United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Rome, Italy
15 June - 17 July 1998

Document:-
A/CONF.183/10

Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court [with an annex containing the resolutions adopted by the Conference]

Extract from Volume I of the Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Final documents)
B. Final Act of the
United Nations Diplomatic Conference
of Plenipotentiaries on the Establishment
of an International Criminal Court
[with an annex containing the resolutions
adopted by the Conference]*

* Circulated under the symbol A/CONF.183/10.


3. Previously, the General Assembly, in its resolution 44/39 of 4 December 1989, had requested the International Law Commission to address the question of establishing an international criminal court; in resolutions 45/41 of 28 November 1990 and 46/54 of 9 December 1991, invited the Commission to consider further and analyse the issues concerning the question of an international criminal jurisdiction, including the question of establishing an international criminal court; and in resolutions 47/33 of 25 November 1992 and 48/31 of 9 December 1993, requested the Commission to elaborate the draft statute for such a court as a matter of priority.

4. The International Law Commission considered the question of establishing an international criminal court from its forty-second session, in 1990, to its forty-sixth session, in 1994. At the latter session, the Commission completed a draft statute for an international criminal court, which was submitted to the General Assembly.

5. The General Assembly, in its resolution 49/53 of 9 December 1994, decided to establish an ad hoc committee to review the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, in light of that review, to consider arrangements for the convening of an international conference of plenipotentiaries.

6. The Ad Hoc Committee on the Establishment of an International Criminal Court met from 3 to 13 April and from 14 to 25 August 1995, during which time the Committee reviewed the issues arising out of the draft statute prepared by the International Law Commission and considered arrangements for the convening of an international conference.

7. The General Assembly, in its resolution 50/46 of 11 December 1995, decided to establish a preparatory committee to discuss further the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, taking into account the different views expressed during the meetings, to draft texts with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court as a next step towards consideration by a conference of plenipotentiaries.

8. The Preparatory Committee on the Establishment of an International Criminal Court met from 25 March to 12 April and from 12 to 30 August 1996, during which time the Committee discussed further the issues arising out of the draft statute and began preparing a widely acceptable consolidated text of a convention for an international criminal court.

9. The General Assembly, in its resolution 51/207 of 17 December 1996, decided that the Preparatory Committee would meet in 1997 and 1998 in order to complete the drafting of the text for submission to the Conference.

10. The Preparatory Committee met from 11 to 21 February, from 4 to 15 August and from 1 to 12 December 1997, during which time the Committee continued to prepare a widely acceptable consolidated text of a convention for an international criminal court.

11. The General Assembly, in its resolution 52/160 of 15 December 1997, requested the Preparatory Committee to continue its work in accordance with General Assembly resolution
51/207 and, at the end of its sessions, to transmit to the Conference the text of a draft convention on the establishment of an international criminal court prepared in accordance with its mandate.

12. The Preparatory Committee met from 16 March to 3 April 1998, during which time the Committee completed the preparation of the draft Convention on the Establishment of an International Criminal Court, which was transmitted to the Conference.


14. The General Assembly, in its resolution 52/160, requested the Secretary-General to invite all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency to participate in the Conference. The delegations of 160 States participated in the Conference. The list of participating States is contained in annex II.

15. The General Assembly, in the same resolution, requested the Secretary-General to invite representatives of organizations and other entities that had received a standing invitation from the Assembly pursuant to its relevant resolutions to participate as observers in its sessions and work, on the understanding that such representatives would participate in that capacity, and to invite, as observers to the Conference, representatives of interested regional intergovernmental organizations and other interested international bodies, including the International Tribunals for the Former Yugoslavia and for Rwanda. The list of such organizations which were represented at the Conference by an observer is contained in annex III.

16. The Secretary-General, pursuant to the same resolution, invited non-governmental organizations accredited by the Preparatory Committee with due regard to the provisions of section VII of Economic and Social Council resolution 1996/31 of 25 July 1996, and in particular to the relevance of their activities to the work of the Conference, to participate in the Conference, along the lines followed in the Preparatory Committee and in accordance with the resolution, as well as the rules of procedure to be adopted by the Conference. The list of non-governmental organizations represented at the Conference by an observer is contained in annex IV.

