

**General Debate
International Criminal Court
Assembly of States Parties
November 2009**

**Statement by Norway
Deputy Director General Martin Sørby
Royal Ministry of Foreign Affairs**

Mr President,

We extend our sincere thanks to you for your able guidance of the work of the Assembly of States Parties, and to President Sang-Huyn Song and all his colleagues at the Court for the work carried out in the course of the past year. We also wish to congratulate Kuniko Ozaki and Silvia Fernández de Gurmendi on their election as judges of the ICC.

As we are facing the first review conference in six months, I would like to focus on a few pertinent issues in that regard, in addition to the always topical issue of State cooperation. Some of these issues have been more elaborated upon in the statement being circulated in the room than what I, for the sake of brevity, will be presenting. Before addressing these issues, let me commend the Court and its staff for the progress made over the last year. The Court has commenced its first trial and the confirmation of charges against three individuals has been completed. The Court's second trial is scheduled to start next week. We welcome these developments.

We are also pleased to note that with the entry into force of the Rome Statute for Chile on 1 September and for the Czech Republic on 1 October this year, there are now 110 States Parties to the Statute. It is a remarkable achievement that so many States from all regions have ratified the Statute in such a short period of time. The crimes falling under the jurisdiction of the ICC are universally accepted as the most serious crimes of international concern, and we share a common responsibility to ensure that they are effectively investigated and that the perpetrators are brought to justice. We therefore call on all States to become parties to the Rome Statute. We also welcome the fact that the United States is present as an Observer State at this session.

Mr President,

Turning briefly to the issue of State cooperation, it is a matter of grave concern to Norway that eight arrest warrants remain outstanding. They pertain to the situations in Darfur, Uganda and the Democratic Republic of the Congo. All States Parties must do

their utmost to provide the ICC with the best possible working conditions. Norway expects States with legal obligations under the Statute, or that have entered into cooperation agreements with the ICC, to fulfil their obligations and to demonstrate their commitment to justice in practice.

We therefore urge all States Parties concerned to fulfil their responsibility to make the outstanding arrest warrants effective. We also urge the Government of Sudan to cooperate fully with the Court and to comply with its legal obligations under Security Council resolution 1593 (2005).

Mr President,

This eighth session of the Assembly of States Parties will be used primarily for preparing the Review Conference in Kampala, which we look forward to with great anticipation. Norway is committed to achieving a successful conference, and one that will further consolidate the Court's position as a vital tool in the fight against impunity. Over the next few days we will be discussing several proposals for amendment, one of them having been submitted by Norway. When considering all the proposals for amendment, we believe that the ultimate goal of universality for the Rome Statute should guide us. Amendments not gaining broad support should not, in our view, be considered by the Review Conference.

Norway's proposed amendment concerns the enforcement of sentences. In the practice of the international criminal tribunals, such enforcement has been carried out by a very limited number of States that have been willing to be designated as States of enforcement and whose prisons satisfy international standards. This is the system that has been adopted in the Statute. However, a mere repetition of this practice not only has its limitations, but may increasingly make it more difficult to recruit States and give rise to problems of principle, as I will indicate in the following.

We have acquired experience over time, through extensive cooperation with various international tribunals. We know that there have been States that would in principle have been willing, but were ultimately unable to be designated as States of enforcement. We know that there are too few States that have declared their willingness. We also know there is often a negative perception of international criminal justice, when seen from the ground in the areas of conflict concerned. People are frequently left with the impression that it leads to those sentenced serving long-term sentences in extremely remote places, on altogether different continents, in totally foreign cultures and environments. We know that this may have adverse effects on the sentenced person, on family visits, on the broader population concerned, and on any rehabilitation possibilities or other objectives of criminal justice, possibly including deterrence. That is why we wish to contribute to a different outreach image of this important component of criminal justice. We believe this to be one of the topics relevant to stocktaking of international criminal justice at the Review Conference. We believe, moreover, that there is scope for a more universal system of enforcement of sentences

in the near future. We believe that the basis should be laid by a decision of principle, to be taken before the first sentencing by the Court is enforceable. Such a decision should herald a new vision, based on institutional imagination that promotes the aims of universal criminal justice.

