



The Road to Kampala

Resumed eighth session of the Assembly of States Parties

The resumed eighth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Assembly”) was held from 22 to 25 March 2010 at United Nations Headquarters in New York.

The UN Deputy-Secretary General, Ms. Asha-Rose Migiro, delivered the opening remarks to the Assembly wherein she reiterated the importance of the forthcoming Review Conference: “The International Criminal Court is the centerpiece of our system of international criminal justice. So it is not only the foundations of the Court that will be under review. It is the future of international criminal justice.”

The Assembly continued its discussions on the crime of aggression, in particular by addressing two issues: firstly, whether an alleged aggressor State would have to accept the jurisdiction of the Court over the crime and secondly whether the United Nations Security Council would have to determine the existence of an act of aggression before the Court could exercise its jurisdiction and the possible judicial filters that could be applied in the absence of such a determination by the Council, prior to the Court pursuing the matter further.



Review Conference

Kampala, Uganda
31 May to 11 June 2010



Newsletter May 2010

ASP Special Edition #4

ICC-ASP-NL-04/10-En

In addition to a resolution on the Review Conference (ICC-ASP/8/Res.9), the Assembly also adopted a resolution extending until 15 October 2012, the deadline for States interested in making one time payments for the permanent premises of the Court (ICC-ASP/8/Res.8).

The Bureau of the Assembly will also be preparing a high-level ministerial declaration, as well as preparing for States Parties and observers to make pledges on a wide range of matters which include, inter alia, pledges to ratify the Rome Statute or the Agreement on the Privileges and Immunities of the ICC, adopt implementing legislation, provide cooperation to the Court via enforcement of sentences agreements, assistance with the protection of witnesses, contributions to the Trust Fund for victims, etc.

In addition, two draft resolutions, one on the impact of the Rome Statute system on victims and affected communities, and another on complementarity, were also prepared for consideration by the Conference.

Crime of Aggression

H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan), leading the consultations on the crime of aggression.



Plan of Action: Replies

Number of States Parties that replied

- to the Secretariat (SASP) request for information from 2007-2010	51
- directly to SASP request for information in 2009	28
- to SASP 2009/2010 questionnaire	34 *

Number of States that submitted information regarding

- national implementation of the Rome Statute	30
- the complete or partial text of implementing legislation of the Rome Statute	5
- plans of promotion of universality and technical/ financial assistance	24

Number of States that submitted information regarding

- pending national implementation of the Rome Statute	15
- ratification of the Agreement on Privileges and Immunities of the ICC	10
- bilateral agreements with the Court regarding enforcement of sentences	6
- bilateral agreements with the Court regarding relocation of witnesses	5

* (Albania, Australia, Austria, Barbados, Belgium, Brazil, Bulgaria, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Estonia, Finland, France, Georgia, Ireland, Japan, Liechtenstein, Mexico, Netherlands, New Zealand, Norway, Paraguay, Poland, Portugal, Republic of Korea, Serbia, Slovenia, South Africa, Spain, Sweden, United Kingdom)

States having submitted pledges as at 19 May 2010

Argentina	France	Poland
Bulgaria	Georgia	United Rep. of
Burkina Faso	Germany	Tanzania
Chile	Italy	Uganda
Costa Rica	Mexico	
Croatia	Netherlands	
Finland	Norway	

ASP resumed eighth session: Figures

Number of official documents	12
Number of pages in Arabic/ English/ French/ Spanish	113 each
Number of pages in Chinese/ Russian	33 each
Number of side events	10

Participation	
States Parties	100
Observer States	30
Invited States	0
Total States participated	130
International organizations	5



The Foreign Secretary of Bangladesh, Mr. Mohamed Mijarul Quayes, addressing the resumed eighth session of the Assembly. With the 23 March deposit of the instrument of ratification by Bangladesh as of 1 June the total number of States Parties will be 111.

The 111 States Parties to the Rome Statute



Side events at the resumed eighth session

Plan of Action

The Permanent Mission of Slovakia and the Secretariat of the Assembly organized a “Panel on identifying the main obstacles in ratification and full implementation of the ICC Rome Statute”. The panelists: Mr. David Donat Cattin, Parliamentarians for Global Action; Ms. Concepción Escobar Hernández, Legal Adviser of the Ministry of Foreign Affairs and Cooperation of Spain on behalf of the European Union; Mr. Akbar Khan, Director of the Legal and Constitutional Affairs Division, Commonwealth Secretariat; Ms. Luisa Mascia, CICC; Mr. Zénon Mukongo Ngay, Legal Adviser, Permanent Mission of the Democratic Republic of the Congo to the UN; and Mr. Robert Young, Legal Adviser, ICRC. It was pointed out that constitutional, technical and political matters, as well as pick-and-choose implementation approaches were major obstacles in the national implementation processes. In this regard, it was noted that inter-State consultations, sharing of best practices, awareness raising and outreach were ways to address these obstacles.



Plan of Action - Pacific States

The Permanent Missions of Australia, New Zealand and Slovakia held a “Working lunch with Pacific States on ratification and full implementation of the Rome Statute”. The panel consisted of Mr. Akbar Khan, Commonwealth Secretariat, Ms. Anne-Marie La Rosa, Legal Adviser, ICRC, Judge Sang-Hyun Song, President of the ICC, and Mr. Stephen Tashobya, member of Parliament of Uganda.

Judge Song pointed out that all Pacific States are candidates for joining the Rome Statute and that he encouraged decisions to do so since an increase in signatories would signal expansion of the rule of law around the world.

Plan of Action

Panel organized by the Permanent Mission of Slovakia and New York University (NYU) on “the United States and the International Criminal Court”. *From left:* Mr. John Washburn, American CICC, Mr. Stephen J. Rapp, US Ambassador-at-Large for War Crimes Issues, Ms. Jennifer Trahan, Assistant Clinical Professor of Global Affairs, NYU, Amb. Christian Wenaweser, President of the Assembly, and Mr. William Pace, CICC.

Mr. Rapp pointed out that an institution like the ICC is crucial in order to have accountability for the crimes under the Court’s jurisdiction and that the Obama Administration would like to meet with the Prosecutor and other officials of the ICC to further examine ways that the US might be able to support the efforts of the ICC that are already underway. Mr. Rapp also highlighted that the US is actively engaged in capacity-building and rule-of-law assistance programs around the world, and that there is a strong interest in ensuring that these efforts complement the activities of the States Parties and of the ICC itself.



Review Conference

The Permanent Mission of Germany hosted a panel on the Review Conference. *From left:* Mr. Richard Dicker, Human Rights Watch, Mr. Stephen J. Rapp, US Ambassador-at-Large for War Crimes Issues, Mr. Christian Wenaweser, President of the Assembly, Ms. Susanne Wasum-Rainer, Deputy Legal Adviser of the German Foreign Office, and Mr. Zachary D. Muburi-Muita, Vice-President of the Assembly.

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Issues to be considered at the Review Conference

The Review Conference shall be held in Kampala, Uganda, from 31 May to 11 June 2010, for a period of ten working days. The Assembly agreed to consider the following items at the Conference:

a) Amendments to the Rome Statute

- The possible deletion of article 124 of the Statute, which allows a new State Party to opt for excluding from the Court's jurisdiction war crimes allegedly committed by its nationals or on its territory for a period of seven years;
- The definition of the crime of aggression, the conditions for the exercise of jurisdiction by the Court, as well as the draft elements of the crime;
- The inclusion of the employment of certain poisonous weapons and expanding bullets in the definition of war crimes in article 8 of the Statute, as well as the draft elements of the crimes.

b) A stocktaking of international criminal justice focusing on four topics:

- The impact of the Rome Statute system on victims and affected communities;
- Peace and justice;
- Complementarity;
- Cooperation.

c) A draft resolution on strengthening the enforcement of sentences.

Stocktaking of international criminal justice

All relevant documents are available online at:
<http://www.icc-cpi.int/menus/ASP/ReviewConference/Stocktaking/>

The impact of the Rome Statute system on victims and affected communities

ICC-ASP/8/Res.9, annex I

Focal points :

Ms. Miia Aro-Sánchez (Finland)
and Ms. Elena Bornand (Chile)



It was decided that the discussions on the impact of the Rome Statute system on victims and affected communities should take place in the format of a panel to be followed by a roundtable.

The discussions should not only address victims' expectations in relation to the Court and the international justice system and the experiences and perceptions of Court's work among them, but also to identify, through dialogue, those areas in which the positive impact of the Rome Statute system and the way it is experienced by them could be enhanced.

The following outcomes are expected:

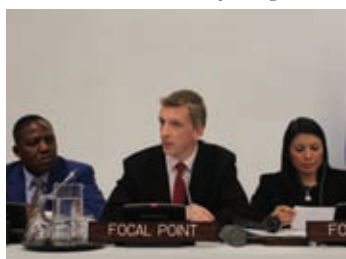
- a) A high-level declaration, possibly as a part of a wider declaration on the Review Conference;
- b) A draft resolution on the impact of the Rome Statute system on Victims and affected communities;
- c) Pledges, implementing national measures and legislation relevant to victims and witnesses;
- d) Increased financial support for the Trust Fund for Victims; and
- e) A final report with compilation of conclusions, contributions and relevant documentation.

Peace and Justice

ICC-ASP/8/Res.9, annex II

Focal points :

Mr. Zénon Mukongo Ngay (DRC)
Mr. Emmanuel Bichet
(Switzerland) and
Ms. Fernanda Millicay (Argentina)



Discussions of this topic at the Review Conference shall also be conducted in the format of a panel.

