



Meeting of Experts, Parliamentarians and other Policy-Makers

THE UN SECURITY COUNCIL AND THE INTERNATIONAL CRIMINAL COURT

Chatham House
The Royal Institute of International Affairs
10 St James's Square
London SW1Y 4LE

Friday, 16 March 2012

AGENDA

Meeting conducted under The Chatham House Rule

9:00 INTRODUCTION

9:15-11:15 I. REFERRALS BY THE SECURITY COUNCIL TO THE ICC

In the light of the referral this year of the situation in Libya to the ICC, and the earlier referral of the situation in Darfur, has the ICC become a new policy-tool for the Security Council? Is it appropriate to consider the commission of crimes against humanity, genocide and widespread war crimes as a threat to international peace and security within Chapter VII of the UN Charter? Is impunity for these crimes a threat to the peace?

What are the advantages and disadvantages of making such referrals? What lessons can be learned from the referrals relating to Darfur and Libya?

What are the circumstances in which it is desirable and useful for the Council to refer situations to the ICC? Would it be useful and possible to adopt specific criteria to inform or guide the Council's consideration for invoking Article 13(b) of the Rome Statute?

11.30-13.30 II. COOPERATION

What measures should be expected from the Security Council when the ICC refers to the Council matters of non-cooperation by a State?

What measures should be expected from the Security Council in order to cooperate with the Court's decisions and findings?

What other ways are available to the Council to support and cooperate with the Court: for example, by adding to the mandate of UN peace-keeping missions a duty to assist with investigation and arrests, by recognising in its resolutions the role of the ICC in relation to situations threatening peace and security, by encouraging referrals to the Court by States, by inviting or not-barring the UN General Assembly to co-finance ICC investigations and prosecutions stemming from UNSC referrals?

What are the obligations on all UN Member States when the Security Council has referred a situation to the Court? (Consider the limits and ambiguities of resolutions 1593 (2005) on Darfur/Sudan and 1970 (2011) on Libya)

14.30-16.00 III. PEACE AND JUSTICE: REQUESTS BY THE SECURITY COUNCIL TO THE ICC TO DEFER PROCEEDINGS (DEFERRALS)

Is “deferral” under article 16 of the Rome Statute a measure for the maintenance of peace and security falling under Chapter VII of the UN Charter, or a measure of Prosecutorial control? In what circumstances may the Security Council request the ICC to defer proceedings for a year under article 16 of the Rome Statute? Are there any criteria which the Council could use in considering making a request? Is it appropriate for the Council to impose conditions in relation to the deferral and if so, what conditions should it impose?

What lessons can be learned from:

- a. Requests by the AU regarding investigations and prosecutions in Darfur/Sudan
- b. Request by Kenya regarding investigations and prosecutions in Kenya
- c. Debate that surrounded the Juba Peace Talks regarding the LRA/Northern Uganda

Are there other means for the Security Council to meet the demands of both peace and justice, for example, by supporting national accountability processes, alternative (or additional) measures to criminal prosecution, or prohibition of amnesty for genocide, crimes against humanity and war crimes?

Is there a tension between the UN Security Council’s mandate to address *specific* situations under Chapter VII and the Rome Statute’s mandate to address in a *general* and *predictable* manner the fight against impunity in order to advance the policy-goal of general prevention (deterrence) regarding the most serious crimes?

16:30-18:00 IV. CLOSING SESSION: WHERE TO GO FROM HERE?

*This event is part of the
PGA CAMPAIGN FOR THE UNIVERSALITY AND EFFECTIVENESS OF THE ROME STATUTE OF THE ICC SYSTEM (2012),
which receives support from
THE EUROPEAN UNION (EUROPEAN INSTRUMENT FOR DEMOCRACY AND HUMAN RIGHTS),
THE GOVERNMENTS OF THE NETHERLANDS AND SWITZERLAND, AND THE HUMANITY UNITED FOUNDATION*