



安全理事会

Distr.: General
20 September 2022
Chinese
Original: English

2022 年 9 月 20 日爱尔兰常驻联合国代表给安全理事会主席的信

谨随函转递 2022 年 6 月 24 日举行的主题为“《罗马规约》生效二十周年：关于国际刑事法院与安全理事会之间关系的反思”的阿里亚模式会议的主席摘要(见附件一)。会议的概念说明已作为 [S/2022/494](#) 号文件的附件分发。

会议听取了几位通报人、安全理事会成员以及会员国和观察员国的发言。会上所有发言以及会后收到的书面发言的汇编载于附件二。*

请将本信及其附件作为安全理事会文件分发给为荷。

爱尔兰常驻联合国代表

费加尔·迈森(签名)

* 仅以来件所用语文分发。



2022 年 9 月 20 日爱尔兰常驻联合国代表给安全理事会主席的信的附件一

Chair's summary of the Arria-formula meeting of the Security Council on the 20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council

1. The Security Council held an Arria-formula meeting on 24 June 2022, on the subject of the 20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court (ICC) and the Security Council.

2. Organised by Ireland, the meeting was co-hosted by Albania, Ecuador, Gabon, Ghana, France, Japan, Malta, Mexico, Norway, Switzerland and the United Kingdom. The Prosecutor of the ICC, Mr. Karim Khan, the President and Chief Executive of the International Peace Institute, Dr. Zeid Ra'ad Al Hussein, and the Secretariat Director of the Coalition for the International Criminal Court, Ms. Liz Evenson, provided briefings. Representatives of the Council members and other Member and Observer States and Observer Intergovernmental Organisations present at the meeting also took the floor.

3. The Arria-formula meeting, chaired by the then Permanent Representative of Ireland to the United Nations, Ambassador Geraldine Byrne Nason, focused on ways to strengthen the current relationship between the Security Council and the ICC. The mandates of the ICC – in pursuing individual criminal accountability – and the Security Council – in maintaining international peace and security – are mutually reinforcing. However, while the Rome Statute endowed the Security Council with the ability to refer matters to the Court, the Council's referral power has never reached its full potential, primarily because the threat or use of the veto power by the permanent members has blocked such referrals, even in the face of atrocity crimes.

4. The 20th anniversary of the entry into force of the Rome Statute provided a timely opportunity to reflect on the evolving relationship between these two bodies. A summary of these reflections are set out below. The present document also provides a compilation of the practically oriented ideas raised at the Arria-formula meeting with regard to strengthening the relationship between the Council and the Court.

5. The inclusion of these reflections and ideas in the summary and compilation does not necessarily represent an endorsement of any views or proposal contained therein, although many of them merit careful consideration and follow-up in order to achieve more meaningful cooperation between the Security Council and the ICC, in the exercise of their respective but complementary mandates.

Summary of reflections on the relationship between the International Criminal Court and the Security Council

6. It was recognised that the ICC's work is a critical element of the United Nation's shared objective to maintain international peace and security. The ICC and Council share common objectives, as enshrined in the UN Charter and Rome Statute. Their roles are mutually reinforcing; as sustainable peace is closely interlinked with accountability for the most serious crimes of concern to the international community as a whole. This link between peace and justice is underlined by the referral and deferral powers of the Council as provided for in the Rome Statute. There was further acknowledgment of the Council's role in ensuring accountability for atrocity crimes through its referrals of the situations in Darfur and Libya to the ICC.

7. There was broad agreement that the relationship between the ICC and Council can be improved, with a suggestion that the relationship should be more interactive, rather than ceremonial. While the ICC must maintain its judicial independence from the Council, it must still work with the Council in order to effectively carry out its mandate. With respect to those situations that have been referred to the Court, the value of the Prosecutor's reports and briefings to the Council was recognised.

8. The Council was criticised by many States for remaining too detached from international criminal justice, given the clear link between justice and accountability for atrocity crimes and the maintenance of international peace and security. Strengthening the relationship between the ICC and Council is imperative in order to meet both the objectives of the Rome Statute and the Council's responsibility under the Charter for the maintenance of international peace and security.

9. Many States argued that the Council has the power to strengthen deterrence through making greater use of the ICC's accountability role. Accountability is a necessity, not a choice, to prevent future international crimes. The ICC also has a critical role in deterrence to prevent future threats to peace and security.

10. A central issue, repeatedly raised, was that the Council should recognise that the power of referral is another tool for accountability in situations where international crimes may be occurring or may have been committed. Several Member States welcomed the commitment of the ICC Prosecutor to prioritise referrals from the Council. Member States underscored the importance of the Council addressing instances of non-cooperation with the Court and recognised that there is clear merit in having a structured dialogue between the ICC and the Council on non-cooperation.

11. Multiple States asserted that the failure of the Council to refer situations to the ICC where international crimes have occurred undermines people's trust in the effectiveness of the Council. Further, the moral inconsistency of the Council in referring situations to the ICC was criticised, with this being attributed to political interests.

12. Many statements regretted that the Court does not enjoy universal jurisdiction, and that not all the Permanent Members of the Council are States Parties to the Rome Statute. Numerous statements also called for the universal ratification of the Rome Statute. In addition, the use and threat of the veto in the face of atrocity crimes was criticised by many speakers. There was broad support for both the Accountability, Coherence and Transparency (ACT) Group Code of Conduct and the French/Mexican '*Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocity*'. The new standing mandate contained in General Assembly resolution 76/262, whereby the General Assembly automatically holds a debate every time that a veto is cast in the Council, was also welcomed.

13. The making of joint statements by States Parties to the Rome Statute following ICC briefings to the Council was praised for sending a powerful message of solidarity for accountability.

Summary of suggested possible ways to strengthen cooperation between the Security Council and the International Criminal Court

The Security Council's referral power

14. The decision of the Council whether to refer a situation to the ICC should be guided by the principles and values of the UN Charter. The Council must act consistently, in accordance with its mandate, when considering referrals to the ICC. Council Members must not let their own political interests guide their decisions on referrals.

15. The Council should refer situations to the Court under Chapter VII of the Charter if the situation amounts to a threat to international peace and security. The Council should consider referring to the ICC situations where the crime of aggression may have been committed.

16. The Council could consider adopting a practice of automatically considering the referral of each conflict before it to the ICC, thereby encouraging a consistent response to all serious crimes and helping to depoliticize accountability.

17. When referring a situation to the Court, the Council should not exclude persons that the Court would otherwise have jurisdiction over, including nationals of non-States Parties to the Rome Statute.

18. When drafting resolutions referring a situation to the ICC, the Council should consider using explicit language to ensure that any personal or functional immunities that may normally arise under international law will not hinder the arrest and surrender to the ICC of individuals' subject to an ICC arrest warrant.

The use of the veto power by Permanent Members of the Security Council

19. The Council's Permanent Members should refrain from exercising their veto to prevent referrals to the Court in situations where one or more Rome Statute crimes appears to have been committed. A proposal was suggested, which would seek to exclude the use of the veto in respect of any resolution that considers any such situation.

20. All Member States, including Council Members, should support the Accountability, Coherence and Transparency (ACT) Group Code of Conduct, which calls upon all members of the Council – both elected and permanent – to not vote against any credible draft resolution intended to prevent or halt mass atrocities.

21. All Member States, including Council Members, should support the French/Mexican '*Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocity*'.

22. In cases where the Council fails to act on a referral proposal due to a veto, the General Assembly, in line with its responsibilities to maintain international peace and security, could have a more prominent role, including the possibility of amending the Rome Statute to allow it to refer the situation to the Office of the Prosecutor.

Action by the Security Council following referrals

23. Following a referral to the ICC, the Council must engage in systematic follow-up. It must also support and continually monitor referrals in a meaningful way.

24. The Council should facilitate funding in relation to the two existing referrals and any future referrals, as envisaged under article 115(b) of the Rome Statute, subject to the approval of the General Assembly. The expenses borne by the ICC following Council referrals should not be borne exclusively by the States Parties to the Rome Statute.

25. The Council should remind Member States who have an obligation to cooperate with the Court in relation to Council referrals of their obligation to arrest and surrender individuals subject to arrest warrants issued by the Court. The ICC needs the Council's enforcement power when States refuse to comply with its decisions.

The options for the Security Council to address non-cooperation

26. The Council must be willing to take the necessary measures to induce cooperation with the ICC when the Council refers situations to it. The Council cannot remain indifferent to non-cooperation by States who have an obligation to cooperate with the Court on existing referred situations.

27. The Council should also consider enhancing the effectiveness of referrals by imposing obligations to cooperate with the ICC on all Member States, not just States Parties to the Rome Statute or those States most directly concerned with the relevant situation.

28. The Council must meaningfully follow-up on instances of non-cooperation with the Court by Member States in relation to Council referrals, including any failure to execute arrest warrants. In this regard, the ICC must also alert the Council to non-cooperation by Member States. The Council must particularly ensure that national authorities cooperate with all ICC referrals.

29. The Council should establish a monitoring procedure when a case is referred by it to the ICC. Such a mechanism should be activated when the ICC issues a notification of non-cooperation to the Council.

30. The Council should formally respond to any notifications it receives from the Court on non-cooperation.

Inclusion of the International Criminal Court in Security Council mandates and sanctions designations

31. The Council should include language within UN peacekeeping or peacebuilding mandates enabling them to cooperate and interface with the ICC, when they are operating in situations that are under investigation by the ICC. UN peacekeeping missions, where appropriate, should be mandated to enforce arrest warrants issued by the Court when domestic authorities are unwilling or unable to comply. Such missions should also protect witnesses and vulnerable categories in the course of investigations and trials.

32. The Council's mandates should also provide for the signing of specific memorandums of understanding with field missions or peacekeeping operations for the purposes of, *inter alia*, exchanging information of a contextual or crime-related nature and logistical assistance.

33. The Council should also include and enhance capacity building and technical assistance measures in its mandates, such as measures enabling the situation country to genuinely investigate and prosecute Rome Statute crimes.

34. The Council should consider the greater use of accountability measures in sanctions designation criteria. The Council could impose targeted sanctions on individuals who are subject to an arrest warrant or a summons issued by the Court.

35. The relevant UN sanctions committees and the Court could also directly engage with each other on areas of mutual concern.

The Rome Statute and complementarity

36. All Member States, including Council Members, should sign and ratify the Rome Statute.

37. The Council should afford greater focus to the principle of complementarity by supporting national courts in the fight against impunity and by supporting the provision of capacity building assistance.

Other suggestions

38. The Council should include civil society, as well as victims and survivors directly in its initiatives concerning accountability, including ICC referrals.

39. The mandate of the Council's Informal Working Group on International Tribunals should be extended to consider matters relating to the relationship between the Council and the ICC. It could also be tasked to deal with issues pertaining to ICC referrals.

40. The Council should invite Court representatives to participate in Council meetings discussing relevant country-specific or thematic issues.

41. The Council could undertake a working visit to the headquarters of the ICC in The Hague, in order to help to strengthen the evolving relationship between the two bodies.

2022年9月20日爱尔兰常驻联合国代表给安全理事会主席的信的附件二

[原文：中文/英文/法文/俄文/西班牙文]

Compilation of statements**Briefers:**

1. Karim Khan, ICC Prosecutor
2. Dr. Zeid Ra'ad Al Hussein, President and Chief Executive of the International Peace Institute
3. Liz Evenson, Director of the CICC Secretariat

Statements by Members of the United Nations Security Council:

4. Ireland
5. Mexico (joint statement as ICC Focal Point)
6. Norway
7. Ghana
8. United Kingdom
9. Albania
10. France
11. Gabon
12. United States
13. Kenya
14. China
15. Brazil
16. Russian Federation
17. India
18. United Arab Emirates

Additional statements:

19. Japan
20. Malta
21. Ecuador
22. Switzerland
23. Canada
24. Côte d'Ivoire (*on behalf of the African States Parties to the Rome Statute*)
25. Liechtenstein
26. European Union
27. Iceland (*on behalf of the Nordic countries*)
28. Argentina
29. Latvia
30. Bangladesh

31. Romania
32. State of Palestine
33. Ukraine
34. Belgium
35. Lithuania
36. Croatia
37. Luxembourg
38. Chile
39. Czech Republic
40. Poland
41. Germany
42. Australia
43. Guatemala
44. Italy
45. Portugal
46. Cyprus
47. Slovakia
48. Estonia
49. Spain
50. Slovenia
51. The Netherlands
52. Colombia
53. Austria



Le Bureau du Procureur
The Office of the Prosecutor

UN Security Council Arrria Formula Meeting: “20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council.”

Talking points ICC Prosecutor Karim A.A. Khan QC

Remote participation, 24 June 2022

I. Introduction

- I would like to begin with an expression of gratitude to Ambassador Geraldine Byrne Nason and her staff at the Permanent Mission of Ireland, for the support to my Office, and for the leadership in organising this timely gathering, together with the co-sponsoring States of Albania, Ecuador, Gabon, Ghana, France, Japan, Malta, Mexico, Norway, Switzerland, and the United Kingdom.
- Allow me to seize this occasion also to congratulate those States that were recently elected to serve on the Council for the 2023-2024 term.¹
- I would also wish to recognize and welcome my fellow-briefers, Prince Zeid Ra’ad Al Hussein, President of the International Peace Institute, and Elizabeth Evenson, Secretariat Director at the Coalition for the ICC, who are both intimately familiar with the work of the Court and its relations with other actors.

¹ Namely, Ecuador, Japan, Malta, Mozambique and Switzerland.

- I am delighted to virtually join this meeting, on the eve of the 20th anniversary of the entry into force of the Rome Statute.
- As I have also just completed the first year of my tenure as ICC Prosecutor this is opportune moment to reflect on the relations between the ICC and the Security Council and to consider how we can renew our collective commitment to erasing impunity for atrocity crimes.

II. Prosecutor's vision: The mutually reinforcing mandates of the Council and the Court

- In my first address to the Council as Prosecutor, in November last year, I spoke about my vision for our work together. I underlined my commitment to renew and reinvigorate the relationship between the Council and my Office.
- The principles of the Rome Statute echo the principles of the Charter of the United Nations and the principles of humanity. These are principles that reflect the heritage of all parts of the world, they reflect the inherent rights of every single person.
- The ICC and the Council can play a mutually reinforcing role and we should seek to deepen the collective impact of our work together:
 - the Council in the pursuit of international peace and security;
 - the ICC by ensuring perpetrators of atrocity crimes are held accountable, with a view to protecting future generations and removing a the danger of impunity.

- Those who commit atrocity crimes do not only impact the communities they target, though they are of course most deeply affected.
- Perpetrators of genocide, crimes against humanity and war crimes also strike at the heart of the rule of law, they are stating to the world that the rules do not apply to them. Perceived impunity for these acts is an encouragement to other actors that they can also act without consequences for their actions.
- As reflected in the preamble to the Rome Statute, and as the Council has recognised repeatedly across situations, international crimes are a threat to international peace and security.
- Across the world at present we see the crucial need for the law to be harnessed as a meaningful tool in reinforcing the rules-based system. As I have stated repeatedly, we must respond by putting the law into action and demonstrating its relevance to people's lives.
- Indeed, we have seen in recent months perhaps an even deeper appreciation of the critical role of accountability in addressing crises, and its potential to have an impact in real-time.
- The new partnerships that have emerged, the groundswell of support for coordinated action, is something that we must harness to advance justice in relation to all situations globally where international crimes may have been committed.
- It is essential that we demonstrate the international community is willing and ready to act in all situations where atrocities are committed.

- I believe that we can do this most effectively together, reinvigorating our relationship so as to reinforce the rule of law at the national and international level.

III. Delivering on our respective roles: accelerating action and increasing support

(i) *Demonstrating effective action in relation to situations referred to the Court*

- In the situations in Libya and Darfur, you, the Council, have already acted pursuant to our common goals of preventing impunity. In doing so you reinforced our collective conviction that every human life has value.
- In recent months we have seen concrete examples of what this action by the Council can lead to, with the first trial of an individual based on a referral by the Council commencing in April this year.
- This was a landmark moment and one that we should recognise as an example of what can be achieved when we act together.
- However, allow me to be clear, and perhaps somewhat direct here, as I believe it is important as a basis for reinvigorating our work.
- While progress has been made, and indeed landmark moments reached, my Office can and will do more to deliver on the requests for action made by this Council and, most importantly, vindicate the legitimate demands of survivors for justice.

- As I have confirmed previously, I am prioritizing the two situations referred to my Office by the Council and I would prioritize any future referrals the Council would wish to make.
- I am clear that the best way we can build deeper cooperation between us is to first show that the action you have already taken leads to results.
- During my first year in Office, I have sought to match these words with actions.
- As you are aware I have visited Khartoum and sought to establish stronger frameworks for action, in cooperation with all relevant actors. The opening of the first proceedings in relation to this case in April this year, as I have mentioned, have demonstrated the tangible results we can achieve.
- In my last report to the Council on Libya I outlined a renewed strategic vision for action in relation to the situation, including, for the first time, specific benchmarks by which our work can be assessed.
- In that regard, I am pleased to confirm that just yesterday, Deputy Prosecutor Nazhat Shameen Khan returned from a mission to Libya, meeting with national authorities, civil society groups and survivors to identify how our collective work can be accelerated. This visit lays the groundwork for my own trip to Libya which will take place before my next briefing to the Council on this situation.
- I commit to the Council to use my very best endeavours to continue to accelerate our work and to demonstrate that referrals to my Office lead to tangible results on the ground.

- By doing that, and by showing that situations referred to my Office do not become never-ending stories, I believe we can begin to open a more constructive dialogue for future common action together.

(ii) Providing the necessary support to the Court

- Of course there are also steps that can be taken by the Council to increase the effectiveness of action we are taking together.
- These should in my view include requesting the UN to fund the Court and my Office, at least in relation to the two situations that you have referred to the Court. I made this point plainly during my address to the Council in November 2021, and frankly I believe it would be money well spent.
- In the same category of tangible support, I recall the need for the Council to look at more imaginative ways to prevent further non-compliance in the critical matter of the obligation to arrest persons subject to warrants issued by the Court.
- We should avoid situations whereby fugitives remain at large for many years, sometimes even hiding in plain sight.
- We must together enhance the effectiveness and agility of the law, not only for the image and credibility of both our institutions, but more importantly for the victims and survivors in Libya, in Darfur, and around the globe.

IV. A broader agenda for reinvigorating action towards accountability globally: Partnership and Innovation

Innovation and technology: Making the Office a valuable operational partner

- I believe the steps we are taking to accelerate our work in relation to situations addressed by my Office reflect a broader need to demonstrate that international criminal law, that the process of international justice, is not just a process of retroactive recording and archiving.
- Our primary role should not only be to set the historical record but to have an impact in the immediate term.
- Given the urgent political imperatives driving the work of the Council, the Court can be the most effective partner when it is able to respond with that same urgency.
- I have sought to introduce enhancements to our work so that we will be able to meet this challenge, to make my Office a valuable operational partner in promoting peace and security. This includes:
 - (i) Bringing our work closer to communities through the establishment of field offices and the movement of staff from HQ to the countries in which witnesses and survivors are located.

I would wish to extend my thanks to the Registrar and the President for their strong support in this regard. This demonstrates the way we can move with speed and focus, working together as one Court;

- (ii) Revitalising our technological framework, introducing tools including artificial intelligence and machine-learning to assist our evidence collection, analysis, and processing. The massive data sets that are the hallmark of the kind of crimes that are within the Court's jurisdiction, those that impact the peace and security of nations, require us to harness the most advanced technology to get to the truth.
 - (iii) Giving renewed purpose to the principle of complementarity by providing direct support to national proceedings galvanizing global and regional partnerships to create more effectively functioning legal safety nets against atrocity crimes;
- As a result of these changes, in the event the Council were to decide a new case to my Office I believe we stand ready to act with the agility and effectiveness needed to deliver meaningfully in the immediate term.

Partnerships

- Allied with this focus on delivering with speed based on an innovative approach, I believe we must do more, collectively, to build our partnerships at the international and regional level
- In the last months we have seen what is possible when the political will is there to address atrocities. I have been heartened by the sense of collective spirit and the ability to find new solutions to strengthen cooperation across all actors towards accountability.

- This has included:
 - (i) my Office for the first time joining a Joint Investigative Team with States under the auspices of Eurojust;
 - (ii) the unprecedented referral of a situation to my Office by 43 States;
 - (iii) the excellent response by States Parties to my request for assistance in our work which to date has led to the nomination of over 70 national experts for secondment to my Office to accelerate our work;
 - (iv) significant enhancements in our cooperation frameworks with regional organisations such as Europol.
- Our challenge is I believe to now take this moment and use it as a basis for a sustained and profound change in the way we work together. I believe the Council can have a role to play in consolidating and building on this progress.
- The partnerships we are building now, the new ways we are finding to deliver our work, need to be harnessed to render our work more effective in relation to all places where atrocity crimes are committed.
- We have shown what is possible when we come together, and we must now sustain and accelerate this effort, including by finding new ways to render cooperation between the Council and the International Criminal Court more effective.
- Reflecting this, at a high-level Conference in the Netherlands on 14 July, co-hosted by the Netherlands, my Office and the European Commission, we will consider how we can ensure this moment has a lasting impact on our collective work towards accountability for international crimes.

V. *Building the common ground*

- I would wish to conclude by perhaps taking us back to the beginning of our relationship.
- We should recall why that bond between the Court and the Council, between peace and accountability was viewed as so important at the time of the founding of the Court.
- It is because they are intrinsically linked. It is because if we work together we can achieve more. It is because the principles underlying our mandates are common and complementary.
- Perhaps we have somewhat forgotten this along the way.
- Let us commit here today to changing the dynamic. I will do my part by ensuring we are ready to act as an effective operational partner, ready to deliver when called on by this body.
- Today's discussion will allow us to explore how the Council can also take steps towards renewing our relationship and delivering on what survivors globally expect us to do: act with urgency and provide the protection they need.

Briefing to the UN Security Council Arria Formula meeting
on the 20th anniversary of the entry into force of
the Rome Statute.

By

Zeid Ra'ad Al Hussein
President, International Peace Institute

24 June 2022

Thank you Madame Chair,

In his closing statement before the International Military Tribunal at Nuremberg, Sir Hartley Shawcross, speaking for the United Kingdom on 27 July 1946, ended his summing up by squeezing into one paragraph what the Nuremberg trial was about. It was an eyewitness description:

“Without screaming, or weeping these people undressed, stood around in family groups, kissed each other, said farewells, and waited for a sign from another SS man, who stood near the pit, also with a whip in his hand. During the 15 minutes that I stood near, I heard no complaint or plea of mercy. I watched a family of about 8 persons, a man and a woman both about 50 with their children of about 1, 8, 10 and 2 grown-up daughters of about 20-24. An old woman with snow-white hair was holding the 1 year old child in her arms and singing to it and tickling it ...The father was holding the hand of a boy about 10 years old and speaking to him softly; the boy was fighting his tears. The father pointed to the sky, stroked his head and seemed to explain something to him. At that moment the SS man at the pit shouted

something to his comrade. The latter counted off about 20 persons ... among them is the family I have mentioned.”¹

Shawcross then described in the most graphic detail how this family was murdered. When he concluded, the courtroom was stone silent.

A father talking tenderly to his 10 year old son, trying to numb the horror awaiting the little boy, pointing to the sky. Other than silence -- like that now, what else could possibly accompany such an image?

