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The Embassy of Ireland to the Kingdom of the Netherlands presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and has the honour to refer to the Note Verbale of 9 August 2010 (ref: ICC-ASP/9/SP/PA/21).

In that regard, the Embassy of Ireland has the honour to attach herewith Ireland's response to the request for the information referred to in para 6, sub-para (h) of the Plan of Action for achieving universality and full implementation of the Rome Statue of the International Criminal Court, and annex it hereto.

The Embassy of Ireland to the Kingdom of the Netherlands avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties of the International Criminal Court the assurances of its highest consideration.

The Hague, 9 November 2010

Secretariat of the Assembly of States Parties
International Criminal Court
Maanweg 174
2516 AB The Hague

Our ref: 101/2010/11/04



IRELAND

Reply to Request by ASP Secretariat for information relevant to the promotion of the ratification and full implementation of the Rome Statute, paragraph 6, sub-paragraph (h) of the Plan of Action

(i) Obstacles to ratification or full implementation

Ireland ratified the Rome Statute of the International Criminal Court on 11 April 2002. An amendment to the Irish Constitution was necessary before ratification, as becoming party to the Statute involved a partial transfer of the sovereign power of the State to administer justice. The amendment was effected by means of a referendum held in 2001 and adopted by an overwhelming majority of Irish voters. The amendment now forms Article 29.9 of the Irish Constitution, which provides that "The State may ratify the Rome Statute of the International Criminal Court done on the 17th day of July, 1998."

The International Criminal Court Act 2006 was enacted on 31 October 2006 in order to incorporate the Rome Statute into Irish law. The text of the Act is publicly and freely available in both the Irish and English languages and at the following website:

<http://www.oireachtas.ie/documents/bills28/acts/2006/a3006.pdf>.

(ii) National or regional strategies or plans of action to promote ratification and/or full implementation

As a Member State of the European Union, Ireland is involved with EU initiatives to promote the universality and integrity of the Rome Statute, including demarches carried out by the EU with the objective of encouraging accession to the Rome Statute among States who have not yet acceded, and encouraging ratification and implementation of the Statute among States who have signed the Statute but who have not yet ratified or implemented it. (See also reply to (iv) below.)

ICC issues are also raised, as appropriate, in bilateral political consultations and contacts.

(iii) Technical and other assistance needs and delivery programs

As part of its continuing support for international criminal justice and the rule of law, Ireland has made, amongst others, the following financial contributions in 2010:

- €100,000 to the ICC Trust Fund for Victims
- €25,000 to the ICC Trust Fund for the Participation of Least Developed Countries
- €150,000 to the Special Court for Sierra Leone
- €6.5 million to the Justice, Law and Order Sector in Uganda (€27.5 million over the period 2010-2014)

(iv) Planned events and activities

ICC issues are discussed in the National Committee on International Humanitarian Law, a group composed of officials from several Government Departments, the Irish Red Cross and the Irish Defence Forces; an inter-Departmental coordinating group dealing with extradition and transfer cases and the Department of Foreign Affairs-NGO Standing Committee on Human Rights.

(v) Examples of implementing legislation for the Rome Statute

As stated above, the 2006 Act incorporated the Rome Statute into Irish law.

The Act incorporates “ICC offences” through reference to the Statute. Section 6 of the Act provides interpretation for domestic jurisdiction in “ICC offences”:

“(1) In this part, unless the context otherwise requires—

[...]

“crime against humanity “ means any of the acts specified in Article 7 [of the Rome Statute];

“genocide” means any of the acts specified in Article 6 [of the Rome Statute];

“war crime” means any of the acts specified in Article 8.2 (except subparagraph (b)(xx)) [of the Rome Statute].

(2) In Articles 7 and 8 [of the Rome Statute] references to murder shall be constructed as references to the killing of a person in such circumstances as would, if committed in the State, constitute murder.”

The 2006 Act provides that, in interpreting the Act itself and the Rome Statute, the Irish Courts may where necessary take account of: (i) the rules of Procedure and Evidence; (ii) the Elements of Crimes; (iii) any relevant judgment or decision of the ICC; (iv) any other relevant judgment, and (v) may consider the *travaux préparatoires* relating to the Rome Statute and the published views of commentators on its text and give them such weight as may appear appropriate in the circumstance. The Act further provides that judicial notice shall be taken of the Rome Statute, which is scheduled to the Act.

(vi) Bilateral cooperation agreements between the Court and State Parties

Ireland does not have any bilateral cooperation agreements with the Court

(vii) Solutions to constitutional issues arising from ratification

After Ireland signed the Rome Statute on 7 October 1998, an amendment to the Constitution was required before the Statute could be ratified. As stated above, this amendment was effected by means of a referendum held in 2001 and adopted by a large majority of Irish voters.

(viii) National contact points for matters related to promotion of ratification and full implementation

The Department of Foreign Affairs is the national contact point for matters related to the promotion of ratification and full implementation.

Annex 11

In relation to the Recommendation addressed to States Parties in Annex 11, Ireland will continue to share its successful ratification experiences and any decisions of the Irish courts bilaterally with States that have similar concerns, and within the EU, the UN and the ASP of the ICC.