27. Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court¹

- 1. The General Assembly of the United Nations, in its resolution 51/207 of 17 December 1996, decided to hold a diplomatic conference of plenipotentiaries in 1998 with a view to finalizing and adopting a convention on the establishment of an international criminal court.
- 2. The General Assembly, in its resolution 52/160 of 15 December 1997, accepted with deep appreciation the generous offer of the Government of Italy to act as host to the conference and decided to hold the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in Rome from 15 June to 17 July 1998.
- 3. Previously, the General Assembly, in its resolution 44/39 of 4 December 1989, had requested the International Law Commission to address the question of establishing an international criminal court; in resolutions 45/41 of 28 November 1990 and 46/54 of 9 December 1991, invited the Commission to consider further and analyse the issues concerning the question of an international criminal jurisdiction, including the question of establishing an international criminal court; and in resolutions 47/33 of 25 November 1992 and 48/31 of 9 December 1993, requested the Commission to elaborate the draft statute for such a court as a matter of priority.
- 4. The International Law Commission considered the question of establishing an international criminal court from its forty-second session, in 1990, to its forty-sixth session, in 1994. At the latter session, the Commission completed a draft statute for an international criminal court, which was submitted to the General Assembly.
- 5. The General Assembly, in its resolution 49/53 of 9 December 1994, decided to establish an ad hoc committee to review the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, in light of that review, to consider arrangements for the convening of an international conference of plenipotentiaries.
- 6. The Ad Hoc Committee on the Establishment of an International Criminal Court met from 3 to 13 April and from 14 to 25 August 1995, during which time the Committee reviewed the issues arising out of the draft statute prepared by the International Law Commission and considered arrangements for the convening of an international conference.
- 7. The General Assembly, in its resolution 50/46 of 11 December 1995, decided to establish a preparatory committee to discuss further the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, taking into account the different views expressed during the meetings, to draft texts with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court as a next step towards consideration by a conference of plenipotentiaries.
- 8. The Preparatory Committee on the Establishment of an International Criminal Court met from 25 March to 12 April and from 12 to 30 August 1996, during which time the Committee discussed further the issues arising out of the draft statute and began preparing a widely acceptable consolidated text of a convention for an international criminal court.

Document A/CONF.183/13, vol. I (http://untreaty.un.org/cod/icc/index.html).

- 9. The General Assembly, in its resolution 51/207 of 17 December 1996, decided that the Preparatory Committee would meet in 1997 and 1998 in order to complete the drafting of the text for submission to the Conference.
- 10. The Preparatory Committee met from 11 to 21 February, from 4 to 15 August and from 1 to 12 December 1997, during which time the Committee continued to prepare a widely acceptable consolidated text of a convention for an international criminal court.
- 11. The General Assembly, in its resolution 52/160 of 15 December 1997, requested the Preparatory Committee to continue its work in accordance with General Assembly resolution 51/207 and, at the end of its sessions, to transmit to the Conference the text of a draft convention on the establishment of an international criminal court prepared in accordance with its mandate.
- 12. The Preparatory Committee met from 16 March to 3 April 1998, during which time the Committee completed the preparation of the draft Convention on the Establishment of an International Criminal Court, which was transmitted to the Conference.
- 13. The Conference met at the headquarters of the Food and Agriculture Organization of the United Nations in Rome from 15 June to 17 July 1998.
- 14. The General Assembly, in its resolution 52/160, requested the Secretary-General to invite all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency to participate in the Conference. The delegations of 160 States participated in the Conference. The list of participating States is contained in annex II.
- 15. The General Assembly, in the same resolution, requested the Secretary-General to invite representatives of organizations and other entities that had received a standing invitation from the Assembly pursuant to its relevant resolutions to participate as observers in its sessions and work, on the understanding that such representatives would participate in that capacity, and to invite, as observers to the Conference, representatives of interested regional intergovernmental organizations and other interested international bodies, including the International Tribunals for the Former Yugoslavia and for Rwanda. The list of such organizations which were represented at the Conference by an observer is contained in annex III.
- 16. The Secretary-General, pursuant to the same resolution, invited non-governmental organizations accredited by the Preparatory Committee with due regard to the provisions of section VII of Economic and Social Council resolution 1996/31 of 25 July 1996, and in particular to the relevance of their activities to the work of the Conference, to participate in the Conference, along the lines followed in the Preparatory Committee and in accordance with the resolution, as well as the rules of procedure to be adopted by the Conference. The list of non-governmental organizations represented at the Conference by an observer is contained in annex IV.
- 17. The Conference elected Mr. Giovanni Conso (Italy) as President.
- 18. The Conference elected as Vice-Presidents the representatives of the following States: Algeria, Austria, Bangladesh, Burkina Faso, China, Chile, Colombia, Costa Rica, Egypt, France, Gabon, Germany, India, Iran (Islamic Republic of), Japan, Kenya, Latvia, Malawi, Nepal, Nigeria, Pakistan, Russian Federation, Samoa, Slovakia, Sweden, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Uruguay.