Three days earlier, on 24 July 1946, the UN Security Council had convened to consider the credentials of the representatives of Mexico, China and Brazil. Focusing on UN membership was a necessary undertaking perhaps, but it seemed so detached, too detached, from the events at Nuremberg. Little did its distinguished members know then, but this would be an estrangement with international criminal justice that would last for another 47 years. Only with the creation of the Ad Hoc Tribunals in 1993 and 1994 did the Council become intimately involved with the pursuit of justice, though under very specific

¹ Gilbert, Gustav Nuremberg Diary, (London 1948) p.265

conditions. Any hope for its universal application, was made brutally clear to us – not in Rome in 1998, but in the Security Council on 10 July 2002 – 56 years after Nuremberg.

In the open chamber that day, we debated the entry into force of the Rome Statute, and two days later the Council welcomed it, not with a cheer mind you, but with a resounding slap in the face. Resolution 1422 (2002) adopted by 15 votes in favour, and none against, was a disgrace. Because it was adopted under Chapter VII, many of us who spoke on the 10th, said we believed it to be *ultra vires*, because in what universe of logical, could a court of last resort with jurisdiction over the worst crimes imaginable to us, be considered a threat to International Peace and Security? And it was not Russia and China sponsoring the resolution, but the US. The Russian representative said the Rome Statute “was one of the most authoritative international treaties of our time” and his Chinese counterpart said it “is the hope of the world’s peoples that this institution [the Court] will ensure the perpetrators of the serious international crimes are brought to justice and will deter future crimes.”²

² S/PV.4568

Two years later -- in a dramatic confrontation which would be almost unimaginable today, Kofi Annan stepped in, and spoke forcefully against the resolution's second renewal; the result was the sponsor could not muster the nine votes needed, and the American effort collapsed.

We knew -- I think as far back as Rome, the development of the Court and its relationship with the Council would be matter of fits and starts. Indeed, the Bush Administration in its second term did a partial U-turn and dropped its brazen hostility toward the ICC, and the first of the two referrals to the Court took place. Yet over time the uneasiness on the part of Russia and China only grew and soon it was abundantly clear to all of us, especially those of us who have served in the Council, the relationship would quickly resemble the ceremonial only.

Twenty years after the entry into force of the Rome Statute, the Council is now 76 years old and the Court (having been inaugurated in 2003) is 19, and both are limping; neither is operating the way we -- and I would venture to add, millions of people around the world -- would have hoped they would.

So what needs to be done? -- when it comes to cooperation and support required from the Security Council. We are fortunate to have Karim Khan with us today [and he's addressed the point eloquently] [and I will leave it to him look ahead, and speak of what's needed in the future.]

For my part, I will restrict myself – after many years spent with both the ICC and the UN, to one last observation: to have any credibility with the millions of people out there, people who need desperately both of these institutions to function, and function properly, the Council and the Court must demonstrate – to the maximum extent possible, consistency. Moral consistency. If the Council saw fit to refer the situations of Darfur and Libya to the ICC, then it must do so with respect to Ukraine and the crime of aggression. It must keep trying. This most terrible and dirty war of aggression perpetrated by Russia against Ukraine, also targets the UN squarely, and what the UN is meant to represent.

Similarly, if the ICC prioritizes the crimes of the Taliban, it must do so without downgrading its attention to alleged wrongdoing by the coalition forces in Afghanistan.

The late Canadian singer and song-writer Leonard Cohen used to sing a song called "Everybody knows". Everyone knows the deal is rotten, went the lyrics. And the deal is rotten when attention is selective, made -- it is widely perceived, on the basis of political considerations; when justice is seen as having become a stick, and no longer thought of as a scale.

Without consistency, what long-term hope is there for us? This message is as valid today as it was on 10 July 2002, and on 27 July 1946. Without consistency, too many parents of frightened children, seconds away from being murdered in cold blood, will still have only the sky to point at – for there is absolutely nothing left for them here on Earth.

Check against delivery

Liz Evenson

Remarks of the Coalition for the International Criminal Court

Arria-Formula

24 June 2022

Thank you.

I am honored to be here today on behalf of the Coalition for the International Criminal Court.

We are a worldwide NGO partnership, from the grassroots to the global level. We are joined in a commitment to champion justice through the ICC and the broader Rome Statute system.

The achievements in Rome and the treaty's entry into force four years later need to be matched, if not exceeded, by the political commitment of the international community to ensure the Rome Statute system delivers justice.

Then and now, this system, while anchored in law, depends on principled diplomacy.

The Security Council has multiple formal roles including referrals and securing cooperation.

Regrettably, the Council has been unwilling to take the measures needed to induce cooperation in situations it refers to the Court. Going forward, the Council should ensure that existing and future referrals are accompanied by meaningful follow up action in the face of non-cooperation and end attempts to exclude of nationals of non-ICC states parties from the Court's jurisdiction in referrals. The Coalition also calls for support to state-led initiatives to restrain the use of the veto by the permanent members of the Council when Rome Statute crimes are happening.

This meeting testifies, however, to the creative, more flexible efforts also needed.

In the face of threats by the US government, joint statements by ICC state party members of the Council during stakeouts following the prosecutors' briefings to the Council sent a

powerful signal. Such efforts will, unfortunately, likely remain relevant in the future as supporters of justice confront its opponents.

The Arria-formula provides a unique opportunity to hear from civil society.

The Coalition's membership is diverse. It play any number of roles in the international justice movement, from reporting on human rights violations, to supporting victims to access justice, to monitoring fair trial rights, to persistent advocacy to see justice done.

Our strength as a Coalition comes from joining together where we have common aims. Chief among these is the delivery of impartial justice and ensuring equality before the law through the Rome Statute system.

As we approach this anniversary, how can we come closer to this goal?

First, we need to continue to work together towards a universal court. The treaty's entry into force came about far more quickly than envisioned. Our colleagues in many countries continue these efforts to this day—for accession to the treaty and its implementation into national law. We ask you to make this a priority in your bilateral and multilateral dialogues. We ask countries with influence to be clear that they will not stand in the way of the sovereign choice of those which do join.

Second, we need to create the conditions that will allow the court to exercise its jurisdiction where it does exist. In addition to cooperation, this requires resources. The ICC does not have the funding needed to match the legitimate expectations of justice placed upon it. The Coalition calls on the court's states parties to ensure the sustainable funding needed across the Court's work—from outreach to fair trial—and exploration of financial support from the UN as provided in the Rome Statute.

Third, we ask you to include civil society and victims and survivor communities directly in initiatives on accountability. Victims and survivors are the central rightsholders of the Rome Statute system. More broadly, in the face of shifting national and international political priorities, civil society determination provides the staying power necessary to realize credible,

impartial justice. To play that role, we need you to guard civic space and to protect human rights defenders at risk.

The Security Council is the mainstay of international peace and security; the International Criminal Court is the mainstay of international justice. Together, they are two of the pillars supporting our common vision for a more just, more secure and more peaceful world.

Whatever the challenges, there must be no effort spared to ensure these two pillars are in harmony to meet their common goals.

ENDS



**Arria formula meeting on the relationship between the UN Security
Council and the International Criminal Court**

Statement by Ambassador Byrne Nason

24 June 2022

1. Colleagues, ensuring accountability runs as a golden thread through Ireland's work on the Security Council, together with conflict prevention and building peace – and none of these are possible without accountability for atrocity crimes.
2. As the only permanent international court with jurisdiction to prosecute individuals for atrocity crimes, an effective relationship between the ICC and the Security Council is essential to the maintenance of international peace and security.
3. We have seen glimpses of the possibilities of such cooperation, including through the Council's referrals of the situations in Darfur and Libya to the ICC.

4. And there are also examples of successful cooperation between UN peacekeeping forces and the ICC, some of which have led to the arrest of individuals sought by the Court.
5. But I want to be frank.
6. Examples of effective cooperation between the Court and the Council have been all too rare.
7. Notable situations including Syria, Myanmar and now, with respect to the crime of aggression, Ukraine have not been referred to the Court.
8. In Ireland's view, the use or threat of the veto power by the permanent members is the primary barrier to realising the potential of the Rome Statute.
9. We have seen the veto exercised, or its use threatened, to block or prevent the Council from referring situations to the Court, even in the face of atrocity crimes.
10. The use of the veto to prevent Council action is always unacceptable in our view.

11. But the use of the veto in this manner, preventing the Council responding to atrocity crimes, is completely unjustifiable.
12. Put simply, the Council must genuinely consider referring situations to the Court where it appears such crimes have been committed.
13. Building on the joint statement, which will follow next, on behalf of the caucus of the ICC States Parties, I want to offer a number of other practical suggestions about how the Council can strengthen its relationship with the Court.
14. First, the Council could enhance the effectiveness of ICC referrals by imposing obligations to cooperate on all Member States, not just states most directly concerned.
15. In addition, the Council should not exclude the nationals of non-States Parties, or any other persons, from the jurisdiction of the Court when referring situations to the ICC.
16. The Council should also include within the mandate of UN peacekeeping or peacebuilding missions operating in ICC situations an obligation to cooperate directly with the Court.

17. It should consider imposing targeted sanctions on individuals who are subject to ICC arrest warrants.
18. Furthermore, non-cooperation with the Court by Member States in relation to Council referrals, including any failure to execute arrest warrants, needs to be addressed.
19. Finally, the Council could invite Court representatives to participate in meetings discussing relevant country-specific or thematic issues, and extend the mandate of the Informal Working Group on International Tribunals to consider matters relating to the relationship between the Council and the ICC.
20. To conclude, in its short lifetime, the ICC has offered the hope that accountability can prevail over power, that we can end impunity for the most appalling crimes.
21. The ability of the Court to conduct timely, independent and impartial investigations in situations where it has jurisdiction, whether it be in Palestine, Ukraine or Mali, is essential in fulfilling this aspiration.

22. Our hope is that over the next twenty years, the Council can forge a more effective relationship with the Court and turn that hope into a reality.

23. Surely, the survivors of atrocity crimes deserve no less.

ENDS



Misión Permanente de México
ante las Naciones Unidas

**Joint Statement delivered by Mexico as ICC Focal point in the UNSC
Arria-formula meeting on the 20th anniversary of the entry into force of the Rome Statute:
reflections on the relationship between the International Criminal Court and the Security
Council
New York, 24 June 2022**

I would like to make the following statement today on behalf of the following Members of the Security Council, as well as incoming Members, that are States Parties to the Rome Statute of the International Criminal Court (ICC): Albania, Brazil, Gabon, Ghana, France, Ireland, Norway, the United Kingdom, Ecuador, Japan, Malta, Switzerland, and my own country, Mexico.

The entry into force of the Rome Statute 20 years ago is a cornerstone in the fight against impunity by the international community regarding genocide, war crimes, crimes against humanity and aggression. The work of the International Criminal Court continues to be as relevant and necessary as ever given that, despite our collective efforts, these crimes continue to be committed.

In its relatively short lifespan, the ICC has been joined by 123 States Parties from all regions of the world, which represents a large majority of the international community. This reinforces its aspiration to universality and we take this opportunity to invite all of those States who have not yet done so to become parties to the Rome Statute of the ICC.

We also reaffirm our unwavering support for the Court as an independent, impartial, and judicial institution of last resort which complements national courts, which have the primary competence to investigate and prosecute Rome Statute crimes in line with the principle of complementarity, without replacing them.

We are convinced that the ICC is an essential means of promoting respect for international humanitarian law and international human rights law, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace, the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations.

In this sense, the relationship between the ICC and the Security Council, in the terms referred to in the Rome Statute, is essential. We wish to recall that Security Council PRST/2013/2 noted that the fight against impunity and accountability for the most serious crimes of international concern has been strengthened through the work on and prosecution of these crimes in the International Criminal Court, in accordance with the Rome Statute.

We also recall the capacity of the Council to refer situations to the ICC, which has been used twice, with respect to the Darfur situation in 2005 and Libya in 2011. As the organ charged with primary responsibility for maintaining international peace and security, the Council should consider this power

of referral as another tool for accountability in situations where international crimes are being or have been committed. It is therefore of the utmost importance for the Security Council to effectively follow-up on such referrals.

The Council can also play a key role in cases of non-cooperation by States with the Court. We therefore call for the strengthening of the mutual engagement between States Parties and the Council on this matter.

We also encourage the Court to further engage with the relevant Sanctions Committees with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern. We also welcome a number of examples of successful cooperation between UN peacekeeping operations and the ICC, some of which have led to the arrest of individuals sought by the Court, and encourage enhanced cooperation in this regard.

In conclusion, national reconciliation and reconstruction of the social fabric goes hand in hand with the right to truth and justice: justice and peace are complementary and mutually reinforce each other. We therefore welcome the efforts and achievements of the Court in these 20 years in bringing those most responsible for the crimes under the Rome Statute to justice and thus to contribute to the prevention of such crimes.

By giving our full support to the Court and promoting the universality of the Rome Statute, we defend the progress we have made together towards a rules-based international order, of which international justice is an indispensable pillar.

Thank you.

Norway in the UN
Permanent Mission to the United Nations in New York

Statement by Deputy Permanent Representative Trine Heimerback in the Security Council "Arria" meeting on the 20th anniversary of the entry into force of the Rome Statute on the International Criminal Court, 24 June 2022.

Norway is fully behind the joint statement by current and incoming Council members, presented by Mexico, and the Nordic statement to be presented by Iceland.

The establishment of the ICC was a huge achievement. And the Court has delivered great work addressing the most serious crimes under international law.

It is the most important institution when it comes to ensuring individual criminal accountability for atrocity crimes, as a complement to national criminal justice systems. We especially commend the ICC for the steps taken to ensure better accountability for crimes against, and affecting, children in armed conflict.

But, we can do more. We must step up our cooperation and support to the Court. In situations where accountability is needed, and the ICC does not have jurisdiction, the Security Council should fill this gap by referring more situations. And the veto should not be used in such instances. Referrals must be accompanied by appropriate funds and support from the Council.

The Council must systematically follow up on country situations it refers, and in cases of States' non-cooperation with the ICC. We must do everything we can to end impunity for perpetrators, and ensure justice for victims and survivors. Accountability is crucial for achieving sustainable peace, stability, and reconciliation. We must also do more to achieve universality.

Norway continues to encourage all States to ratify the Rome Statute. And I reiterate Norway's full support for the ICC and its important work.

I thank you.

Statement of Ghana

United Nations Security Council Arria-formula Meeting

“20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council”

Friday, 24th June, 2022, ECOSOC Chamber, UNHQ

Madam Chair,

1. Given that atrocity crimes and impunity are on the ascendency, it is most appropriate to deepen our dialogue on the relationship between the International Criminal Court and the Security Council. We, therefore, thank Ireland for giving priority to this subject and for convening today’s Arria-formula meeting.
2. We also thank the distinguished briefers for their valuable contributions and their diverse efforts in support of the work of the International Criminal Court.
3. The International Criminal Court, for the past two decades, has served as a critical enforcement pillar of the international legal system. We note, however, that it is still a long way from fully realizing its fundamental objectives of ensuring accountability and justice for the crime of genocide, war crimes, ethnic cleansing and crimes against humanity covered by the Rome Statute.

4. Peace is endangered by the absence of justice and accountability. We are, therefore, of the view that, strengthening the relationship between the International Criminal Court and the Security Council is, imperative to realizing the objectives of the Rome Statute and the collective responsibility of the Council for the maintenance and promotion of international peace and Security.
5. To that end, barriers to the optimization of cooperation between the Court and the Council must be addressed through dialogue and a critical assessment of the mechanisms for cooperation.
6. Against this background and in taking note of the useful interventions that have already been made in this meeting, Ghana wishes to make the following three (3) points:
 - i. First, while the referral mandate of the Council is an important mechanism for triggering the investigative and prosecutorial mandates of the Court, the Council's own practice of referrals has not always reflected a common and consistent approach to individual criminal accountability and justice at the international level, thereby, resulting only, in two referrals since the establishment of the Court. To ensure a consistent standard of application of referrals, the members of the Council must be driven, in their efforts, by the principles

and values of the Charter than by parochial nationalist interests and the undue politicization of issues.

- ii. Second, we support the growing calls for a fairer and more responsible use of the power of the veto. The use of the veto, especially, against referrals of atrocity crimes is antithesis to avoiding impunity and the responsibility to prevent and protect populations from atrocity crimes.
 - a. We re-iterate, in this context, proposals for abolishing the veto altogether, or in this case, to exclude its application in the referral of crimes covered by the Rome Statute and by that means, to uphold the rule of law at the international arena.
 - b. By its very design, the Council has sometimes stood in its own way and has been handicapped when most needed to take action to safeguard international peace and security. We, therefore, welcome as an important step, the General Assembly's recent adoption of a *standing mandate for a General Assembly debate when a veto is cast in the Security Council*. The resolution [76/262] reflects an innovative response to the increasingly stifling use of the veto in the Council and is complementary to the General Assembly's Uniting for Peace resolution.

iii. Finally, we note that the question of funding is also a bar to the referral of cases by the Council. Bearing in mind the current budgetary constraints of international organizations, including the United Nations, we encourage wider discussions with the General Assembly on the options for reaching supplementary arrangements for the payment of expenses incurred on the prosecution of cases referred by the Council in line with Relationship Agreement between the United Nations and the Court.

7. In concluding, we emphasize the importance of constructive and sustained engagements between the International Criminal Court and the Security Council. Periodic briefings by the Court on the status and conduct of referred cases and *in-situ* visits of the Council to the Court in the Hague, for example, would help to strengthen the evolving relationship between the two bodies in the pursuit of their mutually reinforcing objectives.

I Thank you.

UK Mission to the United Nations (New York)

Reflecting on our relationship with the International Criminal Court after 20 years of the Rome Statute

UK National Statement delivered by Ambassador James Kariuki at the UN Security Council Arrria meeting on the Rome Statute

Thank you, Madam Chair, and many thanks to Ireland for convening this important meeting. I'm also grateful to the Prosecutor and to our distinguished briefers for their powerful remarks — and the UK does, of course, align itself with the statement read out by Mexico on our behalf.

International criminal justice and accountability is a fundamental element of the United Kingdom's foreign policy, and as the first and only permanent Court of its kind, the ICC marks a significant step in global efforts to end impunity for the most serious crimes of international concern. As we celebrate the 20th anniversary of the entry into force of the Rome Statute, the UK remains a strong supporter of the Court's work. In this spirit, we note the obligation of States Parties to cooperate with the Court under the Rome Statute, and we also call on all States to cooperate with the Court where there are UN Security Council Resolutions which require this. At the same time, we continue to urge the Council to consider steps to address non-compliance issues when they occur.

The Security Council is charged with ensuring international peace and security, but too often it has failed to protect civilians from mass atrocity crimes — genocide, war crimes, and crimes against humanity. This risks impairing its credibility in the eyes of the wider UN membership, and of the public. This is why the United Kingdom, alongside 122 other Member States, is proud to have joined the Code of Conduct regarding Security Council action against genocide, crimes against humanity and war crimes. In doing so, we have committed not to vote against any credible draft resolution intended to prevent or halt mass atrocities.

Chair, Russia's illegal invasion of Ukraine, and the reports of atrocities and deliberate attacks on civilians, have led to the largest ICC referral in its history. The United Kingdom is proud to have played a leading role in that effort, which secured the support of 42 other countries. The ICC investigation is already underway and we will make every effort to assist it and other ICC investigations consistent with respect for the Court's independence.

We will continue to demonstrate our support for the Court, and to work together with States Parties and the Court, to ensure that the Court delivers justice for victims, and accountability, in respect of the most serious crimes of international concern.

Thank you.



Remarks by
Albana Dautllari Deputy Permanent Representative of Albania
United Nations Security Council
Arria-formula meeting
“20th anniversary of the entry into force of the Rome Statute: reflections on the relationship
between the International Criminal Court and the Security Council”
June 24, 2022

Thank you, Madame Chair,

I thank Ireland for convening today’s Arria formula meeting, and we are pleased to have cosponsored the meeting. We joined the statement delivered by Mexico, but allow me, Madam Chair, to make few comments in my national capacity.

The briefers have given us an important overview of what has been achieved in the 20 years of the existence of the ICC.

I thank them for their insights and analyses.

I would like to commend the brave and independent work of Prosecutor Khan in this regard

The ICC is fundamental in delivering justice for atrocity crimes when national authorities are unable or unwilling to fight impunity. The previous and current Prosecutors have done excellent and diligent work in collecting,

preserving evidence, and investigating crimes in Darfur, in Libya, and most recently in Ukraine.

Madame Chair,

International Courts must step in, when national systems fail, when gross violations of international law, humanitarian law and human rights are committed.. And justice has the power to prevent conflict and atrocities by deterring potential perpetrators.

It is for these reasons that Albania, together with 53 other countries, referred the situation in Ukraine to the ICC enabling the Court to investigate immediately, collect proofs, engage, and protect witnesses, gather battlefield evidence for the atrocity crimes committed in Ukraine by Russian military.

Madame chair,

Accountability is not choice but a necessity to end the repetition of crimes and abuses in the future. None of us want to see horror scenes of Bucha, Mariupol, Sebrenica or Racak replicated elsewhere.

Madame Chair,

The ICC and other International Courts must deliver justice and overcome the inaction of this Council which has failed completely in fulfilling one of its main responsibilities: maintaining peace and security. We are fully aware that ICC cannot operate in a vacuum if the full support of states is lacking, as the accountability and rule of law is fully functional when unconditional and full support of the state is provided unreservedly.

Only twice this Council has given the ICC the necessary support to act, while there are numerous other instances of atrocity crimes all over the world where the cries of the victims for justice remain unheard. This means that the Council has failed to uphold the UN Charter.

At a deeper level, the reason behind this is not only the lack of political will, but the reflection of this political will through the use of veto.

Madame Chair,

The recent landmark resolution of the General Assembly provides a direct mechanism for the General Assembly to take a stand on critical issues when the Security Council cannot act. It is a long-overdue step that has the potential to lead to more responsible use of the powers of the permanent members. It will also create more accountability within the Security Council itself.

We need to strengthen the ability and enable the SC to respond to the challenges and offer solutions to prevent gross violations of international law and humanitarian law by strengthening accountability for all violations of international criminal law.

Albania will continue to stand in supporting international law, ICC, ICJ, national judicial authorities, and other independent mechanisms in delivering international justice. In this regard, we urge all member states to join the Rome Statute and support the ICC in ensuring accountability and ending impunity.

Thank you.



**Vingtième anniversaire de l'entrée en vigueur du Statut de Rome :
Réflexions sur la relation entre la Cour pénale internationale et le Conseil de sécurité**

**INTERVENTION DE MME DIARRA DIME-LABILLE, MINISTRE CONSEILLERE,
CONSEILLERE JURIDIQUE DE LA FRANCE AUPRES DES NATIONS UNIES**
= VERIFIER AU PRONONCE =

New York, le 24 Juin 2022

Madame la présidente

Le 17 juillet 1998, le Statut de la première Cour Pénale Internationale permanente était adopté, à Rome afin de permettre le jugement des responsables des crimes les plus graves. Aujourd'hui, 20 ans après son entrée en vigueur, 123 Etats ont ratifié le Statut de Rome.

La CPI a été établie pour juger les auteurs de crimes de génocide, crimes de guerre et contre l'humanité lorsque les Etats ne sont pas en mesure de le faire ou n'en ont pas la volonté. Son objectif est donc d'assurer qu'aucun crime grave ne reste impuni et que justice soit rendue aux victimes, où qu'elles soient.

