

STATEMENT

By

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Of the Hashemite Kingdom of Jordan

Speaking also on behalf of

H.E. Ambassador Christian Wenaweser  
Of the Principality of Liechtenstein

Before

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the Rome Statute of the International Criminal Court

The Hague

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Madame President,

I have the distinct pleasure of speaking today not just on behalf of my own delegation, but also on behalf of the two other former presidents of the ASP: H.E. Ambassador Christian Wenaweser and H.E. Mr. Bruno Stagno Ugarte.

We thank President Sang-Hyun Song for his comprehensive report on the activities of the Court, and offer him our total support and, likewise, we salute the efforts of the Prosecutor Madame Fatou Bensouda for her leadership of the OTP. We also welcome Mr. Herman Von Hebel (a critical former player in the drafting of the Rome Statute and the Elements of Crimes) as the new Registrar of the Court.

Madame President

We have reached a juncture in the Court's development, where anxieties about its future are noticeable. Given the nature of the challenges, both political and legal, this nervousness is justified. And, certainly, when compared to quieter times in the Court's earlier development, as from 2005-2008, we understand how the concerns of the African states parties, a crucially important part of our community, can inspire broad insecurity. And yet, when we think back to the 1 July 2002, and the entry into force of the Statute, when we not only had to cope with the unanimous adoption of Resolution 1422 (2002) by the UN Security Council, but also the blistering attacks mounted against the Court and its supporters by the administration of President George W Bush in its first term: the Article 98 (2) bilateral agreements; the refusal to extend military assistance to all those who did not fall in line; the desire to have any mention of the ICC struck from all documents issued by the UN; our present challenges are by comparison serious enough, though not of an existential nature, nor we believe beyond the pale of human problem-solving

In this context, we welcome the active engagement of the African Union in seeking a dialogue with the ASP and we support you, Madame President, in your unremitting effort at creating wide-open spaces for that interaction to take place. And we look forward to the special session devoted to this endeavor in due course.

Jordan and Liechtenstein have also supported Botswana, in thinking about how the Court could be further assisted following the appellate decision in respect of *The Prosecutor v. William Samoei Ruto*

*and Joshua Arap Sang* of 25 October 2013. A few weeks ago, the three delegations circulated a draft text, revised from the original, for a new draft rule 134 *bis* to the ICC's Rules of Procedure and Evidence. This, together with a Kenyan proposal was presented to the Working Group on Amendments for review, and subsequently considered by the Court through the Study Group and the Working Group on Lessons Learned. We appreciate deeply the efforts of Ambassadors Seger and Emsgård, as well as by Vice-President Monageng for enabling a thoughtful examination of the proposals. We are reviewing the reactions, comments and suggestions and we look forward to further thinking on these issues at the current session.

Madame President,

As in previous years, we continue to express concern over the slow pace of the Court's judicial proceedings, and urge the Presidency to continue to explore every method possible to expedite its work, in any way that does not compromise the integrity of the Court's operation. This should be done in a comprehensive manner and as part of a broader and holistic exercise. We as states should also examine our own role, as to where the Court is active, instead of commenting on the geographical focus of its activities: referrals by states are an underutilized trigger for the Court's jurisdiction, because all of those referrals so far have been authored by the affected states themselves. And, of course, there is no policy in the Security Council concerning referrals either. We therefore continue to believe more state parties should examine Article 12 (3) and recognize the possibilities it offers for the extension of the Court's jurisdiction through referrals brought about by non-state parties.

Madame President,

We also join others in expressing our concern over the challenges witness protection poses to the Court. It is absolutely essential witnesses receive the protections they deserve, and which the Court must offer unstintingly with the necessary financial backing from the states parties. Without the requisite protections, not only is the judicial work of the Court undermined but, even more importantly, the safety and well being of those who risk a great deal in the service of justice, and the victims, is jeopardized – and that is unacceptable.

Madame President

We also regret the Bureau has been unable to draw any lessons from the work of the 2011 Search Committee, which, after all, was established by the Bureau itself, in respect of the prosecutor of the ICC. It is rather baffling this is the result, especially when there is broad recognition by all of us that while setting up the process was the right thing to do, we began it too late and so mistakes were made by many of us – including myself and I accept that. We appeal to state parties not to shy away from this issue and to try again and formulate a definitive reckoning of the experience. It is too important for us to ignore.

Finally, Madame President, we must remind ourselves why it is we have a Court, why we have all worked so hard to establish it and make it function. The thunderclap applause, the raw emotions of joy and relief, accompanying the final vote on the statute in the red room at the FAO headquarters on 17 July 1998, did not come about because we had offered yet more protections to the strong – human history had by then filled itself to overflowing on that score – we wept with joy because we had succeeded in ensuring that, for us to be a human civilization worthy of at least some self-respect, the strong would henceforth forfeit voluntarily their protections in respect of the weak, and most particularly the victims, whenever allegations of criminal conduct crossed the boundary separating the ordinary from the outrageous. It was, and still is, the most enlightened step in human history ever undertaken.

We accept mistakes were, and will always be, made in relation to the ICC -- so long as we are still human that is inevitable – and we must always try harder, now and in the future. Because we recognize deeply, so necessary is our meeting the objective of ending impunity world-wide for the most extreme crimes, it must fuel our every exertion in defence of this Court, unique and unprecedented as it is now, and gathered as it was then in Rome, on that hot day in 1998, from the memories of the many millions of humans who over the millennia succumbed to acts of human cruelty, horrifying in their detail. We, the three former presidents of the ASP, appeal to all of our colleagues, we not forget that which animated us in Rome, and which needs to animate us now ... again.

Thank you Madame President.