



**PERMANENT MISSION  
OF THE PRINCIPALITY OF LIECHTENSTEIN  
TO THE UNITED NATIONS  
NEW YORK**

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**CONFERENCE ON THE FIFTEENTH ANNIVERSARY OF THE ADOPTION OF THE ROME STATUTE**

**KEYNOTE SPEECH BY H.E. AMBASSADOR CHRISTIAN WENAWESER**

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UNITED NATIONS

Los Retos de la Comunidad Internacional ante el genocidio, crímenes de lesa humanidad, crímenes de guerra y crimen de agresión

Foreign Minister Almagro,

Honourable members of parliament and senators,

Ladies and Gentlemen,

It is a great pleasure for me to have been invited by the Cámara de Representantes and the Foreign Ministry of Uruguay as well as Parliamentarians for Global Action, to speak on the challenges for the International Community regarding the prosecution of the genocide, crimes against humanity, war crimes and the crime of aggression. South America has already made a great contribution to the fight against impunity for the most serious crimes of concern to the international community as a whole: it was the first and so far only region to universally ratify the Rome Statute. It is very heartening to see that this region, which was plagued by dictatorships and crimes against humanity not long ago has become a leader in the fight against impunity.

The international community continues to grapple with the challenge of properly responding to the commission of atrocity crimes, and of ensuring that the perpetrators of such crimes are brought to justice. In 122 states the International Criminal Court serves as a court of last resort for crimes

committed on the territory of or by citizens of States that are party to the Rome Statute. Its ability to become active in other States, however, relies on a referral by the Security Council of the United Nations. This body has generally shown itself unable to respond to situations where the commission of atrocity crimes is in progress, whether to prevent their continued commission or to ensure that perpetrators are brought to justice. It is often crippled by vetoes or threats of vetoes by its five permanent members – China, France, Russia, the United Kingdom and the United States- The continuing deadlock in negotiations pertaining to Syria is a stark reminder of this. 63 States, including Liechtenstein and many from this region, have called on the Security Council to refer the situation in Syria to the ICC. The call remains unanswered. That is why Liechtenstein has and will continue to call on the permanent members of the Security Council to commit to abstaining from the use of the veto in cases concerning atrocity crimes. We continue to pursue this goal together with like-minded countries through the so-called ACT (Accountability, Coherence, Transparency) Group in New York, which works to improve the Security Council's working methods. While the Rome Statute system is struggling with its tasks under the three core crimes – genocide, crimes against humanity and war crimes – an additional challenge lies ahead when it comes to the crime of aggression.

The crime of aggression has been called the “supreme crime” under international law. It is, in essence, the most severe form of the illegal use of force. All States have for a long time committed to prohibiting the illegal use of force. Indeed, the prohibition forms one of the cornerstones of the Charter of the United Nations and is contained in its Article 2(4).The aftermath of World War II also saw the only international prosecutions for the crime of aggression – or “crimes against the peace” as it was then termed - at the Nuremberg and Tokyo tribunals. Any future prosecutions for the crime of aggression were put on hold by the onset of the Cold War. –Nevertheless, States were able to make some progress, for example by defining the crime of aggression in a 1974 UN General Assembly resolution. Recent events have shown that the question of when it is legal for a State to use force against another continues to be the subject of intense debate, often in times of political crisis, most prominently in Iraq.

It was natural, then, that the crime of aggression formed part of the discussions leading to the creation of the International Criminal Court from the very beginning. There was a strong push to include the crime of aggression in the Statute, and general agreement that it was indeed one of the most serious

crimes under international law. It was not, however, possible to conclude the complex negotiations revolving chiefly around the UN Security Council's role, at that time. Perhaps unexpectedly, to the neutral observer at least, was the outcome: the crime of aggression was included in the Statute, but its definition was left for a review conference to be held at a later date. To the great surprise of almost all observers, when that Review Conference met in Kampala, Uganda in 2010, it was indeed able to agree on a definition of the crime of aggression, and to lay out the conditions under which the ICC will in future be able to exercise its jurisdiction over this crime. The even bigger surprise was that States Parties were able to reach these agreements *by consensus*. This success is due in no small part to the active and constructive engagement by South American delegations. The famous ABS proposal – named after its drafters Argentina, Brazil and Switzerland – was a major contributing step to the successful final outcome. Delegations from this region were relentless in their pursuit of a successful outcome – but also in safeguarding some key principles, in particular the judicial independence of the Court.

