
Seventh session

The Hague

14 - 22 November 2008

**Report of the Bureau on the Plan of action for achieving universality
and full implementation of the Rome Statute
of the International Criminal Court**

Note by the Secretariat

Pursuant to paragraph 3 of resolution ICC-ASP/6/Res.2, of 14 December 2007, the Bureau of the Assembly of States Parties hereby submits, for the consideration of the Assembly, its report on the Plan of action for achieving universality and full implementation of the Rome Statute. The report reflects the outcome of discussions held by the New York Working Group of the Bureau, pursuant to the mandate assigned to it by the Bureau at its eighteenth meeting, on 14 December 2007.

Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court

Introduction

1. At its fifth session, the Assembly of States Parties adopted, by consensus, the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court¹ (hereinafter “the Plan of action”).
2. At its sixth session, the Assembly welcomed the report² of the Bureau on the Plan of action, endorsed the recommendations contained therein and requested the Bureau to continue to monitor its implementation and to report thereon to the Assembly during its seventh session.³
3. At its fourth meeting, on 29 April 2008, the Bureau of the Assembly appointed Mr. Marcelo Böhlke (Brazil) facilitator for the Plan of action.
4. The Plan of action requires States Parties to proactively promote universality and full implementation of the Rome Statute through bilateral and regional relationships, including by convening and supporting seminars and other events, disseminating information about the Court, providing technical and financial assistance to States wishing to become parties to the Rome Statute, providing information to the Secretariat of the Assembly of States Parties (“the Secretariat”) and cooperating with the Court. Furthermore, it requires the Secretariat to support States in their efforts to promote universality and full implementation of the Statute by acting as a focal point for information exchange, within existing resources, including by collecting and ensuring dissemination of such information. It also requires the Assembly, through its Bureau, to keep the Plan of action under review.
5. The Plan of action has been under consideration by the New York Working Group of the Bureau, but there have also been consultations in The Hague in order to keep delegates, Court officials, members of civil society and other interested parties based in the Netherlands up to date on the progress in the discussions on the Plan of action and to receive their suggestions, comments and recommendations. As the Plan of action and the discussion on the issue of cooperation are in some respects interconnected, the facilitator for the Plan of action and the focal point on cooperation under the aegis of The Hague Working Group have been in consultation on the best way to advance the matter.

Informal consultations

6. The facilitator has held informal consultations with numerous actors in different forums. Between May and September 2008, the facilitator convened two open meetings in New York, on 21 May and 3 June, and one in The Hague, on 30 July. With a view to involving as many interested actors as possible, representatives of States Parties, non-States Parties, the Secretariat, international organizations, the Court and civil society were invited to participate in the deliberations. This broad participation contributes to the achievement of both objectives of the Plan of action: universality and full implementation of the Rome Statute.

¹*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November - 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, paragraph 2 and annex I.

² ICC-ASP/6/23.

³*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November - 14 December 2007* (International Criminal Court publication, ICC-ASP/6/20), vol. I, part III, resolution ICC-ASP/6/Res.2, paragraph 3 and annex I.

7. The informal consultations held on 21 May focused on the presentation of the Plan of action, the mandate and programme of work of the facilitator, the status of ratification and implementation of the Rome Statute and the progress achieved since the adoption of the Plan of action. Delegations were given an opportunity to express their views on how to move forward.

8. At the informal consultations held on 3 June, during the resumed sixth session of the Assembly, the main topic considered was cooperation towards ensuring universality and full implementation of the Rome Statute. Representatives of the Secretariat, the Coalition for the International Criminal Court, the Presidency of the European Union, the International Committee of the Red Cross and the United Nations Treaty Section commented on their work on cooperation. Delegations from some States Parties presented information on their activities in this field. The focal point on cooperation also participated in the debate.

9. Although the Plan of action had been considered by the New York Working Group, interaction with delegates in The Hague was also considered necessary. The facilitator held informal consultations at the seat of the Court on 30 July, at which he briefed participants on the work done in New York on the Plan of action. The participation of the Registrar, the focal point on cooperation and delegations resulted in a fruitful exchange of views and ideas.

10. In addition to the open meetings, the facilitator held many bilateral consultations, both in New York and in The Hague. The facilitator's three main objectives were to:

- (a) Gather information on States' interest in ratifying or acceding to the Rome Statute and on the status of national implementation of the Statute, and any difficulties they might be encountering in those endeavours;
- (b) Try to bridge the gap between those actors who could provide technical and financial assistance and those who might need it; and
- (c) Continue the discussions on how best to approach and promote universality and full implementation of the Rome Statute.

11. The facilitator met State representatives, members of civil society, international organizations and the Secretariat. In these bilateral contacts, the facilitator had the invaluable assistance of the representative of Costa Rica, who also contacted a number of delegations and provided concrete ideas on how to implement the Plan of action. The assistance from a regional focal point proved to be beneficial to the work on the Plan of action and could be replicated in other regions.