The panel discussions will be divided into following four sub-topics for which various experts have been invited to write a specific background paper on:

- a) The importance of justice in securing peace: the role that international justice mechanisms can play in facilitating peace processes and transitions.
- b) Managing the challenges of integrating justice efforts and peace processes: ways in which accountability and peace efforts can be integrated, and challenges involved.
- c) Truth and reconciliation processes as a complement to criminal justice: role that truth-telling and reconciliation processes can play in complementing formal criminal justice mechanisms and helping to secure peace.
- d) Safeguarding the interests of victims: challenges involved in safeguarding the interests of victims in any post-conflict situation.

It was agreed that the outcome of the panels would adopt the format of a summary by the moderator. A publication of the background papers, prepared by the experts, the presentations of the keynote speakers and the panelists is foreseen as well.

Amendments to article 8 of the Rome Statute to be considered by the Review Conference

Add the following to article 8, paragraph 2 (e):

“xiii) Employing poison or poisoned weapons;

xiv) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

xv) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.”

Draft resolution on strengthening the enforcement of sentences

The Review Conference,

1. Calls upon States to indicate to the Court their willingness to accept sentenced persons in accordance with the Statute;
2. Confirms that a sentence of imprisonment may be served in a prison facility made available in the designated State through an international or regional organization, mechanism or agency;
3. Urges States Parties and States that have indicated their willingness to accept sentenced persons, directly or through competent international organizations, to promote actively international cooperation at all levels, particularly at the regional and sub regional levels;
4. Requests the Secretary-General of the United Nations to bring this resolution to the attention of all members of the United Nations, with a view to encouraging that the above objectives may be considered, as appropriate, in the relevant programmes of assistance of the World Bank, the regional banks, the United Nations Development Programme, and other relevant multilateral and national agencies.

Complementarity

ICC-ASP/8/Res.9, annex VI

Focal points :
Denmark and South Africa

Amb. Kirsten Biering (Denmark)



A panel discussion, entitled “Taking stock of the principle of complementarity: bridging the impunity gap”, is proposed to be held, *inter alia*, to:

- a) elaborate on the principle of complementarity;
- b) consider the practical application of complementarity and the Rome Statute system;
- c) define the meaning of and establish the necessity of “positive complementarity”; and
- d) explore the practical implementation of positive complementarity and enabling national jurisdictions.

A draft resolution on the topic has been forwarded to the Review Conference.

Cooperation

ICC-ASP/8/Res.9, annex III

Focal points :
Costa Rica and Ireland

Amb. Mary Whelan (Ireland)



During the Review Conference, two round table discussions will be held to consider the issue of cooperation, in particular the following elements thereof:

- a) Implementing legislation: specific issues encountered by States Parties and good practices in this area.
- b) Supplementary agreements and arrangements and other forms of cooperation and assistance: experiences in relation to the Court and other international judicial bodies – a consideration of the challenges and how these might be overcome.
- c) Challenges encountered by States Parties in relation to requests for cooperation: how these might be overcome.
- d) Cooperation with the United Nations and other intergovernmental bodies, including regional bodies: consideration of the present situation and ways in which it can be developed.
- e) Enhancing knowledge, awareness and support for the Court.

The outcome of the round table discussions, including the main conclusions, would be reflected in a summary or report.

Logistic information : Kampala and Munyonyo



Review Conference venue

Munyonyo Resort is located 12 km southeast from the city center of Kampala and 30 km northeast from Entebbe airport. The Government of Uganda will provide shuttle transportation between these three points.

Quick facts

Time : GMT/UTC plus three hours
 Electricity : 220V, 50Hz. British Standard
 Currency : Uganda shilling (USH) :
 1 € = 2.815 UGX
 1 \$ = 2.127 UGX
 Value added tax : 20%
 Altitude : 1310 meters

Climate

Tropical; generally rainy with two dry seasons (December to February, June to August)

Average June temperatures
 High 25 °C
 Low 17 °C

Registration information

States

Credentials of States Parties

In the case of States, rules 13, 17 and 71 of the Rules of Procedure of the Review Conference are applicable.

Notifications from Observer States

Pursuant to Rule 17 of the Rules of Procedure of the Review Conference, regarding notification of participation of representatives of Observer States, the names of designated representatives of Observer States and of alternates and advisers who accompany them shall be submitted to the Secretariat.

States not having observer status

Pursuant to Rule 71 of the Rules of Procedure of the Review Conference, at the beginning of the Conference, the President may, subject to the approval of the Conference, invite a given State which is not a party and does not have observer status to designate a representative to be present during the work of the Assembly.

Intergovernmental Organizations

Entities, (regional) intergovernmental organizations and other entities with a United Nations General Assembly (UNGA) standing invitation, as well as other international bodies who were invited to the Rome Conference, accredited to the Preparatory Commission or are invited by the Assembly, may participate as observers, without the right to vote. (See Rules of Procedure of the Review Conference, rule 69).

Non - Governmental Organizations

In accordance with rule 70 of the Draft rules of procedure of the Review Conferences, Non-Governmental Organizations may participate in the Review Conference if they fulfill at least one of the following conditions:

- Having been invited to the Rome Conference;
- Having been registered to the Preparatory Commission for the ICC;

Further information regarding registration can be found at:

- <http://www.iccuganda2010.ug/index.php?page=registration>
- <http://www.icc-cpi.int/Menu/ASP/ReviewConference/>

- Having consultative status with the ECOSOC and their activities being relevant to the activities of the Court; and
- Having been invited to participate in the Review Conference by the Assembly of States Parties.

Other organizations, entities or persons wishing to attend the Review Conference

Due to limited capacity of the Conference venue, only the organizations and entities falling under the categories of observers and other participants, pursuant to rules 69 and 70 of the Draft rules of procedure of the Review Conferences, will be allowed to attend the Review Conference. Persons or institutions not falling under these rules may nonetheless wish to attend the events being organized by States, the CICC and its NGO members on the various stocktaking and amendment issues which will be held alongside the Conference in the "People's Space". They may also follow the public debates through screens in different rooms.

Academic institutions and think tanks

The attendance of academic institutions and think tanks that have expressed an interest in being present at the Review Conference and that do not fall under the category of observers as set out in the draft rules of procedure of the Review Conferences will be facilitated by the Secretariat on an exceptional basis.

Accreditation center:

Ministry of Foreign Affairs
 Plot 2/AB Apollo Kaggwa Road, Kampala

Open as of 21 May

Munyonyo Commonwealth Resort

Tel: +256 (0)41 7 716000 & (0)41 7 716200
 Fax: +256 (0)41 7 716350 & (0)41 7 716351
 E-mail: info@munyonyocommonwealth.com
 Website: www.munyonyocommonwealth.com

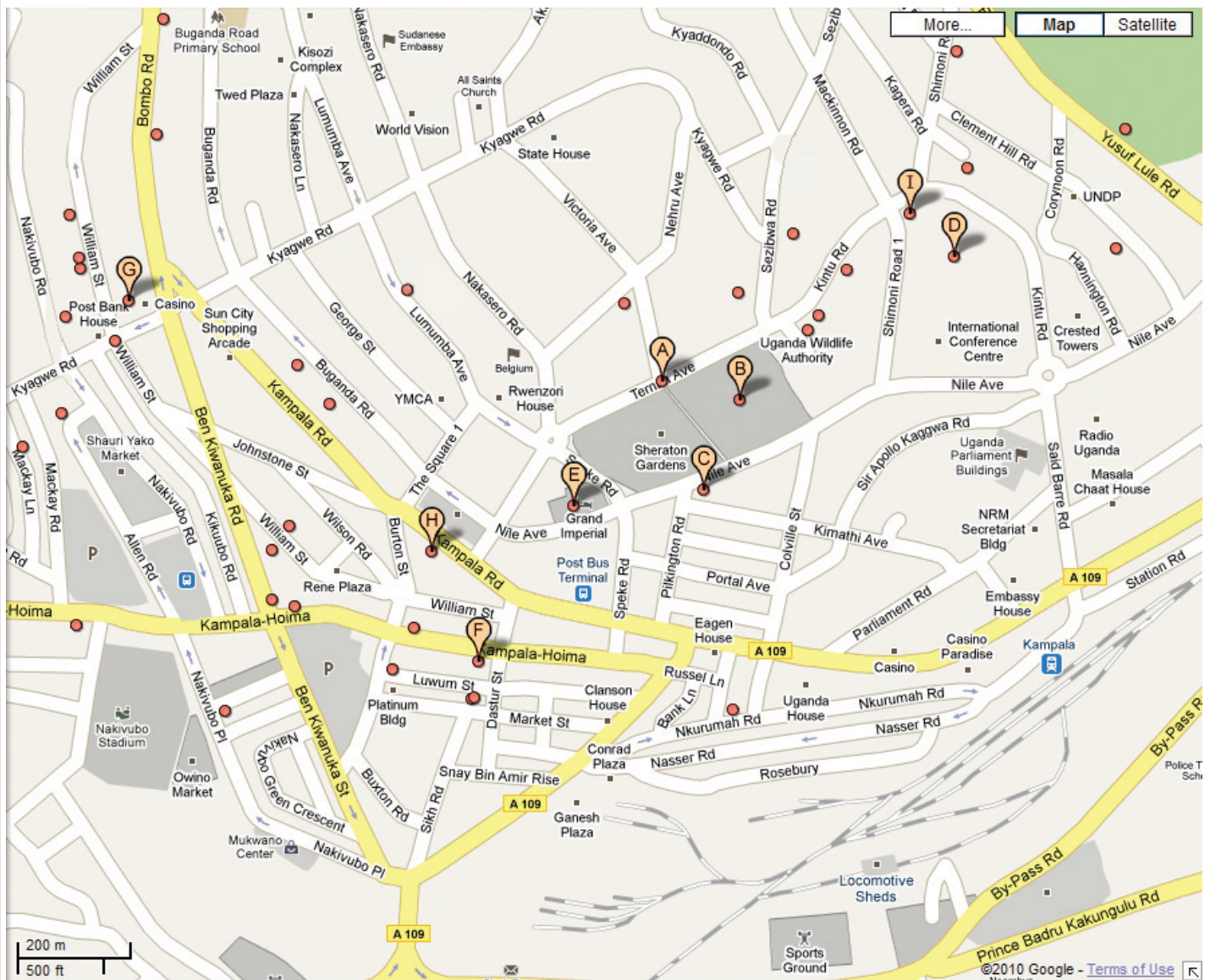
Conference facilities

- A** – Speke Resort poolside Conference Centre, where the main conference room is located.
- B** – Speke Resort Conference Centre, where most offices and smaller meeting rooms are located.
- C** – Munyonyo Commonwealth Resort Conference Centre
- D** – “Peoples’ Space”, where two tents will be set up for various activities and events, mainly organized by NGOs and accessible for civil society.



