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Address at the  
**High Level Seminar for Fostering Cooperation with the International Criminal Court (ICC)**  
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**[Salutations]**

2016 has been a virulent year for our Community of Nations, marked by constant battles of ideas, philosophies for the preservation of international norms, standards and civility. It is against this backdrop and with this sense of renewed purpose that on behalf of the Republic of Trinidad and Tobago, I welcome all the Delegates to this High Level Seminar for Fostering Cooperation with the International Criminal Court (ICC).

Indeed, the question may be posed, why is a Seminar of this stature important to us in the Caribbean, or why do we need to encourage or nurture a culture of cooperation between relevant regional agencies and the ICC, in a region that is largely spared the carnage experienced elsewhere, but which itself is not immune from these crimes, as no region can truly say that it is.

The answer is simple. Since its establishment and operationalisation, the International Criminal Court has become a key component in the formalisation of an independent, neutral and impartial system of accountability for the most serious crimes of concern to the international community, namely, war crimes, crimes against humanity and genocide, and subsequent to the Review Conference of the Rome Statute held in Kampala, Uganda in 2010, hopefully, the crime of aggression. Let us all hope that the requirements to enable the entry into force of the amendments agreed to at Kampala on the crime of aggression would be in place this year.

Non-cooperation by Nation States, which is not of the Court's making, has also opened the ICC to unfair criticisms for being ineffectual and ineffective. Cooperation is often referred to as the wheel, which allows the ICC to dispense justice and the wheel could only turn as fast

as States Parties honour their binding legal obligations to cooperate effectively with the Court.

Perennially, at the sessions of the Assembly of States Parties (ASP) to the ICC and during other fora on international criminal justice, States Parties and other stakeholders are reminded that there must be effective co-operation with the Court in order to bolster its role in the fight against impunity.

However, the ICC has found itself, at times, to be a victim unable to free itself from some of the shackles imposed on it by the inaction of States Parties; by the failure of some among them to comply with legally binding obligations to cooperate with the Court, as it seeks to discharge its mandate which flows from the Rome Statute.

It is this degree of inertia, flagrant disregard for the sanctity of binding treaty obligations, the principle of *pacta sunt servanda*, as codified under the Vienna Convention on the Law of Treaties, or sometimes, sheer recklessness on the part of a number of States Parties, which have resulted in individuals for whom arrest warrants have been issued by the Court to remain at large and even, to evade justice.

The benefits of effective international cooperation must not be lost upon us. Take for example, the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, in which the accused was sentenced to 18 years imprisonment. Bemba, a military commander of Congo's troops and also the former Vice-President of the Democratic Republic of Congo (DRC), was found guilty of acts of rape, murder, pillaging and crimes against humanity committed during the 2002-2003 war in the Central African Republic (CAR) and sentenced to concurrent terms of imprisonment for his crimes.

It took the **cooperation and coordination** among the ICC and not only the authorities in the CAR, but as well, the Belgian government, which arrested and turned Bemba over to the ICC and the Portuguese authorities, who monitored Bemba's bank account, to bring Bemba to justice. To take a page out of the case files of *The Prosecutor v. Jean-Pierre Bemba Gombo*, the Central African Republic assisted the process of the Court by, *inter alia*, ratifying and committing to the Rome Statute; referring the 2002-2003 war and violence to the ICC for investigation; handing over court documents from the CAR's own prosecution of Bemba; allowing the ICC to conduct site visits in the Central African Republic and protecting witnesses and evidence.

The Bemba case reinforces the core principle of international criminal law and justice and the purpose and mandate of the ICC that no one, not even those referred to as “political elites” is above the law; an ode to the critical role the ICC plays in the global fight to end impunity. At the core of that successful prosecution was cooperation by Nation States.

At a time when withdrawals may threaten the very perceptions of the ICC’s legitimacy, the ICC’s visit to the Caribbean is timely. It is, in my humble view, no coincidence that the ICC has come “home” to Trinidad and Tobago-- home to the ‘grandfather’ of the ICC, former President of this Republic, A.N.R. Robinson, to reconnect with and be reminded of the foundational core principles, aims and values of this international legal system called the International Criminal Court. The Community of Nations has an altruistic duty to ensure the continuity of the life of the ICC, the enhancement of its mandate and the preservation of its place and integrity as a court of last resort, when all other avenues of justice have been exhausted.

