

H.E. Mr. Hubert Alexander Ingraham

Prime Minister

Commonwealth of The Bahamas

Bezuidenhoutseweg 99a

2594 AC The Hague

The Netherlands

Tel: +31.70.311.1083

Fax: +31.70.364.0259

New York, 3 April 2012

Your Excellency,

We have the honor of writing to you on behalf of the Coalition for the International Criminal Court (CICC), a global network of over 2500 member NGOs in 150 countries, campaigning for a fair, effective, and independent Court and increased access to justice for victims of crimes against humanity, genocide and war crimes. On this occasion, we are writing to respectfully call on your government to promptly ratify the Rome Statute of the International Criminal Court.

Your Excellency, as you are aware, the Caribbean region played a pivotal role in the establishment of the first permanent international court capable of trying the most heinous crimes known to mankind. The motion set forth in 1989 by Trinidad and Tobago requesting the United Nations General Assembly to consider the establishment of the International Criminal Court gained important support from a number of states, including all CARICOM member states. Since then, the Caribbean region has continued to be a crucial supporter of the Rome Statute system, and to date, only three CARICOM states – The Bahamas, Jamaica and Haiti – have yet to ratify the Statute.

With Guatemala's recent accession to the Rome Statute on 2 April 2012, there are now 121 states parties to the treaty, demonstrating that the International Criminal Court is steadily advancing toward universality. Each additional ratification contributes toward the reduction of safe havens for the authors of these gross human rights violations and increases state cooperation with the ICC. Moreover, as it celebrates its tenth anniversary, the Court's work load continues to grow. On 14 March 2012, it issued its landmark first judgment in *The Prosecutor vs. Thomas Lubanga Dyilo* case, setting an important precedent that resonated globally. The Court is also conducting six other investigations, and eight preliminary examinations.

Complementarity, one of the most central tenets of the Rome Statute system, recognizes the primary jurisdiction of states in investigating and prosecuting individuals who have allegedly committed crimes that fall under the jurisdiction of the ICC. In this context, ratification of the Statute also offers states an opportunity to strengthen their own national legal systems, adopting definitions for international crimes that are more in line with the Statute and that reflect developments in international law.

The Coalition is well aware that there are several factors which affect a government's decision to become a party to a specific treaty. Different priorities, constitutional obstacles or lack of resources are among the reasons most cited as challenges to ratification. In the Caribbean, as in other regions, the Coalition understands that the Bilateral Immunity Agreements (BIAs) campaign pursued by the former United States administration under George W. Bush had a strong negative effect on future prospects for ratification.

Your Excellency, in that context, we believe it is important to highlight that the current US administration under H.E. President Barack Obama has discontinued the campaign to pursue BIAs and has begun to actively participate in ICC affairs. Since 2009, the US has sent a delegation to participate in all Assembly of States Parties meetings, and it even attended the first-ever Review Conference of the Rome Statute in 2010 in Kampala, Uganda. It has also supported United Nations Security Council referrals to the International Criminal Court in relation to the situations in Darfur, Sudan and Libya, and the Obama administration has openly said that it is willing to collaborate with the Court in different ways.

Moreover, Your Excellency, as you may be aware, the Bush administration enacted specific prohibitions stipulated under the American Service Members Protection Act (ASPA) to withhold US military assistance to parties to the International Criminal Court that did not enter into BIAs; however, these provisions were repealed in January 2008. In addition, in March 2009, President Obama signed into law the Fiscal Year 2009 omnibus appropriation bill, Public Law No. 111-8, which did not include the so-called "Nethercutt Amendment" which previously allowed for cuts in Economic Support Funding (ESF). Therefore, with the repeal of the ASPA prohibition and the non-renewal of the Nethercutt provision, no anti-ICC sanctions are still in effect.

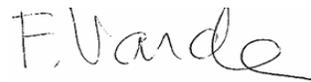
Many governments have also raised questions specifically pertaining to financial contributions to be incurred once they become State Parties. To that end it must be noted that the rate of contributions to the ICC is based on GDP, employing a model quite similar to that of the United Nations, although with some differences in light of the difference in number of member states.

Your Excellency, with almost all CARICOM members being part of the ICC, the scales of justice in the Caribbean have tilted decisively in favor of the Rome Statute. It is imperative that The Bahamas, a country that signed the treaty back in 2000, adopt a firm political commitment to support the ICC and take concrete actions to ratify the Statute without further delay.

Respectfully,



Brigitte Suhr
Director of Regional Programs
Coalition for the ICC



Francesca Varda
Coordinator for the Americas
Coalition for the ICC

CC:

H.E. Mr. Brent Symonette
Minister of Foreign Affairs

H.E. Mr. John K. F Delaney
Attorney General

H.E. Ms. Paulette Bethel
Permanent Representative of The Bahamas to the United Nations