

UNITED NATIONS GENERAL ASSEMBLY, 64TH SESSION

ITEM 76:

REPORT OF THE INTERNATIONAL CRIMINAL COURT

STATEMENT

BY

**H.E. AMBASSADOR CHRISTIAN WENAWESER,
PERMANENT REPRESENTATIVE
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS**

NEW YORK, 29 OCTOBER 2009

CHECK AGAINST DELIVERY

Mr. President

I would like to thank the President of the International Criminal Court, Mr. Sang-Hyun Song, for presenting the report of the Court to the General Assembly. We are satisfied that the Court has made further progress in its judicial work and welcome the two new States Parties to the Rome Statute, Chile and the Czech Republic. The number of States Parties has now reached 110. Universal adherence to the Rome Statute remains a central goal. The importance of reaching it is illustrated on a daily basis, and we must redouble our efforts in this respect. We are pleased to see that the Court itself is contributing to this goal by working in the manner in which it was conceived: as an independent and effective international court, committed to the highest standards of justice, working within its jurisdiction and on the basis of the principle of complementarity. We note that the ICC continues to be seized with four situations, and that several other situations in different parts of the world are at the stage of preliminary investigations. As a State Party to the Rome Statute, we fully respect the independence of the Court and will therefore not comment on the specifics of cases before the Court.

Mr. President

The report makes it clear that the Court, in carrying out its functions, relies on the **cooperation** of States, international organizations and civil society, in accordance with the Rome Statute and international agreements. The Court has no police force of its own and therefore has to rely on States for arrest and surrender of indictees. Furthermore, cooperation is required in the areas of analysis, investigation, witness protection and enforcement of sentences. In the case of Security Council referrals, cooperation is mandated in accordance with relevant resolutions.. The cooperation required in such cases is conceptually equivalent to cooperation required with the tribunals created by the Council itself. One important difference to the ICTY and ICTR, however, arises from the fact that the Rome Statute always operates on the basis of the principle of complementarity – even in the case of Security Council

referrals. Genuine domestic proceedings are therefore always the option preferred by the Rome Statute over the Court's own proceedings.

Mr President

The principle of **complementarity** is one of the core features of the Rome Statute. Cases are only admissible before the ICC where the competent national jurisdictions are unable or unwilling to act. This is a reflection of the **primary responsibility of States** to prosecute perpetrators of the most serious crimes under international law, in particular genocide, crimes against humanity and war crimes. This principle is also an important reason why the Court is currently analyzing, but not necessarily proceeding with investigations in all situations under review. National jurisdictions are thus crucial in the **fight against impunity**. States can contribute to ending impunity without being party to the Rome Statute. Nonetheless, the ICC is at the core of the fight against impunity through its catalytic effect on national jurisdictions and by maximizing prevention and deterrence. Complementarity is also to be read in the context of the cooperation duties under Part 9 on International Cooperation and Judicial Assistance of the Rome Statute. It is worthwhile exploring how international justice can interrelate better and more effectively with national justice systems.

Mr President

We think the time has come to pay more attention to the practical implications of the principle of complementarity, and to the role the **United Nations** can and should play in this respect. We note that there is a consensus in the United Nations membership that there must be no impunity for the worst crimes under international law, and that capacity-building and technical assistance, upon request, are crucial to enable States to effectively prosecute perpetrators. We would therefore suggest that the relevant actors within the UN system redouble their efforts. UNODC, UNDP, as

well as several regional organizations have significant capacities in this area and should further expand their activities.

Mr. President

The **Review Conference** to be held next year in Kampala, Uganda, will provide an important opportunity to reflect on the achievements and challenges of international criminal justice, and to consider possible amendments to the Rome Statute. It is important to note that the Conference will not be the last, but the first opportunity to amend the Statute. In this regard, States Parties have a particular responsibility to work together to adopt provisions on the crime of aggression, as they are mandated to do by the Rome Statute itself. In the area of stocktaking, the planned phasing out of the ad hoc tribunals and other international and hybrid mechanisms adds an important dimension to these discussions. We appreciate the constructive spirit in which delegations, including non-States Parties, are engaged in the preparation of the Review Conference. We call on all delegations to be represented in Kampala at the highest possible level, and appreciate the Secretary-General's commitment toward making the Conference a success. We are convinced that such an approach will ultimately also lead to further progress on the path toward a universally accepted Rome Statute.

I thank you.