



STATEMENT BY AUSTRALIA
TO THE 18TH SESSION OF
THE ASSEMBLY OF STATES PARTIES TO
THE INTERNATIONAL CRIMINAL COURT
BY
H.E AMBASSADOR MATTHEW NEUHAUS

Mr President, honourable Ministers, colleagues.

First, let me warmly welcome the accession of Kiribati to the Rome Statute.

We are pleased to see another friend and neighbour from the Pacific join us in support of our common goal of ensuring accountability for the most serious crimes of concern to the international community as a whole.

As a strong supporter of accountability, and a longstanding supporter of the International Criminal Court, Australia remains firm in its conviction that accountability for atrocity crimes is critical to sustaining peace and supporting reconciliation in post-conflict situations.

The Court is a key element in the system of international criminal justice that helps deliver that accountability; designed to ensure that those responsible for the most serious crimes of concern to the international community face justice, where States that would otherwise have jurisdiction are unable or unwilling to exercise it.

Australia welcomes the important work undertaken this year – under your leadership Mr President - to strengthen the Court and Rome Statute system. We support a State-driven process to identify ways in which we can focus the Court on its core mandate. The Court must continue to find ways to deliver robustly, effectively and efficiently within the reality of finite resources. Prioritisation of cases and the expeditious resolution of situations under preliminary examination – where it is in the interests of justice and accountability – is key to achieving this objective.

An independent expert review that delivers concrete, achievable and actionable recommendations would be an important first step in this process.

But we cannot just leave it to others. We as States Parties must recommit ourselves to the responsibilities that fall to us. We should improve the ways in which we work – for example, streamlining the omnibus resolution and negotiations.

And, critically, it is our responsibility as States Parties to ensure that only the most qualified individuals are appointed to the leadership posts at the Court.

We must support the Court to consolidate around its core mandate. In light of the proposed amendment to Article 8 currently before us, we reiterate our concern at continued piecemeal amendments to the Statute. We urge the Assembly to refrain from pursuing any further amendments to the crimes within the jurisdiction of the Court for the time being.

Mr President.

The success of the International Criminal Court is inextricably linked to the expertise and consistency its Prosecutor and its Judges apply to the cases before them: whether at the preliminary examination, investigation, pre-trial, trial or appeal stage. For Australia, merit must be the only factor in the election, by the Assembly, of the Court's officials.

Australia strongly supports the transparent, impartial and de-politicised process, agreed by the Bureau, for the selection of the next Prosecutor, who we as States Parties will elect next December.

We thank the Committee on the Election of the Prosecutor and the experts for their work to date, and we look forward to States Parties receiving, next year, their shortlist of the most highly qualified candidates for consideration.

It is critical that we then work together to identify the most meritorious consensus candidate. We call on States to refrain – until we have identified a consensus candidate – from nominating candidates at any juncture in this process. Politicisation of this process must be avoided.

Next December this Assembly will elect six new judges. We remind ourselves of the requirements of Article 36(4) of the Rome Statute, that nominations of candidates may be made by any State Party and *shall* be made either by the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question, or to the International Court of Justice. We thank outgoing facilitator Costa Rica, and incoming facilitator New Zealand, for their leadership on this important topic.

Mr President.

The primary responsibility to investigate and, where appropriate, prosecute those responsible for serious international crimes rests with States. And properly so.

The ICC's role is as a critical court of *last resort* where States that would otherwise have jurisdiction are unable or unwilling to exercise it. To investigate and, where appropriate, to prosecute. This complementary nature of the ICC's jurisdiction is, of course, crucial to the Court's success.

As co-focal point with Romania on complementarity, Australia is pleased to facilitate dialogue on significant issues such as admissibility, States' obligations and the role of national jurisdictions. We encourage all States to participate in this dialogue.

Mr President.

While there are challenges, we should not lose sight of important achievements by the Court this year.

We reflect in particular on the conviction and sentencing of Bosco Ntaganda for 18 counts of crimes against humanity, including sexual slavery, and war crimes, including the use of child soldiers.

And the swift transfer into custody of the accused Yekatom and Ngaïssona, following the issuance of arrest warrants for alleged war crimes and crimes against humanity.

We must not neglect the critical role consistent, impartial justice plays in the international community's response to the destabilisation wrought by conflict. And in bringing justice to victims, including those who have experienced the scourge of sexual and gender-based violence. We underscore the importance of ensuring such crimes are called out - are prosecuted - for what they are.

History has demonstrated, time and again, that without accountability there can be no lasting and sustainable peace. Victims and affected communities are calling consistently for justice, as an essential component of viable political outcomes and reconciliation.

In the words of the Preamble of the Statute, "effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation". In a world where, tragically, grave crimes and atrocities still occur, much still remains to be done.

Thank you.

