

BUREAU OF THE ASSEMBLY OF STATES PARTIES

Tenth meeting

2 December 2022

Proposed Annex to Bureau decision on the Implementation of IER recommendation 169:
Compilation of good practices to counter any threat or attack against the Court, its officials and
those cooperating with it, which has the potential to undermine the integrity, effectiveness or
impartiality of the Court

Part I: Non-exhaustive List of potential Measures

- Joint Statements, diplomatic démarches and public expressions of a general or specific nature;
- Pre-emptively conduct public outreach activities, such as conferences, seminars, television debates, and others, to inform the general public about the court and its mandate;
- Use social media posts from official government accounts to swiftly react to a threat or attack, even before issuing official statements;
- Public statement from the ASP Presidency;
- Open letter from the ASP Presidency to the concerned State;
- Individual national statements by foreign ministers, and other senior officials;
- Statements made by States Parties during relevant UN debates, including at UN General Assembly (including in Sixth Committee), UN Security Council debates, and any other multilateral for as appropriate;
- Media stakeouts after UN Security Council briefings as well as other relevant opportunities;
- Inter-Ministerial Network (IMN) statement;
- Joint statement(s) of states parties, ideally with cross-regional representation;
- Regional and subregional declarations (*e.g.*, European Union, African Union, Organization of American States, or CARICOM), if feasible, or from within a group of states in that region or subregion;
- Statements by parliamentarians, parliamentary resolutions, or debates;
- Private bilateral or group démarches at the highest level, where possible; and
- Practical measures of a political, legal, security and/or financial nature, in coordination with the Court and the Host State, when appropriate.

Part II: Examples of past statements and initiatives Statements by States Parties

1. Statement dated September 2018

The Foreign Ministers of *Andorra, Argentina, Austria, Belgium, Brazil, Canada, Costa Rica, Cyprus, the Democratic Republic of the Congo, Denmark, Estonia, Finland, The Gambia, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, the former Yugoslav Republic of Macedonia, Malta, Mexico, Montenegro, the Netherlands, Norway, Peru, Portugal, San Marino, Senegal, Slovenia, Spain, Sweden, Switzerland and Uruguay* have endorsed the following statement of support for the International Criminal Court:

In July we marked the 20th anniversary of the Rome Statute – an occasion many of us used to reaffirm our commitment to the International Criminal Court (ICC). Just a few months later, it is clear that this is a crucial moment for all of us to speak up and stand up for the Court. We are witnessing an overall erosion of the rules-based international order, which we have worked so hard to establish in the past decades – in the areas of trade, disarmament, climate change and indeed the rule of law and human rights. The ICC is a central achievement of multilateral diplomacy and a true milestone in the development of international law. Due to its mandate of speaking law to power, it has been the target of political attacks for a number of years. It should thus come as no surprise that it is under increasing attack at a time of a broader assault on the rules-based order itself. We will always respect the independence of the ICC, an indispensable feature of any court of law.

The ICC embodies our collective commitment to fight impunity for the worst crimes known to humankind. As we get used to living in a world that includes a permanent, independent and impartial criminal court, we must honour its significance, in particular for the victims of atrocious crimes.

The ICC has shown a remarkable resilience in the face of adversity and is a firmly established part of the landscape of international institutions today. The necessity for it to act is apparent in many situations around the globe. From Syria to Myanmar, where even the most basic rules of international humanitarian law have been disrespected, policy-makers as well as victims look to the ICC to bring accountability where human rights have been systematically violated and serious international crimes have been committed. The ICC remains the most important instrument for prosecuting grave international crimes. We all play an important role in supporting the ICC so that it can reach its full potential and we must seize this crucial moment to make a political investment in the Court. By giving our support to the International Criminal Court today, we do a great service to the cause of justice and to defending the progress we have made together towards a rules-based global system.