17. The Conference elected Mr. Giovanni Conso (Italy) as President.

18. The Conference elected as Vice-Presidents the representatives of the following States: Algeria, Austria, Bangladesh, Burkina Faso, China, Chile, Colombia, Costa Rica, Egypt, France, Gabon, Germany, India, Iran (Islamic Republic of), Japan, Kenya, Latvia, Malawi, Nepal, Nigeria, Pakistan, Russian Federation, Samoa, Slovakia, Sweden, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Uruguay.

19. The following committees were set up by the Conference:

**General Committee**

**Chairman:** The President of the Conference

**Members:** The President and Vice-Presidents of the Conference, the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee

**Committee of the Whole**

**Chairman:** Mr. Philippe Kirsch (Canada)

**Vice-Chairmen:** Ms. Silvia Fernandez de Gurmendi (Argentina), Mr. Constantin Virgil Ivan (Romania) and Mr. Phakiso Mochôchoko (Lesotho)

**Rapporteur:** Mr. Yasumasa Nagamine (Japan)
B. Final Act

Drafting Committee

Chairman: Mr. M. Cherif Bassiouni (Egypt)

Members: Cameroon, China, Dominican Republic, France, Germany, 
Ghana, India, Jamaica, Lebanon, Mexico, Morocco, 
Philippines, Poland, Republic of Korea, Russian Federation, 
Slovenia, South Africa, Spain, Sudan, Switzerland, Syrian 
Arab Republic, United Kingdom of Great Britain and Northern 
Ireland, United States of America and Venezuela.

The Rapporteur of the Committee of the Whole participated ex officio in the work of the Drafting Committee in accordance with rule 49 of the rules of procedure of the Conference.

Credentials Committee

Chairman: Ms. Hannelore Benjamin (Dominica)

Members: Argentina, China, Côte d'Ivoire, Dominica, Nepal, Norway, 
Russian Federation, United States of America and Zambia.

20. The Secretary-General was represented by Mr. Hans Corell, Under-Secretary-General, the Legal Counsel. Mr. Roy S. Lee, Director of the Codification Division of the Office of Legal Affairs, acted as Executive Secretary of the Conference. The secretariat was further composed as follows: Mr. Manuel Rama-Montaldo, Secretary, Drafting Committee; Ms. Mahnoush H. Arsanjani, Secretary, Committee of the Whole; Mr. Mpazi Sinjela, Secretary, Credentials Committee; Assistant Secretaries of the Conference: Ms. Christiane Bourloyannis-Vrailas, Ms. Virginia Morris, Mr. Vladimir Rudnitsky, Mr. Renan Villacis.

21. The Conference had before it a draft Statute on the Establishment of an International Criminal Court transmitted by the Preparatory Committee in accordance with its mandate (A/CONF.183/2/Add.1).

22. The Conference assigned to the Committee of the Whole the consideration of the draft Convention on the Establishment of an International Criminal Court adopted by the Preparatory Committee. The Conference entrusted the Drafting Committee, without reopening substantive discussion on any matter, with coordinating and refining the drafting of all texts referred to it without altering their substance, formulating drafts and giving advice on drafting as requested by the Conference or by the Committee of the Whole and reporting to the Conference or to the Committee of the Whole as appropriate.


24. The foregoing Statute, which is subject to ratification, acceptance or approval, was adopted by the Conference on 17 July 1998 and opened for signature on 17 July 1998, in accordance with its provisions, until 17 October 1998 at the Ministry of Foreign Affairs of Italy and, subsequently, until 31 December 2000, at United Nations Headquarters in New York. The same instrument was also opened for accession in accordance with its provisions.

25. After 17 October 1998, the closing date for signature at the Ministry of Foreign Affairs of Italy, the Statute will be deposited with the Secretary-General of the United Nations.
26. The Conference also adopted the following resolutions, which are annexed to the present Final Act:

Tribute to the International Law Commission
Tribute to the participants in the Preparatory Committee on the Establishment of an International Criminal Court and its Chairman
Tribute to the President of the Conference, to the Chairman of the Committee of the Whole and to the Chairman of the Drafting Committee
Tribute to the People and the Government of Italy
Resolution on treaty crimes
Resolution on the establishment of the Preparatory Commission for the International Criminal Court

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE at Rome this 17th day of July, one thousand nine hundred and ninety-eight, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

By unanimous decision of the Conference, the original of this Final Act shall be deposited in the archives of the Ministry of Foreign Affairs of Italy.

