

**OPEN DEBATE OF THE
SECURITY COUNCIL
ON THE PROPOSED RENEWAL OF THE PROVISIONS
OF SECURITY COUNCIL RESOLUTION 1422 (2002)**

STATEMENT

BY

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TO THE UNITED NATIONS**

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CHECK AGAINST DELIVERY

Mr. President,

As a strong supporter of the International Criminal Court, Liechtenstein took the floor last year in the debate preceding the adoption of resolution 1422 and expressed its concerns regarding the implications and indeed the legality of that resolution. A renewal of this resolution for a further year is proposed to the Council, and we understand that the Council will take action on this matter shortly. We therefore wish to reiterate our principal points of concern regarding resolution 1422 and to emphasize that, to our mind, there must be no automaticity of renewal of a resolution which we consider deeply flawed.

Mr. President,

- Resolution 1422 invokes Chapter VII of the Charter without making a determination of a threat to international peace and security. This implies the notion that the International Criminal Court constitutes such a threat.
- The resolution further purports to be consistent with article 16 of the Rome Statute while in fact violating both the letter and spirit of that provision. Article 16 was never intended as a tool to grant *a priori* immunity to a whole category of persons.
- This latter point also leads to the broader question of the undermining of the international treaty-making system. The Security Council does not have the competence to adopt and interpret international treaties and, by attempting to do so, weakens the system established by the United Nations Charter.

Mr. President,

These are arguments which have been presented in this room and elsewhere since last summer. They remain valid, of course, but the Council should also take into account the developments that have taken place since the adoption of resolution 1422: Most importantly, the Assembly elected an excellent and diverse bench of judges and entrusted the post of prosecutor to an internationally renowned jurist. If the numerous and carefully drafted safeguards against frivolous and politically motivated prosecutions provided for

under the Statute were not convincing enough to some, the competence and integrity of these senior officials should be. The Court will not make politics, but deliver justice.

Mr. President,

The adoption of resolution 1422 has raised very serious questions concerning the role of the Security Council which the simple renewal of course does not address. The greatest risk, however, lies in the possibility of the relevance of such a renewed resolution in a concrete case which might arise under the Court's jurisdiction. In such an event – unlikely as it is - the Court would have to deal with the legality of the decision by the Security Council as an incidental question – a most unfortunate, but inevitable consequence of the questionable legal underpinning of the request made by the Council. Such a situation would necessarily upset the relationship between the Court and the Council, one of the most carefully balanced aspects of the Rome Statute.

Mr. President,

Concerned as we are about the integrity of the Rome Statute, we nevertheless believe that resolution 1422 is more damaging to the Council itself than it is to the International Criminal Court. Many of the comments offered a year ago and since make it clear that this resolution effectively raises questions of credibility and legality of the Council's action. At a time when the relevance of the Council and thus of the organization as a whole is openly questioned by many critics, the Council would do itself a disservice by automatically and indefinitely renewing the provisions of resolution 1422.

Thank you, Mr. President.