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**Special session on the review of the amendments on the crime of aggression**

New York, 7-9 July 2025

**REPORT OF THE WORKING GROUP ON  
AMENDMENTS REGARDING ITS WORK ON THE  
REVIEW OF THE KAMPALA AMENDMENTS  
CONCERNING THE EXERCISE OF JURISDICTION  
WITH REGARD TO THE CRIME OF AGGRESSION****1. Background**

The Working Group on Amendments was established by the Assembly by resolution ICC-ASP/8/Res.6.<sup>1</sup> At its twenty-third session, the Assembly gave the following mandate to the Chair of the Working Group on Amendments (WGA):

163. *Invites* the Chair of the Working Group of Amendments to convene regular meetings of the Working Group starting early in 2025 to facilitate discussions on the Kampala amendments on the crime of aggression in preparation of the Special Session of the Assembly from 7 to 9 July 2025, in accordance with the decision to Review the Kampala amendments;<sup>2</sup>

At the outset, the Chair reaffirmed the strictly preparatory role of the WGA and recalled that it was not empowered to adopt or negotiate any amendment itself; rather, its mandate was to facilitate discussions in advance of the Special Session, to collect views and questions, and to provide a forum where delegations and stakeholders can clarify technical and procedural matters.

The WGA held six meetings, in implementation of the above mandate, on 30 January, 7 March, 1 April, 6 May, 9 June and 1 July 2025. At its first four meetings, the Group discussed both the scope of the review process and the contours of a possible amendment to article 15 *bis* of the Rome Statute as amended, which was circulated by Costa Rica, Germany, Sierra Leone, Slovenia and Vanuatu on 8 November 2024 and was formally submitted to the depositary on 4 April 2025. On 5 June 2025 the Government of Liechtenstein submitted a draft resolution intended to accompany the above-mentioned amendment and the Group managed to conduct a first reading of this draft resolution at its 5<sup>th</sup> meeting, on 9 June 2025.

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<sup>1</sup> Para. 4 : Decides to establish a Working Group of the Assembly of States Parties for the purpose of considering, as from its ninth session, amendments to the Rome Statute proposed in accordance with article 121, paragraph 1, of the Statute at its eighth session, as well as any other possible amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be adopted in accordance with the Rome Statute and the Rules of Procedure of the Assembly of States Parties;

<sup>2</sup> Para. 163.

At its 6<sup>th</sup> and last meeting, held on 1 July 2025, the Group completed a second reading of the draft resolution and examined also a second draft resolution submitted by Canada, France, Japan, New Zealand and the United Kingdom on 27 June 2025.

## **2. The proposal on harmonization**

At its first meeting, the WGA had before it a discussion paper titled “Harmonizing the ICC’s Jurisdiction over all Four Rome Statute Crimes”, which had been conveyed to the Assembly President on 8 November 2024. The discussion paper on the Review of the Kampala Amendments, submitted by a cross-regional group of States (Costa Rica, Germany, Sierra Leone, Slovenia, and Vanuatu) and supported by a Group of Friends<sup>3</sup> elaborated two possible options for how article 15 *bis* of the Rome Statute could be revised to bring the Court’s jurisdictional regime over the crime of aggression in line with its jurisdiction over the other core crimes.

The issue of harmonization was a core element of the deliberations of the WGA. The harmonization amendment seeks to resolve legal and institutional disunity by eliminating the opt-out clause under article 15 *bis* (4), thereby ensuring that all States Parties are equally subject to the Court’s jurisdiction over aggression; allowing the Court to exercise its jurisdiction over the crime of aggression even when committed by nationals of a State that is not a party to the Statute or when committed on its territory; establishing a jurisdictional framework that applies uniformly to all core crimes; and preventing future legal fragmentation by embedding a single, unified standard into the Statute.

