



Ninth session

New York, 6-10 December 2010

**Report of the Bureau on the Plan of action
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 eighth session, the Assembly welcomed the report of the Bureau on implementation of the Plan of action,² endorsed the recommendations contained therein and requested the Bureau to continue to monitor implementation of the Plan and to report thereon to the Assembly during its ninth session.³
3. At its fourteenth meeting, on 3 November 2009, the Bureau of the Assembly appointed Ms. Eva Šurková (Slovakia) as facilitator for the Plan of action.
4. The Plan of action calls upon States Parties to proactively promote universality and full implementation of the Rome Statute through bilateral and regional relationships by, inter alia, convening and supporting seminars and other events, disseminating information about the Court, providing technical and financial assistance to States wishing to become party to the Rome Statute, providing information to the Secretariat of the Assembly of States Parties (“the Secretariat”) and cooperating with the Court. 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.
5. The Plan of action has been under consideration by the New York Working Group of the Bureau. As the Plan of action and the discussion on the issue of cooperation are in some respects interconnected, the facilitator for the Plan of action and the Bureau’s focal point on cooperation, Ambassador Mary Whelan (Ireland), under the aegis of The Hague Working Group, have been in consultation on the best way to advance discussion on the item.

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* (ICC-ASP/5/32), part III, ICC-ASP/5/Res.3, para. 2, and annex I.

² ICC-ASP/8/23.

³ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II, ICC-ASP/8/Res.3, para. 7.

II. Activities of the facilitator

A. Informal consultations

6. The facilitator held informal consultations with numerous actors in different forums. On 20 April and 3 September 2010, the facilitator convened two open meetings in New York. Representatives of States Parties, of non-States Parties, the Secretariat, international organizations, the Court and civil society were invited to participate in the deliberations, with a view to involving as many interested actors as possible. This broad participation contributes to the achievement of both objectives of the Plan of action: universality and full implementation of the Rome Statute.

7. The informal consultations focused on the presentation of the Plan of action, the mandate and programme of work of the facilitator, the status of ratification and implementation of the Rome Statute and the progress achieved since the adoption of the Plan of action. The facilitator drew attention to the provisions of paragraph 3 of resolution ICC-ASP/8/Res.3, in which the Assembly endorsed the recommendations contained in the Report of the Bureau on the implementation of the Plan of action⁴ and requested the Bureau to continue to monitor the implementation and report to the ninth session of the Assembly. The facilitator recalled that the Secretariat had several times sent out note verbales requesting States to provide information relevant to the promotion of ratification and full implementation of the Rome Statute and that the responses received from States had been posted on the Court's website.⁵ The facilitator requested delegates to provide the Secretariat further information on activities they had undertaken (if any) at national, regional or international level to promote the ratification and full implementation of the Rome Statute.

8. No modifications to the Plan of action were suggested.

B. Seminar series

9. A proposal by the former facilitator for the Plan of action, endorsed by the Assembly during its eighth session⁶, called for States, in conjunction with other actors, to regularly organize and participate in seminars and events aimed at promoting awareness and understanding of the mandate and work of the Court. The seminar series project was successfully launched by a pilot seminar organized by the prior facilitator on 19 May 2009 in New York.

10. As a follow-up to the first seminar and within the framework of the preparations for the Review Conference of the Rome Statute (Uganda, 2010), the facilitator organized a seminar on the International Criminal Court entitled "Review Conference: Key Challenges for International Criminal Justice", which was held on 30 April 2010 at United Nations Headquarters, with the participation of the United Nations Secretary-General, the United Nations Under-Secretary-General for Legal Affairs, the Minister of Foreign Affairs of Slovakia, the President of the Court, the President of the Assembly, representatives of States and civil society. This event was co-sponsored by various States Parties representing all regional groups.

C. Other events

11. With the assistance and cooperation of other States, International Organizations and Non-Governmental Organizations, the facilitator organized various other kinds of events, such as meetings and panel discussions focusing on proactive promotion of universality and full implementation of the Rome Statute. List of activities of the facilitator is attached to this report (see annex to this report).

⁴ ICC/ASP/8/23.

⁵ <http://www.icc-cpi.int/Menus/ASP/Sessions/Plan+of+Action>.

⁶ ICC-ASP/8/Res.3.

D. Bilateral meetings

12. In addition to the open meetings, the facilitator held numerous bilateral meetings with representatives of States, members of civil society, international organizations, academia, the International Committee of the Red Cross (ICRC) and the Secretariat.

III. Updates on activities of States and other stakeholders

13. During informal consultations, one delegation stressed the importance of promoting the universality of the Rome Statute within the Asian region, where participation was still low.⁷ A brief summary was provided of a seminar jointly organized by the Asian-African Legal Consultative Organization (AALCO) and the Governments of Japan and Malaysia in Putrajaya (Malaysia) on 30 - 31 March 2010, in which Judge Kuniko Ozaki (Japan) of the International Criminal Court participated as the inaugural speaker. At the seminar, speakers considered the progress of international criminal justice and proposals for the amendment of the Rome Statute to be considered at the Review Conference.

