



**GENERAL DEBATE OF THE EIGHTH SESSION
OF THE
ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE
OF THE
INTERNATIONAL CRIMINAL COURT
THE HAGUE
NOVEMBER 2009**

**STATEMENT BY PETER GOOSEN
AMBASSADOR OF THE REPUBLIC OF SOUTH AFRICA
TO THE KINGDOM OF THE NETHERLANDS**

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Mr President,

The South African delegation is pleased to welcome you as Chairperson and we assure you of our full cooperation and support for your efforts to ensure the successful conclusion of this Session.

We would like to convey our gratitude to the President of the Court, the Prosecutor, the Registrar and the staff of the Court in their efforts in advancing the important work of the Court.

We extend our appreciation to the Secretariat of the Assembly for your hard work over the last year and in preparation for this session.

Mr President,

South Africa is proud to have been one of the driving forces behind the negotiation and adoption of the Rome Statute of the International Criminal Court. At the time that negotiations for the Rome Statute were taking place, with the aim of establishing the first permanent international criminal court and so solidifying the rule of law internationally, South Africa was in the process of writing its own Constitution. The process of negotiating and finalising South Africa's Constitution, was equally remarkable: as millions of people all over the world have suffered throughout the history of mankind from the atrocities which constitute the crimes of genocide, crimes against humanity, war crimes and aggression, so millions of South Africans have suffered for generations the humiliations and human rights abuses associated with apartheid. It is therefore not surprising that the core values of our Constitution are the rule of law and the protection and promotion of human rights, freedom, equality and democracy.

These values inspire us as South Africans as we are building a new society and these are also the values contained in the Rome Statute. The Rome Statute places the values of human life and dignity at its core. It aims at ending impunity and establishing the international rule of law. Its human-centeredness is nowhere better illustrated than in the concern expressed in the Statute and in the ICC system for the rights and interests of victims.

For the first time in history the world has a judicial institution aimed at terminating impunity for the perpetrators of the most serious crimes of concern to the international community, and it is proving to be effective. However, further work still needs to be done.

As strong supporters of the principles enshrined in the Rome Statute, we are cognisant of the reality that the effectiveness of the Court is inextricably linked with States' cooperation; we cannot therefore underscore enough the importance of timely cooperation. We remain acutely aware that for the Court to operate effectively, it is dependent on States' cooperation. We therefore need a certain and predictable cooperation regime.

We are mindful that interim release of accused persons pending trial is fully consistent with the right to the presumption of innocence; conversely we are also mindful that long awaiting trial periods also contribute to perceptions of the fairness of procedures and the rights of the accused. We call on the Court to engage all States equally in finding ways to enhance assistance to the Court in all areas including interim release so as to have the issue of interim release of accused persons being shared equally among States.

Mr President,

The Assembly of States Parties has an important role to play in providing management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. We of course are aware that this oversight is limited to non-judicial activities. We welcome the establishment of the independent oversight mechanism for inspection, evaluation and investigation of the Court, in order to enhance the Court's efficiency and economy.

Next year the Review Conference will provide the opportunity to finalise the definition of the crime of aggression, and to have it included in the Statute so that the Court can also exercise jurisdiction over this crime. The Special Working Group on the Crime of Aggression has concluded its work of almost five and a half years. During this time considerable progress has been made and broad consensus has been obtained on most of the aspects of the definition. It should also be noted that much progress has been made in preparing the draft elements of the crime of aggression.

The Review Conference will also provide the opportunity to do a proper stock-taking of international criminal law and its development since the establishment of this Court. As we take stock of developments since the inception of the Court, we are cognisant that the complementarity system on which the Rome Statute is underpinned is truly effective when national systems have capability and capacity to investigate and prosecute crimes within the jurisdiction of the Court. Indeed, justice needs to be seen to be done at the national level. We welcome the Court's increasing awareness and focus on issues of positive complementarity and are acutely aware that we as States Parties have a distinct role to play in building domestic capacity including the development of national legislation. Furthermore, we are conscious of the fact that increasing national capability will also complement the cooperation regime which the Court needs in order to function properly.

Mr President,

Africa has continuously demonstrated its commitment to the fight against impunity and the principles enshrined in the Rome Statute, as has clearly been demonstrated by the fact that the single largest group of States that have signed up to the Statute and its obligations come from Africa and indeed continue to support the Court not only in word but in action. As you may know, African States Parties have proposed contributions for the Review Conference for consideration of this Assembly, which we will speak to in greater detail during the Review Conference segment of our discussions. The African proposals seek to address important concerns of African States which are in the interests of the entire Assembly and will no doubt enhance the efficacy of the Statute.

Mr President,

The last decade was a momentous one for international criminal law. For African States, the task of establishing sustainable peace and justice is not only an academic matter: on our continent, we need to establish enduring peace with justice in a number of situations. In seeking sustainable solutions to peace we are of course attentive of the Darfur situation. In this respect, the AU High Level Panel, consisting of eminent personalities and chaired by former South African President Mbeki, was created with the objective to investigate ways of addressing the twin challenges of "accountability and combating impunity, on the one hand, and reconciliation and healing on the other".

We are of the view that the recommendations contained in the High Level Panel report provide a clear and sound Road Map for achieving peace, justice, reconciliation and healing in Darfur and thereby contribute to the overall objective of

promoting peace and stability in the Sudan. We remain confident that the AU High Level Implementation Panel which will assist in the implementation of the high level report recommendations will be provided with full and unreserved cooperation as we and the international community work together to find enduring solutions to the Darfur question.

Mr President,

It is appropriate to also mention the findings of the Goldstone Report on the situation in Gaza and that the Court is increasingly becoming a factor for consideration in the human rights fora. We welcome the contribution of the Goldstone Report through the Human Rights Council to the fight against impunity and without equivocation endorse the findings and recommendations contained in the Goldstone Report.

Any statement would be incomplete without also commending civil society for their support to the Court and its work, which takes various forms, such as disseminating information about the Court and its activities, enhancing the implementation of the Rome Statute in domestic jurisdictions and training lawyers and government officials.

In conclusion Mr President, South Africa continues to support this important institution in the international peace and security architecture. However, the battle against impunity will only be won once universal ratification of the Rome Statute has taken place. Therefore, we wish to call on States that have not yet ratified the Rome Statute, to do so expeditiously.

Thank you.