

(XVIII.10)

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Référence : C.N.533.2010.TREATIES-6 (Notification dépositaire)

STATUT DE ROME DE LA COUR PÉNALE INTERNATIONALE
ROME, 17 JUILLET 1998**AMENDEMENT DU STATUT DE ROME DE LA COUR PÉNALE INTERNATIONALE**
KAMPALA, 10 JUIN 2010**ADOPTION DE L'AMENDEMENT À L'ARTICLE 8**

Le Secrétaire général de l'Organisation des Nations Unies, agissant en sa qualité de dépositaire, communique :

Le 10 juin 2010, à la Conférence de révision du Statut de Rome qui s'est tenue à Kampala, en Ouganda, du 31 mai au 11 juin 2010, les Parties ont adopté, conformément au paragraphe 3 de l'article 121 du Statut de Rome de la Cour pénale internationale, un amendement à l'article 8 du Statut par la résolution RC/Res.5.

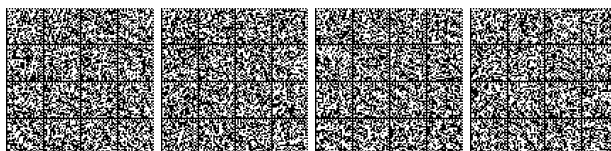
Conformément au paragraphe 5 de l'article 121, « [u]n amendement aux articles 5, 6, 7 et 8 du présent Statut entre en vigueur à l'égard des États Parties qui l'ont accepté un an après le dépôt de leurs instruments de ratification ou d'acceptation ».

On trouvera ci-joint une copie du texte de l'amendement à l'article 8 en anglais, arabe, chinois, espagnol, français et russe.

Le 29 novembre 2010



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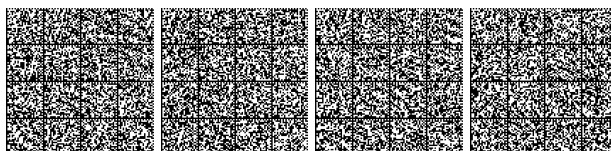
Amendment to article 8

Add to article 8, paragraph 2 (e), the following:

“(xiii) Employing poison or poisoned weapons;

(xiv) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

(xv) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.”



I hereby certify that the foregoing text is a true copy of the Amendment to article 8 of the Rome Statute of the International Criminal Court, adopted on 10 June 2010, at the 12th plenary meeting of the Review Conference of the Rome Statute of the International Criminal Court, which was held in Kampala, Uganda, from 31 May to 11 June 2010.

Je certifie que le texte qui precede est une copie conforme de l'Amendement a l'article 8 du Statut de Rome de la Cour Pénale Internationale, adopté le 10 juin 2010 à la douzieme seance pleniére de la Conférence de révision du Statut de Rome de la Cour Pénale Internationale, tenue a Kampala, en Ouganda, du 31 mai au 11 juin 2010.

For the Secretary-General,
Assistant Secretary-General
in charge of the Office of Legal Affairs

Pour le Secrétaire général,
Le Sous-Secrétaire général
chargé du Bureau des affaires juridiques



Stephen Mathias

United Nations, New York
29 November 2010

Organisation des Nations Unies
New York, le 29 novembre 2010



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Reference: C.N.651.2010.TREATIES-8 (Depositary Notification)

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

ROME, 17 JULY 1998

AMENDMENTS TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

KAMPALA, 11 JUNE 2010

ADOPTION OF AMENDMENTS ON THE CRIME OF AGGRESSION

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

On 11 June 2010, at the Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, the Parties adopted, in accordance with article 121, paragraph 3, of the Rome Statute of the International Criminal Court, amendments on the crime of aggression to the Rome Statute by Resolution RC/Res.6.

In accordance with article 123, paragraph 3, of the Rome Statute, the provisions of article 121, paragraphs 3 to 7, apply to the adoption and entry into force of any amendments to the Statute considered at the Review Conference.

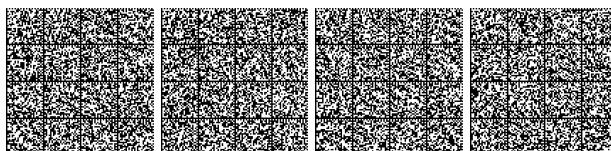
Article 121, paragraphs 3, 4, 5, 6 and 7 provide as follows:

“3. The adoption of an amendment at a meeting of the Assembly of States Parties or at a Review Conference on which consensus cannot be reached shall require a two-thirds majority of States Parties.

“4. Except as provided in paragraph 5, an amendment shall enter into force for all States Parties one year after instruments of ratification or acceptance have been deposited with the Secretary-General of the United Nations by seven-eighths of them.

“5. Any amendment to articles 5, 6, 7 and 8 of this Statute shall enter into force for those States Parties which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance. In respect of a State Party which has not accepted the amendment, the Court shall not exercise its jurisdiction regarding a crime covered by the amendment when committed by that State Party's nationals or on its territory.

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“6. If an amendment has been accepted by seven-eighths of States Parties in accordance with paragraph 4, any State Party which has not accepted the amendment may withdraw from this Statute with immediate effect, notwithstanding article 127, paragraph 1, but subject to article 127, paragraph 2, by giving notice no later than one year after the entry into force of such amendment.