Madame la présidente,

Nous répétons sans cesse qu'il n'y pas de paix sans justice. En faisant ce constat, nous signifions que la justice pénale internationale joue un rôle déterminant pour le maintien de la paix et de la sécurité dans le monde. C'est également le premier mandat du Conseil de sécurité. N'est-ce pas d'ailleurs la raison pour laquelle le Conseil de sécurité avait créé les tribunaux pénaux internationaux pour l'ex-Yougoslavie et le Rwanda ?

Plusieurs dispositions du Statut de Rome consacrent un lien étroit entre le Conseil de sécurité et la CPI. L'article 13 du Statut de Rome permet ainsi au Conseil de sécurité de déférer une situation à la CPI. Ce conseil a mis en œuvre cette disposition à deux reprises : en adoptant la Résolution 1593 qui déferra la situation du Darfour au Procureur de la C.P.I. alors que le Soudan n'a pas ratifié le Statut de Rome puis en votant, à l'unanimité, la résolution 1970 du 26 février 2011 qui renvoya la situation de la Libye devant la CPI et donna lieu à la délivrance d'un mandat d'arrêt à l'encontre de Muammar Kadhafi pour crime contre l'humanité. Ces deux affaires permettent encore aujourd'hui au Procureur de la CPI d'interagir avec le Conseil de sécurité au moins deux fois par an. Mais cela n'est pas suffisant.

Madame la Présidente

Nous devons nous féliciter que la CPI soit pleinement compétente pour connaître de la situation en Ukraine grâce aux déclarations de compétence faites par l'Ukraine en 2014 et 2015 et le récent renvoi de la situation en Ukraine au procureur de la CPI par 43 Etats au total, dont deux membres de ce Conseil de sécurité : la France et le Royaume-Uni. Nous nous souvenons qu'en 2014, la Russie avait bloqué la saisine de la CPI par ce Conseil.

C'est en raison des blocages constatés au sein de ce conseil que la France et le Mexique ont lancé une initiative pour limiter l'usage du veto en cas d'atrocité de masse signée aujourd'hui par plus de 105 Etats. Nous encourageons les Etats qui ne l'ont pas encore fait à rejoindre l'initiative.

Parce que le Conseil de sécurité est le garant de la paix et de la sécurité internationales dans le monde y compris en mettant en œuvre la justice pénale internationale, il est regrettable que 3 des membres permanents de ce Conseil ne soient pas parties au Statut de Rome. Il est urgent que tous les Etats membres des Nations Unies ratifient le Statut de Rome.

Madame la Présidente

Permettez-moi de conclure en rappelant que la France reste attachée aux équilibres garantis par le Statut, entre cultures juridiques du monde, entre le rôle des Etats et du Conseil de sécurité et l'indépendance de la CPI, entre les pouvoirs du Procureur et les droits de la défense, entre les langues de travail de la CPI.

La France, membre permanent du Conseil de sécurité est le troisième contributeur au budget de la Cour et le premier Etat à coopérer avec la CPI. La France est déterminée à apporter à la Cour Pénale Internationale tout le soutien dont elle a besoin. Elle encourage les organes de la CPI à poursuivre leurs efforts de réforme pour renforcer encore cette institution essentielle, seule juridiction pénale permanente à vocation universelle. Nous ne doutons pas qu'elle s'imposera comme un instrument indispensable du maintien de la sécurité et de la paix internationales./.



Conseil de Sécurité
Déclaration du Gabon
A l'occasion de la réunion (Formule Arria)
Sur les relations entre la CPI et le Conseil de sécurité
dans le cadre du 20 -ème anniversaire du Statut de Rome
New-York, le vendredi 24 juin 2022

Merci Monsieur le Président,

Le Gabon se félicite de la tenue de cette importante réunion qui commémore le vingtième anniversaire de l'entrée en vigueur du Traité de Rome, tout en remerciant l'Irlande d'avoir initié cette rencontre. Nos remerciements s'étendent également aux éminentes personnalités pour leurs importantes contributions.

Le 1 juillet prochain, cela fera exactement 20 ans que la Cour pénale internationale aura vu le jour. Ma délégation s'associe pleinement à la déclaration conjointe du Groupe des amis de la CPI au Conseil de sécurité, qui sera lue par le Mexique.

Nous aimerions cependant souligner le lien organique et fécond qui lie statutairement la CPI et le Conseil de sécurité, lien qui a permis des

avancées remarquables, bien que non sans défis, dans la lutte contre les crimes graves et l'impunité face à de telles atrocités.

Ma délégation forme le vœu que ce vingtième anniversaire offre l'occasion d'échanges fructueux sur une interaction plus constructive entre la CPI et le Conseil de sécurité, en privilégiant l'obligation morale de prévenir de nouveaux crimes graves et de rendre justice aux nombreuses victimes à travers le monde.

Ce serait, à notre humble avis, une manière idoine de contribuer au processus d'universalisation du Traité de Rome.

Pour conclure, mon pays, qui a déposé son instrument de ratification du Statut de Rome, le 20 septembre 2000, voudrait réaffirmer ici, son attachement sans faille, à l'intégrité du Statut de Rome et à la promotion de l'État de droit, mais aussi sa ferme détermination à lutter contre l'impunité. C'est une position de principe à laquelle nous ne transigerons point.

Je vous remercie.

United States of America
Remarks at a UN Security Council Arria-Formula Meeting on
the 20th Anniversary of the Rome Statute

Ambassador Richard Mills
Deputy U.S. Representative to the United Nations
New York, New York
June 24, 2022

AS DELIVERED

Thank you. Let me start by thanking Ireland for convening today's Arria-formula meeting. Ireland really has been a strong leader on justice, accountability, rule of law issues at the Security Council. I thank the briefers for their compelling statements, and I wish to wish Prosecutor Khan continued success in his role.

The United States is a strong supporter of meaningful accountability and justice for the victims of atrocities. Justice, accountability, and the rule of law are values we believe are best advanced together. Over the past year and a half, the United States has engaged with all stakeholders in an effort to help the ICC achieve its core mission of serving as a court of last resort in punishing and deterring atrocity crimes. We started by terminating the previously imposed U.S. sanctions and visa restrictions in connection with the Court, recognizing that these measures should never have been imposed.

Instead, the United States has recommitted to working with the ICC to identify constructive ways in which we can work to advance our shared commitments to justice. This involves assisting and supporting the Court's prosecutions in a range of situations. As one practical example, we are actively recirculating our offer of up to \$5 million as a reward for information leading to the arrest of designated individuals subject to ICC arrest warrants, including, for example, Joseph Kony of the Lord's Resistance Army.

As we've heard, the Rome Statute provides for the Security Council, acting under Chapter VII of the Charter, to refer situations to the ICC. The United States welcomes the opportunity to reflect on the Security Council's relationship with the ICC. We fully support the ICC's investigations into the two situations referred to the ICC by the Security Council, in Libya and Darfur, and we continue to call on national authorities in both states, as well as all UN Member States, to cooperate fully with the ICC in any investigation that is referred to it by the Council.

When the Security Council refers a situation to the Court, it is important for the Council to support and continuously monitor those situations in a meaningful way, especially to ensure the cooperation of national authorities with the Court. The briefings and reports by the Office of the

Prosecutor provide important insights in this regard, especially to inform the Council of non-cooperation. We are interested in working with other members of the Council to ensure better Council support for investigations arriving from Security Council referrals and to respond when non-cooperation is at issue.

One way that the Council can work to support its referrals is to respond to the ICC when matters are referred to the Council for its consideration and its possible action. Over the years, the ICC has sent several notifications on non-cooperation to the Council. At the very least, the Council should formally submit a letter of reply to the ICC, even if the Council does not take any further action.

We also urge the Council, when mandating UN peacekeeping missions, to continue to include references to pursuing accountability for international crimes. This will ensure that such missions can appropriately interface and cooperate with the ICC when they are operating in situations under investigation by the elements of the Court.

Mr. Prosecutor, the United States welcomes your position that situations referred by the Council must be given greater prioritization in your Office's work. We are pleased, for example, you visited Sudan so early in your tenure. The ongoing trial of former Janjaweed commander, Ali Muhammad Ali Abd-Al-Rahman, which commenced 15 years after the arrest warrant was issued, is an important step toward justice.

Finally, as we reflect on the 20th anniversary of the entry into force of the Statute, the daily reports of atrocities in Ukraine are a reminder that the ICC has an important role in a multilateral system that aims to ensure accountability and end impunity. Earlier this week, the U.S. Ambassador-at-Large for Global Criminal Justice Beth Van Schaack and our Attorney General Merrick Garland met at the Ukraine-Poland border with Ukraine's Prosecutor General and other justice partners to advance U.S.-Ukraine cooperation on accountability for Russia's unprovoked and brutal war against Ukraine.

The United States supports a range of international investigations into atrocities in Ukraine. This includes those conducted by the International Criminal Court, the United Nations, and the Organization for Security and Cooperation in Europe, and the domestic courts of Ukraine and any other countries with appropriate jurisdiction. The reports of intentional targeting of civilians, infrastructure, sexual violence, require urgent investigation by the ICC and all national authorities with jurisdiction. We stand ready to do our part.

In conclusion, the United States looks forward to ongoing cooperation with the ICC and the Prosecutor's office and we commend the efforts of the Court to investigate and prosecute those responsible for heinous atrocities. The ICC's work is a critical element of our shared commitments to accountability, peace, and security.

Thank you, Mr. President.

As Delivered



The Permanent Mission of the Republic of Kenya
To the United Nations- New York
Security Council - 2021-2022

ARRIA FORMULA MEETING ON “ 20TH ANNIVERSARY OF THE ENTRY
INTO FORCE OF THE ROME STATUTE: REFLECTIONS ON THE
RELATIONSHIP BETWEEN THE INTERNATIONAL CRIMINAL COURT
AND THE SECURITY COUNCIL “ENSURING ACCOUNTABILITY FOR
ATROCITIES COMMITTED IN UKRAINE”

WEDNESDAY, 24 JUNE 2022 (10:00AM)

STATEMENT BY MS. JAYNE TOROITICH, POLITICAL COORDINATOR

Thank you Chair

1. And thank you to the briefers, Mr. Karim Khan, ICC Prosecutor, Ms. Liz Evenson, Director of the CICC Secretariat and Dr. Zeid Ra'ad Al Hussein, President and Chief Executive of the International Peace Institute, for sharing their perspectives on this important topic.

Chair,

2. The maintenance of international peace and security is dependent on our fidelity to international law and the purposes and principles we have agreed to be bound by as laid out in the UN Charter. The

As Delivered

Security Council's core mandate to ensure the maintenance of international peace and security proceeds from this.

3. The purposes and principles of the Charter similarly form the basis for the establishment of the International Criminal Court as set out in the preamble of the Rome Statute.
4. The Court should play an important deterrent and accountability role. Therefore, the Council should be able to depend on the Court to help prevent future threats to international peace and security by effectively adjudicating cases before it.
5. While the independence of both the Security Council and the ICC should be maintained as per their separate mandates, they should serve a mutually reinforcing role.
6. In this regard, the Rome Statute provides for referrals by the Security Council acting under Chapter VII of the UN Charter and for deferral of investigation or prosecution.

Chair,

7. There are, however great challenges that have beset this ideal:
 - 8.1 The referral of only two situations to the Court by the Council in the past twenty years is not reflective of equality. In that period, we have witnessed grave commissions of the crime of genocide, crimes against humanity, war crimes and the crime of aggression. Therefore, this gravely impedes on the trust States and people have in the effectiveness of the relationship of these

As Delivered

two institutions. The law should be applied equally to all states and people as clearly stipulated in the preamble of the UN Charter.

- 8.2 We must contend with the imminent danger of the use of the veto where the Council considers it necessary that a matter be referred to the Court. In this regard, the discussion of Security Council reforms must be stepped up.
- 8.3 The bulk of cases before the Court coming from one region, including both the referrals by the UNSC, deprives the Court of the necessary outlook as a global court. Instead, it reflects perceptions of high politicisation of an institution that should otherwise be very independent and unbiased.

Chair,

- 8. It is of great importance to recall that national judiciaries provide the first and preferable resort for accountability and justice, including for international crimes. We therefore propose that:
 - I. Greater investment should go into capacity building and strengthening of national capacities to be able to hold to account perpetrators and deliver justice to those affected. This is because the ICC only serves as a court of last resort.
 - II. The ICC should, as per the Statute, help the international community to fight impunity and to prosecute those responsible

As Delivered

for crimes under the Statute, under the principle of complementarity.

III. Better attention be paid to traditional judicial mechanisms which promote truth and reconciliation. We must look beyond punishment and into the importance of reconciliation and cohesion.

9. As I conclude Chair, the inter-dependence between the Court and the Security Council should be pursued in a manner that moves us towards the world envisioned under the UN Charter.

Thank you.

在“《国际刑事法院罗马规约》生效 20 周年
——国际刑事法院与安理会的互动与关系”
阿里亚模式会议上的发言
(6 月 24 日 10:00 经社厅)

主席女士：

中方感谢爱尔兰倡议举行此次会议，也感谢卡里姆·汗检察官、埃文森女士所作的通报。

中方一贯支持依法打击和惩治危害国际和平与安全的严重罪行，深入参与《国际刑事法院罗马规约》谈判过程，密切关注国际刑事法院的工作，并作为观察员参加历届《罗马规约》缔约国大会。今年是《罗马规约》生效 20 周年，国际刑事法院的权威性、公信力和未来走向值得关注。

中方希望，国际刑事法院能切实遵守《罗马规约》规定的补充性原则，严谨审慎行使管辖权；在司法活动中坚守独立、客观和非政治化原则，确保司法活动始终符合包括《联合国宪章》宗旨与原则在内的国际

法基本原则,避免成为少数国家打压对手的政治工具,避免司法活动对和平进程造成干扰,真正为国际和地区和平与安全作出贡献。

主席女士,

根据安理会有关决议,苏丹达尔富尔和利比亚情势已移交国际刑事法院处理。国际刑事法院应严格按照安理会决议和《罗马规约》采取行动,遵循补充性原则,切实尊重苏丹和利比亚国家司法主权,推动有关地区实现长治久安。国际刑事法院应将上述情势作为司法活动的重中之重,集中各类资源优先并加快处理,以尽快完成安理会赋予的使命。

此外,是否向国际刑事法院移交其他情势是一个重大问题,须慎之又慎,安理会应保持克制,不能仓促作出决定。

主席女士,

中方重申支持建立一个独立、公正、有效且具有普遍性的国际刑事司法机构,期待国际刑事法院以纪念《罗马规约》生效20周年为契机,认真回顾和审视自身发展得失,深入思考如何赢得各国普遍信任,通过客观公正的司法活动促进司法正义以及国际和平与安全。

谢谢主席女士。

(共 652 字)



**Statement by the Deputy Permanent Representative Ambassador João
Genésio de Almeida Filho in the formula Arria meeting on the 20th
anniversary of the International Criminal Court**

June 24th, 2022

(check against delivery)

Madam Chair,

First of all, Brazil would like to thank Ireland for organizing this important Arria formula meeting in commemoration of the 20th anniversary of the International Criminal Court and for proposing that the discussions focus on the urgent topic of the relationship between the Court and the Security Council. I would also like to thank President Silvia Fernández, Prosecutor Karim Khan, the Director of the Coalition for the ICC, Liz Evenson, and the President and Chief Executive of the International Peace Institute, Dr. Zeid Ra'ad Al Hussein, for their invaluable contribution to this reflection.

Brazil associates itself with the statement to be delivered by Mexico as the ICC Focal point in the Security Council. I take the liberty of adding a few words in my national capacity.

The adoption of the Rome Statute was a landmark in the history of international justice. Despite the vital role ad hoc criminal tribunals played in ensuring that the most serious crimes of international concern would not go unpunished, the international community became aware that they were not enough. There was a pressing need to establish a permanent judicial institution for the prosecution of these crimes. Its existence in itself would be, and it is indeed, a reliable instrument of dissuasion, since its action would no longer be contingent on circumstantial and thus uncertain political consensus on the creation of temporary courts.

Madam Chair,

We all agree that States bear the primary responsibility to investigate and prosecute crimes committed in their territory. We are also aware that the principle of complementarity is an integral part of the Rome Statute and is essential for its effective implementation. Despite this awareness, the international community also knows that there may be situations in which States are unable or even unwilling to discharge their duties to provide accountability.

The ICC was designed to take action impartially and independently in exactly such circumstances. In order to accomplish its mission, it needs full and unswerving support from the international community.

In the first place, this entails a commitment to achieving the universality of the Rome Statute, so as to ensure that genocide, war crimes, crimes against humanity and crimes of aggression will be investigated and punished, no matter where and by whom they were perpetrated.

In the second place, the Security Council and all members of the United Nations must ensure that the ICC have the appropriate means to carry out its activities. Bearing this in mind, Brazil shares the view that expenses incurred by the Court due to referrals by the Security Council should not be borne exclusively by States Parties to the Rome Statute.

In the third place, the Security Council and the ICC should endeavor to seek ways to enhance their cooperation and coordination in country-specific situations, especially through the sanctions committees and peacekeeping or peacebuilding operations. Furthermore, the submission of *amicus curiae* observations to the Court by the Special Representative of the SG on Children and Armed Conflict is a good practice that could be further explored.

Madam Chair,

In its still brief existence, the International Criminal Court has conducted investigations and delivered judgments which were crucial for the evolution of international criminal law. It was able to make this contribution by documenting facts concerning serious violations of international law; by reinforcing legal certainty on the interpretation of the definition of crimes against humanity, war crimes and genocide; and by being a symbol through which humankind can keep

their faith that justice will always prevail. Therefore, it is highly important that the Security Council and the whole of the UN help it keep and expand its already remarkable legacy.

I thank you.

Постоянное представительство
Российской Федерации
при Организации
Объединенных Наций
136E 67th Street
New York, NY 10065



Permanent Mission
of the Russian Federation
to the United Nations
Phone: (212) 861-4900
Fax: (212) 628-0252
517-7427

ВЫСТУПЛЕНИЕ
старшего советника С.А.Леонидченко
на встрече членов Совета Безопасности ООН
по «формуле Арриа» по теме «20-я годовщина
вступления в силу Римского статута: размышления о
взаимодействии Совета Безопасности и МУС»

24 июня 2022 года

Г-жа Председатель,

С момента вступления в силу Римского статута Международного уголовного суда прошло 20 лет. Юбилей – всегда отличный повод для подведения промежуточных итогов работы. Увы, праздник получается грустным. За два десятилетия Суду удалось разве что окончательно похоронить саму идею международной уголовной юстиции.

Давайте разберемся, как так получилось.

Идеи борьбы с безнаказанностью и равенства всех перед законом, естественно, привлекательны. Когда МУС еще только задумывался под этими славными лозунгами, наша страна в числе первых присоединилась к переговорному процессу.

Ориентиром – и моральным, и правовым – для разработчиков Римского статута выступал Нюрнбергский трибунал. На МУС возлагались большие надежды. Предполагалось, что он займется наиболее серьезными преступлениями по международному праву. Будет расследовать их беспристрастно и эффективно. В эту красивую сказку хотелось верить. Поверила и наша страна, проголосовав в 2000 году за принятие Римского статута, подписав его и приступив к процессу ратификации. Прозвучавшая вначале сегодняшней встречи цитата хорошо подчеркивает наше отношение к Суду, когда он только создавался.

Однако возлагаемым на МУС надеждам было не суждено сбыться. За время своей деятельности этот Суд вынес жалкую горстку решений. Окончательные вердикты можно пересчитать по пальцам. Значительная часть дел просто развалилась на стадии расследования Прокуратурой МУС, так и не дойдя до судопроизводства. На эти, мягко говоря, невпечатляющие результаты были потрачены миллиарды долларов.

Не все, однако, сводится к деньгам. Подобные астрономические траты можно было бы оправдать в том случае, если бы деятельность МУС реально способствовала стабилизации ситуации, прекращению насилия и устойчивому примирению в соответствующих странах. Однако ни одного такого случая назвать не получится. Результаты работы МУС по переданным ему Советом Безопасности ливийскому и дарфурскому «досье» особенно показательны.

Когда странам НАТО приспичило осуществить «неспровоцированную, неоправданную агрессивную войну по выбору» против Ливийского государства, МУС, как верный цепной пес этого «сугубо оборонительного союза», сфабриковал буквально в одно мгновение дело против М.Каддафи. Именно наскоро состряпанные МУС фейки были использованы коллективным Западом для оправдания своих действий в Ливии, являвшихся банальной военной агрессией.

Оказалась грубо нарушена резолюция СБ ООН 1973 и положения Устава ООН. Введение бесполетной зоны НАТО истолковала как карт-бланш на ковровые бомбардировки Ливии. Что получилось в итоге мы

знаем – процветающая страна была уничтожена, ее лидер – зверски убит без суда и следствия. За этим последовали разруха и хаос гражданской войны, унесшей и исковеркавшей сотни тысяч жизней. Этот кошмар для ливийцев не закончился и поныне.

МУС во всем этом выступил полноценным соучастником. Его тогдашний прокурор Л.Морено-Окампо для расчеловечивания ливийского руководства и лично М.Каддафи занимался тиражированием «фейков» столь топорных, что их даже вслух воспроизводить стыдно. Это цитата: «М.Каддафи приказал изнасиловать сотни женщин в ходе силового подавления повстанцев, и он даже снабжал своих солдат «Виагрой» для стимулирования их потенциала» (“Muammar Gaddafi had ordered the rape of hundreds of women during his violent crackdown on the rebels and he had even provided his soldiers with Viagra to stimulate the potential for attacks”).

Другой фантастический триллер от Прокурора – якобы использование М.Каддафи неких темнокожих наемников для совершения тех «зверств», на которые были неспособны регулярные войсковые части.

Human Rights Watch и Amnesty International в своё время попытались найти подтверждения упомянутым и другим убогим фейкам, которые легли в основание обвинений против М.Каддафи. Не смогли. Начиная разгораться полноценный скандал. Чтобы быстро его замять в МУС запустили внутреннее расследование. Его итоги не известны. Впрочем, с уверенностью можно сказать, что никто из ключевых фигурантов фабрикация упомянутых якобы доказательств ответственности не понес.

Отдельный вопрос – военные преступления стран НАТО в Ливии. Раз уж Совет Безопасности передал ситуацию МУС – у Суда была юрисдикция и в данном отношении. Свидетельств о жертвах неизбирательных обстрелов и бомбардировок среди мирных ливийцев хватало. Однако расследовать их Суд не стал. Его прокуроры предпочли стыдливо замести этот сюжет «под ковер». Посвященные ему пассажи в докладах Совету Безопасности все сокращались и сокращались, а потом и вовсе исчезли. Жертвы есть – а виновных нет. Традиционная формула для агрессий коллективного Запада. Вот такая беспристрастность и борьба с безнаказанностью.

К слову, не заинтересовала МУС и кровавая расправа над М.Каддафи. Видимо, Суд считает нормальным делом внесудебное устранение «неудобных» лидеров.

Вопиющая некомпетентность МУС в полной мере проявилась и в контексте дарфурского «досье». С тех пор, как Совет Безопасности передал его Суду, мы не увидели успехов ни в следственной, ни в судебной работе, не говоря уже о каком-либо содействии процессу национального примирения.

На фоне с треском провалившихся ливийского и суданского экспериментов призывы к Совету Безопасности передавать в МУС новые дела вызывают только удивление. Наша страна примет необходимые меры для того, чтобы удержать Совет Безопасности от повторения подобных досадных ошибок.

И дело здесь вовсе не в том, как организовано взаимодействие МУС и Совета. Основной вопрос, во что этот Суд превратился с момента своего создания, и какие интересы он теперь обслуживает.

