

For Immediate Release

ICC: Keep Pledges to Strengthen International Justice

States Should Use Annual Session to Build on Kampala Conference

(New York, December 2, 2010) – Member states of the International Criminal Court (ICC) meeting for the first time since the ICC review conference in Kampala in May and June 2010, should make good on their promises to increase their commitment to international justice, Human Rights Watch said today.

Human Rights Watch called on governments to pay special attention to strengthening cooperation with the ICC and increasing assistance to national jurisdictions to prosecute genocide, crimes against humanity, and war crimes. The annual session of the Assembly of States Parties will begin on December 6 at the United Nations headquarters in New York. The 114 member countries, including three new members, will take part.

“ICC members should build on the important foundation laid in Kampala,” said Elizabeth Evenson, senior international justice counsel at Human Rights Watch. “This meeting of states parties is the time for governments to take new concrete action to ensure that those responsible for the worst international crimes face justice.”

The review conference in Kampala was mandated under the Rome Statute, the treaty that created the court. The conference was required seven years after the statute went into effect in 2002 to consider amendments to the treaty.

The ICC relies on governments to enforce its decisions and assist its investigations and prosecutions. A backlash over the court’s arrest warrants for President Omar al-Bashir of Sudan has underscored the importance of strong public backing for the court’s mandate, Human Rights Watch said. Human Rights Watch called on member states to bolster their joint efforts to secure cooperation by creating a permanent working group on cooperation within the Assembly of States Parties and by appointing a facilitator to increase expressions of commitment to the ICC’s mandate in UN debates.

“ICC member states should redouble their efforts to support the ICC and one another in their cooperation with the court in the face of continued opposition by al-Bashir and his allies,” Evenson said. “They should equip themselves to make the most of opportunities that arise at the UN General Assembly and Security Council year-round.”

The ICC should also increase its engagement with the African Union, and member states should make sure that happens, Human Rights Watch said.

At the review conference, nearly 40 countries made specific pledges of concrete, increased assistance to the court. Human Rights Watch urged governments to report on progress in carrying out these pledges and to make new pledges of support during the December meeting.

Human Rights Watch also urged governments to strengthen the Assembly of States Parties' capacity to promote joint efforts to improve national-level trials of ICC crimes. The ICC only acts in cases in which national courts are unable or unwilling to hold credible trials at home, and its reach is limited to a handful of cases. The central role of national courts in holding all perpetrators of the worst international crimes to account received heightened attention in discussions at Kampala.

“ICC members recognize that impunity for the worst crimes must also be fought at the national level, including by increasing assistance to give national courts the resources they need for the task,” Evenson said. “To make this happen, the Assembly of States Parties should forge new relationships between the ICC and development assistance programs.”

Member states will also set the ICC's annual budget. Economic pressure on national budgets appears to be fuelling an interest by member governments in more robust oversight of the court. Another factor may be delays in judicial proceedings, including a recent stay in the first ICC trial, that of Thomas Lubanga, a Congolese rebel leader. The Lubanga trial resumed last month, and the ICC has recently started its third trial, that of Jean-Pierre Bemba Gombo, a Congolese former vice president, rebel leader, and opposition party leader, on charges of crimes committed in neighboring Central African Republic.

The upcoming assembly session is expected to establish a study group of member states to examine issues related to the court's functioning. Human Rights Watch recognizes a critical role for member states in engaging court officials in strategic dialogue, but called on the assembly to ensure scrupulous respect for the court's independence as a judicial institution.

In a [memorandum](#) issued to governments last month, Human Rights Watch called attention to other issues likely to be discussed. These include the need to prepare for the election of only the most highly qualified candidates for ICC judges and the next ICC prosecutor, in voting to be held in 2011 or early 2012. Another is the need for safeguards to prevent politically motivated interference with the work of an ICC independent oversight mechanism.

