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H.E. Miguel D'Escoto Brockmann
President of the United Nations General Assembly
Office of the President of the General Assembly
United Nations Conference Building C204
New York, NY 10017

Excellency,

I wish to thank you again for our frank discussion yesterday. I appreciated this opportunity to discuss matters related to the International Criminal Court with you and to express my strong concern about your recent comments on this issue, because much of what you have said on this matter is both factually wrong and detrimental to a constructive discussion.

I appreciate your assurances that none of your comments were directed against the Court itself. While I believe that it is very difficult to understand them in any other way, as their reflection in the media illustrates, I will be appreciative if any comments that you may deem necessary in the future will rectify the impression that you have so far created. In this respect, I wish to draw your attention in particular to the following.

The Rome Statute has established the International Criminal Court as a permanent and independent institution, in relationship with the United Nations. The General Assembly has adopted, by consensus, a relationship agreement between the ICC and the United Nations and adopts every year, by consensus, a resolution on the cooperation between the two institutions. This is the only General Assembly resolution dealing exclusively with matters related to the ICC and should therefore guide your comments as the President of the General Assembly. The resolution explicitly "[recognizes] the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and achieve sustainable peace ...". Furthermore, 107 of the States represented in the Assembly have ratified the Rome Statute.

The ICC is the first and only international criminal tribunal based on a multilateral treaty negotiated by all States. Three of the four situations currently under investigation by the ICC have been referred to it by the concerned States themselves, while the fourth was submitted to it by the Security Council of the United Nations. The competence of the Security Council to refer situations to the Court does not affect the Court's independence in judicial decisions. The organs of the Court apply the law set out in the Rome Statute, and any suggestion of selectivity on the part of the Court itself is factually wrong and a misrepresentation of the law.