Central Kampala hotels

- A B** **Kampala Sheraton Hotel**
Ternan Ave +256 (0)41 344 591 6
- C** **Speke Hotel**
Nakasero +256 (0)41 259 221 4
- D** **Kampala Serena Hotel**
Shimoni Road +256 (0)41 309 000
- E** **Grand Imperial Hotel**
Nakasero +256 (0)41 431 1048
- F** **Holiday Express Hotel**
Luwum Street +256 (0)312 262858 7
- G** **Hotel Equatoria**
Nakasero +256 (0)41 250781 8
- H** **City Square Hotel**
42 Kampala Road +256 (0)41 256 257
- I** **Imperial Royal Hotel**
Plot 7 Kintu Road +256 (0)47 111 001



Interview with H.E. Mr. Ban Ki-moon, Secretary-General of the United Nations



What has been the contribution of the United Nations to the landmark developments in international criminal justice over the past two decades?

The contribution of the United Nations has been of crucial importance in all major developments in international criminal justice in recent history. The Security Council established the ad hoc tribunals in charge of prosecuting and punishing those responsible for genocide, crimes against humanity and gross and persistent violations of human rights in the Former Yugoslavia and Rwanda. We should bear in mind that both tribunals, through their jurisprudence, have laid the foundations of modern international criminal law since their inception. But the UN has also cooperated with individual States, such as Sierra Leone, Cambodia and Lebanon to create the second generation of accountability mechanisms, the so-called hybrid tribunals to try serious crimes committed in those countries. Those tribunals are composed of both national and international judges. Finally, the United Nations has also played a fundamental role in the creation of the ICC. The United Nations was a strong promoter of the idea of a permanent international criminal jurisdictional organ even before the ad hoc tribunals were established by the Security Council and strongly supported the Rome Conference in 1998. Since the Rome Statute entered into force and based on the UN-ICC Relationship agreement, the UN has been unwavering in its support to ICC operations.

What is the UN policy vis-à-vis the ICC, bearing in mind that the ICC is independent of the UN, a fact that is sometimes not well understood?

Indeed, the UN and the ICC both recognize and respect their independence. This principle is enshrined in the UN-ICC relationship agreement and relevant General Assembly and ICC Assembly of States Parties

resolutions. Bearing that in mind, the UN has resolved to support the ICC and to cooperate with it where appropriate within its mandate and its capability and as long as doing so does not endanger the safety or security of UN personnel or third parties or would prejudice the Organization's ability to carry out its operations or activities.

In August 2009 you sent a personal invitation to Heads of State inviting them to attend the Review Conference in Uganda. We understand that you will be present in Kampala, along with several senior UN officials. What will be the UN contribution to the Conference and what are the UN's expectations?

As you know, the Rome Statute designates me as the Convenor of its first Review Conference. In this capacity, I will have the honour of opening the Review Conference in Kampala on 31 May. As you rightly point out, several senior officials of the Organization will accompany me to Kampala and will participate in several of the panel discussions that have been organized in the context of the stocktaking exercise. As I mentioned earlier, the UN has gathered throughout its history, a very rich experience in dealing with international criminal tribunals. We also have some 65 years of experience in maintaining international peace and security – which is our finest task – through mediation, recommendation, negotiation and – yes – also enforcement action. The purpose of the UN's participation in the Kampala Conference is to contribute to the strengthening of the Court and of international criminal justice by making all this valuable experience available to all the stakeholders who will be participating in the Conference.

Will your visit to Uganda be part of a wider visit to Africa?



The visit to Uganda will probably be part of a tour of the region.

Where does your personal commitment to contribute to putting an end to impunity stem from?

As a Foreign Minister of my country, the Republic of Korea, I visited Rwanda and the Massacre Memorial. This experience deeply shocked me -I was horrified by what I saw. I was convinced that the international community needed to do whatever was necessary to prevent anything like that from happening again. I wrote in the guest book that there shall be no repetition of these crimes. I am convinced that the first step to prevent the reoccurrence of these heinous crimes is to prosecute and bring to trial those who committed, planned or instigated them. Ending impunity is the number one deterrent.

Could you share your thoughts on how having lived through an armed conflict may impact an individual's perceptions about peace and justice?

As a child, I was among those who suffered the consequences of conflict in my home country. I can understand that the victims of war, particularly the victims of atrocious crimes, will demand first and foremost the cessation of hostilities – the end to their suffering. However, as I said before, I am deeply convinced that the best way to prevent the repetition of atrocities is to hold those responsible accountable. At the same time, victims have a right to redress, to the restoration of their dignity. Therefore, I believe that an element of justice needs to be factored into every peace process. Peace and justice must go hand in hand to achieve an environment in which national reconciliation can occur.



Review Conference: Expectations

Previous interviews are available
<http://www.icc-cpi.int/Menus/ASP/Press+Release/Newsletter/>

H.E. Christian Wenaweser, President of the Assembly of States Parties



I am hoping for a positive political discussion and a high-level participation. The Review Conference should have a catalytic effect and take the political discourse on international criminal justice to the next level, thus advancing the fight against impunity. This is the most important goal for the Conference – and of course I am hoping for a positive outcome on the amendments.

Having chaired the Special Working Group on the crime of aggression for several years,

how optimistic are you about reaching an agreement in Kampala on the definition and the conditions for exercise of jurisdiction by the Court over the crime?

We have made progress over the past years that few thought possible when we first began our work. There is very strong support for the draft definition and we are therefore working from a solid basis. The remaining issue is of course the most difficult one and requires political will from States. I believe that we have a good chance, but

we have to be determined to seize it.

Judge Sang-Hyun Song, President of the International Criminal Court



The Review Conference in Kampala and especially proposed amendments to the Statute to be discussed there are matters for States. Yet naturally, the Court shares a great interest in the Review Conference's success. It is my hope that the Review Conference can serve as another major milestone in the development of international criminal justice. Big issues including aggression may be discussed, and I'm sure technical issues will be too. The Conference offers an opportunity to review the efficiency and effectiveness of the Court. But I would encourage this all to be inserted into a broader context. I would also encourage the

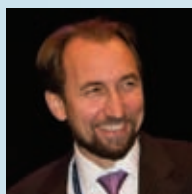
ASP to think creatively about involving affected communities – from all situation countries – in discussions of the Court's work. To the extent that the Court exists to serve victims, their voices should be heard in the preparations for Kampala and at the Review Conference itself.

As regards the stock-taking item, what key areas should it focus on?

I am pleased that a stock-taking exercise will look at the entire Rome Statute system. Critically, this should include various issues of cooperation, complementarity and State support. I

am keen to learn why more States haven't adopted implementing legislation. Even after the Bureau's plea to the fifth session of the ASP, only 39 States Parties have done so. How can States better support each other in developing national capacity to credibly investigate and prosecute ICC crimes? These are just some of the issues that could be addressed. With enough notice and where appropriate, the Court could collaborate in brainstorming and refining proposals in these areas.

H.R.H. Prince Zeid Ra'ad Al-Hussein (Jordan), Chair of the discussions on the crime of aggression



On the crime of aggression.

The President of the Assembly whom, as we all know, chaired brilliantly the work of the Special Working Group, has brought us to a point where we should have an interesting and hopefully successful conclusion in Kampala.

No one underestimates the difficulties we will face over article 15 *bis*. And we may not resolve it until the very last few moments of the Review

Conference, with a stopped clock and all of us alternating between panic and a desperate desire to finally get some sleep. On the other hand, we are now closer than we have ever been to a result, owing to the amazing effort on the part of Ambassador Wenaweser and his legal adviser Mr. Stefan Barriga.

Ms. Navi Pillay, United Nations High Commissioner for Human Rights



This Conference will be an important opportunity for strengthening the Court in terms of jurisdiction and method of operation. It will provide a momentum for ensuring that key States become parties to the Rome Statute and cooperate with the Court. The discussion on progress regarding enhancing the substantive jurisdiction of the Court in terms of the additional crimes that were already identified in the Statute itself and in the Final Act of the Rome Diplomatic Conference will be interesting. This will also constitute a unique opportunity to review the

operational work of the Court and fill any gaps in the Statute that have been identified.

Are there some provisions of the Rome Statute and its complementary norms that you consider States and interested stakeholders may wish to revisit or clarify in order to enhance the Court's operations, perhaps as part of the "stocktaking" exercise?

In addition to the issues mentioned before, some issues have posed significant challenges to the Court in its early years of operation. I think

in particular of managing expectations in terms of the issue of the rights of victims to reparations. I also think in terms of outreach. There is furthermore the issue of effective defence as well as the rights of the accused and the rights of victims. The Review Conference will provide an important opportunity to "take stock" of such issues.

Interview with H. E. Mr. Miroslav Lajčák, Minister of Foreign Affairs of Slovakia



What are the most important developments in international criminal justice over the past two decades and what role do you see for the Rome Statute system therein?

