

SECRETARIAT OF THE ASSEMBLY OF STATES PARTIES
Consultations to identify the next Prosecutor of the International Criminal Court

1 December 2011

Statement by the President of the Assembly

Excellencies,
Colleagues,

Thank you for coming to this informal meeting of the New York Working Group, which we will use to further discuss the procedure leading to the election of the next Prosecutor of the International Criminal Court. As you recall, when we last met on 23 November, we agreed on a deadline of 30 November, close of business, to conclude our informal process to try to identify a consensus candidate for the position of the Prosecutor. Accordingly, I met yesterday again one last time with the focal points who have been assisting me in this process of trying to find a consensus on this question. Based on the input I have received as a result of these consultations, I am now in a position to suggest to the States Parties to agree informally that only one candidate will be nominated for the position of Prosecutor, which will facilitate the election of the Prosecutor by consensus, as asked for in resolution ICC-ASP/3/Res.6. The person thus nominated would be Ms. Fatou Bensouda from The Gambia.

We would thus have fulfilled our mandate under paragraph 33 of the annex of the aforementioned resolution (ICC-ASP/3/Res.6) to make every effort to elect the Prosecutor by consensus. I would once again like to thank the focal points for their excellent work. Their inclusive and transparent consultations have made the emergence of a consensual candidate possible.

Let me now offer a few comments on the process we have just concluded as well as on the steps ahead of us. First, I would like to thank, once again, the members of the Search Committee for their work. The conscientious, thorough and merit-based work of the Search Committee, and the shortlist to which it led provided a solid basis for States Parties to make an informed choice as to the next Prosecutor. I am grateful for the numerous positive comments I have received on the quality of the work of the Search Committee and simply on the value of having such a process in place to begin with. Along the same lines, I am grateful for the support given to the process by almost everyone. This enabled the consensus that we have been able to agree on so far. I hope that the Search Committee can serve as a model for future elections, be it in the framework of the Assembly of States Parties or in other bodies.

That is not to say that nothing could be improved. This was a novel exercise, and it will be important for us to learn its lessons, in an impartial and intelligent way. For example, it has been criticized that the shortlist produced by the Search Committee was composed exclusively of candidates from the common law tradition. In this connection, it is worth pointing out that a majority of the members of the Search Committee in fact came from civil law countries, which is hardly a recipe to produce a bias against the civil law system. Also, one of the candidates on the shortlist comes from a civil as much as a common law background. You may want to add to that the consideration that the position of the Prosecutor has been held for almost nine years now by somebody from the civil law tradition. Nevertheless, I do believe that the conclusion is important that future Search Committees take

the sensitivities concerning the legal systems that are both represented in the Rome Statute duly into account.

There was also criticism of the gender dimension of the process, both as far as composition of the Search Committee and of the shortlist. You may know that two of the alternate members of the Search Committee were women and, perhaps more importantly, that the members of the Committee were chosen by the respective regional groups. I hope very much that those with strong feelings on gender balance in the composition of such Committees will make their views known at a moment where they can actually make a difference. Something quite similar can be said about the number of women on the shortlist. Those who have expressed disappointment that only one out of four persons shortlisted was a woman had for several months the opportunity to suggest the names of qualified women – without, however, making use of it. I certainly hope that the informal agreement on the election of the next Prosecutor will help put to rest any concerns in this regard. But again, a lesson should be that the Search Committee takes into account gender balance.

Let me now move to the next steps ahead of us:

As the official deadline for nominations was extended until 9 December, States Parties have until that date to submit a nomination, bearing in mind paragraph 29 of the annex to resolution ICC-ASP/3/Res.6, which states that “nominations for the post of Prosecutor should preferably be made with the support of multiple States Parties.” The agreement after this morning’s meeting of course is that there will be only one person nominated for the consideration by the Assembly. I understand that States are already actively working on the nomination process and Ambassador Intelmann and I will be happy to assist in this respect. We are also looking into the modalities of the election itself which will take place in the afternoon of the first day of the Assembly's session. i.e. on 12 December.

I thank you and now open the floor for any questions or comments.

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