

Ministerial Panel: Preventing the illegal use of force through judicial accountability

The role of the ICC and its States Parties after the adoption of the
Kampala Amendments on the Crime of Aggression

United Nations, New York, 24 September 2012

Meeting Summary

The discussions at the side-event to the General Assembly High-level meeting on the Rule of Law were highly positive. Following a keynote speech by Ben Ferencz, 15 States Parties from different regions expressed their strong commitment to ratify the Kampala amendments. Many of them echoed the concrete pledges they had made in this regard at the GA meeting. The UN Legal Counsel and the ASP President gave supportive statement. Three Non-States Parties also took the floor, of which only the United States expressed concerns.

Panel Speakers

H.E. Ms. Aurelia Frick, Minister of Foreign Affairs, Principality of Liechtenstein (Host)
Mr. Benjamin Ferencz – Chief Prosecutor at the Nuremberg “Einsatzgruppen” Trial (Keynote)
H.E. Mr. Phandu Skelemani, Minister of Foreign Affairs, Republic of Botswana
H.E. Mr. Winston Dookeran, Minister of Foreign Affairs, Republic of Trinidad and Tobago
H.E. Mr. Armand De Decker, Minister of State, Kingdom of Belgium

Statements from the floor: Legal Counsel of the UN, President of the Assembly of States Parties, South Africa (Minister of Justice), Netherlands, Romania, Luxembourg, Australia, Peru, Switzerland, Slovenia, Argentina, USA, Brazil, Germany, Costa Rica, United Arab Emirates, Russian Federation.

In her opening statement, the **Foreign Minister of Liechtenstein** reminded States that the prohibition of the illegal use of force was at the core of the UN Charter. Kampala had now added a judicial mechanism to enforce this prohibition. **Benjamin Ferencz** called on States to ratify the amendments without delay. They had been adopted by consensus after a lengthy negotiation process and were crucial to close the legal gap. Furthermore, if enough States would criminalize aggression domestically, there would be no place left to hide. The **Foreign Minister of Botswana** assured his commitment to the cause by referring to the ratification process in his own country. Botswana planned to host a regional workshop in 2013 to assist

other States. The **Foreign Minister of Trinidad and Tobago** emphasized his country's endeavor to ratify in time for the next ASP. Once activated, the amendments would make leaders of States think twice before engaging in conduct which constituted aggression in blatant violation of the UN Charter. He encouraged domestic implementation, so that in these States the vigilance of the judiciary would curb the potential excesses of the executive and thus promote adherence to the Charter. The **Minister of State of Belgium** emphasized his country's support for the aggression amendments and called on States Parties to simultaneously ratify the amendment on war crimes (article 8).

The **United Nations Legal Counsel** recalled that the *raison d'être* of the UN was precisely to prevent aggression. The **President of the Assembly of States Parties** called the amendments the single most important decision the ASP had taken in its existence. She encouraged future States Parties to ratify the 2010 version of the Rome Statute and informed that **Estonia** intended to ratify in 2013. The **South African Minister of Justice** supported the early activation of the Court's jurisdiction in 2017, by which time his country should have ratified as well. Representatives from the **Netherlands, Romania, Luxembourg, Australia, Peru, Switzerland, Slovenia, Argentina, Brazil, Germany** and **Costa Rica** reiterated their strong commitment to ratify the amendments in the near future and to contribute to the activation of the ICC's jurisdiction in 2017. **Luxembourg** and **Slovenia** recalled that they had already incorporated the Kampala definition in their national criminal codes. Participants were informed that **Samoa** would deposit its instrument of ratification on 25 September 2012, as the second State Party.

The **United States** voiced concerns at a ratification process, referring to questions over the definition of aggression, disagreements concerning the "entry into force" of the amendments and the risks of domestication of the Kampala amendments.

Pledges at the GA High-Level Meeting on the Rule of Law

In the context of the General Assembly **High-Level Meeting on the Rule of Law** on 24 September 2012, the following countries made **pledges** regarding the ratification of the amendments on the crime of aggression: Austria (in 2013), Argentina (asap), Belgium (by 2015), Bulgaria (by the end of 2014), Costa Rica (by the end of 2014), Estonia (by the end of 2013), Georgia (within 2013), Germany (implementation), Luxembourg (by early 2013), Netherlands (asap), Switzerland (asap), Slovenia (by the end of 2014). Previously, Belgium and Liechtenstein had jointly asked States to make concrete pledges concerning the Kampala amendments.