19. The following committees were set up by the Conference:

General Committee

Chairman: The President of the Conference

Members: The President and Vice-Presidents of the Conference, the

Chairman of the Committee of the Whole and the

Chairman of the Drafting Committee

Committee of the Whole

Chairman: Mr. Philippe Kirsch (Canada)

Vice-Chairmen: Ms. Silvia Fernandez de Gurmendi (Argentina), Mr.

Constantin Virgil Ivan (Romania) and Mr. Phakiso

Mochochoko (Lesotho)

Rapporteur: Mr. Yasumasa Nagamine (Japan)

Drafting Committee

Chairman: Mr. M. Cherif Bassiouni (Egypt)

Members: Cameroon, China, Dominican Republic, France,

Germany, Ghana, India, Jamaica, Lebanon, Mexico, Morocco, Philippines, Poland, Republic of Korea, Russian Federation, Slovenia, South Africa, Spain, Sudan, Switzerland, Syrian Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of

America and Venezuela.

The Rapporteur of the Committee of the Whole participated ex officio in the work of the Drafting Committee in accordance with rule 49 of the rules of procedure of the Conference.

Credentials Committee

Chairman: Ms. Hannelore Benjamin (Dominica)

Members: Argentina, China, Côte d' Ivoire, Dominica, Nepal,

Norway, Russian Federation, United States of America

and Zambia.

- 20. The Secretary-General was represented by Mr. Hans Corell, Under-Secretary-General, the Legal Counsel. Mr. Roy S. Lee, Director of the Codification Division of the Office of Legal Affairs, acted as Executive Secretary of the Conference. The secretariat was further composed as follows: Mr. Manuel Rama-Montaldo, Secretary, Drafting Committee; Ms. Mahnoush H. Arsanjani, Secretary, Committee of the Whole; Mr. Mpazi Sinjela, Secretary, Credentials Committee; Assistant Secretaries of the Conference: Ms. Christiane Bourloyannis-Vrailas, Ms. Virginia Morris, Mr. Vladimir Rudnitsky, Mr. Renan Villacis.
- 21. The Conference had before it a draft Statute on the Establishment of an International Criminal Court transmitted by the Preparatory Committee in accordance with its mandate (A/CONF.183/2/Add.1).
- 22. The Conference assigned to the Committee of the Whole the consideration of the draft Convention on the Establishment of an International Criminal Court adopted by the Preparatory Committee. The Conference entrusted the Drafting Committee, without reopening

substantive discussion on any matter, with coordinating and refining the drafting of all texts referred to it without altering their substance, formulating drafts and giving advice on drafting as requested by the Conference or by the Committee of the Whole and reporting to the Conference or to the Committee of the Whole as appropriate.

