

Resolution ICC-ASP/11/Res.8

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.8

Strengthening the International Criminal Court and the Assembly of States Parties

The Assembly of States Parties,

Mindful that each individual State has the responsibility to protect its population from genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

Convinced that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

Convinced also that there can be no lasting peace without justice and that peace and justice are thus complementary requirements,

Convinced further that justice and the fight against impunity are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

Welcoming the Court's central role as the only permanent international criminal court within an evolving system of international criminal justice,

Underscoring the importance of the tenth anniversary of the entry into force of the Rome Statute and the establishment of the International Criminal Court in 2012 and the contribution of the International Criminal Court to guarantee lasting respect for and the enforcement of the international justice,

Noting the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

Underscoring its respect for the judicial independence of the Court and its commitment to ensuring respect for and the implementation of its judicial decisions,

Taking note with appreciation of the annual United Nations General Assembly resolutions concerning the Court,

Recalling the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, as well as the renewed spirit of cooperation and solidarity and the firm commitment to fighting impunity for the most serious crimes of international concern to guarantee lasting respect for the enforcement of international criminal justice, reaffirmed by the States Parties in the Kampala Declaration,

Recalling the decision by the Assembly of States Parties (“the Assembly”) to establish a representation of the Court at the African Union Headquarters in Addis Ababa,¹

Reiterating that the presence of a liaison office of the Court at the Headquarters of the African Union in Addis Ababa would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

¹ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II, ICC-ASP/8/Res.3, para. 28.

Appreciating the invaluable assistance that has been provided by civil society to the Court,

Conscious of the importance of equitable geographical representation in the organs of the Court, and in the work of the Assembly and its subsidiary bodies,

Conscious also of the importance of gender balance in the organs of the Court, and to the extent possible, in the work of the Assembly and its subsidiary bodies,

Mindful of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

Recognizing that victims' rights to equal and effective access to justice protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, and *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims,

Conscious of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

Conscious of the risks faced by personnel of the Court in the field,

Recalling that the Court acts within the constraints of an annual programme budget approved by the Assembly,

Rome Statute of the International Criminal Court

1. *Welcomes* the State that has become a Party to the Rome Statute of the International Criminal Court since the tenth session of the Assembly and *invites* States that are not yet parties to the Rome Statute to become so as soon as possible;
2. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia, with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;
3. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as appropriate;
4. *Welcomes* the report of the Bureau regarding the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute,² *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly of States Parties, the Assembly of States Parties, States Parties, and of the civil society to enhance the effectiveness of universality related efforts and to encourage States to become parties to the Rome Statute, *endorses* the recommendations of the report, and *requests* the Bureau to continue to monitor its implementation and to report thereon to the Assembly during its twelfth session;

Cooperation

5. *Notes* its resolution ICC-ASP/11/Res.5 on cooperation;

² Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/11/26).

6. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, *encourages* cooperation between States Parties to the Rome Statute particularly in situations where it is being challenged, *further calls upon* States Parties to continue and strengthen their efforts to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing legislation, enforcement of Court decisions and execution of arrest warrants;
7. *Encourages* States Parties to express their political and diplomatic support to the Court;
8. *Calls upon* States Parties to give concrete expression in actions to the commitments made in the statements, declarations and pledges made at Kampala;
9. *Recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2, and *encourages* States Parties and the Court to consider further measures to enhance their implementation;
10. *Recognizes* the negative impact that the non-execution of Court requests can have on the ability of the Court to execute its mandate, *welcomes* the report of the Bureau on non-cooperation,³ *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders, in accordance with the Bureau procedures on non-cooperation, both to prevent instances of non-cooperation and to follow up on a matter of non-cooperation referred by the Court to the Assembly, and *decides* to amend paragraph 16 of the Assembly procedures on non-cooperation⁴ as reflected in annex I to this resolution;