The proponents posited that this solution would close accountability gaps, enhance deterrence, and strengthen the coherence of the Rome Statute system. They said that it would also reinforce the idea that the crime of aggression as one of the four core crimes must be equally enforceable under international criminal law. Some delegations expressed concerns that as more States either accede to the Rome Statute without ratifying the Kampala Amendments or take divergent legal positions, the Court’s jurisdictional reach may become progressively incoherent.

On 7 April 2025, the UN Secretary-General, as Depositary of the Rome Statute, issued a Depositary Notification informing that, on 4 April 2025, he had received a communication from the Governments of Costa Rica, Germany, Sierra Leone, Slovenia and Vanuatu transmitting in accordance with article 121, paragraph 1, of the Rome Statute the text of a proposed amendment. The Secretariat circulated that Depositary Notification to States Parties and all stakeholders on 8 April.

## **3. Deliberations concerning the process leading to the Special Session**

Delegations emphasized that transparency and inclusivity should be a defining feature of the review process. At the same time, there were differing views on how focused or wide-ranging the discussions should be. Some favoured concentrating specifically on the amendment text and legal procedure, while others advocated a broader approach that would also explore related issues such as ratification progress, implementation challenges, and lessons learned from the Kampala process.

A number of delegations highlighted the need to manage both procedural and political expectations surrounding the Special Session.

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<sup>3</sup> Austria, Belgium, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Guatemala, Iceland, Ireland, Italy, Liechtenstein, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Sierra Leone, Slovakia, Slovenia, Spain, State of Palestine, Sweden, Switzerland, Ukraine, Vanuatu, Timor Leste, and Zambia.

Some delegations recalled that the Rome Statute itself offers procedural safeguards: namely, that for the adoption of any formal amendment the rules set out in article 121 must be followed, including requirements for consensus or two-thirds majority decisions, depending on the context. These safeguards serve to ensure legitimacy and prevent rushed or divisive outcome

Throughout the WGA meetings the importance of achieving broad consensus and sustaining political cohesion among States Parties was repeatedly highlighted. The proposal to amend article 15 *bis* to harmonize the Court's jurisdiction over the crime of aggression gained broad support in principle, but also highlighted significant legal, procedural, and political sensitivities.

Delegations stressed that the success of any amendment, especially one addressing the sensitive issue of aggression, would depend on the preservation of institutional unity within the Assembly. Some expressed concern that hasty divisions over the scope, process, or implications of the amendment could risk undermining the Court's credibility or reinforcing perceptions of politicization.

A number of States suggested that the special session should be framed as a space for consensus-building rather than decision-making. This would allow delegations to explore unresolved legal and procedural questions in an open forum, evaluate the political feasibility of different amendment options, hear perspectives from all regions and legal traditions, and engage with civil society and experts in a structured, transparent manner.

The view was expressed that the success of the Special Session would be judged not only on whether an amendment is adopted, but also on the quality of the process and the unity it reflects. Many States underscored the symbolic and political value of a strong, coordinated outcome, whether in the form of a formal amendment, a roadmap, or a high-level declaration.

Civil society organizations played an active and constructive role in all WGA sessions, strongly endorsing the harmonization proposal and calling for decisive action to close accountability gaps related to the crime of aggression. These organizations emphasized that harmonization is essential for upholding the principle of equal justice, ensuring that victims of aggression have access to meaningful accountability, and preserving the ICC's normative consistency and global standing. They unequivocally stated that harmonization was not merely a technical or legal exercise, but a human rights and justice imperative. In their view, victims of aggression, like those of genocide or war crimes, deserve access to justice and accountability mechanisms that do not depend on whether their State has accepted a specific jurisdictional clause.

#### **4. Deliberations concerning harmonization**

Delegations discussed the proposal to revise article 15 *bis* of the Rome Statute to align the jurisdictional regime for the crime of aggression with that of the other three core crimes.

