

*UNGA 57*  
*Sixth Committee*  
*Item 158: Establishment of the International Criminal Court*

*Statement by the New Zealand Permanent Representative*  
*HE Ambassador Don Mackay*

Mr President,

This year we take the floor on this item in a new context. No longer are we addressing the establishment of the International Criminal Court as something to be achieved in the future. With the entry into force of the Rome Statute on 1 July, and the successful conclusion of the first session of the Assembly of States Parties in September, the International Criminal Court is now an established reality.

To have come this far is the result of work by many different people in many different States, over almost a decade. It is indeed an achievement that there are, today, 81 States Parties. That this has come about in just over four years despite the complexity of the Statute, and the implementation issues it raises, is something in which we can all take pride. It is important also to acknowledge the commitment of civil society to the ideals of the Court; their encouragement and involvement have played a vital part in bringing us to this point.

Nevertheless, it remains important that if the Court is to be truly effective, it must have the greatest possible geographical reach, and New Zealand continues to support efforts towards universalisation of the Rome Statute. We therefore commend those States that are in the process of becoming party to the Rome Statute, and hope that other States will also consider becoming party to this significant agreement.

Mr Chairman,

We recognise that the initial years of the Court will be critical and that there are many challenges to be faced. We have already seen some of these this year. In July we took part in the open debate in the Security Council to express our great concern

about the proposed resolution to exempt all peacekeepers from the jurisdiction of the ICC. Even though the final form of Resolution 1422 is an improvement over earlier versions, we remain disappointed that the Security Council saw a need to proceed with the resolution and hope that it will not be renewed next year. Subsequently many States have received requests for “article 98” agreements which raise many difficult issues. In this formative period all States Parties have a particular responsibility to support the Court they have helped to create and to protect and maintain the integrity of the Rome Statute and the principles it contains. In that regard, New Zealand takes this opportunity to reassert its commitment to both the letter and the spirit of the Statute. To ensure that we are in full compliance with all ICC obligations, New Zealand will shortly sign the Agreement on Privileges and Immunities and move to become party to it as soon as our domestic processes are completed.

An immediate challenge in the next few months is the election of the Judges and Prosecutor. It is essential for the future credibility of the Court that those elected are of the highest calibre. These are people to whose justice we must each be prepared to entrust our own citizens. We must be confident that they would be judged in a fair, impartial way and that justice would be done. The members of the Court must not only be exceedingly well qualified but they must also be representative. This is after all an international court, and it must reflect its range of States Parties and their legal systems. We hope also that the Court will be representative in terms of gender in a way not seen before in international institutions of this kind.

We recognise also that the true test of the Court will be its actions. For New Zealand’s part, we are confident that the Court will prove worthy of our trust and that those who have misgivings about the Court will eventually agree that their fears were unfounded. History, and its mass victims, shows that what we do have to fear is a future without a truly effective system for international justice. A permanent court, operating wisely, within the careful system of checks and balances contained in the Rome Statute, will be an important new tool of international justice. And its existence will help deter these crimes in a way that *ad hoc* tribunals do not.

New Zealand will therefore continue to work with others to ensure that the ICC is given the opportunity to prove itself. We are doing this in the memory of the millions who have died in conflicts in recent decades; children, women, and men. We are doing it for future generations; to bring to an end the culture of impunity, to ensure that the most serious crimes of concern to the international community do not go unpunished, and in the words of the preamble “to guarantee lasting respect for and enforcement of international justice”.

Thank you Mr Chairman.