The President of the Conference:

Giovanni Conso

The Representative of the Secretary-General:

Hans Corell

The Executive Secretary of the Conference:

Roy S. Lee
RESOLUTIONS ADOPTED BY THE UNITED NATIONS DIPLOMATIC CONFERENCE OF PLENIPOTENTIARIES ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT

ANNEX I

A

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution in the preparation of the original draft of the Statute, which constituted the basis for the work of the Preparatory Committee.

B

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Pays tribute to the participants in the Preparatory Committee on the Establishment of an International Criminal Court and its Chairman, Mr. Adriaan Bos, for their outstanding and hard work, commitment and dedication.

C

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Expresses its deep appreciation and gratitude to the People and the Government of Italy for making the necessary arrangements for the holding of the Conference in Rome, for their generous hospitality and for their contribution to the successful completion of the work of the Conference.

D

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Expresses its appreciation and thanks to Mr. Giovanni Conso, President of the Conference, Mr. Philippe Kirsch, Chairman of the Committee of the Whole, and Mr. M. Cherif Bassiouni, Chairman of the Drafting Committee, who, through their experience, skillful efforts and wisdom in steering the work of the Conference, contributed greatly to the success of the Conference.

E

The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Having adopted the Statute of the International Criminal Court,

Recognizing that terrorist acts, by whomever and wherever perpetrated and whatever their forms, methods or motives, are serious crimes of concern to the international community,

Recognizing that the international trafficking of illicit drugs is a very serious crime, sometimes destabilizing the political and social and economic order in States,

Deeply alarmed at the persistence of these scourges, which pose serious threats to international peace and security,

Regrettting that no generally acceptable definition of the crimes of terrorism and drug crimes could be agreed upon for the inclusion, within the jurisdiction of the Court,
B. Final Act

Affirming that the Statute of the International Criminal Court provides for a review mechanism, which allows for an expansion in future of the jurisdiction of the Court,

Recommends that a Review Conference pursuant to article 123 of the Statute of the International Criminal Court consider the crimes of terrorism and drug crimes with a view to arriving at an acceptable definition and their inclusion in the list of crimes within the jurisdiction of the Court.


Having adopted the Statute of the International Criminal Court,

Having decided to take all possible measures to ensure the coming into operation of the International Criminal Court without undue delay and to make the necessary arrangements for the commencement of its functions,

Having decided that a preparatory commission should be established for the fulfilment of these purposes,

Decides as follows:

1. There is hereby established the Preparatory Commission for the International Criminal Court. The Secretary-General of the United Nations shall convene the Commission as early as possible at a date to be decided by the General Assembly of the United Nations;

2. The Commission shall consist of representatives of States which have signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and other States which have been invited to participate in the Conference;

3. The Commission shall elect its Chairman and other officers, adopt its rules of procedure and decide on its programme of work. These elections shall take place at the first meeting of the Commission;

4. The official and working languages of the Preparatory Commission shall be those of the General Assembly of the United Nations;

5. The Commission shall prepare proposals for practical arrangements for the establishment and coming into operation of the Court, including the draft texts of:
   (a) Rules of Procedure and Evidence;
   (b) Elements of Crimes;
   (c) A relationship agreement between the Court and the United Nations;
   (d) Basic principles governing a headquarters agreement to be negotiated between the Court and the host country;
   (e) Financial regulations and rules;
   (f) An agreement on the privileges and immunities of the Court;
   (g) A budget for the first financial year;
   (h) The rules of procedure of the Assembly of States Parties;


7. The Commission shall prepare proposals for a provision on aggression, including the definition and Elements of Crimes of aggression and the conditions under which the International
B. Final Act

Criminal Court shall exercise its jurisdiction with regard to this crime. The Commission shall submit such proposals to the Assembly of States Parties at a Review Conference, with a view to arriving at an acceptable provision on the crime of aggression for inclusion in this Statute. The provisions relating to the crime of aggression shall enter into force for the States Parties in accordance with the relevant provisions of this Statute;

8. The Commission shall remain in existence until the conclusion of the first meeting of the Assembly of States Parties;

9. The Commission shall prepare a report on all matters within its mandate and submit it to the first meeting of the Assembly of States Parties;

