

Statement by

Mr. Ismail Aramaz

Head of the Turkish Delegation

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Mr. President,
Distinguished colleagues,

I am grateful for the opportunity to address the Kampala Review Conference of the Rome Statute of the International Criminal Court. I would like to congratulate the Court and the Assembly for successfully organizing this Conference. Allow me also to thank the Government of Uganda for hosting the event in this beautiful city.

I believe that the Review Conference is of utmost importance, since it provides an opportunity to consider amendments to the Rome Statute for the first time since its entry into force.

Allow me to emphasize from the outset that Turkey fully shares the ideals and principles which gave rise to the Court. There is a strong need to fight the culture of impunity and to promote justice, especially in countries emerging from violent conflict. With this understanding, Turkey took part in the negotiations leading to the adoption of the Rome Statute, as well as the work of the Preparatory Commission and the Special Working Group on the Crime of Aggression. Turkey has also been participating in the activities of the Court's Group of Friends in New York since 2004.

In view of the Court's complementary jurisdiction, Turkey has also taken significant steps in order to harmonize her national legislation with the Rome Statute. Important legal and constitutional changes have been carried out to ensure that the crimes under the jurisdiction of the Court are adequately reflected in the Turkish Penal Code.

A key constitutional amendment, adopted in 2004, allows for the extradition of Turkish citizens to another country in connection with crimes under the purview of the Court. Moreover, the crime of genocide and crimes against humanity were both incorporated into the Turkish Penal Code in 2004.

While additional progress is required in further aligning our legislation more closely before we can finally accede to the Statute, especially with respect to war crimes and the crime of aggression, Turkey remains committed to the goal of accession as declared by Prime Minister Erdoğan in 2004.

Mr. President,

I wish to share with you Turkey's observations and concerns on some issues on the Conference's agenda. First of all, Turkey regrets that terrorism was not endorsed as an agenda item for the Review Conference. I understand that the matter will be taken up by a working group as part of the Ninth Session of the Assembly of States Parties. I hope that the working group will secure progress on this issue.

Secondly, with respect to the agenda item on article 124, which reflects the transitional provision of a possibility for a seven-year delay relating to war crimes, I would like to state for the record that my country would prefer the retention of this provision.

Thirdly, Turkey welcomes the stocktaking exercise and believes that this will enhance the work of the Court.

Finally, Mr. President, the precise definition to be adopted with respect to the crime of aggression and the manner in which the Court will exercise its jurisdiction over this crime are a major concern. We believe that some of the drafting alternatives on this issue may, if adopted, lead to the politicization of the Court and undermine confidence in its mission.

In our opinion, the Court should only be able to exercise jurisdiction with respect to a crime of aggression on the basis of a State referral or *proprio motu* investigation where the alleged aggressor State has accepted the amendment on aggression. In other words, the Court should not exercise its jurisdiction concerning the crime of aggression if the alleged aggressor has not accepted the amendment or is not a State Party to the Rome Statute. This is reflected in article 34 of the Vienna Convention on Law of Treaties which states that “A treaty does not either create obligations or rights for a third state without its consent.”

Moreover, an investigation into an alleged case of aggression should only be initiated where the UN Security Council has determined that an act of aggression has taken place. In our view, the Prosecutor should launch an investigation in respect of an alleged act of aggression only if a prior affirmative determination has been made by the Security Council. For the sake of clarity, let me declare that, of the various drafting proposals, we are in favour of Alternative 1, Option 1.

I would also like to bring to your attention the UN Security Council’s Presidential Statement, issued earlier today, which condemned the Israeli military action yesterday against a Turkish-registered civilian vessel in the international waters of the Mediterranean. The ship was part of an international convoy carrying humanitarian assistance to Gaza, with individuals from 32 countries. Allow me to add that the Security Council also stressed that the situation in Gaza is unsustainable. I must say that the Israeli act was against the letter of international law, and against the spirit of the friendly relations which traditionally existed between Turkey and Israel.

Thank you for your kind attention.