The milestone set by the establishment of a permanent international court is the main development. Although the negotiations that culminated in the 1998 Rome Statute were to a large extent based on the experiences of the two ad hoc tribunals set up by the UN Security Council in the first part of the 1990's, there are numerous innovations in the Rome Statute system, which constitute an indelible reflection of a process that counted with the unprecedented participation of all States, thus giving an imprimatur of legitimacy that is truly unique. The commitment by the international community to combat impunity has also led to the establishment of other international tribunals or mixed tribunals which in turn contribute to reinforcing the rule of law, an indispensable objective that the entire world agrees on. The Rome Statute system, with its guiding principle of complementarity, is nonetheless the central international component and constant reference point for other tribunals and courts.

Why is the objective of attaining universality in adherence to the Rome Statute so fundamental?

In the absence of universal adherence there is always a risk that somewhere in the world a considerable impunity gap might remain, where the alleged perpetrators of heinous crimes may remain oblivious to the calls for proper investigations into such crimes. A festering sense of injustice is not only unacceptable to the victims but can have grave repercussions at the national and sometimes regional level.

What are the benefits of a State becoming a party?

First and foremost, the inhabitants of a State Party are protected since the State is obliged to penalize future conduct that may otherwise go unpunished. Furthermore, via the cooperation set in place by the Rome Statute system, that State is assured of the cooperation that would avoid having it become a possible staging area or refuge for individuals that commit genocide, crimes against humanity and war crimes. And becoming a State Party to the Rome Statute is a substantial contribution to its universality which might deter the commission of atrocities in general as well as prevent major internal or external conflicts in particular.

What key obligations does becoming a State Party entail?

In summary, a State Party has to incorporate the crimes defined in the Rome Statute into its national legislation, as well as to cooperate with the Court in its investigations and trials, as set out in Part 9 of the Statute. From a budgetary point of view, there is also an obligation to contribute to the Court's budget; the amount of the contribution varies depending on a UN formula, but can be as low as € 1,600 per year for countries with lower gross domestic products.

Can you outline the key obstacles faced by States in becoming parties to the Statute?

The main obstacles are legal, technical and political. As regards the legal complications, in order to align their national legislation with the obligations ensuing from becoming a State Party, some countries must introduce modifications to their existing laws, such as the penal codes, codes of criminal procedure and, in some instances, possibly amend their Constitutions. These steps may take time since it involves careful study by the respective parliamentary committees and constitutional courts or chambers. At the technical level, especially among developing States, the respective foreign or justice ministries sometime lack the human resources with the knowledge and time to prepare those amendments to their national legislation. On the political side, on occasions the respective governments or parliaments may have other more urgent priorities to deal with, resulting in a deferral of ICC issues which can take years. Sometimes there are also political concerns about issues such as whether the Rome Statute may be applied retroactively, which is not the case, or how to deal with the immunities that the Constitution or

national laws may bestow upon the Head of State or a perceived infringement of national sovereignty.

What role do you see for the Assembly in helping to address the concerns and doubts that exist among key decision-makers in countries still considering whether to join the Rome Statute system?

The Assembly needs to continue addressing those concerns by dispelling misperceptions, for example regarding the issue of retroactivity, stressing the principle of complementarity, highlighting how other States have overcome similar concerns, putting in contact those requesting technical assistance with States and organizations that can provide such assistance. The Plan of action of the Assembly foresees several means of assisting in this regard, such as holding regional and thematic seminars for key stakeholders at UNHQ and in different regions or capitals. The President of the Assembly also undertakes visits to promote the Statute. These actions by the Assembly complement the activities of the Court and civil society. Additional efforts are clearly needed to expand the knowledge of what the Rome Statute system is, especially beyond the traditional area of foreign ministries.

Does the forthcoming Review Conference offer a particular chance to highlight the Assembly's Plan of action on universality?

Yes, both States Parties and observer States may take this unique opportunity when the eyes of the world will be on Kampala to reiterate their commitment to put an end to impunity for the most egregious crimes and to make tangible pledges. Observer States may for example announce that they are submitting bills for ratification of the Rome Statute to their parliaments. Even countries not yet willing to join the Rome Statute system may take measures such as penalizing in their national legislation the crimes set out in the Statute, initiating the process to become parties to the Court's Agreement on Privileges and Immunities, offering to provide the Court technical assistance in the protection of witnesses, adopting measures to assist victims, making financial contributions to the Trust Fund for Victims, etc. In the end, both States Parties and observer States share the common objective of ensuring that those individuals most responsible for the commission of such crimes do not continue to flaunt their contempt for the most basic cornerstone of all our societies: justice.

Plan of Action seminar: “Review Conference: Key Challenges for International Criminal Justice”

On 30 April 2010, the Permanent Mission of Slovakia organized a seminar at UNHQ.



From left:
H.E. Mr. Ban Ki-moon, Secretary-General of the United Nations, H.E. Mr. Miroslav Lajčák, Minister of Foreign Affairs of Slovakia and President Wenaweser

From left:
Mr. Sigfrido Reyes, Vice-President of the Legislative Assembly of El Salvador, Judge Sang-Hyun Song, President of the ICC and Mr. David Tolbert, President of the International Center for Transitional Justice



President of the Assembly visits El Salvador

At the invitation of the Government of El Salvador, through the Ministry of Foreign Affairs, the President of the Assembly, Amb. Christian Wenaweser, and the Director of the Secretariat of the Assembly, Mr. Renán Villacís, visited San Salvador on 13 and 14 April.

The main purpose of the visit was to provide information about the ICC, including clarifications about the role played by the Court and the manner in which it may exercise its jurisdiction over the crimes set out in the Statute, as well as to make a reference to the key challenges faced by several States in the process of ratification of the Statute, and to give insight into the perspectives regarding the Review Conference.

Top left:
President Wenaweser meeting with H.E. Mr. Hugo Martínez Bonilla, Minister of Foreign Affairs



Left:
The Minister of Defense, Mr. David Munguía Payés

Bottom left:
Mr. José Belarmino Jaime, Chief Justice of the Supreme Court

Right:
Members of the Foreign Affairs Committee of the Legislative Assembly



Mr. Villacís and President Wenaweser being interviewed by “Nacho” Castillo on Channel 33’s highly regarded political talk show “Ocho en Punto”.

The visit of the President of the Assembly and delegates to Uganda

The President of the Assembly, Ambassador Christian Wenaweser, visited Uganda from 24 to 27 January 2010 in order to discuss the preparations for the Review Conference.

During his visit, President Wenaweser met H.E. Mr. Yoweri Kaguta Museveni, the President of Uganda, as well as H.E. Mr. Frederick Ruhindi, Deputy Attorney-General/Minister, H.E. H. Okello Oryem, the Minister of State for Foreign Affairs, and other senior government officials. President Wenaweser also held a briefing with the diplomatic community, delivered a lecture to the Uganda Law Society and met with staff of the ICC field office in Kampala.

In addition, the President took part in a programme, organized by the NGO No Peace Without Justice and the Human Rights Network of Uganda (HURINET-U), intended to give delegates who will attend the Review Conference an opportunity to meet with victims in Northern Uganda and to assess the impact that the Court has had in that region. In addition to meeting with local officials, he also met landmine survivors at the Gulu Regional Referral Hospital and Disability Rehabilitation Center, as well as victims, traditional, religious and civil society leaders at Acholi Inn, followed by a meeting with victims and the local community in Pabo sub-county.

Three additional visits were organized by No Peace Without Justice and HURINET-U, from 11 to 17 February, from 29 March to 2 April and from 4 to 7 May 2010.



H.E. President Yoweri Kaguta Museveni welcomes Ambassador Wenaweser, President of the Assembly, in the presence of Ambassador Mirjam Blaak (Uganda)



President Wenaweser visiting the local community in Pabo sub-county



January visit



May visit



Delegates with staff of the ICC field office in Kampala, February



March visit

Interview with Ms. Elisabeth Rehn Chair of the Board of Directors of the Trust Fund for Victims



Former member of the Finnish Parliament, UN Special Rapporteur on Human Rights and Special Representative of the UN Secretary-General in Bosnia and Herzegovina

What motivated you to run for the Board of Directors of the trust fund?

It seems to be some kind of destiny to deal with wars and conflicts, and security. I have memories from the wars in 1939-1944, Soviet Union/Finland and how strongly one as a small child experienced the uncertainty of life, with a father away from home working with wounded soldiers (he was a medical doctor), then listening to the old radio in the evening for news from the frontline. Years later I became Minister of Defence and Special Representative of the UN Secretary-General in Bosnia and Herzegovina. When I co-authored the report for the UN entitled "Women War Peace" with President Ellen Johnson Sirlea, the victims of war came so close to me. When I was asked to submit my candidacy for the Board of the TFV, I felt it was a correct continuation of my work so far.

In your numerous prior posts, you have highlighted the importance of protecting and assisting women and children. How do you bring this particular approach to the trust fund?

I hope my experience from almost all regions of contemporary conflict would bring a special concern for the women and children as victims of today's horrendous wars.

In February you made a one week visit to Uganda holding meetings with government officials,

parliamentarians, civil and religious leaders, NGOs and victims. What were your overall impressions about the perception among the general population of the ICC role with regard to victims?

From my meetings with officials and NGOs in Uganda, I got the feeling that the ICC could do more to be known for its work with victims. On the other hand, we must have more to show, i.e. a stronger funding giving us the resources to extend the support.

During your visit to Gulu and Lira in northern Uganda, you had an opportunity to meet the beneficiaries of some of the projects undertaken by the trust fund for victims. What impact have those projects had upon the victims and what are the requests you received from them?

