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**STATEMENT BY AMBASSADOR ELYAKIM RUBINSTEIN ATTORNEY  
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Mr. President,

Let me open by extending to you our warm wishes for your success and the success of this Conference. We would also like to express our appreciation to the Government of Italy for hosting the Conference.

Some fifteen hundred years ago, the sages of the Talmud, the classic Jewish code, sought to distil the moral essence of the Bible into seven fundamental laws, as the basis of a universal morality. Six of these so-called Noachide laws, applying to all mankind, were elementary moral prohibitions: not to murder, not to steal, and so on. But to these negative commandments was added one positive injunction: the commandment to establish courts of justice. Enforcement is essential, lest criminals evade their punishment.

Today, on the verge of a new millennium, we, representatives of the nations of the world, gather in a effort to fulfill that injunction to establish courts of justice and to see that crimes do not go unpunished.

As we do so, we cannot help but have in our minds the unspeakable Nazi crimes of the Holocaust, in which a third of the Jewish people was exterminated, which first prompted the General Assembly of the United Nations to ask the ILC to consider the establishment of permanent criminal court fifty years ago, and the heinous atrocities that the world has continued to witness in the decades since then. It is no historic coincidence that Israel, emerging from the ashes of the Holocaust, was established fifty years ago.

The last few years, following significant global changes, have seen far more progress towards the establishment of the Court than the decades which preceded them. For this great credit is due to Mr. Adriaan Bos for his skillful stewardship of the Committee and to the dedicated members of the Bureau. We regret his being unable to participate at this time, and wish him a speedy recovery.

However, notwithstanding the recent progress, even a brief glance at the draft Statute that lies before this Conference, and the plethora of options and brackets that it contains, indicates quite how much work is left to be done. The positions of my delegation concerning the detailed issues left to be resolved have been made clear throughout the preparatory conferences and intersessional meetings, and we will continue to take an active - and I hope constructive - role in the discussions ahead of us.

Needless to say, we wholeheartedly support the sacred mission of prosecuting war criminals. No honest human being can question the necessity of bringing to justice

perpetrators of genocide, crimes against humanity and war crimes, including gender crimes and violence against children. However, the involvement of political bodies in the decision-making process presents built-in problematics. I would venture to propose two general principles that may help us in trying to bridge gaps and find a workable balance to enable the conclusion of the draft Statute.

The first is that the Court must retain a clear focus on the most heinous of international crimes and the non-availability of national criminal justice. We should keep in mind that the Court, in the language of the Preamble to the Statute, is to be: "complementary to the national criminal justice systems in cases where such trial procedures may not be available or effective---. In other words, our goal is not so much the effectiveness of the Court, as the effectiveness of the international legal system as a whole. Where effective national procedures are available, the establishment of alternative jurisdiction is not only unnecessary, but it may even diminish their effectiveness.

The second principle is the need to exercise utmost caution in trying to ensure the objectivity and impartiality of the Court. This is crucial not only in order to ensure the effectiveness of the Court, but also in order to encourage the community of states to accept this new organ as an integral and valuable part of the international scene.

Inevitably, the fact that complaints are to be filed by states creates the possibility that the investigative procedure may be abused for political ends. It may be impossible to eliminate this danger entirely, but it is the hope of my delegation that it may be reduced by establishing more stringent criteria for the filing of a complaint than are currently proposed by the ILC draft.

By the same token, while we support the strong standing and independent position of the prosecutor, we feel that this independence should not be put in jeopardy by giving the prosecutor the power to initiate ex officio investigations, which may invite undue and improper influence.

In the context of the dangers of politicisation, I would also observe that my delegation is not persuaded that the conditions are yet ripe for the inclusion of the crime of aggression within the Statute of the Court. The clear lack of consensus with regard to an acceptable definition of the crime, together with the political sensitivity inherent in any attempt to reach such a definition give us cause to fear that it would be too easily manipulated for political ends. This fear, I would add, is borne out by some of the proposed definitions contained in the draft before us.

These comments stem from a single concern: to ensure, to the utmost possible, that the noble ideal which is the drive behind our efforts, does not turn into yet another arena of international politics. We have enough such arenas; we are here striving for a very different goal.

As regards the issue of terrorism, it is a menace to mankind which is of great concern to us, being among its victims and among the nations which have combatted it. In

considering whether the Court should play a role in the fight against terrorism, my delegation feels that the Conference must find the correct balance between recognizing terrorism as an international crime, and focusing on the most practical and effective means of cooperation in bringing international terrorists to justice.

In conclusion, let me express the earnest hope of my delegation that the work of this Conference will be practical and productive; the task is difficult and sometimes one may feel that we are trying to square the circle. It is our hope that the great torch carried here will shed light on the tough issues that may seem like an uphill battle. It is our wholehearted wish that, in the face of the appalling crimes that we continue to witness, this Conference will help us to channel our outrage to justice, to break the cycle of impunity, and, in the words of the prophet Amos, to "let justice well up like a fountain".