

**Assembly of States Parties**Distr.: General
10 November 2016

Original: English

Fifteenth session

The Hague, 16-24 November 2016

**Report of the Bureau on the Plan of action of
the Assembly of States Parties for achieving universality and
full implementation of the Rome Statute of
the International Criminal Court****I. Introduction**

1. At its fifth session, the Assembly of States Parties adopted, by consensus, the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court (hereinafter "the Plan of Action").¹
2. At its fourteenth session, the Assembly of States Parties (hereinafter "the Assembly") welcomed the annual report of the Bureau on the Plan of action, endorsed the recommendations contained therein and requested the Bureau to continue to monitor the implementation of the Plan and to report thereon to the Assembly during its fifteenth session.²
3. The Plan of action calls upon States Parties to proactively make use of the political, financial and technical means at their disposal to promote the universality and full implementation of the Rome Statute through bilateral, regional and multilateral relationships. Furthermore, the Plan of action calls upon the Secretariat to support States in their efforts to promote universality and full implementation of the Statute by acting as a focal point for information exchange, within existing resources, including by collecting and ensuring dissemination of such information. It also requires the Assembly, through its Bureau, to keep the Plan of action under review.
4. The Bureau of the Assembly of States Parties decided to re-appoint the Republic of Cyprus and the Kingdom of Denmark on 24 February 2016 as *ad country* co-focal points to facilitate the implementation of the Plan of action.
5. The reporting period covers the period after the adoption of the previous report (ICC-ASP/14/31, 5 November 2015) until October 2016. During the said period, the co-focal points conducted consultations and briefings in order to keep States, Court officials, members of civil society and other interested parties up to date on the progress in the discussions on the Plan of action and to receive their suggestions, comments and recommendations and increase synergies. No amendments to the provisions of the current Plan of action were suggested during the reporting period.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November to 1 December 2006* (ICC-ASP/5/32), Part III, ICC-ASP/5/Res.3, annex I.

² Resolution ICC-ASP/14/Res.4 of 26 November 2015, para.5 and annex I, para. 1.

II. Updates on efforts to promote universality and full implementation of the Rome Statute

A. Activities of the Court

6. The Court made an active contribution to the efforts to promote universality and full implementation of the Rome Statute in close cooperation with other actors, including the President of the Assembly, the co-focal points on the Plan of Action, States Parties, intergovernmental organizations and civil society.

7. The Court organized two cooperation seminars: in Gaborone, Botswana, 29-30 October 2015, and in Bucharest, Romania, 21-22 March 2016, gathering government representatives from a total of 24 States Parties and 4 non-States Parties. The national implementation of the Rome Statute featured on the agenda of both seminars. At the Bucharest seminar, one workshop session was devoted entirely to universality of the Rome Statute and national implementing legislation. The seminars also served to raise awareness about the ICC among non-States Parties through interaction with the Court as well as with States Parties, encouraging these countries to consider joining the Rome Statute. The seminars were financially supported by the European Commission. Additionally, the Netherlands and Norway sponsored the Gaborone seminar.

8. The Court held a week-long seminar on cooperation with ICC focal points of situation countries in The Hague, 2-6 November 2015, allowing for in-depth discussions and exchange of experiences on practical cooperation matters. The seminar was supported by the European Commission as well as the Netherlands and Finland.

9. The fourth Joint Seminar between the African Union and the ICC, supported by the Organisation Internationale de la Francophonie (OIF) and the European Commission, was held in Addis Ababa on 23 October 2015, focusing on complementarity and the promotion of greater engagement and mutual understanding. The second ICC-European Union Roundtable took place in Brussels on 6 July 2016. The delegation of the Court, led by the Registrar, engaged in discussions with representatives of the European External Action Service and the European Commission on ways to encourage the ratification and national implementation of the Rome Statute, in particular within the context of the Global Strategy for the European Union's Foreign and Security Policy.