In northern Uganda, I met with hundreds of victims of the conflict. The projects I visited gave a good impression. Of course it is easier to evaluate the value of a plastic operation after mutilation or treating burned skin or the removal of bullets, etc., than to exactly state the results of trauma counselling. The credits and support for small scale businesses, chili plants etc., are always important. The main request was of course that money be given directly to the victims, to be used most of all for educating the children. So many victims complained that in fact the education is not free, as the need to purchase school uniforms and pay different fees make it impossible for a single mother to pay for the education, at least not for girls.

Women were among the victims of the conflict in Uganda which suffered the most. What is your impression of the role which they have played and which they should have in the post-conflict process?

Women are indeed those who have suffered most in the conflict. To change their situation requires much more than the TFV can do. It needs a different attitude from the Government of Uganda to the position of women. They must have the real right to property, land ownership, not to be pushed away from their homes by male relatives of a husband that has been killed. And again, girls must have an education. Like one of the former abducted women said: "Uneducated people are easy to control, it is more difficult when they are educated".

There were some women at the Juba peace talks, not at the table but in the back. They had some influence on the agreement, but my talks with them in a meeting earlier in Nairobi, stated that they participated not particularly as women, but as parties, and that they did not raise the questions about the situation of women and girls as strongly as they should have done. In future peace talks, if any, it is extremely important to raise the question of women victims in particular, and to have women sitting at the table. It is quite interesting that the international community accepts war lords and members of weak governments, but not those who did not fight and who truly yearn for peace.

What is your impression of the particular challenges women, especially childmothers and their children



Ms. Rehn and delegates with participants in the workshop on "The ICC Review Conference and 'Stocktaking' on the impact of the ICC on victims and affected communities", organized with REDRESS and the Uganda Victims Foundation in Lira in February



Ms. Rehn addressing students at Makerere University



currently face?

The situation of the childmothers, who were abducted, perhaps when they were merely 10 year old girls, is miserable. They are not welcomed back to their former homes and what is much worse, their children are not accepted by the society, other children don't play with them, and they are left alone. I will never forget a six year old girl, beautiful, yet not smiling a single time, with the sad eyes of a 100 year old person. As the mother said: "Those children will be the rebels of tomorrow if left without any attention".

Did you have a chance to hear from women's organizations or individual women during your visit?

One of the main disappointments with the victims we met was: How is it possible that the perpetrators are walking around as free men after being granted amnesty, when we, the victims, have nothing?

You delivered a lecture to a full hall of students at Makerere University, many of them women. What role do you see for such youth in building Uganda's future?

I was very pleased to find so many female students in the faculty of law in Makerere University (one of the highest ranked African universities after some South African and Egyptian ones!). Some of the students came to me afterwards, thanking me for my presence and referring to me as a role model. I know from other parts of the world young women want to have a role model for their own advancement.

The number of beneficiaries of the trust fund is quite limited in relation to the number of victims in this particular case of Uganda. How can the trust fund address the insurmountable gap between the expectations of hundreds of thousands of victims and the limited funding available, given that the trust fund projects are financed by donations?

As I mentioned before, the funds are very limited and should be increased which

is giving us a quite difficult situation: Why are we not assisting more? The expectations are really very high and I felt personally quite uncomfortable not being able to meet the demands.

How are local NGOs and other organizations involved in the projects of the trust fund and what is their role?

The selection of the most trustworthy NGOs for the implementation of our projects is very important and has functioned. That means of course that a lot of basic, time consuming preparations and quick steps are almost impossible. The ICC rules demand a clear transparent preparation.

One problem is that the demand for transparency combined with the respect for protection and security for the victims is not readily susceptible of being combined.

How important is the role of civil society in general and in the case of Uganda in particular?

In every conflict civil society has a crucial role if used in the right way. Uganda has a strong potential, and without trying to favor women, I do however have to call for a much stronger role of women in leadership, which has worked in other African countries. I was very sad when listening to a prominent woman, who made it clear that the best for a woman is to be a "Mrs.", that it did not matter if the husband beats you and is drunk most of the time – since he nonetheless gives you the position being a "Mrs." Ugandan women must get rights further to the drunken husband.

Was there a particular encounter or moment that touched you the most during your visit?

Meeting the mutilated, dignified woman who had received a plastic surgery operation through the TFV. She told us her story: 19 others were killed by having their heads crushed, including her husband, whose corpse was left next to her. The LRA men decided to leave her alive as evidence of

their power, but they proceeded to cut her ears, lips and nose. With the assistance of the TFV, we have been able to make eating and breathing easier, for which she was most grateful. But her silent, dignified attitude was heartbreaking. It was difficult for me not to feel strong hatred towards those perpetrators, although I should have learned by now that hatred is not the feeling that takes reparations for peace forward.

Any particular anecdote you can share with us about this trip?

We did not live a luxury life during our stay in Gulu and Lira and sometimes I expressed my longing for water and better sanitation, including a flushing toilet. I was especially taken when on my wall in the shower a most mysterious animal, orange-yellow transparent one, kept me company. I was so afraid that it would creep into my luggage and accompany me to Finland.

I got my punishment when returning back to my house in the Finnish countryside. We had had the strongest winter in 40 years, with enormous amounts of snow in southern Finland. My water pump had frozen; I spent two days without water, trying to melt snow for flushing the toilet! I will never talk about missing comforts in Africa again.

You have had a most interesting career as both a politician and an international civil servant working in seemingly intractable situations, such as the Balkans. When can we expect the publication of your memoirs?

As a matter of fact several publishers have been after me and I have made a contract with one of them for my memoirs. The problem is that new things are happening all the time which means I have written only about nine chapters. I have insisted on writing myself with others looking into the editing of the text. I don't like those memoirs that clearly are not written by the supposed author.

But it will take time, and the position in the

Board of TFV will take away again the time for writing!

What message would you give to the victims of conflicts around the globe?

My message to victims is not to hide, to tell your story strongly and to demand your rights. To cooperate with other victims, to be strong enough. And with all respect, don't place too much trust in the politicians to defend your rights, you must have your own representation. Already during the few days in northern Uganda, I met so many strong women, yes women, who could and should be running for office, to make decisions, if they only have somebody to push them forward.

What are the expectations for the issue of victims, to be considered under the stocktaking item at the Review Conference and what role would the Board have?

It is very important that the stocktaking at the Review Conference provides us clear indications on what the victims themselves expect from the ICC and the TFV. I hope the Board members are able to attend, I have learned during a long life that you understand many times more when meeting the people themselves, than sitting just somewhere far away making decisions. That was a reason I also took time to participate in the field mission to Uganda in February.

What are the key challenges faced by the trust fund?

The key challenges are of course related to the funding and giving clear messages to the victims about what we can do and what is not in our jurisdiction – something very difficult to explain.

Any particular administrative challenges that should also be addressed?

The Board has to appoint a new executive director, with whom we have to create a system which, within the rules of ICC, could make the heavy bureaucratic procedures somewhat lighter.



Hundreds of documents for a meeting are difficult to review, while at the same time it is essential to try to cover all the details.

How can the Board, which meets for three days once a year, appropriately monitor the work carried out by the trust fund in two countries (northern Uganda and the DRC), bearing in mind that the operations of the trust fund are implemented from The Hague?



The five members of the Board of Directors of the Trust Fund for Victims attending a reception hosted by President Wenaweser.

Front row from left: Mr. Bulgaa Altangerel (Mongolia), President Wenaweser; Ms. Vaira Vīķe Freiberga (Latvia), Ms. Betty Kaari Murungi (Kenya), Ms. Elisabeth Rehn (Finland) and Mr. Eduardo Pizarro Leongómez (Colombia) behind Ms. Rehn.

Personal favorites

Number of children, grandchildren and great grandchildren:

I am widowed since 5 years ago, but have two sons and two daughters, 13 grandchildren and two great-grandchildren.

Pastimes:

I love football, my husband was for one period the President of the Finnish Football Association, and he forced me even to be the leader of the women's team in my town! I will follow the South African World cup intensively, and have learned that through talking football you can find an easy way to get understanding from otherwise difficult political and religious leaders!

Pets:

As a child I had cats, but my true love has been Newfoundland dogs, first a black one, then two brothers, black and brown, named Laku and Choko. I am currently only dog sitting the dogs of my daughters, quite small animals.

Recently read books:

I had read some heavy historical books from Finland and yet I once again found the joy of reading via the wonderful books by Alexander McCall about the Ladies first detective office in Botswana, which

It is difficult for the Board to be efficient during the few days of meetings, a matter to be discussed at the first Board meeting. When elected I was asked by NGOs for more transparency, how can we guarantee that?

contain so much wisdom about African women!

Recommended movies:

There are lot of the "valuable" ones, but when I am sitting on a plane, hating the long flights, I can watch something like "Mamma Mia", getting a chance to laugh again, something we all need!

Favorite dish:

I should not have favorite dishes, as it could result in gaining weight. But my own homemade white fish fillet, directly from the Finnish Gulf outside my house, crispy and roasted in butter, with creamy sauce of chanterelles picked by myself in the forest, and with fresh new potatoes – that is a delicacy, I welcome tasting!

Preferred vacation spot:

My best vacation spot is my own home in the Finnish countryside, both summer and winter, with silence, elks, deer, foxes, hares – and wipers around me.

Favorite football team:

I would love to say the Finnish National Team is my favorite, but unfortunately they are never good enough for any world or European cups!

Interview with Justice Richard J. Goldstone



Former Prosecutor of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda (1994 – 1996)

Bearing in mind that you had other commitments and almost no experience in international criminal law, we understand that you initially turned down the UN offer to be the first Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY). How did you then accept that post?

When I received the invitation from the President of the ICTY, Judge Antonio Cassese, I did indeed have no intention of taking the position. However, before I could even respond to the invitation, I was called by President Nelson Mandela who informed me that notwithstanding my imminent appointment to our new Constitutional Court he earnestly wished me to accept the United Nations position. He stated that South Africa owed much to the UN in helping end Apartheid and that he had assured Secretary-General Boutros-Ghali that I would accept the position. He also informed me that my seat on the Constitutional Court would be kept warm for me and that I would return to it after two years in The Hague. This was not a request that I felt I could refuse.