Сейчас мы слышим пламенные речи представителей коллективного Запада о необходимости помогать и сотрудничать с

МУС для наказания России. Честно говоря, звучит это как призыв к сведению политических счётов, а не борьбе с безнаказанностью. Если виновного назначили заранее – зачем вообще тогда весь этот фарс с Судом?

Ситуация станет еще любопытнее, если мы посмотрим на поведение тех же самых западных стран, которые сегодня выставляют себя поборниками международной уголовной юстиции, в тех случаях, когда речь заходит о привлечении их граждан за военные преступления и преступления против человечности.

Давайте посмотрим на афганское или иракское «досье» МУС, где вставал вопрос о привлечении к ответственности военнослужащих США и Великобритании. Что же сделали эти страны, так ратующие сегодня за сотрудничество с МУС?

Они сразу и четко дали понять Суду, что обвинений в свой адрес они не потерпят. В США существует специальный закон о защите американских военнослужащих. Среди западных юристов-международников он известен как «Закон о вторжении в Гаагу». Такое прозвище данный акт получил неслучайно – он допускает

использование любых средств для освобождения американских либо союзных граждан, задержанных по ордеру МУС.

В Великобритании есть закон «Об иностранных военных операциях», который фактически ограждает британских военных от уголовного преследования за военные преступления и преступления против человечности, совершенные за рубежом. Этот закон на практике позволил британским солдатам избежать наказания за пытки и убийства мирных жителей в Ираке и Афганистане.

В 2020 году США дошли до того, что ввели ряд персональных санкций в отношении Прокурора и персонала МУС, предусматривающих, среди прочего, запрет на въезд в страну, заморозку счетов и активов.

Чем все это закончилось, мы прекрасно знаем – прокуратура МУС «де-приоритезировала» расследования в отношении британских и американских солдат в рамках афганского и иракского досье. Конечно, после этого США удобно заявлять о снятии санкций. Цель же достигнута. Ведь «де-приоритезация» в переводе с бюрократического на человеческий язык означает, что дела опять «замели под ковер».

Жертвы есть, а виновных снова не будет. Как и правосудия. Занавес – можем расходиться.

Борьба с так называемой безнаказанностью ведется МУС в интересах западных стран. Она незамедлительно прекращается при малейшем риске вступления в конфликт с их интересами. На этом фоне неудивительно, что все внимание МУС сконцентрировано на развивающихся государствах. Этот Суд стал послушным политическим инструментом в продвижении неоколониальных стратегий Запада.

Россия не хочет иметь ничего общего с подобным учреждением. По мере вырождения МУС мы сначала поставили на паузу процесс ратификации его Римского статута, а в ноябре 2016 года приняли решение окончательно отозвать свою подпись под Римским статутом.

За 20 лет своего существования этот орган продемонстрировал полную неспособность обеспечить непредвзятое и независимое правосудие, превратился в инструмент политического давления на неудобные государства и правительства.

Наглядное подтверждение тому – выступления представителей тех государств, которые еще вчера вводили против МУС санкции, чтобы не дать привлечь к ответственности своих военнослужащих. Сегодня они говорят о миллионах долларов так называемых добровольных пожертвований Суду на ведение украинского досье. При этом забавно наблюдать кульбиты США, которые вынуждены изыскивать пути обхода собственного законодательства, запрещающего им любое сотрудничество с МУС. Запад в открытую проплачивает заказной процесс в МУС, виновный в котором назначен заранее. Этой же цели служит и направление ему якобы в помощь целых команд национальных судебных экспертов для документирования якобы преступлений России. Получается, что МУС – просто ширма, за которой коллективный Запад готовит свое позорное судилище для нашей страны.

Создано бесчисленное множество клубов «друзей борьбы с безнаказанностью», а также «Совместная команда по расследованию». В этой «Совместной команде» – Украина, отметившаяся полным презрением к международному гуманитарному праву, включая попытки

и расправы над военнопленными, годы целенаправленных обстрелов, бомбардировок и иных нападений на сугубо гражданские объекты. В эту же команду входят страны Запада, открыто поставляющие киевскому режиму оружие, включая дальнобойную и реактивную артиллерию. А также кассетные боеприпасы, о полном уничтожении запасов которых эти страны с пафосом ранее заявляли. Все эти подарки продолжают убивать мирных жителей Донбасса. Но едва ли «Совместную команду по расследованию» это интересует: единственный виновный уже определен заранее.

Сообщение о том, что частью этой «Совместной команды» стал и МУС хорошо дополняет картину окончательной деградации этого института, на который когда-то возлагались большие надежды.

Я закончил, г-жа Председатель.

Permanent Mission of India to the United Nations New York

**UNSC Arria formula meeting on 20th Anniversary of Entry into Force of
the Rome Statute: "Reflections on the relations between ICC and the
UNSC"**

[Friday, 24 June 2022; 1000 hrs.]

I would like to thank Ireland and other co-sponsors of this Arria Formula meeting today on this subject.

2. Let me, at the outset, re-state India's position on the International Criminal Court, the ICC. India is not a signatory to the ICC Statute for reasons that are well known. Neither are several countries across the World, including in Africa and Asia.
3. Regarding today's meeting, I have following observations to offer:
4. The tools to address serious violations of international law need to be used judiciously, without selectivity, and in accordance with the principles of the UN Charter.
5. Independence of a judicial body is the *sine qua non* for impartial dispensation of justice and in no circumstances, the discretion of a judicial body should be subordinate to any political organ. By giving a role to the Security Council to defer the investigation and proceedings of the ICC under Article 16, the Statute violates this cardinal principle.
6. Moreover, the power to refer to and bind non-State parties, besides undermining the impartiality of the ICC, also violates a fundamental principle of treaty law.

7. We think that the ICC should not only be independent and impartial in its functioning, but should be seen so, from its Statute and its organization, as well as its functioning. Accordingly, under no circumstances should the functioning of a judicial body like ICC be subordinated to the decision of a political body.
8. The referrals of situations to the International Criminal Court, especially the haste with which some referrals have been made, have come under criticism.
9. These developments appear to substantiate the view that when cases are referred to ICC, primarily for political reasons, the ICC mechanism may not serve the larger purpose of providing justice.
10. Efforts of the international community should aim towards supporting the Member States in ensuring justice for victims, through an accountability process based on nationally accepted norms of jurisprudence.

I thank you.

Permanent Mission of the United Arab Emirates to the United Nations

UAE STATEMENT AT THE SECURITY COUNCIL ARRIA-FORMULA MEETING ON THE 20TH ANNIVERSARY OF THE ENTRY INTO FORCE OF THE ROME STATUTE: REFLECTIONS ON THE RELATIONSHIP BETWEEN THE INTERNATIONAL CRIMINAL COURT AND THE SECURITY COUNCIL

Delivered by Mr. Mohamed Boausaibah

I wish to add my voice to those who have reaffirmed that peace and justice are fundamental values of humanity. The desire for peace and justice is not exclusive to one region or people; they are universal objectives enshrined in both the UN Charter and the Rome Statute of the International Criminal Court. It is therefore fitting that, on the twentieth anniversary of the ICC, we reflect upon the contributions of the Security Council and the Court to peace and justice. I thank Ireland for organizing this meeting and I thank the briefers for their insightful statements.

As we have previously highlighted, peace and justice are also interlinked objectives that ultimately reinforce one another. Achieving justice by ensuring accountability for atrocities not only restores the rights of victims and survivors, it contributes to peace by healing communities, driving peacebuilding and fostering reconciliation.

To this end, the UAE emphasizes the importance of upholding international law, including international humanitarian and criminal law, and supports efforts within the international legal framework to achieve peace and justice.

The cornerstone of this framework is the primary responsibility of States to uphold international law and prevent and suppress atrocities in their territory and jurisdiction. We also acknowledge the role of the ICC within the international framework. As a treaty body whose jurisdiction is principally based on state consent, we support the sovereign right of States to accept the ICC's jurisdiction.

Against this backdrop, the UAE wishes to highlight the following points:

First, to fulfil the Council's duty to maintain international peace and security, Council members should work together to prevent and halt atrocities. As a signatory to the ACT Code of Conduct, the UAE believes Council members should refrain from voting against any credible draft resolution intended to address atrocity crimes.

Second, the Security Council should be guided by the specific dynamics of a situation and the need to achieve a balance between the interests of peace and justice. The Council has an array of tools available to it, with ICC referral being just one such measure.

An ICC referral should not, however, be seen as a panacea. Indeed, this is made clear by Article 16 of the Rome Statute, which, by allowing the Council to defer an ICC investigation or prosecution, anticipates tensions between the interests of peace and justice and provides the Council flexibility to execute its mandate. For each situation, the Council should adopt a holistic approach, with due regard to practical implications and the long-term imperatives of reconciliation, stability, and peaceful coexistence.

Finally, and further to my previous point, the best way to achieve a durable peace is to pursue an approach based on constructive engagement with relevant States and the development of national judicial capacities. It is important here to emphasize the ICC's foundational principle of complementarity, which underpins its work, including in cases of Security Council referrals. Domestic systems are often able to more effectively and efficiently deliver accountability tailored to local

contexts and legal traditions. It is critical that communities perceive accountability processes as something endogenous, and not imposed from the outside.

I thank Ireland, the briefers, and other participants in today's meeting.

Japan

PERMANENT MISSION OF JAPAN TO THE UNITED NATIONS

605 Third Avenue, 28th Floor New York, NY 10158



**Statement by H.E. Ambassador ISHIKANE Kimihiro,
Permanent Representative of Japan to the United Nations,**

**at the United Nations Security Council Arria-Formula Meeting
on the 20th anniversary of the entry into force of the Rome Statute:
Reflections on the Relationship between
the International Criminal Court and the Security Council**

New York, 24 June 2022

[Check against delivery]

Madame. President,

Japan is glad to co-sponsor today's Arria-Formula Meeting on the occasion of the 20th anniversary of the entry into force of the Rome Statute, and appreciates the leadership of Ireland in organizing it. Japan aligns itself with the statement delivered by Mexico on behalf of the Members and incoming Members of the Security Council that are States Parties to the Rome Statute, including Japan.

Japan has historically been and will continue to be committed to fighting against impunity and promoting the rule of law. Japan views positively the progress made by the ICC over the past 20 years since the entry into force of the Rome Statute and will remain a staunch supporter of the ICC.

We cannot stress enough the importance of the cooperative relationship between the ICC, the only permanent international criminal tribunal in the

world, and the Security Council, the primary UN organ responsible for maintaining international peace and security with the ability to refer situations to the ICC Prosecutor.

Madame. President,

Japan shares the concern over the use or threat of use of the veto by the permanent members of the Security Council in situations that prevent the Council from fully utilizing its ability to maintain international peace and security. In this regard, Japan reaffirms its support for important veto-related initiatives, such as the French-Mexican Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocity as well as the Code of Conduct proposed by the Accountability, Coherence and Transparency Group. Japan also welcomes the recent adoption of the General Assembly resolution A/Res/76/262 to establish a standing mandate for a GA debate when a veto is cast.

Japan has referred the situation in Ukraine to the ICC Prosecutor on March 9. Our heart goes out to all the victims and survivors of unprovoked aggression by Russia, including children, women, journalists, and medical and humanitarian personnel, who should never have been targeted in the first place. I repeat, who should never have been targeted in the first place. We need to heed this simple and crystal clear principle. There is no smokescreen as someone mentioned earlier. Japan closely follows the ongoing investigation by Prosecutor Khan and appreciates the steps he has taken thus far.

Madame. President,

In light of countless situations that give rise to our grave concerns, we cannot stress enough the importance of the ICC and the need for cooperation between the ICC and the Security Council. To conclude, I would like to reiterate Japan's firm commitment to continue supporting the ICC with a strong hope that it will further mature as an effective and universal organ in charge of accountability for atrocity crimes around the world.

Thank you.

(449 words)



Arria-formula meeting on the 20th anniversary of the entry into force of the Rome Statute, 24 June 2022

Malta Statement delivered by Her Excellency Ambassador Vanessa Frazier
Permanent Representative of Malta to the United Nations, New York

Madam President

At the outset, I thank Ireland for organising today's Arria-formula meeting to commemorate the 20th anniversary of the entry into force of the Rome Statute, which Malta was pleased to co-sponsor.

The 20th anniversary of the entry into force of the Rome Statute is both cause for celebration and reflection. The system established by the Statute is comprised of two branches: the judicial branch represented by the International Criminal Court, which is a critical pillar of the international rules-based order, and the enforcement branch, represented by the States Parties to the Rome Statute and all UN member States whenever the Security Council refers situations to the Court.

Madam President

Malta aligns itself with the Statement delivered by the European Union and the Joint Statement delivered by Mexico as the ICC Focal point in the Security Council, and would like to add the following four points in its national capacity.



First, cooperation with the Court is essential in the fight against those who commit crimes against international law and holding such perpetrators accountable. Malta is deeply committed to the fight against impunity, in all of its forms. We believe that the universal ratification of the Rome Statute would provide the Court with a truly global reach and improve its effectiveness.

Secondly, we encourage greater collaboration between the Security Council and the Court. While noting that the Court is one of 'last resort', we believe that the Council's referrals to the ICC remain a valuable recourse. We have seen, and continue to see, situations involving the commitment of international crimes, and the referrals as well as follow-up by the Council give accountability a greater chance to be achieved.

My third point is on Accountability, which is a communal responsibility. Collaboration between the Security Council and the Court, as well as between States and the Court, between national competent authorities and law enforcement officials, is the bedrock of our commitment towards the pursuit of accountability and the fight against impunity.

Fourth, Malta believes that the rigorous implementation of Security Council sanctions, and the consideration of targeted sanctions in situations of concern for the Council and the Court are an important part of the enforcement of our stated commitments. The targeting of individuals who commit crimes against international law, their arrest, and all the cooperation to this end is a clear signal to perpetrators that their crimes will *not* go unpunished.

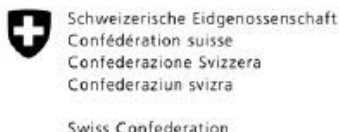


Madam President

On the celebration of the 20th anniversary of the Rome Statute we remember those that have suffered, and continue to suffer, from atrocity crimes. We must also remember what the Court represents: Justice.

We strongly support the ICC's Trust Fund for Victims, both as part of the ICC's response to victims of crimes under the ICC's jurisdiction, as well as providing reparations. This is part of a system of effective remedies which victims can obtain for the harm they have suffered.

I thank you.



Conseil de sécurité

Réunion en formule Arria

« 20^{ème} anniversaire de l'entrée en force du Statut de Rome: réflexions sur la relations entre la Cour pénale internationale et le Conseil de sécurité »

United Nations Security Council Arria formula meeting: "20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council"
New York, le 24 juin 2022

Déclaration de la Suisse

Madame la Présidente,

L'événement d'aujourd'hui marque une étape cruciale dans les efforts visant à combattre l'impunité.

En 2002, l'entrée en vigueur du traité fondateur de la Cour pénale internationale (CPI) a constitué une avancée importante vers la réalisation de la promesse "plus jamais". Vingt ans plus tard, la CPI continue de promouvoir la **lutte contre l'impunité**. Elle assure que ceux et celles présumés responsables des crimes internationaux les plus graves soient amenés à répondre de leurs actes, dans le respect du principe de complémentarité.

La Suisse réitère son **soutien inconditionnel** à la Cour. La CPI a un rôle de prévention et de réconciliation : elle représente ainsi un vecteur de paix et de sécurité et partage l'essence même du mandat du Conseil de sécurité et des Nations Unies. Afin que la CPI puisse exercer son mandat de manière efficace, la Cour se doit d'être forte, indépendante et impartiale. Pour ce faire, nous avons tous un rôle à jouer.

Premièrement, la Cour a besoin d'un Statut solide et d'un **soutien universel**. Nous invitons tous les Etats qui ne l'ont pas encore fait à ratifier le Statut de Rome et ses amendements pertinents pour affermir l'efficacité de la justice pénale, tant au niveau national qu'international.

Deuxièmement, seule une **coopération pleine et entière** avec la Cour lui permet de remplir son mandat. Nous invitons tous les Etats parties à respecter les obligations de coopération prévues par le Statut de Rome, notamment en donnant suite aux demandes d'entraide et aux mandats d'arrêt ordonnés par la Cour. Cette coopération doit s'accompagner du soutien financier nécessaire pour que la Cour puisse mener à bien ses enquêtes, peu importe le lieu où ces atrocités sont commises, et peu importe leur auteur.

Troisièmement, le **Conseil de sécurité** devrait faire usage des différents outils à sa disposition pour soutenir la Cour dans la réalisation de leur mandat commun, la paix et la sécurité internationale. Le Conseil devrait déferer des situations à la CPI lorsque des crimes graves sont commis et promouvoir une meilleure coopération avec les missions de maintien de la paix. À ce titre, les membres du Conseil devraient renoncer à leur droit de veto en cas d'atrocités de masse. Nous invitons en outre tous les Etats membres à souscrire au **Code de conduite** élaboré par le groupe ACT. Partout dans le monde,

Mission permanente de la Suisse auprès des Nations Unies
Permanent Mission of Switzerland to the United Nations

633 Third Avenue, 29th floor, New York, NY 10017-6706
Tél. +1 212 286 1540, Fax +1 212 286 1555, www.dfae.admin.ch/missny

que cela soit en Syrie, au Myanmar, en Ukraine ou au Yémen, la CPI doit pouvoir rendre justice aux victimes des crimes les plus graves.

Madame la Présidente,

Comme déclaré par Sang-Hyun Song, ancien Président de la CPI: *"Nous avons une responsabilité envers toutes celles et ceux qui ont travaillé dur avant notre époque pour qu'une cour pénale internationale devienne un jour réalité. Faisons en sorte que leurs efforts aient été utiles."* Nous avons également une responsabilité envers toutes les potentielles futures victimes de prévenir de nouvelles atrocités. La Suisse continuera, notamment lors de son mandat au Conseil, de s'engager pour qu'ensemble, justice continue d'être rendue.

Je vous remercie.

Unofficial Translation

Madam President,

Today's event marks a crucial milestone in the efforts to combat impunity.

In 2002, the entry into force of the founding treaty of the International Criminal Court (ICC) constituted an important step toward fulfilling the promise "never again". Twenty years later, the ICC continues to promote the **fight against impunity**. It ensures that those allegedly responsible for the most serious international crimes are held accountable for their actions, in accordance with the principle of complementarity.

Switzerland reiterates its **unconditional support** for the Court. The ICC has a preventive and reconciliatory role: it is a vehicle for peace and security and shares the very essence of the mandate of the Security Council and the United Nations. In order for the ICC to effectively carry out its mandate, the Court must be strong, independent and impartial. To achieve this, we all have a role to play.

First, the Court needs a strong Statute and **universal support**. We call on all States that have not yet done so to ratify the Rome Statute and its relevant amendments to strengthen the effectiveness of criminal justice, both at the national and international levels.

Second, only through **full cooperation with the Court** can it fulfill its mandate. We call on all States Parties to comply with their cooperation obligations under the Rome Statute, including by responding to requests for mutual assistance and arrest warrants issued by the Court. This cooperation must be accompanied by the financial support necessary for the Court to carry out its investigations, regardless of where these atrocities are committed, and regardless of who commits them.

Third, the **Security Council** should make use of the various tools at its disposal to support the Court in fulfilling their common mandate of international peace and security. The Council should refer situations to the ICC when serious crimes are committed, and promote better cooperation with peacekeeping missions. In this regard, Council members should abstain from exercising their veto power in cases of mass atrocities. We also call on all Member States to commit to the ACT Code of Conduct. Around the world, whether in Syria, Myanmar, Ukraine or Yemen, the ICC must be able to deliver justice to victims of the most serious crimes.

Madam President,

Mission permanente de la Suisse auprès des Nations Unies
Permanent Mission of Switzerland to the United Nations

633 Third Avenue, 29th floor, New York, NY 10017-8706
Tél. +1 212 286 1540, Fax +1 212 286 1555, www.dfae.admin.ch/missny

As said by Sang-Hyun Song, former President of the ICC: *"We have a responsibility toward all those who worked hard before our time to make an international criminal court a reality one day. Let us make sure that their efforts were worthwhile."* We also have a responsibility to all potential future victims to prevent new atrocities. During its term on the Security Council, Switzerland will remain committed to ensure that together, justice continues to be served.

I thank you.

Mission permanente de la Suisse auprès des Nations Unies
Permanent Mission of Switzerland to the United Nations
633 Third Avenue, 29th floor, New York, NY 10017-8706
Tél. +1 212 286 1540, Fax +1 212 286 1555, www.dfae.admin.ch/missny

21 June 2022, 18:08ny

VICE-PRESIDENT OF THE ASSEMBLY OF STATES PARTIES

20th Anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council

Arria-Formula Meeting

Note for the Vice-President of the ASP

Ambassador Robert Keith Rae

24 June 2022

Monsieur/Madame le/la Président(e),

Le thème de ma présentation se base sur les paroles bien connues de Blaise Pascal : *La justice sans la force est impuissante, mais la force sans la justice est tyrannique*. En tant que vice-président de l'Assemblée des États parties au Statut de Rome, je me réjouis de pouvoir poursuivre le dialogue entre la Cour et ce Conseil sur la manière de renforcer davantage les relations entre les deux institutions.

En effet, la coopération internationale et l'engagement international sont essentiels au bon fonctionnement de la Cour. C'est pourquoi l'importance de la relation entre les deux institutions a été mise en évidence dès la création de la Cour, le Statut de Rome accordant un rôle unique au Conseil de sécurité en lui permettant de saisir la Cour d'une situation. Le Conseil a consolidé ce rôle en exerçant ces fonctions, via les renvois pour les situations au Darfour et en Libye.

I take this opportunity, as many other Member States have done, to encourage all Member States to consider ratifying or acceding to the Rome Statute. It is very tough when three out of five of the Permanent Members of the Security Council have still not ratified the Statute. In this discussion we should not forget that the primary responsibility for

21 June 2022, 18:08ny

investigating and prosecuting the most serious international crimes rests with States. The Court is a mechanism of last resort, based on complementarity with national systems.

Going forward, I hope we can work with the Council to take concrete action to ensure that the alleged commission of crimes under the jurisdiction of the Court are prosecuted and, if committed, the perpetrators are brought to justice. From refraining to use the veto in situations where crimes punishable under the Rome Statute appear to have been committed to cooperation through the wide range of diplomatic tools at the Council's disposal, including sanctions, the Council can actively and constructively contribute to the efficiency and fairness of the Court's judicial proceedings.

As we commemorate the 20th anniversary of the entry into force of the Rome Statute, a pillar of the international legal system, let us remember our goal is to put an end to impunity for the most heinous crimes, regardless of politics and regardless of jurisdiction. We look forward to continuing our relationship between the Court and the Council in the pursuit of our shared aspiration to make our world a safer, more secure, and more just place for all. If I may put it this way Madame President, we are stumbling toward justice and the rule of law, sometimes we fall back, but we must keep going. And if I may close where I started with the words of Pascale: *Justice without the power of enforcement is impotent, but power without justice is tyranny.*

Thank you Madame Chair.

