



OPENING STATEMENT

BY

**AMBASSADOR OF THE REPUBLIC OF SOUTH AFRICA
TO THE KINGDOM OF THE NETHERLANDS,
HIS EXCELLENCY VUSIMUZI PHILEMON MADONSELA**

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

THE HAGUE

6 - 11 DECEMBER 2021

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Madame President,

On behalf of the Government of the Republic of South Africa, we thank you for the opportunity to submit this statement to the Assembly of States Parties.

In the past year, the Court experienced a major change of leadership, a process that will be completed during this session with the election of two Deputy Prosecutors. At the outset, allow me, as this is the first official opportunity to do so, to congratulate the officials elected at the previous session: Mr Karim Khan QC as Prosecutor, Judge Silvia Fernandez de Gurmedi as President, and Ambassadors Robert Rae and Katerina Sequensova as Vice-Presidents for the twentieth to twenty second sessions of the Assembly of States Parties, and also the six new judges: Ms Althea Violet Alexis-Windsor, Ms Maria del Socorro Flores Liera, Ms Joanne Korner, Mr Gocha Lordkipanidze, Ms Miatta Maria Samba and Mr Sergio Ugalde Godinez. In March the judges elected Judge Piotr Hofmanski as new President, and Judges Luz del Carmen Ibanez Carranza and Judge Antione Kesia-Mbe Mindua respectively as First and Second Vice-Presidents of the Court.

With the Court now entering its third decade, and with an ongoing process to strengthen it and improve its performance, efficiency and effectiveness and with an increased caseload, an important task rests on your collective shoulders. There are mountains to climb, AND we wish you strength and success, and assure you of our support.

While the year 2020 was probably one of the most challenging ever experienced by the international community due to the devastation wrought by the Covid-19 pandemic, 2021 was no less challenging. Diplomacy and multilateral engagement which is a cornerstone thereof, had to adapt to the challenges posed by a highly infectious virus. Virtual, and indeed non-personal engagement became the norm, also for the Court and the Assembly of States Parties and its subsidiary bodies. We are satisfied to note that despite these challenges, the process of the most radical restructuring of the Court and the Rome Statute system since its establishment could proceed smoothly. Much work has been done on the implementation of the report of the Independent Expert Review, and in this regard we commend specifically the

work of the Review Mechanism and the adoption of the Comprehensive Action Plan. In our statement to the nineteenth session we referred to the old African saying that the way to eat an elephant is to do it bit by bit: it appears that the elephant has been truly and comprehensively eaten!

Madame President

Turning to issues of special concern to South Africa, we note the recognition by the Assembly at its nineteenth session for the need for the Bureau “to engage with interested States Parties and other relevant actors to identify ways to support the Court’s effortswith respect to sexual and gender-based crimes that amount to Rome Statute crimes”. The mandate of sexual and gender-based crimes was assigned to Australia and Uganda as the focal points for complementarity. We appreciate the work done by the focal points and welcome the report on complementarity and the renewal of the mandate. South Africa remains committed to contribute in this regard. During the further development of this discourse, the question of whether a dedicated focal point should be established, may also be considered. In this respect, we also note with satisfaction the finding of the Trial Chamber in February in the *Ongwen* case of guilt on charges of crimes against humanity and war crimes, including charges of sexual and gender-based crimes.

Madame President,

South Africa specifically welcomes the decision by the Pre-Trial Chamber in February that the Court has territorial jurisdiction with regard to the Situation in the State of Palestine, which extends to the occupied territories of Gaza and the West Bank, including Jerusalem, as well as the subsequent opening of an investigation by the Office of the Prosecutor. The rule of law, both in the international and domestic contexts, and accountability for international crimes, must apply equally to all.

Madame President,

The promotion of a rules-based international order that can ensure international peace and stability, also on the African continent, remains a cornerstone of South

Africa's foreign policy. Like other international criminal tribunals, the Court has become an indispensable part of the international peace and security infrastructure, the full stop at the end of the sentence. With a major reorganisation of the Court and its structures underway, and an increasing caseload, it is now the responsibility of States Parties to provide the financial means for the Court to effectively and efficiently exercise its mandate. The reinforcement of human resources cannot be postponed. We therefore call on all States Parties to be flexible in the budget negotiations, in order to enable the meeting to adopt a realistic and workable budget for the year 2021.

Madame President,

Last but not least: civil society not only played a crucial role in the Court's establishment, but with other stakeholders continues to provide valuable support to the Court, advancing its objectives of accountability for the most serious international crimes. This invaluable support is recognised and appreciated and the right of these organisations to exist and operate must be protected.

Thank you.