What were the main challenges you had to overcome in the pioneering exercise of setting up the ICTY?

The main challenges I faced were first, having to learn in depth the principles and norms of humanitarian law and the history of the former Yugoslavia. Institutionally I had to overcome the inertia of many in the UN who were not happy about having to assist establish the first ever criminal court in the organization.

Subsequently, you were also mandated to cover the International Criminal Tribunal for Rwanda (ICTR). What do you consider your main

achievements at the two ad hoc tribunals?

I consider the main achievements in those early years was the setting up of appropriate Offices of the Prosecutor for both the ICTY and the ICTR, establishing appropriate rules and norms for the office and, above all, taking steps to ensure that trials before the two tribunals would be fair and just.

International criminal justice has made significant strides in the past decade and a half. How important is the establishment of the ICC in that development?

The exciting development of international criminal justice since 1994 would not have happened but for the successes of the two ad hoc tribunals. Had they failed in their mission that would have been the death knell for that development.

How do you view the positions taken by some that the ICC is centered on one particular region of the world?

That the ICC is centered in Africa is a fact. But it is obviously unfair to criticize either the Prosecutor or the Court for that. Of the four situations before the Court three were referred by Governments and the fourth by the Security Council.

How would you view a withdrawal of a State Party from the Rome Statute?

I am not aware of any threat by a State Party to withdraw from the Rome Statute. Obviously if that were to happen it would be a serious setback for the ICC.

Does the idea of possible regional criminal courts constitute an additional means of combating impunity?

I can find no reason to oppose the idea of regional criminal courts as an additional means to combat impunity. It would clearly not be inconsistent with the role of the ICC or contrary to the interests of the nations that have ratified the Rome Statute. More particularly, it need not in any way detract from the jurisdiction of the ICC.

What advantages or disadvantages do you see in having "in situ" proceedings as opposed to a trial being held elsewhere in the respective region or on another continent?

I have no doubt that justice can best be served by having trials at or as near as possible to the scene or scenes of the crimes. It is important because victims feel more

personally engaged and an integral part of the process. That having been said, more often than not this is not possible. The ICTY could not have been set up in the former Yugoslavia – the politics and security concerns made that impossible. So, too with regard to the ICTR – the safety of judges, witnesses and counsel could not have been guaranteed in the years immediately following the genocide.

You tend to remind the audiences you speak to about the political context and limitations of what a Prosecutor can do. Is that disheartening sometimes and how did you try to overcome those constraints?

It is essential to understand the politics of international justice and to recognize that without the politics there would be no international criminal courts and with the politics they could not succeed. In my view prosecutors must do their job – investigations and prosecutions – and accept that it is up to the political actors to ensure that orders of the courts are respected and implemented. This is not disheartening – it is inevitable.

Despite being cognizant about the numerous and grave repercussions of an indictment against senior Government officials, you went ahead on different occasions. Do you ever regret not taking a different course of action or not having deferred the indictments?

I have no regrets at all about the indictments I issued against people in high places. It was appropriate and in fact assisted in silencing the cannons in the former Yugoslavia and bringing justice to victims both there and in Rwanda.

How does a Prosecutor deal with the inevitable accusation of bias when requesting the arrest of senior government officials?

Allegations of bias are difficult to refute as those who make the allegation are usually not open to persuasion. Such allegations can only be refuted by the track record of the prosecutor. Save for fringe groups, I do not believe that lack of independence and bias has been alleged in respect of the international prosecutors who have served to date.

Given your experience with apartheid in South Africa and some of the political factors you had to face at the ICTY, what is your view of the so-called peace versus justice dilemma?

I do accept that there is a peace **versus** justice dilemma. In my experience it has been justice **and** peace complementing

each other.

In your experience, do criminal investigations constitute a disincentive to negotiations that may allow for a political settlement of a conflict?

I readily concede that criminal investigations and prosecutions might constitute a disincentive to negotiations leading to a settlement of disputes. However, that has not been the experience thus far. It has rather been the reverse. However, if in some cases that turns out to be the position, it is a price that has to be paid for withdrawing impunity from war criminals.

Different transitional justice mechanisms have been successfully applied in Latin America and Africa since the 1980s. Having regard to the work of the South African Truth and Reconciliation Commission, do you see a role for such mechanisms in addressing impunity or do they hinder the attainment of justice via the exclusion of the identities of perpetrators/ammesties, etc.?

In certain circumstances truth and reconciliation commissions have served an important role in helping people reconcile what appeared to have been irreconcilable differences. South Africa is a case in point. It might be difficult in some cases to reconcile those proceedings with the role of international justice. I believe however that in the overwhelming number of cases an accommodation can be reached where it is in the interests of justice. I need hardly add that this would only be relevant where the domestic proceedings are complete, open, democratic and fair and not intended to preempt or avoid the jurisdiction of the ICC.

Can one equate the actions of the armed/security forces of a State with those of rebels/militias/armed groups not linked to a Government or should the former be subject to greater scrutiny given the power of the State and its legal commitments at the national and international level?

In my opinion the rules and norms of humanitarian law and international human rights law apply equally to both government forces and those of non-State actors. The protection of innocent civilians is paramount. It may obviously be easier for a State to comply with those rules and norms and in some cases violations will more easily be established against a State Party.

The UN report on Gaza prepared by the commission you chaired foresees a possible role for the ICC if the UN Security Council does not get the information about proper investigations into the alleged war crimes and crimes against humanity committed by the parties. Although this is in line with the principle of complementarity, whereby the primary duty for investigating and prosecuting such crimes lies with States, the decision whether to refer

the situation to the ICC will be taken by the UN Security Council, a political body. How can the political elements be extricated from what should be the strict application of the law?

Any reference to the ICC by the Security Council has a political element but that does not mean that the reference itself should be political. In the cases where the Security Council has acted in the past it has taken appropriate steps (through the appointment of expert commissions) in order to ensure that crimes appear to have been committed at a level that justifies the establishing of a special tribunal or a reference to the ICC. I am confident that that will continue to be the case.

Given that there have been divergent opinions about the composition of Chambers at the ICC, in terms of whether judges from the Pre-Trial and Trial Divisions can be re-assigned to the Appeals Division – a matter you have taken a position on by indicating that legal and practical difficulties ensue from such reassignments - do you see a need for the Assembly of States Parties to get involved in order to clarify the matter, possibly by amending the Statute?

I do respectfully suggest that the ICC judges acted in violation of the letter and spirit of the Rome Statute by appointing trial judges to the Appeals Chamber. To the extent that there is doubt about the matter the Assembly of States Parties should amend the Statute to put this beyond question.

You only worked as a Prosecutor at the ICTY for two years. The terms vary across the different ad hoc tribunals, mixed tribunals and the ICC. Given the need to balance continuity with the debilitating effect of a Prosecutor's extended stewardship of his/her office, what term limit would you consider reasonable for such positions?

I have no strong views about the length of terms for international prosecutors. I would have thought that four or five years with one possible renewal would be the optimum period.

How can one attempt to understand the individual and societal context that drives men to commit the heinous crimes dealt with by international criminal tribunals? Such crimes cannot be perpetrated solely by one individual or a few of them.

It is difficult to understand how so many people have been involved in the commission of heinous crimes. What makes it possible is the demonizing of the enemy and fear that the survival of the group or nation is threatened by that enemy.

What goes through your mind when you face such persons in the courtroom?

When I see such men or women in the courtroom I realize again and again that these are usually ordinary people who might otherwise have lived normal lives. People better qualified than me have sought to explain such conduct.

Some view the crime of aggression as the pinnacle of all crimes. Irrespective of a possible role by a political body such as the United Nations Security Council in triggering the ICC's exercise of jurisdiction into the commission of such a crime, would you see a risk that ineluctable accusations of political bias may affect the credibility of the Court or distract its attention from the other crimes under its jurisdiction?

I have mixed feelings about including the crime of aggression. As a former international prosecutor I would prefer to have to concentrate on well recognized war crimes rather than have to enter the very complicated political world by addressing the crime of aggression. The problems that will be faced at the Review Conference with regard to the trigger mechanism are a good indication of the kind of problems to which I refer.

The agenda of the Review Conference in Kampala includes the stocktaking of international criminal justice. In your view, what are the key achievements of international criminal justice over the past 15 years?

The key successes of international justice over the past 15 years include the rapid proliferation of international criminal courts, the demonstration by them that international

Personal favorites

Most admired person:
Nelson Mandela

Recently read book recommended:
The Rule of Law by Tom Bingham

Favorite magazine:
New York Review of Books

Preferred musicians group:
The Royal Concertgebouw Orchestra, Amsterdam

Favorite dessert:
I do not have sweet tooth – I like sorbets!

Teams expected to make it to the World Cup semi-finals:
Brazil, England, Germany and Spain. I obviously hope that South Africa progresses well in the competition.

trials can be held in a fair and even-handed manner and the consequential development of international humanitarian law.

Victims are among the raison d'être for the establishment of international tribunals and the ICC in particular. Has enough been done to balance their need for acknowledgement, reparation and compensation? How can the appropriate balance be struck in giving victims an adequate role in criminal proceedings, while ensuring that this does not affect the rights of the defence?

The role of victims in international justice is a new and very important development. We are still in the learning process and many issues and problems are under consideration at the ICC.

You have said that if the public does not know what international tribunals do, it would be best that they shut down. What's your evaluation in that regard for the ICTY/ICTR and what would you recommend to the ICC, bearing in mind the inherent cost implications of trying to do outreach to the world community at large and to the populations in situation countries as vast as the ones the ICC is dealing with?

