

Response of the government of Mexico on the Plan of Action to achieve universality and full implementation of the Rome Statute

At its fifth session, the Assembly of States Parties (ASP) to the Rome Statute, by its resolution ICC-ASP/5/Res.3, adopted the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC), the main objective of which is to achieve full and effective implementation of above international instrument in order to put an end to impunity for the perpetrators of the most serious crimes of international concern, prevent such crimes, and guarantee respect for international criminal justice.

In this respect, in 2007, 2008, 2009 and 2010 the Mexican government submitted to the Secretariat of the ASP information on the eight points contained in paragraph 6 (h) of the Plan of Action in relation to the promotion of the ratification and full implementation of the Rome Statute by the Mexican State. Likewise, in 2009 and 2010 the Mexican government responded to the questionnaire on Statute Implementing Legislation sent by the Secretariat of the Assembly.

This report is submitted in response to the note of the Secretariat of the Assembly ICC-ASP/10/SP/PA/07 of 7 February of this year and outlines the most recent activities carried out by the Mexican government in this area.

1. Strategies or national or regional plans of action to promote ratification and/or full implementation of the Rome Statute.

National initiatives

- Section 5 of the National Development Plan for 2007-2012 (Effective Democracy and Responsible Foreign Policy) establishes as one of its strategies to promote the implementation and harmonization of national law with the international instruments to which Mexico is a party.

- In relation to cooperation with the International Criminal Court, on 15 December 2009, following a lengthy procedure initiated in 2006, the Senate of the Republic adopted a Draft Implementing Law [Ley Reglamentaria] in respect of article 21 (8) of the Mexican Constitution¹, called the law on cooperation with the International Criminal Court. The objective of above draft law is to set out the procedures that the national authorities must apply to respond to any request for cooperation provided for in the Rome Statute.

The Draft Law on Cooperation was submitted to the Chamber of Deputies for review and is currently being considered by the Legal Committee of that Chamber.² The Ministry of Foreign Affairs is monitoring the process closely. Despite the lack of national legislation on the topic, Mexico has reacted in a timely manner to cooperation requests submitted by the ICC.

- With regard to the characterisation of conduct defined in the Rome Statute, Mexico has demonstrated its commitment through the pledges made at various international conferences:

- During the XXXth International Conference of the Red Cross and Red Crescent (Geneva, Switzerland, November 2007), the Mexican government undertook to promote the adoption of legislative measures to fulfil Mexico's pending commitments with regard to international humanitarian law and the Rome Statute of the International Criminal Court.

- At the Review Conference of the Rome Statute (Kampala, Uganda, June 2010), the Mexican State pledged to submit draft amendments to the Federal Criminal Code to the Congress of the Union during the first half of 2011, in order to bring the Code into line with the provisions of the Rome Statute of the

¹ Article 21 (8) of the Constitution provides [TRANSLATION]: "The federal executive power may recognise the jurisdiction of the International Criminal Court subject, in every individual case, to the Senate's approval".

² Parliamentary Gazette, No. 2940II, 2 February 2010

<http://gaceta.diputados.gob.mx/Gaceta/61/2010/feb/20100202II.html#Min201002022>

International Criminal Court in relation to the crimes within its jurisdiction (genocide, war crimes and crimes against humanity).

In this respect, in September 2010 the Inter-Ministerial International Humanitarian Law Commission (CIDIH)-Mexico³ created a Working Group to review the Federal Criminal Code in order to propose draft amendments by the Ministries comprising CIDH, namely the Ministries of National Defence, of Foreign Affairs, of the Navy and of the Interior, and also the General Attorney's Office and Ministry of Public Safety and Security, for consideration by the Commission.

- In June 2011, CIDIH-Mexico fostered a dialogue of experts in support of its work entitled "Harmonization of Federal Criminal Law on International Crimes", in which recognised academic, governmental, and civil society experts participated by exchanging views on the status of domestic criminal law in relation to the crimes contained in the Rome Statute of the ICC.

CIDIH-Mexico has almost finished drafting above proposal.

