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STATEMENT

BY

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**CHARGÉ D'AFFAIRES OF THE SOUTH AFRICAN EMBASSY
TO THE NETHERLANDS**

**GENERAL DEBATE OF THE SEVENTH SESSION OF THE
ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE
OF THE INTERNATIONAL CRIMINAL COURT**

THE HAGUE

14 NOVEMBER 2008

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Mr President,

The South African delegation welcomes you as Chairperson and we assure you of our full cooperation and support for your efforts to ensure the successful conclusion of this Session.

We convey our sincere gratitude to the President of the Court for his ceaseless efforts in advancing the important work of the Court during his term.

We also extend our appreciation to the Prosecutor, the Registrar and the Secretariat for the hard work over the last year.

My delegation also acknowledges the efforts of the Bureau of the Assembly and the Working Groups in The Hague and New York for preparing high-quality documents which will enable us to take informed decisions.

Mr President,

This year we celebrate the tenth anniversary of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. Great progress has been made. The Court is now seized with the situations in the Democratic Republic of Congo, Uganda, the Central African Republic and Darfur, Sudan, while the Office of the Prosecutor is also analysing other countries in relation to allegations of crimes committed on their territories. The Court's caseload and workload have therefore been steadily increasing, and its work has gained considerable momentum over the last number of years.

A positive development that requires special mention is the recent landmark judgement by the Appeals Chamber on victim's participation in trial proceedings which has enabled victims to assert their rights through their legal representatives in trial proceedings, an historic development in international criminal law. South Africa places great emphasis on ensuring that the rights afforded to victims under the Rome Statute do become a reality. We welcome efforts made by the Court to develop a strategic plan for victims and encourage the Court to intensify its efforts in finalizing a forward looking strategy.

We remain encouraged by the work of the Trust Fund for Victims, to which we have financially contributed in 2008, in an effort to bring the Court closer to those most affected by serious international crimes.

Mr President,

South Africa wishes to re-affirm its support for the Court. As we have said before, the Court will only be able to sustain its present momentum if it obtains the support from all States, and we call on States that have not yet ratified the Rome Statute, to do so expeditiously.

Mr President,

Since the last meeting of this esteemed body an event has taken place which has resulted in a closer look at the Statute, and specifically Article 16 thereof. I am of course referring to the application by the Prosecutor to the Pre-Trial Chamber for the issuance of a warrant of arrest in respect of President Omar Al-Bashir of Sudan, a matter which is still pending.

Mr President,

This sensitive matter has more than any other event over the last six months stimulated the very interesting and topical philosophical debate on the relationship between peace and justice, in both academic discourse and in the popular media. In this respect, one must never lose sight of the fact that while philosophical in nature, there is also a more practical side to this relationship: the fine balance between the promotion of international human rights, on the one hand, and the realities of diplomacy, and the practical limitations under which diplomacy must often be conducted especially during sensitive peace processes, on the other. Diplomacy, human rights and international justice do not exist in air-tight, closed-off vacuums; as important tools in the toolbox of the statesman, they interact and support each other, and must be deployed in harmony in order to ensure the best possible results in sensitive situations.

The wise drafters of the Rome Statute, some of whom are here in the room today, were keenly aware of this sensitive balance between political and legal considerations during the process of drafting, and this is what resulted in their

recommendation that the Security Council be accorded the powers contained in Article 16, powers that allow the Council to strike a balance between the important principles of peace and justice, should the situation on the ground demand it; bearing in mind that this mechanism in the Statute does not imply the condoning of impunity.

Mr President,

Achieving a lasting peace and reconciliation in Darfur is of paramount importance. However, there will also be no lasting peace in Darfur without justice. It is in this respect that we welcome the initiative of the Commission of the African Union to establish an independent High-Level Panel of distinguished Africans to analyse the situation in Darfur and to recommend on how to ensure accountability for human rights abuses and combat impunity, while also addressing the equally important matters of reconciliation and healing. This initiative, we believe, will greatly assist the international community in finding lasting solutions to the Darfur question.

Mr President,

The crime of aggression must still be defined, and only once this has been done, will the Court be able to exercise jurisdiction over the ultimate international crime and will the Statute be complete. The process of defining the crime of aggression is making good progress under your leadership. We call on all States Parties and States participating in the proceedings of the Special Working Group to work towards an acceptable and workable compromise. In this regard, it is important to take the principle of equality before the law duly into account, in order to ensure that the mandate of the Special Working Group can be successfully completed well in advance of the Review Conference scheduled for 2010. Active participation and a spirit of compromise, is also required to achieve consensus on the modalities for the entry into force of any amendments to the Statute pursuant to defining the act of aggression.

Mr President,

We welcome the positive recommendations in the report of the Facilitator of the Review Conference on the offer by Uganda to host the 2010 Review Conference. South Africa's support for the Ugandan bid has been placed on record before, but we wish to repeat it. We are convinced that Uganda will meet all the required criteria for

the Review Conference and look forward to a positive decision in this regard. We understand that the offer by Argentina made during the Resumed Sixth Session in New York earlier this year, is conditional, to be only considered in the unlikely event that Uganda is unable to host.

Mr President,

We welcome the progress that has been made by the Oversight Committee of the Permanent Premises and applaud the hard work and efforts which have resulted in a well-balanced draft resolution. We encourage all States to support its adoption.

South Africa continues to find ways to enhance its cooperation with the Court and increase dialogue on pertinent issues affecting the direction of the Court.

We wish to congratulate the Coalition for the International Criminal Court for the successful conference commemorating the tenth anniversary of the adoption of the Rome Statute that they hosted in Johannesburg, South Africa, in July and which was attended by such luminaries as the Deputy Prosecutor, Judge Pillay, who was then a judge of the Court, Nobel laureate Archbishop Desmond Tutu and the South African Deputy Chief Justice, the Honourable Dikgang Moseneke.

In this regard, we also wish to commend all the civil society initiatives aimed at disseminating information about the Court and its activities, assisting the Court in various ways, enhancing the implementation of the Rome Statute in domestic jurisdictions and training lawyers and government officials.

Thank you, Mr President.