14. One delegation informed about the organization of a regional seminar on the Court in the Western Balkans, in cooperation with other neighboring countries. The seminar, to be held on 21 and 22 October 2010 in Belgrade, is organized upon the idea of annual regional conferences dedicated to the issues of the Court, war crime trials, implementation of the Rome Statute and cooperation. It includes representatives of the International Criminal Court and local experts in the field of war crimes prosecution.

15. One delegation and the Secretariat informed about two visits of the President of the Assembly, the Prosecutor of the International Criminal Court and the Director of the Secretariat to non-States parties,⁸ and about their meetings with the Heads of States, the Ministers of Foreign Affairs and other high-level national representatives, for the purpose of supporting ratification processes. Both visits were very successful and contributed to effective promotion of the Court among key policy-makers and the public in those States.

16. While reporting about activities organized for proactive promotion of the Court, the importance of inclusion of national parliaments and parliamentarians was stressed by delegations. One delegation also pointed out that results of the Review Conference and inclusion of the crime of aggression to the Court's jurisdiction could influence the universality of the Rome Statute. States were therefore encouraged to continue in their efforts to support of the Court.

17. Information by representatives of civil society was provided, as well. In this regard, the Parliamentarians for Global Action and the Coalition for the International Criminal Court comprehensively informed about their activities. Civil society plays a crucial role in the awareness-raising on the Court, the increased ratification of the Rome Statute, promoting the adoption of national implementing legislation, the complementarity principle and the principle of cooperation between the Court and States Parties.

18. In addition, the activities of international organizations merit mention. The Commonwealth Secretariat plays an active role in supporting the Court throughout its membership. It has adopted a model law developed to implement the Rome Statute within Commonwealth States and also a practical guide to prosecuting the crimes under the Rome Statute.⁹ In that regard, the seminar on the Court organized by the Commonwealth Secretariat from 5 to 7 October 2010 in London is welcomed. Furthermore, the European Union (EU) continues raising the issue of ratification and implementation of the Rome Statute via a mix of various tools such as demarches, EU High Representative letters and various bilateral and multilateral meetings. The EU is funding civil society organizations and it has established an EU focal point for the Court within the General Secretariat of the EU. The setting up of the European External Action Service should be a step forward in mainstreaming the Court in the external policies of the EU.

⁷ As of 27 September 2010, 15 States Parties are from Asia.

⁸ The visits to El Salvador and Guatemala took place on 13 and 14 April 2010 and 19 and 20 August 2010, respectively, at the invitation of the two Governments. As a follow-up to the visit to San Salvador, a delegation of seven congressmen from El Salvador visited the Court on 6 September 2010.

⁹ <http://www.icc-cpi.int/Menus/ICC/Legal+Texts+and+Tools>.

IV. Pledges

19. During informal consultations, the importance of pledges presented by States and international organizations was highlighted. Pledges constitute an important opportunity for States to reaffirm their support towards the Court in general, and to the universality, implementation of the Statute and cooperation with the Court, in particular. Numerous pledges relate to work on national legislation and to the ratification of the Agreement on Privileges and Immunities of the International Criminal Court.¹⁰

V. Challenges

20. Based on the information provided, following key challenges have been identified:

- (a) Legal difficulties in amending constitutions or national legislation in order to ratify the Rome Statute;
- (b) Political challenges that hinder the ratification process;
- (c) Lack of human and financial resources; and
- (d) Unavailability of adequate information on resources and activities relating to the ratification and implementation of the Rome Statute.

21. In this connection, the activities of the Secretariat, which will - within existing resources - compile available resources and potential donors and post this information on the Court's website for easy access by States, is key in addressing the last two challenges.

VI. Further action

A. Trust fund for the participation of least developed countries and other developing States

22. The facilitator suggested that another way of promoting universality of the Rome Statute would be to encourage the participation of non-States Parties to the Statute in sessions of the Assembly. She appealed to States and international organizations to contribute to the trust fund for least developed countries and other developing States established to that effect. This trust fund had allowed 15 delegates from LDC countries and other developing States to participate at the eighth session of the Assembly, as well as on additional 25 at the Review Conference in Uganda.

B. Seminars

23. The facilitator suggested that States should, in cooperation with other stakeholders, regularly organize and participate in seminars, panel discussions and other events aimed at promoting awareness and understanding of the mandate and work of the Court. She stressed the importance of the seminar series and various events focusing on the Court organized in New York and in The Hague, which could also be organized at the regional and national level.

VII. Findings

24. At the informal consultations, States Parties were encouraged to promote the universality and full implementation of the Rome Statute in all international forums, as well as in their bilateral, regional and multilateral relations. Promotion of the Rome Statute could include references to the work of the Court in official statements, agendas and documents, but also the convening of events on the topic.

¹⁰ The Bureau is considering how to undertake the follow-up to the pledges made in Kampala.

25. The dissemination of information on the Court's mandate and activities are considered fundamental for achieving both universality and full implementation of the Rome Statute.

