

AG/RES. 2852 (XLIV-O/14)

PROMOTION OF INTERNATIONAL LAW

(Adopted at the second plenary session, held on June 4, 2014)

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly 2013-2014” (AG/doc.5470/14 add. 1), in particular as it pertains to the activities of the Committee on Juridical and Political Affairs (CAJP);

RECALLING the resolutions assigned to the CAJP in the “List of Resolutions of the Committee on Juridical and Political Affairs (CAJP) for the Period 2007-2012 Classified by Thematic Areas as Identified by the Informal Working Group to Review the Mandates of the CAJP” (CP/CAJP/INF.188/13);

CONSIDERING that the programs, activities, and tasks set out in the resolutions within the purview of the CAJP help further the core purposes of the Organization enshrined in the Charter of the Organization of American States;

REAFFIRMING the norms and principles of international law and those contained in the Charter of the Organization of American States;

RECALLING resolutions AG/RES. 2728 (XLII-O/12) and AG/RES. 2791 (XLIII-O/13);

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 122 states have now ratified or acceded to the Rome Statute, among them 28 members of the Organization of American States (OAS), and that 16 member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court;

RECALLING the outcome of the Review Conference of the Rome Statute, held in Kampala, Uganda, in 2010;

MINDFUL of the importance of full and effective cooperation from states, international and regional organizations, and civil society, for the International Criminal Court to function effectively, as recognized in the Rome Statute;

UNDERSCORING the importance of the “Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court,” signed by the OAS General Secretariat and the International Criminal Court on April 18, 2011, and the importance of the cooperation agreement signed by the Inter-American Commission on Human Rights and the International Criminal Court in April 2012;

RECALLING the outcome of the Working Meeting on the International Criminal Court, held at OAS headquarters on April 12, 2013, by the Committee on Juridical and Political Affairs with support from the Department of International Law;

CONSIDERING that in 1997 the General Assembly adopted the Inter-American Program for the Development of International Law, through resolution AG/RES. 1471 (XXVII-O/97), which was subsequently updated by resolution AG/RES. 2660 (XLI-O/11), and noting the “Report on the Inter-American Program for the Development of International Law [AG/RES. 2791 (XLIII-O/13)] (Activities of the Department of International Law of the Secretariat for Legal Affairs in 2013)” (CP/CAJP/INF.211/14);

TAKING INTO ACCOUNT that the Department of International Law, through the Inter-American Program, has started implementing specific projects for institutional support to member states, in the areas of access to information, security interests, international arbitration, and private international law; and

TAKING INTO ACCOUNT ALSO the training activities that the OAS General Secretariat’s Department of International Law has been carrying out in various member states on the subject of promotion and protection of the human rights of indigenous peoples and people of African descent,

RESOLVES:

1. To reaffirm to the Permanent Council and to the General Secretariat the applicable mandates contained in past resolutions of the General Assembly assigned to the Committee on Juridical and Political Affairs (CAJP) and mentioned in the preamble of this resolution; and to urge member states to continue contributing to the attainment of the objectives established in said resolutions through the development and execution of activities, the submission of reports, the exchange of information, the adoption of measures and policies, and cooperation, support, and mutual assistance; and to instruct the General Secretariat to provide necessary support to those ends.

2. To request the Permanent Council to report to the General Assembly at its forty-fifth 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.

I. Promotion of the International Criminal Court<sup>1/2/</sup>

3. To renew its appeal to those member states that have not yet 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.

4. 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.

5. 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.

6. 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 and to underscore 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 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.

8. To request the General Secretariat to report, prior to the forty-sixth 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 and the International Criminal Court.

9. To request the Permanent Council to hold, prior to the forty-sixth 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.

- 
1. The Government of Nicaragua views with concern the continuing systematic violations of international human rights law and international humanitarian law in the world. ...
  2. The United States remains steadfastly committed to promoting the rule of law and supporting efforts to bring those responsible for war crimes, crimes against humanity, and genocide to justice.