- 23. On the basis of the deliberations recorded in the records of the Conference (A/CONF.183/SR.1 to SR.9) and of the Committee of the Whole (A/CONF.183/C.1/SR.1 to SR.42) and the reports of the Committee of the Whole (A/CONF.183/8) and of the Drafting Committee (A/CONF.183/C.1/L.64, L.65/Rev.1, L.66 and Add.1, L.67/Rev.1, L.68/Rev.2, L.82-L.88 and 91), the Conference drew up the Rome Statute of the International Criminal Court.
- 24. The foregoing Statute, which is subject to ratification, acceptance or approval, was adopted by the Conference on 17 July 1998 and opened for signature on 17 July 1998, in accordance with its provisions, until 17 October 1998 at the Ministry of Foreign Affairs of Italy and, subsequently, until 31 December 2000, at United Nations Headquarters in New York. The same instrument was also opened for accession in accordance with its provisions.
- 25. After 17 October 1998, the closing date for signature at the Ministry of Foreign Affairs of Italy, the Statute will be deposited with the Secretary General of the United Nations.
- 26. The Conference also adopted the following resolutions, which are annexed to the present Final Act:

Tribute to the International Law Commission

Tribute to the participants in the Preparatory Committee on the Establishment of an International Criminal Court and its Chairman

Tribute to the President of the Conference, to the Chairman of the Committee of the Whole and to the Chairman of the Drafting Committee

Tribute to the People and the Government of Italy

Resolution on treaty crimes

Resolution on the establishment of the Preparatory Commission for the International Criminal Court

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE at Rome this 17th day of July, one thousand nine hundred and ninety-eight, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

By unanimous decision of the Conference, the original of this Final Act shall be deposited in the archives of the Ministry of Foreign Affairs of Italy.

The President of the Conference:

(Signed)

Giovanni Conso

The Representative of the Secretary-General:

(Signed)

Hans Corell

The Executive Secretary of the Conference:

(Signed)

Roy S. Lee

Annex I

Resolutions adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

A

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution in the preparation of the original draft of the Statute, which constituted the basis for the work of the Preparatory Committee.

В

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Pays tribute to the participants in the Preparatory Committee on the Establishment of an International Criminal Court and its Chairman, Mr. Adriaan Bos, for their outstanding and hard work, commitment and dedication.

 \mathbf{C}

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Expresses its deep appreciation and gratitude to the People and the Government of Italy for making the necessary arrangements for the holding of the Conference in Rome, for their generous hospitality and for their contribution to the successful completion of the work of the Conference.

D

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Expresses its appreciation and thanks to Mr. Giovanni Conso, President of the Conference, Mr. Philippe Kirsch, Chairman of the Committee of the Whole, and Mr. M. Cherif Bassiouni, Chairman of the Drafting Committee, who, through their experience, skilful efforts and wisdom in steering the work of the Conference, contributed greatly to the success of the Conference.

E

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court,

Having adopted the Statute of the International Criminal Court,

Recognizing that terrorist acts, by whomever and wherever perpetrated and whatever their forms, methods or motives, are serious crimes of concern to the international community,

Recognizing that the international trafficking of illicit drugs is a very serious crime, sometimes destabilizing the political and social and economic order in States,

Deeply alarmed at the persistence of these scourges, which pose serious threats to international peace and security,

Regretting that no generally acceptable definition of the crimes of terrorism and drug crimes could be agreed upon for the inclusion, within the jurisdiction of the Court,

Affirming that the Statute of the International Criminal Court provides for a review mechanism, which allows for an expansion in future of the jurisdiction of the Court,

Recommends that a Review Conference pursuant to article 123 of the Statute of the International Criminal Court consider the crimes of terrorism and drug crimes with a view to arriving at an acceptable definition and their inclusion in the list of crimes within the jurisdiction of the Court.

F

The United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court,

Having adopted the Statute of the International Criminal Court,

Having decided to take all possible measures to ensure the coming into operation of the International Criminal Court without undue delay and to make the necessary arrangements for the commencement of its functions.