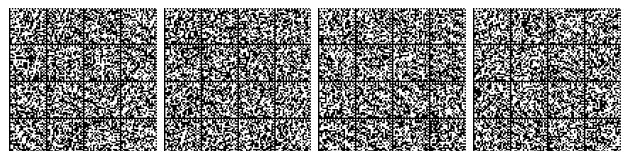
“7. The Secretary-General of the United Nations shall circulate to all States Parties any amendment adopted at a meeting of the Assembly of States Parties or at a Review Conference.”

In operative paragraph 1 of resolution RC/Res.6, the Review Conference adopted, in accordance with article 5, paragraph 2, of the Rome Statute of the International Criminal Court, the amendments to the Statute contained in annex 1 to the resolution, “which are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5”.

A copy of the text of the amendments on the crime of aggression in the Arabic, Chinese, English, French, Russian and Spanish languages is transmitted herewith.

29 November 2010

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depository notifications are issued in electronic format only. Depository notifications are made available to the Permanent Missions to the United Nations in the United Nations Treaty Collection on the Internet at <http://treaties.un.org>, under "Depository Notifications (CNs)". In addition, the Permanent Missions, as well as other interested individuals, can subscribe to receive depository notifications by e-mail through the Treaty Section's "Automated Subscription Services", which is also available at <http://treaties.un.org>.



Amendments to the Rome Statute of the International Criminal Court on the Crime of Aggression

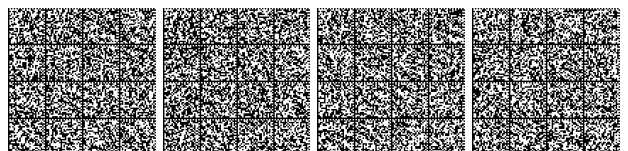
1. *Article 5, paragraph 2, of the Statute is deleted.*
2. *The following text is inserted after article 8 of the Statute:*

Article 8 bis **Crime of aggression**

1. For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.

2. For the purpose of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

- a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- c) The blockade of the ports or coasts of a State by the armed forces of another State;
- d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
- e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;
- f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
- g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.



3. *The following text is inserted after article 15 of the Statute:*

Article 15 bis

**Exercise of jurisdiction over the crime of aggression
(State referral, *proprio motu*)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraphs (a) and (c), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.
4. The Court may, in accordance with article 12, exercise jurisdiction over a crime of aggression, arising from an act of aggression committed by a State Party, unless that State Party has previously declared that it does not accept such jurisdiction by lodging a declaration with the Registrar. The withdrawal of such a declaration may be effected at any time and shall be considered by the State Party within three years.
5. In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State's nationals or on its territory.
6. Where the Prosecutor concludes that there is a reasonable basis to proceed with an investigation in respect of a crime of aggression, he or she shall first ascertain whether the Security Council has made a determination of an act of aggression committed by the State concerned. The Prosecutor shall notify the Secretary-General of the United Nations of the situation before the Court, including any relevant information and documents.
7. Where the Security Council has made such a determination, the Prosecutor may proceed with the investigation in respect of a crime of aggression.
8. Where no such determination is made within six months after the date of notification, the Prosecutor may proceed with the investigation in respect of a crime of aggression, provided that the Pre-Trial Division has authorized the commencement of the investigation in respect of a crime of aggression in accordance with the procedure contained in article 15, and the Security Council has not decided otherwise in accordance with article 16.
9. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
10. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.



4. *The following text is inserted after article 15 bis of the Statute:*

Article 15 ter

**Exercise of jurisdiction over the crime of aggression
(Security Council referral)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraph (b), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.
4. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
5. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

5. *The following text is inserted after article 25, paragraph 3, of the Statute:*

3 bis. In respect of the crime of aggression, the provisions of this article shall apply only to persons in a position effectively to exercise control over or to direct the political or military action of a State.

6. *The first sentence of article 9, paragraph 1, of the Statute is replaced by the following sentence:*

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7, 8 and 8 *bis*.

7. *The chapeau of article 20, paragraph 3, of the Statute is replaced by the following paragraph; the rest of the paragraph remains unchanged:*

3. No person who has been tried by another court for conduct also proscribed under article 6, 7, 8 or 8 *bis* shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:



I hereby certify that the foregoing text is a true copy of the Amendments on the crime of aggression to the Rome Statute of the International Criminal Court, adopted on 11 June 2010, at the 13th plenary meeting of the Review Conference of the Rome Statute of the International Criminal Court, which was held in Kampala, Uganda, from 31 May to 11 June 2010.

For the Secretary-General,
Assistant-Secretary-General
in charge of the Office of Legal Affairs

Je certifie que le texte qui precede est une copie conforme des Amendements sur le crime d'agression du Statut de Rome de la Cour Pénale Internationale, adoptés le 11 juin 2010 à la treizieme séance plénière de la Conference de révision du Statut de Rome de la Cour Pénale Internationale, tenue à Kampala, en Ouganda, du 31 mai au 11 juin 2010.

Pour le Secrétaire général,
Le Sous-Secrétaire général
chargé du Bureau des affaires juridiques



Stephen Mathias

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