



# Newsletter

May 2011

ICC-ASP-NL-06/11-En

ASP Special Edition #6



## Ninth session of the Assembly of States Parties

### Summary

The President of the Assembly of States Parties to the Rome Statute, Ambassador Christian Wenaweser presided over its ninth session held at United Nations (UN) Headquarters from 6 to 10 December 2010. The Assembly, inter alia, elected six members of the Committee on Budget and Finance and adopted resolutions on the programme budget for 2011, permanent premises, governance, the Independent Oversight Mechanism and on strengthening the ICC and the Assembly of States Parties.

### General Debate

A total of 47 States Parties and 1 Observer State as well as several international organizations and NGOs participated in the general debate. Numerous speakers reiterated their commitment to the Rome Statute and international criminal justice and recalled the historic accomplishments of the Review Conference in Kampala.



The President of Colombia, Mr. Juan Manuel Santos, the first Head of State to address the Assembly during a general debate



## ASP Publication \*

Selected Basic Documents related to the International Criminal Court



\* Arabic, English, French and Spanish



Amb. Paul Seger (Switzerland), Coordinator of the Working Group on Amendments

### Working Group on Amendments

The Working Group on Amendments was established by the Assembly for the purpose of considering, as from its ninth session, amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be adopted.

At its ninth session, the Assembly decided to hold informal consultations in New York between its ninth and tenth sessions, during which delegations would have the opportunity to present amendments already submitted and views on the substance of proposed amendments. Delegations would also discuss working methods, procedures and the role of the Working Group with respect to possible future amendments.

Amb. Mary Whelan (Ireland), facilitator for cooperation 2009-2011



### Review Conference follow-up

The focal points on four sub-topics, namely the impact of the Rome Statute system on victims and affected communities, cooperation, complementarity and peace and justice, presented updates on the work that had been undertaken since Kampala in the framework of the New York and Hague working groups.

The Assembly requested the Bureau to prepare a report on which Assembly procedures could be required to enable it to discharge its mandate to consider any question relating to non-cooperation and to submit that report to the Assembly for consideration at its tenth session.



From left : Ms. Alejandra Quezada (Chile) and Ms. Miia Aro-Sánchez (Finland), focal points on the impact of the Rome Statute system on victims



From left : Mr. David Kendal (Denmark) and Mr. Andries Nel (South Africa), focal points on complementarity

### Pledges

The focal points invited States to submit new pledges for the next session of the Assembly, as well as to follow up on the pledges which they had already made.



From left : The focal points on pledges, Mr. Gonzalo Bonifaz (Peru) and Ms. Ceta Noland (Netherlands)

### Independent Oversight Mechanism

The Assembly adopted the Operational Mandate for the investigative function of the Independent Oversight Mechanism (IOM).

From left : Ms. Beverly Mulley, temporary head of the IOM, and Mr. Vladimir Cvetković (Serbia), facilitator for the IOM



<http://tinyurl.com/ICCASP9-res>

### Study Group on Governance

The Assembly established the study group on governance in order to facilitate the dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence. The role of the study group is to identify issues where further action is required, in consultation with the Court, and formulate recommendations to the Assembly through the Bureau.



The facilitator for the governance resolution, Vice-President of the Assembly, Amb. Jorge Lomónaco (Mexico).

### Election of new ASP Vice-President



The Assembly elected Ambassador Simona Mirela Miculescu, Permanent Representative of Romania to the UN, as Vice-President of the Assembly and Coordinator of the New York Working Group to complete the term of the former Vice-President based in New York.

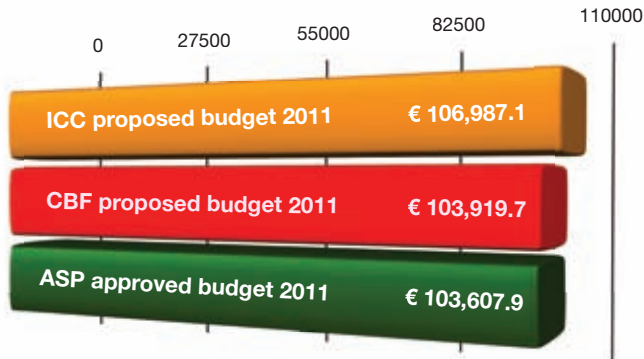
## Assembly approved programme budget for 2011

Amb. Lydia Morton (Australia) was the Coordinator of the Working Group on the Programme Budget. For the first time, the Assembly approved a budget that was below the recommendations of the Committee on Budget and Finance, its specialized subsidiary body. The CBF was represented by its Vice-President Ms. Rossette Nyirinkindi Katungye (Uganda), Ms. Carolina Fernández Opazo (Mexico) and Mr. Masud Husain (Canada).



