



COALITION FOR THE INTERNATIONAL CRIMINAL COURT (CICC)
GUIDING PRINCIPLES FOR THE CONSIDERATION OF THE
CRIME OF AGGRESSION AT THE REVIEW CONFERENCE OF THE
ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT*

KAMPALA, 31 MAY - 11 JUNE 2010

The Rome Statute enshrines the commitment of the international community to bring an end to impunity for crimes that threaten international peace and security and deeply shock the conscience of humanity in order to deliver justice to the victims of such crimes and deter the future commission of atrocities.

The crime of aggression is listed in article 5 of the Rome Statute, along with war crimes, crimes against humanity and genocide, as one of the most serious crimes of concern to the international community as a whole.

The crime of aggression is a principal agenda item at the Review Conference. The consideration at the Review Conference of amending provisions covering the crime of aggression is consistent with Article 5 of the Statute, as well as with Resolution F of the Final Act of the Rome Conference and the ongoing work of the Assembly of States Parties.

The Coalition for the International Criminal Court (CICC) represents over 2500 organizations from all over the world with differing mandates and expertise that strongly support the Rome Statute system. The CICC as a whole, whilst supporting the constructive consideration of proposals on the crime of aggression, has not taken a position concerning the adoption of specific provisions on this crime. This is because CICC members have developed varying positions concerning the complex discussions on the crime.

Nevertheless, the CICC encourages States to approach the consideration of proposals concerning the crime of aggression on their merits and in a constructive and cooperative manner. The following principles build upon previous principles adopted by the CICC members and are intended to guide discussions relating to any amending provisions on the crime of aggression as well as any associated interpretative agreements. Their listing in no way limits support or advocacy of other specific principles by member organizations.

The principles are as follows:

- 1. Independence of the ICC:** The Court must be *fair, effective and independent*. The independence of the ICC, a world judicial body, is fundamental to its legitimacy and effectiveness. In this regard, the principles agreed by the Coalition at the Rome Conference in 1998 establish that the Court should be independent and able to exercise its jurisdiction free from interference by any political body.
- 2. Integrity of the Rome Statute:** The Review Conference should be mindful of the need for amending provisions on the crime of aggression to be consistent with the object and

* While this paper has been prepared in consultation with a broad range of Coalition Members and reflects their position, it cannot be construed to represent the views of all organizations/Members of the CICC.

purpose of the Rome Statute. Thus, while recognizing the specific characteristics of this crime, any amendment to the Statute, as well as any associated interpretative agreements, should be consistent with the jurisdictional norms regulating the other crimes under the Court's jurisdiction.

3. **Preserving the legitimacy of the ICC:** Bearing in mind that the ICC has jurisdiction over crimes committed by individuals, not by abstract entities, the Coalition encourages States to consider how any proposed application of the jurisdiction of the ICC over the crime of aggression could potentially undermine the principle of equality of all individuals before the law and thereby affect the Court's legitimacy.
4. **Fair trial and due process:** The highest international standards of fair trials and due process should be upheld.
5. **Complementary role of the ICC:** The Court's work investigating and prosecuting the crime of aggression should complement national criminal jurisdictions; the ICC should be able to exercise its jurisdiction only when it determines that national authorities are unable or unwilling to carry out genuine investigations or prosecutions.