26. Although 42 States had provided the Secretariat with information relevant to the promotion of ratification or accession and full implementation of the Rome Statute, others had not yet done so. The information had been requested by the Secretariat through notes verbales and the replies received¹¹ had been made available on the Court's website. Given the objectives of the Plan of action, States Parties should endeavor to make the information widely available.

27. As regards cooperation on ratification and implementing legislation, it was emphasized that there were different actors providing assistance, including States Parties, international organizations, non-governmental organizations and other relevant entities, such as the International Committee of the Red Cross.

28. With the recent ratifications by Saint Lucia and Seychelles, as at 1 November 2010 there will be 113 States Parties to the Rome Statute; with the entry into force of the Statute for the Republic of Moldova on 1 January 2011 the number of States Parties will be 114.¹²

VIII. Recommendations

A. To the Assembly of States Parties

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

B. To 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;
3. To continue their efforts to disseminate information on the Court at the national 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 organize, in conjunction with civil society, academia, international organizations and professional associations seminars, panel discussions and events focusing on promoting 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;
6. 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; and
7. To continue to cooperate with the Court so that it can fulfill its functions accordingly.

¹¹ Albania, Australia, Austria, Barbados, Belgium, Bulgaria, Brazil, Canada, Colombia, Croatia, Costa Rica, Cyprus, Czech Republic, Denmark, Dominican Republic, Estonia, Finland, France, Georgia, Honduras, Ireland, Japan, Liechtenstein, Luxembourg, Mauritius, Mexico, Netherlands, New Zealand, Norway, Paraguay, Poland, Portugal, Republic of Korea, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, United Kingdom and Zambia.

¹² The list of States Parties to the Rome Statute and the Agreement on the Privileges and Immunities of the Court may be found at <http://treaties.un.org>.

C. To the Secretariat of the Assembly of States Parties

8. To continue to support States in their efforts to promote 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;
9. To compile information on all available resources and potential donors, and post it on the Court's website for easy access by States; and
10. To prepare a matrix to serve the purpose of enhanced information sharing between potential recipients and donors of technical assistance.

Annex

Activities of the facilitator for the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court in 2010

Informal consultations

- 20 April 1st round of informal consultations on the Plan of action
 3 September 2nd round of informal consultations on the Plan of action

Seminar series

- 30 April Seminar on the International Criminal Court - "Review Conference: Key Challenges for International Criminal Justice"¹

Other events

- 22 January Working lunch of Permanent Representatives of the Eastern European Group with the President of the Assembly of States Parties Christian Wenaweser organized by the Permanent Representative of Slovakia to the United Nations M. Koterec
- 22 March Panel discussion on identifying the main obstacles in ratification and implementation of the Rome Statute of the International Criminal Court (co-organized by the Secretariat of the Assembly of States Parties and the Permanent Mission of Slovakia to the United Nations)²
- 23 March Screening of the movie "The Reckoning: The Battle for the International Criminal Court" (co-organized by the New York University and the Permanent Mission of Slovakia)
- 24 March Panel discussion on "The United States and the International Criminal Court" (co-organized by the New York University and the Permanent Mission of Slovakia)³
- 24 March Working lunch on ratification and full implementation of the International Criminal Court Rome Statute for Permanent Representatives of Pacific States (co-organized by the Permanent Missions of Australia, New Zealand and Slovakia)⁴

¹ Participants: United Nations Secretary-General Ban Ki-moon, United Nations Under-Secretary-General for Legal Affairs P. O'Brien, Minister of Foreign Affairs of Slovakia M. Lajčák, Permanent Representative of Slovakia to the United Nations M. Koterec, President of the International Criminal Court S.-H. Song, President of the Assembly of States Parties Christian Wenaweser, Vice-President of the Parliament of El Salvador S. Reyes, President of the International Center for Transitional Justice D. Tolbert, Coalition for the International Criminal Court Convenor W. Pace.

² Participants: European Union, Commonwealth Secretariat, International Committee of the Red Cross, Coalition for the International Criminal Court, Parliamentarians for Global Action, Democratic Republic of the Congo.

³ Participants: President of the Assembly of States Parties Christian Wenaweser, representatives of the United States of America, Coalition for the International Criminal Court, Coalition for the International Criminal Court in the United States of America, New York University.

⁴ Participants: President of the International Criminal Court S.-H. Song, International Committee of the Red Cross, Parliamentarians for Global Action, Commonwealth Secretariat.

Forthcoming events

- 27 October Challenges and Future of International Justice (co-organized by the New York University and the Permanent Mission of Slovakia)⁵
- December Regional meeting on the Plan of Action for Permanent Representatives of Caribbean States in New York (co-organized by the Permanent Missions of Trinidad and Tobago and Slovakia)⁶

Bilateral meetings

- 2009 – 2010 Bilateral meetings with States, members of civil society, international organizations, academia, the International Committee of the Red Cross and the Secretariat of the Assembly of States Parties
-

⁵ Participants: President of the International Criminal Court S.-H. Song, Vice-President of the International Court of Justice P. Tomka, Human Rights Watch, New York University.

⁶ Participants: international organizations, civil society and others.