1. Statement dated March 2019

The Foreign Ministers of *Austria, Belgium, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Finland, Iceland, Ireland, Liechtenstein, Luxembourg, Mexico, Norway, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland and Uruguay* have endorsed the following statement in support of the International Criminal Court:

We express our serious concern about the travel restrictions and threat of additional measures announced by the United States against officials of the International Criminal Court (ICC). At a time when the rules-based international order is facing increased pressure, we unequivocally reconfirm our support for the ICC. As the world's first and only permanent international criminal court, the ICC embodies our collective commitment to fight impunity for the most serious crimes of international concern. We will always respect

the independence of the Court and continue to promote its universal reach. We call on all States to honour the Court's mandate and acknowledge its significance, in particular for the victims of genocide, war crimes, crimes against humanity and crimes of aggression.

The ICC is a court of last resort, which only steps in if national judiciaries are unwilling or unable to investigate and prosecute the crimes under its jurisdiction. The Court's work is therefore part of broader justice efforts, which are also pursued through national courts, international investigative bodies and international judicial cooperation. It is therefore in the interest of justice that we call on all States to ensure their full cooperation with the ICC, which is necessary for its effectiveness and for the integrity of its proceedings.

The ICC has shown remarkable resilience in the face of politically motivated attacks and intimidation, and has become a firmly established part of the rules-based international order. The necessity for the ICC to act is apparent in many situations around the globe. Therefore, together with other international partners, we continue to stand united against impunity and remain committed to preserving the ICC's integrity undeterred by any threats against the Court and its officials. We remain ready to engage with all States on these important issues.

2. Statement following the US Executive Order of 11 June 2020

The States mentioned hereafter have endorsed this statement in support of the International Criminal Court (ICC) following the release of the US Executive Order of 11 June 2020:

Andorra, Argentina, Australia, Austria, Bangladesh, Belgium, Belize, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Estonia, Fiji, Finland, France, Gambia, Germany, Greece, Guyana, Iceland, Ireland, Italy, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Namibia, Netherlands, New Zealand, Nigeria, Norway, Peru, Portugal, Romania, Saint Vincent and the Grenadines, San Marino, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, State of Palestine, Sweden, Switzerland, Trinidad and Tobago, Tunisia, Uganda, United Kingdom, Uruguay and Venezuela.

As States Parties to the Rome Statute of the International Criminal Court (ICC), we reconfirm our unwavering support for the Court as an independent and impartial judicial institution. In line with the 11 June press release of the President of the Assembly of States Parties, we reiterate our commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve its integrity undeterred by any measures or threats against the Court, its officials and those cooperating with it.

We remain committed to an international rules-based order. The ICC is an integral part of this order and a central institution in the fight against impunity and the pursuit of justice, which are essential components of sustainable peace, security and reconciliation. We will therefore continue to respect our cooperation obligations under the Rome Statute and we call on all States to ensure full cooperation with the Court for it to carry out its important mandate of ensuring justice for the victims of the most serious crimes of international concern.

We recall that the ICC is a court of last resort, which anchors a system of justice for serious international crimes rooted in national courts. National authorities have the primary responsibility to investigate and

prosecute Rome Statute crimes. The ICC only steps in when States are unwilling or unable to genuinely carry out national proceedings.

The ICC, as the world's first and only permanent international criminal court, is an essential component of the multilateral architecture upholding the rule-of-law. It embodies our collective commitment to fight impunity for international crimes. By giving our full support to the ICC and promoting its universal reach, we defend the progress we have made together towards an international rules-based order, of which international justice is an indispensable pillar.

B. Statements and initiatives by the Informal Ministerial Network (IMN)¹ on matters related to the International Criminal Court – chaired by the Foreign Minister of Liechtenstein

1. Message no. 73, circulated on 9 October 2020

Dear Colleagues,

Last week, the ICC Prosecutor, Ms. Fatou Bensouda, together with a senior member of her Office, were placed on a US-sanctions list usually reserved for war criminals rather than those prosecuting war crimes.

In response, several States have published robust public statements, some calling on the US to reverse the measures. I encourage all members of this Network to consider publishing similar statements – and exploring concrete actions to ensure the ICC's business continuity – in order to provide it with the political support it needs during these truly unprecedented times for the Court and the broader rules-based international order.