States Parties engaged in substantive legal discussion on the nature, scope, and effects of the proposed amendment. Several key questions framed the debate:

- *Whether the proposal was an amendment to the Rome Statute itself or a revision of the Kampala Amendments*

This question was viewed as central to determining the applicable amendment procedure. If the proposal amends the Rome Statute directly, particularly its procedural and jurisdictional provisions, then the process would likely fall under article 121. However, if it is interpreted as merely amending the Kampala Amendments, it may be treated differently, though this distinction was viewed by

some as legally ambiguous. The view was expressed that the exercise would consist in amending a provision in the Rome Statute as amended, *i.e.* article 15 *bis*. Since this provision is in itself a product of the Kampala Amendments, which were adopted by consensus, delegations of all States parties have an invested interest in the review process and are thus entitled to participate in it.

- *Whether the proposal would create a new legal regime or replace the existing dual-regime structure*

Some delegations raised concerns about whether harmonization would inadvertently introduce a third category of legal obligations, especially for States that have not ratified the Kampala Amendments. They questioned whether this would further complicate the legal framework and risk undermining the very coherence the proposal seeks to achieve.

- *Whether the amendment would modify the definition of the crime of aggression*

Proponents of harmonization clarified that the proposal would not alter the definition of the crime of aggression in article 8 *bis*, nor other achievements of the Kampala Review Conference. Instead, it targeted only jurisdictional procedures, primarily paragraphs 4 and 5 in article 15 *bis*. This distinction was important, since changes to jurisdiction are generally understood to fall outside the scope of article 121(5), which applies exclusively to the definitions of crimes.

- *Legal consequences for States Parties that have not ratified or accepted the Kampala Amendment*

The WGA discussed whether harmonization would automatically bind non-ratifying States, or if it would require them to undertake specific acts of consent. Some delegations cautioned that automatic application could raise concerns about legitimacy or infringe on sovereignty, while others posited that a harmonized regime must necessarily extend to all States Parties to achieve its intended purpose.

- *Whether the opt-out mechanism under article 15 bis (4) should be retained*

The removal of the opt-out clause is an important aspect of the proposal. Proponents argued that the opt-out clause undermined the principle of equal treatment under international law and permitted selective justice. On the other hand, some States highlighted that the clause was part of a hard-won compromise during the Kampala negotiations and that caution should be exercised regarding its removal.

- *Whether the new amendments would create legal obligations for non-parties*

Proponents highlighted that in order to close the accountability gap, the jurisdictional regime for the crime of aggression should be unified with the one for the other three core crimes. In doing so, the amendments would allow the Court to exercise its jurisdiction, in certain conditions, over the crime of aggression, even when committed by nationals of a State that is not a party to the Statute or when committed on its territory, just like it has always been the case with regard to the other core crimes.

## 5. Specific questions arising with regard to the proposed amendment

While there was support for harmonization by many States Parties, other States called for detailed legal clarification before proceeding with any formal amendment. The procedural distinction between articles 121(4) and 121(5), and the practical implications for ratification and enforcement constituted a source of uncertainty.

Some delegations also stressed the importance of ensuring that any amendment process is inclusive, transparent, and consensus-based. Other States advocated for a phased or step-by-step approach, allowing States to examine the implications more closely and avoid unintended consequences.

### **5.1. Strategic approaches to achieve harmonization and timeliness**

A number of delegations advocated for a pragmatic or phased approach, whereby an incremental pathway could allow States Parties to build confidence and consensus without overcommitting prematurely. This might involve identifying common ground on legal principles first, followed by negotiations on procedural specifics. Others argued for maintaining the momentum toward a full, single-step amendment, noting that any halfway measures could reinforce legal fragmentation and delay the harmonization objective indefinitely.

In this context a group of delegations circulated a paper<sup>4</sup> whereby they proposed a programme of work for the Special Session which begins with considering the progress made to date with respect to the Kampala amendments on the crime of aggression, to understand the challenges faced by States in ratifying and implementing them, share lessons learned and discuss related issues, including complementarity, cooperation and universality.

Delegations expressed the view that procedural missteps or lack of clarity could lead to division within the Court's membership, diminish trust in the amendment process, and compromise the legitimacy of the Special Session outcomes.

