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**Statement by H.E. Mr. Harold Caballeros,
Minister of Foreign Affairs of Guatemala
United Nations Security Council Open Debate:
“Peace and Justice with a special focus on the role of the International Criminal Court”**

(New York, 17 October 2012)

Excellencies,

Dear Colleagues,

We are heartened that this important topic we have selected has garnered so much interest and so many participants. Guatemala, as the most recent State Party to the Rome Statute of the International Criminal Court, proposed this debate as a contribution to the fight against impunity and the strengthening of the rule of law, particularly in the work of the Security Council. In doing so, we transpose to the international level our own effort to combat impunity at the domestic level, a joint endeavour in which the United Nations and many donor countries—some represented in this Council—have supported us through the International Commission against Impunity in Guatemala (CICIG).

While the selected topic may seem philosophical to some, we find that it is eminently practical and relevant, given the current state of world affairs. The Rome Statute recognizes the essential linkages between peace and justice. On a daily basis the Security Council is confronted with situations that require justice for sustainable peace to prevail. The concept note we have prepared for you attempts to identify common linkages to both bodies along with challenges and proposals on how to address them.

This is the first time the Security Council addresses in a comprehensive manner the relationship between both bodies, even though they have been collaborating with each other formally since 2005. We expect this debate to initiate a dialogue that would draw closer the Council and the Court, the latter having marked in 2012 its tenth anniversary of entering into force.

The Court, as a tool of preventive diplomacy, is within the Security Council’s reach and represents a powerful option that serves to restore confidence in the ability of the United Nations to prevent and resolve conflicts in an efficient manner. Also, it contributes to reaffirm the primary responsibility of the Security Council in maintaining international peace and security and recommits the Council to carrying out this responsibility in cooperation with its partners.

We also believe that any debate on the use of tools available to the Security Council to discharge its mandate should not be characterized by which States are Parties to the Rome Statute and which are not. In our view, the stability of the relationship between the Council and the Court should not depend on what countries are sitting at this table every two years. Rather, it needs to be founded upon the universal conviction that some crimes are so heinous that they must not go unpunished.

Therefore, I would like to underpin three principles that we believe are in the interest of the Security Council to promote: Complementarity, Cooperation and Universality.

Concerning the first, we find it necessary to support national criminal jurisdictions having the primacy to investigate or prosecute perpetrators of crimes contained in the Rome Statute. This is not only for reasons of respect for State sovereignty but also due to the practical constraint of limited resources. The sad reality is that the Court does not have the capacity to take up all the worse crimes in the world, just as the Security Council cannot seize all crises. This is a Court of last resort and we should all work to avoid that the situations before it do not reoccur.

Moving on to the second principle, it is necessary to take the necessary measures and intensify cooperation, at all levels, to end impunity and ensure that those responsible of the worse crimes are brought to justice. We consider cooperation critical in order for the Council to at least follow through on its own decisions and adequately follow-up on its referrals, especially where reluctance to cooperate is evident. The same is true since this principle can serve as a deterrent against the commission of future crimes.

With regard to the third principle, we believe the Security Council should promote the universality of the Rome Statute. With each State that ratifies this instrument, there will be a diminished need to resort to referrals, which in turn will also decrease cases of breach of ICC decisions. Said universality would also serve to further other fundamental principles of the United Nations, including the respect for the rule of law, human rights and accountability.

In light of the above, we call upon the Membership to maximize the advantages the Court presents to the Security Council as a preventive diplomacy tool. We hope this aspiration goes beyond this debate. The Security Council can undoubtedly help the Court to achieve its objective; however its true effectiveness will rely for the most part on wide ratification, proper financing and independence in its functioning.

Thank you.

I now resume my capacity as President of the Security Council.