Having decided that a preparatory commission should be established for the fulfilment of these purposes,

Decides as follows:

- 1. There is hereby established the Preparatory Commission for the International Criminal Court. The Secretary-General of the United Nations shall convene the Commission as early as possible at a date to be decided by the General Assembly of the United Nations;
- 2. The Commission shall consist of representatives of States which have signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and other States which have been invited to participate in the Conference;
- 3. The Commission shall elect its Chairman and other officers, adopt its rules of procedure and decide on its programme of work. These elections shall take place at the first meeting of the Commission;
- 4. The official and working languages of the Preparatory Commission shall be those of the General Assembly of the United Nations;
- 5. The Commission shall prepare proposals for practical arrangements for the establishment and coming into operation of the Court, including the draft texts of:
 - (a) Rules of Procedure and Evidence;
 - (b) Elements of Crimes;
 - (c) A relationship agreement between the Court and the United Nations;
- (d) Basic principles governing a headquarters agreement to be negotiated between the Court and the host country;

- (e) Financial regulations and rules;
- (f) An agreement on the privileges and immunities of the Court;
- (g) A budget for the first financial year;
- (h) The rules of procedure of the Assembly of States Parties;
- 6. The draft texts of the Rules of Procedure and Evidence and of the Elements of Crimes shall be finalized before 30 June 2000;
- 7. The Commission shall prepare proposals for a provision on aggression, including the definition and Elements of Crimes of aggression and the conditions under which the International Criminal Court shall exercise its jurisdiction with regard to this crime. The Commission shall submit such proposals to the Assembly of States Parties at a Review Conference, with a view to arriving at an acceptable provision on the crime of aggression for inclusion in this Statute. The provisions relating to the crime of aggression shall enter into force for the States Parties in accordance with the relevant provisions of this Statute;
- 8. The Commission shall remain in existence until the *conclusion* of the first meeting of the Assembly of States Parties;
- 9. The Commission shall prepare a report on all matters within its mandate and submit it to the first meeting of the Assembly of States Parties;
- 10. The Commission shall meet at the Headquarters of the United Nations. The Secretary-General of the United Nations is requested to provide to the Commission such secretariat services as it may require, subject to the approval of the General Assembly of the United Nations;
- 11. The Secretary-General of the United Nations shall bring the present resolution to the attention of the General Assembly for any necessary action.

Annex II

List of States participating in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Afghanistan	Benin	China
Albania	Bolivia	Colombia
Algeria	Bosnia and Herzegovina	Comoros
Andorra	Botswana	Congo
Angola	Brazil	Costa Rica
Argentina	Brunei Darussalam	Côte d'Ivoire
Armenia	Bulgaria	Croatia
Australia	Burkina Faso	Cuba
Austria	Burundi	Cyprus
Azerbaijan	Cameroon	Czech Republic
Bahrain	Canada	Democratic Republic of
Bangladesh	Cape Verde	the Congo
Barbados	Central African Republic	Denmark
Belarus	Chad	Djibouti
Belgium	Chile	Dominica

Togo

Zimbabwe

Dominican Republic Liberia Saudi Arabia Ecuador Libyan Arab Jamahiriya Senegal Liechtenstein Sierra Leone Egypt El Salvador Lithuania Singapore Eritrea Luxembourg Slovakia Madagascar Estonia Slovenia

Malawi Solomon Islands Ethiopia Finland Malaysia South Africa France Mali Spain Sri Lanka Gabon Malta Georgia Mauritania Sudan Germany Mauritius Swaziland Ghana Sweden Mexico Greece Monaco Switzerland

Guatemala Morocco Syrian Arab Republic Guinea Mozambique Tajikistan

Guinea-Bissau Namibia Thailand
Haiti Nepal The former Yugoslav
Holy See Netherlands Republic of Macedonia

Hungary Nicaragua Trinidad and Tobago Iceland Niger Tunisia India Nigeria Turkey

New Zealand

India Nigeria Turkey
Indonesia Norway Uganda
Iran (Islamic Republic of) Oman Ukraine

