

“STRENGTHENING INTERNATIONAL LAW: RULE OF LAW AND THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY”

Security Council Open Debate

June 22, 2006

On June 22, 2006, the Danish Presidency of the Security Council convened an open debate on strengthening international law, focusing on the rule of law and the maintenance of international peace and security. Despite the fact that a majority of states made speeches explicitly referencing the International Criminal Court (ICC), the Presidential Statement from Denmark only made a short and indirect remark:

“The Council intends to continue forcefully to fight impunity with appropriate means and draws attention to the full range of justice and reconciliation mechanisms to be considered, including national, international and ‘mixed’ criminal courts and tribunals and truth and reconciliation commissions.”

Many states prominently mentioned the ICC. Of the 29 states making statements, 19 explicitly referred to the role of the ICC in ending impunity for international crimes. Some made stronger statements, specifically calling on UN member states to ratify the Rome Statute or criticizing attempts to weaken the Court through bilateral immunity agreements. The following are quotes of direct references to the ICC from the meeting record.

Speaker / Country	Statement
Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations	“...[T]he system of international penal jurisdictions, which has steadily progressed towards greater universality, is a primary responsibility of States and, within the constraints of the Rome Statute, a complementary responsibility of the International Criminal Court. If the system is to function efficiently, it will be essential to heed the appeals of States that require assistance in their efforts to build the necessary domestic capacities, provided that they are prepared to take international standards into account.”
H.E. Karen Pierce, Deputy Permanent Representative of the United Kingdom to the UN	“The international community and the Security Council have a range of mechanisms at their disposal for combating impunity, including the International Criminal Court (ICC), national, international and mixed courts and tribunals and truth and reconciliation commissions. The adoption of Security Council resolution 1593 (2005), referring the situation in Darfur to the ICC Prosecutor, was a landmark step in the Council’s efforts to combat impunity. The United Kingdom is a strong supporter, in principle and in practice, of the ICC. We urge States that have not yet done so to become parties to the Rome Statute”
H.E. Mr. Peter Burian, Permanent Representative of Slovakia to the UN	“I should like to emphasize the fact that the International Criminal Court (ICC) is the only permanent criminal tribunal that is competent and able to handle the prosecution of the most serious crimes, such as genocide, war crimes and crimes against humanity, where national judicial institutions have failed or are unable or unwilling to bring the perpetrators to justice. The adoption of resolution 1593 (2005) has shown, for the first time, the potential of cooperation between the Security Council and the ICC in the quest to end impunity. We encourage all Member States that are not yet parties to the ICC to sign and ratify the Rome Statute.”
H.E. Mr. Shinichi Kitaoka, Deputy Permanent Representative of	“Ending impunity for international crimes is an indispensable step for constructing a new nation and society. It is particularly crucial that perpetrators of serious crimes be punished and that respect for law and order be strengthened. Bearing in mind that the International Criminal Court is conducting full-scale activities, it will be

Japan to the UN	necessary for the Security Council to consider seriously the exit strategies for the tribunals...”
H.E. Mr. Hugo Pereyra Plasencia, Permanent Representative of Peru to the UN	<p>“Peru is firmly committed to combating impunity, and it recognizes the important work being done by the ICC in this regard. The Security Council must continue to support the Prosecutor in the investigation under way concerning the crimes committed in Darfur and ensure that the Sudan cooperates promptly and properly, in keeping with the Council’s relevant resolutions.”</p> <p>“Likewise, the Security Council should provide the firmest possible support on the ground for the apprehension of the five leaders of the Lord’s Resistance Army for whom an arrest warrant has been issued by the ICC. Their arrest and subsequent trial at the ICC will help the Council in fulfilling its task of re-establishing international security and peace in the region.”</p>
H.E. Mr. Igor Shcherbak, Chargé d’Affaires A.I. of the Permanent Mission of the Russian Federation to the UN	<p>“As we are all aware, in the early stages of establishing the rule of law in post-conflict situations, we have established expensive international tribunals whose work, as experience has shown, has not been effective enough. Most important, such tribunals have been cut off from the realities of the societies with regard to which they operate. The international community has placed great hopes in the International Criminal Court to counteract the culture of impunity. The Russian Federation has consistently upheld its belief that we cannot successfully combat impunity unless we take account of local conditions and traditions.”</p>
H.E. Mr. Jean-Marc de La Sablière, Permanent Representative of France to the UN	<p>“... [the Security Council] has promoted the expansion of international justice, culminating in the creation of the International Criminal Court.” “The establishment of that first permanent and universal Court is a cause for great hope. No perpetrator of the most serious violations of international humanitarian law and human rights today can hope to go unpunished. The Council must not hesitate to submit situations to the Prosecutor of the Court, as it has done in the case of Darfur. The Council must provide determined and tireless assistance to the institutions it has established, referred to or supported. While Charles Taylor is being sent to The Hague, with our support, it is unacceptable that, so many years after the tragedies that led to the creation of the ad hoc tribunals, high-level indictees remain at large. States must cooperate fully with the International Criminal Court and with the mixed or international tribunals.”</p>
H.E. Mr. Cesar Mayoral, Permanent Representative of Argentina to the UN	<p>“Here, I wish again to emphasize Argentina’s support for the work of the International Criminal Court. In recent months, the objectives for which the Court was created are beginning to be attained. We note, inter alia, the investigations under way, the transfer to The Hague of Thomas Lubanga and Charles Taylor, the arrest warrants issued for the leaders of the militia known as the Lord’s Resistance Army in Uganda and the endeavors to meet the objective of referral of the Darfur case.”</p> <p>“In that context, we urge the Sudanese authorities to cooperate fully with the Office of the Prosecutor of the Court so that the investigation may be carried out, while providing security for the witnesses. We encourage the Security Council to continue to cooperate with the Court to put an end to impunity, thereby continuing towards a universal system of justice which will prevent future crimes and will ensure that perpetrators do not go unpunished. For that reason, we urge all States that have not yet signed or ratified the Rome Statute to do so as early as possible. The international community wants an International Criminal Court with truly universal jurisdiction and competence.”</p>
H.E. Dr. Augustine P. Mahiga, Permanent Representative of the United Republic of Tanzania to the UN	<p>“The indictments issued by the ICC against non-State actors, such as the Lord’s Resistance Army, demonstrate the growing determination of the international community to address international criminality and impunity.”</p>
Mrs. Mrs Maria Telalian, Legal Advisor of Greece to	<p>“In addition, the referral of the situation in Darfur to the International Criminal Court (ICC) was a bold step in the direction of combating impunity through international justice, since the ICC is, in our view, a symbol for a new world order</p>

