

**STATEMENT BY Mohammad Asif Rahimi Ambassador of the Islamic Republic of
Afghanistan to the Netherlands**

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Mr. President, Distinguished Delegation, Honorable Guests, Ladies and Gentlemen!

The Rome Statute and the International Criminal Court (ICC) is recognized to be important pillars of the international architecture for upholding universal human rights, justice and the rule of law, and above all, for ensuring current and future generations that crimes against humanity should have no place in any society, and those responsible will have no place to enjoy impunity.

Afghanistan's commitment towards protection of humanity from egregious crimes is manifested by the fact that we were among the first countries to join the Rome Statute in 2003. Today, seventeen years later, we remain steadfast in our support of the objective on which this institution was established. This commitment is best illustrated by the courage and determination of our sons and daughters who are making the ultimate sacrifice in fighting international terrorism, which constitutes a grave violation of human rights and crimes against humanity.

Mr. President,

Terrorist and extremist groups, including the Taliban, the Haqqani Network, Daesh and others commit atrocities against every segment of our society, which constitute a blatant violation of the UN Charter, the Universal Declaration of Human Rights and most often their acts constituted war crimes and crimes against humanity. The coordinated massacre on Kabul University on the 2nd November 2020, which killed 35 and wounded more than 50 students, and the heinous killing of female journalist Malalai on Thursday 10th December 2020 are only two recent examples of these atrocities.

Meanwhile, we have good progress on the peace talks started in Duha, but also by means of our regional and international efforts geared towards bringing sustainable peace through Afghan led and Afghan owned processes. Our team was able to negotiate and finalize the code of conduct for peace talks in early December 2020 and also formulate a joint working committee with representative of the Taliban which will decide on agenda of the peace talks in the upcoming days.

To this end we are dealing with a highly delicate situation. Given the complexity of the situation, fragility of the condition, and the ground realities in our country the government of Afghanistan requested the ICC's prosecutor that she defer investigations to the Afghan National Justice Institutions in accordance with the cornerstone ICC principle of complementarity. We remain aware of the fact that this is the first deferral requested by a State Party of the ICC. On one hand, it is a historic initiative for the ICC as well as for the Afghan government and on the other hand it is a challenging job for my government. It is challenging because we are still dealing with the legacy of a long-lasting conflict while entering into a new era of negotiations and hopes for a sustainable peace.

However, we would like to affirm our commitment and declare that we stand ready to meet this challenge and take all necessary steps to ensure that our national institution can effectively implement necessary investigation in the interests of both peace and justice. In this respect, we maintain close contact and constructive collaboration with the Office of The Prosecutor (OTP) on all related issues of its inquiry issued in response to our deferral request. We continue to provide necessary information, to the OTP, in spite of serious difficulties we faced due to COVID 19 outbreak. We have provided an embargoed list of cases we have prosecuted at our end, we are now working with relevant authorities and are hopeful to ease the embargo in the near future so that the OTP can publicly announce relevant details of the case in due time. Additionally, we have prepared details of over one hundred cases that will be submitted to the OTP very soon. Thus, our interactions and cooperation with the OTP is ongoing in a steady and effective manner.

To this effect, an inter-ministerial and agency commission, comprised of the Ministry of Foreign Affairs, Attorney General's Office, representative of the National Security Council, National Police, National Army, National Directorate for Security, as well as experts in international criminal law remains actively engaged on all related issues. It is also noteworthy that various measures have been taken by our criminal justice system in the investigation and prosecution of crimes under the Rome Statute, including those cases for which the OTP has requested detailed information.

Mr. President,

Afghanistan deems the rule of law and ensuring justice to not only be a moral and legal responsibility, but an imperative for our long-term stability. We are steadily implementing our comprehensive reform agenda, of which an overhaul of our judicial bodies remains a key part. In that effort, major steps include the formation of new judicial units, appointment of new judges and prosecutors, enactment of a new penal code that incorporates all crimes under the Rome Statute in to our domestic criminal justice system. The penal code is in effect and it already empowers our justice sector to fulfill its obligation under the Rome Statute.

My government also withdraw its reservation from the convention against torture and we signed the optional protocol against torture in 2017. There after a new Law on Prohibition of Torture was enacted and the National Commission for Prohibition of Torture, led by the Independent Human Rights Commission, was established. Furthermore, Departments of Defense, Interior, the National Security Directorate and Office of the Attorney General also formed especial committees for prohibition of torture with active branches across all the 34 provinces of Afghanistan. Sense then our judicial system conducted investigation in to acts of torture and ill-treatment of prisoners of war. A number of indictment are issued, including cases where command responsible within our forces are held to account. A significant number of these cases are gathered and will be submit to the OTP, in due time, for its review and assurance.

Thus, we believe it is imperative to ensure ample time for a clear, thorough and accurate observation of judicial measures taken by our relevant institutions on related incidents. Moreover, consistent with the Rome Statutes key principles of “*national ownership and complementarity*” we hope the ICC’s engagement will serve beneficial in enabling us to fulfill our role and obligations in enforcing the rule of law and ensuring accountability and justice. The unique set of circumstances of our stabilization efforts requires a comprehensive approach that aims to ensure justice, while preserving the political stability which is fundamentally important in any post-conflict setting. We will continue to engage with the OTP and cooperate especially with regards to the investigation of command responsibility of those violent terrorist groups whose leadership are out of our territory, sheltered beyond our geography.

Mr. President,

Moving forward, we will make every effort to promote the universal application of international law and to advance a more just and prosperous world, governed by the rule of law, and where the security, well-being and human rights of all peoples are protected. We therefore stand fully committed to the noble goals on which the ICC was established.

Thank You.