### Total programme budget

All units are €1,000

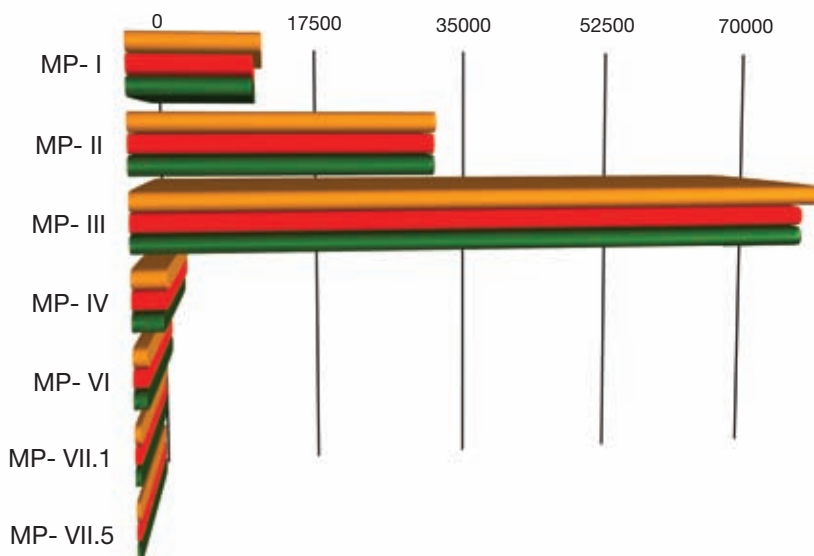


Below: Ambassador Lydia Morton (Australia)  
Coordinator of the WGPB



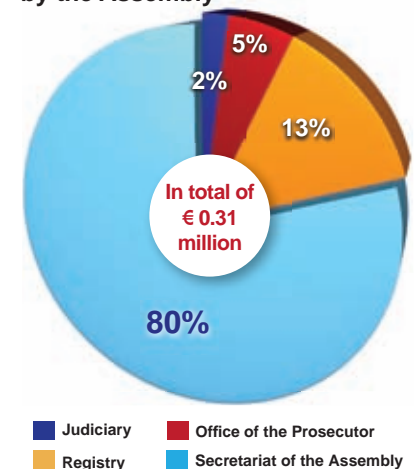
Major Programmes	ICC proposed	CBF proposed	ASP approved	% against total
MP- I - Judiciary	€ 11,462.4	€ 10,676.5	€ 10,669.8	10.3%
MP- II - Office of the Prosecutor	€ 26,778.0	€ 26,614.6	€ 26,598.0	25.7%
MP- III - Registry	€ 63,536.5	€ 61,649.9	€ 61,611.4	59.5%
MP- IV - Secretariat of the ASP	€ 3,095.6	€ 2,978.2	€ 2,728.2	2.6%
MP- VI - Secretariat of the TFV	€ 1,261.1	€ 1,205.2	€ 1,205.2	1.2%
MP- VII.1 - PO Permanent Premises	€ 547.4	€ 492.2	€ 492.2	0.5%
MP- VII.5 - IOM	€ 306.1	€ 303.1	€ 303.1	0.3%
<b>TOTAL</b>	€ 106,987.1	€ 103,919.7	€ 103,607.9	100.0%

### Budget by Major Programme



The Assembly reduced the budget by an additional € 0.31 million beyond what the CBF had recommended; that reduction was absorbed by four major programmes.

### Percentage of additional cuts by the Assembly



## Omnibus resolution

In the omnibus resolution the Assembly decided, inter alia, that its tenth session, when elections would be held, would take place at UNHQ, whereas the two sessions for 2012 and 2013 would be held in The Hague, while the session in 2014 would take place in New York.



From left : The Coordinator of the omnibus resolution, Mr. Zénon Mukongo Ngay (Democratic Rep. of the Congo), with Mr. Renan Villacis and Ms. Gabrijela Filipović of the Secretariat

<http://tinyurl.com/ICCASP9-res>

Participation	
States Parties	104
Observer States	25
Invited States	2
<b>Total States participated</b>	<b>131</b>
International organizations	6
NGOs	21
<b>Total others participated</b>	<b>27</b>

## ASP 9 - Documentation

	ENG	FRA	SPA	ARA	CHN	RUS	TOTAL
Number of documents per language	64	59	53	53	13	13	255
Number of pages per language	1348	1262	1229	1229	107	107	5282

## ASP9 figures

Seating capacity of the main conference room: 591\*  
 Seats allocated per State Party: 4  
 Seats allocated per Observer State: 2  
 Number of side events: 21

\* interim conference room available at UNHQ until completion of the Capital Master Plan

## ASP 9 side events

### Plan of Action panel for Caribbean States

(co-organized by the Permanent Missions of Slovakia and Trinidad and Tobago)

Amb. Jorge Lomónaco, Vice-President of the Assembly, was among the speakers at the event to promote the universality of the Rome Statute and its full implementation.



From left: Ms. Tanya Karanasios, Coalition for the ICC, Mr. Akbar Khan, Commonwealth Secretariat, Ms. Cristina Pellandini, International Committee of the Red Cross, and the Hon. Collin Partap, Parliamentarians for Global Action

### Making Complementarity Work: The Way Forward

(co-organized by the International Center for Transitional Justice and the Permanent Missions of Denmark and South Africa)

The focal points on the topic and the ICTJ held an event to discuss how to take forward the mandate emanating from the Review Conference and to present the discussions held in this regard at the Greentree retreat in October 2010.



### Launch of the Trust Fund for Victims Fall 2010 Programme Progress Report

(co-organized by the Trust Fund for Victims and the Permanent Missions of Germany and South Africa)



## Preparations for the tenth session of the Assembly

### Prosecutor Search Committee

At its tenth session, in December 2011, the Assembly will elect a new Prosecutor whose term will commence in mid-2012.

In this connection the Assembly established the Search Committee for the Position of the Prosecutor of the ICC. The Search Committee is mandated to facilitate the nomination and election, by consensus, of the next Prosecutor. The Search Committee will informally receive expressions of interest from individuals, States, regional and international organizations, civil society, professional associations and other sources. It will also actively identify and informally approach individuals who may satisfy the applicable criteria.

After reviewing the expressions of interest in light of the relevant criteria, the Search Committee shall produce a shortlist of at least three suitable candidates, where possible for consideration by the Bureau.

