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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 eighteenth 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 nineteenth 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. On 4 March 2019 the Bureau of the Assembly appointed the Netherlands and the Republic of Korea as *ad country* 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/18/24, 20 November 2019) until October/November 2020. During this period, the *ad country* focal points conducted consultations and briefings in order to exchange information between States, Court officials, members of civil society and other interested parties.

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/18/Res.6 of 6 December 2019, para.9 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 continued to contribute actively to the efforts to promote universality and full implementation of the Rome Statute in cooperation and coordination with other actors, including the Assembly, the co-focal points on the Plan of action, States Parties, regional and intergovernmental organizations, and civil society, notably the Coalition for the ICC and Parliamentarians for Global Action. While restrictions related to the COVID-19 pandemic forced the cancellation or postponement of several planned activities – including regional high-level seminars as well as high-level engagements with States not party to the Statute – many important activities took place during the reporting period. Where possible, the Court employed alternative methods instead of in-person communication that could not take place.

7. The Registry provided technical comments on legislative projects for national implementation of the Rome Statute in two States. On both occasions these comments were provided at the request of the State concerned or an organization providing technical assistance to that State. The Registry remains ready, when requested and when considered helpful for advancing national implementation of the Rome Statute, to participate in discussions and share what has been its experience in applying the cooperation provisions of the Statute with States Parties.

8. The Court's public information activities, notably through the ICC website and social media channels, maintained in multiple languages, and platforms of influencers such as the United Nations (UN), continued to serve as a crucial tool for raising awareness and providing access to information essential for the promotion of the universality and full implementation of the Rome Statute. The Court liaises closely with UN communication teams, which has enable promoting ratification of the Rome Statute on UN platforms as a way of supporting Sustainable Development Goal 16, Peace and Justice: in October 2020, UN News featured an article on the ICC in which the Court President called on all States to join the Rome Statute system. In cooperation with the judicial authorities of Costa Rica and Panama, a virtual ICC course of 13 lectures for national judges and prosecutors is in the process of being developed, culminating in a final lecture on cooperation and universality, to be featured on the ICC website.

9. The Court continued to disseminate the booklet titled "Joining the International Criminal Court – Why does it matter", which is available on the Court's website in English³ and French⁴ and hard copies of which can be provided upon request. The booklet is particularly designed to address common misconceptions and concerns about the Rome Statute and the Court, as well as highlight the benefits that joining the Statute offers to the State in question as well as to the international community as a whole. As such, the booklet seeks, *inter alia*, to support the efforts of national stakeholders advocating the ratification of the Statute in their respective countries. The Court has also developed an expanded version of the aforementioned booklet, aimed specifically for stakeholders and audiences in the Asia-Pacific region,⁵ in order to encourage and support efforts to attract more States to join the Rome Statute from what is by far the least represented regional grouping in the ICC system.

10. The President, Prosecutor and Registrar used various occasions of meetings, exchanges and public speeches to draw attention to the need for increasing membership in the Rome Statute as well as its implementation in national legislation, both in terms of providing national procedures for cooperation as well as incorporating the Rome Statute crimes in national law.

11. During his meeting with Pope Francis at the Vatican on 3 September 2020, the President of the Court asked for the support of the Holy See to encourage States to ratify the

³ https://www.icc-cpi.int/iccdocs/PIDS/publications/Universality_Eng.pdf

⁴ https://www.icc-cpi.int/iccdocs/PIDS/publications/Universality_fra.pdf

⁵ <https://www.icc-cpi.int/news/seminarBooks/universality-asia-eng-v.9-web.pdf>

Rome Statute, which would help pursue the objective of peace through justice to the benefit of humanity.

12. The President of the Court wrote letters to the heads of state or government of selected States not party to the Rome Statute as a follow-up to earlier meetings and exchanges between the Court and these States concerning their interest in joining the Rome Statute in the foreseeable future. These contacts have occurred in coordination with key partners active in promoting the universal ratification of the Rome Statute. In lieu of in-person visits or meetings, the Court has proposed virtual meetings between Court experts and key government officials from these States with a view to discussing technical aspects of accession to the Rome Statute, as well as to address and dispel any concerns that may exist about joining the ICC system.

13. Approximately 7,500 visitors, from States Parties as well as non-States Parties, visited the ICC and received presentations on the Court, its mandate and current activities. Due to the COVID-19 pandemic, in-person visits were drastically reduced from March 2020 onwards; in view of these restrictions, the Court is currently developing, with the financial support of the European Commission, a Virtual Visit space for its website, *inter alia* to promote universality of the Rome Statute by raising awareness of the Court, its mandate and its legal process. In the meantime, online briefings have been organized for a number of key groups, such as junior diplomats from various regions, including representatives of States not party to the Statute. Court representatives also took part in events organized by civil society actors to promote ratification of the Rome Statute in a national context.