Agreement on Privileges and Immunities

11. *Welcomes* the States Parties that have become a Party to the Agreement on the Privileges and Immunities of the International Criminal Court and *calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to this Agreement as a matter of priority and to incorporate it in their national legislation, as appropriate;
12. *Recalls* that the Agreement on the Privileges and Immunities of the International Criminal Court and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation and *calls upon* States that have not yet become parties to this Agreement to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;
13. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on the Privileges and Immunities of the International Criminal Court in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

Host State

14. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters agreement and *notes with appreciation* the ongoing commitment of the host State to the Court with a view to its more efficient functioning;

³ ICC-ASP/11/29.

⁴ *Official Records ... Tenth session ... 2011*, (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, annex.

Relationship with the United Nations

15. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals,
16. *Welcomes* the exchange of views arising from the open debate of the Security Council on “Peace and Justice with a Special Focus on the Role of the International Criminal Court” of 17 October 2012 and *encourages* further developments in this regard;
17. *Invites* the Court to continue its institutional dialogue with the United Nations, and to report on the status of ongoing cooperation between the two organizations, including in the field, based on the Relationship Agreement between the United Nations and the International Criminal Court, to the twelfth session of the Assembly;

Strengthening of the International Criminal Court

18. *Takes note* of the statements presented to the Assembly by the heads of the organs of the Court, including the President, the Prosecutor and the Registrar, as well as by the Chair of the Board of Directors of the Trust Fund for Victims, the Chair of the Committee on Budget and Finance, and the Chair of the Oversight Committee on permanent premises;
19. *Takes note* of the latest report on the activities of the Court to the Assembly;⁵
20. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court’s activities including its preliminary examinations, investigations and judicial proceedings in various situations which either States Parties or the United Nations Security Council⁶ referred to the Court or which the Prosecutor initiated proprio motu;
21. *Takes note* of the experience already gained by other relevant international organizations in solving operational challenges similar to those encountered by the Court and, while reiterating its respect for the independence of the Court, *invites* the Court to continue to take note of best practices of other relevant international organizations and tribunals;
22. *Takes note of* the report of the Working Group of the Bureau on the Advisory Committee on Nominations,⁷ *welcomes* the appointment of the nine members of the Advisory Committee as recommended by the Working Group, and *requests* the Advisory Committee to report to the twelfth session on the progress of its work;
23. *Emphasizes* the importance of nominating and electing the most highly qualified judges in accordance with article 36 of the Rome Statute; for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates, and *decides* to continue to review the procedure for the election of judges as set forth in section B of the resolution ICC-ASP/3/Res.6 on the occasion of future elections with a view to making any improvements as may be necessary, and *requests* the Bureau to report thereon to the Assembly at its twelfth session;
24. *Welcomes* the election of the Deputy Prosecutor of the International Criminal Court;
25. *Notes* the process established by the Bureau of the Assembly of States Parties for the election of the second Prosecutor of the International Criminal Court and *requests* the Bureau to finalize, through open-ended consultations, its evaluation of the process followed, and present recommendations with regard to how the process to elect the Prosecutor could be strengthened in the future, by the start of the twelfth session of the Assembly;
26. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

⁵ ICC-ASP/11/21.

⁶ United Nations Security Council resolution 1593 (2005) and 1970 (2011).

⁷ Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/11/47).

27. *Notes with appreciation* the efforts undertaken by the Registrar to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and flexibility and *encourages* the Court to continue to optimize its field offices in order to ensure the Court's continued relevance and impact in States in which it carries out its work;
28. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;
29. *Commends* the important work of the New York Liaison Office of the Court, which enables regular and efficient cooperation and exchange of information between the Court and the United Nations and the effective conduct of the Bureau as well as of the New York Working Group and *expresses* its full support for the work of the New York Liaison Office;
30. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *commits* to the Court's further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office;
31. *Welcomes* the presentation of the eighth report of the Court to the General Assembly of the United Nations;⁸
32. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties ("the Secretariat"), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;
33. *Welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs in line of the report of the Court, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry, and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia, with a view to ensuring full transparency, good governance and sound management;
34. *Requests* the Bureau in consultation with the Court and relevant bodies to continue to consider the proper arrangement of salary and all allowances for judges, whose terms have been extended in accordance with article 36(10), and to report thereon to the Assembly at its twelfth session;
35. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law, and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

