



**PERMANENT MISSION
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS
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GENERAL ASSEMBLY – AGENDA ITEM 77, REPORT OF THE INTERNATIONAL CRIMINAL COURT

STATEMENT BY H.E. AMBASSADOR CHRISTIAN WENAWESER

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UNITED NATIONS

Mr. President,

We thank President Hofmanski for his presence and for presenting the annual report of the International Criminal Court to the General Assembly. Having discussed the work of the International Court of Justice last week in the context of International Law Week, today's debate gives us the opportunity for an exchange on the work of the ICC, one of the biggest achievements in the field of international justice. The strong participation today is testimony to the ICC's continued central and indeed enhanced importance, at a time when international law has come under systematic attack.

We welcome the continued global reach of the Court's work, in line with its mandate and as a reflection of events around the world. At the same time, its reach continues to be limited through the lack of progress with respect to universality of its founding treaty and the political deadlock in the Security Council which has failed to refer any situation to the Court in over a decade, despite the obvious and urgent need to do so. With respect to the strategic decisions made by

the ICC's Chief Prosecutor, we welcome, in particular, the emphasis his office is placing on the situations that have been referred to the Court by Security Council and look forward to concrete outcomes in the Libya investigation as well as greater cooperation between Sudan and the ICC. We also wish to commend the attention the Prosecutor is attaching to the investigation of the one crime committed in Myanmar over which the ICC is currently able to exercise jurisdiction. We hope that the full exercise of jurisdiction will be possible soon, particularly in light of the ongoing attack of Myanmar's military regime against its own civilian population, in spite of strong condemnations from this Assembly and the Human Rights Council.

Mr. President,

We are glad to see that this Assembly has, finally, updated its resolution on the cooperation between the United Nations and the ICC. The changes we have agreed on together are long overdue and were the result of a dynamic and constructive negotiation. We wish to thank our partners from the African Group, in particular, for the leadership role they have played in this process, as well as the Netherlands for facilitating the process inclusively and transparently. We especially welcome that States who have yet to join the Rome Statute are engaging on the work of the Court which is indeed of direct relevance to the entire UN Membership. The Genocide Convention, replicated in art. 6 of the Rome Statute is among the most widely ratified treaties elaborated in the UN system, while the Geneva Conventions, on which article 8 is based, enjoy near universal support.

Recent months have starkly underlined the most immediate relevance of the Rome Statute for everyone assembled in this room: Art. 8 *bis* of the Rome Statute contains the internationally agreed definition of the crime of aggression, which complements the core provisions of the UN Charter on the use of force by creating individual criminal responsibility for them. This definition, agreed by consensus in a process that involved all UN member States, not just ICC States Parties,

is of crucial importance. This Assembly has determined, both in March and more recently in October, that acts of aggression have been committed against Ukraine – acts which surely amount to a manifest violation of the UN Charter by their character, gravity and scale. We very much regret that the ICC is unable to exercise its jurisdiction over this crime in the case of Ukraine, due to its restricted jurisdictional regime over the crime of aggression. Addressing this shortcoming will be a task for ICC States Parties who will meet about a month from now for their annual gathering. In the meantime, there are other ways for us in New York to ensure accountability for this most brazen attack on the UN Charter since the creation of the United Nations: The Security Council has the competence to refer the crime of aggression situation to the ICC and can thus underline the central role of the ICC in fighting impunity for *all* of the most serious crimes under international law. Absent this – or indeed after a predictable veto in the Council – we recall that this Assembly can play a central role in creating a Special Tribunal. And, we remain committed to explore options to do so in the coming weeks. Our collective decision in this respect goes far beyond the aggression against Ukraine – it is a fork in the road on our path to ensure accountability for the crime of aggression anywhere, committed by anyone and against anyone.

Mr. President,

Next year, we will celebrate the 25th anniversary of the Rome Statute – one of the big achievements in the history of multilateral treaty making. We hope that we will be joined by more partners in the community of State Parties and that more States will ratify the Kampala Amendments on the crime of aggression – as Peru has done just recently, and we thank them for this important step. The Rome Statute is a treaty of the highest quality, which has stood the test of time. It is also a dynamic document that remains open to reflect the progressive development of international law. In standing up for its integrity, we will continue to stand up for two key principles in particular, which are at the core of its authority: the principle of judicial and

prosecutorial independence, which requires States to defend the Court when it comes under political attack, as has happened regularly in the past – and also includes defending civil society organizations cooperating with the Court from reprisals. And second, the principle of complementarity which explicitly reaffirms the sovereign responsibility of States to investigate and prosecute Rome Statute crimes and stipulates that the Court only becomes active where States are unable or unwilling to live up to their obligation in this respect.

Thank you.