

Statement by the delegation of the Russian Federation (Observer State) at the Eleventh session of the Assembly of States Parties to the Rome Statute of the International Criminal Court

15 November 2012

The text of the statement in Russian also made available to the ASP Secretariat

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Your Excellencies, distinguished participants of the Conference,

On the 1st of July 2012 it was 10 years since the entry into force of the Rome Statute. Today we have good reason to assess the first results of the functioning of the International Criminal Court. Over the past 10 years the Court has managed to gain certain authority and occupy its unique niche in the system of international institutions.

Russia was actively involved in the elaboration of the Statute and signed it. While not being a member Russia cooperates with the Court on general and specific issues. Activities of the Court are of great interest to us. It is well-known that expertise, independence and impartiality play a key role in the proceedings. Recent history demonstrates that some of the international criminal tribunals have experienced difficulties in this regard. We hope that the ICC will succeed in avoiding them.

Among cases pending before the Court of particular interest to the Russian Federation, as a member of the UN Security Council, are the dossiers referred to the ICC by the Security Council. Since the ICC establishment matters having relation to the activities of the Court have gradually infiltrated into the agenda of the Security Council. Today the Council addresses the ICC-related issues on regular basis.

Accumulated experience suggests that the implementation of the Security Council resolutions referring situations to the ICC has often had serious legal and political implications, including for the Court itself. With respect to the execution of arrest warrants the problem of cooperation of States with the Court has come to the forefront. The Resolutions 1593 and 1970, for example, did not define the legal framework of the obligations of States that are not parties to the Rome Statute. The question of immunity of high-ranking State officials has been left out, whereas in the absence of direct reference

thereto the Security Council Resolutions could not have overruled norms of general international law providing for immunity of acting Heads of State. And these are not the only uncertainties that the Court is faced with in its practice.

We remain hopeful that the ICC will develop further, taking into account the difficulties that it has to deal with and that, if treated adequately, should only strengthen this institution.

Some remarks on the nature of investigations. The Russian Federation has supported the Resolution 1970 in the Security Council. Crimes committed in Libya, especially those against the civil population, should not be left unpunished. We proceed from the fact that in the course of the investigation of the Libyan situation the Office of the Prosecutor of the ICC has to act in an objective way paying equal attention to the alleged crimes of all parties of the conflict. In relation to this situation substantiated and professional decisions on the issue of complementarity are also of great importance.

We, as other delegations, were concerned with the situation of detention of the ICC staff in Libya. We hope it will be finally resolved with due respect to the status and immunities of the delegation members.

We would also like to address another topic which is crucial for the ICC. For the Russian Federation, as the permanent member of the UN Security Council, it is important that the amendments to the Rome Statute on the crime of aggression and the mechanism for the exercise of the Court's jurisdiction over this type of crimes be implemented consistently. This is an essential issue that can have a major effect on the future of the ICC. In our view situations where the Court would exercise jurisdiction over the crime of aggression in the absence of a relevant determination from the UN Security Council, are extremely undesirable. The further attitude of the Russian Federation to the International Criminal Court in general will, among other factors, largely depend on how mature and balanced the activity of the Court in the light of its expanding jurisdiction will be.

We also hope that the all official languages of the ICC including Russian and Chinese would be treated on equal basis during the sessions of the ASP in the future.

Thank you.