There is high degree of interest today in international justice. Hardly a day goes by without media reference to issues related to international criminal courts and

international justice is now regularly featured on the syllabuses in most good law schools. The outreach program of the ICC is certainly an improvement of those of its predecessors and there is no doubt that much more remains to be done especially in the countries whose situations are before the Court.

There are a series of "residual issues" that have to be addressed in due time before the ad hoc tribunals and the Special Court for Sierra Leone close. One of those issues is the ownership of and the place to keep the archives of those tribunals, irrespective of ensuring the availability of digital versions. Bearing in mind that there are security concerns and technical requirements to ensure the proper preservation of the archives, the options would include permanent archives in The Hague, archives in the country/region of the respective tribunal/court, with a variant consisting of temporary storage in The Hague. Would you share your view on the matter?

The question of the archives of the ICTY, ICTR and SCSL are still under consideration of the Task Force on Residual Issues established by the Security Council. There are some complex issues such as the archive being kept at the respective courts until there is no further judicial use for them – something still some years into the future. Then there is the important question of protecting the privacy rights of persons,

alleged perpetrators and victims that appear in the documents of the tribunals. There are many other issues. Ultimately I would suggest that the archives be held available by the United Nations for the nations whose interests are most affected, i.e. the nations of the victims.

South Africa will host the World Cup in 2010, immediately after the end of the Review Conference. Football tends to galvanize sectors of societies that are otherwise islands unto themselves. Do you think such sports competitions bring the world closer together?

I am very proud that South Africa will soon be hosting the World Cup – a first for our Continent. I have no doubt that sports competitions help to bring the world closer together.

The 63 States Parties to the APIC

With the deposit of the instrument of ratification by Georgia on 10 March 2010, a total of 63 States are parties to the APIC.



American Society of International Law

President Wenaweser at the panel on the Review Conference, held at the annual meeting of the American Society of International Law in Washington D.C. on 27 March 2010.



Committee on Budget and Finance concludes its fourteenth session



Mr. Santiago Wins, Chair of the Committee on Budget and Finance, briefing Court officials on the outcome of the fourteenth session of the Committee.

On the left: the First Vice-President of the Court, Ms. Fatoumata Diarra. *On the right:* Ambassador Rossette Nyirinkindi Katungye, Vice-President of the CBF. Mr. Wins also indicated that some CBF members would attend the Review Conference in Kampala.

Solemn undertaking of two judges

The Vice-President of the Assembly, Ambassador Jorge Lomónaco, witnessing the solemn undertaking by Ms. Kuniko Ozaki on 20 January 2010.



The Registrar, Ms. Silvana Arbia, witnessing the signature of the undertaking by Ms. Silvia Fernández de Gurmendi.



The judges of the Court with the Vice-President of the Assembly, Amb. Jorge Lomónaco (center).

On the left: the Deputy Registrar, Mr. Didier Pereira and the Registrar, Ms. Silvana Arbia; on the right: the Prosecutor, Mr. Luis Moreno-Ocampo and the Deputy Prosecutor, Ms. Fatou Bensouda.

Judges

At a closed plenary session held on 20 January 2010, the judges of the International Criminal Court decided on their assignment to the Pre-Trial, Trial and Appeals Divisions of the Court, in accordance with rule 4 of the Rules of Procedure and Evidence.

The composition of the judges of these divisions is as follows:

Pre-Trial Division

- Mr. Hans-Peter Kaul (Germany, list B,
Second Vice-President of the Court)
- Ms. Sylvia Steiner (Brazil, list A)
- Ms. Ekaterina Trendafilova (Bulgaria, list A)
- Ms. Sanji Mmasenono Monageng (Botswana, list B)
- Mr. Cuno Tarfusser (Italy, list A)
- Ms. Silvia Fernández de Gurmendi (Argentina, list A)

Trial Division

- Ms. Fatoumata Dembele Diarra (Mali, list A,
First Vice-President of the Court)
- Ms. Elizabeth Odio Benito (Costa Rica, list A)
- Mr. René Blattmann* (Bolivia, list B)
- Mr. Adrian Fulford (United Kingdom, list A)
- Mr. Bruno Cotte (France, list A)
- Ms. Joyce Aluoch (Kenya, list A)
- Ms. Christine Van den Wyngaert (Belgium, list A)
- Ms. Kuniko Ozaki (Japan, list B)

Appeals Division

- Mr. Sang-Hyun Song (Republic of Korea, list A,
President of the Court)
- Ms. Akua Kuenyehia (Ghana, list B)
- Mr. Erkki Kourula (Finland, list B)
- Ms. Anita Ušacka (Latvia, list B)
- Mr. Daniel David Ntanda Nsereko (Uganda, list A)

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

* Mr. René Blattmann (Bolivia), who upon his election in February 2003 was selected by lot to serve for a term of six years, will continue in office to complete the trial of Thomas Lubanga Dyilo before Trial Chamber I, in accordance with article 36 (10) of the Rome Statute.

Future permanent premises of the Court*

Interview with Mr. Bjarne Hammer, founding partner, schmidt hammer lassen architects



Why do you think your design was selected for the permanent premises of the International Criminal Court?

Firstly, we are very happy to be selected as the architect for the building of the International Criminal Court. Yet, the question why our design was selected would be best answered by the international jury of the architectural design competition.

Could you explain the main characteristics of the design and the message it is conveying?

We tried to make a design that supports and underlines the values of the ICC, which are unique. We tried to take a physical approach, which means that the building has a transparent and open attitude and is set in the landscape as a landmark. As such, it functions as a backdrop for communication, which is so important for the Court.

How does the design underline that the Court is a permanent judicial institution, designed to bring to justice those responsible for the most serious crimes of concern to the international community as a whole?

This is rather difficult to explain. We tried to give the building an abstract attitude. For instance, the façade of the building is not typical; hopefully it will be unique and give identity to the ICC as an institution. Wherever in the world, the image of the building should remind people of the ICC. It is important to communicate to the world and to the victims of crimes and their families that there is one place in the world where there is faith and justice, namely at the ICC.

Your design foresees a public space at the ground level and a common staff area at the first level. What will be the respective functions of these areas?

For reasons of security, the ground floor and the first floor were kept separate. The ground floor will consist of the main lobby, a conference centre, a press centre and a restaurant for visitors. The first floor functions as a walkway that will lead staff to the different departments. In addition, it will be equipped with meeting rooms. Overall, the design provides for a clear organizational structure.

How would you describe the integration of the design into the landscape, with the dunes as its main characteristic?

It was our intention to give parts of the dunes back to the city. It is a fantastic area located between the edge of the city of The Hague and the dunes facing the North Sea. The current buildings on the site occupy approximately 60 per cent of the total area; our design, however, will only occupy 40 per cent. Through this, we give back a piece of the landscape to the city of The Hague. The buildings could be described as “floating over the dunes”.

Another evident feature of the landscape will be the garden, which will be visible from all parts of the buildings. Throughout history and nowadays, gardens play an important role in all cultures and religions. This, as a unifying symbol, the garden will foster plants and flowers from each of the 111 States Parties.

How does your design cater for flexibility in terms of size and capacity?

All clients have a keen interest in ensuring flexibility for future growth and expansion. As regards the permanent premises, two options can be considered. Firstly, because of the small footprint of the design, constructing an additional building on the site would be possible. Secondly, each of the five office towers could be increased in height to accommodate an extra floor.

How did you combine the “One Court principle” with the need for separation of the organs?

Accurately reflecting the “One Court principle” and the separation of organs was one of the major challenges in the design process. As regards the separation of the organs, it was important for us to nonetheless maximise the common usage of facilities and services, such as security. The current solution will require further development in the coming months.

How have staff members of the ICC been involved in the process of design and modification?

To our knowledge, the functional brief for the competition has been developed in consultation with staff of the Court. In the coming months, the Court’s user group will have a more important role to play. Through an intense dialogue, the staff members of the Court will actively contribute to the design phase.

Your design has been commended for its sustainability and integrated security measures. Could you explain some of the key measures that have been taken in this regard?

The design had to reach a high level security. We incorporated in the design a variety of measures that would secure the Court, but not create a visual barrier that would shield the Court from the outside world and the neighbourhood. The high level of sustainability has been achieved by minimizing the energy consumption and by providing a green corridor and green roofs. We have a responsibility towards the world to be sustainable.

A strict budget has been set for the project and States Parties are cautious about a possible cost overrun. How can you, as an architect, contribute to the project remaining within budget? Have your previous projects remained within budget?



At the interview session.

Mr. Bjarne Hammer and Ms. Bente Damgaard, Chief Executive Officer

* The Court occupies interim premises provided by the Government of the Netherlands.

Our previous projects have remained within budget. At times, however, this required exploring other, more cost effective alternatives. In the end, it is for the architect to implement the wishes of the client. As regards the permanent premises project, we are confident that the budget is sensible and do not foresee any problems.

Would your design be recognized by professionals as a typical schmidt hammer lassen design? Does it carry your signature?

The value of democracy has always inspired schmidt hammer lassen architects. Hopefully, this is reflected in the design for the permanent premises. Instead of creating a barrier between the Court and its surroundings, democracy calls for an open and transparent building that allows outsiders to take note of what is happening in the institution.

Schmidt hammer lassen architects has offices in Aarhus, Copenhagen, London, Oslo and Shanghai, but not in The Netherlands. How will you ensure that you are involved in the daily activities of the project now and when the actual construction starts?

Denmark is not as far away from The Hague as one might think! However, to ensure that we are on location and to facilitate the dialogue between the architects, the client and the user group, schmidt hammer lassen architects will be present in The Hague, possibly by establishing a field office.

Could you reflect on one of your most memorable projects so far?