10. The President of the Court underlined the importance of reaching universal ratification of the Rome Statute in numerous public remarks, including her participation in the event on "International Criminal Justice at the United Nations and the Importance of National Ownership" organized by the Permanent Mission of Italy, as well as speeches addressing the United Nations General Assembly and the Council of Europe and the Organization for Security and Co-operation in Europe.

11. The Prosecutor made two missions to Geneva, where she briefed the diplomatic community including the Group of Friends of the ICC on recent developments at the Court and highlighted the important work carried in Geneva for universality, in the context of the Universal Periodic Review. The Prosecutor also participated in an event in Dakar, Senegal, marking July 17 as Day of International Criminal Justice, hosted by the President of the Assembly, Minister Sidiki Kaba. The event highlighted, among others, the importance of achieving universality.

12. More broadly, the principals of the Court promoted the goals of the Plan of Action through speeches and participation also at many other conferences and seminars, as well as meetings with various interlocutors.

13. Throughout the reporting period, senior officials of the Court used various opportunities – both during visits of external stakeholders to the ICC and during the official travel of ICC officials – to engage with government officials, parliamentarians and other stakeholders from a large number of States not party to the Rome Statute, including but not limited to Algeria, Angola, Armenia, Azerbaijan, Egypt, Indonesia, Iran, Iraq, Kazakhstan, Kiribati, Kuwait, Morocco, Mozambique, Nepal, Russian Federation, Saudi Arabia, Turkey, Ukraine, United Arab Emirates and the United States of America. During such discussions, Court officials encouraged consideration of Rome Statute accession/

ratification, underlining the important role of the Rome Statute system in global efforts for accountability as well as clarifying several legal and technical issues related to the Court and the role and obligations of States Parties.

14. The Court's general public information activities, notably including the Court's new and enhanced website, commemorations of the Day of International Criminal Justice (17 July) as well as the support provided for the ICC Moot Court competitions in various languages, including Chinese and Russian, continue to serve as an important tool for raising awareness and providing information that is crucial for the promotion of the universality and full implementation of the Rome Statute. Approximately 9,000 visitors, from States Parties as well as non-States Parties, visited the ICC and received presentations on the Court, its mandate and current activities.

B. Activities of the President of the Assembly and the Secretariat

15. The President of the Assembly of States Parties, Mr. Sidiki Kaba, held a series of meetings throughout the year where he encouraged States to become parties to the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court, as well as stressed the importance for States to have implementing legislation at the national level.

16. On 2 June 2016, the President delivered a message at the welcoming ceremony organized by the Court for El Salvador, the 124th State Party. President Kaba participated in a seminar in Dakar he organized on 16 July 2016 on the topic of "International Criminal Justice against sexual and gender-based crimes" with the participation of several ministers of Justice and other experts at the occasion of the Day of International Criminal Justice. The President also visited government officials in Togo in August 2016 to promote the universality of the Rome Statute.

17. Moreover, the President held a series of meetings in New York from 19 to 22 September 2016 in the margins of the 71st session of the United Nations General Assembly, which included bilateral meetings at the ministerial level with States Parties and non-States Parties to promote the universality of the Rome Statute, the adoption of national implementing legislation that would reinforce the principle of complementarity and cooperation with the Court, and enhancing dialogue between Africa and the Court.

18. President Kaba delivered a message at a seminar on the future of international criminal justice in Africa, organized in Addis Abeba on 17 March 2016 by the Institute for Peace Studies. The President also convened in April 2016 a meeting of African judges regarding training on and implementation of international standards of international criminal justice. He also organized a seminar for journalists to present a lexicon on justice and to increase their understanding of the Rome Statute and the functioning of the Court.

19. The Secretariat of the Assembly continued to provide its support to the collection of information on the promotion of the universality and full implementation of the Rome Statute. The information submitted by States and international organizations may be accessed at the website of the Assembly.

