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Review Conference – General Debate

Statement
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English Version

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Distinguished Presidents
Excellencies,

Ladies and Gentlemen,

I would like to thank His Excellency President Museveni of Uganda for inviting us to meet here, in Africa. I am delighted to see that his Excellency President Kikwete of Tanzania has joined us.

For centuries, Africa has been suffering from the violent intervention of foreign countries. However, during the 1990s, Africa suffered a different problem. The international community failed Africa by its inaction. Millions of African victims were ignored by the world; they were not seen as a priority. The international community did nothing to prevent the genocide in Rwanda, ignored the Congo wars, and let Somalia fall into chaos.

In Rome, in 1998, African States and others led the discussions on the Statute. The goal was to end impunity for those crimes that we have thought, over and over, would never happen again, only to see them occur, again and again. The Rome Statute considered that such crimes affect peace and security in the world and transformed the words “never again” from a moral promise to the victims, into a legal duty. The Rome Statute established victims as actors of international justice. Victims have rights, and their rights will be respected.

In Kampala in 2010 we are meeting to take stock and ensure that States Parties guarantee respect for the rights of the victims in the DRC, Uganda, CAR, Darfur, Kenya and everywhere. Never again will victims of atrocities be ignored. This is the time of action, to show how the law is implemented.

The President of the Assembly has summarized the meaning and purpose of the Rome Statute: “*States Parties and their citizens are under the protection of a legal system adopted by the Rome Statute*”. They have chosen the law to protect their citizens and their land. This is the main concept: the rule of law as protection.

The implementation of judicial decision confirms the existence of the law. As the UN Secretary-General just stated: the era of impunity is over; no military commander or top political leader will be beyond reach. The International Criminal Court is casting a growing shadow; each of its decisions will impact on at least 111 States Parties, and beyond. It is a new era, and the Secretary-General has shown leadership by calling

upon us all for a collective effort: to protect the victims; to end gender crimes; to ensure that peace and justice work hand in hand.

As President Song said, the Court is a small part of the system, its impact, the size of the Court's shadow, will depend on how a system of justice based in a global network integrates its pieces, harmonize their different mandates. This is our enormous challenge in 2010. In taking stock in this Review Conference we have the opportunity to articulate a consistent strategy for all the different actors - States, governmental and non governmental organizations, civil society - to implement the rights of the victims.

The current challenges faced by the Rome Statute, are not a product of failure, they are a product of success. As President Song explained, the Court is today fully operational, executing its judicial mandate and far exceeding expectations.

The Court started investigations in the gravest situations admissible under our jurisdictions. The principle of complementarity is scrupulously respected; no State is challenging the admissibility of the cases. On March 2005, the UN Security Council referred the Darfur situation to the Court. No one could have predicted the speed of this integration between the international system of peace and security and the new permanent system of international justice.

Last March, the Pre-Trial Chamber authorized the opening of an investigation in Kenya, the first *proprio motu* investigation requested by the Office. None of the fears previously expressed as to the use of *proprio motu* powers materialized.

Supported by dozens of States, Parties and non Parties, we are collecting evidence in ongoing conflicts, investigating those most responsible for the most serious incidents. The Court has issued 13 arrest warrants and one summons to appear, each of them against the top leaders of the groups that allegedly committed the crimes. Trials are progressing and the shadow of the court is extending beyond States Parties, building upon a network of actors around the world, including non State Parties. The simple monitoring of alleged crimes by my Office in its preliminary examination phase is promoting national efforts to do justice. Regardless of any final decision in the Lubanga case, militias in Nepal, a non State Party, have released 3,000 child soldiers. And, most important in term of prevention of crimes, armies all over the world are

adjusting their operational standards, training and rules of engagement to the Rome Statute. This is the way to control violence; the law make the difference between a soldier and a terrorist.

The fear of a frivolous Court has been replaced by the challenges created by a serious institution. Arrest has become the biggest test for States Parties. Some individuals sought by the Court are enjoying the protection of their own militias. Others are members of government which are eager to shield them from justice. They are still committing massive crimes. The victims have no time. They are waiting to be rescued; they are calling to stop the rapes and the killings now.

I am very glad that the situation in Northern Uganda has changed so drastically since the Court's arrest warrants forced Joseph Kony to leave his safe heaven in the Sudan and move to the DRC. The millions of LRA victims in Northern Uganda don't need to wait for a trial to be assisted; they need compensation and assistance now. States should discuss how to integrate development efforts with the work of the Court, but the priority should remain to arrest Joseph Kony. In the last year and a half the LRA killed almost 2000 persons in Southern Sudan, DRC and Central African Republic and displaced more than 300.000 persons. This is the cost of impunity. The number of displaced is ten time the numbers of victims of forced displacements in Georgia. If we care about victims we need to implement the arrest warrants pending since July 2005.

Another case shows the cost of impunity. There is an arrest warrant pending against Bosco Ntaganda for the alleged crimes he committed with Thomas Lubanga in Ituri. The current militias under the command of Bosco Ntaganda are allegedly responsible of the worst gender crimes committed in the Kivus during 2008. We appreciate the efforts made in the past by DRC authorities to arrest and surrender individuals sought by the Court and we are ready to assist them in any effort to implement the arrest warrant against Bosco Ntaganda.

The discussions on victims and cooperation cannot ignore these new victims of the LRA and Bosco Ntaganda.

Let me conclude on peace and justice. The drafters of the Rome Statute took great care to exclude political considerations from the work of the Court. The Prosecutor and

Judges cannot and will not take political considerations into account. This was a conscious decision, to force political actors to adjust to the new legal limits. We cannot both claim that we will “never again” let atrocities happen and continue to appease the criminals, conducting “business as usual”.

Just two years later in Resolution 1325 (2000), the UN Security Council has also recognized the importance of victims, in particular women, in conflict resolution and peace processes.

In April 2009 UN Secretary-General Ban Ki-Moon issued the strongest guidelines ever, informing all mediators that the Rome Statute had to always be respected. Regional organizations have also developed new and more sophisticated strategies to carry out conflict resolution. These strategies has been put into practice, among others, by several high level representatives of the African Union, former South African President Thabo Mbeki and former UN Secretary-General Kofi Annan; both have stressed the need to ensure justice in their work in Darfur and Kenya to end recurring violence.

Kenya should be a model to follow. The political agreement brokered to stop violence included from the beginning the requirement to investigate and prosecute the crimes committed; the panel then continued its work in Kenya, ensuring the actual implementation of the agreement reached; and finally, national leaders took ownership of the problems, addressing both the need for accountability and the need for structural changes. An efficient intervention by the Court can consolidate these efforts. Justice and peace can work hand in hand. We need this type of political leadership.

At Rome States “Resolved to guarantee lasting respect for and the enforcement of international justice”. I encourage you to confirm this resolution and to add the following key points to your pledges in Kampala:

- a. Public and diplomatic support to execute arrest warrants issued by the Court;
- b. Severance of non-essential contacts with persons who are the object of an ICC arrest warrant;
- c. Cutting off all supply networks to such persons; and

- d. Providing concrete support for arrest operations.

There is a need for consistency. Massive crimes require a careful plan. Certainty that these crimes will be investigated and prosecuted will modify the calculus of the criminals, will deter the crimes, will protect the victims.

It is your time for action. The Court might be the face of the system but its strength lies in the commitment of States.

Thank you.