For their part, other delegations expressed concerns that failing to act on harmonization could entrench the existing fragmentation, making it increasingly difficult to unify the regime in the future. The view was expressed that by failing to adopt harmonization at this juncture the ASP would be sending the wrong message to world public opinion.

### **5.2. Effect of the amendment on States Parties**

Another question involved whether an amendment, once adopted, would be binding on all States Parties, including those that had not ratified the Kampala Amendments. A number of delegations insisted on clarity about the implications for non-ratifying States, particularly whether they would be legally bound by a jurisdictional regime they had not previously accepted.

Regarding the impact on future States Parties, it was posited that the proposed amendment raised questions about its applicability to States that accede to the Rome Statute after the amendment entered into force. Participants debated whether these States would be required to accept the amendment as part of the Statute, or whether they could theoretically join the Rome Statute without being bound by the harmonized jurisdictional provisions on the crime of aggression.

Some States viewed this as especially important for long-term institutional coherence. Some argued that future States Parties should automatically be bound by the amended version of the Statute, ensuring consistency and closing gaps from the outset. Others emphasized the need for legal clarity to prevent situations in which new States could selectively adhere to parts of the Statute, thus perpetuating fragmentation.

A further complexity stemmed from the relationship between the proposed amendment and the existing Kampala Amendments. Questions included whether a

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<sup>4</sup> Paper titled "Non-paper submitted by Canada, France, Japan, New Zealand and the United Kingdom (June 2025) - Special session on the review of the amendments on the crime of aggression".

harmonization amendment must be accepted only by States that have ratified the Kampala Amendments; whether it could function independently and override the Kampala regime altogether; and whether it would effectively replace the Kampala provisions within a revised article 15 *bis* framework.

### 5.3. Entry into force and ratification procedures

The WGA considered the procedural dimension of the proposed amendment to article 15 *bis*, in relation to entry into force and ratification procedures. While there was acknowledgment that harmonization of the jurisdictional regime for the crime of aggression was desirable, views diverged significantly on the appropriate mechanisms for the entry into force of the amendment and how it should be applied to existing and future States Parties.

A key legal question concerned the applicability of the amendment procedures outlined in articles 121(4) and 121(5) of the Rome Statute. It was noted that article 121(4) pertains to general amendments not related to articles 5, 6, 7 and 8, *i.e.* the provisions containing the definitions of the crimes under the Court's jurisdiction. Under this provision, an amendment shall enter into force for all States Parties once it has been ratified by seven-eighths of them (109 States under present conditions). This route imposed a high threshold but ensured uniform application once reached.

Further, article 121(5) on its face applied solely to amendments to the articles governing the definition of the core crimes, including the 2010 Kampala Amendments. Under this article, an amendment binds only those States Parties that have formally accepted it or ratified it, one year after they have done so.

On the question of which procedure applied to legal interpretations, some States viewed the proposal as a jurisdictional amendment, thus placing it squarely under the scope of article 121(4). However, some concerns were raised about the high ratification threshold of article 121(4). Some delegations questioned whether this level of consensus was achievable, given the limited number of ratifications of the Kampala Amendments over the last 15 years (48 States). Others viewed the high threshold as an appropriate safeguard for ensuring legitimacy and legal certainty. The view was also expressed that under the formula of article 121(4) when that threshold is reached an amendment would enter into force even for States that have not accepted or ratified it and that this would pose a serious legal difficulty for those States who by that time had not joined the Kampala Amendments. They would become bound by the new amendment without having accepted, yet the definition of the crime and the other provisions agreed on at Kampala, which would make it virtually impossible for the Court to proceed.