IraqPakistanUnited Arab EmiratesIrelandPanamaUnited Kingdom of GreatIsraelParaguayBritain and Northern

Italy Peru Ireland

JamaicaPhilippinesUnited Republic ofJapanPolandTanzania

Jordan Portugal United States of America

Kazakhstan Qatar Uruguay Kenya Republic of Korea Uzbekistan Republic of Moldova Venezuela Kuwait Romania Viet Nam **Kyrgyzstan** Russian Federation Lao People's Democratic Yemen Republic Zambia Rwanda

Latvia Samoa Lebanon San Marino

Honduras

Lesotho Sao Tome and Principe

Annex III

List of Organizations and Other Entities Represented at the Conference by an Observer

Organizations

Palestine

Intergovernmental organizations and other entities

Agence de Coopération Culturelle et Technique
Asian-African Legal Consultative Committee
Council of Europe
European Community
European Court of Human Rights
Humanitarian Fact-Finding Commission
Inter-American Institute of Human Rights
International Committee of the Red Cross
International Criminal Police Organization (INTERPOL)
International Federation of Red Cross and Red Crescent Societies
Inter-Parliamentary Union
League of Arab States
Organization of African Unity
Organization of the Islamic Conference

Specialized agencies and related organizations

Sovereign Military Order of Malta

International Labour Organization
Food and Agriculture Organization of the United Nations
United Nations Educational, Scientific and Cultural Organization
International Fund for Agricultural Development
International Atomic Energy Agency

United Nations programmes and bodies

United Nations Children's Fund
Office of the United Nations High Commissioner for Refugees
United Nations Commission on Crime Prevention and Criminal Justice
United Nations Office of the High Commissioner for Human Rights
United Nations Office at Vienna, Office for Drug Control and Crime Prevention
International Criminal Tribunal for Rwanda
International Tribunal for the Former Yugoslavia
International Law Commission
World Food Programme

Annex IV

List of Non-Governmental Organizations represented at the Conference by an Observer

Agir ensemble pour les droits de l'homme (Working Together for Human Rights) American Association for the International Commission of Jurists

American Association of Jurists

American Bar Association

Amnesty International

Arab Lawyers Union

Asia Pacific Forum on Women, Law and Development

Asian Center for Women's Human Rights Asian Women's Human Rights Council Asociación por Derechos Humanos

(APRODEH; Association for Human Rights)

Australian Lawyers for Human Rights Baha'í International Community

Bangladesh Legal Aid and Services Trust Bar Human Rights Committee of England and Wales

Cairo Institute for Human Rights Studies Canadian Network for an ICC/World Federalists of Canada

Carter Center

Center for Civil Human Rights

Center for Development of International Law

Center for Human Rights and Rehabilitation

Center for Reproductive Law and Policy Children's Fund of Canada, Inc.

Colombian Commission of Jurists

Comité de Defensa de los Derechos Humanos y del Pueblo (Committee for the Defence of Human Rights and of the People)

Coalition for International Justice

Comité Latinoamericano y del Caribe para la Defensa de los Derechos de la Mujer (CLADEM; Latin American and Caribbean Committee for the Defence of Women's Rights) Commission of Churches on International Affairs of the World Council of Churches

Committee of Former Nuremberg Prosecutors

Community Law Centre

Conseil national des barreaux (National Bar Council)

Coordinating Board of Jewish Organizations

Corporación Colectivo de Abogados "José Alvear Restrepo" (José Alvear Restrepo Lawyers Collective Association)

Corporación de Desarrollo de la Mujer (La Morada; Association for the Development of Women)

Croatian Law Centre

Deutscher Juristinnenbund (German Women Lawyers Association)

Droits et devoirs en démocratie (3D; Rights and Duties in Democracy)

Egyptian Organization for Human Rights European Law Students Association

Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos (Federation of Associations for the Defence and Promotion of Human Rights)