the UN	based on the rule of international law. The Security Council should now provide the Court with the support it needs to accomplish its difficult mission to investigate, prosecute and bring to justice those who bear the greatest responsibility for war crimes committed in Darfur. A major concern in that regard is the need to protect witnesses.”
H.E. Mr. Nana Effah-Apenteng, Permanent Representative of Ghana to the UN	“The need to end impunity for egregious violations of human rights, crimes against humanity, genocide and wars of aggression is necessary for the maintenance of the rule of law and international peace and security. On this point, we are happy to note that the International Criminal Court (ICC), whose creation was a landmark in the development of international humanitarian law, is now fully operational and has commenced investigations in a number of cases. The referral by the Council of the Darfur situation to the ICC is an important milestone in the Court’s development.”
H.E. Mr. Pascal Gayama, Deputy Permanent Representative of Congo to the UN	“International criminal justice provides invaluable support for national reconciliation and peacebuilding processes; it sends the message that the perpetrators of crimes and other similar acts must know that they will sooner or later pay for their deeds.” [...] “Cooperation by States is now critical not only to meet the expectations of victims but also — for instance in the case of the International Criminal Court — to promote the complementarity of the jurisdiction of the Court and national jurisdictions. The establishment of the International Criminal Court was widely seen as a major step forward in the promotion of law and justice. But we need to further operationalize it and ensure its universality by calling upon States not party to the Rome Statute to ratify it. Clearly, recourse to a standing international court gives the international community and societies in conflict or post-conflict situations greater certainty that justice will be done. States that have ratified the Rome Statute, especially developing countries, need international assistance to enable them to take ownership of justice in their own countries by creating national or regional judicial systems able to meet the challenges before them.”
H.E. Mr. Juan Manuel Gómez Robledo, Deputy Permanent Representative of Mexico to the UN	“The General Assembly set for itself the task of negotiating the Rome Statute, which created the International Criminal Court, largely in order to put an end to the establishment of ad hoc tribunals by the Security Council. At that time, my country expressed serious objections about the power of the Council to establish jurisdictional bodies. However, that does not mean that we should not recognize the extraordinary work done by those tribunals — quite the contrary.”
H.E. Mr. Gerhard Pfanzelter, Permanent Representative of Austria to the UN, also on behalf of the European Union	“The European Union strongly believes that the International Criminal Court (ICC) is one of the most effective tools for buttressing the rule of law, encouraging respect for human rights and combating impunity. The ICC is an essential instrument for the prevention of genocide, crimes against humanity and war crimes. The European Union reaffirms its determination to obtain the widest possible support for the ICC, including by promoting universal acceptance of the Rome Statute. More than half of United Nations members are now parties. We urge all other States to accede without delay. We strongly encourage the Security Council to continue to make use of its competence to refer situations to the ICC, as it has done in the case of Darfur.”
H.E. Mr. Allieu Ibrahim Kanu, Deputy Permanent Representative of Sierra Leone to the UN	“The international community now has a permanent International Criminal Court, and cases are now on its dockets. That, in effect, means that the international community has an effective and independent means of strengthening international law and putting an end to the culture of impunity. The perpetrators of heinous crimes can run, but they cannot hide.” “My delegation calls on all those States that have not done so to become parties to the Statute of the International Criminal Court. We believe the Court has sufficient safeguards to convince them to become parties to the 1998 Rome Statute.”
H.E. Mr. Allan Rock, Permanent Representative of Canada to the UN,	“The delegations of Canada, Australia and New Zealand are proud to have taken a leading role in establishing and supporting responsible and fair mechanisms, such as the International Criminal Court, to ensure individual accountability for such crimes. But the Security Council also has an important role to play in efforts to end the