Background

The ICC is the world's first permanent court mandated to bring to justice perpetrators of war crimes, crimes against humanity, and genocide when national courts are unable or unwilling to do so. The ICC treaty, the Rome Statute, entered into force in 2002, just four years after 120 states adopted the treaty during a conference in Rome.

The Assembly of States Parties was created by the Rome Statute to provide management oversight of the administration of the court. It consists of representatives of each member state and is required to meet at least once a year but can meet more often as required.

This year's annual session follows the first ICC review conference, held in Kampala, Uganda from May 31 to June 11. The Rome Statute mandates that seven years after the treaty enters into force, the UN secretary-general is to convene a review conference to consider any amendments to the treaty.

In addition to adopting two amendments – including one regarding the definition of the crime of aggression and the conditions for the court to exercise jurisdiction over the crime – member states attending the review conference engaged in two days of debate on cooperation, complementarity (or the strengthening of national jurisdictions to prosecute ICC crimes), the impact of the Rome Statute system on victims and affected communities, and peace and justice, as part of a “stock-taking” exercise.

The court’s jurisdiction may be triggered in one of three ways. ICC member states or the UN Security Council may refer a situation, meaning a specific set of events, to the ICC prosecutor, or the ICC prosecutor may seek on his own motion authorization by a pre-trial chamber of ICC judges to open an investigation.

The ICC prosecutor has opened investigations in the Democratic Republic of Congo, northern Uganda, the Darfur region of Sudan, the Central African Republic, and Kenya. Based on those investigations, 13 arrest warrants and one summons to appear have been issued. The prosecutor has announced that he plans to present cases against six individuals in the Kenya investigation to an ICC pretrial chamber later this month.

The prosecutor is also looking at a number of other situations in countries around the world. These include Colombia, Georgia, Cote d’Ivoire, Afghanistan, and Guinea. The Palestinian National Authority has also petitioned the ICC prosecutor to accept jurisdiction over crimes committed in Gaza.

Four individuals are in ICC custody in The Hague. Three others charged with war crimes in connection with an attack on African Union peacekeepers in Darfur appeared voluntarily during pretrial proceedings. The ICC’s pretrial chamber declined to confirm charges against one of the three, Bahr Idriss Abu Garda. A pretrial chamber will begin a hearing on December 8 to confirm charges against the other two – Abdallah Banda Abakaer and Saleh Mohammed Jerbo Jamuson.

Bemba is the highest-profile defendant to date. Trial of the Congolese rebel leader Thomas Lubanga Dyilo is ongoing, as is the joint trial of Congolese rebel leaders Germain Katanga and Mathieu Ngudjolo Chui.

In addition to al-Bashir and two other individuals sought in relation to the Darfur situation, arrest warrants remain outstanding for leaders of the Lord’s Resistance Army in northern Uganda and for Bosco Ntaganda, a former rebel commander now integrated into the Congolese national army.

To read the Human Rights Watch memorandum to the International Criminal Court Assembly of States Parties Ninth Session, please visit:

<http://www.hrw.org/node/94364>

To read the Human Rights Watch report “Making Kampala Count: Advancing the Global Fight against Impunity at the ICC Review Conference,” please visit:

<http://www.hrw.org/node/90283>

To read the Human Rights Watch report, “Courting History: The Landmark International Criminal Court’s First Years,” please visit:

<http://www.hrw.org/en/reports/2008/07/10/courting-history>

For more Human Rights Watch reporting on the ICC, please visit:

<http://www.hrw.org/en/category/topic/international-justice/international-criminal-court>

For more information, please contact:

In New York, Elizabeth Evenson (English): +1-212-216-1249; or +1-917-428-1092 (mobile)

In New York, Richard Dicker (English): +1-212-216-1248; or +1-917-747-6731 (mobile)

In Brussels (and in New York from December 4), Géraldine Mattioli-Zeltner (English, French):

+32-2-737-1487 until December 3; after December 4, +1-347-749-0098 (mobile)