



STATEMENT BY AUSTRALIA

TO THE 19TH 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 Kiribati on becoming a State Party to the Rome Statute in February this year. The Republic of Kiribati is the 16th Pacific Island state to become a State Party. We are pleased to see another member of our Pacific family 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. Accountability for these most serious international crimes is the core of the Court's mandate and must be the focus of its work.

That is why we joined over 60 other States on 23 June of this year in reaffirming our support for the ICC and our commitment to a broader rules-based order. We also endorsed a joint statement in support of the Court at the UNGA plenary debate on the ICC on 2 November.

Mr President.

The COVID-19 pandemic has presented us all with unique challenges. We pay tribute to the staff of the Court who have persevered under difficult conditions to fulfill the Court's mandate, adapting to ensure court proceedings continued and arrests and transfers were made to the Court.

Mr President.

The election of a new Prosecutor and six judges, in the resumed session in New York, will provide the Court with a new generation of leadership. By supporting the most highly-qualified and meritorious candidates, we can help to ensure that the Court is optimally positioned to deliver on its core mandate and necessary reforms in the coming years.

We thank the Committee on the Election of the Prosecutor for their report dated 30 June and the prompt release of the addendum regarding the additional candidates. It is now essential that we work together to identify the most meritorious consensus candidate. As we work to identify a consensus candidate, we continue to call on States to refrain from nominating national candidates. Politicisation must be avoided.

Next year's ASP will elect a new Deputy Prosecutor or Prosecutors.

In Australia's view it is essential that the Bureau take steps to support a merit-based selection process, including through public hearings for the nominated candidates.

We also strongly urge States Parties whose nationals are among those nominated by the Prosecutor to follow the precedent set in 2012 and refrain from campaigning.

Mr President.

Australia thanks the Group of Independent Experts for the timely completion of their final report, published on 30 September. The experts' report is comprehensive and thorough. It deserves deep consideration by the Court, States Parties, civil society and other stakeholders. We must maintain the momentum to reform the Court. We call on the Assembly to agree to an effective mechanism to take forward the reform agenda. We look forward to working constructively with other States Parties, the Court, and other stakeholders to this end.

Mr President.

Australia is a strong supporter of the Court and its contribution to the international rules-based order. Australia is of the view that the Court must focus on matters squarely within its core mandate at all stages of the investigatory process, including preliminary examinations.

Australia respects the independence of the Court. Where we do not agree with the Court's approach we will, as appropriate, make our views known.

Mr President.

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 the Court’s objectives.

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 on complementarity, Australia is pleased to have worked with Romania again this year to facilitate dialogue, particularly on the priority ICC review issue of “Complementarity, and the relationship between national jurisdictions and the Court”. We encourage all States and stakeholders to participate in this important dialogue on what is a foundational principle for the ICC and crucial for the effective fulfilment of its continuing mandate. Further work needs to be undertaken in a manner that is cognisant of and coordinates closely with the agreed mechanism to take forward the work of the Independent Expert Review report.

As we embark on a new year in the review process, it is worth citing some concluding remarks made by the independent experts in their Final Report. To quote from paragraph 994: “The deficiencies and shortcomings observed in the Court and the Rome Statute system do not in any way call into question the necessity and value of the Court.” Rather, they went on – and I quote from para 989: “Reinforcing the efficiency and effectiveness of the Court is necessary both to address current deficiencies, and – even more so – to enable it to be prepared for future challenges and thus stand the test of time.” Australia can only agree.

Thank you.