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Press Conference

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PRESS CONFERENCE ON UPCOMING SESSION OF ASSEMBLY OF STATES PARTIES TO ROME STATUTE

States parties to the Rome Statute, which established the International Criminal Court (ICC), had reached an informal agreement on the election of the tribunal's next Prosecutor, the outgoing and incoming Presidents of the Assembly of States Parties reported at a Headquarters press conference today.

Briefing on the upcoming tenth session of the Assembly of States Parties, which would be held at the United Nations from 12 to 21 December, current President Christian Wenaweser (Liechtenstein) and incoming President Tiina Intelmann (Estonia) said Deputy Prosecutor Fatou Bensouda would be nominated as the sole candidate to replace Luis Moreno-Ocampo, whose term ran until June 2012.

Noting that he would hand over the presidency at the Assembly's opening on 12 December, Mr. Wenaweser highlighted the transfer earlier in the week of Laurent Gbagbo, former President of Côte d'Ivoire, to The Hague. It was, he stressed, an important milestone for Côte d'Ivoire, as well as the Court.

At the same time, the Court remained seized of the situation in Libya, following the arrest of Saif al-Islam Qadhafi, he said. He also drew attention to the recent decision of Kenya's High Court supporting the arrest of anyone indicted by the International Criminal Court in accordance with the Government's obligations under the Rome Statute. That decision included Sudanese President Omer al-Bashir and was a particularly important development for the Court because it underlined the real obligations of all States parties.

Outlining the agenda of the tenth Assembly, Ms. Intelmann said there would be two keynote speakers — Botswana's President, Seretse Khama Ian Khama, and the High Commissioner for Human Rights, Navi Pillay. The Prime Minister of Côte d'Ivoire would also participate.

During the session, six new judges would be elected to the Court, while the issue of its complementarity with national criminal jurisdiction would remain an area of serious discussion. It was increasingly clear, she said, that the issue must be more deeply explored as the Court's workload grew.

In addition, both the cooperation and non-cooperation of States parties with the Court would remain another major issue, she said, noting the growing consensus among States parties regarding possible steps to be taken to address that issue. Also, while the Court had a trust fund to support victims, it was facing new issues regarding its first reparations system arising from the conclusion of its first trial.

She said questions regarding the Court's budget would also be central during the meeting, since budgetary pressure was increasing, owing to the Court's growing caseload and the unfavourable global economic situation. Further, universality and the ratification of Kampala amendments would remain an issue for years to come.

Responding to questions from correspondents on whether the decision to have two final candidates from Africa for the position of chief prosecutor was deliberate, Mr. Wenaweser said that there was a shared sense that it would be beneficial. In response to a question on whether such a choice would increase

acceptance of the Court on the continent, he noted that Africa already boasted the Court's largest regional constituency. Still, the fact that Ms. Bensouda was from the Gambia might be "helpful", he added.

Asked if any candidates for the six judgeships were being encouraged to withdraw, he stressed it was not his role to ask anyone to withdraw. He encouraged States to make the elections as merit-based as possible, including by refraining from any bilateral agreements to trade votes. Nevertheless, States made their own decisions in the end.

Questioned about the assessment by a panel set up by the Coalition of the International Criminal Court, which is comprised of 2,500 non-governmental organizations, that four of the final 19 judges nominated for the open Court seat were not qualified, he pointed out that it was a non-governmental organization initiative, and not a formal process established by the Assembly. He had always supported the Coalition, but that did not mean he agreed with all of its conclusions. Moreover, the panel could have framed its conclusions differently. Still, it was up to States parties to consider the panel's conclusions or not.

Detailing the selection process for the next chief prosecutor, he said the States parties had established a Prosecutor Search Committee, which had looked for people who were suitable for the position and produced a short-list. Ms. Bensouda had emerged from that short list. "We have successfully tried to avoid a process in which the States nominated many different candidates," he noted, adding that the Assembly was considering an initiative to approach the election of judges in a similar manner in the future.

Responding to a question about the Court's budget, Ms. Intelmann said the final budget number was not yet clear because events in Libya and Côte d'Ivoire were still unfolding. The current annual budget stood at 130 million euros; however, there was universal acknowledgment that the Court's workload was increasing.

Asked if it was appropriate for the United Nations to fly an International Criminal Court indictee, as the Department of Peacekeeping Operations had done in the case of Ahmed Haroun in Sudan, he said he had raised the issue with that Department of whether the circumstances of that particular flight fell within the Organization's policy of essential contact.

Responding to other questions, he said it was the responsibility of States parties to defend the Statute and thereby provide protection for the chief prosecutor. While he agreed the prosecutor's work had increasing political impact, it was not necessarily political work. Concerning the chances that the Court would consider allegations that the Head of State of Kosovo had been involved in organ trafficking, the Court did not have jurisdiction over any crime committed before 1 July 2002, when the Rome Statute entered into force, he explained.

Questioned on the immunity deal offered to former Yemeni President Ali Abdullah Saleh, he underscored that, according to the Statute, there was no immunity for certain types of crimes. However, he was not sure if the commission of such crimes had been sufficiently documented in Yemen's case. Also, that was a political deal that was not legally binding. In that context, he could even question if it was legally binding on a Yemeni court.

Asked about the logistics of Palestine joining the Statute, both Mr. Wenaweser and Ms. Intelmann stressed that that was not linked to United Nations membership. Mr. Wenaweser said the Palestinians would have to go through internal proceedings, as all State parties did, and then deposit their signature with the Secretary-General.

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