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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)/Council
Subject: Draft Council Conclusions on the International Criminal Court on the occasion of the 20th anniversary of the adoption of the Rome Statute

Following examination by the Political and Security Committee on 05 July, COREPER is invited to recommend to Council to adopt as an "A" item the draft Council Conclusions on the International Criminal Court on the occasion of the 20th anniversary of the adoption of the Rome Statute, as set out in Annex.

DRAFT COUNCIL CONCLUSIONS
ON THE INTERNATIONAL CRIMINAL COURT ON THE OCCASION OF
THE 20TH ANNIVERSARY OF THE ADOPTION OF THE ROME STATUTE

1. On the occasion of the 20th anniversary, on 17 July 2018, of the adoption of the Rome Statute, the Council celebrates the achievements in the field of international criminal justice over the last two decades and highlights the valuable contribution of the International Criminal Court to the fight against impunity. At a time when the rules-based international order is facing increased pressure, the strengthening of its criminal justice system is more important than ever.
2. The Council underlines, also taking into account the Global Strategy on the EU's Foreign and Security Policy, the crucial importance of a shared rules-based global order, with multilateralism as its key principle and the United Nations at its core, and reconfirms the European Union's unwavering support to the ICC and its commitment to renew its efforts to promote the universality and preserve the integrity of the Rome Statute.
3. The Council welcomes the activation by consensus of the Court's jurisdiction over the crime of aggression as of 17 July 2018, thereby completing the legacy of the Nuremberg Trials and of the Rome and Kampala conferences of 1998 and 2010.
4. The European Union has been a strong supporter of the Court since its creation and has used the instruments at its disposal to help increase support of the Court. As the world's first and only permanent international criminal court for the investigation and prosecution of the most serious crimes, the ICC demonstrates the international community's resolve to end impunity for the most heinous crimes and to foster a culture of accountability.

5. The Court has brought historic advancements for the protection of those in most fragile and vulnerable situations, including delivering land-mark verdicts on sexual violence, recruitment of child soldiers and destruction of cultural property. The Council highlights the Court's important role for delivering justice to victims of atrocious crimes, giving them a voice by enabling participation in its proceedings, providing assistance to them and awarding reparations. The Court's Trust Fund for Victims has assisted thousands of victims with physical and psychological rehabilitation and material support. The Council encourages States Parties and others to continue to support the Trust Fund for Victims.
6. The Council encourages the continued integration of a gender perspective and analysis into all of its work and notes with appreciation the work of the ICC in this regard. The European Union underlines the importance of a fair gender and geographical representation amongst the judges, prosecutors, counsels, officials and other staff at the Court, as well as representation of the principal legal systems of the world.
7. The Council recalls the key role of civil society in the establishment and the functioning of the ICC and in providing support to victims, and commits to protect civil society space and respond to threats to human rights defenders, including by strengthening the financial support to frontline human rights defenders.
8. The European Union deeply regrets Burundi's withdrawal from the Rome Statute and the Philippines' notification of withdrawal. It calls upon the respective governments to reconsider their decisions. The EU further urges those States that have not yet done so, especially candidate countries, to urgently ratify the Rome Statute. It further invites States Parties, having considered their national circumstances, to consider whether to ratify or accept the Rome Statute's amendments.

9. The Council holds that any concerns of States Parties to the Rome Statute should be addressed and discussed in the appropriate fora and encourages the States concerned to engage in constructive deliberations and work towards mutually beneficial solutions. It encourages States Parties to adhere to the principles of unity, cooperation, coordination and complementarity in the light of the common goals of securing long-term gains for international justice and achieving further effectiveness and efficiency in the activities of the ICC. The European Union and its Member States are willing to listen carefully and to engage in a constructive dialogue about the concerns expressed by some States, as long as the core principles of the Rome Statute are not called into question. The 20th anniversary of the Rome Statute is a unique opportunity to do so in a frank manner, taking stock of what has been achieved, but also discussion the way ahead.
10. States Parties' full cooperation with the ICC is essential for the Court to effectively and efficiently fulfil its mandate. In particular, the prompt execution of arrest warrants is one of the key obligations to cooperate with the Court. The European Union is resolved to promote cooperation with the ICC through the consistent implementation of its guidelines on non-cooperation, including on the execution of outstanding arrest warrants. The Council calls upon all States Parties to fully comply with their obligations under the Rome Statute and explore further ways to assist the Court, also by considering the conclusion of voluntary cooperation agreements. The Council recalls the importance of close cooperation between the UN, including the Security Council, and the Court.
11. The Council recalls that the ICC is a court of last resort which complements, not replaces, national courts. The Council therefore highlights the importance of complementarity and cooperation between national jurisdictions and the Court as one of the most important features of the Rome Statute and commits to promote the strengthening of national justice systems. In this regard, the Council welcomes the complementarity efforts conducted by the Office of the Prosecutor and highlights the long-term value of national efforts in combating impunity for the most serious international crimes.

12. The Council stresses the need to further mainstream the ICC across the European Union's internal and external policy areas, in order to ensure coherence and to make it an integral part of its international humanitarian law, human rights, peacebuilding and conflict resolution discussions, and reaffirms its commitment to lend constant diplomatic support to the Court to ensure that it can effectively carry out its mandate.
13. The Council encourages the High Representative of the Union for Foreign Affairs and Security Policy to present proposals for possible further steps on how the EU could further enhance its capabilities and structures to strengthen the visibility and coherence of EU action on international criminal justice and international humanitarian law.
14. The Council considers that the 20th anniversary of the adoption of the Rome Statute presents an opportunity to advance the fight against impunity for the most serious crimes of international concern and support the rule of law. It commends the efforts of States Parties to commemorate this anniversary with different events held worldwide in celebration of the advancement of international criminal justice and encourages the EU and its Member States to continue to promote awareness of the ICC and the Rome Statute, particularly among youth.
