SEEKING UNIVERSALITY OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT THROUGH THE UNITED NATIONS HUMAN RIGHTS COUNCIL

During the 1st cycle of the United Nations Human Rights Council’s Universal Periodic Review (UPR) (2008-2011), States Parties to the Rome Statute of the International Criminal Court (ICC) made more than 100 recommendations to more than 60 States in relation to the ICC— the majority of recommendations were regarding ratification of the Rome Statute.

In advance of the 2nd cycle of the UPR (which started with the 13th session taking place from 21 May-4 June 2012), the Coalition launched a focused campaign to encourage ICC States Parties to make ICC-related recommendations to other States coming under review, in particular on accession to/ratification of the Rome Statute and of the APIC as well as their implementation in national legislations (if relevant).

SUGGESTED RECOMMENDATIONS TO THE STATES UNDER REVIEW AT THE 23RD SESSION OF THE UNIVERSAL PERIODIC REVIEW (UPR) (WORKING GROUP: 2-13 NOVEMBER 2015) ¹

The information and recommendations suggested below for the States under review cover the following elements:
(a) Accession to/ratification of the Rome Statute of the International Criminal Court (ICC),
(b) Accession to/ratification of the Agreement on Privileges and Immunities of the Court (APIC), and
(c) The full alignment of national legislations with both agreements.

No recommendations are suggested for the States under review that have already undertaken such steps.

(Countries listed in alphabetical order)

AUSTRALIA
♦ Australia ratified the Rome Statute on 1 July 2002.
♦ Australia has not signed or ratified the APIC.
♦ Australia’s International Criminal Court Act 2002 (Act No. 41 of 2002 as amended) includes substantial provisions on cooperation with the ICC.

In the framework of this campaign, no recommendations are suggested for Australia.

¹ The information provided herein has been noted and compiled by the Coalition for the International Criminal Court either via public domain sources or via direct communications from States themselves. Errors and lacunae may thus be present. The Coalition welcomes any updates or corrections to the information provided herein.
AUSTRIA
♦ Austria ratified the Rome Statute on 28 December 2000.
♦ Austria ratified the APIC on 17 December 2003.
♦ The crime of genocide is defined in the Austrian Criminal Code in Article 321. On 1 January 2015, amendments to the criminal code entered into force criminalizing war crimes and crimes against humanity.
♦ Legislation on cooperation with the ICC was enacted on 1 October 2002 (“Bundesgesetz über die Zusammenarbeit mit dem Internationalen Strafgerichtshof”).
♦ On 17 July 2014, Austria ratified the Kampala Amendments to the Rome Statute.

In the framework of this campaign, no recommendations are suggested for Austria.

GEORGIA
♦ Georgia acceded to the APIC on 10 March 2010.
♦ The 2000 criminal code includes provisions on the preparation for and waging of aggressive war, genocide, crimes against humanity, and violations of IHL (Chapter XLVII “Crimes Against Humanity, Peace, Security And International Humanitarian Law”). Amendments to the Criminal code adopted in 2003 further bring national legislation in line with the Rome Statute (provisions on crimes against humanity, principle of command responsibility, etc)
♦ On 14 August 2003, the Parliament adopted a law on cooperation with the ICC, covering all modes of cooperation envisaged by Part 9 of the Rome Statute.
♦ On 5 December 2014, Georgia ratified the Kampala Amendment on the crime of aggression.

In the framework of this campaign, no recommendations are suggested for Georgia.

LEBANON
♦ Lebanon has not signed or ratified the Rome Statute.
♦ Lebanon has not signed or ratified the APIC.
♦ There are no known efforts regarding accession to the Rome Statute, alignment of national legislation with the Rome Statute or accession to the APIC.

Recommendation for the 23rd session of the UPR:
Lebanon should accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

2 Amendments to the Rome Statute adopted at the Review conference held in Kampala, Uganda, in 2010, related to the prohibition of the use of certain weapons in a non-international armed conflict, and to the crime of aggression.
3 On 14 August 2008, the ICC Office of the Prosecutor publicly announced the opening of a preliminary examination into the situation in Georgia in relation to the August 2008 armed conflict in South Ossetia, Georgia.
4 Amendment to the Rome Statute adopted at the Review conference held in Kampala, Uganda, in 2010, related to the crime of aggression.
MAURITANIA
♦ Mauritania has not signed or ratified the Rome Statute.
♦ Mauritania has not signed or ratified the APIC.
♦ There are no known efforts regarding accession to the Rome Statute, alignment of national legislation with the Rome Statute or accession to the APIC.

**Recommendation for the 23rd session of the UPR:**
Mauritania should accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

MICRONESIA (FEDERATED STATES OF)
♦ Micronesia has not signed or ratified the Rome Statute.
♦ Micronesia has not signed or ratified the APIC.
♦ At the Workshop for the Universality of the Rome Statute of the ICC and the Kampala Amendments on the Crime of Aggression in the Pacific Region in March 2014 in New Zealand, a representative from Micronesia called for continued engagement on the ICC as well as technical and logistical support.

No further progress has been made regarding accession to the Rome Statute, alignment of national legislation with the Rome Statute or accession to the APIC.

