

## **RESPONSE OF THE GOVERNMENT OF MEXICO TO THE PLAN OF ACTION FOR ACHIEVING UNIVERSALITY AND FULL IMPLEMENTATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

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 the above international instrument in order to put an end to impunity for the perpetrators of the most serious crimes of international concern, contribute to the prevention of such crimes and guarantee respect for international justice.

In this respect, in 2007, 2008 and 2009 the Mexican government submitted information on each of the eight points contained in paragraph 6 (h) of the above 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.

In accordance with Part A, paragraph 7, of resolution ICCASP/8/Res.3, entitled "Strengthening the International Criminal Court and the Assembly of States Parties", and in response to the note of the Secretariat of the Assembly ICC-ASP/9/SP//PA/21 dated 9 August of this year, the government of Mexico hereby provides the following information, which corresponds only to the parts of the Plan of Action that have been updated or amended since the last report presented by Mexico.

### **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.

Accordingly, full compliance with the commitments made under such international treaties, including full implementation of the Rome Statute at national level in particular in regard to the obligation to cooperate with the Court and to the characterisation of the conduct provided for in the Statute, are priorities for the Mexican State.

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 the

draft Implementing Law [*Ley Reglamentaria*] in respect of article 21 (8) of the Mexican constitution,<sup>1</sup> called the Law on Cooperation with the International Criminal Court.

The objective of the above Draft Law is to define 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.<sup>2</sup> 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 characterisation of the conduct provided for in the Rome Statute, Mexico has demonstrated its commitment through the pledges made at various international conferences:

a. During the XXX<sup>th</sup> 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.

b. 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 International Criminal Court in relation to the crimes within its jurisdiction. The following steps were proposed to implement the above pledge:

- Preparation and review of preliminary draft amendments to the Federal Criminal Code within the framework of the Inter-Ministerial Commission on International Humanitarian Law (CIDIH-Mexico) (second half of 2010).
- Consultation with other actors on the preliminary draft amendments (first quarter of 2011).
- Approval of the preliminary draft amendments by CIDIH-Mexico, and analysis of their legislative feasibility (first quarter of 2011).
- Submission of the draft to Congress (second half of 2011).

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<sup>1</sup> 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".

<sup>2</sup> Parliamentary Gazette, No. 2940II, 2 February 2010

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

In order to honour these international pledges, the CIDH-Mexico programme of work for 2010 established as its first specific objective a review of the definition of those offences contained in the Federal Criminal Code that are provided for in the Rome Statute, the Geneva Convention of 1949 and its first Additional Protocol of 1977, in order to align national law with the rules of international law.

In this respect, last September CIDH-Mexico created a Working Group to conduct a review of the Federal Criminal Code in order to submit draft amendments for consideration by its Committee, so as to harmonize it with the above international instruments with a view to full realisation of all stages of the pledges entered into by Mexico at the Review Conference of the Statute.

## **REGIONAL INITIATIVES**

Mexico actively supports the topic of the International Criminal Court at the hemispheric level, and has promoted initiatives to address it 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 in 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.

Noteworthy are the latest resolutions adopted on the topic: AG/RES. 2577 (XL-O/10) “Promotion of the International Criminal Court” and AG/RES. 2575 (XL-O/10) “Promotion and Respect for International Humanitarian Law”, both adopted on 8 June 2010 at the 40<sup>th</sup> General Assembly of the OAS.

Equally significant is that in the resolution on the ICC, the mandate to convene a biennial session of work on the appropriate measures to be adopted by Member States to cooperate with the Court (operative paragraph 14), during which Member State officials meet with civil society representatives and experts, has been maintained.

Likewise, both resolutions submitted by Mexico urge Member States that have not yet done so to accede to the Rome Statute.

Moreover, as part of the work carried out by CIDH-Mexico, from 30 June to 2 July, under the auspices of the Commission, the International Committee of the Red Cross held an International Conference of National Commissions on International Humanitarian Law of Latin America and the Caribbean at the Mexican Foreign Office. During the

meeting the National Commissions of eighteen countries of the region shared their experiences in implementing International Humanitarian Law at national level, including crimes under the Rome Statute, in light of the outcome of the Review Conference.

## **2. Upcoming events and activities.**

- As part of the outreach activities carried out by the Foreign Office on the work of the ICC, both to fight impunity and to act as a deterrent, as well as on the challenges faced by the Court, on 26 February of this year the Foreign Office Judicial Advisory Section, the Human Rights Programme of the Ibero-American University and the Mexican Office of the Konrad Adenauer Foundation programme on the Rule of Law in Latin America held a seminar entitled "The upcoming first Review Conference of the Rome Statute of the International Criminal Court".
- As mentioned earlier, from 30 June to 2 July, under the auspices of CIDIH-Mexico, the International Committee of the Red Cross organized an International Conference of National Commissions on International Humanitarian Law of Latin America and the Caribbean at the Mexican Foreign Office.
- On 7 and 8 October, CIDIH-Mexico organised the first specialized annual course in International Humanitarian Law at national level, intended both for the authorities and for the general public, at the War College of the Defence Ministry. During the lectures given by experts, covering every aspect of the topic, special emphasis was placed on the importance of implementing the rules and principles of IHL at national level, including those set out in the Rome Statute.
- One of Mexico's pledges at the Review Conference of the Rome Statute was to organise a seminar with government officials, members of the judiciary, academic experts and civil society organisations during the first half of 2011, in order to discuss the developments and challenges in implementing the Statute in Mexico, with particular emphasis on the process of legal harmonisation.

## **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, one of the Federal government's commitments being to promote its adoption.

Noteworthy is that the absence of legislation has not prevented the Mexican Government from responding to cooperation requests 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 concerning the promotion of ratification and full implementation.***

The Foreign Ministry, as the department charged with dealing with the 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.

28 October 2010