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# Meetings Coverage

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International Criminal Court  
Assembly of States Parties  
Sixth Session  
1<sup>st</sup> & 2<sup>nd</sup> Meetings (AM & PM)

### ASSEMBLY OF STATES PARTIES TO ROME STATUTE OF INTERNATIONAL CRIMINAL COURT FILL TWO OF THREE JUDICIAL VACANCIES

#### Collective Responsibility of States, International Organizations, Civil Society to Cooperate with Court Stressed

The Assembly of States Parties to the Rome Statute of the International Criminal Court, in a single round of balloting, today, elected two judges, filling two of three judicial vacancies out of a total of 16 seats, as the Assembly opened its sixth session.

Elected under terms and conditions to be determined during the current session were Fumiko Saiga (Japan), a legal expert on international humanitarian, human rights and gender issues, and Bruno Cotte (France), an expert in international criminal law. The third judicial vacancy was not filled as none of the three candidates for the post managed to obtain the required two-thirds majority

In the balloting, representatives were required to vote for three judges to fill vacancies in the International Criminal Court arising from the resignation of Maureen Harding Clark (Ireland) on 10 December 2006, Karl Hudson-Phillips (Trinidad and Tobago), effective 30 September 2007, and Claude Jorda (France), effective 12 August 2007.

The ballot contained two lists of candidates. List A candidates had established competence in criminal law, while List B candidates had competence in relevant areas of international law, such as international humanitarian as well as human rights law. Biographical information on the judges is contained in document ICC-ASP/6/15/Add.1.

#### Voting Results for Round 1

Number of ballots: 105  
Number of invalid ballots: 0  
Number of abstentions: 0  
Number of valid ballots: 105  
Number of Members voting: 105  
Required two-thirds majority: 70

#### Number of Votes Obtained

##### List A:

Bruno Cotte ( France): 79  
Graciela Dixon ( Panama): 45  
Danied David Ntanda Nsereko ( Uganda): 54  
Jean Angela Permanand ( Trinidad and Tobago): 50

List B:

Fumiko Saiga ( Japan): 82

Therefore, Fumiko Saiga and Bruno Cotte were elected by two-thirds majority, leaving one post still open.

Voting Results for Round 2

Number of ballots: 105

Number of invalid ballots: 1

Number of abstentions: 0

Number of valid ballots: 104

Number of Members voting: 104

Required two-thirds majority: 69

Number of Votes Obtained

List A:

Graciela Dixon ( Panama): 25

Daniel David Ntanda Nsereko ( Uganda): 53

Jean Angela Permanand ( Trinidad and Tobago): 26

In opening remarks, Assembly President Bruno Stagno Ugarte recalled that the Assembly was the custodian of one of the most incredible creations of humankind, an international criminal court unlike any other in history. Its uniqueness was based on the promise of its universality; its standing as a permanent and independent institution; its complementarity, neutrality and impartiality; and its provisions for the participation and reparation of victims. Since the Rome Statute entered into force on 1 July 2002, the Court had become the established reference in the fight against impunity for the most egregious crimes. As of 1 October, the Court had the support of 105 States parties and six more States had become party to the Agreement on the Court's Privileges and Immunities in the last year.

The Assembly then adopted its agenda for the next two weeks and went over procedural matters such as rules governing States in arrears, observer status and non-party States. It was decided that four working groups would be established: the Special Working Group on the Crime of Aggression, chaired by Christian Wenaweser (Lichtenstein); the working group for the 2008 budget, chaired by Hans Magnusson ( Sweden); the permanent premises of the Court, chaired by Masud Husain ( Canada); and the Review Conference, chaired by Rolf Fife ( Norway). An omnibus resolution on matters such as arrears would be elaborated.

Turning to a report on the Court's activities, Philippe Kirsch, President of the International Criminal Court, spoke of significant progress in 2007 on investigations and proceedings in the Democratic Republic of the Congo, the Darfur region of the Sudan, Uganda and the Central African Republic.

