



Parliamentarians for Global Action

**V Assembly of States Parties of
the International Criminal Court
Intervention by Dr. Albert Koenders, MP (The Netherlands)**

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CHECK AGAINST DELIVERY

**Mr. President Bruno Stagno,
Honourable Delegates to this Fifth Assembly of States Parties,**

It is a great pleasure for me to address you today as a Member of Parliament, a representative of the people, just re-elected two days ago in the Netherlands. I want to thank you for the opportunity of bringing to this Assembly the voice of Parliamentarians for Global Action, a network of more than one thousand members of parliaments and congresses of 113 countries who for the past 17 years have been working around the world to promote the establishment and the effective and independent operation of the International Criminal Court.

Mr. President, in the Rome Conference of 1998, PGA supported as primary goal the efforts of States to make possible the creation of an independent judicial institution capable of delivering a justice with full guarantees for the accused, a justice that embraces the rights of victims to know the truth, a justice that contributes to sustainable and lasting peace processes, a justice that is done and seen to be done. We congratulate the International Criminal Court on the work conducted in the past year and welcome the intense work of the Pre Trial Chambers in honouring the spirit of the Rome Statute and guaranteeing the participation of victims in the proceedings.

While remaining respectful of the independent and impartial nature of the judicial decisions and the operative and strategic actions of the Court, PGA remains watchful of the sacred mandate of the Court in bringing a type of justice that is delivered and seen to be delivered, that is restorative and not only punitive, and that is not only visible after that crimes have been committed but may be capable of deterring future crimes. PGA Members all around the world are very engaged in the politics of international criminal justice with the aim of maximizing the impact of ICC and achieving the goals enshrined in the Rome Statute Preamble. We follow carefully the new issues stemming from the interplay between domestic and international justice, such as the sequencing of different types of remedies, including traditional accountability mechanisms, which should not jeopardize –in the end- the role of the ICC. We stand for a larger role of the UN and partner states to arrest suspects.

Mr. President, PGA has had since July 17, 1998, a second role, the mission of attaining universality of the ICC as the basic precondition for its effectiveness. PGA believes that this objective has been attained to the extent that all the main families of judicial systems are represented in this Assembly. In this respect, we would like to particularly welcome and congratulate the recent ratifications of The Comoros and Chad, which brought to 19 the numbers of States Parties from the Organisation of the Islamic Conference and to 3 the number of Members of the Arab League of this Assembly. A special mention is deserved in respect of the ratification of the Comoros to my fellow colleague Parliamentarian and PGA Member Mr. Assoumani Mondoha, Delegate of The Comoros to this Assembly, who played an essential leadership role in the National Assembly of his country to prepare, build consensus and pass the required legislation to attain ratification.

Mr. President, in spite of this significant representation of all the major families of legal systems of the world in the ICC membership, real universality remains a long-term objective for this Assembly and the non-governmental organizations devoted to the ICC, as well as regional organizations such as the European Union and the African Union. In this respect, PGA remains committed to overcoming the legal and political obstacles, the misconceptions and the negative efforts that impede at least 88 States to join the ICC. We have noted with appreciation the beginning of a change of mood in the United States of America with the approval of the Darfur Resolution in the Security Council and within the US Congress the ending of some restrictions on military-cooperation against countries that joined the ICC system.

PGA members have redoubled their efforts in Asia, the least represented region in this Assembly. For this purpose, PGA will hold in Tokyo, Japan, on 4th and 5th December, 2006 the Fourth Session of the Consultative Assembly of Parliamentarians for the International Criminal Court and the Rule of Law. The PGA Consultative Assembly is the only global forum where members of parliaments from all over the world gather to share experiences and take vows of action in favour of the ICC. The Japanese Diet has agreed to host this event as the result of the intense work that Japanese parliamentarians have undertaken as members of PGA to guarantee that this nation honours its commitment to truly universal justice.

Mr. President, PGA hopes that by the early next year all sectors of government and society in Japan will speak with one voice and decide to take the final step to accede the Rome Statute. We are aware, however, that the deliberations on the accession process within government are linked with the assessment of contributions to the budget of the Court to be decided by this Assembly in the coming days. PGA Members in Japan await with interest the decisions of this Assembly in this respect.

Mr. President, a third role for PGA has been to promote the full implementation of the Rome Statute in the domestic system of each State Party and, wherever possible, State not Party to the Rome Statute. As President Kirsch has highlighted in his report to this Assembly, the enforcement pillar of the Court relies on the capacity of all branches of government of each state party to cooperate with the Court without delay or hindrance. The reality, however, is that States have often neglected this objective and have left out of their agenda the adoption of implementing legislation. The result is that no more than fifty-states have adopted implementing legislation. Failure to expeditiously adopt implementing legislation is a serious omission. We must be candid and admit that as a consequence of lacking implementing legislation, international criminals can still find safe haven in numerous countries of the world. We must admit that international criminals are NOT being identified, are NOT being captured, and are NOT being tried by the ICC or the pertinent domestic tribunals when complementarity is met. We must admit that the consequences of failed implementing legislation have very high costs on peace and security.

Mr. President, given the reality of failed implementation, the assessment of the effectiveness of the work of the International Criminal Court has to be done always against the degree of compliance of States and of this Assembly of their obligation of giving arms and legs to the ICC. Full implementation depends on this Assembly on two levels. First, the work of the Annual Assembly of States Parties remains fundamental to assign resources and oversight the implementation of the Plan of Action of the Bureau of the ASP. Second, the General Debate of the ASP should count with the broadest and highest level of representatives to firmly articulate their commitment to the Court. This Assembly has the power to express one voice and one hundred and four voices to call for action in favour of universal and effective justice for the most serious crimes of our times.

*For more information about the intervention of Dr. Koenders, MP
or the work of PGA at the V ASP of the ICC
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