To stand before you today and participate in this most defining and judicious seminar for fostering cooperation with the ICC, is as much a personal privilege as it is a matter of national pride and honour, for Trinidad and Tobago, as home to the ICC’s ‘grandfather’, to support the ICC’s mandate and to encourage, where lacking, ratification of the Rome Statute and indeed, to promote the necessary cooperation required of our sister Caribbean and Caricom countries.

At the risk of sounding self-serving, the Caribbean and Caricom have historically embraced and committed to international standards and benchmark practices of international peace, security and respect for fundamental and human rights and freedoms and the Rule of Law. In the spirit of our loyalty to the ICC and more particularly, to our commitment and the observance of the international Rule of Law, the Caribbean can be counted as a *tour-de-force* among those Nation States that will push and uphold the agenda of the ICC.

Specifically, I am pleased to state that the Republic of Trinidad and Tobago, having ratified the Rome Statute, has put in place enabling legislation to give effect to the Statute by way of the *International Criminal Court Act, Chap. 4:26 of the Laws of Trinidad and Tobago*. Additionally, we have been consistent because we also have the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) *and the Geneva Convention* as part of our law. There is no more effective and emphatic cooperative mechanism than by enacting the necessary domestic legislation that provides for enforcement mechanisms, which will allow the Tribunals and specifically, the ICC, to fully investigate and prosecute the crimes under its jurisdiction. In that regard,

Caribbean countries which have not yet filed Instruments of Ratification will no doubt find the transition to full States Party status, an easy one, indeed because in the Caribbean, we take pride in adhering unreservedly to the principles of international justice.

It is therefore hoped that this present Seminar and similar ones held recently in Costa Rica, Botswana and Romania, will provide an opportunity for Member States of the ICC to strengthen the relationship between the Court and its States Parties; to develop an understanding of the mutual benefits of closer cooperation; to examine and address the range of challenges which the ICC confronts in executing its mandate to end impunity; to hold those accountable for their crimes; and to prevent the recurrence of such crimes. These seminars also serve the dual function of a call to arms for those non-Member States to sign onto this most important international legal criminal order in the form of the ICC and the Rome Statute.

It is my expectation that all participants would seize the opportunity to refocus and examine ways to give full effect to the operational provisions of the Rome Statute, which are detailed in Part 9 of the Instrument. States Parties must ensure that their domestic implementing legislation is comprehensive enough to enable them to fulfil various forms of cooperation contemplated by the Rome Statute, and to address issues, relating to, *inter alia*, the arrest and transfer of suspects; freezing assets; protection of victims and witnesses and sourcing evidence.

Correspondingly, efforts must also be made by States Parties to accede to the Agreement on the Privileges and Immunities of the ICC, as this would ensure that the ICC as an institution and its personnel, including Judges, would be afforded the requisite privileges, immunities and protection, while undertaking the business of the Court in a State Party.

The organisers of this Seminar, with its two pronged focus, are to be complimented on the elaboration of its structure so that in the first segment, participants would discuss issues on co-operation and the universality of the Rome Statute and examine systems which would enhance such co-operation. The second segment would be at a technical level and would engage regional witness protection experts.

At the 71<sup>st</sup> Session of the United Nations General Assembly held in October 2016, Assembly President Peter Thompson of Fiji, recalled that the International Criminal Court had been created “*bearing in mind the millions of children, women and men who have been victims of unimaginable atrocities that deeply shock the conscience of humanity, and recognising that such grave crimes threaten the peace, security and well-being of the world.*”