The members of the Search Committee are:

- Ambassador Baso Sangqu, Permanent Representative of South Africa to the UN (African Group)
- H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of Jordan to the UN (Asian Group)
- Ambassador Miloš Koterec, Permanent Representative of the Slovak Republic to the UN (Eastern European Group)
- Mr. Joel Hernández García, Legal Adviser of the Ministry of Foreign Affairs of Mexico (Group of Latin American and Caribbean States)
- Mr. Daniel Bethlehem, Legal Adviser to the Foreign and Commonwealth Office of the United Kingdom (Western European and Others Group)

The Search Committee may be contacted via the Secretariat at the following e-mail address: [rene.holbach@icc-cpi.int](mailto:rene.holbach@icc-cpi.int).

Formal nominations as of 13 June 2011 should be accompanied by a statement specifying in the necessary detail how the candidate fulfils the requirements of paragraph 3 of article 42 of the Rome Statute and they shall be communicated through the diplomatic channel to the Secretariat of the Assembly.

<http://tinyurl.com/ICCASP10>



The Coordinator of the Search Committee, H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan)



The Deputy Coordinator of the Search Committee, Ambassador Miloš Koterec (Slovakia)

### Election of six judges

<http://tinyurl.com/ICCASP10-ele>

At its tenth session, in December 2011, the Assembly will elect six judges of the ICC. Nominations of candidates may be made by any State Party. The nomination period shall run from 13 June to 2 September 2011. Nominations shall be communicated through the diplomatic channel to the Secretariat of the Assembly of States Parties.

The total number of judges at the ICC is 18; the judges are elected for a term of nine years with a three-year election cycle. ICC judicial elections are subject to minimum voting requirements in order to ensure that the composition of the judges is adequately representative in the areas of legal competence and expertise, regional representation and gender.

#### Minimum voting requirements applicable for the elections at the tenth session

##### Lists

List A \*: 3      List B \*: 0      (The remaining three seats can be allocated to list A or list B candidates.)

##### Regional distribution

African States: 0  
Asian States: 0  
Eastern European States: 1  
Latin American and Caribbean States: 2  
Western European and other States: 0      (The remaining three seats can be allocated to any of the five regional groups.)

##### Gender

Male: 2      Female: 0      (The remaining four seats can be allocated to male or female candidates.)

\* List A judges have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings.

List B judges have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court.

## Bureau of the Assembly

### Non-cooperation

On 5 April 2011, the Bureau appointed Mr. Stefan Barriga (Liechtenstein) to lead consultations on the topic of non-cooperation. These consultations would be based on the “Non-paper on potential Assembly procedures relating to non-cooperation”, submitted to the Bureau at that meeting. The paper provides elements for a future report of the Bureau to the Assembly. It includes only serious issues of non-cooperation and those on which there are relevant findings by the Court. The first consultations with Bureau members took place on 11 May.



#### Meetings of the Bureau, HWG, NYWG, OC and the SGG as at 11 May 2011 (includes informal consultations)

Bureau	6
The Hague Working Group	17
New York Working Group	3
Oversight Committee	9
Study Group on Governance	4



From left: The Prosecutor, Mr. Luis Moreno-Ocampo and the Vice-President of the Assembly, Amb. Simona-Mirela Miculescu

#### New York Working Group

The Working Group has been briefed by the Prosecutor of the Court, Mr. Luis Moreno-Ocampo, the Executive Director of the Secretariat of the Trust Fund for Victims, Mr. Pieter de Baan, and experts from the UN Office of Internal Oversight Services which was commissioned by the Bureau to conduct an assurance mapping study in order to identify gaps and overlaps in the current oversight structure of the Court.

#### New York Working Group



Amb. Paul Seger, Coordinator of the Working Group on Amendments

The Working Group on Amendments will hold its first meeting in 2011 on 19 May to discuss

- (a) the substance of specific amendment proposals presented and;
- (b) working methods, procedures and the role of the Working Group with respect also to possible future amendments;

on the basis of a paper submitted by Amb. Paul Seger.

Unless otherwise notified by the State(s) which has sponsored a proposal to amend the Rome Statute, the assumption is that all pending proposals contained in footnote 3 of resolution ICC-ASP/8/Res.6 remain under consideration by the Working Group. If a delegation refrains from presenting a previously tabled amendment proposal during the informal consultations, this would not be interpreted as an implicit withdrawal, but would mean that the delegation in question did not wish to discuss the proposed amendment at that stage.

As regards procedural aspects, the consultations would consider, inter alia,

- The steps of the amendment procedure where the Working Group should intervene;
- The threshold for forwarding proposed amendments to the Assembly for adoption;
- The order in which the Working Group would consider amendment proposals; and
- Whether the Working Group should adopt binding rules of procedure or non-binding guidelines

<http://tinyurl.com/ICCASP8-res>

The other topics mandated to the NYWG and their respective facilitators are:

- Geographical representation and gender balance, Ms. Glenna Cabello de Daboin (Venezuela, Bolivarian Rep.)
- Plan of action, Ms. Oana Florescu (Romania)
- Advisory Committee on nominations, Ms. Francisca Pedrós-Carretero (Spain)
- Arrears, Mr. Yukihiko Wada (Japan)

## The Hague Working Group

### a) Cooperation

The Working Group considered number of issues related to the topic of cooperation, including national implementing legislation, political and diplomatic support for the Court, interim release, enforcement of sentences, the legal basis for requests for assistance and cooperation, new types of evidence, and relocation of witnesses. The facilitator, Ambassador Mary Whelan (Ireland), indicated that as of September, informal consultations would be held on the issues identified by the Assembly at its ninth session.

### Complementarity facilitators



### b) Complementarity

The facilitators, Ms. Yolande Dwarika (South Africa) and Mr. Christian Nygård Nissen (Denmark) held informal consultations focusing on how the international community can support and strengthen national jurisdictions and enable them to investigate and prosecute Rome Statute crimes, also known as “positive complementarity”. The consultations would also encompass other issues, such as: complementarity as a legal principle, roles of the Assembly of States Parties and of its Secretariat, role of the Court, and the strengthening of national jurisdictions.