Findings

12. At the informal consultations held on 30 July in The Hague, it was noted that the number of States Parties to the Rome Statute had increased to 108 as a result of the accession of Suriname and the Cook Islands on 15 and 18 July 2008, respectively. While the accession of these States represented a significant contribution to the universality of the Statute, the view was expressed that additional efforts still had to be made to ensure that the number of States Parties continued to increase.

13. States Parties were encouraged to promote the universality and full implementation of the Rome Statute in all international forums, including in their bilateral, regional and multilateral relations. Promotion of the Rome Statute could include references to the work of the Court in official statements, agendas and documents, but also the convening of special sessions and events on the topic. In the multilateral field, initiatives taken by the European Union, the Organization of American States and the Community of Portuguese Speaking Countries were mentioned.

14. As the Court is a relatively new institution compared with some other courts, such as the International Court of Justice, the dissemination of information on its mandate and activities was fundamental to achieving both universality and full implementation of the Rome Statute. Further, it was suggested that States Parties and the Secretariat should continue their efforts to disseminate information about the Rome Statute, including the structure of the Court and its jurisdiction. It was noted that capacity-building remained essential to ensure that government officials, members of parliament and the judiciary were fully aware of the work of the Court.

15. Although some States had provided the Secretariat with information relevant to the promotion of ratification or accession and full implementation of the Rome Statute, others had not yet done so. The information had been requested by the Secretariat in notes verbales ICC-ASP/6/S/20 and ICC-ASP/7/S/PA/21, dated 25 July 2007 and 15 April 2008, respectively, conveyed pursuant to paragraph 6 (h) and paragraph 7 of the Plan of action and paragraphs 6 and 7 of the recommendations contained in annex I to resolution ICC-ASP/6/Res.2. Some delegations suggested that the Secretariat should compile the information in a single document and consider the possibility of circulating the text in all official languages, bearing in mind the limitations of its existing resources. The replies received are available on the Court's website.⁴ Given the objectives of the Plan of action, States Parties should endeavour to make the information widely available.

16. The information requested by the Secretariat included: information on obstacles to ratification or full implementation encountered by States; national or regional strategies or plans of action to promote ratification and/or full implementation; technical and other assistance needs and delivery programmes; planned events and activities; examples of implementing legislation; bilateral cooperation agreements between the Court and States Parties; solutions to constitutional issues arising from ratification; and national contact points for matters relating to promotion of the ratification and full implementation of the Statute.

17. Some delegations described difficulties that had arisen in the adaptation of national legislation to comply fully with the obligations established under the Rome Statute. Some States acknowledged that they required financial or technical assistance in this regard. It was noted that cooperation with States that shared similar legal systems could be important, as they could exchange experiences and draft implementing legislation.

18. As regards cooperation, it was emphasized that there were different actors providing assistance, including States Parties, international organizations, non-governmental organizations and other relevant entities, such as the International Committee of the Red Cross through its Advisory Service on International Humanitarian Law.

19. The point was made that while there were several initiatives worldwide aimed at ensuring universality and full implementation of the Rome Statute, coordination and information sharing among the various actors still needed to be improved. The information provided to the Secretariat represented only some of the action taken in that regard, since other entities were also working towards the same objective.

20. It was noted that some States might be awaiting the results of the Review Conference in order to take a decision on ratifying or acceding to the Rome Statute. As stated in the 2007 report of the Bureau on the Plan of action,⁵ it was very important to allow for greater participation of all States in the deliberations on the crime of aggression, which was likely to be one of the most important issues to be discussed during the Review Conference.

⁴ <<http://www.icc-cpi.int>> under "Assembly of States Parties".

⁵ ICC-ASP/6/23.

21. Some delegations expressed the view that the Plan of action should be reviewed in the near future with a view to adapting it to challenges. Other delegations affirmed that the Plan of action was still the best way to address universality and full implementation of the Rome Statute and that all States Parties should take effective steps to implement the recommendations contained therein.

Recommendations

To States Parties

1. To continue to promote, as far as possible, the universality and full implementation of the Rome Statute in their bilateral, regional and multilateral relationships;
2. To continue their efforts to disseminate information on the Court at the national and international level, including through events, seminars, publications, courses and other initiatives that may raise awareness about the work of the Court;
3. To continue to provide the Secretariat with updated information relevant to the universality and full implementation of the Rome Statute, including current contact information on national focal points;
4. To continue to provide, wherever possible, technical and financial assistance to States wishing to become parties to the Statute and to those wishing to implement the Statute in their national legislation;
5. To continue to cooperate with the Court so that it can fulfil its functions accordingly.

To the Secretariat of the Assembly of States Parties

6. To continue to support States in their efforts to promote universality and full implementation of the Rome Statute by acting as a focal point for information exchange and by making available updated information on this matter, including on the website of the Court.

To the Assembly of States Parties

7. To continue to monitor closely the implementation of the Plan of action.