

AG/RES. 2659 (XLI-O/11)

PROMOTION OF THE INTERNATIONAL CRIMINAL COURT^{1/2/}

(Adopted at the fourth plenary session, held on June 7, 2011)

THE GENERAL ASSEMBLY,

RECALLING its resolution AG/RES. 2577 (XL-O/10) and all its previous relevant resolutions;

RECALLING ALSO 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), AG/RES. 2364 (XXXVIII-O/08), AG/RES. 2505 (XXXIX-O/09), and AG/RES. 2577 (XL-O/10);

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

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 basic duty of investigating, prosecuting, and, when there is sufficient evidence to convict, punishing such violations, so as to prevent their recurrence and avoid the impunity of their perpetrators;

REAFFIRMING the primary responsibility of states, through their national jurisdictions, to investigate and prosecute the perpetrators of the most serious crimes of concern to the international community in a way consistent with international law, and bearing in mind the complementary nature of the jurisdiction of the International Criminal Court in respect of the crimes for which they have 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;

CONVINCED ALSO that the Rome Statute and the International Criminal Court are effective instruments for consolidating international criminal law and for guaranteeing that international justice can help consolidate lasting peace;

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1. Nicaragua is aware that there are still systematic violations of international humanitarian law and of the standards and principles of international ... *(the text of this footnote continues on page 178.)*
 2. The United States remains steadfastly committed to promoting the rule of law and helping to bring violators of international humanitarian law ... *(the text of this footnote continues on page 178.)*

WELCOMING WITH SATISFACTION the fact that 114 states have now ratified or acceded to the Rome Statute, among them 26 members of the Organization of American States (OAS), with Saint Lucia the most recent state to ratify it, on August 18, 2010, and that 14 member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, Costa Rica being the most recent state to ratify it, having done so on April 28, 2011;

WELCOMING the outcome of the Review Conference of the Rome Statute, held in Kampala, Uganda, from May 31 to June 11, 2010;

MINDFUL of the importance of full and effective cooperation from the states, from the United Nations, including the Security Council, other international and regional organizations, and civil society, to the effective functioning of the International Criminal Court, as recognized in the Rome Statute, and taking note of United Nations General Assembly resolution 65/12, which invites regional organizations to consider the possibility of concluding cooperation agreements with the Court;

UNDERSCORING the importance of the “Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court” signed by the General Secretariat of the OAS and the International Criminal Court on April 18, 2011;

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

EXPRESSING its satisfaction with the holding, at OAS headquarters, on March 10, 2011, 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 Department 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 meeting report (CP/CAJP-2978/11); and

TAKING NOTE of the Annual Report of the Permanent Council to the General Assembly (AG/doc.5217/11 add. 1),

RESOLVES:

1. To renew its appeal to those member states 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 and its Agreement on Privileges and Immunities.

2. To remind those member states that are parties to said instruments that it is important to promote their universal adoption and to continue to adopt the necessary measures to achieve its full and effective implementation, including measures to adjust their national legislation, in particular regarding the definition of the crimes within the jurisdiction of the International Criminal Court, as well as international cooperation and judicial assistance.

3. To welcome with satisfaction the cooperation and assistance provided to date to the International Criminal Court by those member states that are parties to the Rome Statute, by those member states that are not, and by international and regional organizations, and to urge them to continue their efforts to ensure cooperation and assistance with the International Criminal

Court in accordance with their respective international obligations, particularly as regards arrest and delivery, presentation of evidence, protection and movement of victims and witnesses, and serving of sentences, so as to avoid the impunity of the perpetrators of crimes over which it has jurisdiction.

4. To draw attention to the importance of the cooperation that states that are not parties to the Rome Statute can render to the International Criminal Court.

5. To urge those member states that are parties to the Rome Statute to promote and defend the work of the International Criminal Court and to conduct thorough and transparent processes to identify the best candidates for judges and for the prosecutor of the International Criminal Court and to elect from among the latter those that are most highly qualified in accordance with the Rome Statute.

6. To encourage those member states that are able to do so to contribute to the Trust Fund for Victims of crimes within the jurisdiction of the International Criminal Court, and of the families of such victims; to the Special Trust Fund for Relocation, and to the Trust Fund to enable the participation of least developed countries and other developing countries, with a view to facilitating their participation at the Assembly of States Parties.

