

**STATEMENT**

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Mr.President,

Distinguished delegates,

We would like to join the words of congratulation which were extended to the President of the Review Conference Ambassador Wenaweser. We are convinced that under his able leadership the Conference will be a success. We would also like to express our gratitude to the Government of Uganda and its people for the excellent Conference organization.

This year the mankind celebrates the 65<sup>th</sup> anniversary of the end of the World War II and the 65<sup>th</sup> anniversary of the establishment of the Nuremberg tribunal. Right after the completion of the Nuremberg trials the work started in order to build a unified code which would bring together norms on international crimes. Further this work was complemented with efforts to create a new system of international criminal justice. Today we are witnessing the outcome of these efforts.

International Criminal Court has emerged as the first international body of criminal justice of a comprehensive scope to function on a permanent basis and to cover a wider range of issues rather than to address a particular situation in a certain region. This was the exact purpose of creating the Court to deter situations where a State leader may order to shell peaceful settlements with indiscriminatory weapons, to kill peacekeepers, to carry out ethnic cleansing and get away with it impune.

The Rome Statute and the principle of complementarity enshrined in it give the Court what its predecessors lacked: power of deterrence. The strength of the Court consists not only in its ability to punish but also in the fact that its only existence can influence drastically both the world political climate and national legislation of States. It is a kind of a sword of Damocles for those who admit a possibility of achieving political goals by committing mass murders, extermination and violating international law. Therefore, already today at the initial stage of the ICC existence we can affirm that the Court has fulfilled itself and found its own place in the world.

In the course of the Rome Conference Russia voted for the Statute and further signed it. Our country has not ratified the Statute. Currently Russia, being a non-Party to the Statute, fruitfully cooperates with the ICC.

Given the fact that the Court has been functioning for less than 10 years, it is difficult to evaluate its efficiency. In particular, we believe the Court could exercise a more balanced approach to the matters concerning the correlation between its jurisdiction and such an important institute of international law as immunities of high ranking state officials. We presume the Conference could attach a definite direction to the evolving Court's practice in this regard, which would make this body more attractive for the international community.

One might speak about regional imbalance in the ICC's activities; of the lack of consideration of regional specificity; of the need to maintain sharp equilibrium between peace and justice.

To a certain extent this criticism could be fair, to some not. However, in our view, it is obvious that this criticism requires closer interaction between the Court, on one side, and States, regional organizations, the UN bodies on the other. Political and judicial mechanisms should efficiently complement each other, as it was implied during the Rome Statute drafting.

Mr. President,

What we consider the core problem of the Court, is the issue of the universality of the Rome Statute. Only 111 States out of 200 are Parties to the Rome Statute.

It is also obvious that the definition of the crime of aggression and the conditions of Court's exercising of jurisdiction are of crucial significance to ensure the universality of the Rome Statute. There is no doubt that without such a definition the Court's jurisdiction remains incomplete. Absence of solution to this problem is among other reasons that limits participation of States in the Statute. It seems ultimately important that while agreeing on the definition the crime of aggression and the "trigger" mechanism we would approximate rather than alienate its universalization; strengthen rather than weaken the mutual complementarity of the Court and international political bodies. The crime of aggression is of clearly marked political character. It is always committed by State leaders relying on the power of their States and not just by individuals. That is why the crime of aggression committed by a person may not be possible without committing an act of aggression by a State. As it is known, according to the UN Charter, which is the most universal and authoritative treaty preempting all other international treaties, the prerogative to determine the existence of an act of aggression belongs to the UN Security Council. This reality of the modern world dictates us to agree that without the UN Security Council decision on the existence of an act of aggression the ICC may not exercise its jurisdiction with respect to it.

I would like to emphasize that this is not a formalism nor an intention to safeguard the UN Security Council permanent members' special powers. It is obvious that in case of contradictions between the UN Security Council and the ICC with respect to the existence of an act of aggression both organs will lose their authority, legitimacy and credibility from States and the international community. And, to the contrary, in case when the UN Security Council and the ICC speak the same language, and the determination of an act of aggression is accompanied by

bringing the State aggressor leaders to justice, both the UN Security Council and the ICC, as well as the whole international community will succeed.

Mr. President,

The definition of the crime of aggression is an issue of high importance not only for the purposes of the Rome Statute. It will obtain great political significance going far beyond the ICC framework. We are convinced that a decision on the definition of the crime of aggression must be adopted on the basis of wide consensus which would include both State Parties and Non-Parties to the Rome Statute. We believe there is no other way for taking such an important decision.

Mr. President,

Ahead we have two weeks of difficult work involving intense negotiations on issues of utmost importance affecting the interests of all international community. We are convinced again that our common responsibility as States Parties and non-Parties requires us to follow principles of realism and balanced approach. Finding of appropriate solutions supported by the whole international community will ensure the success of the Conference itself, as well as progressive development of the ICC.

Thank you for the attention.