



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

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SECURITY COUNCIL - OPEN DEBATE

**SECURITY COUNCIL HIGH-LEVEL VIRTUAL OPEN DEBATE ON THE PROMOTION AND  
STRENGTHENING OF THE RULE OF LAW: “STRENGTHENING THE COOPERATION BETWEEN THE  
SECURITY COUNCIL AND THE INTERNATIONAL COURT OF JUSTICE”**

**STATEMENT ATTRIBUTABLE TO H.E. AMBASSADOR CHRISTIAN WENAWESER**

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UNITED NATIONS

Mr. President,

We welcome this opportunity to offer reflections on the interplay between this Council and the International Court of Justice. Given the central importance of the rule of law at the international level, the importance of the role of the Court cannot be overstated. The Court’s work has been remarkably successful. Its judgements and advisory opinions are widely respected and one of the most important sources of the development of international law. There is, however, much room to expand the Court’s work. The most obvious point is that only 74 member States of the United Nations have made a declaration under art. 36.2 of the Statute of International Court of Justice accepting compulsory jurisdiction of the Court. Given the important relationship that this Council has with the Court, we believe that all States serving on it and in particular its Permanent Members should show their commitment to the rule of law by making the relevant declaration.

The Security Council also has the competence to ask for advisory opinions from the Court on questions of public international law. We welcome that there has been a significant increase in the number of requests for advisory opinions over the recent years, some of which have led to

landmark opinions by the Court – such as the one on nuclear weapons. At the same time, this increase is due to increased engagement by the General Assembly. This Council has used its important power in this respect only once in its history – and as far back as fifty years ago. This is very surprising given that there is no lack of examples where Council members have differed, at times sharply, on questions of public international law and certainly could have benefitted from an advisory opinion on more than one occasion. If two-thirds of the lifespan of this Council have been spent without resorting to an important legal tool, it can come as no surprise that the option is not even discussed anymore. But that can also change, and perhaps today's debate can be the beginning of a new conversation on this. We encourage all Council members dedicated to the rule of law to contemplate the option when it has the potential to inform the decision-making of the Council and resolve differences in legal interpretation that impede effective Council action.

The most important contribution of this Council to the rule of law is enforcing international law, beginning with its very own decisions. In this respect the Council certainly must do better. When Permanent Members take policy decisions that clearly violate Council resolutions, the authority of this Council as a whole is undermined significantly. The same is the case when they commit flagrant violations of international law, in particular the most serious forms of the illegal use of force against another State. All of this we have witnessed in the recent past. These are actions that further remove the Council from its task to be a guardian of international law – be it the UN Charter or its very own decisions. As a consequence, the Council undermines its own authority and the obligation Member States have to implement its decisions.

We are particularly concerned about recent trends concerning the application of international law with respect to the use of force, including art. 51 of the UN Charter. Excessively expansive and unchecked interpretations of art. 51 undermine the regulatory system set up by the drafters of the Charter 75 years ago and embraced by all of us when we joined the United Nations. In addition to its other powers reflected in the UN Charter, the Council has now also the option of referring situations of manifest violations of the prohibition of the illegal use of force provision

for investigation by the International Criminal Court, an additional tool for the Council to live up to its obligation to ensure the relevant parts of UN Charter.

Finally, Mr. President, the use of the veto is a key aspect in every discussion on the relationship of the Security Council with the rule of law. We share the view of those who believe that the veto power given to the Permanent Members in the UN Charter is a responsibility. In particular, they must ensure that no veto is cast that obviously contradicts the purposes and principles of the United Nations. As we all know, we have seen way too many vetoes in recent years that have not stood that test. We are of the view in particular that any decision aimed at ending and preventing atrocity crimes should find the support of every Security Council member and never be subject to a veto in particular. We welcome the fact that 122 States have signed on to the ACT Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes, ten Security Council members among them. We hope that many others will join soon and will work with those Council members who are committed to its application in practice.

Thank you.