



**STATEMENT**

**BY**

**THE REPUBLIC OF KENYA**

**THE GENERAL DEBATE OF THE ASSEMBLY OF STATES PARTIES**

**22ND SESSION OF THE**

**ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE**

**4-14 DECEMBER 2023,**

**UNITED NATIONS, NEW YORK, UNITED STATES**

**Thank You Madam President,  
Excellencies Heads of Delegation,  
Esteemed Delegates,  
Distinguished Ladies and Gentlemen.**

1. The Kenyan delegation is honored to participate in the Twenty-Second Assembly of States Parties to the Rome Statute of the International Criminal Court. This year holds particular significance as we commemorate twenty-five years since the adoption of the Rome Statute.
2. The Republic of Kenya lauds the leadership of the outgoing President Her Excellency Silvia Fernández de Gurmendi, the 7th President of the Assembly. We similarly acknowledge the leadership of the two outgoing Vice-Presidents, Ambassador Kateřina Sequensová of the Czech Republic and Ambassador Robert Keith Rae of Canada. And we congratulate the two incoming Vice-Presidents, Ambassador Michael Imran Kanu of Sierra Leone and Ambassador Margareta Kassangana of Poland.
3. We thank the Secretariat and all who have worked tirelessly to ensure that the Assembly continues to fulfil its role of providing management oversight regarding the administration of the Court. We also express our gratitude to all States Parties for bestowing upon our nation the honour to once again serve in the Bureau.

**Madam President,**

4. Two and a half decades ago, on July 17, 1998, after a six-week's marathon, 120 countries adopted the Rome Statute to the ICC, marking a watershed moment in the international criminal justice system. This collective effort represented a monumental step towards eradicating tyranny and impunity, showcasing the immense potential of human endeavor when united for a just cause. For Kenya, this quarter century is not merely the passage of time; it signifies an enduring commitment to the rule of law as a situation country for over half of this period.
5. We welcome the winding up of investigations that spanned over a decade, on the Kenya Situation. More significantly, our nation's perspective is that the international criminal justice system has evolved,

demonstrating the increasingly crucial role it plays in realizing lasting peace and justice. During this time, the necessity of a robust international criminal justice system became evident, highlighting the cardinal principle of international law, that is complementarity. Indeed, a strong international criminal justice system must be complemented by robust domestic and regional mechanisms to ensure its effectiveness. It is therefore the challenge of our time for all States Parties, the Court, and stakeholders to fortify their collaboration in strengthening the national and regional institutions, to enable them to deal with international crimes.

**Madam President, Excellencies,**

6. The twenty-fifth anniversary of any human endeavor is a pivotal juncture, prompting one to reflect on the journey travelled thus far. Therefore, as we mark twenty-five years of the Rome Statute, it is a time for introspection and a moment to consider the challenges and opportunities that lie ahead - both those within our foreseeable future, and those that remain unseen. As we mark the seasons gone the echoes of the timeless statement by Dr. Martin Luther King Jnr on the arc of the moral universe come alive. Through his profound teaching we affirm that the arc of the moral universe may be long, but eventually bends towards justice. Therefore, as we look into the future we acknowledge the collective responsibility we bear in shaping a future where impunity has no refuge anywhere in the world.
7. It is against this background that Kenya expresses gratitude to His Excellency Ambassador Michael Imran Kanu of Sierra Leone and His Excellency Ambassador Paul van den IJssel of the Netherlands, together with the ad-hoc country focal points, for their stewardship of the Review Mechanism since 2021. Due to their efforts, alongside the country focal points, the Assembly has been able to categorize and develop a comprehensive action plan for the assessment of the Independent Expert Review (IER) recommendations.
8. With the mandate of the Review Mechanism largely achieved, the focus will gradually shift to monitoring of the implementation of IER recommendations. Our view is that the Bureau of the ASP should continue with the monitoring function, assisted by the already existing facilitations in both The Hague and New York. Kenya will continue to support necessary reforms to the Court that are done through a

considered and nuanced approach, so that the Assembly may decisively tackle the remaining structural and operational challenges facing the Court.

**Madam President, Excellencies,**

9. Kenya congratulates the six newly elected Judges of the International Criminal Court. We further convey our nation's gratitude to the retiring Judges for their illustrious service to the community of nations and also thank the Assembly of States Parties for affirming the election of Ms. Sanyu Diana Awori as a Member of the Committee on Budget and Finance for the period 2024-2026.
10. Kenya reiterates its commitment and continued support to the work of the Committee on Budget and Finance. In that regard, we underscore that the Committee's annual report is a critical accountability tool for the governance of the Court.
11. The Report of the Committee on Budget and Finance has, in practice, formed the basis for political negotiations on the proposed budget of the Court. Due to the seminal nature of the work of the CBF, Kenya urges that the States Parties uphold with fidelity the widely accepted principle of equitable geographical representation in the composition of the CBF, in order to remedy the current glaring anomaly in the under-representation of the African Group.
12. As we look into the future, we additionally propose a review of the funding guidelines so as to realize an equitable and sustainable funding of the Court. A key plank of this endeavor should be a prudent approach towards the ballooning number of Trust Funds that target specific operations of the Court and instead emphasize the traditional spheres of support such as assessed contributions, and support for Trust Fund for Victims. Further, in strengthening the accountability framework of the Court, we propose that these Trust Funds be subject to the consideration of the CBF and of the States Parties.

**Madam President, Excellencies,**

13. The Court has proposed the roll out of a tenure policy for staff at the level of P-5 and above, commencing in 2024. Kenya supports a tenure policy that acknowledges geographical representation and gender balance, and which is executed in recognition of the primary objective of

introducing fresh thinking and dynamism in the Court. A key imperative for securing the independence of the Court will be for this process to be implemented with these globally accepted and fundamental tenets in mind.

14. Kenya will continue to promote the rule of law and to provide all necessary cooperation consistent with our domestic, regional, and international obligations as a State Party. We note with satisfaction that the Kenya Witness Protection Agency continues to facilitate cooperation in carrying out measures aimed at facilitating special protection of threatened and/or intimidated witnesses to strengthen the regional and international criminal justice system. The process for the finalization of the draft Witness Protection (Reciprocal Protection Arrangements) Regulations, 2022 is on course and within the current parliamentary calendar. On coming into force, the Regulations are expected to provide for appropriate reciprocal witness protection arrangements with international courts, tribunals, commissions, institutions, or organisations.

**Madam President,**

15. We cannot conclude without recognizing the Court's new Registrar, Mr. Osvaldo Zavala Giler, who took up office in April 2023. We look forward to working with him in fulfilling his high mandate.
16. In conclusion, the Republic of Kenya urges all delegations to engage with each other, share past experiences, and build synergies; and in this way, continue to strengthen a Court that serves the whole of humanity as envisaged by the Rome Statute.

**Thank You Madam President.**