



## Parliamentarians for Global Action

### **The Arusha Plan of Action for the International Criminal Court**

As adopted on 6 June 2000 by the  
East African Conference on ICC Ratification<sup>1</sup>  
(Arusha, Tanzania, 5-6 June 2000)

#### **1. PREAMBLE**

Considering that the Rome Statute of the International Criminal Court (ICC) adopted on 17 July 1998 will come into force after ratification by 60 States;

Considering that, as of today, 97 States have signed and 10 States have ratified the ICC Statute;

Recognising that member States of the East African Cooperation (Kenya, Tanzania and Uganda) played a pivotal role within the African Group of States and in other groups supporting the adoption of the Rome Statute for the establishment of the ICC;

Affirming the importance of this institution in the prevention and punishment of the most serious crimes of international concern;

Determined that perpetrators of these crimes shall no longer enjoy impunity;

Recalling the genocide that occurred in Rwanda and recognising the essential contribution to justice, peace and reconciliation which the International Criminal Tribunal for Rwanda (ICTR) provides;

Noting with concern atrocities still occurring in the region of the Great Lakes and in other countries in Africa, such as Sierra Leone;

Recognising the limited capacity of *ad hoc* Tribunals to deal effectively with such atrocities;

Recognising that the ICC, as a permanent Court, will be a deterrent institution, sending strong warning messages to would-be perpetrators;

Applauding the inclusion in the ICC Statute of provisions to prosecute perpetrators of gender and sexual crimes, and to protect victims;

Recognising the need to create awareness and support at all levels for this first permanent mechanism of international criminal justice in the world;

We, the Parliamentarians for Global Action, representatives of Governments, Inter-Governmental and Non-Governmental Organisations participating in the "East African Conference on ICC Ratification", are firmly determined to contribute to early entry into force of the Rome Statute of the ICC.

In order to do so, we hereby recommend the following plan of action on the ratification and implementation of the ICC Statute for East African States.

#### **2. AN EAST AFRICAN APPROACH TO RATIFICATION AND IMPLEMENTATION**

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<sup>1</sup> The East African Conference on ICC Ratification was sponsored by the Commission of the European Union.

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As affirmed by the Attorney General of Uganda in his key note address of 5 June 2000, “none of the East African States have ratified the Statute. This is where this Conference becomes crucial for the East African States. The discussions and recommendations from this Conference will help our Governments decide not if to ratify , but WHEN to ratify”.

Against this background, a thorough analysis was made of the relationship between ratification and implementation of the ICC Statute into domestic law.

Bearing in mind that the necessity for effective implementation of all obligations stemming from the Statute was unanimously recognised, the Conference recommended that ratification and implementation should be approached separately.

This will allow the ratification process to be completed as early as possible, and will be in line with the policy of East African States towards peace and justice in the world, in Africa and, particularly, in the regions of the Great Lakes.

Parts 3, 4 and 5 of this document describe and streamline the national procedures towards ratification concerning each Member State of the East African Cooperation. Part 6 deals with the activities that may be undertaken by the Secretariat and the relevant Sectoral Committees of the East African Cooperation. Part 7 outlines the possible elements to be included within the implementing legislation for East African States. Part 8 contains a recommendation for a continuing education action in favour of International Justice.

### **3. RATIFICATION IN UGANDA**

#### Procedure

The Constitution of Uganda empowers the President to make treaties between Uganda and any other country or international organisation in respect of any matter. The *Ratification of Treaties Act* (No. 5 of 1998) provides two procedures for ratification. Treaties dealing with matters such as armistice, neutrality, or peace must be ratified by Parliament. Other treaties, such as the Rome Statute, may simply be presented by Cabinet for approval of the ratification and then laid before the Parliament. The Minister of Foreign Affairs then signs the instrument and deposits it with the Secretary General of the United Nations.

#### ICC ratification status

The Minister for Justice and Constitutional Affairs has prepared a memorandum for Cabinet seeking ratification, which is currently awaiting consideration.

#### Action

That Parliament expresses support for the prompt ratification of the ICC Statute by Cabinet, and that Cabinet proceeds immediately towards ratification.

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## **4. RATIFICATION IN KENYA**

### Procedure

Ratification in Kenya is initiated by the relevant Minister, in this case the Attorney-General, who prepares a paper for Cabinet's approval. Parliamentary assent is not required.