**STATEMENT TO BE DELIVERED ON BEHALF OF THE AFRICAN STATES
PARTIES TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL
COURT ON THE REPORT OF THE INTERNATIONAL CRIMINAL COURT**

ARRIA FORMULA

**20th ANNIVERSARY OF THE ENTRY INTO FORCE OF THE ROME STATUTE:
REFLECTIONS ON THE RELATIONSHIP BETWEEN THE INTERNATIONAL CRIMINAL COURT
AND SECURITY COUNCIL**

Delivered by Ms. Eva NIAMKE, Minister Counsellor
of Permanent Mission of Côte d'Ivoire

New York, June 24th 2022

**Madam President,
Excellencies,
Mr. Prosecutor of ICC
Distinguished Delegates,
Ladies and Gentlemen**

I have the honor to deliver this statement on behalf of the African States Parties to the Rome Statute of the International Criminal Court (ICC).

We welcome this debate, reflection on the relationship between the Security Council and the ICC and we seize the opportunity to highlight the key role played by the two Institutions in the international peace and security.

When the International Criminal Court was created in 1998, States Parties had the legitimate ambition to bring to justice the perpetrators of the most serious crimes that affect the entire international community, and above all to prevent them.

At a time when the international community is celebrating the twentieth anniversary of the entry into force of the Rome Statute, new investigations continue to fuel the debates of this international jurisdiction. This situation, resulting from the persistence of armed conflicts, confirms the importance and role of this jurisdiction in the search for international peace and justice.

In this regard, African States Parties commends the quality of the work that the ICC has done over the past twenty years in the fight against impunity. We attach great importance to the work of the ICC, as an independent and impartial judicial institution, and the functioning of the Rome Statute system. We reaffirm our unwavering commitment to combating impunity for atrocity crimes and the rule of law.

We also emphasize the key role played by the Court since the entry into force of the Rome Statute which include investigating and trying individuals charged with the most serious crimes of concern to the international community, including, the crime of genocide, war crimes, and crimes against humanity.

Madam President,

The Security Council, a political body belonging to the United Nations system, should cooperate more closely with the International Criminal Court, an independent and judicial body.

These are two very distinct bodies with different roles, but which share common objectives, namely peace, justice and respect for international law, enshrined both in the UN Charter and in the Rome Statute.

In the context of the fight against impunity and respect for international law, cooperation between the two institutions is established by article 13 (b) of the Rome Statute, which allows the Security Council, acting under Chapter VII of the UN Charter, to refer cases to the Court's Prosecutor.

The cooperation between the UNSC and the Court has been also underlined in Article 17 of the 2004 Negotiated Relationship Agreement between the ICC and the United Nations, which envisaged possible ways of interactions between the UNSC and the Court.

Thus, for the African States Parties, the cooperation between those two bodies deserves and needs to be strengthened for obvious reasons, to provide impartial justice to victims and to prevent future atrocity crimes.

In this regard, we need to revitalize and strengthen the existing mechanisms in order to prevent situations of inaction that could result from the threat or use of the veto

The Permanent members of the Security Council should give serious consideration to the call to refrain from using the veto in situations where crimes punishable under the Rome Statute appear to have been committed.

The African States Parties believe that the fight against impunity and the rule of law must be a collective mission to be carried out by the international community as a whole.

Indeed, the ICC remains the central institution in the fight against impunity and the pursuit of fairness and justice, which are essential components of sustainable peace, stability, security and reconciliation.

Madam President,

Ultimately, the African States Parties believe that concrete action is needed to enhance the working relationship between the ICC and the Security Council. Some measures could require drastic changes to how the Security Council approaches its work on accountability and the ICC; other measures could be procedural in nature and could be achieved in the short term. Combined, these would not only strengthen the ICC and further the cause of international justice, they would also clarify the policies of the Security Council and increase its leverage vis-à-vis the threat against peace and security.

To conclude **Madam President**, only a collective, constructive, and sustained effort and continuing dialogue involving all stakeholders will produce the much-needed improvements in the relationship between the ICC and the Security Council.

I thank you all for your attention.



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

NEW YORK, 24 JUNE 2022

SECURITY COUNCIL – ARRIA FORMULA MEETING – 20TH ANNIVERSARY OF THE ENTRY INTO FORCE OF
THE ROME STATUTE OF THE ICC: REFLECTIONS ON THE RELATIONSHIP BETWEEN THE ICC AND UNSC

STATEMENT BY TO H.E. AMBASSADOR CHRISTIAN WENAWESER

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UNITED NATIONS

Mr. President,

The Security Council has a key role in promoting justice, if it is to carry out its mandate on peace and security effectively. Accountability is typically an important dimension of conflict situations on the Security Council's agenda. Unfortunately it is also typically neglected by the Council. The ICC is the central, while not sole institution in this respect. A positive and dynamic relationship between the Council and the ICC would be mutually beneficial. As we approach the 20th anniversary of the entry into force of the Rome Statute, it is a good moment to make a few points with respect to this relationship:

First, complementarity is one of the fundamental principles of the Rome Statute. Primary responsibility for investigations and prosecutions always rests with the national jurisdictions. The Council should incentivize and weigh on States to take their responsibility seriously and to commend efforts where they take place.

Second, the Council has the power to refer situations to the ICC: The vision of the drafters of the Rome Statute was to refer situations of exceptional gravity, where national judiciaries fail in

their responsibility and the ICC does not otherwise have jurisdiction. The reality of the past two decades is starkly different. There was a first referral, of the situation in Darfur, which certainly qualified as one of the most serious situations, as the indictments for genocide issued later on illustrated. But the commitment of the Council to justice turned out to be short-lived. There was no effort to enforce cooperation with the Court, in particular with respect to the execution of arrest warrants. As a result of impunity, the situation in Darfur remains dire, and a long-lasting and costly peacekeeping operation was terminated without lasting beneficial effects for peace or for the people of Darfur.

The second referral, on Libya, was also far from a success story. Council unity on Libya faltered quickly after the referral decision. There was only a small number of indictees over more than a decade, even though systematic violations of IHL and crimes against humanity are well documented, as is the fact that some of them were committed by some of the most powerful individuals in the country. Indifference in the Council led to lack of interest on the part of the ICC, at the expense of the victims of the crimes committed and any prospect for lasting peace in the country. In the last decade, there has been one vetoed attempt for a referral – Syria in 2014 – and no effort to do so on other situations from Myanmar to Yemen and others.

The fact that the ICC Prosecutor has now prioritized the Security Council referrals among his ongoing investigations is an opportunity to reset the relationship between the Council and the ICC.

The referral power of the Security Council has taken on a very different meaning some four years ago when the ICC commenced its jurisdiction over the crime of aggression. Defined as a leadership crime under customary international law and negotiated with all UN Member States,

not just those who have ratified the Rome Statute, the crime of aggression entails individual criminal responsibility for those who are responsible for the act of aggression by their State against another . This goes to the very core of the Charter of the United Nations and gives the Security Council a unique tool to enforce the prohibition of the use of force and to address frontal assaults on the international order. The General Assembly, under the Uniting for Peace Formula, has now determined that aggression against Ukraine has been committed. The obvious next step is for the Security Council would be to refer this act of aggression to the ICC. We are, of course, under no illusion about the outcome of such an initiative. But we also know that it is the necessary thing to do to protect the international order reflected in the UN Charter and that a veto in the Council will lead to a consideration by the UN General Assembly which has its own authority to take action to ensure accountability for the crime of aggression.

I thank you.



**Statement on behalf of the European Union
by Ambassador Silvio Gonzato, Deputy Head of the European
Union Delegation to the United Nations**

**at the Arria meeting on
20th anniversary of entry into force of the Rome Statute: reflections
on the relationship between the ICC and the Security Council**

United Nations

New York

24 June 2022

– CHECK AGAINST DELIVERY –

Mr. President,

'There can be no peace without justice, no justice without law and no meaningful law without a Court to decide what is just and lawful under any given circumstance'. These are the words of Benjamin Ferencz, the chief Prosecutor of one of the Nuremberg trials and a life-long advocate for the establishment of the ICC. Today they resonate as powerful as they were many years ago.

Following on from the Nuremberg Tribunals and their principles, the international criminal justice system culminated with the entry into force of the Rome Statute of the ICC 20 years ago. This is a milestone for international cooperation.

Mr. President,

The ICC made important strides over the last 20 years. Yet, more results in the courtroom would do more justice to the victims. While the Court is on a mission to increase its effectiveness, much also depends on **States** and the **Security Council**. In this regard, let me make three points:

1. *First*, the Security Council should make use of its **right of referral**, as appropriate. Referrals, such as in the situations in Darfur (Sudan) and Libya, as well as the active follow-up on such referrals, can help promote accountability in countries where egregious crimes may have been committed. Referrals by the Security Council enable the Court to exercise jurisdiction over all four crimes under the Rome Statute, **including the crime of aggression**, without any other conditions, and irrespective as to whether it involves States Parties or non-States Parties.
2. *Second*, **the use of the veto** in case of atrocity crimes, including for referrals to the ICC, remains a matter of serious concern. It prevents the Security Council from discharging on its important function entrusted upon it by the UN Charter.
3. *Third*, States must cooperate with the Court to prevent impunity taking hold. The Court is dependent on **States' cooperation** from investigation of alleged crimes to the execution of arrest warrants. When the Court's jurisdiction is triggered by the Security Council, the duty to cooperate must extend to all UN Member States, regardless of whether or not they are a Party to the Rome

Statute. This is key for the execution of arrest warrants. Moreover, the Security Council cannot remain indifferent in case of States' non-cooperation on existing referrals.

Mr. President,

The European Union stands firm on **three fundamental benefits** of the Court:

1. *First*, the ICC is a court for **future generations**. Being a young court, the international community must support it to unleash its full potential.
2. *Secondly*, the ICC gives the international community a **path to global justice and peace**. Ratifying the Rome Statute brings States into a framework of international support to develop national laws and capacities to prosecute atrocity crimes in their jurisdictions.
3. *Third*, **victims** are a key reason of the ICC's existence, for whom the Court is often their last hope.

These benefits by far outweigh the drawbacks mentioned by those who want to undermine the Court, including by spreading disinformation. We just witnessed an example of such egregious disinformation by the Russian representative. To those people I say - quoting again Prosecutor Ferencz - 'I prefer law to war under all circumstances'!

I thank you.

**Statement on behalf of Denmark, Finland, Iceland, Norway and
Sweden**

**at the UN Security Council Arria-formula meeting on
the relationship between the ICC and the Security Council in the
lead up to the 20th Anniversary of the Entry into Force of the
Rome Statute”**

United Nations

New York

24 June 2022

– CHECK AGAINST DELIVERY –

Madam Chair

I have the honour to deliver this statement on behalf of Finland, Denmark, Norway, Sweden - and my own country - Iceland.

Madam Chair

We mark the 20th anniversary of the entry into force of the Rome Statute and thereby the establishment of the International Criminal Court. We once again reiterate our strong support for the Court and its important contribution to the fight against impunity for the most serious crimes of concern to the international community - war crimes, crimes against humanity, genocide and the crime of aggression.

We hope that a dialogue-based approach and a well-managed and results-oriented Court will encourage more States to join the Rome Statute and make it truly universal.

The Court's continued relevance is evident as unfortunately, the most heinous crimes are continuously committed across the world. Accountability for all perpetrators must be ensured. Victims and survivors deserve justice and support.

Russia's illegal military aggression against Ukraine has shown the need for unified support and a collective international response to atrocities. We were pleased that so many States parties decided to join the referral of the situation in Ukraine to the ICC.

We have witnessed indiscriminate military attacks against civilians and civilian infrastructure, including on schools and hospitals.

We have seen widespread killings of civilians and other protected persons as well as sexual and gender-based violence, and numerous other violations of international humanitarian law and human rights law.

Such acts may amount to war crimes, and perpetrators must be held to account. We will continue working towards this shared goal of ending impunity and support and engage in initiatives in this regard, including within the Group of Friends of Accountability following the Aggression against Ukraine.

The relevance of the Court is in no way contained to the situation in Ukraine.

The Court's large number of ongoing investigations all require our immediate attention. Lack of accountability anywhere sends the wrong signal everywhere - it undermines our international legal order, and fuels further atrocities.

The Nordic countries are committed to ensuring sufficient resources for the Court. While the regular budget must remain the primary source of funding for its mandated activities, we continue to explore options of additional support to the work of the Court.

Madam Chair

We welcome the focus of today's meeting on the relationship between the ICC and the Security Council. It is no secret that the relationship is a complex one.

The Security Council is entrusted with the power and the duty to preserve international peace and security.

Without justice, peace remains fragile and the risk of relapse to full scale warfare high.

Without justice, victims and survivors are left to suffer, without a voice or reparation.

We fully support increasing the cooperation between the Security Council and the ICC in relation to existing referrals from the Council. The ICC Prosecutor has stated he will prioritize referrals by the Security Council. The Security Council should render equal support and recognition to the ICC. The Security Council can play an important role in supporting the execution of arrest warrants issued by the ICC and freezing assets of persons under charges. Enhanced cooperation would provide a better basis for future referrals, as many atrocities still escape the jurisdiction of the ICC. United Nations should also share the financial burden of situations referred by the Council, as foreseen in Article 115 of the Rome Statute.

Madama Chair

Let me conclude by renewing our commitment to the fight against impunity. Victims and survivors everywhere depend on us.

I thank you.

ARGENTINA - PERMANENT MISSION TO THE UNITED NATIONS

Reunión Formula Arria del Consejo de Seguridad

"20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council"

Sra. Presidenta:

Los negociadores del Estatuto de Roma entendieron que la Corte necesitaba mantener la independencia judicial del funcionamiento de la ONU, pero también se dieron cuenta de que, para ser efectiva, la Corte necesitaría el apoyo activo de las Naciones Unidas. Es así que la CPI se creó como una institución separada del sistema de la ONU, pero con ciertos vínculos que determinan una interacción entre ambos.

En la interacción entre la Corte y las Naciones Unidas, se destaca el papel del Consejo de Seguridad, al cual el Estatuto de Roma le reconoce diferentes atribuciones. Muchos de los desafíos en la relación entre la CPI y el Consejo de Seguridad tienen sus raíces en la práctica de remisión de situaciones del Consejo, que ha puesto un número de limitaciones a la jurisdicción de la Corte y a las fuentes de financiamiento para solventar las investigaciones que se inician por remisión del propio Consejo. Estos problemas se han exacerbado aún más por la falta de seguimiento del Consejo de Seguridad a las investigaciones derivadas de sus remisiones.

Hasta la fecha, el Consejo de Seguridad ha remitido dos situaciones a la Corte: Darfur en 2005 y Libia en 2011. Estas dos remisiones fueron importantes hitos para el mandato de la CPI. En las resoluciones que decidieron ambas remisiones, el Consejo indicó que los gastos que ocasionen tales remisiones no serán sufragados por las Naciones Unidas sino por los Estados Partes en el Estatuto de Roma. Ello, a pesar de que el Art. 115 del Estatuto establece que los gastos de la Corte se sufragarán con cargo a fondos procedentes de las Naciones Unidas, cuando sean

en relación con cuestiones remitidas por el Consejo de Seguridad. A su vez, el Acuerdo de Relación entre la ONU y la CPI contiene una disposición en sentido similar.

Lamentablemente, el Consejo de Seguridad ha fallado en proporcionar a la Corte el apoyo financiero necesario para garantizar investigaciones y enjuiciamientos derivados de sus remisiones. Resulta fundamental respetar las disposiciones del Estatuto y del Acuerdo de Relación en materia de financiamiento de las remisiones del Consejo de Seguridad, a fin de evitar que cuestiones de índole presupuestaria obstaculicen el desarrollo de las investigaciones que el propio Consejo ha requerido a la Corte.

Las decisiones del Consejo de Seguridad se ven afectadas por su naturaleza política, especialmente dado el poder de veto de sus miembros permanentes. Ello, muchas veces, acaba en una selectividad de las situaciones que pueden ser remitidas a la Corte y este sesgo puede tener serias implicaciones negativas para las percepciones de legitimidad e integridad de la CPI. Es fundamental que el Consejo actúe de manera imparcial para no minar el sistema de justicia penal internacional. Una estrategia más coherente del Consejo de Seguridad sobre rendición de cuentas, no sólo beneficiaría a la CPI, sino también podría clarificar las condiciones bajo las cuales el Consejo de Seguridad remite las situaciones a la CPI.

En estos 20 años de existencia, la Corte ha recorrido un largo camino y se ha establecido como una institución clave del sistema internacional. Hoy, es indiscutible la existencia de un consenso general de que la impunidad frente a crímenes atroces ya no es aceptable. Para cerrar la brecha de impunidad, la relación entre la Corte y el Consejo de Seguridad debe perfeccionarse. Sólo una acción constructiva, de esfuerzo compartido y de diálogo continuo producirá mejoras en dicha relación.

Muchas gracias.

**Statement of Latvia at the Security Council Arria-formula meeting on
20th Anniversary of the entry into force of the Rome Statute:
reflections on the relationship between the International Criminal
Court and the Security Council**

24 June 2022

*Delivered by Legal Adviser of the Permanent Mission of Latvia to the UN,
Ms Renāte Rūse-Auziņa*

Excellencies, Ladies and Gentlemen,

I thank Ireland for organising this Arria-formula meeting. I also join others in thanking distinguished briefers for your statements.

Latvia aligns itself with the statement delivered by the European Union.

Mr Chair,

The establishment of the International Criminal Court marked a turning point in the history of humankind, as for the first time States decided to accept the jurisdiction of a permanent international criminal court for the prosecution of the perpetrators of the most serious crimes committed in their territories or by their nationals after the entry into force of the Rome Statute on 1st of July 2002. Latvia is one of those States who has signed and ratified the Rome Statute, including the amendments on the crime of aggression to contribute to the prevention of such crimes.

It is important to recall that the Security Council has unique responsibility in the maintenance and restoration of international peace and security. Moreover, the Security Council under the UN Charter has been entrusted with a variety of measures to give effect to its mandate.

One such measure is to refer a situation to the Prosecutor of the International Criminal Court to investigate the crimes allegedly committed under the Rome Statute. However, it is regrettable that this measure has not attracted much support from the Security Council since the Rome Statute entered into force twenty years ago, as it has been used only twice with regard to situations in Darfur and Libya. Whereas in 2014 draft resolution to refer the situation in Syria to the International Criminal Court was vetoed. We are of the firm view that the symbiosis created between the two institutions, can and should be used in both strengthening the efforts in maintaining peace and security, as well as advancing the justice in protecting civilians and victims of atrocity crimes.

Mr Chair,

Russia's unprovoked and unjustified military aggression in Ukraine calls for renewed attention to the power entrusted to the Security Council under the UN Charter. However, the right of the permanent members to veto draft resolutions that would involve responsibility of their own nationals does not seem to be waived in the near future. This in turn at the unprecedented level has triggered the role of the General Assembly in accordance with its Charter mandate to prevent the deadlock. The referral of the situation in Ukraine by forty-three States Parties to the Rome Statute, including Latvia has resulted in the highest level of support for the International Criminal Court since its creation.

Latvia, having experienced in its history two world wars, the occupation by the Soviet Union and the Nazi Germany, deportations of Latvians to Siberia, highly value the importance of upholding the obligations under the international law.

Accordingly, Latvia through financial resources, as well as through support of national investigative and judicial authorities has strengthened the ability of the International Criminal Court to deliver accountability. For instance, last month Latvia became a member of the Joint Investigation Team to facilitate investigations and prosecutions on alleged core international crimes committed in Ukraine. Whereas, the competent authorities of Latvia, in exercising universal jurisdiction, have launched criminal proceedings for war crimes and crimes against humanity and peace committed by Russia's armed forces in Ukraine to obtain and document evidence.

I would like to conclude by recalling that no one is exempted from prosecution for having committed the most serious crimes of concern to the international community before the International Criminal Court because of his or her current functions or position. Only our common efforts and commitment to uphold the principles of the UN Charter to ensure international justice, prevent impunity and human rights violations can make more peaceful and just place. I thank you.

Statement of Bangladesh at the United Nations Security Council Aria-formula meeting on 20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council, 24 June 2022, ECOSOC Chamber, UN Headquarters

Madam Chair,

I thank the Permanent Mission of Ireland for convening this meeting.

On the occasion of the 20th Anniversary of the entry into force of the Rome Statute, I warmly congratulate all State Parties and the members of the International Criminal Court.

The adoption of the Rome Statute is an important milestone in the history of international criminal justice system. Bangladesh was one of the 120 countries that voted in favor of adoption of the Rome Statute, and was the third Asian country and the first in South Asia, to sign the Statute.

As a victim of genocide, war crimes and crime against humanity ourselves, our commitment to Rome Statute is steadfast. We have established the International Crimes Tribunals, Bangladesh in 2010, in conformity with its principle of 'complementarity', to investigate and prosecute the perpetrators of 1971 genocide and other international crimes.

The ICTBD has played a crucial role in healing the pains of the victims, who waited four decades for justice.

Madam President,

While the Security Council has primary responsibility for maintenance of international peace and security, ICC supplements its efforts when any case is referred by the Council to the Court. The role of the two bodies is mutually reinforcing. It is therefore critically important to ensure close cooperation between ICC and the Security Council.

Allow me to make three points:

First, despite many incidents of ongoing atrocities over the last two decades, we have not seen adequate response from Council in referring those cases to the Court. Since the operationalization of ICC, only two cases were referred to ICC by the Security Council.

For instance, we have not seen any response from the Security Council to the ICC investigations on the atrocity crimes committed against the Rohingya Muslims in Myanmar. Following the 2017 clearance operations in Rakhine, over 700,000 civilians belonging to the Rohingya minority community crossed the border and took shelter in Bangladesh. The Rohingyas carried with them the horrors of atrocity crimes. We thank the ICC Prosecution for its *suo moto* initiative to open investigation for forced deportation of the Rohingya Muslims from Myanmar. We are working with the ICC to support its investigation process.

There is clearly merit in the suggestion for a structured dialogue between the Council and the Court on such issues of mutual interest, notably in relation to State responsibility, and instances of non-cooperation, as we see in the case of Myanmar.

Secondly, capacity building of the national mechanisms is critical for addressing risks of atrocity crimes and ensuring justice for the crimes that were already committed. In this context, we call upon the Security Council to include and enhance the capacity building measures in its mandate and activities in order to support the national governments to improve their own judicial systems. ICC also has a role to play in supporting member States to build their own accountability mechanisms.

Finally, as we celebrate the 20th anniversary of the entry into force of the Rome Statute, we call for the universalization of the Statute.

I thank you.



PERMANENT MISSION OF ROMANIA
TO THE UNITED NATIONS

United Nations Security Council Arria-Formula Meeting

“20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council”

**Speech delivered by H.E. Mr. Ion I. Jinga,
Permanent Representative of Romania to the United Nations**

New York, 24 June 2022

573-577 3rd Avenue, New York, NY 10016
Phone: (212) 682-3273, (212) 682-3274, Fax: (212) 682-9746
E-mail: newyork-onu@mae.ro <http://mpnewyork.mae.ro>

Madam President,

Over the past few decades, we have witnessed great advances in building an international justice system to ensure accountability for serious violations of international law and to guarantee the rights of individuals. The foundation of this system is our collective commitment to abide by the rules and to hold to account States or others who fail to respect them, whilst its pillars are represented by independent and impartial judicial mechanisms, working in complementarity with national jurisdictions.

The International Criminal Court (ICC), the first permanent tribunal established to prosecute and punish international crimes, provided an essential contribution to the fight against impunity and the establishment of the rule of law, ensuring access to justice for the millions of victims of atrocity crimes around the world. Thanks to the ICC and other accountability mechanisms, investigating mass crimes is now the expected norm at the global level.

