



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

THE HAGUE, 3 DECEMBER 2019

CHECK AGAINST DELIVERY

ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE

GENERAL DEBATE

STATEMENT BY H.E. MR. CHRISTIAN WENAWESER

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UN

Mr. President,

We gather for our annual discussion on the International Criminal Court at a time when multilateral achievements and international organizations are increasingly under attack: Agreed standards in areas as diverse as disarmament, climate change, trade and human rights are regularly undermined. It can come as no surprise that the ICC is especially vulnerable to these trends. We welcome Kiribati as the latest addition to the ICC community – a community that still does not comprise some of the most powerful States, some of those most skeptical of a rules-based international order. The ICC, with its mandate to ensure that those responsible for the most serious crimes under international law do not go unpunished will naturally face opposition from those who do not believe in the rule of law. But almost two thirds of all States have decided to join this greatest accountability project in the history of humankind. And we have both a responsibility and unique opportunity to make a powerful and lasting statement in support of the international justice project at this session.

Over the past months, we have formed a common understanding that we have reached an inflection point in the history of the ICC, that we need to see change in the Court in order to enhance its performance and, as a result, its impact and political acceptance. It is good that we have come to this point. The momentum that we have created must result in a review exercise that should follow a number of guiding principles, as a minimum. First the Rome Statute is not the problem. The founding treaty of the ICC is a high-quality document, one of the finest achievements in the proud history of international law-making. The principle of complementarity in particular is a key principle that makes the Court the centerpiece in the fight against impunity beyond criminal proceedings in its Court rooms here in The Hague. And of course the principle of judicial and prosecutorial independence is not up for negotiation. While we are not prepared to touch these cornerstones of the Rome Statute, we believe that it should remain a dynamic and open treaty that is able to reflect the progressive development of international law. Second, we must work together with the Court, not against it. The Court has recognized the need for change and that it requires help to bring about the change that we all want to see. The imminent transition to a new generation of leadership is the perfect moment to engage in a dialogue about how best to improve the Courts performance – which will always need the unequivocal material and political support from us States. Third, the review effort must be inclusive. All 122 States Parties have equal ownership of our common international justice project. But not all of us are able to participate in negotiations in the Hague, so we have to be given the opportunity of equal and active participation. We look forward to the work of the expert group – and of course both we as State Parties and the Court will continue to work in parallel. The important agreement reached in the New York Working Group to ensure the highest quality on the bench is an encouraging sign.

Mr. President

We look forward to a decision by this Assembly to mandate a review by a group of eminent

independent experts which reflects these key parameters. This group should be given a comprehensive mandate and full freedom to present us with a set of recommendations how to achieve the best possible results. Together we can then make decisions on how to make best use of these recommendations. This will allow us to make the Court more robust, more efficient and productive and send a strong collective message that accountability is a key part of our political work, of creating sustainable peace and thus of achieving the sustainable development goals which find universal support. The situations in Syria and in Myanmar are stark illustrations of the need to include accountability in the effort to find lasting political solutions. And they also show that the ICC can serve as an incentive for alternative paths to accountability where it does not have jurisdiction – or only limited jurisdiction.

Mr. President

Since July 2018, the Court can also exercise its jurisdiction over the crime of aggression – which completes the set of four crimes as designed by the drafters of the Rome Statute over 20 years ago. Progress on ratification of the Kampala amendments has been steady – they are now the most ratified set of amendments to the treaty. And while the Courts reach with respect to this crime is still limited, it becomes increasingly clear that the Kampala amendments are of crucial importance at a time when States tend to apply excessively liberal interpretations of the right to self-defense and do so in a manner that is largely unchecked. We will continue working with all of you to increase both the number of ratifications and the understanding of the Kampala amendments. They are not only the basis for the Courts work, but also contain the internationally agreed definition of a crime and act of aggression, which should serve as the basis for relevant discussions in the UN Security Council as well as in internal policy discussions. Given the rapidly changing nature of warfare, we have created a Council of Advisers of eminent experts both of international law on the use of force and on cybersecurity which will help inform the discussions if and under what circumstances the Kampala amendments apply to cyberattacks. We are

thankful to our partners who have joined our endeavor and look forward to the conclusions of the discussions in the Council of Advisers that should be ready in the first half of next year.

I thank you.