

RESOLUTION on the International Criminal Court (ICC)

The ACP-EU Joint Parliamentary Assembly,

- meeting in Brazzaville (Republic of the Congo) from 31 March to 3 April 2003,
- having regard to the European Parliament's previous resolutions on the ICC (19 November 1998, 18 January 2001 and 28 February, 26 September and 24 October 2002) and on the draft American Servicemembers' Protection Act (ASPA) (4 July 2002),
- having regard to the Rome Statute of the ICC, and in particular Articles 16, 86 and 98 thereof,
- having regard to the declaration of 1 July 2002 on the ICC by the EU Council Presidency on behalf of the EU, and to the Council's conclusions on the ICC and its guiding principles adopted on 30 September 2002,
- having regard to the first assembly of the States Parties to the ICC, held on 9 September 2002,
- having regard to the swearing-in of the 18 ICC judges on 11 March 2003, A. whereas the Rome Statute makes a decisive contribution to the implementation of international law and justice and is a valuable instrument to combat impunity for the most serious international crimes,
 - B. whereas the current world-wide political pressure being exerted by the Government of the USA to persuade States Parties and Signatory States of the Rome Statute, as well as nonsignatory states, to enter into bilateral immunity agreements which seek, through misuse of Article 98, to prevent US government officials, employees, military personnel or nationals from being surrendered to the ICC, should not succeed with any country, in particular with the EU or ACP Member States,
 - C. whereas the ICC entered into force on 1 July 2002 with the ratification of the Rome Statute by 60 States Parties, out of 124 Signatory States,
 1. Is deeply committed to preserving the full integrity of the Rome Statute and the effective functioning of the International Criminal Court;
 2. Stresses that no immunity agreement should ever afford the possibility of impunity for any individual accused of war crimes, crimes against humanity or genocide;
 3. Regrets the EU Council's conclusion which envisages the possibility for countries to enter into such agreements with the USA, even if subject to certain conditions; 1 Adopted by the ACP-EU Joint Parliamentary Assembly on 3 April 2003 in Brazzaville (Republic of the Congo).

4. Recognises that the agreements proposed by the USA are contrary to the Rome Statute and to the Treaty commitments of the EU Member States;

5. Urges the EU Council to make all efforts to start a frank dialogue with the US Government and Congress in order to stop the pressure and the threat of sanctions on the countries which have ratified the Rome Statute and to engage the US administration in a cooperative attitude with the ICC;

6. Firmly believes that the ICC States Parties and Signatory States are obliged under international law not to defeat the object and purpose of the Rome Statute, under which, according to its Preamble, 'the most serious crimes of concern to the international community as a whole must not go unpunished' and that States Parties are obliged to cooperate fully with the Court, in accordance with Article 86 of the Rome Statute, thus preventing them from entering into immunity agreements which remove certain citizens from the States' or the ICC's jurisdictions, undermining the full effectiveness of the ICC and jeopardising its role as a complementary jurisdiction to State jurisdictions and a building block in collective global security;

7. Stresses that the Rome Statute was ratified by all EU Member States and by many ACP countries and is an essential component of the democratic model and values the international community should share;

8. Expects the EU and ACP governments and parliaments to refrain from adopting any agreement which undermines the effective implementation of the Rome Statute; considers therefore that ratifying such an agreement is incompatible with membership of or association with the EU or the ACP-EU Joint Parliamentary Assembly;

9. Encourages the parliaments of those governments that have signed agreements with the United States under Article 98 of the Rome Statute not to ratify these agreements;

10. Invites all Signatory States to ratify the Statute;

11. Invites the EU and ACP to commit fully to the ICC and to enable it to succeed in preserving its independence, impartiality and integrity;

12. Invites the governments and national parliaments of countries associated with the EU or the ACP under various agreements to sign and ratify the ICC Treaty immediately;

13. Urges ACP countries and EU Member States, candidate countries and all other countries associated with the EU under various agreements to undertake an analysis of the legal implications of UN Security Council Resolution 1422, and calls for strong action against the renewal of the resolution in July 2003;

14. Reminds Member States of their obligations regarding the prohibition of the death penalty, and calls for an in-depth

analysis of the legal implications of Article 98 in this area;
asks ACP countries to proceed in the same way;

15. Instructs its Co-Presidents to forward this resolution to the
ACP-EU Council and the European Commission.