Against the backdrop of the worrying resurgence of the inter-state armed conflict following the unprovoked aggression by Russia against Ukraine, the recourse to international justice has been unprecedented. This further attests the strong political will of the international community to address grave breaches of international law and to uphold the principles and purposes of the UN Charter.

The link between justice and the maintenance of peace and security has been undeniably demonstrated by history. Gross violations of human rights and international humanitarian law destroy lives, societies, and entire regions. The perpetrators of international crimes must be held accountable as a means of preventing any flares of impunity-emboldened violence and of paving the way for national reconciliation. Similarly, States must be held responsible for their breaches of their international obligations, given that the respect for international law is a precondition of harmonious and peaceful relations among nations.

Therefore, the topic of this meeting – the relation between the UN organ with primary responsibility for international peace and the single permanent criminal court with jurisdiction over the world's worst crimes – is as relevant as ever.

Madam President,

The core international crimes under the ICC competence are an assault on the rules-based global order and on the values of the UN Charter. The Court and the Security Council have different yet complementary roles in addressing them.

Under the Rome Statute, the Council has the power, acting under Chapter VII of the UN Charter, to refer to the Prosecutor a situation where the most serious crimes appear to have been committed but the Court lacks jurisdiction. This triggering mechanism, additional to that exercised by States and the Prosecutor, was meant to use to the fullest the potential of this permanent judicial institution and thus avoiding the establishment of ad-hoc tribunals by the Council.

As shown by practice, the exercise of this prerogative has been engulfed in controversy, taking into consideration that the actions of the Council are seen through the lens of the political nature of this body. This creates an indirect risk for the reputation of the Court, whose independence should be defended against any unwarranted projection of politicization.

In this respect, two immediate problems come to mind. On the one hand, the Security Council lacks consistent standards regarding cases that qualify to be referred to the ICC, which fuels criticism about its apparent selective approach, and, on the other hand, the Council's action can be blocked by its permanent members' veto power. We share the view that the use of the veto right to prevent the Council to deal with atrocity crimes cannot be justified. It is for this reason that Romania cosponsored the General Assembly recent resolution 76/262 on the "veto initiative" which is meant to ensure that those responsible for stopping the Council to address threats to international peace must account to the 193-member Assembly.

Moreover, when referring cases to the ICC, the Security Council was tasked to ensure cooperation by States with the Court, alongside the Assembly of States Parties. In the absence of other detailed provisions in the Rome Statute, the Council could consider refusals to cooperate under Chapter VII with all the inherent consequences. It is regrettable that, following the Darfur and Libya referrals, the Council has not responded in any substantive form to communications from the Court regarding several findings of non-cooperation on those country situations.

The lack of cooperation with the Court, especially for the arrest and surrender of individuals targeted by arrest warrants, is harmful both for the ICC and the Security Council. The referrals are not fully effective if the Council does not follow-up to enforce cooperation, for example through its Sanctions Committees.

The difficulties in executing the ICC arrest warrants are not limited to situations referred by the Security Council. In this context, other measures of support, with the involvement of the Council, could be considered, such as mandating UN peacekeeping missions to help with arresting ICC indictees.

Madam President,

We welcome the fact that the Court continues to receive important support from the UN and salute the recent efforts of placing justice and accountability high on the Security Council agenda. At the same time, we note there is still room for strengthening the relationship between the ICC and the Security Council in the area of preventing and sanctioning the commission of Rome Statute crimes. We support concrete actions to further harness this cooperation potential to enable the realization of the Court's mandate.

As we celebrate the 20th anniversary of the entry into force of the Rome Statute, promoting the universality of the Court's founding treaty should remain a long-term goal to be pursued jointly by the Court and the States Parties as an expression of our commitment to international law and to peace and security.

Mission of the State of Palestine to the UN

Statement by H.E. Ambassador Majed Bamya, Senior Political and Legal Adviser, Mission of the State of Palestine to the UN, at the Arria-formula meeting on the relationship between the ICC and the Security Council, 24 June 2022

Allow me at the outset to thank and praise Ireland for convening this important meeting that highlights how critical international justice is to the maintenance of international peace and security.

I also wish to thank the eminent briefers, the ICC Prosecutor who has a central role in delivering justice to victims under the Rome statute, Prince Zeid a figure of the ICC and of human rights worldwide and the representative of the coalition for the ICC whose participation reflects the prominent role played by national and international NGOs in advancing the objectives of the Rome Statute.

Madam President,

The ICC is the first international criminal court with universal calling or aspiration, a project 50 years in the making after the atrocities humanity endured during the 2nd World War, including the Holocaust. But what the world needed is for the ICC to have universal jurisdiction over genocide, crimes against humanity, war crimes and the crime of aggression, so victims everywhere can trust justice will be delivered and perpetrators anywhere will fear they will be held accountable. The Security Council had the power to promote such universal jurisdiction. It has failed to do so. The situation in Palestine would have warranted such a Security Council referral as soon as the Rome statute entered into force 20 years ago.

When it comes to Palestine, the Security Council stated the law but never held accountable those breaching it. This accountability crisis is what allowed the perpetuation of the Israeli occupation and its crimes against the Palestinian people.

Madam President,

This Council has a duty to maintain peace and security, and an indispensable way to do so is to ensure that perpetrators of such crimes do not sleep in peace.

In these halls when we speak of a Court of last resort, the emphasis is often placed on the precedence of national jurisdiction. But for victims, what it means is that the ICC is the recourse of those with no recourse. It means that if the Court does not honour its mandate, victims are left with no avenue for justice, abandoned to their fate. It means tormentors have nothing to fear and victims have nothing to hope for.

This is a court to hold perpetrators of crimes accountable and to deliver justice to victims. And when it honours that mandate it helps deter the commission of crimes. Believe us when we say with accountability you achieve deterrence of crimes and with impunity you allow recurrence of crimes. We speak from decades of experience.

We in Palestine say on behalf of our victims and all victims: enough with denied justice, enough with selective justice and enough with delayed justice.

Madam President,

This Court may not be part of the UN architecture but it is indispensable to upholding its Charter, honoring its principles and achieving its purposes.

The founders did a lot of things right, but they did not do enough when it comes to international justice, by failing to grant the ICJ compulsory jurisdiction and by failing to move away from victors' justice to achieve true justice for all and at all times. It is our duty to correct that original flaw in this grand design. The security council must help address this flaw, for victims, and for a more just and peaceful world.

The Rome statute recognizes that such grave crimes threaten the peace, security and well-being of the world. This is self-evident and yet you have people who claim to be champions of accountability that are the advocates of impunity for Israeli crimes, under different pretexts and excuses. They continued to do so even as Israel attacked and threatened the ICC and attempted to intimidate the prosecutor and the judges, and labeled Palestinian NGOs cooperating with the court as terrorist organizations. These countries claimed that attempts to prosecute perpetrators of war crimes and crimes against humanity would hinder peace efforts, while seemingly failing to grasp that the alternative is promoting the absurd idea that such impunity for ongoing crimes was somehow compatible with peace efforts. We chose justice rather than vengeance. This choice should be supported, not obstructed.

Archbishop Desmond Tutu, speaking about Palestine, stated a universal principle: true peace comes only with justice. These words should be engraved on the walls of this Council and in the hearts and minds of those who serve on it and of all of us.

Permanent Mission of Ukraine to the United Nations in New York

Statement by Amb. Sergiy Kyslytsya, PR of Ukraine to the UN

Arria-formula meeting on the relationship between the ICC and the UNSC

Thank you Chair, dear colleagues,

Well first of all I would like to thank Ireland and all co-sponsors for organising this important meeting as well as all briefers for their presentations.

We commend the hard work of the prosecutor of the International Criminal Court, Mr Khan, on the investigation of war crimes, and crimes against humanity, committed during Russia's war against Ukraine. The referral of the situation in Ukraine made by 43 states, and the previously given Ukraine's consent to the ICC's jurisdiction over all crimes committed during the armed conflict since 2014, provide a solid basis for the work of the Office of the Prosecutor of the ICC.

Ukraine is strongly committed to cooperating with the Office, including through the joint investigation team created under the auspices of Eurojust. Notably, that is the first time in history that the Office of the Prosecutor of the ICC has joined a joint investigation team.

The ICC is investigating the situation in Ukraine for alleged genocide, crimes against humanity and war crimes. The ICC remains a key body for international criminal justice.

The Russian statement today was a freak tantrum of 6,000 words of drivel. Experienced caretakers know well that the best way to deal with tantrums is to acknowledge the desires, even if they are wild, without giving in. My reply to the Russian delegation is: when you stop screaming and can talk calmly, come back to the room.

Whilst international criminal justice has important achievements in addressing genocide, crimes against humanity and war crimes, progress concerning the crime of aggression, or crimes against peace as it was labelled during the Nuremburg Tribunal, has been very limited. But the ICC cannot investigate and prosecute individuals for the crime of aggression against Ukraine in connection with certain jurisdictional restrictions, set out in the Rome Statute. That is why Ukraine deems it necessary to create a special tribunal for the crime of aggression against Ukraine, which will complement the important work of the ICC, due to the fact that the special tribunal will have jurisdiction to investigate and prosecute senior political and military leadership of the Russian Federation for the crime of aggression against Ukraine - the exact issue that the ICC cannot address due to the existing rules.

We call upon all our international partners, States and international organisations, to actively participate in the negotiations and consultations on the establishment of the special tribunal.

I thank you.

USAGE INTERNE - INTERN GEBRUIK

USAGE INTERNE - NS - INTERN GEBRUIK



KINGDOM OF BELGIUM

Royaume de Belgique

Intervention de S.E. Monsieur Philippe Kridelka, Ambassadeur,
Représentant permanent

Au Conseil de sécurité des Nations Unies

Réunion en « formule Arria »

« 20^e anniversaire de l'entrée en vigueur du Statut de Rome :
réflexions sur la relation entre la Cour pénale internationale et le
Conseil de sécurité »

New York, le 24 juin 2022

Monsieur le Président,
Excellences,
Mesdames et Messieurs,

Je souhaiterais remercier l'Irlande pour l'organisation de cette réunion et les orateurs invités pour leurs exposés fort éclairants.

La Belgique soutient activement la Cour pénale internationale en tant que contributeur majeur à la lutte contre l'impunité dans le cas où l'Etat compétent n'a pas la volonté ou est dans l'incapacité de mener véritablement à bien l'enquête ou les poursuites. Ceci participe à la prévention de nouveaux crimes et jette les bases d'une paix durable. Les victimes méritent un système efficace pour mettre en œuvre la responsabilité des auteurs des pires atrocités.

Pour atteindre ces objectifs, la Cour a besoin de la coopération des Etats, parties ou non parties, mais aussi des organisations internationales telles que l'Organisation des Nations Unies et son Conseil de sécurité en particulier. Dans ce contexte, mon intervention se concentrera aujourd'hui sur trois points spécifiques : les mesures concrètes qui pourraient être prises pour une plus grande interaction entre la Cour et le Conseil ; la plus-value du point focal pour la CPI au Conseil de sécurité ; et la nécessité d'encadrer le recours au droit de veto en cas d'atrocités de masse.

Premièrement, il existe **différents moyens de renforcer les échanges et la coopération entre le Conseil de sécurité et la CPI**. Je voudrais ainsi rappeler trois des propositions concrètes faites il y a quatre ans lors d'une première réunion en « formule Arria » organisée à ce sujet par les Pays-Bas :

Tout d'abord, la définition d'une procédure spécifique de suivi en cas de renvoi d'une situation par le Conseil au Procureur de la CPI. Ceci devrait à tout le moins exister en cas de notification par la Cour de la non-coopération d'un Etat qui y est obligé.

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Ensuite, l'inscription sur les listes de sanctions des personnes contre lesquelles la Cour a émis un mandat d'arrêt. Ceci permettrait à tout le moins au Conseil de réagir au défaut de coopération des Etats dont dépend l'exécution de ces mandats d'arrêt. En particulier, le Conseil ne devrait pas rester indifférent à ces situations lorsqu'elle concernent les affaires dont il a lui-même saisi la Cour.

Enfin, la prise en charge des dépenses liées à la saisine de la CPI par le Conseil de sécurité, conformément à l'article 115, b) du Statut. Il est en effet anormal de faire peser la charge financière de ces enquêtes uniquement sur les Etats parties au Statut de Rome.

J'en viens maintenant à mon second point. La Belgique se félicite du rôle joué par le Mexique qui lui a succédé en janvier 2021 comme **point focal pour la CPI au Conseil de sécurité**. Cette fonction est primordiale en ce qu'elle assure un relais efficace de nature informelle entre la Cour et les Etats parties qui siègent au Conseil, mais également envers ceux qui n'en sont pas membres. Depuis sa création il y a un peu plus de dix ans, le point focal a ainsi contribué à promouvoir l'action de la Cour dans le cadre des discussions au sein du Conseil.

Pour terminer, je voudrais souligner qu'il est regrettable que, depuis l'entrée en vigueur du Statut de Rome, seules deux situations aient été déférées par le Conseil à la Cour, à savoir le Darfour et la Libye. En cas de situation d'atrocités de masse, le Conseil doit être en mesure de prendre ses responsabilités et d'adopter des mesures coercitives si nécessaire. **L'utilisation ou la menace du droit de veto** par ses membres permanents est dans ce cas inacceptable. C'est pourquoi la Belgique a adhéré au code de conduite du Groupe ACT et continue à pleinement soutenir l'initiative franco-mexicaine pour encadrer le droit de veto en cas de crimes d'atrocité.

Je vous remercie.



**UN Security Council Arria formula meeting on
“20th anniversary of entry into force of the Rome Statute: reflections on the relationship
between the ICC and the Security Council”**

June 24 2022

National Statement – Republic of Lithuania

Each year, as we mark the International Justice Day, we commemorate the historic adoption of the Rome Statute. This year, as we reach significant milestone of its entry into force, we also reflect on the progress achieved in promoting international criminal justice. I convey our gratitude to the Permanent Mission of Ireland for organizing this Arria meeting.

The adoption of the Statute gave birth to the first permanent and independent international court, capable of investigating and bringing to justice individuals who commit the most serious violations of international criminal law, international humanitarian law and human rights. Equally important is the fact that this adoption gave impetus to promoting a universal culture of upholding the Rule of Law, human rights and human dignity by fighting impunity for the commission of genocide, war crimes, crimes against humanity and the crime of aggression.

A State Party since 2003, Lithuania expresses its full support to the International Criminal Court and to the Rome Statute system. We are and will remain committed to full cooperation with the Court and to preserving its **impartiality and independence**. Integrity of the Rome Statute is paramount, as is promoting its **universality**, in order to **end impunity** for atrocity crimes. In this regard, we call upon all States to sign and ratify the Rome Statute.

We maintain that it is essential for the **Security Council** to make the best use of the tools it has in its disposal for cooperation with and enabling of the Court: in particular, **through exercising its right of referral** of certain situations to the Prosecutor of the ICC, in accordance with the Rome Statute and the UN Charter. On the other hand, we are cautious about the impact of the use of veto in the Council under such circumstances, for it could significantly impede the Council's ability to implement fully and effectively its function of maintaining international peace and security.

We recall that **States** continue to be fundamental in ensuring that perpetrators of international crimes are held accountable - given that the ICC is not a supranational, but rather an international body, grounded on State and inter-State cooperation and enforcement. We are seeing the practical application of this cooperation quite vividly today, in the wake of the unprovoked unlawful and unjustified war of aggression launched by Russia against Ukraine exactly four months ago today.

The first Member State to refer the situation in Ukraine to the Prosecutor of the International Criminal Court, Lithuania will continue to support the Office of the Prosecutor in its investigation concerning alleged war crimes and crimes against humanity committed in Ukraine by providing financial and expert support. We commend the expert recruitment progress in this regard.

We also note the progress in the work of the **Joint Investigation Team (JIT)** into allegations of international crimes committed in Ukraine, created in Eurojust in March 2022 at the initiative of Lithuania, Poland and Ukraine. As the first JIT of its kind, it was also the first to be joined by the Prosecutor of the ICC. We are delighted to welcome the recent joining of the Estonian, Latvian and Slovak representatives and look forward to working together, sharing information, engaging in fact-finding and securing admissible evidence-gathering. We remain convinced that cooperation between the national investigators based on universal jurisdiction is enhancing the documenting and mapping of the crimes committed and identifying those responsible. Moreover, it forms the cornerstone of fighting impunity.

Anniversaries, while particularly opportune moments to reminisce, also serve as great incentives to look forward to the future and **tangible outcomes in the court of law** for all atrocity crimes - so that the spirit of the Rome Statute is upheld, justice is delivered and redress to victims is secured.

I thank you.



CROATIA

Statement by

H. E. Ambassador Ivan Šimonović

Permanent Representative of the Republic of Croatia

at

the United Nations Security Council Arria-formula meeting

20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council

24 June 2022

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PERMANENT MISSION OF THE REPUBLIC OF CROATIA TO THE UNITED NATIONS
820 SECOND AVE, 19. FL, NEW YORK, NY 10017 | TEL: 212 986 1585 | FAX: 212 986 2011 | CROMISS.UN@MVEP.HR

Madam Chair,

Congratulations for organizing this important Arria, marking the 20th anniversary of the ICC. Many thanks to our excellent briefers as well.

20 years ago, when Dr. Zeid Ra'ad Al Hussein was the first President of the Assembly of State Parties to the ICC, I was one of its vice presidents.

As a country in its mandate, Croatia had witnessed the achievements and shortcomings of ad hoc International Criminal Tribunal for the Former Yugoslavia, established ex post facto. We immediately recognized the powerful deterring effect the ICC could have as a permanent standing tribunal in charge of future crimes, and that it represents a great step forward in the development of the international criminal justice.

Despite its promising start, 20 years later the ICC did not achieve as much as we had hoped for. However, we should not underestimate what it did achieve, nor what it can achieve in the future if it receives the support it deserves.

My experiences as the UN ASG for human rights point to the importance of the ICC as a powerful atrocity crimes prevention tool.

The very existence of the ICC provides the opportunity to engage in accountability-based, atrocity crimes preventative diplomacy.

In countries facing rising threats of atrocity crimes, I often warned military and political leaders of their responsibility to prevent them, and punish them if they nevertheless occur. They listened especially carefully if the country accepted ICC's jurisdiction, but the possibility of the SC referral, albeit remote, also had some deterring effect.

As atrocity crimes continue to rise, strengthening the ICC's capacity to prevent them is essential. We have to increase the number of States that accept ICC's jurisdiction as well as the likelihood of the SC's referrals.

Because of current divisions in the SC, especially between its permanent members, it is not easy to reach an agreement on referrals. We therefore strongly support both the French-Mexican initiative and the Code of Conduct, as proposed by the ACT Group, reducing the veto power in cases of atrocity crimes threats, which should be applicable on ICC referrals as well. We also sincerely hope that the GA discussions following every SC veto will prevent its use in situations when referrals are needed.

Also, briefings of the HCHR, as well as other UN officials and independent experts sharing their in depth knowledge of grave violations and atrocity crimes threats, increase political pressure on SC members, including the permanent ones, to act on them, including through referrals, and should therefore be more frequently practiced.

Thank you.



GRAND-DUCHÉ DE LUXEMBOURG
Représentation permanente auprès
des Nations Unies

**Réunion selon la formule « Arria » du Conseil de sécurité des Nations Unies
sur le 20^{ème} anniversaire de l'entrée en vigueur du Statut de Rome :
réflexions sur les relations entre la Cour pénale internationale et le Conseil de sécurité**

New York, le 24 juin 2022

**Intervention de S.E. M. Olivier Maes
Ambassadeur, Représentant permanent du Luxembourg**

Madame la Présidente,

Le Luxembourg remercie l'Irlande et les coparrains pour l'organisation de cette réunion « Arria » qui nous donne l'occasion de marquer le 20^{ème} anniversaire de l'entrée en vigueur du Statut de Rome et de réfléchir sur les relations entre la Cour pénale internationale et le Conseil de sécurité. Nous remercions tous les intervenants qui ont partagé leurs réflexions et leurs recommandations.

Le Luxembourg souscrit à la déclaration de l'Union européenne. Permettez-moi d'ajouter quelques éléments à titre national.

Malgré les nombreux défis qu'elle a dû relever au cours de ses 20 premières années, la CPI s'est établie comme l'acteur incontournable de la justice pénale internationale et comme une source d'espoir de justice pour les victimes des crimes relevant de la compétence de la Cour.

Bien qu'ils soient investis de mandats distincts, la CPI et le Conseil de sécurité ont des fonctions complémentaires. En effet, la lutte contre l'impunité constitue un élément indispensable pour réaliser une paix durable. Il conviendrait donc d'avoir plus fréquemment des échanges du Conseil avec la CPI, comme aujourd'hui.

Le Conseil de sécurité a exercé son pouvoir de déférer une situation au Procureur de la CPI dans les cas du Darfour et de la Libye. Nous regrettons fortement qu'il n'ait pas été en mesure de le faire dans le cas de la Syrie et dans d'autres situations qui l'exigeaient.

En ce qui concerne la situation en Ukraine qui a déjà été mentionnée par beaucoup d'orateurs aujourd'hui, nous saluons le fait que, dès le 2 mars, le Procureur de la CPI ait ouvert une enquête suite aux rapports faisant état d'atrocités perpétrées par les forces armées russes dans le contexte de la guerre d'agression menée par la Russie contre l'Ukraine. L'enquête de la CPI ne couvre cependant pas le crime d'agression, pour lequel le Conseil de sécurité a le pouvoir de saisir le Procureur de la Cour. Si le Conseil n'est pas en mesure d'exercer ce pouvoir, il conviendra d'examiner d'autres options pour que justice soit faite.

Quand il décide de déférer une situation à la CPI, le Conseil de sécurité devrait faire un suivi plus efficace. Une option est d'étendre les critères de désignation des régimes de sanctions aux personnes sous mandat d'arrêt de la Cour, afin de faciliter leur appréhension par une interdiction de voyager et d'éviter que des fonds ne soient détournés à leur profit.

La CPI est complémentaire des juridictions pénales nationales, qui constituent la première ligne de défense contre l'impunité. Le Conseil de sécurité peut jouer un rôle utile dans ce contexte aussi, en veillant par exemple à ce que les opérations de maintien de la paix qu'il mandate disposent des capacités nécessaires ou soient accompagnées de mesures adéquates pour soutenir le renforcement de l'état de droit et des juridictions nationales.

Madame la Présidente,

À ce jour, 123 pays ont adhéré au Statut de Rome. Ce 20^{ème} anniversaire devrait nous encourager à redoubler d'efforts pour atteindre l'objectif de l'universalité. Le Luxembourg invite tous les États qui ne l'ont pas encore fait à adhérer au Statut de Rome et à renforcer ainsi la CPI.

Je vous remercie.

Permanent Mission of Chile to the United Nations

**United Nations Security Council Arria-formula meeting
20th anniversary of the entry into force of the Rome Statute: reflections on the relationship
between the International Criminal Court and the Security Council**

Sr. Presidente,

Chile agradece a los organizadores por esta actividad para celebrar los 20 años de la entrada en vigencia del Estatuto de Roma y reflexionar sobre la relación entre la Corte Penal Internacional y el Consejo de Seguridad de las Naciones Unidas.

Asimismo, agradecemos a los panelistas por sus planteamientos y la información que han proporcionado.

