

AG/RES. 2728 (XLII-O/12)

PROMOTION OF THE INTERNATIONAL CRIMINAL COURT^{1/}

(Adopted at the second plenary session, held on June 4, 2012)

THE GENERAL ASSEMBLY,

RECALLING its resolution AG/RES. 2659 (XLI-O/11) and all its previous relevant resolutions;

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 responsibility to prevent their commission and recurrence and to avoid the impunity of their perpetrators, particularly by investigating, prosecuting, and punishing such violations, where applicable, within a framework of full respect for relevant judicial guarantees and due process;

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 jurisdiction;

CONVINCED 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;

WELCOMING WITH SATISFACTION the fact that 121 states have now ratified or acceded to the Rome Statute, among them 28 members of the Organization of American States (OAS), with Grenada and Guatemala as the most recent states to accede thereto, on May 19, 2011, and on April 2, 2012, respectively; and that 16 member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, Chile and Brazil being the most recent states to ratify it, having done so on September 26 and December 12, 2011, respectively;

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

¹. Nicaragua notes with concern that there are still systematic violations of international humanitarian law and international human rights law ... *(The text of this footnote continues on page 105.)*

TAKING NOTE of the first judgment issued by Trial Chamber I of the International Criminal Court on March 14, 2012, *The Prosecutor v. Thomas Lubanga Dyilo* (ICC-01/04-01/06);

HIGHLIGHTING the existence of the first Agreement on the Enforcement of Sentences in the region, signed by Colombia and the International Criminal Court on May 18, 2011;

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;

RECALLING the outcome of the Working Meeting on the International Criminal Court, held at OAS headquarters on March 10, 2011, within the framework of the Committee on Juridical and Political Affairs and with support from the Department of International Law;

TAKING NOTE of the cooperation agreement signed by the Inter-American Commission on Human Rights and the International Criminal Court in April 2012; and

TAKING NOTE ALSO of the Annual Report of the Permanent Council to the General Assembly (AG/doc.5240/12 add. 1),

RESOLVES:

1. To renew its appeal to those member states that have not yet done so to consider signing, ratifying, or acceding to, as appropriate, 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 of the importance of the promotion of their universality and to continue adopting the necessary measures to achieve their full and effective implementation, and to adopt measures to adjust their national legislation, including, where appropriate, regarding the inclusion of crimes within the jurisdiction of the International Criminal Court, international cooperation and judicial assistance, and the protection of and reparations for victims.

3. To commemorate with satisfaction the tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court in 2012 and to invite member states to consider, within the framework of said anniversary, carrying out activities related to its promotion.

4. 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 with and assistance to the International Criminal Court in accordance with any applicable 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.

5. To urge those member states that are parties to the Rome Statute to support and promote the work of the International Criminal Court, in keeping with their obligations.

6. 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.

7. 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 of Witnesses, and to the Trust Fund for the participation of least developed countries and other developing States in the work of the Conference, with a view to facilitating their participation at the Assembly of States Parties.

8. To encourage those member states that are parties to the Rome Statute to follow up specifically on the results of the Review Conference and on compliance with the promises made during that conference, and to give consideration to ratifying the amendments adopted.

9. To welcome the election by consensus of the new Prosecutor of the International Criminal Court, Fatou Bensouda, in December 2011, and to thank the outgoing Prosecutor, Luis Moreno-Ocampo, the first Chief Prosecutor of the International Criminal Court.

10. To welcome the election, in December 2011, of six new judges to the International Criminal Court, two of whom are from the region (Dominican Republic and Trinidad and Tobago); and to invite the member states to promote regional representation on the International Criminal Court.

11. 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.

12. To recall the CJI 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.360/10 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.

13. To request the General Secretariat to report, prior to the forty-fourth regular session of the General Assembly, 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.

14. To recall the request made to 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 could 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.

15. To request the Secretary General to report to the General Assembly at its forty-fourth 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.^{2/}

². The United States understands that any OAS support rendered to the International Criminal Court will be drawn from specific-fund contributions rather than the OAS regular budget.

FOOTNOTE

1. ... at the international level. Nicaraguan criminal law covers those offenses in the Criminal Code. As regards the exhortation to states to consider ratifying or acceding to the Rome Statute of the International Criminal Court, the Government of Reconciliation and National Unity 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. It defends the principles of nonintervention in the internal affairs of states and of the peaceful settlement of international disputes through the channels afforded by international law.