He said the cases of two detained Congolese individuals, Thomas Lubanga Dyilo and Germain Katanga, were currently before the Court in pre-trial chambers with confirmed charges against Mr. Dyilo for conscripting, enlisting and using children under 15 years of age to participate in hostilities. His trial would begin in March 2008. Meanwhile, pre-trial proceedings were under way in the case of Mr. Katanga, whose warrant of arrest included three counts of crimes against humanity and six counts of war crimes involving murder; inhumane acts; sexual slavery; wilful killing; inhuman or cruel treatment; attacking civilians; pillaging; and using children under 15 years old to participate actively in hostilities. The hearing to confirm those charges would begin in February 2008.

He said warrants had also been issued for the arrest of Ahmad Harun and Ali Kushayb of the Sudan, both wanted for over 40 counts of crimes against humanity and war crimes relating to Darfur. Neither warrant, however, had been executed. In Uganda, meanwhile, the subject of an arrest warrant had been killed, rendering the warrant ineffective while four other warrants had yet to be executed.

In the Central African Republic, he said a field office had been opened in October following the Prosecutor's decision to investigate the situation in that country. That brought the number of field offices worldwide to five. A primary function of such offices was to undertake local outreach. So far, there were outreach teams in Uganda and the Democratic Republic of the Congo, while outreach workshops had been held in relation to Darfur, including mass outreach in refugee camps in Chad. Outreach had formed part of the Court's strategic plan in 2007; strategies had also been developed on victim's issues, human resources and inter-organ decision-making.

Mr. Kirsch stressed the collective responsibility of States, international organizations and civil society to cooperate with the Court, saying it was important for sustaining credibility and effectiveness, particularly in executing warrants, where a number of requests for cooperation were unfulfilled. "Without arrests, there could be no trials. Without trials, victims will again be denied justice. The potential deterrent effect of the Court will be reduced," he said, again stressing the legal obligation of States to comply with the Court's decisions under the Rome Statute and Security Council resolutions. Diplomatic and public support in both bilateral relations and multilateral forums was important, including General Assembly debates.

"Relative silence was observed in situations where public support for the Court and the need for justice would have been expected. That had sent the wrong messages to perpetrators and potential perpetrators of serious international crimes," he said. The Court required assistance in relocating and protecting victims and witnesses, as the number of persons seeking protection or being accepted into the Court's protection programme had increased dramatically. States were therefore invited to consider concluding agreements with the Court, or to consider ways to assist willing States to develop their domestic capacities to provide support to the Court.

He said the relationship between the Court and the United Nations had been strengthened after the two bodies concluded the Relationship Agreement. The Court had held regular exchanges with the European Union and would soon conclude a memorandum of understanding with the African Union. Civil society had also played a part in ensuring that the Court received the necessary cooperation from States.

The budget would be presented in more detail by the Court Registrar next week, he said, adding that there was concern about proposed cuts to the legal aid budget since adequate legal assistance was essential to the fairness of trials. Equally worrying were recommendations to cut the budget for interim premises -- the Court had achieved maximum occupancy and additional space was urgently needed.

Welcoming Japan and Chad as new States parties, he said the 105 States parties put the Court over the halfway point and closer to universality; an important achievement as the tenth anniversary of the Rome Statute approached. "On 17 July next year, the world will celebrate the tenth anniversary of the adoption of the Rome Statute," he said. "The needs of victims and of the international community remain as fundamental today as it was in Rome in 1998. Working together, we can ensure that the Court makes lasting and sustainable contributions to justice."

Court Prosecutor Luis Moreno-Ocampo (Argentina) summarized developments and said his office would open new investigations next year in the Democratic Republic of the Congo and Darfur. Analyses of crimes on three continents would also be investigated, including a follow-up to his recent visit to Colombia.

In the Democratic Republic of the Congo, he said an investigation would begin in 2008 into acts of "shocking" brutality allegedly committed by regular and other forces. It would not be the last investigation in that country. In the Central African Republic, an investigation had begun in May into the most serious crimes committed during a "peak" of violence in 2002-2003. He would travel there in January. In northern Uganda, Joseph Kony had abducted children and turned them into soldiers and slaves. Enforcing arrest warrants was a priority. Victims had a right to both peace and justice. Also, assistance provided for humanitarian purposes must not be allowed to be diverted and it was up to the international community to monitor aid situations closely. Isolating Joseph Kony and other suspects was the only way to bring both peace and justice to his victims. Information concerning him was therefore being sought from the Ugandan Government.