El reforzamiento de la efectividad de la justicia internacional resulta esencial para garantizar el estado de derecho a nivel internacional y en ese sentido, Chile reitera su más pleno apoyo a la Corte Penal Internacional, en su calidad de Tribunal permanente, el que extendemos, a la forma en que ejerce su jurisdicción. El establecimiento de la Corte constituyó un logro largamente anhelado por la Comunidad Internacional y forma parte de un proceso de estructuración jurídica para hacer imperar el estado de derecho.

El permanente apoyo de los Estados Parte del Estatuto, respetando y apoyando la autonomía e independencia de la Corte, es indispensable para el ejercicio pleno de sus funciones. En efecto, la Corte no sólo cumple un rol fundamental en la sanción de los más graves crímenes, dentro de su competencia, sino que también, su existencia y la eficacia de su acción jurisdiccional, constituyen un fuerte factor disuasivo de la comisión de esas mismas conductas y contra el flagelo de la impunidad.

Sr. Presidente,

Respecto de la relación entre la Corte y el Consejo de Seguridad, Chile considera que debe existir cooperación en el marco de las normas que la regulan. Si bien la Corte y el Consejo de Seguridad tienen ámbitos de competencia diferentes, no cabe duda que sus competencias se complementan.

En efecto, los bienes jurídicos que resguarda el Estatuto de Roma, esto es, la paz, la seguridad y el bienestar de la humanidad están consagrados también entre los propósitos de la Carta de las Naciones Unidas. Por ello, ambas organizaciones deben implementar acciones para hacer frente a la impunidad y la reiteración de conductas reñidas con el ordenamiento jurídico internacional. La paz y la seguridad internacional, tareas propias de Naciones Unidas, también tienen un componente de justicia.

Además, es tarea primaria del Consejo de Seguridad velar por la paz y la seguridad internacionales, por lo que también le compete la responsabilidad de promover la justicia internacional y velar por la rendición de cuentas. En este sentido, se requiere poner especial atención en el seguimiento por

el Consejo de Seguridad de las situaciones que ha remitido a la Corte para asegurar la cooperación con ella.

Sr. Presidente,

Chile tiene un compromiso permanente con el Derecho Internacional Humanitario y con la protección internacional de los Derechos Humanos. Nos preocupa la comisión de crímenes internacionales en diferentes partes del mundo y abogamos para que todos ellos sean investigados de manera independiente. En tal sentido, la Corte Penal Internacional y el Estatuto de Roma proveen un marco jurídico e institucional que garantiza investigaciones independientes e imparciales, que no se empleen políticamente pero que tengan en el centro al ser humano y su protección, en especial de las víctimas. Por ello consideramos que la universalización del Estatuto de Roma es indispensable.

Muchas gracias Sr. Presidente



CZECH REPUBLIC

Permanent Mission of the Czech Republic to the United Nations

United Nations Security Council Arria meeting on

“20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council”

Statement by

H.E. Mr. Jakub Kulháněk

Permanent Representative of the Czech Republic to the United Nations

New York, 24 June 2022

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One Dag Hammarskjöld Plaza, 48th floor
885 Second Avenue, New York, NY 10017
tel.: +1 (646) 981 4001, fax: +1 (646) 981 4099
www.mzv.cz/un.newyork

Madam President,

Ladies and Gentlemen,

The Czech Republic wishes to congratulate the Permanent Mission of Ireland and the co-sponsoring States Parties to the Rome Statute for organizing this timely meeting, on the eve of the 20th anniversary of the entry into force of the Rome Statute.

This important date marks also 20 years of existence of the relationship between the Security Council and the International Criminal Court. The drafters of the Rome Statute recognized that grave crimes threaten the peace, security and well-being of the world and as such the Security Council has been vested with powers to avoid the impunity gap in line with the Charter of the United Nations and the Rome Statute, and thus to contribute to the prevention of such crimes.

This fact must be taken seriously by the Security Council. In this regard, the referral should be considered as an opportunity for independent and impartial judicial investigation. Casting a veto when referring situation to the ICC is not of any help to justice.

Therefore, the Czech Republic supports the French-Mexican initiative on veto restraint in case of genocide, crimes against humanity and war crimes, as well as the ACT Code of Conduct. We have also cosponsored the General Assembly's resolution on Standing mandate for a General Assembly debate when a veto is cast in the Security Council.

So far, the two referrals by the Security Council have not been adequately followed upon when instances of non-cooperation occurred. The Security Council should explore reactions to instances of non-cooperation with the ICC in case of its own referrals. We are of the view that the Informal Working Group on International Tribunals should be tasked to deal with issues pertaining to ICC referrals.

We are convinced that the best way to promote universality of the Rome Statute is by the simple existence of an effective, efficient, independent and impartial Court. The Security Council is in a position to contribute to this task, in particular by consistency in treatment of situations where serious crimes under international law are committed.

Last but not least, we would recommend that the United Nations will cover the costs of future referrals, as it was the case for the United Nations ad hoc tribunals.

Thank you for your attention!



REPUBLIC OF POLAND
PERMANENT MISSION TO THE UNITED NATIONS

750 THIRD AVENUE, NEW YORK, NY 10017

TEL. (212) 744-2506

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**United Nations Security Council Arria-formula meeting
20th anniversary of the entry into force of the Rome Statute:
reflections on the relationship between the International
Criminal Court and the Security Council**

Statement by the Republic of Poland

New York, 24 June 2022

Mr. President, Distinguished Delegates,

Let me start by thanking you for this important debate marking the upcoming anniversary of the entry into force of the Rome Statute.

The authors of the Statute, when drafting its text over 20 years ago, had the idea that the International Criminal Court must maintain its judicial independence from the UN's political activities, but still it needs to work with the Organization, in particular the Security Council, in order to be effective. The ICC and the Security Council are the main bodies responsible, respectively, for prosecuting the most serious international crimes and for maintaining international peace and security. Together, they form a complex and delicate relationship based on complementarity and a common goal enshrined in the UN Charter of ensuring peace between nations. The past 20 years have shown how difficult it is for these two bodies to implement the principles of cooperation set forth in the Rome Statute, and recent months have not brought any positive changes in this regard.

Mr. President,

Today, it is impossible to discuss relationship between the Security Council and the ICC in isolation from the war in Ukraine. The outbreak of the war should have prompted the Council to act, including by referring the situation to the ICC. And yet it did not happen. Instead, the Security Council has been paralyzed by Russia's use of its prerogatives as a permanent Council member.

Not only had Russia breached the fundamental principles of international law, but also the accepted standards of conduct within international institutions.

The international community must and will seek ways to circumvent the Council's inability to act in order to ensure that, such crimes as Russia's crime of aggression against Ukraine are properly adjudicated. This is because no state whatsoever can be allowed to game the system of international justice to ensure impunity for itself.

Meanwhile, the ICC prosecutor and the sovereign states, both separately and in cooperation with each other are doing their utmost to investigate crimes in Ukraine.

The Polish National Public Prosecutor's Office has opened a criminal investigation into Russia's war of aggression against Ukraine, which is penalized under Polish law. Together with Estonia, Latvia, Lithuania, Slovakia and Ukraine, joined by the ICC Prosecutor's Office as a participant, we have established a Joint Investigation Team, operating within the Eurojust framework, to collect and preserve evidence of crimes committed in Ukraine.

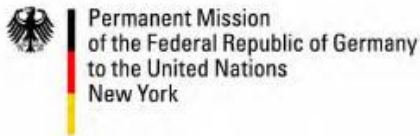
Poland is closely cooperating with the ICC Prosecutor's Office and commends its tireless efforts to ensure accountability for crimes in Ukraine. We have accepted a request from the ICC Prosecutor for assistance and have decided to second national experts.

Due to our geographic proximity to Ukraine, Poland is also providing logistical support in the field for the prosecutor's investigation.

Mr. President,

The actions undertaken by the states and the ICC are praiseworthy. The same compliment, unfortunately, cannot be paid in this case to the Security Council. Russia's attempts to overturn the whole international order are clearly incompatible with international law. It is thus our obligation to assure justice and accountability. The ICC plays an indispensable role in this process; therefore, it deserves our continued generous support. The ICC and the Office of the Prosecutor can count on Poland!

I thank you.



**Statement by Ambassador Thomas Zahneisen
Security Council Arrria-formula meeting on “20th anniversary of the entry into force of the Rome
Statute: reflections on the relationship between the International Criminal Court and the Security
Council”, 24th June 2022**

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Mr. President,

Germany aligns itself with the EU Statement.

The horrors unleashed by Russia in Ukraine are a stark reminder that crimes under international law can affect anyone anywhere in the world. We are seeing how the people of Ukraine join a long list of countries where the weakest fall victim to murder, rape, abduction and other atrocities. More than ever, now is the moment to act!

The International Criminal Court has a key role to play in this respect – in Ukraine and wherever the victims call for justice. This is why Germany has been a staunch supporter of the International Criminal Court from its very beginnings. The establishment of a permanent, independent international court tasked with the investigation and persecution of the most heinous crimes human beings can commit against their fellow human beings has been a singular historic achievement: The ICC symbolizes like no other institution the primacy of the rule of law over injustice, of human reason and compassion over senseless barbarism, violence and destruction.

As we have learned from our own history, and I am citing the famous judgment of the Nuremberg Tribunal in this regard: “Crimes against International Law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of International Law be enforced.”

It should hence be our goal and objective to support and strengthen the international criminal justice system with the international criminal court at its core – a system that is indispensable for survivors of atrocity crimes, for families of victims and for upholding international law and humanity more generally.

In this regard, let me emphasize that the Security Council can itself be deemed an actor and a part of the international criminal justice system: Sustainable peace is closely interlinked with justice and it is in this spirit that the Security Council can refer situations of concern to the ICC. With the right of referral comes a responsibility: To examine closely and even-handedly situations where crimes under international law are perpetrated, and to make use of the referral option.

Unfortunately, the Security Council has so far seldom lived up to this responsibility, *inter alia* due to vetoes cast by certain of its permanent members. And it has arguably failed to properly explain, also to a larger audience, including the General Assembly, its motivations behind inaction in certain cases. I therefore call upon the Council to more proactively take up its role as an element also in the international criminal justice system, to make use of the referral option where appropriate and to explain more thoroughly and transparently to the international community and to civic society the reasons for not doing so in relevant cases. The fact that in case of a veto, the General Assembly will debate the situation henceforth is more than welcome.

Mr. President,

the international criminal justice system and the ICC cannot do the job alone. UN member states can and must play a key role in ensuring accountability. We must do everything we can, at all levels, to the best of our abilities, to fight impunity for crimes under international law. Moreover, in cases in which the ICC has no jurisdiction and the Security Council does not take action proceedings by domestic judiciaries are the only hope of those affected by horrific crimes.

German Courts have made significant progress in bringing perpetrators of crimes under international law to justice based on the principle of universal jurisdiction. This includes the famous Koblenz judgements concerning torture and murder in Syrian Regime Prisons as well as cases brought against members of da'esh for crimes against humanity or genocide.

In Germany, we see these cases as contributions to an aspired global culture of accountability, in which perpetrators of atrocity crimes are prosecuted without ifs and buts, in accordance with the applicable law and on the basis of fair and independent judicial proceedings. We encourage all States to join in the investigation and prosecution of crimes under international law, making best use of the principle of universal jurisdiction.

Let me conclude by highlighting that we more than ever need an effective system of international criminal justice, with the ICC at its core. Let us jointly muster our efforts, resources and determination to use, strengthen and develop further the system we have built to hold those responsible for crimes under international law to account – whatever the political and social background of such crimes.

Thank you.



AUSTRALIAN MISSION TO THE UNITED NATIONS

E-mail australia@un.int

150 East 42nd Street, New York NY 10017-5612 Ph 212 - 351 6600 Fax 212 - 351 6610 www.australia-unscc.gov.au

**UNITED NATIONS SECURITY COUNCIL ARRIA-FORMULA
MEETING: 20th ANNIVERSARY OF THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**
24 June 2022

Written statement by Australia

The creation of the International Criminal Court 20 years ago was a historic milestone in the international community's efforts to end impunity for atrocity crimes.

Accountability is essential to achieving lasting peace and security, and the Court is at the heart of this pursuit.

This anniversary provides the opportunity to reflect on the Court's crucial work over the past two decades in investigating serious international crimes and holding perpetrators to account.

The current investigation into the situation in Ukraine demonstrates now, more than ever, the importance of an independent and impartial international court to pursue this worthy goal.

This is why Australia committed one million Australian dollars in additional funding—and two professional staff—to support the Prosecutor’s Office at this pivotal time.

Yet the measure of the Court’s success over the last 20 years is not limited to the number of investigations, prosecutions and convictions.

It also includes the contribution the Court has made in motivating and boosting national efforts towards accountability and justice.

This reflects its role as a court of last resort, in line with the principle of complementarity on which it was built.

This anniversary also provides the opportunity to take stock of the challenges the Court faces, including its relationship with the UN Security Council.

Australia regrets that despite evidence of atrocity crimes being committed with impunity across the globe, the Security Council has only twice referred a situation to the Court for investigation.

We especially regret that this has often been due to the use, or threat of use, of the veto power.

In this regard, Australia welcomes the recent General Assembly initiative aimed at holding the five permanent members accountable for their use of the veto.

Where the Security Council has referred a situation to the Court, we urge the Council to do more to support the Court's implementation of that mandate. This could include

- addressing incidents of non-cooperation with the Court or non-enforcement of arrest warrants
- mandating UN peacekeeping or peacebuilding missions
- and imposing targeted sanctions.

Where relevant, the Security Council should also invite representatives of the Court to participate in its meetings.

Of course, the Court is not a perfect institution. It continues to learn lessons and improve its work.

Australia welcomes the important reforms underway, in line with the Report of the recent Independent Expert Review. And we reiterate our support for a Rome Statute Review Conference to be held in 2023.

Australia looks forward to continuing our work with the Court and States Parties to ensure a strong international court capable of achieving its important role in countering impunity – now and into the future.



**INTERVENCIÓN DE LA DELEGACIÓN DE GUATEMALA DURANTE
LA REUNIÓN DE FORMULA ARRIA: VIGÉSIMO ANIVERSARIO DE
LA ENTRADA EN VIGOR DEL ESTATUTO DE ROMA:
REFLEXIONES SOBRE LA RELACIÓN ENTRE LA CORTE PENAL
INTERNACIONAL Y EL CONSEJO DE SEGURIDAD
NUEVA YORK, VIERNES 24 DE JUNIO DE 2022.**

Señor Presidente:

Agradecemos a la Misión Permanente de Irlanda la realización de esta reunión que pone de relieve la importancia de la Corte Penal Internacional en el sistema de justicia internacional.

Este año celebramos el Vigésimo aniversario de la entrada en vigor del Estatuto de Roma, el cual representa un significativo avance para la justicia internacional, ya que contribuye a garantizar sociedades más estables y pacíficas.

Guatemala reafirma su inequívoco respaldo a la Corte Penal Internacional, así como su compromiso con la lucha contra la impunidad, ya que la Corte Penal Internacional desempeña una función fundamental dentro del sistema de justicia internacional, con la finalidad de poner fin a la impunidad por los crímenes más graves de genocidio, guerra, agresión y de lesa humanidad, además su labor trasciende y es el centro de un sistema internacional de justicia con un impacto global de gran alcance.

Mi delegación valora el apoyo y la cooperación entre las Naciones Unidas y la Corte Penal Internacional, no sólo porque fortalece el diálogo y relación entre ambas entidades, sino porque también sirve para darle visibilidad al trascendental trabajo de la Corte Penal Internacional y esto representa una oportunidad para afianzar su autoridad y conocer más sobre su mandato y la importancia de la cooperación entre los Estados.

Guatemala renueva su llamado al respeto al Principio de Complementariedad y el fortalecimiento de los sistemas nacionales para garantizar la rendición de cuentas, el cual es pilar fundamental del Estatuto y principio guía del actuar de la Corte.

Creemos, por eso, que se hace necesario mejorar la cooperación entre la Corte y el Consejo de Seguridad, a fin de unir esfuerzos y contribuir a la prevención de crímenes, que van en contra de la paz y la seguridad internacionales y reforzar esfuerzos para combatir la impunidad de esos actos. Además, es oportuno mantener intercambios periódicos entre el Consejo y la Corte, independientemente de las reuniones informativas sobre las situaciones remitidas.



Señor Presidente:

La cooperación es uno de los pilares fundamentales en los que descansa el buen funcionamiento de la Corte Penal Internacional; por ende, el firme compromiso de los Estados parte es crucial para acrecentar la capacidad de la Corte, a fin de asegurar la rendición de cuentas, hacer justicia para las víctimas, así como ayudar a prevenir futuros delitos, según lo previsto por el espíritu de su Estatuto.

Los Estados parte y la membresía de las Naciones Unidas deben esforzarse por fortalecer su cooperación y reafirmar continuamente la pertinencia que tiene la justicia penal internacional para garantizar el Estado de Derecho, la paz y la seguridad internacionales.

La lucha contra la impunidad es un objetivo de los Estados parte en el Estatuto de Roma y también de las Naciones Unidas, pero ese objetivo debe ir acompañado del compromiso de proveer a la Corte de los recursos necesarios para cumplir sus funciones, con el fin de proteger su integridad e independencia. La falta de estos recursos puede poner en peligro la sostenibilidad de sus investigaciones.

Cada paso hacia la universalidad reducirá significativamente el riesgo de impunidad y contribuirá a la consolidación de la paz y la estabilidad de los Estados. Por esta razón debe seguirse promoviendo la dimensión universal del Estatuto de Roma manteniendo el impulso al proceso de ratificaciones y adhesiones, ya que universalmente ratificado se garantiza que ningún individuo este por encima de la ley.

Para concluir, reiteramos nuestro respaldo a la labor de la Corte Penal Internacional, su labor trasciende y es el centro de un sistema internacional de justicia con un impacto global de gran alcance, razón por la cual creemos que la Corte necesita el apoyo firme y constante de la comunidad internacional para llevar a cabo su mandato

Muchas gracias.



Arria Meeting – Friday, 24th June, ECOSOC Chamber, 10am

“20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council”

Statement of the Deputy Permanent Representative and Charge' d'Affaires of Italy, Amb. Stefano Stefanile

Madam Chair,

Italy welcomes this Arria formula meeting and is grateful to the organizers for taking the initiative.

*Twenty years after the entry into force of the Rome Statute, the International Criminal Court remains **the most advanced normative and institutional model in international criminal justice**. It ensures accountability for the most serious international crimes through an independent and impartial institution based on the rule of law.*

***Italy's support to the Court is unwavering.** It is reflected in our constant support to the integrity, the independence and the mandate of the Court as well as in our role as the 5th top contributor to the Court budget. The latest example of our support to the Court is the availability of our Government to second several units of specialized personnel to the Office of the Prosecutor with a view to supporting the office in its increasing workload.*

*The drafters of the Rome Statute acknowledged **the link between peace and justice** by: a) providing the possibility for the Security Council to refer a situation to the Court and b) by foreseeing the possibility for the Council to suspend an investigation for a period of one year.*

*As pointed out in previous interventions, the main obstacle to an effective relationship between the Council and the Court has been **the veto posed by Permanent Members**. The situation in Syria is the most infamous example in this respect.*

*However, even when situations have been referred to the Court, such as in the case of Libya and Sudan, the effectiveness of investigations and trials in The Hague has been significantly undermined by the **lack of cooperation by States** as well as by **budgetary constraints**.*

*Taking stock of the last 20 years, we believe the international community must seek to redress the above shortcomings by pursuing the **following priorities**:*

*First, the **exercise of the veto power must be strongly discouraged**, especially when atrocity crimes are committed. In this respect, Italy supports all those initiatives aimed to a self-restraint in the use of veto by Permanent Members, including the ACTA code of conduct and the French-Mexican initiative of 2015. Italy also welcomed the adoption of Resolution n. 262 that contemplates an automatic debate in the General Assembly every time a veto is cast in the Council.*

*Second, when the Security Council is unable to act, we should explore ways to ensure a more prominent role for **the General Assembly, in line with its responsibilities to maintain international peace and security, including the possibility to trigger the opening of an investigation by the Office of the Prosecutor**.*

*Third, **UN peace-keeping missions, where appropriate, should be mandated to enforce arrest warrants issued by the Court** when domestic*

*authorities are unwilling or unable to comply and **to protect witnesses and vulnerable categories in the course of investigations and trials;***

*Fourth, when situations are referred by the Security Council, investigative and judicial activities related to those situations should not entirely fall under the budget of the Court, but **the UN should bear its part of financial responsibility.***

*Ultimately, **the ICC and the UN share the same objective** recalled in the preamble of the UN Charter: establishing conditions under which justice and respect for international law can be maintained.*

Let us use this year's important anniversary to work towards this goal by revisiting and improving the vital relationship between the ICC and the Security Council.

I thank you.



*Permanent Mission of Portugal
to the United Nations*

Statement by the Chargé d'affaires a.i. of Portugal
to the United Nations,
Mr. Eduardo Ramos

**UN Security Council *Arria formula* meeting on
“20th anniversary of the entry into force of the Rome Statute: reflections on
the relationship between the International Criminal Court and the Security
Council”
24 June 2022**

Madam Chair,

Allow me to start by joining others in thanking Ireland for this timely initiative, and by thanking all of today's briefers.

Portugal aligns with the statement delivered on behalf of the EU and would like to add the following points, in its national capacity.

The International Criminal Court was created to end impunity for perpetrators of the most serious crimes of concern to the international community as a whole. The twentieth anniversary of the entry into force of the Rome Statute is, therefore, an historical landmark for the promotion and protection of fundamental rights of individuals and communities.

The universality of the Rome Statute is of the utmost importance since it will allow the jurisdiction of the ICC to extend over all States, helping to ensure justice to all. To that end, it is important to maintain an open dialogue on obstacles to the ratification and accession to the Rome Statute.

Madam Chair,

Recent events are a testimony of the need for a strong ICC. The Security Council can contribute to ensure accountability through its relationship with the ICC, as provided for in the Rome Statute, as well as under the Charter and the Negotiated Relationship Agreement between the International Criminal Court and the United Nations.



*Permanent Mission of Portugal
to the United Nations*

The Security Council has a very important role in referring a situation to the Court that would otherwise not fall under its jurisdiction. Such were the cases of Libya and Sudan. It should continue to do so in other situations where justice and peace would benefit from the intervention of the Court.

In our view, there should be a further reflection on how to enhance the relationship between the ICC and the Security Council, namely in what concerns the action of the Security Council in cases of non-cooperation in situations it has referred to the ICC.

Though the responsibility lies primarily with States, the Council could contribute to uphold the obligation to cooperate under the Rome Statute. In cases of reiterated non-cooperation, the Council's credibility is also at stake.

Another important contribution of the Security Council to the activity of the ICC, and to the promotion of accountability, could be achieved through mandating peacekeeping operations to assist in investigations and in the arrest of those responsible for the most serious crimes of international concern.

Nonetheless, the veto power may remain an obstacle to referrals of situations to the ICC. A clear example of this was the situation in Syria, where the exercise of the veto prevented the Court from exercising its jurisdiction. We hope that steps such as the Resolution on the veto initiative, adopted by consensus by the General Assembly last April, the ACT Code of Conduct and the France and Mexico initiative, may all contribute to strengthen the commitment of the Security Council towards full accountability for the most serious crimes of concern to the international community.

I thank you.



Statement of Cyprus at the UN Security Council Arrria-formula meeting on the 20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council
New York, 24 June 2022

Madam Chair, I will be making some remarks to complement those of the European Union. Let me start by welcoming the presence of Dr. Zeid Ra'ad Al Hussein and his powerful remarks, particularly the need for the UNSC and the ICC to demonstrate moral consistency.

