

**Statement
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In the name of God, the compassionate the Merciful

Mr. President,

My delegation aligns itself with the statement delivered by distinguished representative of Egypt on behalf of the Non-Aligned Movement.

I wish to thank the Government of Uganda for hosting the Conference and its hospitality

As a signatory to the Statute of the International Criminal Court, the Islamic Republic of Iran attaches considerable importance to the first Review Conference of the Rome Statute and regards it as an appropriate opportunity in the course of development of the ICC to complement the Statute and to review the work of the Court during the past 8 years.

The international community has come a long way from 1998 when the Statute was adopted to the present time when we have assembled here in the eighth year of the establishment of the Court in the first Review Conference to renew our commitment to fight the most serious crimes of concern to the international community, ending impunity and promoting respect for justice, human rights and humanitarian law.

Mr. President,

The first Review Conference has a critical role to play with regard to complementing the Rome Statute in order to enable the Court to exercise its jurisdiction over the principal serious crime of concern to the international

community that is crime of aggression. And all States have a shared responsibility to contribute constructively to this end. Defining the crime of aggression and reaching an agreement on the conditions for exercise of jurisdiction by the Court is deemed to be the key function of the first Review Conference. The Review Conference has a clear mandate from the Statute itself to address this issue and, therefore, the success of the Conference will be highly dependent on the will and indulgence of the participating States, both States Parties and States non-Parties, to grasp this opportunity to provide the Court with the necessary legal and jurisdictional tool to prosecute the crime of aggression.

As a victim of an act of aggression in the 20th century, the Islamic Republic of Iran has for long been advocating for the inclusion of the crime of aggression in the Statute and believes that the Court would hardly be able to appreciate its expected role as an international court to safeguard international peace and justice through ending impunity for the most serious crimes of concern to the international community, unless it was given the authority to go for the most abhorrent crime, the crime of aggression. As the past history teaches us, aggression and unlawful use of force by States has been not only a calamity by and in itself, but also has caused a chain of tragic consequences, including war crimes, genocide and ethnic cleansing and crimes against humanity. Ending impunity for the most serious crimes of concern to the international community would essentially and inevitably be a “*mission impossible*” without the Court being authorized to put the crime of aggression on trial.

Mr. President,

The International Criminal Court is established, under the Rome Statute, as “an independent permanent” criminal court. The Court, therefore, must remain independent and shall be able to prosecute the perpetrators of the crime of aggression, whether or not other international bodies, including the Security Council, have determined the existence of an act of aggression. It is not legally convenient nor does it serve the cause of justice to tie the functioning of the Court to the decisions of the Security Council and, in a sense, leave the Court at the mercy of the Council. The Security Council is, by nature, a political organ and as such cannot act as a judicial filtering for the Court. The Security Council’s practice in the past 6 decades indicates how dominant the political considerations of the permanent members have been in its decision-making processes. This includes those decisions made

under Article 39 of the Charter, in particular the determination of an act of aggression. We should learn from the lessons of history. How many times has the Security Council determined an act of aggression, while many flagrant acts of aggression has occurred during the past 60 years, including the aggression by Saddam regime against Iran and repeated acts of aggression by the Zionist regime against its neighbouring countries and Palestine particularly in the Gaza Strip. I would like to take this opportunity to condemn the targeting humanitarian convoy by the Zionist regime which constitute war crime.

This means that if the investigation of the crime of aggression by the Court were subject to the prior decision of the Security Council, the Court would very probably never be able to prosecute the perpetrators of this crime. The Security Council do have the primary responsibility for the maintenance of international peace and security under the Charter; it does not mean, however, that the Security Council can play a determining judicial role for the Court. The prior determination of an act of aggression can facilitate the work of the Court, but the absence of such determination should not handcuff the Court. Otherwise, the *raison d'être* of the Court, as a judicial body, would be undermined.

Having said that, we believe that there should be no unique procedure for prosecuting the crime of aggression; and the jurisdiction of the Court on the crime of aggression should be exercised in the same manner as those of other crimes enumerated in the Statute.

Mr. President;

The Islamic Republic of Iran would like to underline that the stocktaking exercise should be done in accordance with the terms, spirit, object and purpose of the Rome Statute. Any interpretation of the principles and provisions of the Statute should be in exact harmony with the clear terms of the Statute and its object and purpose.

The Court is established as a complementary court to national judicial systems, and to work as a court of last resort when States are unwilling or unable to genuinely conduct national proceedings. The Principle of complementarity thus assigns primary responsibility for the enforcement of the prohibition of genocide, crimes against humanity and war crimes to national criminal jurisdictions, provided that they meet certain standards. These standards flow from the notions of “unwillingness” and “inability”

which have been defined in Article 17 of the Statute of the ICC, so any definition of those terms should not exceed parameters of the Rome Statute.

The pursuit of peace and justice had presented challenges, so striking a delicate balance between them is of great importance. The Islamic Republic of Iran is committed to the peace process in Sudan and supports the ongoing efforts aimed at facilitating the early resolution of the conflict, in order to reach a comprehensive political settlement in Darfur.

My delegation believes that the Court, as a judicial body, as well as its organs shall respect the laws and regulations prevailing in the system it belongs to. In other words, in order to carry out its responsibilities, in particular in collecting evidence or arresting the suspects, it should refrain from taking any measure that could be considered as contrary to the principles and norms of international law. In this regards, I would like to draw your attention to article 98 of the Statute of the Court.

Mr. President;

In conclusion, I would like to highlight that this Conference has a critical responsibility to materialize the will of the international community which was incorporated in the preamble of the Charter of United Nations, that is, "...to save succeeding generations from the scourge of war...", by providing necessary legal mechanism to the Court to prosecute the perpetrators of the Crime of Aggression. The Conference should explore every avenue to reach an agreement on the definition of the crime of aggression and the conditions for the exercise of jurisdiction by the Court.

The Islamic Republic of Iran looks forward to participating actively and constructively in the deliberations on this important issue.

Thank you Mr President.