

**Promoting ratification and implementation of the Kampala Amendments to the Rome Statute
(Crime of Aggression; Article 8)**

Side-event organized by Belgium, Liechtenstein and the Global Institute for the Prevention of
Aggression

11th Session of the Assembly of States Parties (ASP) – The Hague – 16 November 2012

Informal Report

The side-event showed the strong interest of States Parties in ratifying the Kampala amendments on the crime of aggression (Article 8 bis et al) and on war crimes (Article 8). The Attorney-General of Botswana, Dr. Athaliah Molokomme, as keynote speaker elaborated on the historic importance of the amendments on the crime of aggression, the need to complete the Rome Statute as originally intended and the significance of extending the protective shield of the Statute. She announced that Botswana would ratify shortly. Several tools in support of the ratification process were made available to delegations, such as a Ratification and Implementation Handbook, a further publication entitled “From Rome to Kampala: The first two amendments to the Rome Statute”, and the newly launched website: www.crimeofaggression.info. It is expected that many States Parties will ratify both sets of amendments simultaneously, as it has been the case for the first three countries to ratify the amendments of the crime of aggression.

Keynote speaker:

Dr. Athaliah Molokomme, Attorney-General of Botswana

Panelists:

Mr. Donald Ferencz – Convenor, The Global Institute for the Prevention of Aggression

Mr. Gérard Dive – Federal Coordinator for the Belgian Cooperation with the International Criminal Court and the Tribunals

Mr. Stefan Barriga – Deputy Permanent Representative of Liechtenstein to the United Nations

Moderator:

H.E. Mr. Willy De Buck – Permanent Representative of Belgium to the international institutions in The Hague

In her keynote speech, **Dr. Athaliah Molokomme** stressed that the consensus reached in Kampala reflected States Parties’ abiding faith in the instrumentality of the Rome Statute over all four crimes initially foreseen in 1998. Therefore, the question had always been when and not whether aggression would become a full part of the Court’s jurisdiction and thus expand the Statute’s protective shield. Two years after Kampala, practical effect needed to be given to the amendments with the aim of ensuring 30 ratifications by the end of 2016. She informed that Botswana was in the final stages of the ratification process and called upon other States Parties to make use of the historic opportunity to choose the side of victims and separate them from perpetrators and aggressors, thus making the ratification of the aggression amendments as important as the ratification of the Statute itself.

In his intervention, **Donald Ferencz** outlined the main **reasons for ratification**, namely to protect human rights and prevent suffering, to close a loophole in the Rome Statute, to extend the judicial protection of the Statute, to support the Court and to help enforce the UN Charter's provisions on the illegal use of force.

Stefan Barriga presented the recently completed **Ratification and Implementation Handbook**, which was designed to assist those officials in charge of preparing ratification bills or domestic implementation laws. In this context, he stressed that each ratification only entered into force one year after the deposit of the ratification instrument. In order to help ensure the earliest possible activation of the crime of aggression amendments, 30 States Parties would thus have to ratify by the end of 2015. He further presented the campaign website www.crimeofaggression.info, which contains further resources as well as the latest news regarding ratification and implementation.

Gérard Dive gave an overview about the amendments on war crimes (Article 8), which criminalize the use of certain weapons in non-international armed conflicts, thus bringing the Rome Statute further in line with customary international law. These weapons were: a) poison or poisoned weapons; b) asphyxiating, poisonous or other gases and all analogous liquids, materials or devices c) bullets which expand or flatten easily in the human body (so-called dum-dum bullets). The implementation of this amendment should be very simple or not require any legislative action at all, as domestic law often did not make a distinction between international and non-international armed conflict.

During the discussion, several representatives informed about their domestic ratification process. Margus Sarapuu, Secretary-General at the Ministry of Justice of **Estonia**, stated that ratification was expected in March 2013 in his country. The representative of **Switzerland** stated that the consultation process was lengthy, but to be completed well before 2015. The representative of **The Netherlands** explained that the newly elected government would consider the issue in January 2013, followed by parliament. The representative of **Australia** said that she hoped to have good news soon, as the domestic process was not as lengthy as in other countries. The question of implementation would be considered after ratification. The representative of **Belgium** stated that the ratification bill for the amendments on war crimes was finalized and would be submitted to the Council of Ministers in the first quarter of 2013 together with the ratification bill for the aggression amendments, once it had been finalized. The representative of **Uganda** said there was a strong interest to ratify, but that currently there were other pressing issues high on the agenda. The representative of **Sweden** said that the issue of aggression was currently discussed at the ministerial level, for which the handbook would be very useful. Furthermore, a complete review of the Swedish penal code was under way, which would include the amendments on war crimes. **ICC Judge Hans Peter Kaul** elaborated on the importance of the amendments for the international community and the Court itself. He also referred to the ratification process in **Germany**, where the first out of two readings in parliament had been completed. The representative of the **United States** expressed lingering concerns with some aspects of the amendments on the crime of aggression, which should not distract the Court from its work on the other core crimes.