### c) Independent Oversight Mechanism

The co-facilitators, Mr. Cyril Borlé (Canada) and Ms. Nataša Šebenik (Slovenia), held meetings regarding the topic. In respect of the investigative function of the IOM, the Manual of Procedures for Investigation would be prepared by the Temporary Head of the IOM. Furthermore, the Inter-Organ Legal working group and the Temporary Head had already started to identify legal instruments which may need to be amended in order to operationalize the IOM’s investigative function, and to determine the procedures necessary to effectuate these amendments.

In respect of the inspection and evaluation functions of the IOM, the Working Group was briefed by the experts of the UN Office of Internal Oversight Services engaged in conducting the assurance mapping study.

### IOM facilitators



### d) Victims and affected communities and Secretariat of the Trust Fund for Victims

The facilitator, Ms. Miia Aro-Sánchez (Finland), lead the informal consultations on the topic, which included presentations by various Court offices and the Secretariat of the Trust Fund for Victims. The discussion would assist the Court in reviewing its strategy in relation to victims by mid-2011.



The other topics mandated to the HWG and their respective facilitators are:

- Strategic planning, Amb. Jean-Marc Hoscheit (Luxembourg)
- Budget, [facilitator yet to be designated]

## Study Group on Governance

The Study Group on Governance chaired by Amb. Pieter de Savornin Lohman (Netherlands) held meetings to discuss three clusters of items.

- **Cluster 1** will focus on the relationship between the Court and the Assembly, and it will cover the issues of extension of judges’ terms, election process of judges and of the President of the Court, and scope and mandate of judicial independence vis-à-vis administrative accountability.
- **Cluster 2** will focus on the strengthening the institutional framework within the Court and will cover the issues of powers and competences of the President of the Court, and the follow-up of the Internal governance report (ICC-ASP/9/34).
- **Cluster 3** will focus on increasing the efficiency of the criminal process and will cover the issues of expediting the criminal process, and reparations.



As some issues are cross-cutting among clusters the focal points would work on their respective clusters, as well as coordinate discussions between clusters. Further, pursuant to the decision of the Assembly that States Parties work closely with the Court, the Court would establish a contact group to facilitate this process.



**Cluster 1**  
Mr. Kanbar  
Hossein Bor  
(United Kingdom)



**Cluster 2**  
Mr. Guillaume  
Michel  
(Mexico)



**Cluster 3**  
Mr. Yoshiki  
Ogawa  
(Japan)

## Committee on Budget and Finance concludes its sixteenth session (11 to 15 April 2011)



Mr. Masatoshi Sugiura (Japan) was elected by the Bureau to complete the mandate of Mr. Shinichi Iida, who resigned in March.



Mr. Lyn Parker, who assumed the post of Chef de Cabinet of the ICC Presidency in April.

### Key CBF recommendations

#### *Budgetary impact proposals:*

Any proposal of the Court which has programme budget implications, whether it be in the short, medium or long term, must be submitted to the Committee for its consideration and approved by the Assembly prior to implementation by the Court.

#### *United Nations Security Council referrals:*

Noting that the central role played by the ICC in international criminal justice brought benefits to the entire international community, the CBF suggested that the Assembly may wish to consider engaging with the UN General Assembly to explore options to cover the financial burden of UN Security Council referrals.

#### *Budget assumptions 2012:*

That the Court conduct an in-depth analysis to find efficiency and other savings to help offset the significant budget increases identified.

#### *Human resources:*

The Court needed to improve the dissemination of information about the vacancies at the professional level, in particular as regards under and non-represented States.

#### *Permanent premises:*

A financing strategy should be developed to deal not only with the "Box 4 costs" but for any other cost overruns that the project could potentially face.

#### *Interim premises:*

- The Court should proceed proactively with speed and diligence in negotiating the best lease arrangements and also look at possible cost saving measures;
- The issue of who should pay the interim rent as of 1 July 2012 was a political issue that was firmly in the domain of the Assembly of States Parties and the host State.

### Contingency Fund

In 2004, the Assembly approved the establishment of the Contingency Fund to ensure that the Court can meet:

- Costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; or
- Unavoidable expenses for developments in existing situations that could not be foreseen or could not be accurately estimated at the time of adoption of the budget; or
- Costs associated with an unforeseen meeting of the Assembly of States Parties.

The threshold for replenishment of the Contingency Fund is € 7 million.

#### 2010 notifications and actual use

Three notifications	€ 8.24 million
Amount withdrawn from the Fund	€ 0.40 million
Amount absorbed within the approved budget	<u>€ 4.74 million</u>
Expenditures related to the three notifications	€ 5.14 million
Amount available in Contingency Fund as at 31 December 2010	€ 8.76 million

#### 2011 notifications (as at 11 May 2011)

Three notifications	€ 4.70 million
Transfer of four detained witnesses from the DRC to The Hague	€ 0.23 million
Legal aid for Mr. Mbarushimana	€ 0.40 million
Libya situation	€ 4.07 million



From right: The Chair and Vice-chair of the CBF, Mr. Santiago Wins, and Mr. Juhanni Lemmik, respectively, during the briefing of The Hague Working Group





## Interview with Ambassador Simona-Mirela Miculescu Vice-President of the Assembly of States Parties



**Coordinator of the New York Working Group of the Bureau and Permanent Representative of Romania to the United Nations**

*How did you become involved with international criminal justice?*

Romania has been actively involved in the negotiations of the Rome Statute as well as in the activity of the Assembly. We have been a member of the Bureau since 2005, having also held the position of Rapporteur between 2005 and 2008. As the Permanent Representative of Romania to the UN, holding this position of Vice-President during the ninth session of the Assembly is both a great honor and a fulfilling experience.

