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INTERNATIONAL CRIMINAL COURT ASSEMBLY OF STATES PARTIES 6 DECEMBER 2017

GENERAL DEBATE

**Statement by Mr Michael Bliss
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Mr President, honourable Ministers, colleagues.

As we come together again as the Assembly of States Parties of the International Criminal Court, we should reflect on all that has been achieved since the Rome Statute was agreed almost twenty years ago. Our joint resolve to end impunity has been translated into a dynamic and evolving, permanent judicial institution empowered to exercise jurisdiction over those most responsible for the most serious international crimes - crimes that shock the conscience of humanity. This is a remarkable achievement.

When we met a year ago, there was a sense the Court was facing its greatest challenge to date. Since then, Australia has welcomed the decision of The Gambia to rescind its withdrawal from the Rome Statute. We regret that Burundi was not been able to take a similar decision, and the advice we have just received from South Africa. We affirm our commitment to working with all States Parties to ensure the Court is the strongest possible institution we can make it. Australia will not shy away

from the sometimes difficult conversations in which we, as States Parties, must at times engage to realise that goal.

At the same time, we underscore the responsibility of all States Parties to strive to reach consensus in our collective decision making. We look forward to a continued spirit of openness and constructive engagement by all States Parties as we consider the question of activation of the Court's jurisdiction over the crime of aggression, and together work through the remaining issues associated with activation. In line with Australia's preference for the narrow view of the jurisdictional question, we would welcome clarification that the Court may not exercise its jurisdiction regarding an alleged crime of aggression committed by the nationals of, or on the territory of, States Parties which have not ratified those amendments.

The Court relies on the cooperation not only of States Parties, but of States generally. The role of the Security Council is crucial, particularly in relation to the cases it has referred to the Court. It must do better in providing its support. We call on all States – those within, and those outside the Rome Statute system – to contribute to the ending of impunity. As WEOG focal point on non-cooperation, Australia will continue to work with other States on a standard, de-politicised set of responses to further incidents of non-cooperation.

Australia remains resolute in its support of the Court, and of the objective of accountability for perpetrators of serious international crimes. We are committed to providing the Court with the tools it needs to fulfil its mandate; to that end, we remain committed to acceding to the Agreement on Privileges and Immunities at the earliest opportunity that our domestic processes allow.

We welcome the commencement this year of the investigation into the situation in Burundi. We note Prosecutor's application to open an investigation into the situation in Afghanistan. When it comes to those most responsible for serious international crimes, it is surely time that the Taliban be held to account.

We also recall the critical role of complementarity: one of the key principles on which the International Criminal Court is predicated. For Australia, the role of

national jurisdictions in ensuring that those responsible for serious international crimes are held to account is fundamental. We note that communication between the Office of the Prosecutor and relevant States is essential in assessing complementarity and other factors. We stand ready, including in our capacity as co-chair of the Working Group on Complementarity, to work with States Parties and non-States Parties alike to ensure national jurisdictions are able to genuinely investigate and, where appropriate, prosecute the perpetrators of Rome Statute crimes.

Some of the crimes that come before the Court result from grave violations of International Humanitarian Law (IHL). Strengthening States' efforts to ensure compliance with IHL obligations will reduce the need for the Court to undertake investigations and prosecutions. In that context, we encourage all states to work constructively on current initiatives to strengthen collective efforts to respect and ensure respect for IHL.

We have established this Court to prosecute those most responsible for the most serious international crimes. The Court is now fully occupied in pursuing that objective. We must support these efforts. This is a time for the Court to consolidate around its core mandate. The Assembly should be cautious in seeking to bring new crimes within the Court's mandate.

The Bureau performs an important function. We thank outgoing President Sidiki Kaba and welcome Judge O-Gon Kwon to his new role. As a newly-elected member of the Bureau, we look forward to supporting Judge Kwon and working closely and productively with our fellow Bureau members.

Finally, allow me to take this opportunity to congratulate our newly-elected Judges. We welcome the vital contribution that their expertise and experience will bring to the work of the Court, and the fulfilment of its mandate.

Thank you.