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United States Statement
Assembly of States Parties of the ICC
By Ambassador Stephen Rapp

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Thank you Madame President.

I am honored to address the Assembly of States Parties on behalf of the United States observer delegation. The United States extends its congratulations to you, and welcomes the opportunity to work with you, as well as the newly elected Court officials – including Prosecutor-elect Fatou Bensouda and six new judges. We also wish to commend the tireless efforts of the search committee for the position of prosecutor in identifying and reviewing the qualifications of the candidates for this critical position.

Madame President, at this, the tenth session of the ASP, we should take the opportunity to reflect on the progress the ICC has made in establishing itself as a standing forum for international justice, as well as on the challenges that lie ahead. As many of the ad hoc tribunals and courts draw to a close in the coming years, the ICC can become an even more important safeguard against impunity. And as the Court moves beyond its first trials into the next phase of its development, we should continue to focus on how to strengthen the global system of accountability for genocide, war crimes, and crimes against humanity. We must make good on our promise to victims of atrocities around the world: that with the institutionalization of international justice and the growth of complementary domestic mechanisms, they will be assured justice, and that accountability will help their communities emerge from violence toward peace, from lawlessness toward respect for the rule of law.

Madame President, in the view of the United States, achieving the promise of accountability entails a holistic and wide-ranging approach. Most recently, consistent with the principle of positive complementarity, we have worked to bolster the capacity of national governments to ensure justice in the face of grave atrocities. We have lent resources to advise and assist national systems in countering some of the worst perpetrators of atrocity crimes, including assistance to prosecute sexual and gender-based violence. And although the United States is not a party to the Rome Statute, we are continuing to engage with the ICC and States Parties to the Rome Statute to end impunity for the worst crimes. Over the past several years, we have sent active observer delegations to the ASP sessions and the Review Conference in Kampala. We have actively engaged with the OTP and the Registrar to consider specific ways that we can support specific prosecutions already underway, and we have responded positively to a number of informal requests for assistance. We supported the UN Security Council's ICC referral regarding Libya

and are working hard to ensure that those charged by the Court there face justice consistent with international standards. From the DRC to Cote d'Ivoire, Darfur to Libya, we have worked to strengthen accountability for atrocities because we know, as President Obama has said, that "justice is a critical ingredient for lasting peace."

What are the concrete steps we can take to continue to advance this common cause?

First, at both the international and national levels, we should continue to recognize and promote the important role that justice and reconciliation play in resolving conflicts. Today, we do not have to look far to see evidence of this support. For example, since we last met in New York one year ago, the Security Council made history with its first unanimous referral to the ICC of the situation in Libya. Resolution 1970, adopted even as atrocities were being perpetrated, represented an historic milestone in the fight against impunity. The referral in Resolution 1970 has served to keep the principle of accountability in the fore of the effort to transition from authoritarianism to democracy in Libya. It is clear that justice and reconciliation efforts will now be critical components of a successful transition that allows all of Libyan society to leave behind what has been, in many respects, a tragic and bloody past.

Second, States must elevate as a priority the prevention of and response to mass atrocities, and work to marshal and coordinate their own capacities. Since we last addressed this Assembly, in August 2011, President Obama issued a presidential directive in which he identified the prevention of mass atrocities and genocide as a core national security interest, as well as a moral responsibility, of the United States. Accordingly, he directed the creation of an Atrocities Prevention Board to coordinate a whole-of-government approach to preventing and responding to genocide and mass atrocities. Ensuring justice and accountability is a key ingredient to resolving and preventing mass violence. Among many other efforts, the Board will work to coordinate and strengthen U.S. and multilateral efforts to prevent atrocities and achieve accountability.

On the same day President Obama announced this new effort, he also issued a Presidential Proclamation restricting entry into the United States of persons who participate in serious human rights and humanitarian law violations. Ensuring there is no safe haven for perpetrators of mass atrocities is key to establishing a mutually reinforcing world-wide network to combat impunity for the most serious crimes.