Counsel

36. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;
37. *Notes* the need to improve gender balance and equitable geographical representation on the list of counsel, and thus *continues to encourage* applications to the list of counsel established as required under rule 21(2) of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

⁸ United Nations document A/67/308.

Governance

38. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence and *invites* the organs of the Court to further engage in a such a dialogue with States Parties;

39. *Takes note of* the Bureau report on the Study Group of Governance⁹ and the recommendations contained therein;

40. *Requests* the Bureau to extend for another year the mandate of the Study Group, within the Hague Working Group, provided in resolution ICC-ASP/9/Res.2 and extended in resolution ICC-ASP/10Res.5, and *requests* the Study Group to report back to its twelfth session;

41. *Endorses* the proposed “Roadmap” which facilitates the establishment of a structured dialogue between all stakeholders within the Rome Statute system to consider proposals aimed at expediting the criminal process of the International Criminal Court;

42. *Endorses* the recommendations contained in the report on the budget process designed to improve the transparency, predictability and efficient conduct of the entire budget process and each phase therein;

43. *Encourages* the Court, the Committee on Budget and Finance and States Parties to build on the positive experiences from this year for the benefit of future budget processes;

44. *Recognizes* the important work of the Hague Working Group, including through its Study Group on Governance, and the New York Working Group and also *notes* the benefits in rationalizing their working methods in order to cope with the increasing work load;¹⁰

45. *Requests* the Bureau, through the Hague Working Group, including its Study Group on Governance, and the New York Working Group to make an evaluation of the respective Groups’ working methods, including on the relationship between this resolution and other resolutions, and to report back to the Assembly at its twelfth session on their findings, including proposals for rationalization, prioritization, regular scheduling and increased efficiency of their work;

Strategic planning process of the International Criminal Court

46. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach¹¹ in affected countries, including, where appropriate, by early outreach from the outset of the Court’s involvement, including during the preliminary examination stage;

47. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while acknowledging the significant contribution of other stakeholders;

48. *Notes with appreciation* the initiatives undertaken to celebrate, in the context of its information and communication strategy¹² the 17 July as the Day of International Criminal Justice¹³ and *recommends* that, on the basis of lessons learned, all relevant stakeholders, together with the Court and other international Courts and Tribunals, engage in preparing the 2013 celebration with a view to reinforcing the international fight against impunity;

49. *Notes with appreciation* the activities undertaken and those being planned by stakeholders to mark the tenth anniversary of the entry into force of the Rome Statute, and *encourages* States Parties to engage in those activities, as well as in other significant

⁹ ICC-ASP/11/31.

¹⁰ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 154 (d).

¹¹ ICC Strategic Plan for Outreach (ICC-ASP/5/12).

¹² ICC-ASP/9/29.

¹³ *Official Records ... Review Conference ... 2010* (RC/11), part II.B, Kampala Declaration (RC/Decl.1), para. 12.

activities to implement the Court's Public Information Strategy 2011-2013,¹⁴ including in consultation with the Court and other relevant stakeholders;

50. *Takes note* of the presentation by the Court of its "Draft Guidelines governing the Relations between the Court and Intermediaries" and *invites* the Bureau to engage in a more in-depth discussion with the Court on this issue;

51. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach and, in this regard, *requests* that the Court, in consultation with States Parties, continues to work towards setting a hierarchy of its priorities in order to facilitate strategic and budgetary choices;