<p>on behalf of CANZ (Canada, Australia and New Zealand)</p>	<p>cycle of impunity.”</p>
<p>Mr. Stefan Barriga, Chargé d’Affaires A.I. of Liechtenstein to the UN</p>	<p>“...with respect to cooperating with international legal bodies, in particular the International Criminal Court (ICC), the Security Council has in the past been actively engaged in the fight against impunity for the worst crimes of concern to the international community, mainly using an ad hoc and selective approach, but setting important precedents. Today, the world possesses a legal tool of a permanent nature and universal aspiration: the International Criminal Court. The Council has already used the ICC as a tool in dealing with conflicts by referring the situation in Darfur to the Prosecutor of the ICC. We would like to encourage the Council to continue to consider the ICC as a policy option, where appropriate. Referrals to the ICC must, however, be accompanied by sustained political support by the Council through all phases of the judicial proceedings and must, in some situations, be accompanied by other substantive measures.” [...] “Furthermore, the Council should at all times underline that what is sometimes called the “peace versus justice” dilemma may be a dilemma for those having committed atrocious crimes, but not for the international community. There can be no permanent amnesties for genocide, crimes against humanity and war crimes. The possibility of amnesties must effectively disappear as a bargaining option for such criminals, just as much as they cannot request that the clock be turned back. Each ratification of the Rome Statute of the International Criminal Court represents a step towards the worldwide eradication of that option. That in turn relieves Governments and other actors negotiating peace agreements from the pressure to cave into demands for amnesty, as they cannot promise what international law effectively prohibits.”</p>
<p>H.E. Mrs. Imeria Núñez de Odremán, Deputy Permanent Representative of Venezuela to the UN</p>	<p>“Venezuela views the creation of the International Criminal Court as a milestone in the field of international criminal law. The Court’s establishment provides a fairer and more equitable option than ad hoc tribunals, which are not provided for by the Charter of the United Nations or by any international treaty resulting from extensive negotiations among Member States, but are set up on the basis of a political decision on the part of the Security Council.” “The establishment of the Court represents a step forward in the fight against impunity and in the prosecution of individuals accused of committing serious violations of international law. The fact that the international community can now count on a legal body that is independent in nature represents major progress in the development of international law. However, we are concerned by the attempts made to weaken it, such as the conclusion of bilateral immunity agreements for a number of countries. The Security Council must support the strengthening of the Court and should not accept any regime that provides for exemptions, which in turn would modify the spirit of the provisions of the Rome Statute.”</p>
<p>H.E. Mr. H.E. Mrs. Mona Juul, Permanent Representative of Norway to the UN</p>	<p>“Widespread impunity for perpetrators of grave international crimes represents an obstacle to reconciliation and is in itself a violation of international law. When national courts lack the capacity or the will to bring such perpetrators to justice, it is for the international legal order to provide mechanisms that support justice. That is why Norway participated actively in the establishment of the International Criminal Court (ICC) and exactly why the ICC should play a part in the maintenance of international peace and security. We expect the Security Council to play a major role in international efforts to end impunity, particularly through the ICC.”</p>
<p>H.E. Mr. Simeon A. Adekanye, Deputy Permanent Representative of Nigeria to the UN</p>	<p>“Nigeria shares the view of the Secretary-General that the restoration and consolidation of the rule of law in conflict or post-conflict societies entails, inter alia, the strengthening of the rule of law and transitional justice in the wake of conflict... and support for the role of the International Criminal Court. [...] “Regrettably, tribunals such as the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda are —</p>

	<p>understandably — very costly to maintain. In addition, such bodies are temporary in nature and are located in various parts of the world. There is therefore an urgent need for the international community to embrace and utilize the services of the permanent International Criminal Court. That will not only enhance the rapid codification of jurisprudence in the areas of international humanitarian law, international human rights law, international refugee law and, of course, international criminal law, but also ensure certainty in terms of the availability of such institutions, as well as preserving their legacies. Accordingly, Nigeria calls on those States Members of the United Nations that have not yet done so to accede to the Rome Statute.</p>
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