Both the Security Council and the Court were created on the premise that the international community must hold perpetrators of atrocity crimes accountable, not only on grounds of principle but also as a means to deter their commission.

For the past 20 years, the Council has had at its disposal, one of the most powerful tools to operationalize this objective: a permanent Court to prosecute serious crimes, including most crucially, since 2018, the crime of aggression.

This should have resulted in tectonic shifts, both in terms of conflict as well as in terms of impunity, but it has not. The high levels of conflict, of atrocity crimes, and of impunity are barometers for the effectiveness of both organs.

While the primary responsibility for prosecutions rests with national jurisdictions and it would indeed be far preferable to have such national ownership of accountability processes, many states where crimes of such gravity are committed, are often simply unable to investigate, collect and preserve evidence, prosecute, or provide for domestic remedies. We cannot preempt the feasibility of complementarity.

Whereas the tool of referrals was destined for situations of exceptional gravity where the Court could not otherwise exercise jurisdiction, this is immaterial for the victims who are unable to seek redress. The violations they have suffered are no less serious and impunity vis-à-vis those violations is no less encouraging to abusive leaders. Our priority should be to ensure that, one way or the other, perpetrators are held to account and victims do not fall through the cracks.

While not all conflict situations are of the same scale and gravity, we believe that in the 21st century, there should be no tolerance for any atrocities. At the same time, we know that, the commission of serious crimes is a constant in any conflict. We consider that violations affecting fewer victims, for example because a state may be small, deserve no less of a response by the international community.

It is for the above reasons that we believe the Council should consider adopting the practice of automatically considering the referral of each conflict before it to the ICC. This would induce a consistent response concerning all serious crimes and would help depoliticize accountability. It would also compel states to pursue domestic justice more forcefully.

A presumption in favour of referrals would also be in line with the spirit of existing commitments to refrain from using the veto in order to prevent the Council from acting to end the commission of atrocity crimes, namely the French-Mexican initiative and the ACT Code of Conduct.

Thank you.



STATEMENT

by

H. E. Mr. Róbert Chatrnúch

**Deputy Permanent Representative & Chargé d'affaires ad interim
Permanent mission of Slovakia
to the United Nations**

UN Security Council Arria formula meeting

**20th Anniversary of the entry into force of the Rome Statute:
Reflections on the relationship between the International Criminal Court and
the Security Council**

**24 June 2022
New York**

Check against delivery

Madam President,

At the outset, I would like to thank Ireland as well as other cosponsors for organizing this important meeting to reflect on the relationship between the International Criminal Court and the Security Council 20 years after entry into force of the Rome Statute. I shall also thank the ICC Prosecutor K. Khan, Director of the Coalition for the ICC Secretariat L. Evenson and President of the International Peace Institute Prince Zeid al Hussein for their briefings.

Slovakia has always recognised the adoption of the Rome Statute in 1998 and its entry into force in 2002 as a major achievement. Looking back at it through the lenses of today, when any progress on related topics such as crimes against humanity continues to stall, this achievement seems even more monumental. We believe that the mere establishment and operationalization of the ICC as an independent and impartial court of law was a reflection of the firm conviction of the international community that accountability must form an integral component of all our policies. While the ICC might not be flawless, its mandate and principles make this Court a unique tool in the fight against impunity for the crimes most shocking to the human conscience. Slovakia thus reiterates its call to all Member States that have not yet ratified the Rome Statute to do so.

Moreover, the process of the independent review initiated in 2018 demonstrates the joint commitment of the States Parties to the Rome Statute and the Court to look at what can be done even better in pursuing Court's mandate. Slovakia is pleased to see tangible results of the review already and anticipates further positive outcomes. We equally acknowledge multiple landmark decisions rendered by the Court throughout its operation.

Madam President,

Turning to the relationship of the ICC with the Security Council, I wish to make 4 points:

1. The right to make referrals according to Article 13 paragraph b of the Rome Statute has broadened the spectrum of measures the Security Council can take to maintain international peace and security. Slovakia encourages the Security Council to use this unique tool and make referrals, whenever international crimes including crime of aggression are committed and the national authorities are unable or unwilling to investigate them.

2. The referrals will bring the desired result of justice served only when a proper support is secured from the Security Council. While one aspect of this support is a question of sharing financial burden of the investigation and prosecution, the crucial aspect is ensuring an effective and expeditious cooperation of all Member States with the Court, including an adequate action in instances of non-cooperation.
3. Members of the Security Council should not cast a negative vote, whenever there are credible reports that international crimes are being or likely to be committed.
4. Further synergies and options of interaction between the ICC and the Security Council should be explored, particularly when the UN mission operates in the situation under the investigation of the ICC.

Madam President, allow me to conclude by expressing unyielding support of Slovakia for the mandate and the work of the ICC.

I thank you.



PERMANENT MISSION
OF ESTONIA TO THE UN

Security Council Arria-formula meeting on “20th anniversary of the entry into force of the Rome Statute: reflections on the relationship between the International Criminal Court and the Security Council”

New York, 24 June 2022

Statement by Kristel Lõuk, Deputy Permanent Representative of Estonia to the UN

Mr President,

Allow me to thank Ireland with cosponsoring states for convening the Arria-formula meeting dedicated to the 20th anniversary of the entry into force of the Rome Statute. I thank the distinguished briefers Karim Khan, ICC Prosecutor, Liz Evenson, Director of the CICC Secretariat and Zeid Ra’ad al Hussein, President of the International Peace Institute, for their insightful interventions.

The entering into force of the Rome Statute 20 years ago opened a new chapter in the history of aspiring to end impunity.

Universal adherence to the Rome Statute is the cornerstone of the ICC. Since its establishment, the ongoing objective has been to make the ICC truly universal and to enhance its impact on victims’ lives. The new ratifications of the Rome Statute and its implementation are essential for the ICC to fulfil its promise of real and fair justice efficiently. **We reiterate our call** on all governments that have not already done so, to ratify the Rome Statute in order to further strengthen the system of international criminal justice.

The efficiency of the ICC inevitably depends on **States’ cooperation** to enforce its decisions, including arrest warrants. When states do not comply, the ICC must be able to rely on the Security Council to intervene with full support. **We call upon all states and Security Council** to take appropriate action to fully cooperate with the Court and to bring perpetrators to justice.

The fight against impunity for atrocity crimes remains a **global concern**. In the last years, also situations **in Europe** - in Georgia and in Ukraine - have triggered investigations by the Office of the Prosecutor.

It has been exactly four months since Russia started the unlawful war on **Ukraine**, which the international community has strongly condemned. Russian forces are committing barbarities against Ukraine and the Ukrainians. It is of utmost importance that the atrocity crimes would not go unpunished.

The Rome Statute reserves a unique role for the Security Council, as **it can refer situations to the Court** that would otherwise not fall under its jurisdiction but the gravity of situation requires action.

We regret that **Russia** is holding the Security Council hostage with its **veto power**. Veto prevents the Security Council from discharging on its important function entrusted upon it by the UN Charter. We need to step up our efforts of refraining the right to use veto, especially in cases of mass atrocity crimes. We reiterate our strong support to the **French-Mexican initiative and the ACT Code of Conduct**. We also welcome the unanimous adoption of the **GA resolution**, according to which every use of veto is explained to the General Assembly.

Mr President,

The Security Council has the task to uphold and promote international law by responding decisively to grave violations of international law, including humanitarian law and human rights law. It is of utmost importance that the most serious crimes of concern to the international community as a whole would not go unpunished. Such grave crimes threaten the peace, security and well-being of the world's populations.

Thank you!



ESPAÑA

INTERVENCIÓN DE LA EMBAJADORA
REPRESENTANTE PERMANENTE ADJUNTA
ENCARGADA DE NEGOCIOS a.i.

Excma. Sra. María Bassols Delgado

Reunión informal del Consejo de Seguridad
de las Naciones Unidas bajo Fórmula Arria:
"20 Aniversario de la entrada en vigor del Estatuto de Roma:
reflexiones sobre la relación entre la Corte Penal Internacional
y el Consejo de Seguridad"

Nueva York, 24 de junio 2022

(Cotejar con intervención definitiva)

MISION PERMANENTE DE ESPAÑA ANTE LAS NACIONES UNIDAS
245 East 47th Street, 36th Floor, Nueva York, N.Y. 10017
Email: rep.nuevayorkonu@maec.es Tel: (212) 661-1050

Sr. Presidente,

España agradece a los promotores de la reunión por la elección del tema, a los panelistas por sus intervenciones y se asocia a la intervención pronunciada por la Unión Europea. España quiere recordar, 20 años después de su entrada en vigor, el llamamiento que el Estatuto de Roma hizo al Consejo de Seguridad a jugar un papel clave en el sistema de la Corte Penal Internacional.

Ese llamamiento se hizo consciente de los especiales poderes con los que cuenta el Consejo de Seguridad en el sistema de mantenimiento de la paz y seguridad internacionales. Sin ir más lejos, el Consejo de Seguridad fue llamado específicamente en el Estatuto de Roma para integrar los elementos configuradores del crimen de agresión.

Ya antes del Estatuto de Roma, el Consejo de Seguridad había interpretado que la paz y la seguridad internacionales son inseparables de la rendición de cuentas por crímenes atroces, en las crisis de Ruanda o la antigua Yugoslavia al establecer sendos tribunales internacionales.

Sr. Presidente,

Quienes hemos ratificado el Estatuto de Roma creemos que una Jurisdicción Internacional que juzgue los crímenes atroces desde la independencia es un avance en el ámbito del Derecho Internacional Humanitario y de los Derechos Humanos. España estima que la rendición de cuentas se complementa con la protección de las víctimas de estos crímenes, una protección que España aboga por que sea integral y prestacional desde el primer momento.

Pero el Consejo de Seguridad no puede agotar su función y su responsabilidad con la remisión de situaciones a la Corte, debe ayudar más en no dejar impunes las violaciones más graves del Derecho Internacional Humanitario y de los Derechos humanos.

Dicha función de mantener la paz y la seguridad tampoco termina con la remisión de una situación a la CPI. Una vez remitida, los poderes del Consejo de Seguridad deben utilizarse en apoyo del trabajo de la CPI. Las operaciones de mantenimiento de la paz, la mediación y la acción humanitaria refuerzan la labor jurisdiccional o de investigación que la CPI puede estar desarrollando en un conflicto armado determinado.

Sr. Presidente,

Esta sinergia entre la CPI y el Consejo de seguridad puede traer efectos positivos, y animar a otros Estados a ratificar el Estatuto de Roma.

Los estados tienen que ver al Consejo de Seguridad y a la CPI como instituciones complementarias que trabajan juntas para salvar vidas, aliviar el sufrimiento, evitar el uso de la fuerza y asegurar la rendición de cuentas de quienes violan el Derecho. La protección de las víctimas que lleva a cabo la CPI con su Fondo Fiduciario, por ejemplo, ayuda a la reconstrucción tras los conflictos.

Confiamos en que otros Estados perciban el efecto de nexo y de sinergia para animarse así a ratificar el Estatuto de Roma.

Sr. Presidente,

Aunque anteriormente se crearon tribunales tras el estallido de los conflictos, es necesario reforzar una jurisdicción universal permanente que sirva de disuasión para prevenir estos conflictos. Más de 100 estados de todas las regiones ya son miembros de la CPI. Reforzar la CPI reforzará sin duda el papel que la Carta atribuye al Consejo de Seguridad.

Y ello porque el Consejo de Seguridad está llamado a potenciar el sistema del Estatuto de Roma, en ningún caso a debilitarlo o impugnarlo.

Muchas gracias.



Statement by

Ms Saša Jurečko

**Deputy Permanent Representative of the Republic of Slovenia
to the United Nations**

on

**20th anniversary of the entry into force of the Rome Statue: reflections on the
relationship between the International Criminal Court and the Security Council**

Security Council Arria Formula Meeting

New York, 24 June 2022

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Mrs. President,

At the outset, we wish to thank Ireland for convening us today for this important and timely meeting. We thank the distinguished briefers for their insightful remarks.

Slovenia aligns itself with the EU statement and wishes to make some additional remarks in our national capacity.

Throughout the last two decades, the UN Security Council has increasingly defined gross human rights violations as threats to international peace and security and promoted international criminal accountability for war crimes and crimes against humanity in its resolutions and referrals to international courts and tribunals. However, there is still a lot of room for improvement through a more active and vocal role of the UNSC; especially in situations when the most heinous crimes are committed regardless of the circumstances and interests of individual states.

There is no justice without peace and there can be no peace without justice and respect for human rights. Peace and security are intricately linked with accountability, which is necessary for sustainable peace.

Slovenia is a strong supporter of the role of the International Criminal Court in the fight against impunity and the UN Security Council's responsibility to ensure accountability when international law is breached. Even though there is a growing institutional commitment by the UN to ensuring justice and individual criminal accountability and the relationship between the UN Security Council and the ICC has been evolving, unfortunately instances of failed efforts to refer situations of mass atrocities to the ICC remain present.

It is also for the UN Security Council to ensure that the pursuit of global justice and accountability for atrocity crimes is not an impossible mandate to fulfill. Ideally, the UN Security Council should secure appropriate funding for cases that it refers to the Court.

The UN Security Council should also avoid minimizing or narrowing the jurisdiction of the ICC in ways that are inconsistent with the Rome Statute. Exemptions from jurisdiction for nationals of State non-parties to the Rome statute should not be included in referral resolutions of the UN Security Council. Such exemptions undermine the ideal of an independent and credible international criminal justice for all and fuel criticism of the ICC, damaging the legitimacy and reputation of the Court.

It is also the responsibility of the Council to follow up on its referrals. This should include responding to the Court's findings of non-compliance. Referrals also place obligations on all member states, which must be fulfilled, including by executing arrest warrants.

In addressing these issues, Slovenia supports better cooperation of the UNSC with the ICC through involvement of the representatives of the ICC in the UN Security Council meetings.

Finally, Slovenia strongly believes that the right of the veto is a power that should be used with the greatest responsibility. In this regard, Slovenia supports the French-Mexican initiative on the suspension of veto powers in cases of mass atrocity, as well as the ACT Code of Conduct.

The Security Council must return to its responsibility in upholding international peace and security, including by taking action towards ending or preventing atrocity crimes.

I thank you.

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(Arria Formula meeting)

**"20th anniversary of the entry into force of the Rome Statute: reflections on the relationship
between the International Criminal Court and the Security Council"**

**Statement by Liselot Egmond
Legal Adviser of the Kingdom of the Netherlands to the United Nations**

NEW YORK, 24 June 2022

Madam President,

I align myself with the statement delivered by the EU, and would like to add the following remarks in my national capacity.

The Kingdom of the Netherlands is a proud host and will remain a firm supporter of the International Criminal Court.

We were proud when 20 years ago, the Rome Statute entered into force and the world's first permanent international criminal court was established.

The Rome Statute has given legal expression to the moral imperative that the most serious crimes that are known to mankind must not go unpunished. The establishment of the ICC is the institutional response to our realization that in a world of potentially imperfect or impotent national jurisdictions, we need a complementary criminal court on the international plane.

Committing horrific acts often leads to hate, vengeance and further violence, and to escalation of a conflict.

The prevention of such crimes and insistence on international accountability contribute to the maintenance of international peace and security. These are goals both the ICC and the Security Council share.

We all know that no sustainable peace can be built on impunity.

The primary responsibility for prosecuting crimes lies with States. The ICC is a court of last resort, that can deliver justice to the victims of unimaginable atrocities, when no response is forthcoming at the national level.

Unfortunately, not all Member States are States Parties to the Rome Statute.

When in States where the ICC has no jurisdiction the national governments fail to ensure criminal accountability, then it becomes the responsibility of this Council to provide accountability.

And the Council has done so in the past.

With the referrals in the situations of Darfur and Libya, the message that the Council sent was clear: justice will be delivered, and perpetrators will be held to account. But, a referral by the Security Council does not relieve the Council of its responsibility on that matter.

It is the responsibility of the Council to follow up on its referrals.

The biannual briefings by the Prosecutor are important. But not enough.

The ICC needs the Council's enforcement power when States refuse to comply with its decisions.

The Council should establish a working group to monitor and follow up on that case.

And if it happens that States in such cases do not comply with orders of the ICC, the Security Council should act on that.

If the Security Council takes no action and just ignores non-compliance decisions, the credibility and reputation of both the Security Council and the ICC will be damaged.

If the ICC has the ability to scrutinize situations all around world, justice can be brought to those who are in need of it.

We therefore urge all states to become a State Party to the Rome Statute.

Thank you

COLOMBIA

**Intervención de la República de Colombia en la
Formula Arria del Consejo de Seguridad sobre el 20avo
aniversario de la Corte Penal Internacional reflexiones sobre la
relación entre la Corte Penal Internacional y el Consejo de
Seguridad**

Nueva York, 24 de junio de 2022

Presidente,

- En primer lugar, permítanos agradecer la oportunidad de participar en esta discusión que fue convocada por las misiones de Irlanda junto con Albania, Ecuador, Gabón, Ghana, Francia, Japón, Malta, México, Noruega, Suiza y el Reino Unido sobre el 20º aniversario de la entrada en vigor del Estatuto de Roma.
- Es evidente que los esfuerzos de la ONU deben enfocarse en fortalecer y hacer eficaces los mecanismos ya diseñados para abordar los crímenes cometidos en el marco de conflictos armados y otras violencias, y también para asegurar la reparación a las víctimas y la prevención de la ocurrencia de nuevos conflictos.
- Ese trabajo empieza por la relación complementaria y mutuamente simbiótica que tiene toda la Organización con la Corte y, en particular, el Consejo de Seguridad. Así, vemos muy valioso que este Consejo se autocuestione sobre la forma en que ha venido definiendo cuándo referir un caso a la Corte no,

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en virtud de la labor que le ha sido encomendada por el Estatuto de Roma.

- Sin embargo, la labor de la Corte en la lucha contra la impunidad de los delitos más atroces que conmueven la conciencia de la humanidad, y en este sentido, como complemento a la labor del Consejo en el mantenimiento de la paz y la seguridad internacionales, no se agota solamente con abrir investigaciones y emitir sentencias.
- Colombia es testigo de primera mano de otros mecanismos que pueden llevar a la Corte a cumplir su función de forma efectiva y de esta forma apoyar la misión de la ONU.
- En efecto, es por todos conocido que el pasado 28 de octubre, el Fiscal Karim Khan, quien hoy nos honra con su presencia, anunció su decisión de cerrar el examen preliminar que esa oficina abrió hace 17 años para estudiar la situación en nuestro país.
- La decisión del Fiscal no solo sirvió para dar cierre al examen preliminar más prolongado en la historia de la CPI, sino que también fue propicia para que la Fiscalía expresara su apoyo a las instituciones encargadas de impartir justicia en Colombia, tanto en la jurisdicción ordinaria como en la transicional. Estas instituciones tienen ahora la enorme responsabilidad de continuar juzgando de manera efectiva a quienes perpetren aquellos delitos de mayor interés para la comunidad internacional.
- No obstante, gracias al acuerdo de cooperación celebrado entre el gobierno colombiano y la Fiscalía de la CPI, no tendrán que hacerlo solas. Conforme

COLOMBIA



a lo suscrito entre el Presidente Iván Duque y el Fiscal Khan, el gobierno asumió el compromiso de continuar apoyando a las distintas jurisdicciones que operan en el país, con el fin de garantizar que continúen dando pasos decididos en su lucha contra la impunidad.

- Este acuerdo, único a la fecha, permitirá además que la Fiscalía de la CPI y las autoridades judiciales colombianas continúen intercambiando experiencias y buenas prácticas por fuera del marco del examen preliminar. Es, sin duda, un régimen innovador que rescata el preponderante papel de la complementariedad positiva y que permite establecer una nueva generación de relaciones entre la Corte y uno de sus países miembros.

Señora Presidente,

- El ejemplo de Colombia es diciente. Para nosotros es claro, porque lo hemos experimentado, que la Corte puede contribuir a la rendición de cuentas y a la lucha contra la impunidad de múltiples maneras. El acuerdo entre Colombia y la Fiscalía de la CPI, por ejemplo, es una contribución decidida a la mejora del cumplimiento del derecho internacional general, el derecho de los derechos humanos y el derecho internacional humanitario, y el mismo se basa en enfatizar los mecanismos de rendición de cuentas para las víctimas, que a nuestro modo de ver, deben ser el eje y objeto de todo proceso de justicia.
- Colombia también es consciente de que todos los esfuerzos realizados en el plano interno en materia de rendición de cuentas y lucha contra la impunidad

COLOMBIA



tienen que corresponderse con las medidas que tome la nación en el escenario internacional y coordinarse permanentemente con las instancias multilaterales. Con eso en mente, Colombia se ha convertido en un caso modelo de un trabajo plenamente coordinado y complementario entre la CPI y el Consejo de Seguridad, lo cual ha repercutido en logros que se mantienen a largo plazo y que se seguirán manteniendo en el tiempo.

- Colombia espera que su experiencia pueda servir de ejemplo de formas en que se puede profundizar aún más la relación entre el CSNU y la Corte.

Muchas gracias.

Permanent Mission of Austria to the United Nations

Madame Chair,

- Austria commends the organizers and briefers of this debate. We welcome the opportunity to discuss the cooperation between ICC and the Security Council as well as possibilities for its improvement.
- As strong supporter of the International Criminal Court we believe that accountability and the fight against impunity for the most serious crimes are paramount for ensuring justice and lasting peace.
- 20 years after the entry into force of the Rome Statute, unfortunately the serious crimes under the ICC's jurisdiction continue unabated. Horrendous crimes have been committed in conflict situations such as Syria, Myanmar and Ukraine. The victims and survivors of the most serious crimes deserve and expect accountability.
- The ability of the Council to refer situations to the ICC in line with the principle of complementarity is one of the most powerful tools at its disposal to interrupt the conflict cycle: It has the power of prevention through deterrence, it can terminate conflict by prosecuting the actors that drive it, and it can ensure sustainable peace by providing justice and effective remedies to the victims.
- However, the Council has only referred two situations to the ICC so far. Its failure to do so in Syria, has resulted in additional unbearable suffering, death and other serious violations of international human rights and humanitarian law.
- Instead of tapping its full potential, the Council has been missing in action during the last decade: It continuously fails to fulfil its role under the Charter of the United Nations to take up the primary responsibility for the maintenance of international peace and security.

- Austria welcomes that the ICC has started investigations into the Ukraine situations. We are particularly appalled by the widespread attacks against civilians in Butscha, Mariupol and other Ukrainian cities that constitute war crimes and crimes against humanity.
- Recent events have shown that the Court's jurisdiction over the crime of aggression is of significant relevance in international relations and can constitute an important element to strengthen adherence to international law. By virtue of its competence under Article 13 lit. b) Rome Statute the Council has the power to ensure accountability also for the crime of aggression and to make a lasting contribution to avoid future wars.
- In cases of referrals to the Court, the Council must provide thorough follow-up. Cooperation of States with the ICC in order to execute arrest warrants needs to be ensured.
- Furthermore, we remain concerned of the use of the veto in case of most serious crimes. In line with the ACT code of conduct and the FR / MX initiative we call on member states to restrain from using their veto in such situations. We commend the adoption of the veto resolution without a vote as a step to strengthen accountability for the use of veto in the Security Council.
- With regard to the promotion of the universal ratification of the Rome Statute, we must convince States that joining the international fight against impunity is more beneficial than staying outside the system. Universality of the Rome Statute system must be our goal.
