

AG/RES. 2364 (XXXVIII-O/08)

PROMOTION OF THE INTERNATIONAL CRIMINAL COURT^{1/}

(Adopted at the fourth plenary session, held on June 3, 2008)

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), and AG/RES. 2279 (XXXVII-O/07);

RECALLING ALSO the recommendation of the Inter-American Commission on Human Rights (IACHR) (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);

RECOGNIZING that the adoption of the Rome Statute of the International Criminal Court was a milestone in efforts to combat impunity, and that it and the Court are fundamental components of the international criminal justice system and that they constitute effective instruments for consolidating international criminal law and international justice and 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, by taking measures whether at the national or the international level, including, as appropriate, referral to the International Criminal Court;

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;

-
1. 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, but cannot support the flawed International Criminal Court (ICC). Thus, the United States has not ratified the Rome Statute and has no intention of doing so. In light of this position, the United States cannot join in the consensus on an OAS resolution that promotes the Court, nor support the use of the OAS regular budget to fund cooperation and any other support rendered to the ICC, including under any OAS-ICC cooperation agreement. The United States understands that any such support will result only from specific fund contributions.

WELCOMING the 10th anniversary of the adoption of the Rome Statute of the International Criminal Court on July 17, 1998, and its entry into force on July 1, 2002, the date on which the Court became the international judicial body complementing the efforts of national jurisdictions to prosecute the perpetrators of the most serious international crimes, such as genocide, crimes against humanity, and war crimes;

MINDFUL of the importance of 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 intergovernmental organizations can play in providing cooperation to the Court and that, in its resolution ICC-ASP/6/Res. 2, contained in ICC publication ICC-ASP/6/20, the Assembly of States Parties, at its sixth session, renewed its invitation to other relevant organizations to consider concluding such agreements with the Court;

WELCOMING that 106 states have now ratified or acceded to the Rome Statute, among them 23 members of the Organization of American States (OAS);

NOTING WITH GRATIFICATION:

The work done by Costa Rica as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court and the participation by Belize, Bolivia, and Peru as members of the Bureau of said Assembly of States Parties during the 2005-2008 term; and

That 12 member states of the Organization have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, the most recent among them being Mexico in 2007 and Honduras in 2008; and that others are in the process of doing so;

NOTING the outcome of the sixth session of the Assembly of States Parties to the Rome Statute, held from November 30 to December 14, 2007, especially resolution ICC-ASP/6/Res.2, "Strengthening the International Criminal Court and the Assembly of States Parties," of December 14, 2007;

NOTING ALSO the results of the Hemispheric Seminar "Toward the First Review Conference of the Rome Statute of the International Criminal Court," held in Mexico City in August 2007, and of the meeting of legislators of the Central American region, the Dominican Republic, Mexico, and Panama on incorporation of war crimes into international criminal law, held in San José, Costa Rica, on June 7 and 8, 2007;

RECOGNIZING the important work of the Coalition for the International Criminal Court with member states in promoting and defending 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 forthcoming beginning of its first trial and the detention and surrender of the alleged perpetrators of crimes under its jurisdiction, which mark the beginning of a new phase for the Court;

CONVINCED of the importance of continuing to address problems identified in implementing fully United Nations Security Council resolution 1593 (2005), of March 31, 2005,

and the need to step up, to that end, international assistance and cooperation with the International Criminal Court and the Office of the Prosecutor in efforts to combat impunity;

EXPRESSING ITS SATISFACTION with the holding, at the Organization's headquarters, on January 28, 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, international organizations, and civil society organizations participated; and taking note of the results of that meeting, contained in the Rapporteur's report (CP/CAJP-2569/08);

RECOGNIZING the results of the informal meeting to address the mandate of the Inter-American Juridical Committee to prepare a model law on cooperation between states and the International Criminal Court, held at OAS headquarters on January 28, 2008;

TAKING INTO ACCOUNT the report of the Inter-American Juridical Committee presented pursuant to resolution AG/RES. 2279 (XXXVII-O/07) (CP/doc.4260/08), as well as resolution CJI/RES. 140 (LXXII-O/08), "Promotion of the International Criminal Court"; and

TAKING NOTE of the Annual Report of the Permanent Council to the General Assembly (AG/doc.4820/08),

RESOLVES:

1. To renew its appeal to those member states of the Organization that have not already done so to consider ratifying or acceding to, as the case may be, the 1998 Rome Statute of the International Criminal Court and to cooperate in promoting universal accession thereto.

2. To urge member states of the Organization 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.

3. To remind the member states of the Organization that are parties to the Rome Statute that it is important to continue to take measures with a view to its full and effective implementation, including those necessary to adapt or amend their domestic law, as necessary, and the adjustments necessary to define war crimes in accordance with definitions contained in applicable instruments of international humanitarian law, especially Additional Protocol I to the Geneva Conventions, or of international human rights law.

4. To urge the member states of the Organization to cooperate to the greatest extent possible among themselves and, as appropriate, with the International Criminal Court, so as to avoid the impunity of the perpetrators of the most serious international crimes, such as war crimes, crimes against humanity, and genocide, ensuring that their national legislation facilitates said cooperation, applies to crimes within the jurisdiction of the International Criminal Court, and establishes their imprescriptibility.

5. To urge the member states of the Organization 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 take the necessary measures for its full and effective implementation at the national level.

6. To encourage states to contribute to the trust fund established by the Assembly of States Parties to the Rome Statute for the benefit of victims of crimes within the jurisdiction of the International Criminal Court, and of the families of such victims, as well as to the fund for the participation of least developed countries.

7. To invite 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 stepping up discussions on the review conference planned for 2010 and ensuring the integrity of the Rome Statute.

8. To request the Inter-American Juridical Committee, on the basis of its proposal to prepare a model law on cooperation between states and the International Criminal Court, to promote, insofar as it is able and with support from civil society, the adoption of said law in states that do not yet have a law in the area, and, with collaboration from the General Secretariat and the Secretariat for Legal Affairs, to provide support for and promote in member states the training of administrative and judicial officials and academics for that purpose, and to report on progress thereon to the General Assembly at its fortieth regular session.

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

10. To request the Permanent Council to hold a working meeting, with support from the Department of International Law, on appropriate measures that states should take to cooperate with the International Criminal Court, which should include a high-level dialogue among member states. The International Criminal Court, international organizations, and nongovernmental organizations will be invited to cooperate and participate in this working meeting.

11. 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.

12. To request the Secretary General to promote, at the headquarters of the Organization of American States and with the sponsorship of interested member states and other interested entities or organizations, activities to commemorate the 10th anniversary of the adoption of the Rome Statute of the International Criminal Court.

13. To request the Secretary General to report to the General Assembly at its thirty-ninth 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.