The view was also expressed that the States Parties, meeting in the format of ASP, possess the legal authority of their own to design an alternative procedure to govern the entry into force of any amendment to the treaty they decide to adopt. Reference was made in this context to the notions of “subsequent practice” and “subsequent agreements” that under the Law of Treaties should be taken into consideration when interpreting a treaty and to the fact that, to a large extent, this is what the Review Conference itself did at Kampala. However, it was noted that only a decision adopted by consensus could be regarded as a “subsequent agreement” or “subsequent practice” within the meaning of article 31 of the Vienna Convention on the Law of Treaties.

## 6. Discussion on the draft resolution by Liechtenstein

At its 9 June 2025 meeting, the WGA had before it a paper entitled “Draft resolution on the Crime of Aggression, article 15 *bis* Rome Statute”, dated 5 June 2025, submitted by Liechtenstein. The draft contained two annexes: annex I, setting out the proposal for

amendment to article 15 *bis* and annex II, reproducing the text of the Kampala Amendments on the Crime of Aggression.

By virtue of this resolution, the Special Session would, *inter alia*, (i) *adopt* the amendment to article 15 *bis* of the Rome Statute of the International Criminal Court, contained in annex I, which would be subject to ratification or acceptance and shall enter into force for those States Parties which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance; (ii) *confirm* that States Parties that have ratified or accepted the Kampala Amendments before the date of the adoption of this resolution continue to be bound by article 15 *bis*, paragraphs 4 and 5 of the Rome Statute as adopted by the Review Conference under resolution RC/Res.6 (2010), until the amendment contained in annex I enters into force for them; and (iii) *agree* that for States Parties that have not ratified or accepted the Kampala Amendments before the date of the adoption of this resolution, the amendment set out in annex I shall be open for ratification or acceptance together with the amendment contained in annex II.

In response to the request by the Chair, some States submitted comments on the Draft Resolution on the Crime of Aggression. Those States made overall observations on the proposed amendment and related resolution, and expressed that formally considering an amendment to the Rome Statute's aggression provisions before we have had an opportunity to hear from all States Parties on this issue at the Special Session, and before agreement is reached on the need to further amend these provisions, would prejudice the review exercise mandated by the Assembly of States Parties. It was also said that there was a danger that by modifying article 15 *bis* the ASP would in effect be amending other provisions in the Rome Statute, such as article 12(3).

Other delegations submitted statements voicing support for the draft resolution text.

At its 1 July meeting, the Group accomplished a second reading of the draft resolution and introduced some modifications of language. Some delegations made the point that at this stage they could not join consensus on the basis of the draft. They stressed that their willingness to participate in the discussion was entirely without prejudice to any decision that the ASP could take concerning this and all other matters before it.

A version of the revised draft resolution, as discussed in the WGA, is enclosed (annex I).

## **7. Discussion on the draft resolution by Canada, France, Japan, New Zealand and the United Kingdom**

At its 6th meeting, held on 1 July 2025, the WGA had before it a paper entitled "SS/Res.X The review of the amendments on the crime of aggression", dated 27 June 2025, submitted by Canada, France, Japan, New Zealand and the United Kingdom (annex II).

By virtue of this alternative draft resolution, the Special Session would, *inter alia*, (i) *acknowledge* the on-going discussions between States Parties on key aspects related to the proposal to amend article 15*bis* of the Rome Statute, including the range of views expressed on the advisability of amending article 15 *bis* and the implications of harmonizing the jurisdiction of the Court with respect to the crime of aggression; (ii) *agree* that additional time is required to allow for further dialogue, with a view to reaching consensus on potential amendments to the Rome Statute, bearing in mind the complexity and importance of the issue at hand; and (iii) *decide* that it shall convene a Review Conference to consider this proposal upon ratification of the Kampala Amendments [by two-thirds of State Parties].

At its 1 July meeting, the proponents of this alternative draft resolution introduced it, underlining that their main purpose was to achieve consensus at the Special Session. They

argued that the draft resolution presented by the proponents of harmonization was not acceptable for all delegations and thus did not enjoy consensus.