After two World Wars, the ethnic cleansing attributable to the Bosnia War of the 1990s, the systematic and systemic genocide in Rwanda, among numerous other atrocities that have punctuated the world's timeline, one would expect that economic progress and globalisation will have brought with it, civilised conduct by our Community of Nations. However, all that happened since, is that we have, in most cases, modernised our inhumanity and intolerance towards each other. We have evolved our attacks on our fellow human beings and have devised new, sophisticated and innovative approaches to war. This new war, ladies and gentlemen, is now fought by terrorists, suicide bombers, drug cartels, mass shooters of entire groups for racial, social and religious reasons and modern-day slave owners and conduits exist in the form of enablers of human trafficking and prostitution. This is the reality and atrocity of the modern world war. As Assembly President Peter Thompson further said, *"it is imperative that we draw on the spirit that led to the establishment of the Court to strengthen- not diminish- our resolve to put an end to impunity of the perpetrators of these crimes."*

Cooperation among States remains, therefore, one of the central areas of focus and a real challenge for the ICC. The ICC's lack of direct enforcement powers means that the ICC needs the cooperation of States to effectively investigate and prosecute perpetrators of international crimes.

And so, ladies and gentlemen, how do we convert those non-cooperating countries to subscribe to the ICC and to cooperate in cases of genocide, war crimes and crimes against humanity? Seminars such as the present, therefore function as a means of promoting awareness in States of their international legal rights and responsibilities. Condemning the politicisation of a country's agenda is another strategy that serves to attract international attention to perpetrators of crimes and expose atrocities that may have otherwise been stifled.

The solution to achieving full cooperation by Nation States lies obviously in the universality of the Rome Statute. It is important that we recognise that the International Criminal Court is not merely a court of adjudication, but is a *new international legal order*. The international growth and acceptance of the United Nations, and similarly, the International Criminal Court with its 124 Member States, is evidence that any kind of international order is possible and reflective of the collective interests among countries to cooperate, coordinate and forge common bonds in order to combat the atrocities of crime, the tentacles of which stretch far beyond the borders of our individual consciences and consciousness, countries or even, continents.

The International Criminal Court was established to protect victims of crimes everywhere. The true irony of the intended withdrawals of which we hear, lies in the indisputable truth that next to the Middle East, humanitarian tragedies had brought so much misery, affliction, hurt and pain on the African continent, that in the words of Tuvako Nathaniel Maningi of the United Republic of Tanzania at the 71<sup>st</sup> Session of the United Nations General Assembly, “*the establishment of the Court had been an inspiration against impunity and injustice.*”

It is troubling that these intended withdrawals come at a time when, in my humble view, the International Criminal Court has made significant progress in its judicial work, among the most recent being the Court’s first conviction in relation to the protection of cultural heritage property in the *Ahmad Al Mahdi case*, in which the accused was sentenced to 9 years in prison for destroying 10 buildings of historical and religious character in Timbuktu, Mali.

In a trend that has grappled the senses of the world in 2016, we have also seen an illogical departure from globalisation and a retreat by Nation States to a type of national secularism, where countries have chosen to subscribe to an internalised and restricted philosophy for conducting their affairs, creating their own internal standards. I speak here to Brexit; to the growth of the ultra-right movement in Europe; to a society in which we are building all kinds of walls and caging ourselves into growing sentiments and practices of homophobia, Islamophobia and xenophobia. In this march of withdrawal from globalisation by certain facets of our international community, did the ‘withdrawers’ of the Rome Statute take pattern, in a type of righteous self-indignation, even at a time when the International Criminal Court is looked at to dispense justice around a world that is marked by increasing atrocities?

Ladies and gentlemen, any exodus, mass or minimal, from the community of Nations puts globalisation at risk. It is simply not healthy because at the end of the day, international benchmark practices and rules are about a universal commonality of standards by an international community that respects, enforces and fosters the Rule of Law. Sovereignty cannot and must not be invoked on the altar of impunity. **No one has a right to do wrong-** individually, collectively and even, at the level of a Nation State. The new world order- the International Criminal Court- which promotes the recognition of a system of international criminal justice and adherence to the Rule of Law, simply does not countenance such a possibility.

Many international jurists and supporters of international humanitarian law and human rights are very concerned about the spectre of withdrawal by any State Party from the ICC. When a State Party withdraws from the ICC, not only does the ICC lose, but the greater disservice is the loss appropriated not to the political elites of that country, but to its very own people, the victims of the most heinous of crimes that the International Criminal Court was established to serve. It represents a loss of that population's voice and the opportunity for criminal redress and reparation on the international stage.