C. Activities of the co-focal points

20. During informal consultations of The Hague Working Group on 9 May 2016 the co-focal points presented a programme of work which included, *inter alia*, an increased focus on efforts by States Parties themselves, a more focused approach vis-à-vis States non Parties, enhanced coordination among different stakeholders and increased use of ICT and social media in promoting universality and full implementation of the Rome Statute. Issues raised during these consultations included the importance of applying low-key approaches in encouraging States to consider ratification or accession, the importance of not neglecting traditional ways of distributing information while focusing on ICT and social media, the role of regional organizations and the importance of taking different legal systems into account when addressing universality and full implementation. Based on the programme of work the *ad-country* focal points *continued* the practice of informal consultations with numerous actors in different settings.

21. In addition to the open meetings, the co-focal points held individual and joint bilateral consultations with representatives of States, members of civil society, international organizations and the Secretariat, at all levels, including the level of their respective Ministers of Foreign Affairs. Where possible the issue of universality was raised at political level on a bilateral basis.

22. In The Hague, the co-focal points continued to organize informal coordination meetings with representatives of the Court, the Assembly of States Parties and civil society. The aim of such meetings is to enhance coordination and identify ways of exploring synergies, and such an informal mechanism may be developed further.

23. The co-focal points also engaged with the Secretariat on developing a more comprehensive internet platform for promoting universality and full implementation of the Statute and are preparing a social media campaign with the participation of Ministers of Foreign Affairs from all geographic regions addressing frequent concerns of States non Parties about the International Criminal Court. The campaign is scheduled to be formally launched in the beginning of November 2016. It is foreseen that this initiative can be developed further in the coming years, including through the Secretariat's planned universality webpage.

24. On 11 November 2015, the Permanent Representations of the Republic of Cyprus and of the Kingdom of Denmark to the UN in Geneva organized a high level event entitled: "The Rome Statute, Accountability and the Protection of Human Rights" at the Palais des Nations. The distinguished panelists included the UN High Commissioner for Human Rights, H.E. Mr. Zeid Ra'ad Zeid Al-Hussein; the President of the ICC, H.E. Judge Silvia Alejandra Fernández de Gurmendi; the Chairperson of the UN Committee against Torture Professor Claudio Grossman, the Secretary General of Parliamentarians for Global Action Mr. David Donat Cattin, the Permanent Representative of Uganda in Geneva, Ambassador Christopher Onyanga Aparr, and the Permanent Representative of Costa Rica in Geneva, Ambassador Elayne Whyte Gómez. The speakers addressed, inter alia, how the Rome Statute system can contribute in establishing broader international accountability for the grave human rights violations, whether accession to the Rome Statute has strengthened national judicial accountability and the ability of States to prevent human rights violations and the dilemma between accountability and peace processes in conflict situations.

25. During the fourteenth session of the Assembly of States Parties of the Rome Statute, on 25 November 2015, the Embassies of the Republic of Cyprus and of the Kingdom of Denmark in The Hague organized a side-event entitled: "Dispelling misconceptions and confronting challenges: Moving towards Universality and Full Implementation of the Rome Statute". The distinguished speakers of the event were: Judge Sanji Mmasenono Monageng, International Criminal Court; Mrs. Marie-Pierre Olivier, Rule of Law Division, Commonwealth Secretariat; Mr. Rod Rastan, Legal Advisor in the Office of the Prosecutor at the ICC; Mrs. Kirsten Meerschaert, Director of Programs, Coalition for the ICC. The panelists stressed the importance of dispelling the misconceptions about the Rome Statute and of retaining the dialogue with non-States Parties and enhancing education about the ICC in those States.

26. In New York, the Permanent Missions of the Republic of Cyprus, of the Kingdom of Denmark and of the Principality of Liechtenstein, on the occasion of the International Justice Day on 18 July 2016, organized the event: "El Salvador's Experience Leading up to the Ratification of the Rome Statute, Including the Kampala Amendments, and Looking Ahead to the Activation of the ICC's Jurisdiction Over the Crime of Aggression". The keynote speaker of the event was H.E. Mr. Hugo Martinez, Minister of Foreign Affairs of the Republic of El Salvador who spoke about his country's national experience stressing, inter alia, the important role of the parameter of the non-retroactivity of the Rome Statute in the decision to accede to the Statute.

