

REPUBLIC OF NAMIBIA



**NAMIBIA'S STATEMENT**

By

**HON. PENDUKENI IIVULA-ITHANA, MP  
MINISTER OF JUSTICE**

**Delivered during the General Debate Segment of the first  
REVIEW CONFERENCE OF THE INTERNATIONAL  
CRIMINAL COURT**

Held at

**KAMPALA, UGANDA**

**31 May – 11 June 2010**

Mr. President

Allow me, at the outset, to take this opportunity to express my delegation's deep gratitude and appreciation to the Government and people of the Republic of Uganda for the warm welcome and generous hospitality extended to us since our arrival in this beautiful country.

Mr. President

My delegation fully associates itself with the statement delivered by Kenya on behalf of the African States Parties to the Rome Statute of the ICC.

Mr. President

This Review Conference is taking place at a time when the International Criminal Court is facing a number of challenges. It is our hope that the outcome of this Conference will further strengthen the Court in its effort to leave up to its mission.

Aggression is one of the mandatory issues on which this Review Conference has to take a decision. Our position is that we have made good progress through the work of the Special Working Group on the Crime of Aggression. We believe that consensus is still possible on the outstanding issues.

We are firmly convinced that the principles of the independence and effectiveness of the Court with an independent Prosecutor should be preserved. In this regard, we wish to stress that these principles should also inform the approach of this Conference to the provisions we are to adopt in respect of the crime of aggression.

Mr President,

The process of selecting and bringing a case before the Court and triggering its exercise of jurisdiction is important and legitimately explains State Parties' interest in the way the Prosecutor exercises his discretion.

Although most situations before the Court are in Africa, the Court also needs to address the perception that the Court is only concerned with crimes committed in African States. Perhaps progress reports by the Prosecutor on his analysis and decisions in other non-African situations will allay concerns in this regard.

Mr. President,

The execution of outstanding arrest warrants is one of the principal challenges which the Court faces. The Court requires the co-operation of States in matters ranging from effecting arrests to collection of evidence and other forms of judicial assistance. Namibia fully supports the Court's work in promoting cooperation with the ICC.

The Rome Statute is premised on the principle that the Court shall exercise jurisdiction only in support of national courts. State Parties have the primary responsibility to exercise jurisdiction in crimes committed on their territories or by their nationals wherever, committed. However, judging by the incidence of cases where the Prosecutor in his analysis of situations has deferred to national investigations and prosecutions, it is apparent that not many national courts have sought to exercise jurisdiction over the crimes contained in the Rome Statute.

When national Governments adopt legislation which enable their courts to adjudicate crimes within the jurisdiction of the Court, much of the concerns about the selectivity of cases by the ICC would be done away with. All that needs to be met are the basic requirements about the credibility of proceedings.

Where a domestic court is seized with a matter, Article 18(2) of the Rome Statute enables a State Party which has received a notification from the Prosecutor regarding an investigation on its territory to advise the Prosecutor that it is already seized with it.

Mr. President,

Namibia attaches great importance to the need to empower national courts to exercise jurisdiction over the crimes within the jurisdiction of the Court.

Mr. President,

This Conference will also devote a significant part of its deliberations to an exercise of taking stock of progress made in promoting international criminal justice. We look forward to participating and benefiting from any best practices from other States on the themes which have been assigned to panels on:

- Co-operation;
- Complimentarity
- Peace and Justice
- Impact of Rome Statute System on affected communities and victims/witnesses.

Mr President

The pursuit of peace and justice, especially in post conflict situations go hand in hand. In the context of Namibia, where our people were not only subjected to genocide and Apartheid, but were also forced to fight against one another, after independence in 1990 the Government chose to pursue a policy of national reconciliation in order to foster lasting peace and political stability in our country.

With regard to concrete pledges, Namibia pledges to undertake the following initiatives:

- To reaffirm our commitment to put in place national structures able to efficiently follow the implementation process of the Rome Statute.
- To set up a Task Force which will review our Draft bill on implementing the Rome Statute with a view to tabling it in current Parliament.
- To organize various events, seminars and conferences in conjunction with our Parliamentary Committee on Legal and Constitutional Affairs to promote the implementation of the Rome Statute.
- To promote complementarity, Namibia will also organize sensitization training to relevant judicial, prosecution and investigative authorities to smoothen their working

relationship with the Prosecutor and other organs on which co-operation with the Court might be necessary.

I thank you for your attention.