

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

(Adopted at the fourth plenary session, held on June 8, 2010)

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), and AG/RES. 2176 (XXXVI-O/06) and AG/RES. 2279 (XXXVII-O/07) and resolution AG/RES. 2364 (XXXVIII-O/08) its resolution AG/RES. 2505 (XXXIX-O/09) and all its previous relevant resolutions;

RECALLING ALSO 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 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 Court’s work in guaranteeing 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 of investigating, prosecuting, and punishing 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;

¹. Reservation by the United States: The United States has long been concerned about the persistent violations of international law throughout the world, and will continue to be a forceful advocate for the principle of accountability for war crimes, genocide and crimes against humanity. The United States is hopeful that the ICC and the ICC Assembly of States Parties will continue to make progress on meeting the ICC’s historic mandate to provide justice for those innocent men, women and children who have been murdered, and raped, and mutilated—who suffered from crimes that shock the conscience of all humanity. 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 is not in a position to join consensus on this resolution, however, in part because the resolution should more clearly distinguish the different roles of Rome Statute parties and non-parties in various parts of the text. The United States looks forward to the ICC Review Conference, and urges OAS member states participating in the Review Conference to join in making every effort to reach consensus decisions in Kampala, particularly with respect to proposals that would represent a fundamental change to the Court’s mandate. The United States understands that any OAS support for the ICC will be drawn from specific fund contributions rather than the OAS regular budget.

². Reservation of the Government of Nicaragua: Nicaragua has been observing that violations of international humanitarian law as well as violations of international human rights law continue to be perpetrated in many parts of the world, giving rise to international crimes and crimes against humanity. In keeping with the rules and principles of international law, crimes against the international order and crimes against humanity are punishable under Title XXII of the Nicaraguan Penal Code. Regarding the renewed call for states to consider ratifying or acceding to the Rome Statute of the International Criminal Court, the Government of Nicaragua cannot support the text of this resolution as conditions in Nicaragua are still not conducive to acceding to 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 the Assembly of States Parties, at its eighth session, by means of resolution ICC-ASP/8/Res.2, renewed its invitation to other relevant organizations to consider concluding such agreements with the Court;

WELCOMING that 111 states have now ratified or acceded to the Rome Statute, among them 24 25 members of the Organization of American States (OAS), with Chile being the most recent state in the Hemisphere to do so;

CELEBRATING the recent election of Ms. Silvia Fernández de Gurmendi, a native of Argentina, as a Judge of the International Criminal Court;

NOTING that 14 OAS member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, the most recent being the Dominican Republic, in September 2009;

NOTING the outcome of the eighth session of the Assembly of States Parties to the Rome Statute, held from November 18 to 26, 2009, and resumed from March 22 to March 26, 2010, especially resolutions ICC-ASP/8/Res.2, on “Cooperation,” ICC-ASP/8/Res.3, on “Strengthening the International Criminal Court and the Assembly of States Parties,” and ICC-ASP/8/Res.6, on the “Review Conference”;

RECOGNIZING the importance of the first Review Conference of the Rome Statute, to be held in Kampala, Uganda, on May 31 to June 11, 2010, to ensure the integrity and strengthening of that international instrument and to strengthen the effectiveness of the International Criminal Court;

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 progress made by the International Criminal Court in developing into a fully operational judicial body;

CONVINCED of the importance of full implementation of United Nations Security Council resolution 1593 of March 31, 2005, to achieve peace and to guarantee that the arrest warrants issued are fully executed and that, if it is ascertained that international crimes have been committed, those crimes are not treated with impunity, as well as 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 OAS headquarters, on January 27, 2010, 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-2818/10 rev. 1; and

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

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 the 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, and to urge them to cooperate in promoting universal accession thereto.

3. To remind the member states of the OAS 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 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 member states to promote and defend the work of the International Criminal Court as the fundamental instance for combating impunity and guaranteeing justice for the victims of 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, of which only four have been executed, and, in this regard, to appeal to member states and competent international and regional organizations to cooperate fully with the Court in executing those warrants within their respective spheres of competence.

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 the cooperation that states that are not parties to the Rome Statute can render to the International Criminal Court.

9. To encourage the member states to contribute to the Trust Fund to benefit of victims of crimes within the jurisdiction of the International Criminal Court, and of their families, as well as to the Trust Fund to enable the participation of least developed countries and other developing countries, with a view to facilitating their participation at both the Assembly of States Parties and the Review Conference of the Rome Statute.

10. To urge the member states to participate actively and constructively in the work of the Review Conference, as states parties or observers, as appropriate, with the purpose of adopting concrete decisions on the subjects considered by the Review Conference, in particular to make every effort to adopt the definition of the crime of aggression and the conditions for the exercise of the jurisdiction of the Court in accordance with Article 5.2 of the Statute with a view to ensuring the integrity of the Rome Statute and the strengthening and ongoing independence of the International Criminal Court, and to participate actively in the exercise of evaluating international criminal justice and the process of presenting promises.

11. To request the Inter-American Juridical Committee, insofar as it is able and with the support of civil society, to continue promoting, using as a basis the OAS Guide on cooperation with the International Criminal Court, 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 the 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 the next working meeting on the International Criminal Court and to the General Assembly at its forty-first regular session.

12. Also to request the Inter-American Juridical Committee to continue its work of preparing 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 on the progress made at the next working meeting on the International Criminal Court.

13. To request the General Secretariat to continue its efforts to conclude 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.

14. To request the Permanent Council to hold a working meeting prior to the forty-second regular session of the General Assembly, 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, the results of the Review Conference. 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 forty-first regular session on the implementation of the mandates 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.