10. The Commission shall meet at the Headquarters of the United Nations. The Secretary-General of the United Nations is requested to provide to the Commission such secretariat services as it may require, subject to the approval of the General Assembly of the United Nations;

11. The Secretary-General of the United Nations shall bring the present resolution to the attention of the General Assembly for any necessary action.
## ANNEX II

LIST OF STATES PARTICIPATING IN THE UNITED NATIONS DIPLOMATIC CONFERENCE OF PLENIPOTENTIARIES ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT

<table>
<thead>
<tr>
<th>Country</th>
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<td>Afghanistan</td>
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<td>Barbados</td>
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<td>Bosnia and Herzegovina</td>
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<td>Botswana</td>
<td>Iran (Islamic Republic of)</td>
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<td>Brazil</td>
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<td>Brunei Darussalam</td>
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<td>The former Yugoslav Republic of Macedonia</td>
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<td>Russian Federation</td>
<td>and Northern Ireland</td>
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<td>Rwanda</td>
<td>United Republic of Tanzania</td>
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<td>United States of America</td>
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<td>San Marino</td>
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<td>Sao Tome and Principe</td>
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<td>Slovakia</td>
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ANNEX III

LIST OF ORGANIZATIONS AND OTHER ENTITIES REPRESENTED
AT THE CONFERENCE BY AN OBSERVER

Organizations
Palestine

Intergovernmental organizations and other entities
Agence de Coopération Culturelle et Technique
Asian-African Legal Consultative Committee
Council of Europe
European Community
European Court of Human Rights
Humanitarian Fact-Finding Commission
Inter-American Institute of Human Rights
International Committee of the Red Cross
International Criminal Police Organization (INTERPOL)
International Federation of Red Cross and Red Crescent Societies
Inter-Parliamentary Union
League of Arab States
Organization of African Unity
Organization of American States
Organization of the Islamic Conference
Sovereign Military Order of Malta

Specialized agencies and related organizations
International Labour Organization
Food and Agriculture Organization of the United Nations
United Nations Educational, Scientific and Cultural Organization
International Fund for Agricultural Development
International Atomic Energy Agency

United Nations programmes and bodies
United Nations Children’s Fund
Office of the United Nations High Commissioner for Refugees
United Nations Commission on Crime Prevention and Criminal Justice
United Nations Office of the High Commissioner for Human Rights
United Nations Office at Vienna, Office for Drug Control and Crime Prevention
International Criminal Tribunal for Rwanda
International Tribunal for the Former Yugoslavia
International Law Commission
World Food Programme
ANNEX IV
LIST OF NON-GOVERNMENTAL ORGANIZATIONS REPRESENTED
AT THE CONFERENCE BY AN OBSERVER