14. Under its Legal Professionals Programme (LPP) funded by the European Commission, the Court seeks to offer young and mid-career legal professionals from situation countries and developing regions an opportunity to enhance their professional skills in the field of international criminal law by working at the Court. One of the objectives of the program is to benefit the national jurisdictions of the participants, who will bring their enhanced knowledge and skills back to their domestic system upon return from the Court. During the reporting period, six persons spent between four and six months working in the different organs of the Court under the LPP.

15. The free, online ICC Legal Tools Database (LTD),⁶ which is supported by the Court with the financial assistance of the European Commission, was updated with a new, enhanced technical version during the reporting period. The LTD plays an important role by providing free global access to international criminal law legal sources, for which there is high demand globally, including in States not party to the Statute. As such, the LTD helps promote awareness of the Court and its jurisprudence in jurisdictions that may join the Rome Statute in the future, as well as strengthen the Court's profile as a leading institution in the field, reinforcing positive perceptions among legal communities as a key stakeholder group.

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

16. The President of the Assembly of States Parties, Mr. O-Gon Kwon, held a series of meetings throughout the reporting period where he encouraged States to become parties to the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court, and stressed the importance for States to have implementing legislation at the national level. The President has coordinated with H.E. Mr. Michal Mlynár, Vice-President of the Assembly and Coordinator of its New York Working Group to reach out to non-States Parties and encouraged them to consult their capitals with an aim to ratifying the Rome Statute.

17. The President worked closely with civil society organizations, including the Coalition for the International Criminal Court, Parliamentarians for Global Action, Human Rights Watch, Open Society Justice Initiative and the American Bar Association's ICC Project, the International Bar Association, the American Society of International Law, as well as in connection with their local NGOs and focal points, to promote the environmental conducive to expanding the universality of the Rome Statute.

⁶ <http://www.legal-tools.org/>

18. The President delivered keynote speech at an event, co-hosted by The Netherlands, Republic of Korea and Parliamentarians for Global Action held on 4 December 2019 during the eighteenth session of the Assembly, on “Pursuing universality of the Rome Statute in an Evolving International Context: Persistent Challenges, New Dimensions and Adaptive Strategies”, in which he identified and provided alternatives to current and emerging challenges to the universal ratification of the Rome Statute. Kiribati deposited its instrument of accession to the Rome Statute and finally joined the Rome Statute family on 26 November 2019, taking into effect on 1 February 2020 as the 123rd State Party.

19. The President’s interview on “Reflections on Law, Practice, Politics, Diplomacy and Humanity”, emphasizing the universality of the Rome Statute as a powerful enabler for States’ compliance with the existing international humanitarian law mechanism, was published in January 2020 in the book titled “Asia-Pacific Perspectives on International Humanitarian Law (Cambridge University Press)”.

20. The President addressed Foreign Ministers at the meeting of the Informal Ministerial Network (IMN) for the International Criminal Court held on 23 September 2020 during the high-level week of the seventy-fifth session of the United Nations General Assembly, hosted by the Principality of Liechtenstein to the United Nations, in which he demonstrated the importance of unity to achieve the noble universal goals being presented by the Rome Statute in the face of external challenges against the Court.

21. The President also introduced in writing the fourth edition of “The Rome Statute of the International Criminal Court: Article-by-Article Commentary (Hart Publishing)”, forthcoming in March 2021, with an aim to promoting a wider dissemination and understanding of the statutory laws and their application.

22. The President delivered keynote speech at the “11th Consultative Assembly of Parliamentarians on the International Criminal Court and the Rule of Law (CAP-ICC)”, co-hosted by Parliamentarians for Global Action (PGA) and the PGA The Netherlands National Group, in cooperation with the Standing Committee on Foreign Affairs, Tweede-Kamer, Parliament of The Netherlands, held on 19 November, in which he spoke on the challenges of promoting Universality during the Covid19 pandemic and encouraged Parliamentarians from around the world to support the goal of Universality of the Rome Statute.

23. The Secretariat, for its part, continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. Relevant information submitted by States and international organizations can be found on the Assembly’s website.⁷

C. Activities of the focal points

24. Throughout the reporting period, the co-focal points, endeavoured to continue the work of previous years, and focused mainly on two categories: Firstly, on synergizing efforts of different stakeholders in the promotion of universality and the implementation of the Rome Statute; and secondly, on directing efforts at non-States Parties to the Rome Statute. However, activities were severely limited by the impact of the COVID-19 pandemic and the need to curtail activities. Activities were nevertheless undertaken in order to make progress. The most important activities, besides bilateral contacts with states, are laid down below.

25. On 10 March the co-focal points, together with Parliamentarians for Global Action, hosted a meeting with a delegation of members of Parliament from Zimbabwe to discuss the work of the Court and a possible accession of Zimbabwe to the Rome Statute.

⁷ See: https://asp.icc-cpi.int/en_menus/asp/sessions/plan%20of%20action/Pages/plan%20of%20action.aspx.

