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## **APPEAL BY AMNESTY INTERNATIONAL TO ALL STATES TO RATIFY THE STATUTE OF THE INTERNATIONAL CRIMINAL COURT AS SOON AS POSSIBLE**

Amnesty International is calling upon all states to strengthen the rule of law around the world by ratifying the Rome Statute of the International Criminal Court as soon as possible. Starting today, Amnesty International's more than one million members and supporters will be working with more than 800 other non-governmental organizations in the NGO Coalition for an International Criminal Court in a worldwide effort to establish the Court at the earliest possible date, to provide the Court with sufficient resources once it is established and to ensure that all states parties cooperate fully and promptly with the Court.

The Statute, which was adopted on 17 July 1998 by a vote of 120 to seven, with 21 abstentions, at the conclusion of a five-week diplomatic conference in Rome, provides for the establishment of a permanent International Criminal Court with jurisdiction over the worst crimes in the world: genocide, other crimes against humanity and war crimes, in both international and non-international conflicts.

The need for the Court is clear. In the half a century since the end of the trials before the International Military Tribunals at Nuremberg and Tokyo, despite millions of victims of genocide, other crimes against humanity and war crimes, states have largely failed to fulfil their responsibilities to bring those responsible to justice.

The Court will not, of course, be a substitute for national courts which are able and willing to fulfil their responsibilities. It will exercise its jurisdiction *only* when states fail to carry out their responsibilities under international law to bring those responsible for these crimes to justice. The very existence of the Court will act as a catalyst to inspire national legal systems to fulfil their duties and will act as a deterrent to such crimes.

In the short term, Amnesty International is requesting all states to:

**1. Sign and ratify the Statute of the International Criminal Court as soon as possible.** The Statute requires 60 ratifications before it can enter into force. It will enter into force on the first day of the month after the 60th instrument of ratification is deposited with the United Nations Secretary-General. If 60 instruments of ratification are deposited by 30 September 2000, the Statute will enter into force before the end of the 20th century - a century which has seen the worst violations of human rights and international humanitarian law in history. As of 10 May 1999, ten months after the

Statute was adopted, 82 states had taken the first step towards ratification by signing the Statute and three had ratified it.

**2. Refuse to enter into agreements prohibiting the surrender of the nationals of certain states to the Court.** The United States has started pressing other states to enter into bilateral agreements under Article 98 (2) prohibiting the surrender of United States nationals who have been charged with genocide, other crimes against humanity or war crimes to the Court. Such agreements would defeat the purpose of the Court to ensure effective international justice when states are unable or unwilling to bring to justice persons responsible for such crimes. Every state should make a public pledge not to enter into such agreements and any state which has made such an agreement should immediately cancel it.

**3. Refuse to make opt-out (“license to kill”) declarations under Article 124 of the Statute.** Article 124 permits states at the time of ratification to make a declaration that they do not accept the Court’s jurisdiction over war crimes for a seven-year period. Such a declaration would undermine the very purpose of the Court by giving states impunity from international justice over war crimes for seven years, from the moment the Statute enters into force for that state. No state should make such a declaration and, once the Statute enters into force, the United Nations should not accept troops for its peace-keeping operations from states which refuse to recognize the Court’s jurisdiction over war crimes. In addition to refusing to accept contributions of forces from any state party while such a declaration is in effect, the United Nations should request non-states parties to agree to make a declaration pursuant to Article 12 (3) that they will surrender their nationals to the Court if requested to do so when their nationals are accused of crimes committed as a member of a United Nations peace-keeping or other operation.

**4. Ensure that the work of the Preparatory Commission is effective.** The Preparatory Commission has begun work at United Nations Headquarters in New York preparing draft Rules of Procedure and Evidence, Elements of Crimes and associated documents for consideration by the Assembly of States Parties when it is established. To ensure that the Preparatory Commission itself is effective, states which are able to do so should, as requested by the General Assembly in Resolution 52/160 on 15 December 1998, make voluntary contributions to the United Nations trust fund to assist governments to participate in work to establish the Court and to support the participation of non-governmental organizations, which played such an important role in the work of the Ad Hoc and Preparatory Committees and the diplomatic conference, on the same basis as approved by the General Assembly in the same resolution.

**5. Adopt whatever legislation is necessary to ensure that the International Criminal Court is an effective complement to national jurisdictions.** Most states will need to enact legislation which provides for full, prompt and effective cooperation with the new Court. Such procedural legislation should be in many respects similar to the legislation which is required to cooperate with the International Criminal Tribunals for the former Yugoslavia and for Rwanda. However, states have the primary responsibility for prosecuting these crimes. In many cases, additional substantive legislation will be needed

to provide that genocide, other crimes against humanity and war crimes, as defined in the Statute, are also crimes under national law no matter where committed; that defences under national law are not inconsistent with those permitted under the Statute and international law; and that there are no periods of limitations in national law for these crimes.

Amnesty International is urging that heads of government, foreign ministers and national legislatures take these concrete steps as soon as possible to ensure that the Statute can enter into force at the earliest possible date and that the Court will be efficient in deterring and punishing genocide, crimes against humanity and war crimes. Of course, the primary responsibility for investigating and prosecuting those responsible for these crimes will continue to rest with states. The Court will step in only when states are unable or unwilling to perform this duty, but it will not have the same universal jurisdiction over these crimes as states, except when the Security Council refers a situation involving a threat to or breach of international peace and security.

Therefore, Amnesty International is also calling upon states to exercise such jurisdiction when the Court is unable to do so or other states fail to fulfil their responsibilities. It has published today *14 Principles on the Effective Exercise of Universal Jurisdiction* (AI Index: IOR 53/01/99) to guide states in exercising such jurisdiction after the House of Lords judgment on 24 March 1999 concerning the request by Spain to extradite former General Augusto Pinochet on charges of torture and conspiracy to torture.

In the longer term, Amnesty International will be working to ensure that the Court receives all the resources it needs; that qualified candidates are selected as Prosecutor, Judges and other staff; that a Review Conference is called as soon as possible to strengthen the Statute; that the Statute is ratified as widely as possible after it enters into force, that states cooperate fully and promptly with the Court and that the Assembly of States Parties takes effective action if any state party fails to do so.

I urge you to take these steps to help end impunity for the worst crimes in the world which have plagued this century like no other. I look forward to working with you to achieve these goals.

Yours sincerely,

Pierre Sané  
Secretary General

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