

**Assembly of States Parties**Distr.: General  
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**Tenth session**

New York, 12-21 December 2011

**Election of the Prosecutor of the International Criminal Court\*****Note by the Secretariat**

1. The election of the Prosecutor of the International Criminal Court will take place during the tenth session of the Assembly of States Parties, to be held in New York from 12 to 21 December 2011.

2. On 1 February 2011, the Bureau decided to open the nomination period for the election of the Prosecutor of the International Criminal Court, in accordance with the resolution ICC-ASP/1/Res.2, as amended by the resolution ICC-ASP/3/Res.6. The nomination period was open between 13 July and 2 September 2011 and was extended, by the decision of the President of the Assembly, until 9 December 2011.

3. The elections of the Prosecutor are guided by article 42, paragraphs 3 and 4, of the Rome Statute, and resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6.

4. Article 42, paragraphs 3 and 4, of the Rome Statute provide:

“3. The Prosecutor and the Deputy Prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

4. The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled. Unless a shorter term is decided upon at the time of their election, the Prosecutor and the Deputy Prosecutors shall hold office for a term of nine years and shall not be eligible for re-election.”

5. Paragraphs 28-35 of the resolution ICC-ASP/3/Res.6 provide:

“D. Nomination of candidates for the Prosecutor

28. The procedures for the nomination of candidates for judges shall apply *mutatis mutandis* to the nomination of the Prosecutor.

29. Nominations for the post of the Prosecutor should preferably be made with the support of multiple States Parties.

30. Each nomination 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 Statute.

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\* Received by the Secretariat of the Assembly on 9 December 2011.

E. Election of the Prosecutor

31. The Bureau of the Assembly of States Parties shall fix the date of the election.

32. The Secretariat of the Assembly of States Parties shall prepare a list of candidates in English alphabetical order.

33. Every effort shall be made to elect the Prosecutor by consensus.

34. In the absence of consensus, the Prosecutor shall be elected, in accordance with paragraph 4 of article 42 of the Statute, by secret ballot by an absolute majority of the members of the Assembly of States Parties.

35. In the interest of a timely conclusion of the election, if after three ballots no candidate has obtained the required majority, the balloting shall be suspended to give an opportunity for any withdrawal of candidatures. Before such suspension, the President of the Assembly of States Parties will announce when balloting shall resume. Upon resumption of balloting, if no candidate obtains in the first ballot the majority required, further ballots shall be taken, which shall be restricted to the candidates obtaining the two largest number of votes.”

6. The Bureau agreed that the nomination process would be supplemented by the work of the Search Committee for the position of the Prosecutor of the International Criminal Court, which was established by the Bureau during the ninth session of the Assembly. According to its terms of reference, the Search Committee was mandated to “facilitate the nomination and election, by consensus, of the next Prosecutor”.<sup>1</sup> The Search Committee submitted its report to the Bureau on 25 October 2011.

7. The Search Committee received or otherwise identified expressions of interest from or recommendations for consideration in respect of 51 individuals.

8. From the 51 names on the candidates list, the Search Committee interviewed eight candidates and, with a view to nominate a consensus candidate through an informal consultation process, presented to the Bureau a shortlist of the following four candidates:

- Ms. Fatou B. Bensouda (The Gambia);
- Mr. Andrew T. Cayley (United Kingdom of Great Britain and Northern Ireland);
- Mr. Mohamed Chande Othman (United Republic of Tanzania);
- Mr. Robert Petit (Canada).

9. In informal consultation process, which ended on 30 November 2011, it became clear there was a strong desire among States Parties to see the next Prosecutor elected by consensus, if at all possible, and that the most qualified person should be elected. In addition, the consultations resulted in a general agreement that the next Prosecutor should come from Africa.

10. The consultations then focused on the two potential African candidates, Ms. Fatou B. Bensouda (The Gambia) and Mr. Mohamed Chande Othman (United Republic of Tanzania).

11. The consultations carried out resulted in an informal agreement among the States Parties to have a consensus candidate, Ms. Fatou B. Bensouda, from The Gambia, for the consideration by the Assembly of States Parties. Ms. Bensouda was nominated by The Gambia and her nomination was cosponsored by 66 States Parties.

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<sup>1</sup> “Bureau of the Assembly of States Parties: Search Committee for the position of the Prosecutor of the International Criminal Court: Terms of Reference”, (ICC-ASP/9/INF.2), para. 5.

## Annex

### Fatou B. Bensouda (The Gambia)

[Original: English]

#### Note verbale

The Permanent Mission of the Republic of The Gambia to the United Nations presents its compliments to the Secretariat of the Assembly of States Parties to Rome Statute of the International Criminal Court and with reference to the latter's note ICC-ASP/10/S/95 of 28 November 2011, as well as to resolution ICC-ASP/3/Res.6 entitled "Procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court", adopted by the Assembly of States Parties on 10 September 2004, has the honour with the following States Parties (See List Attached) to nominate Ms. Fatou B. Bensouda, from The Gambia, for election to the position of Prosecutor of the International Criminal Court, at the election to be held on 12 December 2011 during the tenth session of the Assembly of States Parties in New York.

The aforementioned States Parties were guided by Article 42 of the Rome Statute of the International Criminal Court. Ms. Bensouda is a person with high moral character. She is highly competent and has, over the years, successfully prosecuted complex criminal cases. She is fluent in English and has an excellent working knowledge of the French Language. A copy of her curriculum vitae is attached. The aforementioned States Parties strongly believe that given her academic qualifications, proven practical prosecutorial skills and relevant experience she will make a good Prosecutor.

[...]

#### List of countries

1. Albania
2. Andorra
3. Argentina
4. Australia
5. Barbados
6. Belgium
7. Belize
8. Benin
9. Brazil
10. Burkina Faso
11. Canada
12. Cape Verde
13. Central African Republic
14. Chad
15. Chile
16. Colombia
17. Costa Rica
18. Democratic Republic of the Congo
19. Denmark
20. Djibouti
21. Dominican Republic
22. Finland
23. France
24. Gabon
25. Gambia
26. Germany

27. Ghana
28. Guinea
29. Greece
30. Italy
31. Japan
32. Lesotho
33. Liberia
34. Luxembourg
35. Madagascar
36. Malawi
37. Mali
38. Malta
39. Mauritius
40. Mexico
41. Montenegro
42. Netherlands
43. New Zealand
44. Niger
45. Nigeria
46. Norway
47. Panama
48. Peru
49. Portugal
50. Philippines
51. Romania
52. Saint Lucia
53. Saint Vincent and the Grenadines
54. Samoa
55. Senegal
56. Seychelles
57. Sierra Leone
58. Slovenia
59. South Africa
60. Spain
61. Sweden
62. Trinidad and Tobago
63. Tunisia
64. United Kingdom and Northern Ireland
65. United Republic of Tanzania
66. Venezuela (Bolivarian Republic of)
67. Zambia

**Statement of qualifications**

*(see ICC-ASP/10/38/Add.1)*

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