**Recommendation for the 23rd session of the UPR:**
Micronesia should accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

MYANMAR
♦ Myanmar has not signed or ratified the Rome Statute.
♦ Myanmar has not signed or ratified the APIC.
♦ Myanmar’s Defence Service Act (1959) contains provisions relating to the war crime of pillage, torture and cruel, inhuman or degrading treatment, however, legislation on sexual and gender-based violence is not in line with international standards.
♦ There are no known efforts regarding accession to the Rome Statute, alignment of national legislation with the Rome Statute or accession to the APIC.

During the 1st cycle of the UPR, in 2011, Myanmar gave a general response to the recommendation to ratify the Rome Statute (made by Austria).

**Recommendation for the 23rd session of the UPR:**
Myanmar should accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).
NAURU

♦ Nauru has not signed or ratified the APIC.
♦ There has been no progress regarding the alignment of national legislation with the Rome Statute or accession to the APIC.

Recommendation for the 23rd session of the UPR:
Nauru should fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

NEPAL

♦ Nepal has not signed or ratified the Rome Statute.
♦ Nepal has not signed or ratified the APIC.
♦ In June 2006, the Nepalese Parliament unanimously issued a “commitment resolution” (Sankalpa) directing the government to ratify the Rome Statute. In the following years, government officials have committed to acceding to the Rome Statute. Rome Statute accession was included in the 2011 Action Plan on the Implementation of the UPR recommendations but no further progress has been made in this regard.

During the 1st cycle of the UPR, in 2011, Nepal gave a general response to the recommendations to ratify the Rome Statute (made by Chile, Germany and Japan) that “The GON (Government of Nepal) is engaged in developing requisite policy, legal and institutional infrastructures with a view to acceding to the Rome Statute. It has already tabled various Bills before the Legislature Parliament. These Bills include Penal Code Bill, Sentencing Legislation Bill, Criminal Procedure Code Bill, Extradition Bill and Mutual legal Assistance Bill. The GON believes that upon the passage of these Bills and adequate capacity building, basic infrastructures will be in place to enable it to accede to the Rome Statute in due course of time.”

Recommendation for the 23rd session of the UPR:
Nepal should accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

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5 During the 1st cycle of the UPR, in 2011, Nauru replied to a recommendation to ratify the Rome Statute (made by Poland) that it was already a State Party to the Rome Statute.
OMAN
♦ Oman signed the Rome Statute on 20 December 2000 but has not ratified it.
♦ Oman has not signed or ratified the APIC.
♦ There has been no progress regarding Oman’s accession to the Rome Statute, alignment of national legislation with the Rome Statute or accession to the APIC.

During the 1st cycle of the UPR, in 2011, Oman rejected the recommendation to ratify the Rome Statute (made by Slovakia), noting that “The State’s rejection of this recommendation does not necessarily indicate a rejection of the treaties mentioned therein. Oman has accepted several recommendations inviting it to accede to certain treaties, such as the ICCPR and the International Covenant on Economic, Social and Cultural Rights. However, this recommendation mentions several treaties and protocols collectively, and Oman cannot adopt a uniform stance with regard to the acceptance or rejection of all these treaties.”

Recommendation for the 23rd session of the UPR:
Oman should ratify and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

RWANDA
♦ Rwanda has not signed or ratified the Rome Statute.
♦ Rwanda has not signed or ratified the APIC.
♦ There are no known efforts regarding ratification of the Rome Statute.
♦ The penal code includes the crime of genocide, crimes against humanity, and war crimes, and gives universal jurisdiction over these crimes to Rwandan tribunals, provided that the suspect is present in Rwanda. No statutes of limitations can be applied to these crimes.

Recommendation for the 23rd session of the UPR:
Rwanda should accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

SAINT KITTS AND NEVIS
♦ Saint Kitts and Nevis acceded to the Rome Statute on 22 August 2006.
♦ Saint Kitts and Nevis has not signed or ratified the APIC.
♦ There has been no progress regarding the alignment of national legislation with the Rome Statute or adoption of provisions on cooperation with the Court, or accession to the APIC.

Recommendation for the 23rd session of the UPR:
Saint Kitts and Nevis should fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).
SAINT LUCIA
♦ Saint Lucia ratified the Rome Statute on 18 August 2010.
♦ Saint Lucia has not signed or ratified the APIC.
♦ No progress regarding the alignment of national legislation with the Rome Statute, adoption of provisions on cooperation with the Court or accession to the APIC has been reported.

**Recommendation for the 23rd session of the UPR:**
Saint Lucia should fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

SAO TOME AND PRINCIPE
♦ Sao Tome and Principe signed the Rome Statute on 28 December 2000 but has not ratified it.
♦ Sao Tome and Principe has not signed or ratified the APIC.
♦ There are no known efforts regarding ratification of the Rome Statute.

*During the 1st cycle of the UPR, in 2011, Sao Tome and Principe gave a general response to four recommendations to ratify the Rome Statute (made by France, Mauritius, Poland and Portugal).*

**Recommendation for the 23rd session of the UPR:**
Sao Tome and Principe should ratify and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC).

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6 During the 1st cycle of the UPR, in 2011, Saint Lucia replied to recommendations to ratify the Rome Statute (made by France, Poland and Slovakia) that it was already a State Party to the Rome Statute.