52. *Invites* the Court to present, based on a thorough and transparent assessment of results achieved through Court activities in reaching the priorities set, an appropriate set of performance indicators, including the horizontal parameters of efficiency and effectiveness, for the Court activities and on the retroaction of lessons learned into the strategic planning process;

53. *Reiterates* its willingness to engage in constructive dialogue with the Court on emerging issues, including the adequate management of priority risks, and the development of a Court strategy on field operations;

54. *Notes* the introduction of the draft revised Strategic Plan for 2013-2017 and *invites* the Bureau to consult with the Court thereon, where appropriate, in the context of the budgetary process, which is intended to strengthen and operationalize the impact of strategic planning on the development of the Court and its activities;

55. *Requests* the Bureau to engage in constructive dialogue with the Court on the emerging issues of risk management and development of a Court strategy on field operations,¹⁵

Victims and affected communities and Trust Fund for Victims

56. *Notes* its resolution ICC-ASP/11/Res.7 on victims and reparations issues;

57. *Notes* the ongoing work of the Court in reviewing its Strategy in relation to victims and its report thereon and *requests* the Court to finalize the review in consultation with States Parties and other relevant stakeholders and report thereon in advance of the Assembly at its twelfth session;

58. *Notes with concern* reports from the Court on the continued backlogs the Court has had in processing applications from victims seeking to participate, a situation which might impact on effective implementation of the rights of victims under the Rome Statute, and *underlines*, in this regard, the need to continue to consider reviewing the victim participation system with a view to ensuring its sustainability, effectiveness and efficiency; *requests* the Bureau to continue consulting with the Court and relevant stakeholders and to report thereon to the Assembly at its twelfth session;

59. *Calls upon* States, international and intergovernmental organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims also in view of possible imminent reparations, in order to substantively increase the volume of the Trust Fund for Victims, broaden the resource base and improve the predictability of funding; and *expresses its appreciation* to those that have done so;

60. *Expresses its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims, and *encourages* the Board and the Secretariat to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as non governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact;

¹⁴ ICC-ASP/9/29.

¹⁵ *Official Records ... Tenth session ... 2011*, (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, para. 46.

61. *Recalls* the responsibility, under the Regulations of the Trust Fund for Victims, of the Board of Directors to endeavour to manage its resources originating from voluntary contributions in such a way as to ensure an adequate reserve to complement any Court-ordered reparations awards, without prejudice to its activities under the Trust Fund's assistance mandate including those funded by earmarked contributions;

62. *Requests* the Court and the Trust Fund for Victims to develop a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

63. *Decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and the continued positive impact of the Rome Statute system on victims and affected communities;

64. *Acknowledges* the requirement for the Board of Directors of the Trust Fund for Victims, in accordance with its Regulation 56, to provide adequate resources to complement payments for reparations awards; and *takes note* of the request of the Trust Fund for Victims' Board of Directors to the Assembly of States Parties, in its Annual Report¹⁶, to strengthen the Fund's reserve for reparations;

65. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund for the purpose of strengthening its reparations reserve, in addition to any regular voluntary contributions to the Fund;

66. *Decides* to include a specific item on victims and affected communities on the agenda of its twelfth session;

Recruitment of staff

67. *Welcomes* the Court's continued efforts, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma and violence against women or children and *encourages* further progress in this regard;

68. *Stresses* the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, *welcomes* the report of the Bureau,¹⁷ and *recommends* that the Bureau continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance and to report thereon to the twelfth session of the Assembly;

69. *Requests* the Court to submit a comprehensive report on Human Resources and distribute a list of Court contact points for the purpose of external representation for easy access by States Parties to the Assembly at its twelfth session, which would include an update on the implementation of the recommendations on the topic which would be made by the Committee on Budget and Finance in April 2013;

70. *Urges* the Court, in recruiting officers in charge of victims and witnesses affairs, to ensure that they have the necessary expertise to take into account the cultural traditions and sensitivities and the physical and social needs of victims and witnesses, particularly when they are required to be in The Hague or outside their country of origin to take part in Court proceedings and requests the Court to report to the Assembly at its twelfth session on the implementation of this paragraph;

¹⁶ ICC-ASP/11/14, paras. 36-37.