Regional action

- Mexico actively supports the work of the International Criminal Court at hemispheric level, and has promoted initiatives to address the matter before the Organisation of American States (OAS) since 1998. The Mexican State, in the resolutions entitled "Promotion and Respect for International Humanitarian Law" and "Promotion of the International Criminal Court", that it submits to the OAS every year, has promoted the effective implementation of the provisions contained in the Rome Statute by strengthening cooperation between the States of the region and the OAS with the Court and providing support for the implementation at national level both of the Rome Statute and of the relevant rules of international humanitarian law (IHL), by giving the Inter-American Juridical Committee specific mandates to prepare model laws, in particular in relation to the crimes contained in the Statute. Likewise, Member States that have not yet done so are urged to join the Rome Statute. In 2011, above resolutions were adopted again.

Moreover, the resolution on the ICC calls for a biennial session of work on appropriate measures to be adopted by Member States to cooperate with the Court, which Member State officials would attend together with civil society representatives and experts.

2. Upcoming events and activities

CIDIH-Mexico participated in the Third Universal Meeting of National Committees on International Humanitarian Law (IHL), held by the ICRC from 27 to 29 October 2010 in Geneva, Switzerland (in accordance with Part VI, article 3 of the Agreement Establishing CIDIH-México). The focus of the meeting was on "An integrated system for the repression of serious violations of IHL: a critical review of domestic legal mechanisms and provisions", which was very useful for the work of CIDIH-México in the area of legislative harmonization.

CIDIH-Mexico participated in the session on the International Criminal Court which was held on 10 March 2011 in the framework of the Committee on Juridical and Political Affairs of the Organisation of American States (OAS) in Washington D.C.

The meeting covered three main topics:

- (i) The results of the Review Conference of the Rome Statute;
- (ii) The work on implementing the Statute with the support of the OAS, and
- (iii) Information on recent ICC activities.

³ CIDIH-Mexico was established by agreement of the Federal Executive in August 2009 as a permanent federal advisory and technical agency. It is comprised of the Ministries of National Defense, of Foreign Affairs, of the Navy and of the Interior, and its main objective is to coordinate the efforts of the Federal Government to disseminate and promote respect for the standards, principles and institutions of international humanitarian law, and promote the implementation at the domestic level of Mexico's commitments under the international humanitarian law Treaties that it adheres to.

The Mexican Delegation made two interventions, in which it first reported on the achievements of the Review Conference and emphasized the importance of a timely follow-up on those outcomes, including fulfilment of the pledges made. It then mentioned the progress achieved domestically in regard to the Law on Cooperation with the ICC, and the work of CIDIH-Mexico in the area of legislative harmonisation, underlining the importance of experience-sharing among States in order to make progress in these areas.

- The Second Specialised Annual Course on International Humanitarian Law at National Level will be held on 6 and 7 October 2011 at the War College of the Defence Ministry in the framework of the activities of CIDIH-Mexico. The event is intended for approximately 300 participants from the executive, legislature, judiciary, domestic academic institutions and civil society, both at federal and state level.

In addition to addressing the fundamental principles of IHL, other topics will be covered such as IHL violations and war crimes, including a reference to relevant provisions of the Rome Statute.

With this second course the Mexican government is fulfilling one of the pledges made during the XXXth International Conference of the Red Cross and Red Crescent: to strengthen and contribute to the promotion of and respect for IHL, in particular through the creation of a yearly course specialized in IHL at national level intended for national authorities and the population at large.

3. Examples of Rome Statute implementing legislation

As mentioned under the first point of this document, the Chamber of Deputies is currently reviewing the Draft Law on cooperation with the ICC, the adoption of which is promoted by the Federal Government.

It is important to mention that the absence of legislation in this area has not prevented the Mexican government from responding to requests for cooperation from the Court.

The law on cooperation with the International Criminal Court is available at the following link:

<http://gaceta.diputados.gob.mx/Gaceta/61/2010/feb/20100202-II.html#Min20100202-2>

4. National contact points for questions relating to the promotion of ratification and full implementation.

The Foreign Ministry, as the department charged with dealing with this matter, is responsible for conveying issues relating to the ICC to other national authorities.

Likewise, the diplomatic channel between the Mexican government and the Court is our diplomatic representation in The Netherlands and our Permanent Mission to the United Nations Organisation.

29 September 2011.