*Do your personal experiences impact your work as a Vice-President of the Assembly?*

During my 20 years experience as a career diplomat, but also as a public communication expert - working in Kosovo in 1999-2000 and in Iraq in 2006-2007 -I have come to know that processing and conveying well constructed messages is crucial. As Vice-President of the Assembly and coordinator of its New York Working Group, one of my main objectives is to keep the representatives of States Parties informed on the current activities of the Court, and to foster fruitful and interesting discussions on the topics on the agenda of the NYWG. My academic background, as

well as my extensive experience in public communications are very helpful in fulfilling these tasks and...in connecting the dots.

*What are the main challenges that the Assembly and the Court face at this stage, especially in light of upcoming elections for the President of the Assembly, the Prosecutor and six judges?*

After the successful conference in Kampala, the Assembly needs to concentrate on improving and strengthening its relation with the Court, as enshrined in the Rome Statute. One crucial aspect is the enhancement of the cooperation between the two. We know that this is a challenging task, that the Bureau is taking steps to address by discussing a mechanism to respond to the future situations of non-cooperation.

The elections of the Prosecutor and of the six new judges are vital and are addressed with total responsibility, seriousness and rigor. The Bureau has established a Search Committee to identify the best possible person to serve as the Prosecutor, and has nominated a focal point to the Advisory Committee on the nominations of the judges, provided for in the Rome Statute. All these steps are aimed at ensuring that the highest qualified people will be nominated and elected. The same applies to the consultations on the identification of the new President of the Assembly, a task that I was entrusted with, and that is very complex and challenging not only because we try to find the candidate that matches perfectly the necessary profile, but also because the current President, Amb. Wenaweser, has been setting some very high professional standards while holding this prestigious position.

*How is the ICC perceived at the United Nations and in particular after the referral of the Libya situation by the UN Security Council?*

The adoption of the resolution 1970 by the Security Council was a great moment for the ICC and for criminal justice in general. It was a moment that needed to be seized, and the members of the Security Council have proved to be aware of this opportunity.

The unanimity behind the resolution conveys to the international community a strong signal of support for the ICC and shows that the justification for establishing the Court has been achieved.

*How many female Permanent Representatives are there at UNHQ and do you have an informal network or meetings among yourselves?*

We just welcomed the 22nd female ambassador – the Permanent Representative of Oman. We are very close to each other and we meet regularly, in all sorts of creative informal formats, trying to be an engine for the promotion of the gender issues in the UN, and also working on certain mentorship programs and workshops for all female diplomats from the permanent missions to the UN.

### Personal favorites

#### Hobbies

Jazz, theatre, salsa

#### NYC restaurant:

Bella Blu

#### Recommended reading:

"Madam Secretary" by Madeleine Albright

#### Recent movie:

"Beautiful"

#### Favorite dish:

My mother's cheese pies

#### Preferred summer/winter vacation spot:

Danube Delta, Romania

#### Favorite website:

[www.mystudios.com/artgallery/](http://www.mystudios.com/artgallery/)



## ASP Publication \*

**Commonwealth Meeting on the ICC  
London, October 2010**



\* Arabic, English, French and Spanish

## Interview with H.E. Mr. Joseph Deiss, President of the sixty-fifth session of the United Nations General Assembly



© UN Photo-Paulo Filgueiras

### Mr. Deiss has been the President of the Swiss Confederation, Minister of Foreign Affairs and Minister of Economy

*What is the importance attributed to the ICC by the United Nations and in particular the UN General Assembly?*

The UN has been at the forefront of the major developments in the realm of international criminal justice and, in this connection, was the forum where as of 1996 negotiations on the establishment of an international criminal court took place, which led to the adoption of the Rome Statute in 1998 in a Diplomatic Conference organized by the UN at its FAO facilities. The Rome Statute system has developed since the entry into force of the Statute in 2002 and it now occupies a central role in international criminal justice, as it is the only permanent criminal court and has an ever growing number of States Parties. Many UN Member States who are, for different reasons, not parties to the Rome Statute, nevertheless acknowledge and welcome that role. Accordingly, the UNGA is most interested in the developments of the ICC and in searching ways in which to cooperate in our common endeavour to end impunity for the most serious international crimes known to mankind.

*What is the basis for the ICC's relationship with the UN?*

The Rome Statute reaffirms the purposes and principles of the Charter of the UN; furthermore the UNGA has emphasized that justice, especially transitional justice in conflict and post-conflict societies, is

a fundamental block of sustainable peace. I believe that peace and justice go hand in hand and that in general there cannot be any durable peace if those who are responsible of the most heinous crimes are not brought to justice.

In terms of the normative regime, the 2004 Relationship Agreement between the UN and the ICC deals with several aspects of this issue. The annual report of the ICC to the General Assembly as well as the resolution adopted every year by the plenary of the UNGA ensure that all Member States are aware of the developments in the ICC's activities. Moreover, since September 2004, the ICC was granted observer status in the General Assembly and there is an ICC liaison office to UNHQ which guarantees a continuous presence of the ICC at the UN.

Furthermore, there is a continuous relation between the two organizations, that substantiates in the annual debate on the report of the ICC; in assistance provided by the UN to the Assembly of States Parties to hold some of its annual sessions in New York; in the facilitation on the part of the UN of the Court's field activities, to name just a few. I would also like to recall, in this respect, that the Security Council, in its resolution 1970 (2011), unanimously referred the situation in Libya to the ICC Prosecutor and asked for his intervention.

