

PROMOTION OF THE INTERNATIONAL CRIMINAL COURT<sup>1/2</sup>

(Adopted at the fourth plenary session, held on June 4, 2009)

THE GENERAL ASSEMBLY,

RECALLING resolutions AG/RES. 1619 (XXIX-O/99), AG/RES. 1706 (XXX-O/00), AG/RES. 1709 (XXX-O/00), AG/RES. 1770 (XXXI-O/01), AG/RES. 1771 (XXXI-O/01), AG/RES. 1900 (XXXII-O/02), AG/RES. 1929 (XXXIII-O/03), AG/RES. 2039 (XXXIV-O/04), AG/RES. 2072 (XXXV-O/05), AG/RES. 2176 (XXXVI-O/06), AG/RES. 2279 (XXXVII-O/07), and AG/RES. 2364 (XXXVIII-O/08);

RECALLING ALSO the recommendation of the Inter-American Commission on Human Rights (OEA/Ser.L/V/II.102, Doc. 6 rev., April 16, 1999, Chapter VII, 21.3.B), as well as its resolution No. 1/03, on the prosecution of international crimes, and the document “Framework for OAS Action on the International Criminal Court” (AG/INF.248/00);

CONVINCED that the Rome Statute and the International Criminal Court are effective instruments for consolidating international criminal law, and that the work of the International Criminal Court to guarantee international justice can help consolidate lasting peace;

NOTING WITH CONCERN the continuation in some parts of the world of persistent violations of international humanitarian law and international human rights law; and reaffirming that all states have the primary duty to investigate, prosecute, and punish those violations so as to prevent their recurrence and avoid the impunity of the perpetrators of those crimes;

BEARING IN MIND the responsibility in the first instance of national jurisdictions to investigate and prosecute the perpetrators of the most serious international crimes and the complementary nature of the jurisdiction of the International Criminal Court in respect of the crimes within its sphere of competence;

CONVINCED of the importance of preserving the effectiveness and legal integrity of the Rome Statute, including the jurisdiction of the International Criminal Court; and recognizing the essential role of the Vienna Convention on the Law of Treaties and the firm resolve of the states parties to preserve them;

MINDFUL of the importance of full and effective cooperation from the states, from the United Nations, including the Security Council, and from other international and regional organizations, and of support from civil society, to the effective functioning of the International Criminal Court;

NOTING in this respect that Article 87.6 of the Rome Statute recognizes the role that intergovernmental organizations can play in providing cooperation to the Court and that the Assembly of States Parties to the Rome Statute, at its seventh session, through resolution ICC-ASP/7/Res.3, “Strengthening the International Criminal Court and the Assembly of States Parties,” renewed its invitation to other relevant organizations to consider concluding such agreements with the Court;

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<sup>1</sup>. Reservation by the Government of Nicaragua: Nicaragua is aware that international humanitarian law and international human rights law continue to be violated in many parts of the world. For that reason, the Government of Nicaragua has adopted a special chapter under section XXII of the Nicaraguan Criminal Code, whereby it punishes all crimes against international law and crimes against humanity. However, it cannot support this resolution because the conditions are not yet favorable for its joining the International Criminal Court.

<sup>2</sup>. Reservation by the United States: The United States has long been concerned about the persistent violations of international humanitarian law and international human rights law throughout the world. The United States will continue to be a forceful advocate for the principle of accountability for war crimes, genocide, and crimes against humanity. That said, the new administration is in the process of reviewing its policies regarding the International Criminal Court, and accordingly the United States is not in a position to join consensus on the resolution.

WELCOMING that 108 states have now ratified or acceded to the Rome Statute, among them 24 members of the Organization of American States, with Suriname being the most recent to do so;

NOTING WITH SATISFACTION that, during the recent elections for the Bureau of the Assembly of States Parties, Mexico (Vice-President), Brazil, Trinidad and Tobago, and the Bolivarian Republic of Venezuela were elected members for the 2009-2011 term;

NOTING that 13 member states of the Organization have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, the most recent of which was Colombia, in April 2009;

NOTING ALSO the outcome of the seventh session of the Assembly of States Parties to the Rome Statute, held from November 14 to 22, 2008, especially resolution ICC-ASP/7/Res.3;

RECOGNIZING the important work of the Coalition for the International Criminal Court with member states in promoting the Rome Statute;

EXPRESSING ITS SATISFACTION with the progress made by the International Criminal Court in developing into a fully operational judicial body, as well as with the beginning of its first trial, on January 26, 2009;

CONVINCED of the importance of full implementation of United Nations Security Council resolution 1593 (2005), of March 31, 2005, to achieve peace and to guarantee that the arrest warrants issued are executed and that, if it is ascertained that international crimes have been committed, those crimes are not treated with impunity; and of the need to step up, to such ends, assistance and international cooperation with the International Criminal Court and with the Office of the Prosecutor in efforts to combat impunity;