7. To encourage those member states that are parties to the Rome Statute to follow up specifically on the results of the Review Conference, in particular the ratification of the amendments adopted, and to deliver on the pledges made during the Review Conference.

8. To request the Inter-American Juridical Committee (CJI), with collaboration from the General Secretariat, through its Secretariat for Legal Affairs, to continue providing support for and promoting in member states the training of administrative and judicial officials and academics on cooperation with the International Criminal Court and adoption of national legislation in that regard.

9. To thank the CJI for its recent work in preparing model legislation on implementation of the Rome Statute and, in particular, its reports on criminalization of offenses within the jurisdiction of the International Criminal Court: the Report on the Activities on Promotion of the International Criminal Court and Preliminary Draft of Model Texts for Crimes Contemplated in the Rome Statute (CJI/doc.360/11 rev. 1) and its supplemental report (CJI/doc.374/11), and to request those states that have not yet criminalized those offenses to consider implementing the suggestions of the Committee, where appropriate.

10. To request the General Secretariat to report on implementation of the cooperation measures set forth in the "Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court" signed by the General Secretariat of the Organization of American States (OAS) and the International Criminal Court.

11. To request the Permanent Council to hold, prior to the forty-third regular session of the General Assembly, a working meeting with support from the Department of International Law, which should include a high-level dialogue session among the permanent representatives of all member states to discuss, among other matters, measures that would strengthen cooperation with the International Criminal Court. The International Criminal Court, international organizations and institutions, and civil society will be invited to cooperate and participate in this working meeting.

12. To request the Secretary General to report to the General Assembly at its forty-second regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution will be subject to the availability of financial resources in the program-budget of the Organization and other resources.

FOOTNOTES

1. ... human rights law which is why it attaches special importance to this issue, establishing these crimes in Title XXII of Law No. 641 of 2007 (Criminal Code). These norms are only to be applied by the Nicaraguan judiciary. Article 158 of the Constitution establishes that justice emanates from the people and shall be imparted on their behalf by the Judicial Branch made up of the courts of justice established by law.” As regards the exhortation to states to consider acceding to or ratifying the Rome Statute of the International Criminal Court, the Government of Nicaragua cannot for the time being accede to the Rome Statute as conditions in our country do not favor our adhering to this international instrument.

Nicaragua bases its international relations on friendship and solidarity among peoples and reciprocity between States. It therefore refrains from and prohibits any kind of political, military, economic, cultural, and religious action and intervention in the affairs of other States. It recognizes the principle of peaceful settlement of international disputes through the mechanisms provided by international law and prohibits any means of mass destruction in domestic and international conflicts. Nicaragua observes with concern the increase in violations of international humanitarian law, as well as of international human rights law in various parts of the world, especially in the Arab Republic of Libya, where the situation is being exacerbated by NATO’s intervention, which is carrying out acts of aggression against the Libyan population, killing civilians and engaging in actions to overthrow the authorities in that country, under a biased and egregious interpretation of United Nations Security Council resolution 1973.

2. ... to justice, and will continue to play a leadership role in righting those wrongs. As the United States has emphasized, we cannot ignore the terrible crimes that have been perpetrated, wherever they may occur, and the massive human suffering that the world has witnessed. The United States recognizes that the International Criminal Court can play a key role in bringing perpetrators of the worst atrocities to justice. As a non-party to the Rome Statute, the United States can be a valuable partner and ally in the cause of advancing international justice. The United States continues to have reservations with respect to particular elements of this resolution. In this connection, with respect to the amendments adopted at the Review Conference, the United States notes the differences between the crime of aggression and the crimes defined in Articles 6, 7, and 8 of the Rome Statute, and believes that it was wise for the States Parties to subject the Court’s exercise of jurisdiction over the crime of aggression to a decision to be taken after January 1, 2017. Among other things, this will provide breathing space in which measures that require attention can be considered, and in which progress on other issues facing the international community – the effort to ensure accountability for perpetrators of war crimes, genocide, and crimes against humanity– can be consolidated. The United States understands that any OAS support rendered to the ICC, including under any arrangements agreed to under the “Exchange of Letters for the establishment of a Framework Cooperation Agreement,” will be drawn from specific fund contributions rather than the OAS regular budget.