Editors’ Preface

The Rome Statute of the International Criminal Court entered into force on 1 July 2002 and has been ratified by 90 States. The elections of the judges and prosecutor took place in February and April 2003 and the ICC will soon be fully operational. What was considered not so long ago merely a dream of a few visionaries has become a reality. The challenge is now for the Court to concretely establish its authority as an indispensable institution to fight impunity and contribute to justice and peace in today’s world society.

Since the beginning of the ICC process, the University of Trento has been active in promoting scholarly and professional debate on the new Court. In 1999, an international meeting of leading negotiators and eminent scholars was organized in Trento to discuss the main features of the Rome Statute. The papers delivered on that occasion were published in 20011.

Following this path, a second international conference on the ICC was held in Trento from 30 May to 1 June 2001. Diplomats and scholars were invited to address a specific issue that is still unresolved in the post-Rome negotiations: the crime of aggression. Article 5 of the ICC Statute includes aggression, along with genocide, war crimes and crimes against humanity, in the list of crimes made subject to the Court’s jurisdiction. Yet the Statute postpones the exercise of its jurisdiction over the crime of aggression until such time as further provisions have been prepared on the definition of this crime and on the related conditions for the Court’s intervention. After the Rome Conference, the Preparatory Commission for the ICC made considerable efforts towards reaching an agreement, but legal and political difficulties related to issues dealing primarily with the use of force in international relations prevented the Commission from completing its mandate.

The present volume collects the papers given by the participants at the 2001 Trento meeting. In accordance with the program of the meeting, the volume is divided in three parts: the historical background of the crime of aggression; the definition of the crime of aggression, in light of proposals in the Preparatory Commission; and various points of view on the relationship between the Court’s competence in adjudicating cases of alleged crimes of aggression committed by individuals, and the Security Council’s competence, under the U.N. Charter, to determine the commission of acts of aggression by a State. The main negotiating documents presented by States and coordinators as well as important studies prepared by the U.N. Secretariat during the Preparatory Commission’s work are available at the website: http://www.un.org/law/icc/prepcomm/prepfra.htm or at http://www.jus.unitn.it/icct82/home.html.

The intent of the Trento initiative was twofold: to clarify the terms of the ongoing debate over the crime of aggression, and to facilitate a better understanding among delegates involved in the negotiating process, which is now set to continue in an ad hoc working group open to all member States of the U.N. In both respects, we would like to express our warmest thanks to the speakers and to the other participants for their contribution to the success of the meeting. In particular, we are convinced that the significant progress made on the crime of aggression during the last three sessions of the Preparatory Commission, while not decisive to ensuring a positive outcome, can be seen as evidence of the importance of keeping the dialogue alive on this controversial issue.

Once again, the University of Trento, the Autonomous Province of Trento and the Autonomous Region of Trentino Alto Adige Südtirol were pleased to offer their facilities and financial support to the initiative. To them we are warmly grateful. The colleagues and the

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personnel from the Law School and the Department of Legal Sciences encouraged us and never stinted on giving advice and useful suggestions as well as concrete contributions to the success of the meeting. The students of the University of Trento and of other Universities showed great enthusiasm and sincere interest in the meeting. Their active participation confirmed once more that they, the students, are the main addressees of such initiatives.

The proceedings of the first Trento meeting were dedicated to the students as future protagonists of international relations. The present volume is dedicated to a person who made an outstanding contribution to both international relations and the University of Trento, the late Ambassador Enzo Perlot, who was an active promoter of the second Trento meeting and presided over its works.

Trento - New York, May 2003