

**Sixteenth session**

New York, 4 – 14 December 2017

[Draft resolution]
**Activation of the jurisdiction of the Court over
the crime of aggression**

The Assembly of States Parties,

PP1 *Recognizing* the historic significance of the consensual decision at the Kampala Review Conference to adopt the amendments to the Rome Statute on the crime of aggression, and in this regard *recalling* resolution RC/Res.6,

PP2 *Reaffirming* the purposes and principles of the Charter of the United Nations,

PP3 *Recalling* its resolve to activate the Court's jurisdiction over the crime of aggression as early as possible, subject to a decision according to paragraphs 3 of article 15 *bis* and article 15 *ter*,

PP4 *Noting with appreciation* the Report on the facilitation on the activation of the jurisdiction of the International Criminal Court over the crime of aggression¹, which summarizes the views of States Parties,

PP5 *Recalling* paragraph 4 of article 15 *bis* and paragraph 5 of article 121;

PP6 *Recalling* that in paragraph 1 of RC/Res.6 the Review Conference decided to adopt, in accordance with paragraph 2 of article 5 the amendments regarding the crime of aggression, which are subject to ratification or acceptance and shall enter into force in accordance with paragraph 5 of article 121; and noted that any State Party may lodge a declaration referred to in article 15 *bis* prior to ratification or acceptance of the amendments;

PP7 Desirous to provide legal certainty regarding the Court's exercise of jurisdiction and to respect the views expressed by States Parties in this regard,

OP1 *Decides* to activate the Court's jurisdiction over the crime of aggression as of 9 March 2018 subject to the following subparagraphs:

(a) *Takes note* of the views expressed by States Parties, individually or collectively, as reflected in the Report on the facilitation², or upon adoption of this resolution to be reflected in the Official Records of this session of the Assembly or communicated in writing to the President of the Assembly by 9 March 2018 that, for whatever reason, they do not accept the Court's exercise of jurisdiction over the crime of aggression unless they ratify or accept the amendments regarding the crime of aggression,

(b) *Affirms* that in case of a State referral or *proprio motu* investigation the Court shall not exercise its jurisdiction in respect of the crime of aggression when committed by nationals or on the territory of the States Parties referred to in subparagraph (a),

¹ ICC-ASP/16/24

² *Ibid.*, see Annex II.A.

(c) *Notes* that the previous subparagraphs shall be without prejudice to a declaration referred to in article 15 *bis*.

OP2 *Requests* the President of the Assembly to transmit the Report, the Official Records and written communications referred to in operative paragraph 1, subparagraph (a), to the Court and to all States Parties

OP3 *Renews* its call upon all States Parties which have not yet done so to ratify or accept the amendments to the Rome Statute on the crime of aggression.
