

## SPEECHES/STATEMENTS

17 June 1998

### STATEMENT BY H.E. M. JAVAD ZARIF, DEPUTY FOREIGN MINISTER OF THE ISLAMIC REPUBLIC OF IRAN



In the name of God, the Compassionate, the Merciful

Mr. President,

I would like to congratulate you on your election to the presidency of this historic conference, and express through you our thanks to the government of Italy for hosting this conference. Allow me also to join previous speakers in expressing appreciation to Mr. Adrian Boos for his tireless efforts and hope for his early recovery.

Mr. President,

For nearly half a century, and almost since the inception of the United Nations, the international community, through the General Assembly, has recognized the need to establish an international criminal court to prosecute and punish perpetrators of the most heinous international crimes, namely war crimes, crimes against humanity, genocide and aggression. The flexibility associated with the transitional nature of international relations coupled with a global conscience horrified by the televised scenes of unparalleled inhumanity give rise to a unique opportunity and a historic responsibility to endeavor collectively for the realization of this aspiration. Today, there is a genuine possibility that the experience gained through the establishment of the two Ad Hoc Tribunals by the Security Council, and the work done by the International Law Commission, the Ad Hoc Committee and the Preparatory Committee come to fruition. Certainly, the establishment of an international criminal court, by the end of the United Nations Decade of International Law and at the threshold of the new millennium will be another milestone towards achieving peace with justice.

The international community and the victims of these very horrifying crimes have suffered enough from the abuse of existing international mechanisms through politically motivated negligence or application of double standards. Thus, we need to put this momentum to the best use and truly seize this propitious moment through understanding

and tolerance for diversity, to establish an international court that must be an independent, universal effective and impartial judicial body

Mr. President,

An independent and effective international criminal court requires collective preparation and active participation of all States. To this end, flexibility and consensus building constitute the best means for achieving results now and facilitating the work of the ICC in the future.

Moreover the primary objective of our deliberations should focus on ways and means of ensuring the universality and universal acceptance of the Statute. We must, therefore, prepare an instrument that is capable of receiving the ratification of the largest possible number of States in order to meet the requirement of universality.

In this context, a number of issues deserve our serious attention:

First, a well-defined and universally accepted scope of jurisdiction for ICC would facilitate acceptance and consequently the early entry into force of the statute. We are in favor of inclusion the crime of genocide, the serious violations of the laws and customs applicable in international armed conflicts, and grave breaches of the four Geneva Conventions. We also believe that the crime of aggression as a punishable crime should be included in the Statute.

Second, the relationship between the Court and national jurisdictions constitutes one of the most important factors for the universal acceptance of the Court and for its ultimate success. There seems to be general agreement that the Court will be complementary to national criminal justice system. In our opinion, the Court should address situations where domestic trial procedures are ineffective or unavailable. It should be noted that for effective and equitable operation of the Court, consent and cooperation of concerned states are necessary. It is evident that discontent of concerned governments may lead to their incomplete cooperation with the Court that needs to be avoided.

Third, the way we address the relationship between the ICC and the Security Council will have lasting implications for the independence, acceptability and even relevance of the Court. We all want to see the establishment of an **independent judicial** body free from the influence and interference of political organs. Thus, the responsibility of the Security Council under the Charter to

determine the  
existence of aggression should in no way undermine the role of the Court in judicial  
ascertaining of the  
existence of a crime. Therefore, the definition of aggression and the role of the Security  
Council have  
to be precisely clarified in the statute. We should try to preclude any perception or  
misunderstanding  
that the decisions of the Court in this regard are influenced by the Security Council.  
Initiating the Court's proceedings,  
therefore, should not be depended upon the Security Council's permission or approval.  
Determination of the crime of aggression should thus rest with the International Criminal  
Court and States should have the right to refer the crime to the Court.

Fourth, we believe the prosecutor should be independent and effective and capable of  
attracting the full backing of  
the international community. The powers of the prosecutor must therefore be clearly  
defined in order to preclude the  
possibility or even perception of political abuse. In this context, while we should ensure  
that the office of the  
prosecutor has the necessary means to conduct effective and independent investigation  
and prosecution, it would be  
premature at this stage to provide the office with the ability to initiate proceedings before  
the Court.

Finally, it is imperative to envisage the modalities for the election of judges, the  
prosecutor and the registrar, as well as other officials of the Court in a manner that meets  
the requirement of representation of major legal systems and equitable geographical  
distribution.

We favor the establishment of a preliminary commission to formulate and finalize  
rules of procedure of the Court, a  
cooperation agreement with the United Nations, a headquarters' agreement, a convention  
on privileges and  
immunities, and administrative and financial regulations of the Court. We also support  
the formation of "General Assembly of Member-States of the Court's Statute".

Mr. President,

In conclusion, my delegation hopes that we will all witness, in the near future, the  
establishment of an independent  
and impartial international criminal court, which could exercise justice in international  
community and help realize  
the aspirations of the human society; a Court that contributes to eliminate and deter acts  
of cruelty and inhumanity  
throughout the globe, and thus paves the way for a more humane world order in which  
peace and justice compliment each other.

Thank you Mr. President.

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