27. The co-focal points were also active in Geneva in the context of the Universal Periodic Review ("UPR") where they both made recommendations to non-States parties to accede to the Rome Statute. They also actively participated in the Group of Friends of the ICC in Geneva, with the Permanent Representation of the Republic of Cyprus continuing its role of coordinator until 30 June 2016.

28. In addition the co-focal points are supporting Parliamentarians for Global Action in organizing a meeting of the Working Group on the Fight Against Impunity in Francophone African Countries in Lomé, Togo, scheduled for November 2016. The event is aimed at promoting universality of the Rome Statute and political support for the Court in the region, and will involve a large number of parliamentarians for francophone African countries.

29. The co-focal points recalled the annual *note verbale* of the Secretariat requesting States to provide information on actions undertaken to promote the ratification and full implementation of the Rome Statute, and emphasized that the number of responses continues to be very low. During the consultations held, the co-focal points encouraged all States Parties that had not yet done so to provide the requested information.

D. Activities of international organizations and other organizations

30. During the 23rd, 24th and 25th sessions of the UPR, a State-driven process under the auspices of the Human Rights Council of the United Nations, the States under review received recommendations related to the ICC, in particular on the ratification of the Rome Statute, the domestic implementation and ratification of the so-called Kampala amendments and the Agreement on Privileges and Immunities of the Court. The non-States Parties in focus were: Lebanon, Mauritania, the Federated States of Micronesia, Mozambique, Myanmar, Nepal, Oman, Palau, Rwanda, Sao Tome and Principe, Singapore, Solomon Islands, Somalia, Sudan, Swaziland and Thailand. All of them received recommendations to ratify and implement the Rome Statute. More than forty States from all the United Nations regional groups made recommendations to ratify the Statute during the review of one or more of the aforementioned non States parties to the Rome Statute. The Federated States of Micronesia and Sao Tome and Principe supported the recommendations to ratify the Rome Statute. In addition, several States Parties accepted recommendations to fully implement the Rome Statute and/or ratify the APIC and the Kampala amendments: Hungary, Niger, Paraguay, Saint Lucia and Suriname.

31. The European Union (EU) continued its ongoing engagement towards the universality of the Rome Statute and promoting a better understanding of the ICC's mandate, in particular during its regular human rights dialogues with some 40 States, through systematic demarche campaigns worldwide, through the organization of dedicated local or regional seminars, through the systematic inclusion of an ICC clause into agreements with third States, or through financial support to civil society organizations lobbying for the universality of the Rome Statute. The new Global Strategy for the European Union's Foreign and Security Policy, titled "Shared Vision, Common Action: A Stronger Europe" and released in June 2016, spells out that the "EU will promote a rules-based global order. We have an interest in promoting agreed rules to provide global public goods and contribute to a peaceful and sustainable world. The EU will promote a rules-based global order with multilateralism as its key principle and the United Nations at its core [...] The EU will [...] promote [...] international criminal law [...] and encourage the widest acceptance of the jurisdiction of the International Criminal Court [...]."

32. During the reporting period, the Organisation Internationale de la Francophonie (OIF) continued to promote the universality of the Rome Statute among its member and observer States, based on the Memorandum of Understanding signed with the ICC in September 2012. The OIF will support a regional seminar about the ICC in N'djamena, Chad on October 2016, as well as the 5th seminar of the ICC and the African Union scheduled to take place in Addis Abeba at the end of 2016. Moreover, the Office of the Prosecutor and the International Association of Francophone Prosecutors («AIPPF») will sign a cooperation agreement in the coming months.

33. The Commonwealth also continued to support the universality and full implementation of the Rome Statute. It has developed model legislation and implementation kits on Rome Statute for its member States, and is organizing capacity and awareness raising programmes. Its support to issues relating to the implementation of Rome Statute is demand driven.