Some delegations stated that they would have preferred to consider proposals to adjust the draft resolution presented by Liechtenstein, rather than an alternative text altogether, and reiterated that in their view only the first draft provided a good basis for the upcoming discussions at the Special Session. They underlined that the alternative text had been submitted at the latest possible moment and that their experts and capitals had had no time to study it at all. For this reason, they did not feel they could pronounce on the proposed text at this stage.

### **Recommendation**

The Working Group on Amendments submits to the Special Session this overview of its work pursuant to the mandate of resolution ICC-ASP/23/Res.1, and recommends that the ASP gives due consideration to the issues discussed and to the two draft outcome resolutions presented before the Group.



## Annex I

### Draft resolution on the crime of aggression

#### Article 15bis, Rome Statute<sup>1</sup>

*The Assembly of States Parties to the Rome Statute,*

*Recalling* that in resolution RC/Res.6 (2010), the Review Conference adopted a set of amendments pursuant to article 5(2) of the Rome Statute (“the Kampala Amendments”), and that the Review Conference decided to review these amendments seven years after the beginning of the Court’s exercise of jurisdiction over the crime of aggression,

*Noting* that in resolution ICC-ASP/16/Res.5 (2017), the Assembly of States Parties decided to activate the Court’s jurisdiction over the crime of aggression as of 17 July 2018,

*Noting* that, since the activation decision, under the current conditions for the exercise of the Court’s jurisdiction over the crime of aggression, no investigation has been commenced with regard to this crime,

*Noting further* that, to date, out of 125 States Parties to the Rome Statute, 48 have ratified or accepted the Kampala amendments, which are the most widely ratified amendments to the Rome Statute,

*Confirming* that, in light of the Vienna Convention on the Law of Treaties, States that subsequently become States Parties to the Statute will be allowed to decide whether to ratify or accept the amendments contained in annexes I and II of the present resolution at the time of ratification, acceptance, or approval of, or accession to the Statute,

*Concerned* that under the existing regime, incorporated in the Rome Statute as amended, the crime of aggression is subject to conditions for the exercise of the Court’s jurisdiction that differ from those applicable to the other core crimes under its jurisdiction,

*Resolved* to ensure that the same jurisdictional regime for the Court’s exercise of jurisdiction applies to all crimes included in the Rome Statute.,

*Bearing in mind* relevant provisions of the Rome Statute as amended, in particular article 5, article 8bis, article 12, article 15bis, article 15ter and article 121,

1. *Decides* to adopt the amendments to article 15bis of the Rome Statute of the International Criminal Court contained in annex I to the present resolution, which refer exclusively to the exercise of the Court’s jurisdiction over the crime of aggression;
2. *Clarifies* that the present amendments do not modify any other provision of the Rome Statute;
3. *Resolves* that the amendments contained in annex I to the present resolution are subject to ratification or acceptance and shall enter into force for those States Parties which have ratified or accepted the amendments one year after the deposit of their instruments of ratification or acceptance;
4. *Confirms* that States Parties that had ratified or accepted the Kampala amendment on the date of the adoption of the present resolution continue to be bound by article 15bis, paragraphs 4 and 5, of the Rome Statute as adopted by the Review Conference under resolution RC/Res.6 (2010), until the amendments contained in annex I enter into force for them;
5. *Agrees* that for States Parties that had not ratified or accepted the Kampala amendment on the date of the adoption of the present resolution, the amendments contained in annex I shall be open for ratification or acceptance together with the amendments contained in annex II;
6. *Calls upon* all States Parties to ratify or accept the amendments contained in annexes I and II of the present resolution;
7. *Further calls upon* all States that have not done so to ratify or accede to the Rome Statute as amended.

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<sup>1</sup> Issued as ICC-ASP/S-1/L.3.

## Annex I

### Amendments to article 15 *bis* of the Rome Statute

*Article 15bis (4) and (5) are replaced by the following text inserted after article 15bis (3):*

4. The Court may, in accordance with article 12, exercise jurisdiction over a crime of aggression if one or more of the following States have ratified or accepted the aggression amendments, or have accepted the exercise of the jurisdiction of the Court over the crime of aggression in accordance with paragraph 5:

(a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft;

(b) The State of which the person accused of the crime is a national.

