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11TH SESSION OF THE ASSEMBLY OF THE STATES PARTIES

TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

STATEMENT BY H.E. MR. CHRISTIAN WENAWESER, AMBASSADOR, PERMANENT REPRESENTATIVE

Madame President

I have the honour to take the floor today also on behalf of H.R.H. Zeid Ra'ad Zeid al-Husseini, the first President of the Assembly of States Parties and his successor, H.E. Bruno Stagno from Costa Rica. We thank the Host State for offering the activities to commemorate the entry into force of the Rome Statute ten years ago. Indeed, we have achieved much – and there is much that we can be proud of. We made possible what seemed impossible only several years ago: By establishing this Court, we challenged those who would contemplate to commit the most abhorrent crimes. Our message to them was, and remains: commit these crimes and you will have to answer to the law and your victims. Nevertheless, this must not be a moment of self-congratulation, given the magnitude of our present challenges – not least the existence of 12 outstanding arrest warrants and, of course, levels of state party cooperation with the Court which have yet to form a perfect seal around the alleged perpetrators.

While we have reached the impressive number of 121 States Parties and are approaching the important mark of two-thirds of UN membership, continuing our work towards universality will continue to be one of our central tasks. And in addition to broadening the support for the Court, we also have to deepen it: We yet have to create a better understanding of how the Rome Statute system works, what all the stakeholders and players have to do in order to

enforce accountability. The Court is clearly at the center of this system, but other elements need to be in place for the Court to play the role we have assigned to it under the Rome Statute. The key to this is making the principle of complementarity work in all its aspects. We have made important progress on complementarity, but mostly outside of this Assembly, and so far we have not made the institutional changes that the system clearly requires. The Court does not have the task to build capacities in States where national judiciaries are too weak to be able to investigate and prosecute the most serious crimes under international law. But the Court should offer an entry point both for those who offer such activities and those who request them, in order to facilitate the interaction between the two. The Secretariat must be equipped to fulfill this function – and we as States Parties must make the funds available to this end. We also must more forcefully address another type of challenge for the complementarity system: Where the State in question is not unable, but unwilling to investigate and prosecute. This is the point where complementarity intersects with the other big challenge we are facing: cooperation. We have begun a debate in New York on the Security Council's practice on referrals to the Court. It is certainly time also for us to discuss the role of States Parties – that is of this Assembly.

Madame President

You know from your personal experience as our President to what extent the preparation of the Assembly meetings and indeed the meetings themselves are dominated by budget discussions. We welcome the improvements in the budget process this year and the improved working relationship between the Court and the States Parties that resulted thereof. Still, our budget process uses a great deal of time and resources to just to prove that we are taking the budget seriously – even though the final outcome is usually quite predictable. In our effort to ensure the most efficient resource management by the Court, have we ever inquired what part of these precious resources is spent on the budget process itself? After ten years of Court operations, we must come up with a more efficient way, as States Parties, to agree on the budget. Most importantly though, our excessive focus on the budget takes up time and energy better spent on the necessary political work, which we have been avoiding for too long.

Madame President

In order to better align the ASP's priorities, we should explore different options. The easiest one seems to us to split the sessions of the Assembly in two, with a first and shorter part exclusively dedicated to the budget and other necessary administrative matters. If we prepare properly for everything we need to discuss, we can probably limit the time allocated to the first part of the session in such a way that the bulk of the time available can be dedicated to the political work that we need to do. In looking forward to the next decade, we certainly must hold the Court accountable on administrative matters, as required by the Statute. But we must also do our part to enable the Court to do its work more efficiently – as the authors of the Rome Statute and the Rules of Procedure. We hope that the lessons learned exercise from the Lubanga trial, combined with the closing down of the ad hoc tribunals, will be used for a comprehensive effort, with strong ownership by the Court itself, to give the Court the necessary tools – where they do not yet exist – to do its work more efficiently, while safeguarding all the standards of due process.

Madame President

We have seen important progress in our joint effort to complete the Rome Statute. After the ratification by Trinidad and Tobago, there are now three States that have ratified the amendments to the Rome Statute on the crime of aggression, adopted by consensus at the Kampala Review Conference. We are encouraged by the positive momentum concerning the ratification process, as evidenced on several occasions where rule of law and international criminal justice issues were discussed. We will continue working with all of those who are interested in ratification, together with the Global Institute on the Prevention of Aggression. To this end, we invite everybody interested to attend the two side events on the Kampala Amendments organized over the next two days.

I thank you.