This question is very difficult to answer; as if asking parents which child they love most. All projects are different; clients are different; the purposes of the buildings are

different. Yet, each project has certain elements that make it unique and of great importance.

Could you name a particular piece of architecture in the world that has had a significant impact upon you?

Personally, I am drawn to cultures and environments. For example in Switzerland, the placement of wooden buildings in their environment is fascinating. Similarly, in Mexico, the Maya culture and the pyramids, in all their heaviness and substance, present a mixture of different impressions.

Is there a particular architect who has inspired you?

The Norwegian architect Sverre Fehn.

Centrally located in the design of schmidt hammer lassen is the Court tower, which is the tallest building and intended to house three identical courtrooms, located on top of each other, as well as a public area on the ground floor. The transparent Court tower would be surrounded by five various sized towers, consisting of office space and meeting rooms and accommodating the Judiciary, the Office of the Prosecutor and the Registry. All workspaces would benefit from natural daylight and would offer a view over the landscape. Part of the remaining area would serve as a public garden, consisting of plants and trees from all over the world, interspersed with reflecting pools.

By designing a compact building with a small footprint, the dunes and the sky form an integral part of the architectural composition. The landscaping itself intends to support the high security requirements of the Court, without compromising the visibility of the Court to the outside world.



The schmidt hammer lassen design



Interview with Mr. Martin Strub, Chairperson of the Oversight Committee on permanent premises



Why did the Assembly establish in 2007 an Oversight Committee for the permanent premises?

The Oversight Committee was established by the Assembly to provide strategic oversight for the permanent premises project. This includes monitoring the project to ensure that the objectives of the project are achieved within budget and to ensure that the risks are identified and managed. As a subsidiary body of the Assembly and within the delegated authority, the Committee can take key strategic decisions during the year which are necessary to move the project forward.

As the Swiss member of the Committee since its establishment in 2007 and as its Chairperson since the beginning of 2010 could you tell us about the main accomplishments of the Committee?

During the past two years, a number of accomplishments were achieved. For example, the Committee took part in preparing for the launching of the architectural

design competition, took the final decision in the selection of an architect, developed the financing scheme for the project and recruited the Assembly's Project Director. In all instances, however, the assistance of the Project Board and the support from the Secretariat of the Assembly proved to be vital.

Another main accomplishment is the spirit of cooperation that exists in the Committee. As of the very first meeting of the Committee, held in January 2008, members demonstrated their enthusiasm and commitment to the project by actively taking part in the discussions and by attending the frequent meetings. Part of this achievement must be attributed to the leadership of the first two Chairpersons of the Committee, H.E. Mr. Jorge Lomonaco (Mexico) and H.E. Mr. Lyn Parker (United Kingdom). Both did an excellent job in establishing and fostering a pleasant work environment.

What are the main challenges for the project?

As in any project of this magnitude, the main challenges are to finish the project on time and within budget. The Committee will keep a watchful eye on this.

The Committee works closely together with the Assembly's Project Director, the Court and the host State. How would you describe this relationship?

All three have a specific role to play. They come together in the so called Project Board which forms the cooperative and consultative structure for the overall management of the project. A good cooperation and the best use of synergies between the different actors is crucial for the success of the project.

In November, the Assembly took note of the decision of the Oversight Committee to request the Project Board to finalize the negotiations, including on the terms and conditions of the contract, with Schmidt Hammer Lassen Architects. The signature of the contract was announced on 8 March 2010. What are the next steps in the process and what will be the role of the Oversight Committee?

With the signature of the contract we entered into the design phase of the project, which calls for close interaction between the architect and the user group. The Oversight Committee will revert to its regular responsibilities, contained in resolution ICC-ASP/6/Res.1. In the coming months, the Committee will particularly focus on the issues of governance, risk management and budgetary control, as well as on identifying the other costs related to the project but not directly related to the construction. In addition, it is the intention of the Committee to involve more actively States Parties that are not members of the Committee in its activities.

In November, the Assembly also noted that the completion date for the project has been delayed until 2015. What are the consequences of this delay and how could these be mitigated?

Any delay will have financial consequences. However, since the project is still in an early stage, the possibility exists to explore ways to accelerate the project and to prevent additional delays. However, this requires a proactive management and anticipation of possible obstacles. As in any organization, improving the speed of decision-taking could contribute to achieving the objectives of the project within the set timeframe. The Committee will be actively involved in developing strategies for this and in monitoring their effectiveness.

The overall costs of the project for permanent premises are estimated at €190 million. How is the project financed?

The host State, apart from the land lease which foresees the free use of the land, granted a loan with a favourable interest rate. States Parties have two options to participate in the financing of the project: the first option of a one-time payment, meaning that they disburse their full assessed share in one to three instalments. This option reduces the need to draw funds from the host State loan. The second option is the use of the host State loan which has to be paid back within 30 years after completion of the project. I am quite pleased that to date 16 States Parties have committed to making a one-time payment. These one-time payments represent a total value of approximately €30 million, which is almost 16 per cent of the total construction costs.





for its banking system, contributed to this!

Do you expect the global financial crisis to have an impact on the project?

The permanent premises project and its financing is a long term project and should not be affected by a crisis. The fact that a number of States Parties from all over the world opted for a one-time payment demonstrates that the project has not really been affected by the global crisis.

We understand that you are considered a "financial wizard".

For some peculiar reason I am being considered the "financial expert" of the Committee, even though my background is in law only and I am certain that other members have far more knowledge of this subject than I do. It was mentioned one day in the Committee that the fact that I am representing Switzerland, which is famous and infamous

Personal favorites

Hobbies:

Different sports (practiced if possible in the Swiss Alps), cooking and travelling

Preferred tennis court surface:

Clay

Longest tennis match ever played:

I remember better the shortest...

Bicycle model and kilometres per week:

About 100 km per week. Citybike: Union; Racebike: Mondia; Mountainbike: Arrow

Favorite dish:

Cebiche, Apfelstrudel

Books currently on bedside table:

Measuring the world by Daniel Kehlmann

Favorite gadget:

iPhone

Most visited website:

In the Netherlands, www.weer.nl

How to relax:

Being at the beach and watching the sunset



Facts and figures

Area
46,000 m²

Number of buildings
6

Number of courtrooms
3

Number of workstations
1200

Total construction budget
€190 million
(At the 2014 price level)

Engineer
Royal Haskoning
Esbensen Consulting
Engineers

Interior design and art
Bosch & Fjord in collaboration
with schmidt hammer lassen
architects

Review Conference provisional work programme (subject to modification)

<p>31 May (Monday)</p> <p>10:00 – 13:00 Plenary Opening of the Conference Statements by: President of Assembly, Amb. Christian Wenaweser United Nations Secretary-General, H.E. Mr. Ban Ki-moon President of Uganda, H.E. Mr. Yoweri Kaguta Museveni President of the Court, H.E. Judge Sang-Hyun Song Prosecutor, Mr. Luis Moreno-Ocampo Former United Nations Secretary-General, H.E. Mr. Kofi Annan</p> <p>General debate Heads of State attending the Conference</p> <p>15:00 – 19:00 Plenary General debate</p>
<p>1 June (Tuesday)</p> <p>9:00 – 13:00 Plenary General debate</p> <p>14:00 – 19:00 Plenary General debate</p> <p>19:00 – 20:00 Working Group: Crime of aggression</p>
<p>2 June (Wednesday)</p> <p>10:00 – 13:00 Plenary Stocktaking <ul style="list-style-type: none"> Impact of Rome Statute system on victims and affected communities </p> <p>15:00 – 18:00 Plenary Stocktaking <ul style="list-style-type: none"> Peace and Justice </p>
<p>3 June (Thursday)</p> <p>10:00 – 13:00 Plenary Stocktaking <ul style="list-style-type: none"> Complementarity </p> <p>15:00 – 18:00 Plenary Stocktaking <ul style="list-style-type: none"> Cooperation </p>
<p>4 June (Friday)</p> <p>10:00 – 13:00 Working Group: Crime of aggression</p> <p>15:00 – 18:00 Working Group: Proposal for article 8</p>

<p>7 June (Monday)</p> <p>10:00 – 13:00 Working Group: Crime of aggression</p> <p>15:00 – 18:00 Working Group: Crime of aggression</p>
<p>8 June (Tuesday)</p> <p>10:00 – 11:00 Plenary</p> <p>11:00 – 13:00 Working Group: Crime of aggression</p> <p>15:00 – 16:30 Strengthening the enforcement of sentences</p> <p>16:30 – 18:00 Reserved</p>
<p>9 June (Wednesday)</p> <p>10:00 – 10:30 Plenary</p> <p>10:30 – 13:00 Working Group: Article 124</p> <p>15:00 – 18:00 Drafting Committee</p>
<p>10 June (Thursday)</p> <p>10:00 – 10:30 Credentials Committee</p> <p>10:30 – 13:00 Reserved</p> <p>15:00 – 18:00 Reserved</p>
<p>11 June (Friday)</p> <p>10:00 – 13:00 Reserved</p> <p>15:00 – 18:00 Plenary <ul style="list-style-type: none"> Report of the Credentials Committee Other matters Consideration of the reports of the Working Groups Oral report of the Rapporteur Adoption of the report of the Conference Closure of the Conference </p>

ASP Calendar

2010

Assembly of States Parties
 Ninth session
 New York
 6 - 10 December

Committee on Budget and Finance
 Fifteenth session
 The Hague - 23 - 31 August

Review Conference meeting



Judge Kuniko Ozaki delivered a lecture in Kuala Lumpur on 26 March 2010 at the meeting of the Asian-African Legal Consultative Organization.

Departures



Ms. Fatma Waheb Wassie, a Secretariat staff member since 2007, has joined the Department of Management of the UN Secretariat in New York.

Colophon

Secretariat of the Assembly of States Parties
 International Criminal Court

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