34. The Organization of American States ("OAS") continued to support the ICC, including through the implementation of the "Exchange of Letters for the Establishment of

a Framework Cooperation Agreement with the International Criminal Court" signed at the Headquarters of the OAS on 18 April 2011³ and the subsequent resolution of the OAS of 4 June 2014 which promotes ratification of and accession to the Rome Statute and recalls the importance of the implementation of the Rome Statute into domestic legislation.⁴ On 10 February 2016, a working meeting on the International Criminal Court was held at the headquarters of the OAS in Washington, D.C., with the participation of OAS member states not parties to the Rome Statute. Many of the delegations and of the speakers stressed the importance further promoting the universality of the ICC.

35. Civil society plays a crucial role in the awareness-raising on the Court, the increased ratification of the Rome Statute and of the Agreement on Privileges and Immunities of the ICC ("APIC"), promoting the adoption of national implementing legislation, the complementarity principle and cooperation of States Parties with the Court. The NGOs continued their regional and country-based approach in promoting the universality of the ICC, including with missions to and seminars held in non-States Parties. The Coalition for the ICC and Parliamentarians for Global Action continued their wide-ranging and essential activities in this field for which they held frequent consultations with all the stakeholders.

E. Other seminars, events and actions

36. A seminar for States Parties to the Rome Statute on the Activation of the Court's Jurisdiction over the Crime of Aggression was held at Princeton University on 17 and 18 June 2016 at the invitation of Argentina, Australia, Brazil, Liechtenstein, Slovenia, Tunisia, the Global Institute for the Prevention of Aggression and the Liechtenstein Institute on Self-Determination. Similarly a UN side event on "Criminalizing the illegal use of force – activating the jurisdiction of the ICC over the crime of aggression in 2017" was held at the UNHQ on 23 September 2016.

37. The informal ministerial network for the International Criminal Court convened in New York on 22 September 2016, upon invitation of the Minister of Foreign Affairs of Liechtenstein. The network, which consists of 34 Ministers, including H.E. the President of the Assembly, Mr. Sidiki Kaba, as well as the Coalition for the ICC, retains a special focus on the universality and full implementation of the Rome Statute.

III. Findings and challenges

38. During the reporting period, the membership of the Rome Statute amounted to 124 with El Salvador acceding to the Rome Statute.

39. From a regional perspective with the accession of El Salvador, only five States are missing for a full representation of the Latin American and Caribbean region. The African region continues to be the region with the most States Parties. The Asia-Pacific region remains the most underrepresented while the Western European and Other States Group is one of the most represented regions. In the Eastern European region a few States are still not yet Parties.

40. As of October 2016, the amendments to the Rome Statute on the Crime of Aggression and the amendments to article 8, adopted in Kampala, were ratified by 32 States.⁵ During the reporting period, Chile, El Salvador, Finland, Lithuania, the Netherlands and the Former Yugoslav Republic of Macedonia ratified both amendments. Moreover, Georgia ratified the amendments to article 8 on November 2015 and Iceland and the State of Palestine ratified the Amendments on the Crime of Aggression in June 2016. One of the two requirements for activation of the Court's jurisdiction over the crime of aggression, namely the number of ratifications or acceptances as set out in article 15 *bis* (2), has thus been fulfilled allowing for the Court's jurisdiction over said crime to be activated by a decision of the Assembly of States Parties taken after 1 January 2017.

³ http://www.oas.org/es/sla/ddi/docs/acuerdos_bilaterales_41-2011.pdf.

⁴ AG/RES. 2852 (XLIV-O/14) "Promotion of International Law", available at: http://www.oas.org/en/sla/dil/docs/AG-RES_2852_XLIV-O-14.pdf.

⁵ See:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-b&chapter=18&lang=en.

41. As of October 2016, the Agreement on Privileges and Immunities of the ICC (“APIC”) had been ratified by 75 States, out of which Ukraine is not yet party to the Rome Statute. Samoa acceded to the Agreement on 8 April 2016.