In order to continue coordinating our political support and to exchange our views concerning the ICC, I would like to invite you to our annual meeting at the margins of the UN high-level week on 24 September. The ICC Prosecutor, Ms. Fatou Bensouda, has already confirmed her participation in this year's virtual IMN meeting. Please find the save-the-date attached. More details will follow.

With all my best wishes,

Dr Katrin Eggenberger
Minister for Foreign Affairs of the Principality of Liechtenstein

2. Press release by the Members of the Informal Ministerial Network for the International Criminal Court dated 27 September 2018

At the annual meeting of the Informal Ministerial Network for the International Criminal Court (ICC), the Members celebrated the milestone 20th anniversary of the Rome Statute and reiterated their commitment to the ICC as the centerpiece of the international criminal justice system. The Court is a fundamental part of a rules-based order. In a roundtable discussion with the ICC Prosecutor, Ms. Fatou Bensouda, Members of the Network described the adoption of the Rome Statute in 1998 as a moment of collective commitment to the fight against impunity and underscored the necessity of making the Rome Statute a universal treaty. The Members recommitted themselves to working towards universality of the Rome Statute and to making use of all appropriate diplomatic channels and occasions to this end. The Members also recalled the importance of the Court's principle of complementarity – the ICC is a court of last resort, which only steps in if the national judiciaries are unwilling or unable to investigate and prosecute. The Court's work is

¹ Concept note of the Informal Ministerial Network on matters related to the International Criminal Court, dated 18 September 2022, is attached to the present document as Appendix.

therefore intrinsically linked with broader justice efforts, whether such efforts are pursued through national judiciaries, international investigative bodies or international judicial cooperation, they share a common objective: to ensure that justice is served for the victims of the worst crimes under international law. To this end, the Members highlighted the obligation to cooperate with the Court, which is necessary for its effectiveness and for the integrity of its proceedings. The activation of the ICC's jurisdiction over the crime of aggression was welcomed as a historic leap forward in ensuring that the perpetrators of the most serious forms of the illegal use of force can be held to account at the international level.

3. Declaration of Commitment to the International Criminal Court, issued in New York on 26 September 2013

We, Ministers of Andorra, Australia, Austria, Botswana, Costa Rica, Czech Republic, Denmark, Estonia, Finland, Ireland, Italy, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Peru, Poland, Slovakia, Slovenia, Switzerland, Timor-Leste and Trinidad and Tobago, Members of the Informal Ministerial Network for the International Criminal Court (ICC), hereby declare our strong and persistent commitment to the ICC.

The ICC is a cornerstone of the international peace, security and rule of law architecture. Notable successes have been achieved by the ICC in bringing to account those most responsible for atrocity crimes. It has complemented national efforts to provide remedy to victims and to satisfy their search for truth, justice, reparations and guarantees of non-recurrence. But more needs to be done in order to strengthen the fight against impunity. Faced with massive violations of human rights and international humanitarian law, the international community must insist on accountability through genuine national proceedings, or if the concerned State is unable or unwilling to conduct such proceedings, through the ICC. It must also enhance international cooperation in this regard. We agree that, in particular, action is required in the following areas:

Universalizing accountability

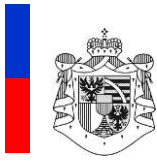
- We emphasize the primary responsibility of national judicial systems in fighting impunity and call on all States and relevant institutions to strengthen their capacity building efforts in this regard, in order to put the Rome Statute's principle of complementarity into effect.
- We call upon States Parties to the Rome Statute and States subject to corresponding obligations under international law to fully cooperate with the ICC, in particular with respect to the execution of arrest warrants.
- We call upon all States, which have not yet done so to ratify and fully implement the Rome Statute, and are ready to engage in dialogue with a view to overcoming difficulties and further strengthening acceptance of the ICC.
- We call upon all States Parties to the Rome Statute which have not yet done so to ratify the Agreement on Privileges and Immunities of the ICC and to consider the timely ratification, before 2017, of the amendments to the Rome Statute on the crime of aggression, as well as on the addition of war crimes applicable to non-international armed conflicts, both adopted in 2010 in Kampala. Delivering to victims
- We will draw greater attention to one of the primary purposes of the ICC: bringing justice and reparations to victims of the most serious crimes of concern to the international community as a whole.
- We encourage all States to make voluntary contributions to the Trust Fund for Victims, thereby improving the ICC's ability to satisfy the needs of victims. Keeping the ICC strong and effective
- We insist on the need for sufficient resources for the ICC and on their efficient use by the Court.

