

Reference: ASP/NY/2013/027

Secretariat – Secrétariat

New York, 20 September 2013

H.E. Mr. Hailemariam Desalegn
Prime Minister of the Federal Democratic Republic of Ethiopia
Chairperson of the African Union

H.E. Dr. Nkosazana Dlamini-Zuma
Chairperson of the African Union Commission

Excellencies,

I am writing to you with reference to your letter dated 8 July 2013 to the President of the International Criminal Court, Judge Sang-Hyun Song, regarding the decision of the 21st ordinary session of the Assembly of Heads of State and Government of the African Union held from 26 to 27 May 2013 and the concerns surrounding proceedings currently underway at the International Criminal Court. In your letter you also mention the Assembly of States Parties and its role within the framework of the Rome Statute system.

As stated in the response from the President of the ICC, Judge Sang-Hyun Song, dated 5 August 2013, the decision to defer cases before the ICC to national jurisdictions falls within the competence of the Court. Furthermore, as highlighted by President Song, the judicial proceedings of the Court are independent and not subject to decisions by the Assembly.

The Assembly of States Parties, where all 122 States Parties are equally represented, carries out essential functions for the overall system which include, *inter alia*, providing a forum for an exchange of views on issues of concern to States, consideration of amendments to the Statute and its supplementary norms, etc. As President of the Assembly, I have been and remain available to all, and I have also been in regular contact with representatives of Kenya over the past months. In my capacity, I have equally been privileged to entertain meetings at the African Union headquarters in Addis Ababa.

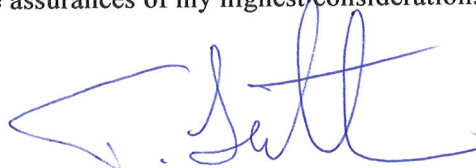
As President of the Assembly, I wish to assure you that all concerns of States Parties are taken seriously and discussed among States Parties in an inclusive manner. The annual session of the Assembly of States Parties is a forum where these concerns may also be voiced and discussed. During the summer months, the Assembly was not able to convene in a special session as had been suggested. However, I would like to draw your attention to the approaching annual session of the Assembly of States Parties, due to take place in The Hague, the Netherlands, from 20 – 28 November 2013.

The Assembly session provides an important opportunity to have a political discussion of issues concerning the Rome Statute, and it is also a place where decisions within the mandate of the Assembly, including the legal framework, are taken. I hope that any meetings of the African Union or African States Parties prior to 20 November would focus on consolidating suggestions to be presented to all States Parties, bringing forward ideas and concrete proposals for action to the Assembly.

As the Assembly of States Parties, we are constantly engaged in discussions on how to gradually improve the system. Indeed, we should continuously try to refine it through all available procedures. The Rome Statute was the result of thorough and intense negotiations between State representatives, with important contributions of other stakeholders; it constitutes a major achievement in the field of international law in the second half of the twentieth century, a monumental endeavour made possible with key contributions from African States. All States are thus owners of the Statute that created the ICC and any amendments to the system rest in the hands of all States Parties.

Many States Parties have expressed to me their readiness to engage and address issues of concern by other States Parties at the upcoming Assembly session. Representatives of the African Union are likewise always invited to continue to partake during the Assembly, as they have in the past. In light of current events, the contribution of representatives of the African Union would be truly welcome and important. I look forward to active engagement at the next session of the Assembly. I also remain available to provide additional information in connection with any brainstorming session on the ICC in Africa to be organized in line with the AU decision of May 2013.

Please accept, Excellencies, the assurances of my highest consideration.



Tiina Intelmann
President
Assembly of States Parties to the Rome Statute

Copy:

H.E. Mr. Ban Ki-moon, Secretary-General of the United Nations

Judge Sang-Hyun Song, President of the International Criminal Court

Their Excellencies, the Heads of State or Government of the Member States of the African Union