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Washington, D.C. 20520

**Statement on behalf of the United States of America  
by Ambassador-at-Large Stephen J. Rapp**

**12th Session of the Assembly of States Parties to the Rome Statute of the International  
Criminal Court  
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Thank you, Madame President.

I am pleased to return to The Hague and am honored to address the Assembly of States Parties for the fifth time on behalf of the United States observer delegation. Today, I would like to speak about the U.S. Government's work on the common cause of bringing justice to the victims of the world's worst crimes. The United States has continued to enhance its efforts on this front, including through robust engagement with the ICC and support for each of the situations in which investigations or prosecutions are underway. In the past year, we have worked with many of you across continents and in different venues to achieve shared goals.

Madame President, since we last gathered here in November 2012, we have seen the ICC face a number of novel developments and issues. Today, I would also like to take the opportunity to reflect on the accomplishments and challenges of the past year. In these early stages of its development, it is important that the Court consolidate work around its core mission, build a solid jurisprudence and a sensible operational framework, and benefit from the lessons learned at the other international tribunals. As we have stated before, the key to winning greater international and U.S. support going forward will be for the ICC to focus on strengthening itself as a fair and legitimate criminal justice institution that acts with prudence in deciding which cases to pursue. Critical to the future success of the ICC, and the views of the United States and others in the international community regarding the ICC, will be its attention to: (1) building institutional legitimacy; (2) promoting a jurisprudence of legality, with detailed reasoning and steeped in precedent; (3) fostering a spirit of international cooperation; and (4) developing an institutional reputation for professionalism and fairness. In this regard, we take note of the ICC Office of the Prosecutor's new strategic plan and particularly those strategic goals aimed at improving the cost-effectiveness, productivity, quality, and efficiency of the Office. In the past year we have attempted, through our outreach, diplomacy, and support, to contribute to this work in a manner that furthers our own abiding interest in justice and the rule of law. Let me provide a few examples to be more concrete.

We have continually emphasized that it is essential—for justice and for peace—that the fugitives at large in the ICC’s current cases be apprehended. I am pleased to recount some significant advances that we have made on this front in the past year. This year U.S. military advisors supported militaries from the AU Regional Task Force, who moved closer to apprehending top Lord’s Resistance Army (LRA) commanders and ending the LRA threat once and for all. And in January 2013, President Obama signed legislation expanding the War Crimes Rewards Program, enabling the United States to offer rewards of up to \$5 million for information leading to the arrest of ICC fugitives. Under this expanded program, Secretary of State Kerry, who sponsored the legislation as a U.S. Senator, announced reward offers for persons subject to ICC arrest warrants in the Uganda and DRC cases, including Joseph Kony and two other top leaders of the LRA, as well as the leader of the Democratic Forces for the Liberation of Rwanda, Sylvestre Mudacumura. The United States remains steadfast in its commitment to bringing to justice those responsible for terrible atrocities, and as the Rewards expansion demonstrates, we are putting our money where our proverbial mouth is.

The United States also played a key role in the surrender of Bosco Ntaganda to the ICC in March of this year. Ntaganda was a fugitive from justice for nearly seven years. He stands accused of war crimes and crimes against humanity in the DRC involving rape, murder, sexual slavery, and the forced recruitment and use as soldiers of thousands of Congolese children. He returned repeatedly to the battlefield in the eastern DRC, including most recently as the leader of an M23 rebel group faction. But ultimately, it seems, the prospect of trial in The Hague proved more appealing than war in the bush. When Ntaganda—who had also been designated under our War Crimes Rewards Program—voluntarily turned himself in at the U.S. Embassy in Kigali in March, we worked hard to facilitate his surrender to the ICC in cooperation with the Rwandan, Dutch, and British governments. At the time, we noted that removing Ntaganda from the battlefield and bringing him to justice was an important step toward ending the cycle of impunity that has fostered violence and instability in the DRC for far too long. And just this month, we saw the end of the M23 rebellion and of its threat to the civilian population of the Eastern DRC. Negotiations between the DRC government and M23 have yielded a political resolution that rejects amnesty for the perpetrators of atrocity crimes. We are hopeful that the final political resolution will be signed immediately. Now we must remain vigilant in ensuring that justice for the victims is prioritized, through the ICC’s prosecution of Ntaganda, reparation efforts for the victims, and the DRC’s proposed establishment of specialized mixed chambers and the reinforcement of other domestic justice institutions to judge the serious offenders who are not charged at the ICC.