¹⁷ Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/11/33).

Complementarity

71. *Notes* its resolution ICC-ASP/11/Res.6 on complementarity;
72. *Resolves* to continue and strengthen effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally-recognized fair trial standards, pursuant to the principle of complementarity;
73. *Stresses* that the proper functioning of the principle of complementarity entails that States include the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, establish jurisdiction for these crimes, ensure effective enforcement of those laws, and *calls upon* States to do so;

Independent Oversight Mechanism

74. *Recognizes* the importance of a fully operational Independent Oversight Mechanism, in accordance with ICC-ASP/8/Res.1 and ICC-ASP/9/Res.5, to the efficient and effective operation of the Court and *notes* its resolution ICC-ASP/11/Res.4 on the Independent Oversight Mechanism;

Committee on Budget and Finance

75. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;
76. *Recalls* that, according to its Rules of Procedure,¹⁸ the Committee on Budget and Finance shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications, *emphasizes* the importance of ensuring that the Committee on Budget and Finance is represented at all stages of the deliberations of the Assembly at which such documents are considered, and *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements;

Assembly of States Parties

77. *Recalls also* 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, in accordance with article 5, paragraph 2, of 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;¹⁹ adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character,²⁰ and decided to retain, for the time being, article 124 of the Rome Statute;²¹
78. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute;
79. *Notes with satisfaction* that the Depositary has notified the States Parties of the adoption of these amendments by the Review Conference, *calls upon* all States Parties to consider ratifying or accepting these amendments and *resolves* to activate the Court's jurisdiction over the crime of aggression as early as possible, 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 Rome Statute;
80. *Welcomes* the report of the Bureau on the Working Group on Amendments,²² *invites* the Working Group to continue its consideration of amendment proposals, *decides* to adopt the terms of reference of the Working Group on Amendments annexed to the present resolution, and *requests* the Bureau to submit a report for the consideration of the Assembly at its twelfth session;

¹⁸ *Official Records ... Second session ... 2003* (ICC-ASP/2/10), annex III.

¹⁹ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

²⁰ *Ibid.*, RC/Res.5.

²¹ *Ibid.*, RC/Res.4.

²² ICC-ASP/11/36.

81. *Recalls* with appreciation pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls on* these States and the regional organization to ensure the swift implementation of these pledges, and further *calls on* States and regional organizations to submit additional pledges and to inform, as appropriate, on the implementation thereof at future sessions of the Assembly;
82. *Welcomes* the substantive discussions carried out within the framework of the stocktaking exercise on international criminal justice to identify opportunities and challenges presented to the Court and the Rome Statute system and *commits* to the implementation of the resolutions on “Complementarity,” “Impact of the Rome Statute system on victims and affected communities,” and “Enforcement of Sentences,”²³ and the declaration on “Cooperation” as critical next steps in meeting these challenges;
83. *Recalls* that the Review Conference also conducted, as part of its stocktaking exercise, a panel discussion on peace and justice, *takes note with appreciation* of the moderator’s summary and *commends* this topic for further exploration and development;
84. *Welcomes* the robust participation of civil society in the Review Conference, *welcomes* the opportunity provided by the Review Conference to bring States Parties closer to the work of the Court in situations under investigation, including through visits to the Court’s field offices, and *encourages* States Parties to continue to take opportunities to raise awareness, including among State officials, of the Court’s activities in situations under preliminary examination and investigation;
85. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;
86. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;
87. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court, and *expresses its appreciation* to those that have done so;
88. *Takes note* of the report of the Bureau on the arrears of States Parties²⁴ and *decides* that the Bureau should continue to monitor the status of payments received throughout the financial year of the Court, consider additional measures to promote payments by States Parties, as appropriate, and continue to engage in dialogue with States Parties in arrears;
89. *Requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;
90. *Welcomes* the work by the Bureau and its two informal working groups and *invites* the Bureau to create such mechanisms as it considers appropriate and to report back to the Assembly on the result of their work;
91. *Welcomes* the substantial and constructive discussions on complementarity and cooperation during this session and *expresses* its intention to have dedicated plenary sessions on these critical topics on the agenda for future sessions of the Assembly;
92. *Welcomes* the high-level diplomatic support in the consideration and facilitation of topics within the Assembly and *encourages* the continuation and enhancement of such high-level support;
93. *Also welcomes* the efforts of the Bureau to ensure communication and cooperation between its subsidiary bodies and *invites* the Bureau to continue such efforts;
94. *Decides* that the Committee on Budget and Finance shall hold its twentieth session from 22 to 26 April 2013 and its twenty-first session from 9 to 18 September 2013;
95. *Decides* that the Assembly shall hold its twelfth session in The Hague from 20 to 28 November 2013. The thirteenth and fourteenth sessions shall be held in New York and The Hague, respectively.