EXPRESSING ITS SATISFACTION with the holding, at the Organization's headquarters, on December 8, 2008, of the Working Meeting on the International Criminal Court, within the framework of the Committee on Juridical and Political Affairs and with support from the Office of International Law, in which representatives of the International Criminal Court, government officials, representatives of international organizations, and civil society organizations participated; and taking note of the results of that meeting, contained in the Rapporteur's report (CP/CAJP-2700/09); and

TAKING NOTE of the Annual Report of the Permanent Council to the General Assembly (AG/doc.4992/09 and addenda),

RESOLVES:

1. To renew its appeal to those member states of the Organization of American States (OAS) that have not already done so to consider ratifying or acceding to, as the case may be, the Rome Statute of the International Criminal Court.

2. To urge OAS member states that are parties or signatories to the Rome Statute to promote and respect its intent and its purpose, in order to preserve its effectiveness and integrity and bring about its universal adoption; and to urge them to cooperate in promoting universal accession thereto.

3. To remind OAS member states that are parties to the Rome Statute that it is important to continue to adopt measures with a view to achieving its full and effective implementation, including measures to adjust their national legislation, in particular regarding the definition of crimes within the jurisdiction of the International Criminal Court, as well as international cooperation and judicial assistance.

4. To urge the OAS member states to cooperate fully with the International Criminal Court, so as to avoid the impunity of the perpetrators of crimes over which it has jurisdiction.

5. To urge the OAS member states to promote and defend the work of the International Criminal Court as the fundamental instance for combating impunity and guaranteeing justice for victims of the crimes within its jurisdiction, as essential components of any effort to achieve peace.

6. To note that to date the Court has issued 12 arrest warrants in all the situations it is investigating, only four of which have been executed, and, in this regard, to appeal to the OAS member states and competent international and regional organizations to cooperate fully with the Court, within their respective spheres of competence, in the execution of these warrants.

7. To urge the OAS member states to consider ratifying or acceding to, as the case may be, the Agreement on Privileges and Immunities of the International Criminal Court and, in the case of those states that are already party to that Agreement, to adopt the necessary measures for its full and effective implementation at the national level.

8. To draw attention to the importance of cooperation by states that are not party to the Rome Statute.

9. To encourage the OAS member states to contribute to the Trust Fund to benefit victims of crimes within the jurisdiction of the International Criminal Court, and the families of such victims, as well as to the fund for the participation of least developed countries, both at the Assembly of States Parties to the Rome Statute and at the Review Conference to be held in 2010.

10. To invite the OAS member states to participate actively in the work of the Assembly of States Parties, as states parties or observers, where appropriate, with the purpose, among others, of furthering discussions and adopting concrete decisions on the subjects that will be considered before and during the Review Conference, in particular the definition of the crime of aggression, and thus ensuring the integrity of the Rome Statute and the strengthening of the International Criminal Court.

11. To request the Inter-American Juridical Committee to promote, using as a basis the OAS Guide on cooperation with the International Criminal Court and insofar as it is able, the adoption of national legislation in the area in states that do not yet have it, and, with collaboration from the General Secretariat and the Secretariat for Legal Affairs, to continue providing support for and promoting in OAS member states the training of administrative and judicial officials and academics for that purpose, and to report to the states parties on progress thereon at its next working meeting on the International Criminal Court and to the General Assembly at its fortieth regular session.

12. To request also the Inter-American Juridical Committee to prepare model legislation on implementation of the Rome Statute, in particular regarding the definition of crimes within the jurisdiction of the International Criminal Court, and to present a report, prior to the fortieth regular session of the General Assembly, on progress made.

13. To request the General Secretariat to continue its efforts to conclude a cooperation agreement with the International Criminal Court and to keep the OAS member states informed of progress in negotiations with the International Criminal Court or any of its organs in that regard.

14. To request the Permanent Council to hold a working meeting prior to the Review Conference of the Rome Statute, with support from the Department of International Law, which should include a high-level dialogue among the permanent representatives of all OAS member states, to discuss, among other matters, topics of interest to the region to be considered in negotiations before and during the Review Conference, in particular substantive amendments to the Statute, such as the definition of the crime of aggression. The International Criminal Court, international organizations and institutions, and civil society will be invited to cooperate and participate in this working meeting.

15. To request the Permanent Council to include the topic of the implementation of the Rome Statute and of the Agreement on Privileges and Immunities on the agenda of the Committee on Juridical and Political Affairs.

16. To request the Secretary General to report to the General Assembly at its fortieth regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.