



REVIEW CONFERENCE TEAM
COALITION FOR THE INTERNATIONAL CRIMINAL COURT (CICC)
COMMENTS AND RECOMMENDATIONS¹
TO THE SIXTH SESSION OF THE ASSEMBLY OF STATES PARTIES
30 NOVEMBER - 14 DECEMBER 2007, NEW YORK, USA
DRAFT, 15 NOVEMBER 2007

The Assembly of States Parties (ASP) has started preparations for the Review Conference, with a focus on issues of procedure and on practical and organisational matters such as dates and venue. The CICC Team on the Review Conference (the Team) has taken note of the Bureau's report and welcomes the allocation of time at the ASP sixth session to discuss and decide on the urgent matters related to the organisation and preparations for the Review Conference.

1. Focus and Scope of the Review Conference

The Review Conference should serve as an opportunity to reconfirm the principle that the most serious crimes must not go unpunished and that the investigation and prosecution of such crimes is a duty, in the first place, of all States and, if they fail to do so, the international community must replace them. Thus in addition to discussions on broadly-supported amendments to the Statute, the Review Conference should allow for reflection on the performance to date of the system as established by the Rome Statute. States Parties should take the Conference as an opportunity to evaluate not only the work of the Court but also how States Parties, other States, International Organisations and, as appropriate, other actors are implementing their obligations and/or commitments *vis-à-vis* the Statute and find solutions to improve the Rome Statute System.

For these reasons, the Team recommends that:

- The Review Conference includes a **high level segment** (General Debate) which can set the tone of the Conference by having a political debate on the impact of the Rome Statute System.
- **Adequate stocktaking and benchmarking mechanisms** are established at the Review Conference in order for States Parties to discuss and make commitments on issues such as cooperation, implementing legislation, complementarity and impunity gap. Furthermore, the impact that international criminal justice has had on national prosecutions and the affected communities, including peace processes and peace building (perception, deterrent effect), among other areas, could be considered.

2. Criteria for Venue of the Review Conference

The location of the Conference is a very important element which should be considered by acknowledging the implications and repercussions that a given venue would

¹While the work of the Review Conference Team reflects the positions of those Coalition members most active on particular issues and this paper has been prepared in consultation with other Coalition teams, this paper cannot be construed to represent the views of all organizations/members of the CICC. Since the Rome Diplomatic Conference, Coalition members have organized themselves into teams, one to follow each working group or theme of the intergovernmental process. Coalition teams now follow issues addressed by the Assembly of States Parties or its subsidiary mechanisms and by the International Criminal Court. Teams provide a forum within which interested members discuss issues, follow developments, elaborate relevant research and positions in response to developments, and elaborate and implement advocacy strategies in relation to those positions. All Coalition members are welcome to join any teams and all Coalition members are regularly apprised of the work of the teams.

have on the performance of the Review Conference. Such implications are not only of a practical nature (participation, budget, facilities, etc.), but also have an effect on the political climate and thereby on the more substantive work of the Conference, and could also potentially affect further ratification of the Rome Statute, and shape the international perception of the ICC.

For these reasons, the Team recommends that the Review Conference should be provided by a State that is willing and able to protect the integrity of the Rome Statute; that fully cooperates with the ICC; that can offer an adequate political climate, taking into account the substantive scope of the Conference; and, that is open to liaise with and facilitates access to civil society organisations.

3. Venue selection process

Ample consultation and thorough and transparent consideration of the venue proposals will be necessary to ensure adequate planning and preparation (both by potential host state and the ASP) and to pre-empt any political, capacity or budgetary complications in the process leading up to the Conference.

For these reasons, the Team recommends that, at its 6th session, the ASP decide to postpone the decision on the venue of the Review conference and adopt a procedure for selecting such venue.

The team makes the following recommendations regarding such procedure:

1. The Bureau should first send a formal communication to all States Parties before the 6th Session detailing the requirements for holding the Review Conference and requesting comprehensive offers to host. This communication would serve to acknowledge the interest expressed by the Government of Uganda and invite formal offers from Uganda and other States Parties, indicating in detail the logistical and financial implications of their offers.
2. After (at least two) proposals have been received in the early spring of 2008, the Bureau could organise in situ visits to the interested States in order to analyse how the requirements are met in terms of facilities, security and other logistical aspects and produce a report on the outcome of its visits.
3. Meanwhile, the Committee on Budget and Finance (CBF) of the ASP, at its 10th session in April 2008, could consider any financial implications of the different offers.
4. The relevant organs and sections of the Court should also be given the opportunity to assess whether a particular venue would impact or affect in some way its work.
5. Finally, the ASP at its resumed session in June 2008 could make a decision on a specific venue on the basis of the reports prepared by the Bureau, the CBF and the Court.
6. The ASP should have a contingency plan, site or arrangement in case circumstances require a change.

The Team notes a decision on the venue process should not lead to a postponement of the decision on the time for the SWGCA available at the seventh session in 2008 and any resumed seventh session in early 2009. Such a decision ought to be taken at the sixth session of the ASP in November/December 2007 since it must be known before the SWGCA preparations and negotiations of the resumed sixth session.