The Compromise struck in Kampala is not perfect, but it is solidly founded on existing international law. It is, however, the consensual outcome of negotiations that spanned years and culminated in a very intense conference. The basis for the amendments is a strong definition of the crime and the act of aggression, based on the aforementioned 1974 General Assembly resolution. It limits responsibility to leaders of a State, and limits the jurisdiction of the Court only to an act of aggression that constitutes “by its character, gravity and scale” a “manifest violation of the Charter of the United Nations.” The Security Council has an important, but not exclusive role: it can refer situations for investigation and prosecution, as with the other three crimes in the Statute. Thanks in no small part to delegations from this region, the amendments also include the possibility for the Prosecutor to seek permission to proceed from the Court's pre-trial division if the Security Council fails to respond within six months. In investigations that do not arise from a Security Council referral, nationals of non-States Parties are excluded from the Court's jurisdiction altogether – this is perhaps the biggest compromise made in Kampala.

But let us remember that these amendments will, for the first time ever, permit a permanent international court to hold to account the perpetrators of the crime of aggression. In order to make this vision a reality, however, all of us must act.

To ensure that the amendments are activated at the earliest possible moment in the beginning of 2017, 30 States Parties must ratify the amendments, ideally by the end of 2015. Additionally, the Assembly of States Parties must decide to activate the amendments. We are on our way to reaching these goals. In April 2012, Liechtenstein became the first State to ratify the amendments. Six other States from all regions of the world have since followed suit. Uruguay is set to become the first South American State Party to the crime of aggression amendments when it deposits its instrument of ratification d next week. Slovenia will also ratify at that time, and others might do likewise. In total, we know of approximately 30 States that are actively working on ratification. A further seven are in the early stages-. The swift ratification of these amendments is a tremendous achievement for the Uruguayan government and legislature and sets an important signal for the region.

South America has a huge role to play in ensuring that these amendments are activated at the earliest possible moment. Our Status Report – which is available in this room – indicates a strong commitment from South American States to the ratification of these amendments. In addition to the completed parliamentary process in Uruguay, we are also aware that the parliaments of Chile, Costa Rica and Paraguay have begun to work on the ratification of the amendments. My appeal to the distinguished legislators and government representatives assembled here today is this: do not delay. The end of 2015 is sooner than one may think, and 30 ratifications are only the *minimum* required for activation of the amendments. A large wave of ratifications from this region will show once again that South America is at the forefront of the fight against impunity. The more ratifications we have secured ahead of the activation decision in 2017, the easier it will be to ensure that the Assembly of States Parties takes such a decision.

Ladies and Gentlemen,

Let me now mention a few initiatives we are undertaking to assist states with the ratification and implementation of the amendments. Together with the Global Institute for the Prevention of Aggression, Liechtenstein is conducting a worldwide campaign for the ratification of the Kampala amendments. Besides speaking to distinguished ministers and parliamentarians at gatherings such as these, we also host our own regional meetings to explain and discuss the crime of aggression

amendments with relevant stakeholders. We have already conducted such events in Strasbourg and Botswana, earlier this year. We are currently in the planning stages of an event that would bring together representatives from States Parties in the Pacific region in the first half of 2014 and would welcome the possibility of having a similar event in this region in the near future.

We are also in a position to offer technical assistance. We maintain contacts to crime of aggression experts from all over the world, including from this region, and would be more than happy to facilitate technical assistance for the ratification and implementation of the amendments.

Finally, we have produced a number of materials which we hope to be of interest to all those involved in the ratification process: governments, parliaments, NGOs and interested citizens. I have already mentioned the Status Report, and I would also like to point out our ratification and implementation handbook, which is available in the room in Spanish. These and many additional resources are available on the website [www.crimeofaggression.info](http://www.crimeofaggression.info), which I would commend to your attention.

Ladies and gentlemen,

It may often seem that international law moves at a glacial pace. Progressive States, such as those of this region and my own, might regret the positions of other States that prevent treaties from being as ambitious as we would like, or international law from evolving as fast as we would wish. The amendments on the crime of aggression give us all the opportunity to participate in a breakthrough in international law. Empowering the International Criminal Court to hold the perpetrators of this, the supreme crime, to account will irrevocably alter the landscape of international relations, like the entry into force of the Rome Statute already has. I am confident that in this regard, South America will once again take its place as a leader in the world.

I thank you.