D. Activities of international organizations and other organizations

26. Parliamentarians for Global Action (PGA) organized two high-level events to advance the Universality of the Rome Statute, and strengthen the capacity of domestic accountability mechanisms: The high-level Annual Forum in Praia (Cape Verde) and the 8th Middle East and North Africa (MENA) Parliamentary Working Group on the Fight Against Impunity to discuss the ratification of the Rome Statute in Lebanon and Morocco. PGA also conducted a field mission to advance the ratification of the Rome Statute in Ukraine, followed up to by two virtual parliamentary meetings. At the end of 2019, PGA celebrated the instrument of accession deposited by Kiribati. The accession was a result of determined advocacy by its then member, the Minister of Justice of Kiribati, building upon a strategic high-level regional Roundtable in Vanuatu organized by PGA with the cooperation of the ICC, EU and South Korea in 2019. To advocate for reversing the threatened withdrawal of South Africa from the Rome Statute, PGA organized Consultations on the ICC in Cape Town to meet with the Deputy Justice Minister and representatives of both the Government and opposition parties. Further, in early 2020, PGA facilitated a visit of members of parliamentarians of from two non-party States, the Kingdom of Morocco and the Republic of Zimbabwe, to The Hague and the ICC, with the objective of advancing the process of the Rome Statute ratification. As a result, PGA has mobilized over 80 parliamentarians to joint and country-specific action points toward the Rome Statute universality.

27. In 2020, the Coalition for the International Criminal Court (CICC) has promoted activities related to the advancement of the universal ratification and implementation of the Rome Statute of the ICC. The CICC, its member organizations in Ukraine and international members, continued advocating with the Ukrainian government to ratify and ensure the domestication of the Rome Statute of the ICC. Coalition members in Ukraine have organized several events and meetings with government officials, MPs, and the diplomatic community. In September 2020, the CICC and some of its member organizations active in Ukraine sent a letter to Members of the Parliament of Ukraine, calling for the full alignment of Ukraine legislation with international criminal law and international humanitarian law. On 17 September 2020, the draft Law 2689 “On amendments to certain legislative acts on the Enforcement of International Criminal and Humanitarian Law” was approved in the first reading with 271 votes in favor. The second reading is pending.

28. The CICC and its member organizations in Peru continued their advocacy efforts to promote domestication of the Rome Statute. In February 2020, CICC and some of its member organizations active in Peru participated in meetings with the Peruvian Ministry of Justice to provide input on a draft bill to implement the Rome Statute. The CICC additionally organized two online workshops with Venezuelan civil society organizations, in May-June and October-November, to discuss a range of issues on international justice and the Preliminary Examination, including future prospects for implementation.

III. Recommendations

29. In general, there is a continuing need for further sustained efforts in promoting the universality and full implementation of the Rome Statute and the Agreement on Privileges and Immunities of the Court. Many activities are already being undertaken on an on-going basis, and the scope for better coordination and identification of possible synergies as well as more systematic follow-up on initiatives 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, building on existing initiatives. 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 the Court, civil society, academia, international organizations and professional organizations;
6. To organize, in conjunction with the Court, 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 support, 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 States not party 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

A. 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 eighteenth 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. *Notes with deep regret* the notification of withdrawal submitted by a State Party under article 127(1) of the Statute on 17 March 2018 as well as the withdrawal of its instrument of accession by another State on 29 April 2019, and *calls upon* these States to reconsider these withdrawals;⁸
3. Welcomes with appreciation also the continuation by the President of the Assembly of the dialogue on the “Relationship between Africa and the International Criminal Court” initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and invites the Bureau to further widen and deepen this dialogue as needed with all interested State Parties;
4. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice⁹ as well as those to commemorate the 20th anniversary of the Rome Statute and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly¹⁰ and otherwise;
5. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;
6. *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, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));¹¹
7. *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 and when appropriate;
8. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute¹² and *notes with appreciation* the efforts of the Court’s President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and 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;

⁸ Depositary Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

⁹ *Official Records... Review Conference...* 2010 (RC/11), part II.B, Kampala declaration (RC/Decl.1), para 12.

¹⁰ See ICC – Secretariat of the Assembly of States Parties at https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJD/Pages/default.aspx.

¹¹ ICC-ASP/5/Res.3, annex I.

¹² ICC-ASP/19/30.

9. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, *endorses* the Bureau decision of 18 October 2017 whereby it adopted an Understanding on the Participation of Observer States in Meetings of the Assembly of States Parties,¹³ and *underscores* the importance of promoting universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

B. Mandates of the Assembly of States Parties for the intersessional period

(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; and

(b) *requests* the Bureau to 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 ~~nineteenth~~ **twentieth** session;

¹³ See: Agenda and decisions of the sixth meeting of the Bureau, annex II, appendix: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf.