

Monsieur le président,
Mesdames et messieurs,

La Roumanie s'associe entièrement à l'intervention de l'Espagne au nom de l'Union Européenne et y ajoute son propre message d'appui au fonctionnement de la Cour Pénale Internationale.

La Roumanie exprime sa ferme conviction dans la valeur de la justice internationale en général en tant qu'instrument essentiel du fonctionnement de relations internationales actuelles, ainsi que de la justice pénale internationale en particulier en tant que le moyen le plus efficace de punition et de prévention des crimes les plus abominables. La contribution active de mon pays, dès l'origine, à la promotion et définition du droit international pénal, dont on fait le bilan ces jours-ci, fait témoignage de cette conviction.

C'était il y a plus de soixante-dix ans que le juriste roumain Vespasian V. Pella rédigea un projet de Code Pénal Mondial et, quelques ans plus tard, le rapport de la Cinquième Commission de l'Assemblée de la Société des Nations relative à la prévention du crime et à l'unification internationale du droit pénal qui conduisit à la Convention générale du 1937 pour l'établissement d'une Cour Pénale Internationale. Vespasian Pella était également le fondateur du droit international pénal et du concept de la Court Pénale Internationale, ainsi que l'auteur de la définition du crime de génocide, qu'il nommait crime de « barbarie ».

Cet engagement de mon pays pour la promotion de la justice pénale internationale se perpétua au long des décennies, lors du processus des négociations conduisant au Statut de Rome, de sa ratification et entrée en vigueur et de l'adoption de la législation d'implémentation.

La Roumanie continuera cet engagement par moyens divers, incluant la promotion dans les pays de la région de l'universalité du Statut, des efforts en vue de la conclusion d'accords de coopération avec la Cour, ainsi que la meilleure dissémination du contenu du Statut de Rome et du rôle de la Cour parmi toutes les autorités internes.

Monsieur le président,
Mesdames et messieurs,

Demain le Statut entrera en vigueur pour son cent-onzième Etat parti, le Bangladesh, que nous félicitons par cette voie-ci .

Voilà que la Cour est aujourd'hui, à la date de la Conférence de Révision, une institution juridique pleinement fonctionnelle à vocation universelle.

Bien qu'elle n'ait pas encore achevé un cycle processuel complet, l'activité de la Cour, par ses divers organes, a déjà dépassé des repères significatifs : elle a vu exécutées ses premiers mandats d'arrêt, a démarré les premiers procès, a été saisie des trois types de crimes prévus par le Statut, est présente par ses investigations dans des divers régions du monde.

La Roumanie souligne l'importance pour le succès et la crédibilité de la Cour du maintien et amélioration de l'efficacité et la célérité de l'acte judiciaire, de la qualité de la coopération entre ses organes, ainsi que de la coopération transparente avec les Etats partis.

En même temps, une responsabilité importante pour le succès de la Cour revient à nous, les Etats parties. C'est à nous la charge de soutien continu à l'activité de la Cour. C'est à nous la responsabilité de rendre possible l'exécution de tous les mandats d'arrêts pendants. C'est à nous l'obligation de coopération, sous ses multiples facettes. En même temps, c'est aussi d'une manière « passive », en évitant la tentation de micro-gérer son activité et en veillant à son indépendance, qu'on peut contribuer, en tant qu'Etats partis, au bon fonctionnement de la Cour.

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Mister President,
Ladies and Gentlemen,

These days we are going to witness the rounding up of a first cycle in the life of the Rome Statute of the International Criminal Court. The first Review Conference of the Rome Statute will consider important amendments to the Statute and, at the same time, will allow for a stocktaking of international criminal justice during the past years.

The crime of aggression, the fourth crime in article 5 of the Statute, is still to be defined and the setting out of the conditions under which the Court shall exercise jurisdiction with respect to this crime is still to be agreed upon.