...

## II. Inter-American Program for the Development of International Law

10. To reaffirm the importance of, and its support for, the Inter-American Program for the Development of International Law and to request the Department of International Law to continue carrying out the activities listed in the Program and report thereon each year to the CAJP.

11. To instruct the Department of International Law to continue its support, within the activities envisaged in the Program, to the member states with respect to the implementation of domestic laws on access to public information; continue its training of judges and other officials in effective application of international treaties on the execution of arbitral decisions and awards; and continue to raise awareness of the Model Law on Secured Transactions among member states.

12. To instruct the Department of International Law to promote among member states further development of private international law, in collaboration with agencies and organizations engaged in this area, among them the United Nations Commission on International Trade Law (UNCITRAL), the Hague Conference on Private International Law, and the American Association of Private International Law (ASADIP).

13. To instruct the Department of International Law to continue, in the activities provided for under the Inter-American Program, to promote and raise awareness of the rights of people of African descent and indigenous peoples, and to promote the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance and the Inter-American Convention against All Forms of Discrimination and Intolerance.<sup>3/</sup>

14. To request that member states indicate to the Secretariat for Legal Affairs as soon as possible their interest in having regular meetings of the legal consultants to the ministries of foreign affairs and other senior officials responsible for international law issues in member states; the usefulness of preparing a directory of competent authorities for such matters; and the advisability of drafting guidelines on possible topics that could be addressed at such meetings.

---

3. The United States has consistently objected to the negotiation of new legally binding instruments against racism, racial discrimination and other forms of discrimination or intolerance ...

## FOOTNOTES

1. ... At the domestic level, our criminal laws ascribe particular importance to this subject. Hence the criminalization of these offenses under Title XXII of Law No. 641 of 2007 (Criminal Code), the enforcement of which provisions are the exclusive responsibility of the Nicaraguan courts. as regards the call for states to consider acceding to or ratifying the Rome Statute of the International Criminal Court, the Government of Reconciliation and National Unity is unable to support this resolution and enters its reservation thereto, given that, for the time being, conditions are not suited to our accession to the present Statute.

The Republic of Nicaragua bases its international relations on friendship, solidarity, cooperation, and reciprocity among states, and therefore desists from any kind of political, military, economic, cultural, or religious measure against them, while at the same time upholding the principles of nonintervention in the domestic affairs of states and peaceful solution of international disputes by means of the mechanisms available under international law.

2. While the United States is not a party to the Rome Statute, the United States recognizes that the International Criminal Court can play a key role in bringing those responsible for the worst atrocities to justice. To that end, to date we have provided specific support to the ICC in connection with its current investigations and prosecutions, consistent with U.S. law and policy. With respect to the amendments on the crime of aggression adopted at the Kampala 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, including with respect the question of the extent to which it is appropriate or permissible to investigate and prosecute alleged offenses in domestic courts. See RC/Res.6, Annex III, Understanding 5. The United States understands that any OAS support rendered to the ICC will be drawn from specific-fund contributions rather than the OAS regular budget.

3. ... and reiterate our longstanding reservations and concerns with this and prior resolutions on the topic and does not endorse the texts that have resulted from these negotiations. We are concerned that some provisions of the conventions could undermine or are incompatible with international human rights law protections including those related to freedoms of expression and association. There is already a robust global treaty regime that provides comprehensive protections in this area. A regional instrument is not necessary and runs the risk of creating inconsistencies with this global regime. as early as 2002, the Inter-American Juridical Committee articulated similar concerns, concluding that it was not advisable to negotiate a new convention in this area. The United States believes that the resources of the OAS and of its member states would be better utilized by identifying practical steps that governments in the Americas might adopt to combat racism, racial discrimination and other forms of discrimination and intolerance, including best practices in the form of national legislation and enhanced implementation of existing international instruments. Such efforts should be aimed at bringing immediate and real-world protection against discrimination.