

FOREWORD (1)

The date of 17 July 1998, the day of the adoption of the Rome Statute of the International Criminal Court, will always be marked as one of the major events in the history of international law and relations of the 20th Century. Kofi A. Annan, at that time Secretary-General of the United Nations, wrote: “The Rome Statute [...] is a landmark instrument that should be signed and ratified, as a matter of the highest priority, by as many States as possible” (2). Entered into force on July 1st 2002, after its ratification by more than 60 States, the Statute paved the way for the establishment of the first permanent criminal Court in human history, permitting the prosecution of “the most serious crimes of concern for the international community” (3) with a vocation for universal jurisdiction.

Today, ten years after its entry into force, the Statute has been ratified or acceded by 121 States, additional ratifications or accessions being foreseen in the near future.

Nevertheless, from its very adoption, the Statute’s founding fathers were aware of its incomplete nature: article 5-2 of the Statute explicitly requested additional work to be done by a Review Conference or an Assembly of States Parties in order for the Court to exercise its jurisdiction on the crime of aggression, one of the four categories of crimes falling within the Court jurisdiction, the three other categories being the crime of genocide, crimes against humanity and war crimes (4).

Moreover, the Diplomatic Conference in Rome decided to adopt a dual list of war crimes, the one relating to armed conflict not of an international character being shorter than the one relating to international armed conflict.

It is not surprising that, being a success, the First Review Conference held in Kampala from 31 May to 11 June 2010 concluded its work by adopting the two first amendments to the Rome Statute: the first one relating to the list of war crimes falling within the jurisdiction of the Court in case of armed conflict not of an international character (the so-called “Belgian

(1) This foreword reflects the personal opinion of the editors and commits only themselves.

(2) ANNAN, Kofi A., “Preface”, in *The International Criminal Court. Elements of Crimes and Rules of Procedure and Evidence*, Ed. Roy E. Lee, Transnational Publishers, 2001, Ardsley, NY, p. xviii.

(3) Rome Statute, article 5-1.

(4) Rome Statute, article 5-1, (a) to (c).

Amendment”); and the second, permitting to trigger the jurisdiction of the Court for the crime of aggression in the following years.

If the results of the First Review Conference show that the Statute has successfully met its first challenge, many other challenges await for the Court.

Even though States Parties have now to ratify the two first amendments, numbers of influential States including three permanent members of the United Nations Security Council have yet to ratify the Statute itself.

Moreover, the Court has embarked, with the States Parties, in a “lessons learned” exercise while approaching the final decisions to be rendered in the Court’s first cases. Intriguingly, the fact that the Court is under increasing political and budgetary pressure, despite the “lessons learned” exercise having just begun, and at a time when the judicial action of the Court is just about to reach the age of maturity, could place the institution in real danger.

Seizing the opportunity of the celebration of the tenth anniversary of the entry into force of the Rome Statute, the Belgian Interdepartmental Commission for Humanitarian Law, established in 1987 with the support of the ICRC, has taken the initiative of organizing an international study day in Brussels, on June 5th 2012, entirely dedicated to the two first amendments to the Rome Statute.

This international study day was designed to assist in the drafting of ratification bills at the national level by offering a sound analysis of the amendments and to prepare the international community in anticipation to the last steps to be reached in order for the Court to exercise its jurisdiction on the crime of aggression.

This book presents the fruitful results of the works, thoughts and remarks displayed during this event by an impressive gathering of some of the most authorised international experts in the field.

The editors would like to take this opportunity to thank all the persons whose work and dedication permitted the event to be a success.

This year, all over the world, dozens of events are organised to celebrate the establishment of the International Criminal Court. This testimony is living evidence that the International Criminal Court constitutes, for so many, a key stone in the building process of a better world based on peace *and* justice.

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