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Statement by the Representative of
Germany

Dr Georg Witschel

Director-General for Legal Affairs
and Legal Adviser
Federal Foreign Office

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Two months ago Federal President Horst Köhler paid an official visit to the International Criminal Court in the Hague, the climax of a number of high-level contacts between the Court and Germany throughout the year 2007. Our Head of State was confirmed in his belief that an effective international criminal justice system is a crucial contribution to the prevention of conflicts. Indeed, this visit highlighted Germany's lasting and strong commitment to the International Criminal Court and the Rome Statute, its universality and integrity. I, too shall not fail to reiterate my country's support and commitment before this Assembly.

In June 2007 the conference "Building a Future on Peace and Justice" took place in Nuremberg, jointly organized by the governments of Finland, Jordan and Germany together with a number of renowned international non-governmental organizations. Foreign Minister Frank-Walter Steinmeier delivered the opening speech in the famous Grand Jury Courtroom where the Nuremberg Trials were held, a crucial cornerstone for the development of modern international criminal law. The conference concluded that peace and justice were not contradictory goals. Rather they promote and sustain each other. There can be no sustainable peace without justice. The discussions reflected the fact that the International Criminal Court has proven highly relevant and has a positive impact on conflict resolution. As a matter of fact, the worldwide fight against impunity has already changed the parameters for the pursuit of peace. For the most serious crimes impunity simply is no longer an option.

Another international conference in Berlin this September debated the successes and challenges of "The ICC at work". This event was organized by amnesty international, the German Red Cross, Human Rights Watch and the United Nations Association of Germany. I would like to seize this opportunity to pay tribute to civil society and commend the NGO community surrounding the ICC for its sustained efforts to fight impunity and to uphold the Rome Statute.

The German delegation associates itself with the statement delivered by the Portuguese Presidency on behalf of the European Union. We welcome the Prosecutor's meeting with the Political and Security Committee of the Council in Brussels only a few days ago and we would like to see the dialogue between the Court and the EU continue and intensify. As you know, Germany held the EU Presidency during the first semester of this year. The German Presidency put the issue of cooperation on the agenda of the European Union's ICC working group which in this respect also received a delegation from the Court to discuss further details in Brussels.

Indeed, it seems that cooperation is becoming the predominant theme of the ICC and of this Assembly. The Court's report on cooperation is a useful reference document, spelling out scope and modalities of cooperation. We acknowledge States Parties' legal obligation to cooperate with the Court. The non-implementation of the Court's decisions poses a serious threat to the credibility of the Court and the effectiveness of the Rome Statute. We call upon all parties concerned to make sure that arrest warrants issued by the International Criminal Court are executed without delay. In this context we strongly urge the Government of Sudan to comply with its obligation under Security Council Resolution 1593 to cooperate fully with the Court and the Prosecutor. We condemn the Sudanese Government's appointment of Ahmad Harun, one of the indictees wanted under an ICC arrest warrant, as co-chair of a human rights investigation committee.

The working group on the crime of aggression under its chairman Ambassador Wenaweser is on the right track and we are very grateful for another round of fruitful and rewarding deliberations in Princeton. Germany has developed its position and is now ready to elaborate the definition of aggression on the basis of UN GA Resolution 3314. However, we doubt that resolution 3314 can be retained in its entirety. It is a political text which was *not* drafted to define a crime under international law. With regard to the Court's jurisdiction on the crime of aggression we continue to believe that Art. 16 of the Statute contains a careful balance between the Court and the Security Council. The Court's independence and impartiality must be guaranteed. We further insist that everybody must be equal before the law.

We are confident that our work on the crime of aggression will be concluded at the Review Conference which this Assembly is about to prepare in more detail. The informal consultations held by the focal point, Ambassador Rolf Einar Fife, have proven highly productive and we are very grateful for his perseverance in bringing this issue to our attention. The question of the venue is becoming increasingly urgent. It is important that the Assembly take a well-informed decision as soon as possible. We further think that the Review Conference should concentrate on a limited number of items, with an emphasis on the crime of aggression. It would be wise not to make the event a Rome Conference II.

This Assembly will take a number of important decisions which will give the Court sufficient scope to develop properly. We acknowledge that the Court in its draft budget takes into account important aspects such as the opening of a fourth situation and the commencement of the first trial early next year. However, we see considerable merit in the findings and recommendations of the Committee on Budget and Finance. Underspending and a relatively high vacancy rate are still matters that the Court needs to address. Against this background Germany would advise supporting the Court's budget as amended by the recommendations of the CBF.

We welcome the newly elected judges and members of the CBF. To a large extent the Court's success will also depend on the quality of its staff. We encourage the Court to expedite the recruitment procedures. In this context we are following with great interest the shortlisting of candidates for the posts of registrar and deputy registrar. We would like to see the utmost transparency and fairness in these selection procedures prior to the elections by the judges.

With regard to the Court's permanent premises we are glad to note that this Assembly is preparing to take a decision to erect a new building on the site of the Alexanderkaserne. German experts have assisted in elaborating the draft resolution before us. Germany is ready to assume further responsibility in the oversight committee which this Assembly is about to establish.

The first trial before the ICC will soon commence. A second detainee is awaiting trial. The Court is investigating in four situations. While we are tempted to focus on the perpetrators and their evil crimes we should not forget that the Rome Statute mentions victims first – in the second paragraph of the preamble ! We are happy to note that the Victims Trust Fund is becoming operational and developing a programme of projects to support and protect victims. Germany has made available 100,000 € for the Victims Trust Fund in 2007.

The issue of victims is closely linked to the question of how successful the Court is in conveying its message of peace and justice to the affected communities. Last year's Assembly provided the Court with additional funding to increase its outreach activities. Bearing in mind that there is always room for improvement, we invite the Court to constantly evaluate, review and adjust its outreach policy.

Speaking of victims, however, we have to realize that less than half of the world's population is protected by the Rome Statute. Defending the universality and integrity of the Rome Statute will continue to be a priority for States Parties. While we warmly welcome the latest accession to the Statute by Japan we regret that Asia and the Arab world are still underrepresented. We therefore call upon all states which have not yet done so to ratify the Rome Statute and adopt implementing legislation.