Third, the cooperation of States with the ICC is particularly crucial in two areas we have highlighted before and wish to stress again today: the protection of victims and witnesses; and the apprehension of those fugitives subject to ICC arrest warrants who currently remain at large.

Witness protection issues are of particular concern to the United States: we cannot ensure accountability for those who commit the most serious crimes unless security and protection are provided to witnesses and judicial officers. Witness protection is not just an ICC issue: it is a rule of law and domestic capacity issue, and a vital component of any successful justice program, domestic or international. Earlier today, Madame President, in collaboration with Denmark and Uganda, we co-hosted a side event to explore gaps and challenges in ensuring protection for victims, witnesses, and judicial officers who are on the front lines of demanding justice for

perpetrators of heinous crimes. We hope the discussion will serve to highlight those challenges, help map the way forward - both for the ICC and in the domestic sphere - and encourage the international community to prioritize cooperation on this crucial issue.

There are many ways States can lend tangible support to the protection of witnesses and judicial officers. Witness protection programs need funding from partner States, expert collaboration from domestic officials and practitioners, training, and resources. For example, this year we renewed our funding for a witness protection project implemented by the Joint Human Rights Office of MONUSCO, the UN Organization Stabilization Mission in the Democratic Republic of the Congo. We have supported similar efforts in other situation countries. This is a good start, but these ad hoc efforts need to be institutionalized and expanded to fill the wide gap. States can also fulfill the important function of accepting witnesses for resettlement where their participation in trials is vital, but their living conditions at home are too dangerous to tolerate. For its part, the United States looks forward to continuing to work with the ICC to identify ways in which we can cooperate on witness protection issues, on a case-by-case basis as consistent with U.S. policy and laws.

Madame President, it is a persistent and serious cause for concern that eight individuals who are the subject of existing ICC arrest warrants remain at large. The recent transfer of former President Laurent Gbagbo to The Hague to face charges of crimes against humanity is an important step forward. But the landscape remains challenging. Years after their warrants were issued, the suspects who currently remain at large all too often remain free to continue to commit serious human rights violations, which contributes to the cycle of impunity and persistent instability. The international community must demonstrate its respect for accountability, and should bring diplomatic pressure to bear on States that would invite or host these individuals. In the past year, for example, the United States has opposed invitations, facilitation, or support for travel by President Bashir of Sudan, who, as you know, is the subject of an outstanding ICC arrest warrant but remains at large and continues to seek to travel across borders.

States can also lend expertise and logistical support to efforts to apprehend these fugitives. Last year in Kampala, the United States pledged to renew its commitments to support regional efforts to bring the leadership of the Lord's Resistance Army to justice, and to protect and assist civilians threatened by the LRA. In connection with this, I am pleased to be able to report that, with the consent of governments in the region, the United States recently sent a small number of U.S. military advisors to the region to assist the forces that are pursuing the LRA and seeking to bring its top commanders to justice. These advisors will not take direct action against the LRA, but will work in support of our regional partners in the field to strengthen information-sharing, enhance coordination and planning, and improve the overall effectiveness of military operations and the protection of civilians. The United States is also committed to working in coordination with the African Union and United Nations in this effort. The deployment of these advisors is part of a broader ongoing strategy to increase the protection of civilians, promote defections from the LRA and support disarmament, demobilization, and reintegration of remaining LRA fighters, and provide continued humanitarian relief to the affected communities. As President Obama has said, "Bringing these senior commanders to justice is a key component of creating a lasting peace in the region." The United States stands by the efforts of regional partners to do just that.

These efforts are part of a larger U.S. government commitment to support international criminal justice in its many forms. We support the continuing important work of the ad hoc tribunals, and look forward to the creation of the Residual Mechanism. We look forward to the successful completion of the important Karadzic, Mladic, and Hadzic cases, which will bring an important element of closure to the tragedy that consumed the Balkans in the 1990s. Madame President, what this history shows is that if we work together with consistency and commitment, justice will be done. We look forward to continuing to work with the ASP, the Court, and many of the States Parties here today on these important issues. We have made good progress, but much remains to be done to ensure justice for victims of genocide, war crimes, and crimes against humanity. We must not fail them. Thank you.