As States belonging to the Community of Nations, we must appreciate the real risks that come with a philosophy of bilateralism and the dangers of living in a post-human rights world, which is now challenging the very Universal Declaration on Human Rights, posited in 1948 at the United Nations. This Declaration was referred to by Madam Eleanor Roosevelt as *"the international magna carta of all men everywhere."*

The ICC has the capacity to stem this tide of a post-human rights world by adhering to its core principles. As supporters of this international criminal justice system in the form of the ICC, rather than dismantle the significant strides we have made as global villagers, we must fix what is wrong or perceived to be wrong in our house.

This brings to bear the growing impatience among States Parties on the further matter of referrals to the ICC, which can sometimes be a bar against the enthusiastic cooperation of Nation States. As with other human rights issues, the likelihood is that powerful governments, their officials and their allies escape prosecution before the ICC because they are either not Members of the Court or because they wield the veto power as Members of the UN Security Council to protect against prosecutions. To dissipate this type of discontentment and perception, especially when withdrawals may threaten the relevance and legitimacy of the Court, additional ratifications by Nation States are necessary, together with a principled, consistent and just approach to ICC referrals by the UN Security Council.

As a firm proponent for mediative dialogue and intervention, might I respectfully suggest that there be more open and frank discussions and engagements among the Court, Member States, regional and international stakeholders, including the UN Security Council. The International Criminal Court was created from the bowels of a diplomatic process and in that regard, it makes sense to engage similar diplomacy in acknowledging and addressing the underlying concerns of aggrieved Nation States- and I am not getting into the merits and demerits at this juncture.

Typically, withdrawals from the ICC require a year to take effect. All is therefore not lost with respect to the potential 'withdrawers' from the Rome Statute. With the appropriate mediative and corrective measures, if any, that may be required, I look forward to the building of bridges, not walls, in the international movement towards full cooperation among Member States, Nation States and universality of the Rome Statute.

On a final note, the world Court of criminal jurisdiction- the ICC- is premised on the impeachment of wrongdoing in the context of man's inhumanity to man. International human rights laws have been augmented by the application of international juridical norms through judgments of the Court, where, for example, rape and sexual assault are considered war crimes. It is against this affirmative background of the Court's progressive jurisprudence that State Parties may also wish to reconsider the crimes of human and drug trafficking falling under the jurisdiction of the International Criminal Court. When I participated in the Preparatory Meetings of the ICC at the United Nations in New York in the 90's, this proposition was on the table. Had these offences been given their own prominence as separate and distinct crimes under the ICC, we may well have been positioned to avert or at the very least, deter the mass trafficking of drugs, women and children, forced labour, prostitution and organ transplants- as is the case in Nepal and other Nation States.

Richard Dicker, in his article *'Defend the Integrity of the Rome Statute and a Court Worth Having'*, in a call to arms to strengthen the impact of the ICC, stated, *"Bring about more efficient proceedings linked to better case selection, more meaningful victim participation, more Court presence in the field and greater impact in communities most affected by the crimes alleged."* The battle will therefore be won not by entreaty and supplications but by meaningful actions on the part of the Court to which the proverbial 'small man' can relate and access. Remember, in today's world, mere unadulterated truth may not always be enough. Regrettably, to promote the truth of the ICC, you have to package it to make it more sustainable.

In wishing the ICC and the participants of this Seminar, every success for fruitful discussions and implementation, it is fitting to end with words from one of the ICC's strongest supporters, the European Union, *"What was right in 1998 is still right; the world needs the ICC, and the ICC needs all countries to support it."*

We each have a responsibility to ensure that the integrity, legitimacy and relevance of the ICC is never compromised through inaction, indifference or legislative ineptitude. We must all engender a philosophy of full cooperation among Nation States to the ICC in an attempt to achieve the desired universality of the Rome Statute.



Therefore the message must be simple- stay in the ICC or come on board, there is nothing to fear, because the ICC is fair.

I thank you.