- We will work towards enhancing the effectiveness and efficiency of proceedings before the ICC and towards strengthening the positive impact of the Court on affected populations, including through robust and well-supported outreach conducted at the earliest opportunity. We will intensify the dialogue with the Court in this respect.

Securing solid backing by the United Nations

- We call upon the United Nations to strictly implement its policy on limiting contacts with persons subject to an arrest warrant or with persons under a summons to appear who cease to cooperate with the Court.
- We encourage the United Nations and the ICC to consult on how to finance the Court's proceedings based on referrals by the UN Security Council in a sustainable manner.
- We call upon the UN Security Council to adopt a consistent and transparent referral policy, to ensure that referral resolutions respect the mandate and independence of the ICC, and to systematically follow up on their implementation. Providing strategic support
- We will develop national policies to support the ICC, including policies on limiting contacts with persons subject to an arrest warrant or with persons under a summons to appear who cease to cooperate with the Court.

We therefore pledge to give political support to the ICC and to follow up on this declaration of commitment in all relevant diplomatic contacts, in particular in the framework of the Assembly of States Parties to the Rome Statute, the United Nations and in bilateral contacts. We also declare our readiness to engage in dialogue to resolve outstanding issues that affect the Court's standing in the fight against impunity.



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

New York, 18 September 2012

Informal Ministerial Network (IMN) on matters related to the International Criminal Court

Concept Note

Background

Ten years after its establishment, the International Criminal Court (ICC) can look back at a series of impressive successes: The number of States Parties has grown steadily to 121 and is approaching the two-thirds mark of the UN membership, one trial has been concluded and others are well underway, the Security Council has referred two situations to the ICC for investigation, and overall, understanding and knowledge of the Court has deepened. It is safe to say that the Court is the core of the international fight against impunity. Nevertheless, significant challenges remain. Key among them is the lack of active political backing by States in support of the Court, which is indispensable to making the institution a success in the long-term. The Assembly of States Parties (ASP), where the States supportive of the ICC gather once a year, cannot play this role sufficiently as it meets just once a year and is burdened with administrative and budgetary issues. Moreover, it is political-level action that is needed in situations of crisis and risk. The initiative to launch an informal ministerial network, taken jointly by the Coalition of the International Criminal Court (CICC) and the Principality of Liechtenstein and supported by the President of the Assembly of States Parties, is an attempt to fill this gap and to leverage political support for the Court.

Format

The network is entirely informal in nature and connects a number of cabinet-level individuals from States Parties to the Rome Statute who have a strong personal commitment to the ICC. An initial meeting of the network will take place on 26 September 2012, based on prior expressions of interest. Suggestions for new members joining the network or expressions of interest to do so can be communicated at any time to the Coordinator.

Purpose

The purpose of the network is to regularly exchange information and to use the commitment of its members for actions in support of the ICC, in particular in situations requiring urgent attention. Participation in the network, however, does not constitute any obligation to intervene publicly or otherwise on any occasion. The network will furthermore coordinate its activities with and support the work of the President of the Assembly of States Parties.

Practical arrangements

To facilitate the exchange of information, members indicate relevant contact information (email, phone), which is shared among network members only.

During the initial period, H.E. Ms. Aurelia Frick, Foreign Minister of the Principality of Liechtenstein, acts as Coordinator of the informal network. The Coordinator will regularly (e.g. on a quarterly basis) inform members of relevant developments regarding the ICC. In addition, the Coordinator will occasionally, and possibly urgently, suggest concrete actions to members, including on the basis of input from members of the network.

All members of the network are also welcome to share information and to make suggestions for concrete actions, which will be distributed through the Coordinator. Such communications to the Coordinator should be addressed to: coordinator.imn.icc@gmail.com, phone: (+423) 236 73 08, fax: (+423) 236 60 22.