of the Independent Experts. We commend President Eboe-Osuji and his colleagues for volunteering to have this review finally done. It is an enduring achievement for which they must be commended. It is important to underscore that the review exercise was meant to be a review of systems in order to have a holistic improvement. The review was never intended to be an inquiry into wrongdoing. There are different ways and different safeguards for conducting inquiries of the latter kind. The report should not contain unverified rumors and gossips which come with high risk of inaccuracies and bad faith.

As the Assembly carefully considers the useful aspects of the report, it is important to remain faithful to the original vision of the ICC and the relevant texts of the Rome Statute, which must be interpreted according to the usual rules of treaty

interpretation now codified in the Vienna Convention on the Law of Treaties, 1969.

Finally, Nigeria discourages the idea that a court of law should be shaped and guided by bodies that are in turn guided or influenced by dominant politics. The ICC is meant to be a court of law and nothing else. It needs to remain that way, in order to effectively discharge its mandate.

Mr. President

In other words, there is the need to safeguard the integrity of the Rome Statute, and its cornerstone principles. In that regard, Nigeria is grateful to the Independent Expert Review Report which came up with action-oriented recommendations to the Assembly. Nigeria wishes to commend the effort of the Independent Experts on the review process of the Rome Statute system within the stipulated time despite the outbreak of the Covid-19 pandemic. Nigeria wishes to state that while implementing the recommendations of the Report, we should be mindful of the fact that the ICC is not an ordinary court of law, therefore, its peculiarity must not be eroded. The implementation of the review process should be holistic in

strengthening the Court and the Rome Statute system in order to meet up with the challenges of the twenty-first century.

Mr. President

I note with great consternation that the promise and hope offered by the Rome Statute to victims of atrocious crimes worldwide is increasingly threatened by a retreat in multilateral engagement and rising tides of hostility, discrimination, and repression around the world. In addition, attacks against the ICC and its officials continue to weaken the Rome Statute system and its support across the globe. In this vein, Nigeria wishes to align with the European Union and other States Parties to the Rome Statute of the ICC in condemning actions geared towards undermining and weakening the Court. Nigeria also wishes to condemn any action or threat of action that undermines or seeks to undermine the ability of the Court to freely exercise its mandate and carry out its core functions. Nigeria thus, wishes to reaffirm, inter alia, her unconditional commitment to the ICC as the cornerstone of the fight against impunity and a critical element of rules-based international order; she also commits to work together with States Parties to oppose efforts to undermine the work of the Court and its independence and in particular

Nigeria strongly condemns threats made against the ICC, its officials, and those cooperating with the Court, wherever such actions may be coming from.

Mr. President,

Nigeria wishes to commend the effort of the Committee on the Election of the Prosecutor (CEP) and the Advisory Committee on Nomination (ACN) of Judges for their due diligence in carrying out their assigned tasks. Nigeria commits to supporting a process that is all inclusive and transparent as well as a process devoid of any sentiment in order to select the best and the most qualified candidate for the coveted position of Prosecutor of the ICC.

Similarly, the election of Judges of the Court should also be conducted in a transparent manner in order to elect the most qualified candidates. Nigeria wishes to reiterate the need not to compromise the issue of high moral character of candidates seeking elective offices within the Court system as that is the only way the credibility of the Court can be sustained.

Mr. President

In conclusion, let me congratulate in advance, whoever eventually emerges as the Prosecutor and judges to be elected in this session, I can assure you that Nigeria will work and cooperate with you in discharging the onerous tasks of your offices.

Mr. President and fellow delegates,

I thank you all for your kind attention and wish you fruitful Session.

ABUBAKAR MALAMI, SAN,

Honourable Attorney-General of the Federation and Minister of Justice,
Federal Republic of Nigeria
14th December, 2020