Aggression has a special background in international law and a special significance for Romania, as Nicolae Titulescu was one of the fathers of the first definition of aggression, consecrated by the two London Conventions of 1933, which are still known under the name of "Titulescu-Litvinov Conventions".

Romania also brought its contribution to the present debate on the definition of the crime of aggression, initiated in the context of the negotiations on the Statute of the International Criminal Court. Thus, Romania put forward, together with New Zealand and Bosnia and Herzegovina, a proposal of the definition of the crime of aggression which, for the first time, separated the substantive part of the definition from the procedural one. This approach was maintained by the

coming formats of discussions and by the proposals advanced afterwards in the search for a consensual definition of the crime of aggression.

We are, at this Conference, faced with the challenge to conclude the debate on the crime of aggression by agreeing on a definition that would allow the Court to *be active on the matter*

To this purpose, we must bear in mind the need for the Rome Statute to be universally accepted. In order to reach this level of acceptance we have to be open for substantial discussions and for making compromises.

Romania for its part is ready to uphold the definition of the crime of aggression as worded in the working document RC/WGCA/1, which in itself is the result of years of discussions. As for the conditions under which the International Criminal Court could exercise jurisdiction on the crime of aggression, consistent with our proposal put forward in 2001, we are of the opinion that, on the basis of the UN Charter and the practice of the relevant UN organs, this could occur if the Security Council or, at least, the International Court of Justice has determined the existence of aggression. Indeed, on one hand, we must consider placing the International Criminal Court in the existing international legal framework. At the same time, on the other hand, the independence of the Court should not be questioned and we must treat all crimes within the purview of the Court similarly from the legal standpoint.

The same incentive goes for another amendment included in our agenda - the "*Belgian Proposal*", extending the criminalization of three categories of weapons (poison and poisoned weapons, gases and certain kinds of prohibited bullets) to non-international armed conflict. Romania considers this amendment as being in the logic of the mandate of the International Criminal Court, given the dynamics in international relations and the ways in which the armed conflicts presently develop. We, therefore, are one of the co-sponsors of the Belgian proposal.

It is significant that it will not only be the Statute for us to review these days. The Conference constitutes also the framework for a review of the developments of international criminal justice and the challenges it faces. The participants at the Conference will not only look at the past eight years, since the entry into force of the Rome Statute and the beginning of the work of the ICC, but also at the work of the other international criminal courts and tribunals during the last 20 years. From this perspective, the stocktaking exercise will, hopefully, serve as a basis for future creative use of the existing experience in international criminal law practice and for limiting possible negative consequences of the fragmentation of this legal branch.

This Review Conference is the first one in the young existence of the International Criminal Court called at the initiative of the negotiators of the Rome Statute themselves to evaluate the way in which the Court progressively grows and the difficulties it might have come across.

Notwithstanding the changes that the Review Conference will eventually bring to the Statute, it does a great deal in extensively discussing elements of the justice process: the impact of the armed conflicts on individuals and the ways victims can be helped and reintegrated in their communities, the contribution of justice to ensuring peace and of peace to the making of justice, the building of reliable national justice systems that would make recourse to this Court only exceptional, as it was actually envisaged.

For its part, the Statute has been conceived with sufficient flexibility to allow for its adjustment to the development of international law and international relations. Important proposals for amendments have been put forward but they were not ripe for negotiation during the current Conference. The principle of universality has been (as it should have been) given primacy. Similarly, as the Court will finish one or several judicial cycles, improvements to the existing proceedings might be considered.

It is for future review conferences to consider such possible amendments.

Given the dynamics of international relations and, consequently, of international law, it will also be for future review conferences to debate and thoroughly consider the extension of the jurisdiction of this world criminal court to other crimes of growing concern to the international community and I would like to exemplify by referring to terrorism, drug crimes or serious damage to the environment.

We must maintain the will and openness that could bring us closer to “a system of international justice endowed with all necessary flexibility”, to use the words of the brilliant Romanian lawyer Vespasian V. Pella, in the absence of which real progress in international peace and security is impossible.

Thank you.