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Report of the Bureau on the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court

Note by the Secretariat

Pursuant to paragraph 6, subparagraph (h), of annex I to resolution ICC-ASP/5/Res.3, adopted on 1 December 2006, the Bureau of the Assembly of States Parties hereby submits for consideration by the Assembly its report on the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court. The attached report reflects the outcome of the informal consultations held by the New York Working Group of the Bureau.

Report of the Bureau on the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court

Introduction

1. Following the adoption of resolution ICC-ASP/5/Res.3 by the Assembly of States Parties at its fifth session, on 1 February 2007, the Bureau of the Assembly of States Parties approved the appointment of Mr. Alejandro Alday (Mexico) as the facilitator for 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
2. The main objective in the New York Working Group's consideration of this topic was to promote the implementation of the Plan of Action of the Assembly by its different actors, namely States Parties, the Bureau of the Assembly and the Secretariat of the Assembly.
3. It is important to keep in mind the dual dimension of the Plan, which includes a number of actions aimed at increasing the number of States Parties to the Rome Statute, and others, at the national level, oriented towards the full implementation of the Statute's provisions in domestic legislation.
4. Many States' actions for the implementation of the Rome Statute at the national level are of a legal nature. For that reason, some of the issues involved with those actions were addressed by The Hague Working Group in the context of its discussions on the issue of cooperation between States Parties and the Court, under the cluster of "General Legal Mechanisms".

Consultations

5. Between March and July 2007, the facilitator held informal consultations with some of the States Parties actively involved in promoting ratification to discuss implementation of the Plan of Action. He also discussed with the Secretariat of the Assembly possible measures that could be implemented to strengthen the support that it provides to States Parties. Similarly, the facilitator met on different occasions with organizations that are members of the non-governmental organization Coalition for the International Criminal Court.
6. The meetings were held with interested States Parties and non-States Parties in the framework of the New York Working Group on 2 and 17 May and 3 July 2007. During the meetings in May, States considered concrete proposals and exchanged views about the best approaches for the promotion of some of the activities and commitments agreed to in the Plan of Action, based on a discussion paper submitted by the facilitator. On 3 July, some non-governmental organizations presented their views on the implementation of the Plan of Action, followed by a dialogue between States and the Coalition for the International Criminal Court. The non-governmental organizations also had the opportunity to submit some recommendations for consideration by the Working Group.

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

Findings

7. While it was recognized that the Plan of Action is broad and very ambitious and that it would take time for actions to be implemented and become fully operational, it provides a better basis and an organized framework for strengthening the efforts of States Parties and complementing those developed by other actors for achieving universality and full implementation of the Rome Statute.

8. The consolidation of the basic structure for the implementation of the Plan requires the engagement of and activity by States Parties, the support of the Secretariat of the Assembly on a permanent basis as well as the close review by the Assembly of its implementation in order to identify progress, needs and shortcomings and to provide recommendations accordingly.

9. Immediate action can be carried out by States Parties to promote ratification and full implementation of the Rome Statute, as well as by the Secretariat, to implement the functions assigned to it under the Plan of Action.

10. While some States Parties have already designated an office within their respective governments to deal with Court-related issues, every State Party could appoint a national contact point to coordinate and actively promote the Plan's activities at the national level, to establish the dialogue with non-governmental organizations, and to inform the Secretariat of the most important achievements.

11. States Parties could also provide the Secretariat with relevant information on their ratification and implementation processes, as appropriate. Decisions by national courts and constitutional tribunals, as well as legislation, are examples of documentation that might support the process in other countries.

12. States Parties should continue and increase their efforts to include an item on the International Criminal Court in the agendas of their respective regional and sub-regional organizations. There was general recognition of the importance of the role such organizations played in promoting the universality of the Statute. Specific examples, such as initiatives by the Organization of American States and the European Union, were mentioned.

13. The Secretariat of the Assembly should continue to collect, organize and disseminate all information originating from States Parties and other important sources using the most efficient means, such as electronic resources, available. In addition, posting the information on the web site of the Assembly would assist States Parties in implementing the Plan of Action.

14. Once the Secretariat has received considerable information to create a database of focal points, another task could be the establishment of a virtual network of focal points for the coordination of their work at the regional and sub-regional levels. To that end, some guidelines on the functions of national focal points could subsequently be developed.

15. The continuing exchange of information among States Parties and non-States Parties and the sharing of ratification experience, whether bilaterally, regionally or in the context of the Working Group, constitute useful tools for the identification of concrete needs at the national level as well as of resources available from a given State Party or the Assembly for the ratification of the Rome Statute.

16. The view was expressed that the issue of the definition of the crime of aggression may be preventing some countries from ratifying the Statute. The current practice of an open invitation to States to participate in some of the Assembly's activities and discussions, such as the open-ended working groups, is very important.

Recommendations

To States Parties

1. To continue their engagement and efforts, through dialogue and activities, in promoting the universality of the Rome Statute and its full implementation.
2. To continue to share successful ratification experiences and decisions of national courts and/or constitutional tribunals with States that have similar concerns or legal obstacles.
3. To report to the Secretariat of the Assembly on developments on the implementation of the Plan of Action.
4. To consider, as a matter of priority, the designation of the national contact point.
5. To continue the initiatives carried out both in regional and sub-regional organizations to promote the International Criminal Court through discussion meetings and resolutions, considering the inclusion of new items and action-oriented approaches related to the Plan of Action.

To the Secretariat of the Assembly

6. To continue to make use of all its capacity to support the States Parties' efforts in the implementation of the Plan of action.
7. To improve the website on a continual basis to make useful documents more accessible for the purposes of universality and full implementation.

To the Assembly

8. To continue monitoring closely the implementation of the Plan of Action.