*How do you see the relationship between the UN and the ICC in the field?*

As I recalled, the UN and the ICC are two different international organizations; thus, each one recognizes and respects the other's independence. This is the starting point for any cooperation. As reflected in the normative regime previously referred to, the UN has the mandate to cooperate with the ICC, as appropriate, but always within its mandate and its capability, ensuring that this does not endanger UN personnel or third parties, nor

prejudice the UN's ability to carry out its operations.

*In what Committees would references to the ICC arise?*

The Sixth (Legal) Committee and the Third (Human Rights) Committee are those in which the issues concerning ICC are usually debated. This makes sense since the Sixth Committee, which brings together the legal experts, is the place where the negotiations that led to the Rome Conference and then the ICC Statute began; many of the legal experts participated in the Preparatory Commission that set up the groundwork for the implementation of the Rome Statute, between 1998 and 2002; the legal experts also negotiated the relationship agreement between the UN and the ICC previously referred to. Furthermore, the legal experts actively contributed in the preparation of the Review Conference of the Rome Statute. Some ICC issues are also considered at the annual meetings of the Ministry of Foreign Affairs Legal Advisers, which takes place during "International Law Week", usually the last week in October.

*Heretofore the costs of referrals by the UNSC have been borne by the Assembly of States Parties to the Rome Statute, which is composed of 114 States Parties. Such referrals can easily amount to several millions of Euro, the estimate of the 2011 costs of the Libya referral alone amounting to € 4 million. The ASP's Committee on Budget and Finance has recently suggested that burden sharing the costs may merit further discussion with the UNGA, as the entire international community benefits from ICC investigations and prosecutions, Would there be scope for such a discussion?*

The issue of whether to place this on the agenda of the UNGA is of course a matter for UN Member States to agree to. The discussion on the substance of the matter would then follow. I would however not be



Mr. Joseph Deiss (centre), chairs a meeting of the Assembly with Secretary-General Ban Ki-moon (left) and Muhammad Shaaban, Under-Secretary-General for General Assembly Affairs and Conference Management

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© UN Photo-Devra Berkowitz

Assembly observes minute of silence for the victims of Japanese quake and tsunami

From left: Deputy Secretary-General Asha-Rose Migiro and President Joseph Deiss

able to comment on the outcome nor form of such discussions. I can only note that it was the Security Council itself that decided in the relevant resolutions that the costs of ICC activities would remain outside the UN budget, with binding effects on all Member States.

*In April the UNGA held a meeting on the Rule of Law, which will be followed by a high-level meeting in the sixty-seventh UNGA session. Do you see a role for cooperation with the ICC on the issue of complementarity, whereby efforts are undertaken to provide assistance to national systems for the investigation and prosecution of Rome Statute type crimes?*

The UN has a keen interest in strengthening the rule of law and in this connection there is a clear link with the issue of complementarity. I have heard that at the 2010 Review Conference of the Rome Statute, in Kampala, senior UN officials, such as the High Commissioner for Human Rights and the ICTY Prosecutor, made important contributions on the topic of complementarity precisely because the UN is in a unique position due to the work it has carried out in different ways. In Kampala the ASP and its Secretariat have been entrusted with a mandate to carry forward complementarity activities. I think it is mainly for the States Parties to the Rome Statute to explore ways and means through which the principle of complementarity can be implemented and strengthened.

## Republic of Moldova welcoming ceremony

From left: The Ambassador of the Republic of Moldova, H.E. Mr. Mihai Gribincea, ICC President, Judge Sang-Hyun Song and the Vice-President of the Assembly, Ambassador Jorge Lomónaco, during the ceremony held at the seat of the Court to welcome the 114th State Party.



## Enforcement of sentences agreement with Serbia



On 20 January 2011, H.E. Snežana Malović, Minister of Justice of Serbia and Judge Sang-Hyun Song, President of the ICC, signed an agreement on the enforcement of sentences.

## The 114 States Parties to the Rome Statute



## The 66 States Parties to the APIC



Two new states, Costa Rica and the Czech Republic, have ratified the Agreement on the Privileges and Immunities of the ICC.

## Referral of the Libya situation to the ICC

### Extract of key provisions of United Nations Security Council resolution 1970 (2011)

- “ 4. Decides to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court;
5. Decides that the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor;
- ...
8. Recognizes that none of the expenses incurred in connection with the referral, including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily;”

## Plan of Action - ICC Trial Competition (Spanish round)

Related papers: <http://mootcourt.icc-cpi.info/>  
 Photo gallery: <http://tinyurl.com/Moot-Mexico>

This type of competition, also known as moot court, is a prestigious extracurricular activity held at many law schools and faculties in which students participate in simulated court proceedings. It involves drafting briefs and participating in oral arguments.

The participating teams will assume the roles of the Office of the Prosecutor, the Defence and the legal representatives of victims. During the oral stage, the teams must defend each of the three positions before a panel of judges. The final round is oral only.

In 2011 the Competition was divided into three phases, first at the national and international level, and then at the seat of the ICC in the final phase. The national competitions were held in Colombia, Spain and Venezuela (Bolivarian Republic of). Teams from Chile, Ecuador and Mexico also participated in the international phase, held in Mexico City from 28 March to 1 April. The final phase will take place in The Hague on 10 June.



## Panel discussion on criminal justice

Along with the competition, a series of panels on ICC and criminal justice related topics were held at the Institute for Legal Research of the Universidad Nacional Autónoma de México (UNAM).



Mr. Carlos Castresana, Anti-corruption prosecutor in Spain and former Director of the International Commission against Impunity in Guatemala.



Mr. Alejandro Fernández Varela Jiménez, UNAM Director General for Legal Affairs, Mr. Sergio García Ramírez, UNAM researcher and former President of the Inter-American Court of Human Rights, and Mr. Renán Villacís, Director of the Secretariat of the Assembly.