5. If the acceptance of a State that has not ratified or accepted the aggression amendments, or that is not a Party to this Statute, is required under paragraph 4, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court over the crime of aggression in accordance with article 12, paragraph 3.

## Annex II

### Resolution RC/Res.6<sup>1</sup>

*Adopted at the 13th plenary meeting, on 11 June 2010, by consensus*

#### Annex I

### Amendments to the Rome Statute of the International Criminal Court on the crime of aggression

1. *Article 5, paragraph 2, of the Statute is deleted.*
2. *The following text is inserted after article 8 of the Statute:*

#### **Article 8bis** **Crime of aggression**

1. For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.

2. For the purpose of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

- (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- (c) The blockade of the ports or coasts of a State by the armed forces of another State;
- (d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

- (e) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
- (f) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

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<sup>1</sup> See Depositary Notification C.N.651.2010 Treaties-8, dated 29 November 2010, available at <http://treaties.un.org>.

3. *The following text is inserted after article 15 of the Statute:*

### **Article 15 bis**

#### **Exercise of jurisdiction over the crime of aggression (State referral, *proprio motu*)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraphs (a) and (c), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.
4. The Court may, in accordance with article 12, exercise jurisdiction over a crime of aggression, arising from an act of aggression committed by a State Party, unless that State Party has previously declared that it does not accept such jurisdiction by lodging a declaration with the Registrar. The withdrawal of such a declaration may be effected at any time and shall be considered by the State Party within three years.
5. In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State's nationals or on its territory.
6. Where the Prosecutor concludes that there is a reasonable basis to proceed with an investigation in respect of a crime of aggression, he or she shall first ascertain whether the Security Council has made a determination of an act of aggression committed by the State concerned. The Prosecutor shall notify the Secretary-General of the United Nations of the situation before the Court, including any relevant information and documents.
7. Where the Security Council has made such a determination, the Prosecutor may proceed with the investigation in respect of a crime of aggression.
8. Where no such determination is made within six months after the date of notification, the Prosecutor may proceed with the investigation in respect of a crime of aggression, provided that the Pre-Trial Division has authorized the commencement of the investigation in respect of a crime of aggression in accordance with the procedure contained in article 15, and the Security Council has not decided otherwise in accordance with article 16.
9. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
10. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

4. *The following text is inserted after article 15 bis of the Statute:*

### **Article 15ter**

#### **Exercise of jurisdiction over the crime of aggression (Security Council referral)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraph (b), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.

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4. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
  5. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.
  5. *The following text is inserted after article 25, paragraph 3, of the Statute:*
    - 3 *bis*. In respect of the crime of aggression, the provisions of this article shall apply only to persons in a position effectively to exercise control over or to direct the political or military action of a State.
  6. *The first sentence of article 9, paragraph 1, of the Statute is replaced by the following sentence:*
    1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7, 8 and 8 *bis*.
    7. *The chapeau of article 20, paragraph 3, of the Statute is replaced by the following paragraph; the rest of the paragraph remains unchanged:*
      3. No person who has been tried by another court for conduct also proscribed under article 6, 7, 8 or 8 *bis* shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:

## Annex II

### Draft resolution

#### The review of the amendments on the crime of aggression<sup>\*</sup>

*The Special Session of the Assembly of States Parties,*

*Recalling* the aims and purposes of the Rome Statute and *recognizing* that crimes within the jurisdiction of the International Criminal Court (“the Court”) threaten the peace, security and well-being of the world and, in consequence, that these are values protected by the Rome Statute,

*Convinced* that the Court is of paramount importance in ending impunity for the most serious crimes of concern to the international community, and preventing their recurrence, thus contributing to the preservation of peace,

*Reaffirming* our continued and unwavering support for the independence, impartiality, and integrity of the ICC and acknowledging with regret the unprecedented challenges the Court faces,