42. Based on the information provided during the reporting period, the key challenges for achieving universality and full implementation are legal difficulties in amending the Constitution or the national legislation in order to ratify the Rome Statute, political challenges that hinder the ratification process, lack of expertise and financial resources, and insufficient information about the functioning of the Rome Statute System and the availability of technical assistance.

43. Besides fostering the political will, stakeholders could enhance their efforts in assisting current or future States Parties with similar legal systems by sharing with them legal expertise and practice. Pro-activeness by States Parties in identifying potential States Parties and building partnerships with them was welcomed. As mentioned, efforts in this regard have been made bilaterally by States and jointly by regional organizations and civil society, but further activities are needed.

44. Given the objectives of the Plan of action, it was highlighted that States Parties should endeavour to make relevant information widely available, including by providing the Secretariat with information on activities undertaken in promoting universality and full implementation of the Rome Statute.

IV. Recommendations

45. In general there is a need for further sustained efforts in promoting the universality and full implementation of the Rome Statute. Many activities are already being undertaken on an ongoing basis, and the scope for better coordination and identification of possible synergies should be explored further. Enhanced use of ICT and social media could play an important role in this regard, in particular when reaching out to academia and students. Against this background the following recommendations are made:

A. To the Assembly of States Parties

1. To continue to monitor closely the implementation of the Plan of action.

B. To the States Parties

2. To continue to promote, as far as possible, the universality and full implementation of the Rome Statute in their bilateral, regional and multilateral relationships, including enhancing the cooperation between international and regional organizations and the Court;
3. To continue their efforts to disseminate information on the Court at the national, regional and international level, including through events, seminars, publications, courses and other initiatives that may raise awareness about the work of the Court;
4. To continue to provide the Secretariat with updated information relevant to the universality and full implementation of the Rome Statute, including current contact information on national focal points;
5. To continue to promote, as far as possible, the universality and full implementation of the Rome Statute in collaboration with civil society, academia, international organizations and professional organizations.
6. To organize, in conjunction with civil society, academia, international organizations and professional associations seminars, panel discussions and events focusing on promoting the universality and full implementation of the Rome Statute, in New York, in The Hague and in different regions, and to disseminate information about the Court’s work and the provisions of the Rome Statute;
7. To continue to provide, wherever possible, technical and financial assistance to States wishing to become Party to the Statute and to those wishing to implement the Statute in their national legislation;

8. To provide financial and/or other supports, wherever possible, to civil society, academia, international organizations and professional associations that provide technical assistance to overcome the challenges to ratification and implementation identified in this report;
9. To continue to contribute to the Trust Fund for Least Developed Countries and other developing States to promote the attendance of non-States Parties to the sessions of the Assembly; and
10. To continue to cooperate with the Court so that it can fulfil its functions accordingly.

C. To the Secretariat of the Assembly of States Parties

11. To continue to support States in their efforts to promote the universality and full implementation of the Rome Statute by acting as a focal point for information exchange and by making available updated information on this matter, including on the website of the Court;
12. To compile information on all available resources and potential donors, and post it on the Court's website for easy access by States; and
13. To prepare a matrix to serve the purpose of enhanced information sharing between potential recipients and donors of technical assistance.

Annex I

Draft language to be included in the omnibus-resolution

Universality of the Rome Statute

1. *Welcomes* the State that has become a Party to the Rome Statute of the International Criminal Court since the fourteenth session of the Assembly and invites States not yet parties to the Rome Statute of the International Criminal Court, to become parties to the Rome Statute, as amended, as soon as possible, and *calls upon* all States Parties to intensify their efforts to promote universality;
2. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;
3. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;
4. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as appropriate;
5. *Welcomes* the report of the Bureau on the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court,¹ *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly of States Parties, the Assembly of States Parties, States Parties, and of civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

Annex I

Mandates of the Assembly of States Parties for the intersessional period

1. With regard to universality of the Rome Statute, (a) endorses the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute;¹ and (b) requests the Bureau continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its sixteenth session;

¹ ICC-ASP/15/19.