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Ministry of Foreign Affairs

REPUBLIC OF PARAGUAY

Information relevant to promotion of the ratification and full implementation of the Rome Statute

- i) Information concerning obstacles to ratification or full implementation of the Rome Statute faced by States:

The Republic of Paraguay signed the Rome Statute on 7 October 1998, following which it was incorporated into national law by Law No. 1.663 dated 17 April 2001, and deposited with the Secretary-General of the United Nations on 14 May 2001.

From a legal perspective there could not be said to be any obstacles, although the National Law for Implementation of the Statute has yet to be adopted; it is currently in the final stages of review by an inter-institutional commission constituted for that purpose and composed of representatives of the Ministry of Foreign Affairs, Office of the Public Prosecutor, Ministry of Justice and Labour, Ministry of National Defence and Supreme Court of Justice, with the participation of non-governmental organisations for the protection of human rights.

Once the Draft Law has been adopted, and while it is being considered by the National Congress, one of the issues to be examined will be the need to raise awareness in all relevant sectors, at both government and civil society level, regarding the scope of, and necessity for, specific national legislation that will enable compliance with the provisions of the Rome Statute in accordance with the principles of complementarity and cooperation with the International Criminal Court. Performance of this task will be governed by the economic resources made available by the State of Paraguay in order for the work to be carried out to the requisite technical standard and with the quality that it merits.

- ii) Strategies or national or regional plans of action to promote ratification and/or full implementation:

As previously mentioned in our 2007 report, with regard to the regional level, in the framework of the XXVIth MEETING OF THE COMMON MARKET COUNCIL AND SUMMIT OF MERCOSUR PRESIDENTS, held on 20 June 2005, the Presidents signed a PRESIDENTIAL DECLARATION ON THE COMMITMENT OF MERCOSUR TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT. To this end, in the said instrument they reiterate their commitment to the principles

-----Palacio Benigno López Carrillo- 1er Piso-----

Palma esquina 14 de Mayo

Teléfono: (595) 21 492 162

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of International Law, stating that the entry into force of the Rome Statute represents a step forward by the international community to put an end to impunity for the authors of specified crimes against humanity.

Thereafter, on 4 May 2010, at the Extraordinary Council Meeting of the Heads of State and Government of UNASUR (the Union of South American Nations) in Buenos Aires, Argentina, with a view to the Review Conference of the Rome Statute to be held in Kampala, UNASUR adopted the “Special Declaration on the First Review Conference of the Rome Statute of the International Criminal Court”, by which the signatory States expressed their support for the objectives of the Review Conference with a view to moving forward in strengthening the system of international criminal law adopted at the 1998 Rome Conference, and reiterated their support for the International Criminal Court.

iii) Technical and other assistance needs and delivery programmes:

It would be most helpful to receive greater support from the Secretariat of the Court in order to strengthen mutual cooperation and organise workshops or conferences with the support of the said Secretariat, so as to publicize at local level the results of the work of the said International Court, as well as to carry out activities to disseminate the text of the Draft Law for Implementation of the Statute, both before and after its adoption by Parliament.

iv) Planned events and activities:

The last inter-institutional meetings are still to be held in order to finalize the text of the Draft Implementing Law to be submitted to the National Congress for review and adoption. Conferences are also scheduled to disseminate the draft amongst the wider population and raise awareness of the benefits of adoption of national legislation on the matter.

v) Examples of Rome Statute implementing legislation:

The Republic of Paraguay is party, both in the framework of the United Nations and at regional level, to a number of multilateral treaties that outlaw international crimes. Likewise, the Criminal Code of Paraguay contains a special chapter on punishable acts against the civilian population, and as stated above, the Draft Law for Implementation of the Statute is currently under review.

vi) Bilateral cooperation agreements between the Court and States Parties:

Paraguay has not yet signed any bilateral cooperation agreements with the Court, but does not dismiss the possibility of doing so in future once the Law for Implementation of the Statute has been adopted. Moreover, it should be noted that, pursuant to the documents referred to above, Paraguay has undertaken

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not to enter into any multilateral or bilateral agreements with third parties which could affect the jurisdictional basis of the International Criminal Court.

vii) Solutions to constitutional problems arising out of ratification:

To date there have not been any judicial cases arising out of the ratification of the Rome Statute, given the order of precedence of legal norms in Paraguay, whereby, pursuant to article 137 of the National Constitution, **signed and ratified international treaties rank second, after the National Constitution and before laws passed by Congress.**

Any conflict with the National Constitution of Paraguay shall be heard by the Constitutional Chamber of the Supreme Court of Justice. The Magna Carta of Paraguay provides in article 269 [TRANSLATION]: ***POWERS AND RESPONSIBILITIES OF THE CONSTITUTIONAL CHAMBER.*** *The Constitutional Chamber shall have the following powers and responsibilities: 1. Reviewing and deciding on the constitutionality of laws and other legal norms, declaring in each individual case, and in a decision applying to that case only, that provisions that are inconsistent with this Constitution are inapplicable, and 2. deciding on the constitutionality of final or interlocutory judgments, reversing any that do not comply with this Constitution. The procedure may be initiated by petitioning the Constitutional Chamber of the Supreme Court of Justice, and in exceptional cases any other authority, in which case the matter shall be referred to the Court.*

Accordingly, solutions to potential constitutional conflicts will be considered as they arise by the Supreme Court of Justice, in accordance with this Constitution and the applicable laws.

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

Ministry of Foreign Affairs, Legal Advice Department.

Address: Edificio Benigno López, 1^{er} Piso, Palma esq. 14 de mayo, Asunción- Paraguay.

Telephone: 595 21 492162.

Email: ajuridica@mre.gov.py

-----Palacio Benigno López Carrillo- 1er Piso-----

Palma esquina 14 de Mayo

Teléfono: (595) 21 492 162

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