Agir ensemble pour les droits de l'homme (Working Together for Human Rights)
American Association for the International Commission of Jurists
American Association of Jurists
American Bar Association
Amnesty International
Arab Lawyers Union
Asia Pacific Forum on Women, Law and Development
Asian Center for Women's Human Rights
Asian Women's Human Rights Council
Asociación por Derechos Humanos (APRODEH; Association for Human Rights)
Australian Lawyers for Human Rights
Baha'i International Community
Bangladesh Legal Aid and Services Trust
Bar Human Rights Committee of England and Wales
Cairo Institute for Human Rights Studies
Canadian Network for an ICC/World Federalists of Canada
Carter Center
Center for Civil Human Rights
Center for Development of International Law
Center for Human Rights and Rehabilitation
Center for Reproductive Law and Policy
Children's Fund of Canada, Inc.
Colombian Commission of Jurists
Comité de Defensa de los Derechos Humanos y del Pueblo (Committee for the Defence of
Human Rights and of the People)
Coalition for International Justice
Comité Latinoamericano y del Caribe para la Defensa de los Derechos de la Mujer
(CLADEM; Latin American and Caribbean Committee for the Defence of Women's Rights)
Commission of Churches on International Affairs of the World Council of Churches
Committee of Former Nuremberg Prosecutors
Community Law Centre
Conseil national des barreaux (National Bar Council)
Coordinating Board of Jewish Organizations
Corporación Colectivo de Abogados “José Alvear Restrepo” (José Alvear Restrepo Lawyers
Collective Association)
Corporación de Desarrollo de la Mujer (La Morada; Association for the Development of Women)
Croatian Law Centre
Deutscher Juristinnenbund (German Women Lawyers Association)
Droits et devoirs en démocratie (3D; Rights and Duties in Democracy)
Egyptian Organization for Human Rights
European Law Students Association
Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos
(Federation of Associations for the Defence and Promotion of Human Rights)
Fédération internationale de l'action des Chrétiens pour l'abolition de la torture
(FiACAT; International Federation of Christian Action to Abolish Torture)
Foundation for Human Rights Initiative
Foundation for the Establishment of an International Criminal Court and
International Law Commission
Friends World Committee for Consultation
Fundación Ecumenica para el Desarrollo y la Paz (FEDEPAZ; Ecumenical Foundation for
Development and Peace)
General Board of Church and Society of the United Methodist Church
Humanitarian Law Center
Human Rights Advocates
Human Rights Watch
ICAR Foundation
Information Workers for Peace
Instituto Latinoamericano de Servicios Legales Alternativos (ILSA; Latin American Institute of Alternative Legal Services)
Inter Press Service
Interafrican Union for Human Rights
Interamerican Coordinating of Women’s Human Rights Activists (CIMA)
Inter-American Legal Services Association
International Association of Latin American Lawyers
Interights
Intermedia
International Association for Religious Freedom
International Association of Democratic Lawyers
International Association of Lawyers
International Association of Lawyers against Nuclear Arms (IALANA)
International Association of Penal Law
International Bar Association
International Centre for Criminal Law Reform and Criminal Justice Policy
International Centre for Human Rights and Democratic Development
International Commission of Jurists
International Court of the Environment
International Criminal Defense Attorneys Association
International Federation of Human Rights Leagues
International Federation of Women Lawyers, Kenya
International Human Rights Law Group
International Institute for Criminal Sciences
International Institute of Higher Studies in Criminal Sciences
International Law Association Committee on a Permanent ICC
International Law Association of Jurists
International League for Human Rights
International Peace Bureau
International Right to Life Federation
International Service for Human Rights
International Society for Human Rights, Gambia
International Society for Human Rights, Germany
International Society for Traumatic Stress Studies
Japan Federation of Bar Associations
Juristes sans frontières (Lawyers without Borders)
Lama Gangchen World Peace Foundation
Law Projects Center, Yugoslavia
Lawyers Committee for Human Rights
Lawyers Committee on Nuclear Policy
Lawyers without Borders
Legal Research and Resource Development Centre
Leo Kuper Foundation
Lutheran World Federation
Médecins du monde (Doctors of the World)
Médecins sans frontières/Doctors without Borders
Minnesota Advocates for Human Rights
Movimento Nacional de Direitos Humanos (National Movement for Human Rights)
Movimiento por la Paz, Desarme y Libertad (National Movement for Peace, Disarmament and Freedom)
MOVIMONDO (Italy)
National Institute for Public Interest Law and Research
Netherlands Institute of Human Rights
No Peace Without Justice
Norwegian Helsinki Committee
Observatoire international des prisons, section du Cameroun (International Monitoring Centre for Prisons, Cameroon Branch)
Observatorio para la Paz (Peace Monitoring Centre)
One World Trust
OXFAM (United Kingdom and Ireland)
Pace Peace Center
Parliamentarians for Global Action
Plural - Centro de Estudios Constitucionales (Plural - Centre for Constitutional Studies)
Real Women of Canada
Redress
Rencontre africaine pour la défense des droits de l'homme (RADDHO; African Meeting for the Defence of Human Rights)
Save the Children Fund
South Asia Human Rights Documentation Centre
Tamilandu United Nations Association
Terre des Hommes Foundation
Terre des Hommes, Germany
Transnational Radical Party
Unión Nacional de Juristas de Cuba (National Union of Cuban Lawyers)
Unitarian Universalist Association
United Nations Association, USA
Volunteers for Prison Inmates
Washington Working Group on the ICC/World Federalist Association
Woman and Men Engaged in Advocacy, Research and Education (WEARE) for Human Rights
Women’s Caucus for Gender Justice and the ICC/MADRE
Women’s Consortium of Nigeria
Women’s Information Consultative Center
Women’s International League for Peace and Freedom
Women’s League of Lithuania
World Conference on Religion and Peace
World Federalist Association
World Federalist Movement/IGP
Young European Federalists
ZIMRIGHTS (Zimbabwe Human Rights Association)