

Statement of the Government of Japan
Delivered by Ambassador Extraordinary and Plenipotentiary of Japan to
the Netherlands, H.E. Mr. Minoru Shibuya
At the Seventh Session of the Assembly of States Parties to the
Rome Statute of the International Criminal Court (ICC)
14 November 2008, The Hague

H.E. Mr. Christian Wenaweser, President of the Assembly of States Parties,
H.E. Mr. Ban Ki-moon, Secretary-General of the United Nations,
Judge Philippe Kirsch, President 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 desire of people throughout the world, and Japan remains a staunch supporter of the Court and its activities. It is not an easy task for the ICC to produce results through its own efforts alone. The cooperation of concerned governments is critical. Japan 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, so that the Court may prove itself through this test. We will make every possible effort in that regard.

Mr. President,

This year marks the tenth anniversary of the Rome Statute. As the ICC enters the next stage, I believe that the ICC and the international community are at a crossroad. We are all faced with the following important question: "How should we envision the future activities of the ICC and what do we hope to

achieve through its activities, in order to see the international criminal justice system functioning properly with the full support of 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. However, currently, out of the 108 States Parties, only 14 are from Asia, the region which is seriously under-represented. It is unfortunate that, given this current situation regarding geographical representation, the ICC is often seen, or perhaps misperceived, as an institution which is Euro-centric. The geographical balance needs to be addressed for the Court to be a more universal institution. Japan is fully aware of its role in the region, and has made efforts in this regard through our bilateral contacts as well as regional fora such as the Asia-African Legal Consultative Organization. Not only have we actively explained the significance of joining, but we have also shared our experiences and know-hows in the ratification process to those who are keen.

Secondly, when we consider and evaluate the role of the ICC, we need to remind ourselves of and value the significance of its role as a deterrent. 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. We must not underestimate the significance of this dimension.

Thirdly, one of the most important principles to be kept in our mind is the principle of complementarity. We should once again remind ourselves that this principle, which is clearly stipulated in the Preamble and Article 1 of the Rome Statute, should be maintained as the 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. Thus, a State Party must, first and foremost, do its best to exercise its national jurisdiction before referring a situation to the ICC,

and the primary focus of the international community should be on putting in place the necessary domestic criminal investigation and prosecution systems which function properly.

Fourthly, we need to see 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 aspects. Every international organization must have its management and budgetary aspects thoroughly scrutinized and examined, and the ICC is no exception in this regard. Given the limited financial resources available, and in view of the current status of global economy which is said to be facing the second largest, or perhaps the worst financial crisis, we need to face the difficult but unavoidable task of deciding to what extent we can afford to provide. And it is with this task in mind that we all need to envisage the future activities of the ICC. In order to make both the legitimacy of and the support for the Court “sustainable,” the ICC and the international community must strike a good balance between the desired level of the Court’s activities and the limited resources. We appreciate the efforts made thus far by the Registrar and the ICC to this end. 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, and the Registrar should be given the appropriate authority and mandate to realize this task. At the same time, States Parties need to feel and be ensured that they “get what they deserve for what they pay,” so that they can be accountable to their own nationals.

Mr. President,

Regarding policy issues, Japan intends to contribute actively to various discussions. At the upcoming 2010 Review Conference, one of the main issues to be taken up will be the “crime of aggression.” Japan attaches great importance to having a clear definition which will be broadly accepted by the

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international community. Though it may be challenging, we stand ready to work with our friends and colleagues to reach a consensus on the issue. Apart from aggression, we also expect to see lively debates regarding the points that I have taken up in my statement today, amongst others. Japan appreciates the activities and inputs of the civil society, and welcomes further interactions in this regard. The upcoming Review Conference will be an important occasion and a test for the ICC to enhance the universality and sustainability of the support by the international community.

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. We are determined to devote more energy to the development of the international criminal justice system.

Thank you.

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