Video: <http://tinyurl.com/Moot-UNAM>

## Bond University (Australia) wins the ICC Trial Competition (English round)

On 15 April 2011, ICC Judges Elizabeth Odio Benito (centre), Sanji Mmasenono Monageng (right) and Christine Van Den Wyngaert (left) declared the team representing Bond University (Australia) the winner of the English version of the ICC Trial Competition. Nalsar University of Law (India) and Osgoode Hall Law School (Canada) won the second and third places, respectively.



Centre: The three judges with the team from Bond University, at the seat of the Court in The Hague © ICC-CPI

## Interview with Mr. José Ricardo de la Prada



**Judge of the *Audiencia Nacional* (National Court) of Spain, former international judge in the War Crimes Section of the Appellate Division of the Court of Bosnia & Herzegovina.**

*You participated as a judge in the final phase of the mock trials at the national level, held in Madrid and Bogota. How significant are these events in promoting the fight against impunity?*

I consider them to be of crucial importance, especially amongst students and in academia. They provide an extremely practical approach to these subjects, in which participants become truly involved and compete to improve. While they are of fundamental importance for all countries, they are undoubtedly even more important in countries where serious human rights violations have recently been committed.

*How much interest is there in international criminal law amongst judges and in academia?*

Unfortunately, not as much as there should be. In the case of Spain, I feel that there is more interest in academia than amongst judges or attorneys. For instance, this is the first year in which specific training in this area was included in the continuing education program intended for Spanish judges or attorneys that involved more than the usual, quasi touristic visit to international courts and tribunals located in The Hague. Incredible as it may seem, there is no guarantee that this type of activity will be repeated in the future.

*How could more information be disseminated to judges and attorneys about the ICC?*

There must be a will to do so, by preparing a specific training programme, both for the initial training of judges and attorneys and also for the continuing education of those who already have some experience, but

have never had access to these subjects. The activities must be well designed, intended for “mature professionals”, i.e. they must oblige them to become actively involved in the subject matter, rather than consist in mere theoretical training, which is only relatively interesting.

*In your opinion, how has international criminal law evolved since the establishment of the ad hoc tribunals?*

International criminal law has considerably evolved in recent times. It started from almost nothing and practically everything has been done “ex novo”, by the international courts and tribunals, by academia and by human rights defenders. This has meant a radical paradigm shift. We have moved from a situation in which impunity was the norm, to one in which the worse violators of human rights truly do have something to fear.

*What are the main challenges in the fight against impunity for crimes of genocide, crimes against humanity and war crimes?*

The biggest one is to entrench a culture of no impunity. This will allow countries to fulfil their responsibility to efficiently investigate and prosecute international crimes. With this end in view, the progress achieved at the Kampala conference was very significant, particularly where it strengthens the principle of positive complementarity.

*In recent years, some countries have limited the scope of their national legislation in relation to universal jurisdiction. Is this a setback for justice?*

It certainly is. Far from moving towards a shared responsibility of all States in prosecuting the most serious international crimes, independently of where they are committed, and thereby eliminating any loopholes in the system, States appear to want to turn a blind eye and prefer to think that they have already done what is needed

by establishing the ICC and a couple of international “ad hoc” tribunals. But that is not the case; unfortunately these international tribunals have limited scope, and are there to complement national tribunals, and not the other way around.

*Based on your experience, what challenges does a country face post-conflict in investigating and prosecuting crimes such as those mentioned above, and what advantages are there in domestic proceedings as opposed to proceedings that are remote from where the events took place?*

Initially, immediately after the conflict, it would be extremely complicated and difficult to render justice via the local courts. There is usually a lack of necessary structures, facilities, adequate legislation and appropriately trained and impartial judges. Nevertheless, experience shows that, within a few years the basic structures of the judicial system of the affected countries can be restored, and that with international support, including that of international judges, local courts are equally able to try international crimes committed in the past impartially and efficiently, at least up to a certain level. This has the advantage of allowing for more targeted and comprehensive investigations in the field and trials and indictments in closer proximity to the conflict, both geographically and in regard to the people concerned, which is, ultimately, very important. It also undoubtedly contributes to the whole process of transitional justice to attain a reasonable level of reconciliation, in which justice always plays an essential role.



Panel of judges at the Colombian final round, Bogota



## President of the Assembly visits

### The Hague



President Wenaweser visited The Hague from 14 to 17 February 2011. He held an informal meeting with sixteen of the judges of the Court for an open and informal exchange of views on, inter alia, the Assembly's Study Group on Governance, aspects of the work of the Court with relevance to its budget, including the budget cycle, possibilities to expedite judicial proceedings; and the permanent premises of the Court.

He also held a retreat with the three heads of organs, along with the participation of the Vice-President of the Assembly and Chair of The Hague Working Group, Ambassador Jorge Lomónaco, the Chair of the Study Group on Governance, Ambassador Pieter de Savornin Lohman, and the Director of the Secretariat of the Assembly, for an informal exchange on matters of mutual interest to States Parties and the Court, in particular in the framework of the Study Group.



Furthermore, he spoke at the seminar on The Implications of the 2010 ICC Review Conference, organized by the Grotius Centre for International Legal Studies and Leiden University, on the topic "Challenges before the Assembly of States Parties".



<http://tinyurl.com/ASP2011-HAG1>

### Singapore

In the context of a bilateral visit to Singapore in April, President Wenaweser addressed an inter-ministerial committee about the ICC and the outcome of the Review Conference.



### Addis Abeba and Kenya

President Wenaweser visited Addis Abeba in January during the preparations for the Summit of the African Union as part of his efforts to enhance dialogue and facilitate exchange of views with the African Union Commission, with African and other States Parties to the Rome Statute.



