



Embassy of Japan in the Netherlands

Tobias Asserlaan 2, 2517KC, Den Haag, The Netherlands <www.nl.emb-japan.go.jp/>

(Check against delivery)

Statement of the Government of Japan

H.E. Mr. Minoru Shibuya

Ambassador Extraordinary and Plenipotentiary of Japan to the Netherlands

**At the Eighth Session of the Assembly of States Parties to
the Rome Statute of the International Criminal Court (ICC)**

19 November 2009, The Hague

H.E. Mr. Christian Wenaweser, President of the Assembly of States Parties,
Judge Sang-Hyun Song, President of the International Criminal Court,
Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court,
Ms. Silvana Arbia, Registrar of the International Criminal Court,
Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

Let me begin by congratulating the International Criminal Court (ICC) on its ever-developing role in the international community. The objective of the ICC—namely, to punish and prevent the most serious crimes in the international community—is the long-cherished wish of people throughout the world, and Japan remains a staunch supporter of the Court and its activities. Japan strongly believes that it is vital for all States Parties to work together and to urge the concerned governments to extend its understanding and cooperation to the ICC's activities.

Mr. President,

Seven years have passed since the Rome Statute came into effect in 2002. The ICC is now entering the next stage with the first Review Conference to be held in Kampala coming up next year, and we are now in a crucial period to envision and define the future direction for the ICC and its role in the international community. In this regard, my government attaches importance to the following specific points, amongst others.

Firstly, the ICC needs to promote universality of its membership. We are pleased to see the steady increase in the number of States Parties, and welcome the accessions of Chile and the Czech Republic since the Seventh Assembly. However, no Asian State made it into the ICC during the past year, and currently, out of the 110 States Parties, only 14 are from the Asian Group, making this region seriously under-represented. It is unfortunate that the ICC is often seen, or perhaps misperceived, as an institution which is dominated by certain regions. The geographical balance needs to be addressed for the Court to be a more universal institution. In order to achieve this aim, Japan, being fully aware of its role in the Asian region, has made strenuous efforts in this regard through our bilateral contacts as well as regional fora such as the Asia-African Legal Consultative Organization (AALCO). In March this year, in co-sponsorship with the AALCO, we organised a seminar in New Delhi entitled "The International Criminal Court: Emerging Issues and Future Challenges" with an inaugural address by the late Judge Fumiko Saiga. Not only have we actively explained the significance of joining, but we have also

shared our experiences and know-how in the ratification process to those who are keen. Japan will continue its efforts to increase the number of States Parties, particularly from the Asian region, towards achieving universality of the ICC.

Secondly, we should once again remind ourselves that the principle of complementarity, which is clearly stipulated in the Preamble and Article 1 of the Rome Statute, should be maintained as the important starting point. Every state has a duty to exercise its criminal jurisdiction over those responsible for the most serious crimes, and the role of the ICC should, in principle, defer to such national criminal jurisdiction. What distinguishes the ICC from other international criminal tribunals is that the very existence of the Court itself – the perception that the Court is “out there” – works as an effective deterrent against the perpetrators. It should thus be seen as a last resort. States Parties, on their parts, must first and foremost make their best efforts to exercise national jurisdiction rather than “dumping” a situation to the ICC just because they face difficulty in handling a situation domestically. The primary focus of the international community should be on putting in place the necessary domestic criminal investigation and prosecution systems which function properly.

Thirdly, it is crucial that we maintain and secure sustainable support of the international community for the Court. As the ICC develops at a rapid pace into a fully functional organ, we, the Assembly of States Parties, need to start viewing the ICC not only as an international court, but also as an international organization. To be sure, the ICC is a judicial organ whose independence must be respected. However, that does not, and should not, in any way mean that the ICC is immune from examination of its management and governance aspects. In order to make both the legitimacy of and the support for the Court “sustainable,” the ICC and the international community must find how best to deal with the Court’s long-term “cost drivers” within its limited resources. We request the ICC to continue to pursue an efficient management of the ICC through rationalization and prioritization so that it can deliver maximum results within its limited resources.

Mr. President,

Japan intends to contribute actively to various discussions toward the upcoming 2010 Review Conference to be held in Kampala. We believe the keys to this question and a successful Review Conference lie mainly in two points: promoting universality and enhancing sustainable support for the Court. It is our view that proposals for amendments or additional items on the agenda should be viewed against these two criteria.

The ICC has yet to complete a full judicial cycle, and we believe that for some time to come, the Court should primarily focus on bringing to justice those who are most responsible for committing the existing crimes in the Rome Statute. In light of the "sustainability" criteria, the States Parties should be prudent not to overburden the Court with many additional crimes at this stage of the Court's development. We also have to be fully aware that adding new categories of crimes under the jurisdiction of the ICC could work against prospects of new accessions and promotion of universality.

Nevertheless, the international community should not be inhibited to discuss any matters which are believed to be crucial for the future of the Court at the Review Conference. It is our view that the States Parties should prioritize challenges faced by the ICC in its early years and focus on what should be done to overcome them in the future at the Review Conference. These may include the points I have made in my statement today, such as: making the Court's procedures and proceedings more effective, efficient and accountable; improving governance and structure of the Court in order to have it better manage its future activities; securing the principle of complementarity; promoting cooperation of States; or advancing universalisation.

Based on this approach, Japan has distributed, through the New York Working Group, a contribution paper on the list of items that we believe are worth addressing at the Review Conference. We hope that the paper could provide a sound basis for the upcoming discussions of stocktaking and lead to some outcome document in which we agree on the continuation or launching of discussions to aim for possible future amendments on some, if not all, of the items in our contribution paper. Japan looks forward to deepening the discussions toward the Review Conference with other States, and will also appreciate the activities and inputs of the civil society, and welcome further interactions in this regard.

Mr. President,

Japan hopes that the ICC will continue to work diligently toward the eradication of the culture of impunity and to consolidate its reputation. The upcoming Review Conference will be an important occasion and a test for the ICC to enhance its universality and sustainability and to strengthen the international criminal justice system as a whole.

Thank you.

[END]