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Statement of the Government of Japan

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to the United Nations

**At the Ninth Session of the Assembly of States Parties to the
Rome Statute of the International Criminal Court (ICC)**

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H.E. Mr. Christian Wenaweser, President of the Assembly of States Parties,
Judge Sang-Hyun Song, President of the International Criminal Court,
Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court,
Ms. Silvana Arbia, Registrar of the International Criminal Court,
Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

Let me begin by congratulating the International Criminal Court (ICC) on its ever-developing role in the international community. Allow me to express, as well, the appreciation of the Government of Japan for the excellent leadership of President Sang-Hyun Song. The objective of the ICC—namely, to punish and prevent the most serious crimes in the international community—is the long-cherished wish of people throughout the world, and Japan remains a staunch supporter of the Court and its activities. In this context, Japan welcomes the significant achievement of the codification of the crime of aggression made at the Review Conference of the Rome Statute in Kampala this year.

Mr. President,

Eight years have passed since the Rome Statute entered into effect in 2002. The ICC is now completing its founding decade, and we are in a crucial period to envision and define the future direction of the ICC and its role in the international

community. In this regard, my government attaches importance to the following specific points, amongst others, from the point of view of fostering an ICC which will be more efficient, effective, universal and systemically sustainable.

First, my government would like to reiterate that the ICC needs to promote universality of its membership. In this context, we are pleased to note the steady increase in the number of States Parties, and welcome the accession of Bangladesh, Saint Lucia, the Seychelles and Moldova since the holding of the Eighth Assembly. At the same time, I must hasten to observe that, even with the accession of Bangladesh, currently, out of the 114 States Parties, only 15 are from the Asian Group, making this region seriously under-represented at the ICC. It is regrettable that the ICC is often perceived, or perhaps misapprehended, as an institution which is dominated by certain regions. In order for the Court to be a more universal institution, its geographical balance needs to be addressed. To this end, Japan, being fully aware of its role in the Asian region, has been making strenuous efforts in this area through its bilateral contacts as well as in regional fora such as the Asian-African Legal Consultative Organization (AALCO). In March this year, Japan, in co-sponsorship with the Government of Malaysia and AALCO, organized a round-table meeting of legal experts in Putrajaya, Malaysia, with a keynote address by Judge Kuniko Ozaki. In the meeting, the Republic of Korea, Kenya and Japan shared their experiences in the ratification of the Rome Statute with non-party States and exchanged views on various topics to be discussed at the Review Conference, including the crime of aggression. Japan will continue its efforts to increase the number of States Parties, particularly from the Asian region, towards achieving the universality of the ICC.

Secondly, we should once again remind ourselves that the principle of complementarity, which is clearly stipulated in the Preamble and in Articles 1 and 17 of the Rome Statute, should be maintained as the essential starting point. Every State has a duty to exercise its criminal jurisdiction over those responsible for the most serious crimes, and the role of the ICC should, in principle, be complementary to national criminal jurisdiction. What distinguishes the ICC from other international criminal tribunals is that the very existence of the Court itself – the perception that the Court is “out there” – works as an effective deterrent against the perpetrators of the crimes under its jurisdiction. It should thus be regarded as a court of last resort. States Parties, on their parts, must first and foremost make their best efforts to exercise national jurisdiction rather than “dumping” a situation on the ICC simply because they face difficulties in handling it domestically. The primary focus of the international community should be on putting in place the necessary domestic criminal investigation and prosecution systems and ensuring that they function properly.

Third, it is crucial that we secure and maintain sustainable support on the part of the international community for the ICC. As the Court is developing at a rapid pace into a fully functional organ, we, the Assembly of States Parties, must begin viewing the ICC not only as an international court, but also as an international organization. To be sure, the Court is a judicial organ whose independence must be respected. However, that does not, and should not, in any way be understood to mean that the ICC is immune from examination of its management and governance. In order to make certain that both the legitimacy of

and the support for the Court are “sustainable”, both the ICC and the international community must discover how best to address the Court’s long-term “cost drivers” within its limited resources. In this regard, Japan is of the view that States Parties should seek to clarify the responsibilities of the different organs of the Court, the relationship between the Court and the Assembly of States Parties and the judicial procedures of the Court.

Mr. President,

In light of the requirement of sustainability, the States Parties would be prudent not to overburden the Court with a large number of additional crimes which fall under national jurisdiction, at this stage of the Court’s development. We also must be fully aware that placing new categories of crimes under the jurisdiction of the ICC could work against the prospect of new accessions and the promotion of universality.

The aforementioned concerns notwithstanding, the international community should not be inhibited from discussing any and all matters which are believed to be crucial for the future of the Court in the Working Group on amendments to the Rome Statute to be established during this Assembly of States Parties. It is our view that the States Parties should prioritize the challenges faced by the ICC in its early years and focus on what must be done in the short term to overcome them. These may include the points I have made in my statement today, including making the Court’s procedures and proceedings more effective, efficient and accountable; improving the governance and structure of the Court in order to better manage its

future activities; securing the principle of complementarity; promoting cooperation of States and advancing universality.

In this regard, Japan would like to draw attention to the nature of international criminal justice, which requires strict legal rigor. In considering future amendments to the Rome Statute as well as striving to ensure the legal stability of the adopted amendment on the crime of aggression, we must make every effort to avoid legal ambiguity.

Mr. President,

Japan sincerely hopes that the points I have raised today will be given serious consideration by the ICC, the States Parties, States non-Parties and civil society, in order to foster an ICC which is more efficient, effective, universal and systemically sustainable.

In closing, I wish to express the sincere appreciation of Japan for the work that the ICC has accomplished to date. It is our hope that the ICC will continue to work diligently in the fight against impunity and to consolidate its credibility and reputation. In this regard, Japan is determined to continue and strengthen its contribution to the ICC and thus to the establishment of the rule of law throughout the international community.

Thank you.