

## Resolution ICC-ASP/11/Res.6

*Adopted at the 8th plenary meeting, on 21 November 2012, by consensus*

### ICC-ASP/11/Res.6 Complementarity

*The Assembly of States Parties,*

*Reaffirming* its commitment to the Rome Statute of the International Criminal Court and its determination to combat impunity for the most serious crimes of international concern, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

*Welcoming* the efforts and achievements of the Court in bringing those most responsible for these crimes to justice and *noting* the jurisprudence of the Court on the issue of complementarity,

*Recalling* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are capable of genuinely prosecuting such crimes,

*Recalling further* that the application of articles 17 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

*Recalling further* that greater consideration should be given to how the Court will complete its activities in a situation country and that such exit strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

1. *Resolves* to continue and strengthen effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;
2. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdiction to enable States to genuinely prosecute Rome Statute crimes;
3. *Welcomes further* the commitment by United Nations bodies to continue to mainstream capacity building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, and *strongly encourages* further efforts in this regard by other international and regional organizations, States and civil society;
4. *Welcomes* the Declaration adopted by the High-Level Meeting of the 67th session of the United Nations General Assembly on the rule of law at the national and international levels;
5. *Welcomes* the constructive exchange between States Parties, observer States, the United Nations Development Programme, civil society and the Court during the plenary discussion on complementarity held during the eleventh session of the Assembly, *notes* the growing realization, as expressed in the course of the debate, of the critical need for States, international and regional organizations and civil society to engage and work with relevant countries to strengthen their capacities to investigate and prosecute the most serious international crimes and to share experiences and best practices in this regard, and *recognizes* the need to enhance the dialogue with the rule of law and development communities on these issues and to include complementarity on the agenda of future sessions of the Assembly;
6. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable

offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of these laws, and *calls on* States to do so;

7. *Welcomes* the report of the Bureau on complementarity and the progress made in implementing the Review Conference resolution on complementarity, and *requests* the Bureau to remain seized of this issue and continue the dialogue with the Court and other stakeholders on complementarity, in accordance with resolution RC/Res.1 and as set out in the report of the Bureau on complementarity: “Taking stock of the principle of complementarity – Bridging the impunity gap”,<sup>1</sup> including with regard to complementarity related capacity-building activities by the international community to assist national jurisdictions, and possible exit-strategies of the Court and related issues;

8. *Welcomes* the report of the Secretariat of the Assembly of States Parties on the progress of giving effect to its mandate to facilitate the exchange of information between the Court, States Parties, and other stakeholders including international organizations and civil society, aimed at strengthening domestic jurisdictions,<sup>2</sup> *welcomes further* the work that has already been undertaken by the Secretariat and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information in this regard, including through inviting States to submit information on their capacity-needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twelfth session of the Assembly;

9. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities, and *requests* the Secretariat to report to the twelfth session of the Assembly in this regard;

10. *Welcomes* the report of the Court on complementarity and, while recalling the Court’s limited role in strengthening national jurisdictions, its contribution to the efforts of the international community in this regard, including the Court’s Legal Tools Project, and *requests* the Court to, within the existing mandate, continue cooperation with the Secretariat on complementarity and report, as appropriate, to the twelfth session of the Assembly.

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<sup>1</sup> ICC-ASP/8/51.

<sup>2</sup> Report of the Secretariat on complementarity (ICC-ASP/11/25).