Fédération internationale de l'action des Chrétiens pour l'abolition de la torture (FiACAT International Federation of Christian Action to Abolish Torture)

Foundation for Human Rights Initiative Foundation for the Establishment of an International Criminal Court and

International Law Commission

Friends World Committee for Consultation Fundación Ecuménica para el Desarrollo y la Paz (FEDEPAZ; Ecumenical Foundation for Development and

General Board of Church and Society of the United Methodist Church Humanitarian Law Center International Scientific and Professional Human Rights Advocates Advisory Council of the United Human Rights Watch Nations Crime Prevention and **ICAR** Foundation Criminal Justice Programme Information Workers for Peace International Service for Human Rights International Society for Human Rights, Instituto Latinoamericano de Servicios Legales Alternativos (ILSA; Latin Gambia American Institute of Alternative Legal International Society for Human Rights, Services) Germany Inter Press Service **International Society for Traumatic Stress** Interafrican Union for Human Rights **Studies** Interamerican Concertation of Women's Japan Federation of Bar Associations Human Rights Activists (CIMA) Juristes sans frontières (Lawyers without Inter-American Legal Services Association Borders) International Association of Latin Lama Gangchen World Peace Foundation Law Projects Center, Yugoslavia American Lawyers Interights Lawyers Committee for Human Rights Intermedia Lawyers Committee on Nuclear Policy International Association for Religious Lawyers without Borders Freedom Legal Research and Resource International Association of Democratic **Development Centre** Leo Kuper Foundation Lawyers Lutheran World Federation International Association of Lawyers International Association of Lawyers Médecins du monde (Doctors of the against Nuclear Arms (IALANA) World) International Association of Penal Law Médecins sans frontières/Doctors without International Bar Association Borders International Centre for Criminal Law Minnesota Advocates for Human Rights Movimento Nacional de Direitos Humanos Reform and Criminal Justice Policy International Centre for Human Rights and (National Movement for Human Democratic Development Rights) **International Commission of Jurists** Movimiento por la Paz, Desarme y International Court of the Environment Libertad (National Movement for **International Criminal Defense Attorneys** Peace, Disarmament and Freedom) MOVIMONDO (Italy) Association International Federation of Human Rights National Institute for Public Interest Law Leagues and Research International Federation of Women Netherlands Institute of Human Rights Lawyers, Kenya No Peace Without Justice International Human Rights Law Group Norwegian Helsinki Committee International Institute of Higher Studies in Observatoire international des prisons, **Criminal Sciences** section du Cameroun (International **International Law Association Committee** Monitoring Centre for Prisons, on a Permanent ICC Cameroon Branch) International League for Human Rights Observatorio para la Paz (Peace International Peace Bureau Monitoring Centre) International Right to Life Federation One World Trust OXFAM (United Kingdom and Ireland) Pace Peace Center

Parliamentarians for Global Action

Plural - Centro de Estudios

Constitutionales (Plural - Centre for Constitutional Studies)

Real Women of Canada

Redress

Rencontre africaine pour la défense des droits de l'homme (RADDHO; African Meeting for the Defence of Human Rights)

Save the Children Fund

South Asia Human Rights Documentation Centre

Tamilandu United Nations Association

Terre des Hommes Foundation

Terre des Hommes, Germany

Transnational Radical Party

Unión Nacional de Juristas de Cuba

(National Union of Cuban Lawyers)

Unitarian Universalist Association

United Nations Association, USA

Volunteers for Prison Inmates

Washington Working Group on the ICC/World Federalist Association

Women and Men Engaged in Advocacy, Research and Education (WEARE) for Human Rights

Women's Caucus for Gender Justice and the ICC/MADRE

Women's Consortium of Nigeria

Women's Information Consultative Center

Women's International League for Peace and Freedom

Women's League of Lithuania

World Conference on Religion and Peace

World Federalist Association

World Federalist Movement/IGP

Young European Federalists

ZIMRIGHTS (Zimbabwe Human Rights Association)