We do not wish to divert any time or attention from other important topics at the Review Conference. This is why we have endeavoured to formulate the proposed amendment in the briefest and simplest possible way – rather than indicating the variety of creative possibilities that might be mobilised, if this were given priority. The proposal therefore merely refers, in the key statutory language contained in article 103, to the possibility of institutional arrangements based on cooperation with other States, international organisations or other bodies, in order to enable enforcement. This implies that the sentenced person will remain under the jurisdiction of the State of enforcement in accordance with the relevant provisions of the Statute. However, further institutional arrangements are conceivable to make this possible. These could also include regional or other components, possibly with synergy effects with other institutions of justice. There could also be possibilities for discussing important input from or partnerships with other international institutions, including the Registry of the Court. Our sincere hope is that this general approach could meet with the consent of the participants to this Assembly of States Parties, so that appropriate language can be finalised to this effect, and that time-consuming discussions at the Review Conference itself can be avoided.

One could ask whether it is actually necessary to make any statutory amendment to achieve the desired effect. Do we really need to add language to the Statute? Could not all the desired effects be achieved by adopting appropriate provisions of the Rules of Procedure and Evidence, or through agreements with donor agencies or Board decisions in the World Bank? The answer is that we doubt that it will be that simple, unless clear priority and scope can be derived from the Statute itself. We have not hitherto noted that enforcement of sentences is a field of work that lends itself easily to discussion and cooperation, for several, often very legitimate, reasons. We therefore sincerely believe in the usefulness of signifying the importance of broader participation and universality in the relevant provision. Consideration of new institutional mechanisms and patterns of cooperation may be challenging. We sincerely hope the Review Conference will provide important impetus, in deeds and not only in words, to further work in this field.

Finally, we would like to note that making a decision to this effect, through the adoption of an amendment of this nature, would not lead to unnecessary delays. Firstly, we would not have to await entry into force of the amendment to engage in in-depth consideration of institutional possibilities and language for the Rules of Procedure or other agreements of cooperation with the United Nations or other bodies. Secondly, the adoption of an amendment would make it easier to include this important issue on relevant agendas for discussion in other bodies that may play an increasingly important role in this area. We foresee institutional doubts, questions and cautiousness.

However, we are convinced of the usefulness of signifying the need for institutional imagination by ensuring that this important objective is reflected in the Statute. We are convinced that this objective is worthwhile and we hope that other delegations will share this view.

Mr. President,

The Review Conference will also provide a unique opportunity for stocktaking of international criminal justice in 2010. The extraordinary achievements of the international criminal tribunals that preceded the ICC should not be forgotten in this exercise. On the contrary, their achievements, impact and legacies should form an integral part of our stocktaking in Kampala. The Presidency of the Court has also provided us with some very useful ideas for further consideration.

Mr President,

Our common goal should be a successful Review Conference in Kampala. To this end, Norway will continue working with other States and civil society actors over the coming months.

Finally, Norway would like to commend the Trust Fund for Victims on its valuable work. We especially find the assistance provided to victims of sexual and gender-based violence of utmost importance. We are therefore happy to announce that Norway will continue to support the Trust Fund's projects in this area, with the equivalent of approximately 220.000 euro in 2010.

To conclude I would like to reiterate Norway's firm and long-standing commitment to the integrity of the Rome Statute, and to an effective and credible International Criminal Court. We believe that the ICC should enjoy the broadest possible support from all States. We all share the universal values that are fundamental to the protection of human dignity. This protection relies on concerted action to prevent the most serious crimes affecting the international community as a whole.

We will on our part intensify our efforts to promote further consolidation of the Court's position. This will guide our work in regard to all the items on the agenda of this Session.

Thank you, Mr President.