Ambassador Wenaweser also visited Kenya from 27 to 28 January in order to hold consultations on ICC issues. President Wenaweser met the President of Kenya, H.E. Mr. Mwai Kibaki, members of the Cabinet's Committee on the ICC, including the Attorney-General, Hon. Amos Wako, the Minister of Justice, Hon. Mutula Kilonzo, and the Minister of Land, Mr. James Orengo, as well as other senior Government officials and members of Parliament.

Ambassador Wenaweser also met with members of the diplomatic community and various civil society groups as well as the Kenya National Commission on Human Rights. In his consultations, President Wenaweser recalled Kenya's strong role in the framework of the ICC.



Photo gallery: <http://tinyurl.com/ASP2011-Kenya>

### Organization of American States

Ambassador Wenaweser paid a visit to the Organization of American States (OAS) on 10 March in Washington D.C., where he discussed ICC related matters with H.E. Mr. José Miguel Insulza, OAS Secretary-General, and also took part in a meeting on the ICC of the Committee on Juridical and Political Affairs of the OAS Permanent Council.

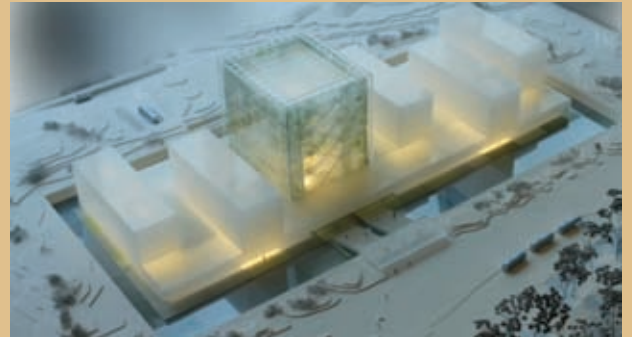


<http://tinyurl.com/ASP2011-OAS>

## Oversight Committee on permanent premises

The final design phase began on 1 March 2011. The handover of the building by the contractor is scheduled for 1 September 2015, while the Court would begin its operations in the new premises in December 2015.

The overall budget of the project continues to be within the maximum figure of € 190 million at 2014 prices. In addition to the € 190 million budget, the Court submitted a report, in March 11, identifying other costs related to the project but not related to the construction, known as “Box 4 costs”, in the amount of €42.3 million. The Oversight Committee will conduct in the coming months a detailed verification of this first estimate. Box 4 costs had been foreseen as a cost component since 2006, but could not be quantified until the preliminary design phase had advanced.



## Trust Fund for Victims

Members of the Board of Directors of the Trust Fund for Victims attending their annual session, held in The Hague on 21 and 22 March 2011.



From left: Mr. Eduardo Pizarro Leongómez (Colombia), Mr. Bulgaa Altangerel (Mongolia), Ms. Elisabeth Rehn (Finland) and Ms. Betty Kaari Murungi (Kenya).



The Chair of the Board, Ms. Elisabeth Rehn, receiving a contribution of £ 500,000 from the Ambassador of the United Kingdom, Mr. Paul Arkwright.

### 2011 contributions by States

Andorra	€	15,000
Belgium	€	24,000
Germany	€	110,000
Norway	€	253,500
Spain	€	60,000
United Kingdom	€	584,500
<b>Total</b>	<b>€</b>	<b>1,047,000</b>



## NYC Bar Association event on Review Conference

On 16 December 2010, the New York City Bar organized a panel entitled “Reflection on the ICC Review Conference: Examining its Successes, Failures and Impact on Africa”

From left: Ms. Jennifer Trahan, New York University; Mr. Richard Dicker, Human Rights Watch; Mr. John Washburn, Convener of the American NGO Coalition for the ICC; and Ms. Wanda M. Akin, International Justice Project.



## Departures



### New York

Ms. Stella Orina (Kenya) returned to Nairobi, while Mr. Marcelo Böhlke (Brazil) was posted to Beijing.



### The Hague

Mr. Vladimir Cvetković (Serbia) returned to Belgrade while Ms. Irina Nita (Romania) concluded her posting in The Netherlands



17 JULY

## Day of International Criminal Justice

### United Nations 2011 Treaty Event



In a continuing effort to bolster international law and strengthen the rule of law, the United Nations will host the twelfth Treaty Event at UN Headquarters on 20 to 22 and 26 to 27 September 2011. During the event, States are invited to sign, ratify or accede to, inter alia, the Rome Statute and the amendments to the crime of aggression and article 8 of the Rome Statute that were adopted at the Kampala Review Conference.

### Fund-raising for the earthquake and tsunami victims in Japan

With assistance of the Staff Council, the ICC Japanese staff members organized fund-raising activities on 17 and 18 March. Hundreds of ICC staff members expressed sympathy and encouragement; the contributions have been sent to the Japanese Red Cross Society.



## Colophon

Secretariat of the Assembly of States Parties  
International Criminal Court

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## ASP Calendar

2011

### Elections - Nomination period

Judges, CBF members and the Prosecutor  
13 June - 2 September

### Committee on Budget and Finance Seventeenth session

The Hague  
22 - 31 August

### Assembly of States Parties

Tenth session  
New York  
12 - 21 December

- Elections of six judges, six CBF members and the Prosecutor

### Regional events

**CARICOM seminar on the ICC**  
Port-of-Spain, Trinidad and Tobago  
16 and 17 May

### ICC Conference

Doha, Qatar  
24 and 25 May

### *In memoriam*



Mr. Lubamba-Kongolo, the first ICC staff member to perish in performance of his duties. He was among the victims of a MONUC airplane that crashed in Kinshasa on 4 April 2011. He had joined the Court in 2006 as a field operations coordinator.