### ICC ratification status

Kenya signed the Statute in August 1999. The Attorney General remains seized of the matter of ratification and is considering options for implementation, in view of the rights and obligations to be imposed by the Statute and because of the yet to be completed elaboration of the Elements of Crimes and Rules of Procedure and Evidence by the on-going Preparatory Commission for the ICC.

### Action

- (i) That the Executive involves the Parliament and civil society through appropriate consultation.
- (ii) That the Parliament makes a resolution in support of ratification of the Rome Statute.

## **5. SIGNATURE AND RATIFICATION IN TANZANIA**

### Procedure

The process for ratification in Tanzania starts with a draft Cabinet paper prepared by the relevant Ministry, in this case the Ministry of Justice and Constitutional Affairs. The draft is then submitted to an inter-ministerial technical committee that considers its implications and, where appropriate, recommends the paper for a Cabinet hearing. Following approval by the Cabinet, the treaty is put before the Foreign Affairs Committee of the Parliament for scrutiny, after which a motion for ratification is submitted to the Parliament for adoption by resolution. Ratification finally requires Presidential assent.

### ICC ratification status

A draft paper on the signature (and ratification) of the ICC Statute is under consideration by the Attorney General.

### Action

- (i) That the Executive is urged to sign the Statute as soon as possible.
- (ii) That the Executive proceed to table the ratification treaty before the Parliament.
- (iii) That the Parliament promptly debates the treaty and adopt a resolution to authorise the ratification of the ICC Statute.

## **6. THE ROLE OF THE EAST AFRICAN COOPERATION / COMMUNITY (EAC)**

While the EAC's main objective is economic development, Articles 5(3)(f) and 6(d) of the EAC Treaty expresses a commitment to peace, human rights, and justice.

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Crimes of a nature described in the ICC Statute necessarily impact on the whole East African region. Therefore, the ICC is a safeguard of peace, stability, and security in the region.

Considering SADC's development of an ICC ratification kit and model enabling Act, despite the difficulties presented by the different legal systems of its thirteen member States, the EAC, with three States having similar legal systems, foresees the rapid adoption of a common approach on ratification and implementation of the ICC Statute.

The EAC Secretariat will closely monitor the progress of ratification and implementation in each of its member States and coordinate the participation of East African States in the ICC Assembly of States Parties.

## **7. ELEMENTS OF EARLY IMPLEMENTATION IN EAST AFRICAN DOMESTIC LEGAL SYSTEMS**

It is recommended that the implementing legislation of East African States should be entitled "The Rome Statute of the International Criminal Court (Implementation) Act", and should include, *inter alia*:

- (a) An indication that the ICC Statute has been duly ratified.
- (b) Provisions giving force of law to the ICC Statute and any subsequent amendments under Articles 121 and 122 of the Statute.
- (c) Recognition of the international legal capacity of the ICC in accordance with Article 4 of the Statute.
- (d) Interpretation of key terms used in the Statute.
- (e) Provision for the Court to sit in the State.
- (f) Provision that secondary instruments to be adopted by the ICC States Parties will have force of law in the State (i.e. Rules of Procedure and Evidence, and Elements of Crimes).
- (g) Provision for immunities and privileges as necessary under Article 48 of the Statute.
- (h) A clause providing that in cases of conflict of law, the ICC Statute shall prevail.
- (i) Power to the Executive to make delegated legislation under the Act for the purpose of giving full effect to the Act.
- (j) Provision for punishment of offences against the administration of justice (in accordance with Article 70 of the Statute) under municipal law.

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(k) The Statute as a schedule.

The *International Criminal Court (Implementation) Act* of each State shall be prepared and assented to as soon as possible hereafter, and shall enter into force upon entry into force of the ICC Statute.

## **8. ACTION FOR CONTINUING EDUCATION**

The member States of the EAC are committed to the promulgation of the ICC Statute at every level of society. Only through education and widespread awareness may the preventive role of the ICC be fully realised.

All efforts shall be made to bring together Parliaments, Governments, professional associations, and Civil Society groups in a joint effort to enhance the public's understanding of the principles and spirit of the ICC and its unique position in the development of peace and justice in the world.