This year we have also been confronted with the ongoing importance of witness protection. Any court’s ability to protect a witness’s identity and safety is a key determinant in its ability to provide justice. From assistance from States, to protective measures, to charges for offenses against the administration of justice, the Court can and

has employed a range of tools. All concerned must continue to explore all available tools, and to send a clear message that witness interference or intimidation will not be tolerated. As I have stated here before, these are particularly vexing challenges, and the United States is committed to supporting the quest for solutions, including by working with the Court to respond positively to requests for assistance relating to witness protection.

In addition to witnesses, it is crucial to support the victims of atrocities in ICC situation countries, including through their participation and reparation. I am pleased to see the range of sessions and side events at this year's ASP that are focused on victims' issues. Victims, of course, play an active role in ICC proceedings and related matters. The Rome Statute also includes novel provisions on reparation for victims, and establishes a Trust Fund for Victims. One area in which support to victims is particularly critical is in crimes of sexual violence in conflict. We know that impunity for perpetrators of these crimes affects not just the immediate survivors, but entire communities, and that it undermines the prospects for lasting peace in conflict-affected societies. But sexual violence is not an inevitable consequence of conflict; we can address it, we can deter it, and we can prevent it. To that end, I would like to commend, in particular, the efforts of the UK in spearheading the Preventing Sexual Violence Initiative in which we, along with our G8 partners, seek to focus international attention on preventing the scourge of sexual violence through justice and accountability. Survivors of sexual violence, and in particular child victims, must have access to health, psychosocial, legal, and economic support. Among other things, signatories of the G8 Declaration on Preventing Sexual Violence committed to work to provide adequate services to victims, including through programs such as the Trust Fund for Victims and its implementing partners. This year, the United States pledged \$10 million in support of the UK's initiative.

Madame President, in any discussion of accountability as a means to prevent and deter mass atrocities, we must always return to the principle of complementarity. The ICC is a court of limited jurisdiction. Even in countries in which the ICC has opened investigations, it cannot and should not take up every case that cries out for justice. States must build the capacity of their own courts to handle atrocity cases and impart justice closer to the victims and affected communities. It is both their right, and their responsibility. Around the globe in ICC situation countries and elsewhere, in domestic and hybrid courts, from DRC's proposed specialized mixed chambers to Guatemala's "high risk" courts to the hybrid Extraordinary African Chambers established by the African Union and Senegal to prosecute Hissène Habré, the United States is following the lead of local efforts by devoting our support and resources to strengthening local partners.

Although the Court has now entered its second decade, relatively speaking it is still a young institution. There are myriad challenges and unforeseen situations that it will face as it grows, and the way that the Court and the States Parties address such challenges will affect the Court's long-term success and its ability to contribute to justice, without which lasting peace is not possible. In this regard, I would like to acknowledge the important

work being undertaken at this session of the ASP to engage on issues that have been raised by the African Union and Kenya in recent months. The United States takes these matters seriously and believes that they are best addressed within the framework of the Court and here at the ASP. Among other things, we encourage all States to engage in a constructive manner on these issues, and to consider seriously the proposals related to “presence” of defendants under the Rome Statute. This work, as well as the various sessions and side events devoted to grappling with concerns raised by States over the past year, are all important contributions to the conversation.

Another challenge with which the international community needs to grapple involves the crime of aggression. The United States continues to have many concerns about the amendments adopted in Kampala, including the risk of these amendments working at cross-purposes with efforts to prevent or punish genocide, crimes against humanity, and war crimes—which provide the very *raison d'être* for the Court. The States Parties were wise to create breathing space by subjecting the Court’s jurisdiction to a decision to be taken after January 1, 2017. The international community should use that breathing space to ensure that efforts to ensure accountability for genocide, crimes against humanity, and war crimes can be consolidated and that measures regarding the amendments requiring attention can be properly considered; and it is our view that States should not move forward with ratifications pending the resolution of such issues.

The ASP, with its 122 member States hailing from every continent on the globe, is well situated to take up new challenges and forge common solutions. We will continue to follow these discussions with great interest, and to remain steadfast in our efforts to achieve justice for the victims of genocide, war crimes, and crimes against humanity.

Thank you.