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Press Conference

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PRESS CONFERENCE ON SPECIAL WORKING GROUP ON CRIME OF AGGRESSION

After five years of deliberation, the Special Working Group on the Crime of Aggression, an arm of the Assembly of States Parties to the Rome Statute of the International Criminal Court, produced draft amendments to the Rome Statute that would give the Court jurisdiction over the crime of aggression -- provided that States parties were able to resolve a jurisdictional dispute with the Security Council and once agreement had been reached on a definition of the crime.

Addressing the issue at a Headquarters press conference this afternoon, Christian Wenaweser, President of the Assembly of States Parties, explained that the crime of aggression referred to a military act by one State against another and is committed by a leader. While it appeared in the Rome Statute's list of crimes, the Court cannot exercise jurisdiction over the crime because States parties have not agreed on a definition, nor conditions under which the Court may exercise its jurisdiction.

However, the newly approved proposals, passed by the Assembly at its seventh resumed session in New York from 9 to 13 February, included a suggested definition that members had agreed to use as a basis for discussion, said Mr. Wenaweser. That definition, along with a suggested outline of the Court's jurisdiction over the crime, would be taken up at a Review Conference for the Rome Statute, which he said would be held in Kampala, Uganda, next year.

A text circulated by Mr. Wenaweser said that invasion, attacking another State, or the military occupation of another State, however temporary, constitute crimes of aggression. Other crimes of aggression would include bombardments against another State, carrying out blockades, allowing another State to perpetrate acts of aggression against a third State, or sending armed bands to carry out grave acts against other States.

The definition being proposed in that document would not include acts of terrorism performed by non-State actors, such as leaders of Al-Qaida, he told reporters.

Mr. Wenaweser, who is also Liechtenstein's Permanent Representative to the United Nations, said that States parties were still in disagreement over the role of

the Security Council, which under the United Nations Charter has the power to determine matters relating to acts of aggression.

“This is legally a very challenging and complex topic and also politically highly sensitive,” Mr. Wenaweser said, explaining that the permanent members of the Security Council -- China, France, Russian Federation, the United Kingdom and the United States -- had consistently taken the position that determining acts of aggression belonged exclusively to the Council.

In response to one correspondent, he confirmed that Article 16 of the Rome Statute allows the Security Council to request the Court through a Chapter VII resolution not to proceed with an investigation or prosecution for 12 months. That rule had been intended to prevent a prosecutor from acting in ways that could jeopardize ongoing peace efforts.

“The permanent members of the Security Council have strong views on the role of the Security Council,” he said. “I don’t want to say that they will pose problems, but there is, at this point, a divergence of views.”

Talks to resolve such lingering disputes were expected to be led by Prince Zeid of Jordan, a former Permanent Representative at the United Nations and currently the Ambassador of Jordan to the United States. Mr. Wenaweser confirmed that a meeting was being slated to take place in the New York area in June.

During the press conference, Mr. Wenaweser also fielded questions on the relationship between the International Criminal Court and the African Union, in view of reports that several African countries would re-evaluate their standing with the Court after disagreeing with the Court over its proposed indictment of Sudanese President Omar al-Bashir. Countering the suggestion that Africa’s support for the Court was waning, Mr. Wenaweser remarked that backing from that continent had been strong in the past, and that most matters before the Court had been referred to it by African nations.

“African States have been instrumental in creating the International Criminal Court, and there would not be a Rome Statute without the political support from African States,” he said. “It is extremely important that we maintain that [support] for the future and I am quite confident that that would be possible.”

He added that, when the Court held its elections for judges in January, African nations had put forward around a dozen candidates.

Responding to what would happen if States did not comply with the Court’s ruling, Mr. Wenaweser stressed that all States parties were responsible for upholding the Rome Statute. For instance, under Article 27 of that document, there is no immunity for Heads of State or Government if they were found guilty of a crime, he said.

Also today, Mr. Wenaweser answered questions about a talk held at Yale University last Friday, in which the International Criminal Tribunal for the Former Yugoslavia figured prominently in a discussion on ways to achieve peace and justice in the Sudan.

“People understand that it is complex and I don’t think we have any sort of magic formula to address this,” he said. “If we take Yugoslavia and apply it to a situation that we have right now in Darfur, that is a difficult thing to do.”

Commenting on other aspects of the Assembly’s work, Mr. Wenaweser said the Government of Belgium was seeking to expand the list of prohibited weapons in the Rome Statute to include cluster munitions and landmines.

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