Turning to the situation in Darfur, he said the Sudan must be pressured into surrendering the two indicted on charges, Ahmad Harun and Ali Kushayb. The entire international community of parties to the Court, the African Union, the League of Arab States, the United Nations and the European Union, must all call on the

Sudan to arrest and surrender those individuals. Neither the arrest warrants nor the Sudan's failure to comply with its obligations would go away and the Security Council would hear of the Sudan's non-compliance. The acts of violence were not random but were a campaign of systematic violence against displaced people and humanitarian workers. Two new investigations would begin in 2008 to determine who bore the greatest responsibility for the ongoing crimes.

Moving on to analysis work by his office, he said situations on three continents were being investigated. A delegation had met with victims, officials, and others in Colombia at the Government's invitation to see whether the Court would look into the matter. The new ambassador of Côte d'Ivoire to the United Nations should urge the country's Government to comply with the Court's request.

He said the institution created in Rome was more than a court. It was a global justice system that depended on the State and interaction under the principles of complementarity and cooperation. The former was more than just respect for national proceedings. It encompassed the responsibility to cooperate and share information. States had shown a positive response to complementarity with the Court providing it with assistance and information in line with a two track approach in which the security of witnesses was the limit; the Court did not provide information about witnesses if States could not protect them. Secondly, the Court brokered international support for the judiciary and law enforcement agencies in situation countries by working with the United Nations to galvanize support for capacity-building, particularly in the area of witness protection and arrest procedures which were often difficult since perpetrators were often enjoying the protection of armies or militias and at times were members of the Government.

That, however, could not change the content of the law, he said. Difficulties had to be addressed. One lesson learned from tribunals was that each situation was different and there was no single approach that would be used every time. While territorial States were primarily responsible for cooperating on arrests, the support of other States and organizations was also essential.

He said there were four ways in which States could facilitate the Court's apprehension of indicted persons. The first way was to provide constant support to reinforce the Court's decisions. Once judges had issued their ruling, States parties must systematically stress the need to implement those decisions. Support or lack thereof made a big difference to the Court carrying out its mandate. Second, the accused must be isolated within their own communities and not be allowed to receive assistance. Third, in the tracing of individuals, States could help the Court improve its tracking capabilities. Finally, States could help facilitate arrest operations.

Reviewing the policies, processes and practices of his office, the Prosecutor said standards were being developed for interaction with victims with an emphasis on outreach and reparation. A text on those regulations would be issued this year. Efficiency was being improved, particularly vis-à-vis victim protection. A lean and efficient operation was the aim and the Court must therefore be financially supported to implement its mandate. The Rome Statute was meant to protect citizens in situations where States could not. Lack of arrest could determine the Court's long-term impact. Now was the time to arrest the indicted.

The Assembly of States Parties then heard a report on the activities of the Board of Directors by André Laperrière, Director of the Secretariat of the Trust Fund for Victims on behalf of Board Chairperson Simone Veil. An oral report of the Bureau's activities was presented by Assembly President Ugarte. The Assembly took note of both.

In other business, the Assembly took note of an oral interim report of the Credentials Committee, presented by its Chair, Prince Zeid Ra'ad Zeid Al Hussein. He said the Committee considered 50 formal credentials from States parties and information from 55 States parties on the appointment of their representatives to the sixth session.

On the question of arrears, the Assembly endorsed the recommendation of the Committee on Budget and Finance to grant an exemption, on an exceptional basis, to the Democratic Republic of the Congo. It approved the requests of Bolivia, Malawi and Niger for exemption from the loss of voting rights.

The Assembly of States Parties will meet again at 10 a.m. on Monday, 3 December, to begin the general debate of its current session. Voting for the third candidate to fill the vacant judicial post will continue at 3 p.m. on that day.

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