

**Statement by Japan (11 June 2010) (after adoption)**

1. As we have attracted the attention of all the participants, on many occasions, we have serious doubts regarding the legality of the amendment procedures contained in the amendments which have been just adopted. There are many problems, but I will limit myself, at this point in time, by pointing out major three problems we see, in addition to what I have already mentioned.

(1) First, what is the basis of the amendments?

Article 5.2 is invoked as the basis with respect to “amendment”, whereas Article 121.5 is invoked as the basis with respect to “entry into force”. This is a typical “cherry picking” from the relevant provisions related to the amendment, that is, in Japan’s view, very difficult to justify. We have serious doubt as to the validity of Article 5.2 as a basis of amendment to the Statute, if we adhere to a sound interpretation of the Rome Statute as agreed upon in Rome. The upshot is a highly accentuated complication in the legal relation after the amendment between State Parties, as well as the relation between State Parties and Non-State Parties, which is extremely unclear and hard to understand.

(2) My second question is; what happens to Article 5.2?

How can we possibly delete Article 5.2 of the Statute in accordance with Article 5.2 itself? This is nothing but a “legal suicide” or “suicide of legal integrity”.

(3) My third question is: what happens to a non-State Party that desires to accede to the Rome Statute after the adoption of the amendments?

How can we be certain that such a newly acceding country will be bound by the amended Rome Statute, while we see no provisions stipulating about the entry into force of the amendments *per se*? This is an issue that should be squarely addressed, if we are genuinely serious about enhancing the universality of ICC.

2. Japan regrets that the amendments based on such a dubious legal foundation have been adopted, in spite of our repeated caveat. Now that they are adopted, Japan believes that it is incumbent upon the State Parties to sort out all the legal ambiguities and loose-ends so that we can share a common understanding on all the relevant issues of interpretation without which there is no effective functioning of the amended Statute. This should be done in a form of understanding to be worked out in the subsequent ASP meetings. As the head of my Delegation, appointed to represent Japan in this Review Conference, it is my duty to register, at this juncture, that the future cooperation of Japan with the ICC will hinge upon whether the ASP can deliver on this with your cooperation.

3. Last but not least, let me touch upon the issue of the obligation to cooperate, which is of great importance for an effective functioning of the Court. As we have already pointed out during this Conference, the ASP should work out a common understanding on this issue as well. This is a subject too important to ignore if we really mean to strengthen the ICC.