²³ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.3.

²⁴ ICC-ASP/11/23.

Annex I

The Assembly of States Parties

Decides to replace paragraph 16 of the Assembly procedures on non-cooperation¹ with the following text:

“(a) Regional focal points for cooperation

16. In order to assist the President in his or her good offices, the Bureau would appoint four, or, if so requested by the President of the Assembly, five focal points from among States Parties, on the basis of the principle of equitable geographical representation.”

Annex II

Terms of reference of the Working Group on Amendments

The following **terms of reference** govern the work of the Working Group on Amendments (WGA):

Mandate

1. The WGA considers amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be forwarded to the Assembly of States Parties (“the Assembly”) for consideration.

Procedural framework

2. Articles 51, 121 and 122 of the Rome Statute determine the procedure to be followed for amendments to the Rome Statute or the Rules of Procedure and Evidence. Nothing in the present terms of reference can take precedence over these or other provisions of the Rome Statute.

3. The WGA is a subsidiary body of the Assembly according to article 112(4) of the Rome Statute. The WGA is governed by the same rules applicable to other subsidiary bodies of the Assembly, as provided for in rule 84 of the Rules of Procedure of the Assembly of States Parties.

4. The WGA may establish sub-groups in order to discuss amendment proposals simultaneously or more in detail.

5. The WGA makes every effort to reach decisions by consensus, in accordance with the Rules of Procedure of the Assembly of States Parties.

Consideration of amendment proposals

6. The WGA undertakes a preliminary examination of amendment proposals to inform the decision of the Assembly as to whether to take up a proposal according to article 121(2) of the Rome Statute or as to whether to adopt the proposed amendments according to articles 51(2), 121(3) and 122(2) of the Rome Statute.

7. States Parties are encouraged, on a voluntary basis, to bring the text of a proposed amendment to the attention of the WGA before formally submitting it for circulation to all States Parties.

8. The WGA considers with special attention amendment proposals that aim to improve the effective and efficient functioning of the Court.

¹ *Official Records ... Tenth session ... 2011*, (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, annex.

9. In the case of a proposal for a new crime, the WGA particularly considers whether the crime can be characterized as one of the most serious crimes of concern to the international community as a whole and whether the crime is based on an existing prohibition under international law.

Report and recommendation to the Assembly

10. Once the WGA determines that it has completed its consideration of a proposal, it formulates a recommendation to the Assembly as to whether to take up a proposal according to article 121(2) of the Rome Statute or as to whether to adopt the proposed amendments according to articles 51(2), 121(3) and 122(2) of the Rome Statute.

11. The WGA reports to the Assembly on the progress of its discussions.

Amendments to the terms of reference

12. Amendments to the present terms of reference are subject to a decision by the Assembly.