



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

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GENERAL ASSEMBLY

REPORT OF THE INTERNATIONAL CRIMINAL COURT

STATEMENT BY H.E. AMBASSADOR CHRISTIAN WENAWESER

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UNITED NATIONS

Madam President

We welcome the presentation of the ICC report to this Assembly. The International Criminal Court is an independent organization with a strong institutional connection to the United Nations. The two are bound by a common purpose: Both the UN Charter and the Rome Statute are founded on the principles of justice and international law. And there has been a fruitful and productive relationship between them, on the basis of the relationship agreement governing the interaction between the UN and the ICC. If this was true in all the past years that we have discussed the Court's report, today's debate takes on an additional dimension. International organizations and treaties – and indeed multilateral approaches as such – are increasingly under assault. Both the UN and the ICC have been subject to political attacks, and many of the achievements of the recent past are in jeopardy. The areas affected include trade, climate change, disarmament and of course accountability and human rights. It can therefore come as no surprise that the International Criminal Court is, yet again, under attack by those who feel threatened by the idea of international criminal justice – an area in which progress has been fast and steady in the past two decades. It has never been more important than it is today to express

unequivocal political support for the International Criminal Court – the world’s first and only permanent, international, independent judicial institution with jurisdiction over the most serious crimes under international law

Madam President

While we think that our support for the ICC must be unwavering, we are not of the view that it should be uncritical. The Court faces significant external challenges, but it also suffers from problems within – which it cannot afford. It is therefore time for State Parties to demonstrate leadership by asserting ownership, while fully respecting the Court’s judicial independence, which is an indispensable element of any court of law. We look forward to an honest and constructive dialogue with the Court to address the challenges it is facing.

Madam President

A landmark development not just for the ICC, but also for international law more generally, occurred on 17 July this year: The 20th anniversary of the adoption of the Rome Statute. This day also marks the activation of the ICC’s jurisdiction over the crime of aggression – the most serious forms of the illegal use of force by a State against another. For the first time since the Nuremberg trials over 70 years ago, there is individual criminal accountability for illegal war making. This moment – based on a consensual decision from all 123 State Parties – could not be more opportune. At a time of an increasingly cavalier way of dealing with international norms, of the a growing expectation of impunity for the most heinous crimes and when the well-established international rules on the use of force are bent and violated, no statement could be more important than making it clear that committing crimes of aggression entails criminal accountability for those responsible. It is also another important illustration of how closely the mandates of the ICC and the United Nations are connected: The prohibition on the use of force is at the very core of the UN Charter. And, it is the International Criminal Court that now offers

the necessary complement: individual criminal responsibility. This is essential, not so much because the Court is likely to exercise its newfound jurisdiction very soon – it is not, and due to the exemption of non-State Parties from its jurisdictional regime, its reach is limited. It is however essential for States to have a legally binding international definition of an act and crime of aggression, both for their consideration of adding this crime to their national penal codes and for possible decision-making processes involving questions of the use of force, including in the UN Security Council.

Madam President

We have also recently witnessed the first referral of a situation in a State Party to the Court by a number of other State Parties. This means that all the triggers foreseen under the Rome Statute for the exercise of jurisdiction have been applied. We welcome this development and encourage a reflection on a similar course of action with respect to the crimes committed against the Rohingya population. Since the Court has concluded that it has jurisdiction with respect to the forced deportation of the Rohingya population, who have fled to Cox's Bazaar, we now have a direct path to justice. We hope that there will be a serious consideration of this policy option by those among us who have joined the Rome Statute and share our view that there must be accountability for the atrocities committed – not only for the interest of justice, but in order to enable the return of a forcibly displaced population.

Madam President

Whenever there is a massive crisis of impunity – be it in Myanmar, Syria, or Yemen – there are automatically calls for the involvement of the ICC, from civil society, from victims, from policy makers. In many of these instances, however, the Court does not have jurisdiction. Working towards universality is a long and arduous task. We must and can make progress – but we should be under no illusion that a significant number of States will join the system in the coming years.

Hopes that the Security Council may step in to fill impunity gaps have proven futile time and again, and it would be naïve to expect that to change in the foreseeable future. It is therefore all the more important that we understand the Court as it was designed to be understood, not just as an institution working in isolation in The Hague, but rather as the centerpiece of an international criminal justice system set up to fight impunity for the most serious crimes. In this regard, strengthening capacities of national judiciaries can play an important role – as can the exercise of universal jurisdiction. As evidenced in the creation of the IIM, there is room for innovation – a far better policy option than inaction. Engagement to fight impunity where the ICC does not have competence complements the very mission for which the Court was created.

Finally, Madam President

I have the honor to deliver this message on behalf of Austria, Belgium, Costa Rica, Cyprus, the Czech Republic, Estonia, Luxembourg, the Netherlands, Portugal, Slovenia, Switzerland and my own country, Liechtenstein – Member States that are strong supporters of the ICC and its mission to end impunity for the worst crimes known to humankind.

We would like to thank the facilitator for his work on this resolution. We appreciate his intentions to deliver a consensus outcome.

Our delegations have joined consensus on this resolution because we strongly believe in the work of the ICC. We have decided to co-sponsor this resolution because it includes many important points and because we wish to express our commitment to the International Criminal Court. However, we would also like to point out what we consider to be a significant deficiency in the present text: we wish to underline that resolutions this Assembly adopts should always include – as a bare-minimum – technical and factual updates. We thus found it necessary to make this statement to highlight that a number of major international law developments that took place this past year have been omitted from this resolution. Such developments include the landmark

20th anniversary of the Rome Statute, the historic activation of the ICC's jurisdiction over the crime of aggression and the adoption of amendments to add three new war crimes to the Rome Statute.

The historic significance of these developments cannot be overstated. The ICC is a central achievement of multilateral diplomacy and a true milestone in the development of international law. In July, the international community marked the 20th anniversary of the Rome Statute of the ICC – an occasion many States used to reaffirm their commitment to the Court and the broader rules-based international order. Also in July, the ICC's jurisdiction over the crime of aggression went into effect. Never has humanity had a permanent independent international court with the authority to hold individuals accountable for their decisions to commit aggression – the worst form of the illegal use of force. Now we do. The ICC will thus help to enforce a fundamental provision of the UN Charter: the prohibition on the use of force. Finally, the Assembly of States Parties to the Rome Statute adopted last year, during its sixteenth session, three new amendments to article 8 of the Statute, expanding the Court's jurisdiction. These three war crimes incriminate the employment of microbial, biological or toxin weapons, weapons that injure by fragments undetectable by X-rays, and laser blinding weapons, both in case of international armed conflicts as well as in case of armed conflicts not of an international character.

The omissions in this year's text happen to be very significant. But, even if the developments were of more limited relevance, we would still want to see a GA resolution reflect them. We must not allow – whether on the topic of international justice or indeed any other issue – for this Assembly to adopt texts that are outdated. We are confident that we will do better next year.

Thank you.