

INTERNATIONAL CRIMINAL COURT INFORMATION UPDATE

August 1999

I. STATUS REPORT

Nations of the world have a critical chance to transform the culture of impunity that has been all too frequently associated with genocide, crimes against humanity and war crimes, and to replace the impunity with accountability for those who commit these crimes.

On July 17, 1998, after a five week conference in Rome, 120 nations voted to approve a treaty to create a permanent International Criminal Court (ICC) that, once established, will have the power to prosecute those accused of these most serious crimes. The horrific crimes recently committed in Kosovo and Sierra Leone underscore the urgent importance of establishing the Court and strengthening the enforcement of international humanitarian law.

The ICC has the potential to bring justice to victims, to heal the scars caused by these egregious crimes and to deter their commission in the future. The Court can strengthen national courts by promoting domestic prosecutions and can extend the rule of law by promoting enforcement of the law. In short, the ICC has enormous potential to change the human rights landscape in the twenty-first century.

The near-universal approval of the ICC treaty was an historic achievement and states from every region of the world contributed to the process. The ICC treaty or "Statute" embodies a delicate balance of divergent political interests and a remarkable synthesis of the worlds' legal traditions. Only seven states, including the U.S. and China, voted against the statute. Significantly, the Court's creation was driven by a diverse coalition of states from north and south, led by Canada, Germany, The Netherlands, Argentina, Senegal, Malawi, South Africa, and the Republic of Korea. This history provides a solid starting point for the establishment of a strong, effective and truly International Criminal Court.

Delegates to the ongoing meetings of the International Criminal Court Preparatory Commission in New York are continuing this work, drafting the Court's rules of procedure and evidence and defining the elements of the crimes the Court will prosecute.

However, real challenges still lie ahead. Sixty states must ratify the treaty before the ICC comes into force. Eighty-four states have already signed the treaty and four (Senegal, Trinidad and Tobago, San Marino, and Italy) have ratified it. Many other countries are taking important steps toward ratification. It is crucial that the momentum created so far by these signatures and ratifications continues to build throughout this year.

Meetings of governments and NGOs to galvanize efforts for ratification have recently been held in Pretoria, Trinidad and Tobago, Argentina, and Morocco. In the coming months, other

meetings will take place in nearly every region of the world to address the steps required by states who wish to ratify the statute. Interest and participation by all states is important to reinforce the ratification drive and to ensure the earliest possible entry into force.

Since Rome, the Pinochet affair has shown that there is a growing consensus, both political and legal, that the perpetrators of the worst crimes must be punished. Spain's request to prosecute General Pinochet and the decision by Britain's House of Lords to uphold the grounds for his extradition represent a significant shift from impunity to accountability.

II. A WORLDWIDE CAMPAIGN FOR EARLY ENTRY INTO FORCE

A worldwide campaign for early and “universal” ratification has been launched. The ratification process must accelerate while the Preparatory Commission completes its work. The more states that ratify the treaty, the greater the momentum will be for entry into force and the more difficult it will be for any state to insist on re-opening negotiations or to otherwise frustrate entry into force. The 84 signatures to the treaty is an important indication of support. But states from diverse geographical regions must continue to move forward with their ratification processes to maintain the necessary momentum. Drawing on the experience leading up to Rome, we believe ratification will progress more efficiently if those efforts are coordinated on a regional basis. In this regard, the Francophonie is an important forum to address mutual assistance and technical cooperation that can be undertaken among countries that share a common language and legal tradition. We urge the Francophone states to work together in this regard, to share their experiences and progress so that real advances are made toward ratification by all Francophone states.

In this regard, we would make two concrete suggestions for action at the Francophone Summit. Firstly, that the Summit adopt a strongly worded resolution calling on all Member States to ratify the Statute without delay. Secondly, that the Summit support the provision of technical assistance by the Francophone Secretariat to those Francophone States who wish to ratify but who may lack the resources necessary for implementation of such a lengthy and complex treaty.

III. FOR MORE INFORMATION

For more information on the worldwide campaign for the ICC please see the Human Rights Watch website (www.hrw.org) and the website of the Coalition for the International Criminal Court (CICC) (www.igc.org/icc/).