*Further reaffirming* the purposes and principles of the Charter of the United Nations, including the role of the UN Security Council in determining acts of aggression under Article 39 of the Charter,

*Recalling* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime;<sup>1</sup>

*Also recalling* the decision at the Kampala Review Conference to adopt the amendments to the Rome Statute on the crime of aggression, and in this regard *recalling* resolution RC/Res.6, of 11 June 2010, which was adopted by consensus,

*Further recalling* resolution ICC-ASP/16/Res.5 on the activation of the jurisdiction of the Court over the crime of aggression as of 17 July 2018, adopted by consensus, including paragraph 2 thereof, wherein it was agreed that, in accordance with the Rome Statute, the amendments adopted at Kampala enter into force for those States Parties which have accepted the amendments one year after the deposit of their instruments of ratification or acceptance, and that in the case of a State referral or proprio motu investigation, the Court shall not exercise its jurisdiction regarding a crime of aggression when committed by a national or on the territory of a State Party that has not ratified or accepted these amendments,

*Emphasizing* the decision taken by the first Review Conference to review the amendments on the crime of aggression seven years after the beginning of the Court’s exercise of jurisdiction<sup>2</sup> and the decision by the Assembly that this review is to be prepared ahead of 17 July 2025;<sup>3</sup>

*Expressing its appreciation* to the Chair of the Working Group of Amendments for convening regular meetings of the Working Group to facilitate discussions on the Kampala amendments on the crime of aggression in preparation of the Special Session of the Assembly, in accordance with the decision to Review the Kampala amendments;

*Further expressing its appreciation* to the President of the Assembly, with support of the Bureau, for the preparations for the review of the amendments on the crime of aggression, including practical and organizational issues;

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<sup>\*</sup> Issued as ICC-ASP/S-1/L.4.

<sup>1</sup> *Official Records ... Review Conference ... 2010 (RC/11)*, part II, RC/Res.6.

<sup>2</sup> *Ibid.*, paragraph 4.

<sup>3</sup> ICC-ASP/22/Res.3, para. 157.

*Taking note* of the communication of the Secretary General of the United Nations dated 7 April 2025 containing a proposal of amendment of article 15 *bis* of the Rome Statute,

*Having reviewed* at the present Special Session the amendments on the crime of aggression, in accordance with paragraph 4 of resolution RC/Res.6, and *noting* the lessons learned from the Kampala amendments, including the ratification procedures and their implementation,

*Further noting* the discussions on key aspects pertaining to the proposal to amend article 15 *bis* of the Rome Statute,

1. Notes that, as of the date of the adoption of this resolution, [48] of the 125 States Parties to the Rome Statute have ratified the crime of aggression amendments;
  2. Underscores the importance of continuing to promote the universality of the Rome Statute;
  3. Acknowledges the challenges faced by States in implementing the amendments on the crime of aggression;
  4. Recognizes the need for enhancing the institutional dialogue with the United Nations, including on situations involving the maintenance of international peace and security which are subject to the jurisdiction of the Court;
  5. Reaffirms the principle of complementarity as enshrined in the Rome Statute, and recalls the primary responsibility of States to genuinely investigate and prosecute the most serious crimes of international concern;
  6. Renews its call upon all States Parties which have not yet done so to consider ratifying or accepting the amendments to the Rome Statute on the crime of aggression,
  7. Acknowledges the on-going discussions between States Parties on key aspects related to the proposal to amend article 15 *bis* of the Rome Statute, including the range of views expressed on the advisability of amending article 15 *bis* and the implications of harmonizing the jurisdiction of the Court with respect to the crime of aggression;
  8. Agrees that additional time is required to allow for further dialogue, with a view to reaching consensus on potential amendments to the Rome Statute, bearing in mind the complexity and importance of the issue at hand;
  9. Decides that it shall convene a Review Conference to consider this proposal upon ratification of the Kampala Amendments [by two-thirds of State Parties].
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