

Mr. President,

I have the honor to speak on behalf of the European Union. The Candidate Countries Bulgaria, Romania, Turkey and Croatia<sup>1</sup>, the Country of the Stabilisation and Association Process and potential candidate Serbia and Montenegro, and the EFTA countries Liechtenstein and Norway, members of the European Economic Area, align themselves with this declaration.

The European Union welcomes the adoption of the draft resolution on the International Criminal Court by the Sixth Committee without a vote and welcomes its adoption by the General Assembly in the same manner. We consider it essential that the International Criminal Court remains on the agenda of the General Assembly. Certainly now the Relationship Agreement between the United Nations and the ICC has entered into force. This Relationship Agreement must now be translated into practical cooperation, which process the EU will promote and closely follow. We also support the continuing exchange of information between the Court and the General Assembly. This will also happen through annual reports on the Court's activities. These reports will be submitted to the regular session of the General Assembly. Also it is important to note that the Court will participate, in the capacity as observer, in the work of the General Assembly, including in the debate on the report. The resolution reaffirms the observer status of the ICC to the General Assembly.

Mr. President,

The EU has relentlessly defended the integrity of the Rome Statute and will continue to do so. The ICC is beyond doubt the most significant recent development in the long struggle to advance the cause of justice and rule of law, thereby eradicating impunity. The European Union reaffirms its determination to obtain the widest possible international support for the ICC, inter alia by widening the adherence to the Rome Statute, now more than half of the UN membership, and the Agreement on the Privileges and Immunities of the ICC.

At times, concerns about the Court are still voiced. These concerns are unfounded: the Rome Statute provides all necessary safeguards against the use of the Court for politically motivated purposes. The Rome Statute contains the most comprehensive list of due process protections which has so far been promulgated<sup>2</sup>. Its prosecutors and judges are selected by and from among countries committed to justice, human rights and democracy. The Rome Statute together with the Elements of Crime define the crimes falling under the Court's jurisdiction – genocide, war crimes and crimes against humanity – with an amount of clarity and precision unmatched by the Statute of any other tribunal. Still the Court's jurisdiction is only complementary to national criminal jurisdictions and the Rome Statute limits the ICC to the most serious crimes of concern to the international community as a whole. The Court may assume jurisdiction only when a State is unable or unwilling to do so. The EU is satisfied that the ICC establishes the highest standards of competence, fairness, due process and international justice and will continue to endeavor to secure those standards.

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<sup>1</sup> Croatia continues to be part of the Stabilisation and Association Process

<sup>2</sup> Monroe Leigh, former President of the American Society of International Law and former State Department legal advisor to Henry Kissinger, in a testimony to the House International Relations Committee on July 25, 2000

Among others the EU has developed a set of principles to serve as guidelines for Member States to proposals for bilateral agreements which deal with conditions for surrender of persons to the Court. The EU will continue to draw the attention to these guiding principles. The guidelines provide inter alia for the following:

- Given the scope of existing international agreements, such as Status of Forces Agreements and agreements on legal cooperation on criminal matters, including extradition, new agreements often serve no legal purpose. This should be taken into account
- The agreements that were presented to us as drafted by the US are inconsistent with ICC States Parties' obligations with regard to the ICC Statute but possibly also with other international agreements to which ICC States Parties are Party
- Furthermore, the scope of persons covered by such agreements must not be excessive, it must be limited to persons who have actually been sent by a state on an official business, so no private business people and no mere tourists;
- Agreements should contain a sunset clause
- Most importantly such agreements should not result in impunity. The EU, in line with its Council Common Position and its Action Plan stands ready to help those states that might need assistance in ensuring that crimes falling within the jurisdiction of the Court do not enjoy impunity.

The EU expresses the hope that the US will continue to work together with its allies and partners in developing effective and impartial international justice. To this end, the EU remains available to develop a broader dialogue on all matters relating to the ICC, including future relations between the United States and the Court.

Thank you, Mr. President