



REPORT ON THE NINTH SESSION OF
THE ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE
6-10 DECEMBER 2010
NEW YORK, USA



This document was compiled by the Coalition for the International Criminal Court Secretariat (CICC), based on reports from CICC caucuses, teams and experts, as well as on official ASP documents on each respective subject and should not be taken to represent the views of all Coalition members.

The Coalition Secretariat would like to thank the following people who made it possible to draft this report: the CICC interns for their production of daily minutes of the plenary and working group meetings of the ASP; CICC team leaders and all members of the teams who made the production of the CICC team reports possible; and the Secretariat of the Assembly of States Parties for the summary of the proceedings and the list of documents.

Cover Photo: The panel during the opening of the 9th ASP. Seated front row, left to right: The Prosecutor of the ICC, Mr. Luis Moreno Ocampo; The President of the ICC, Judge Sang-Hyun Song; Secretary General of the UN, Mr. Ban Ki-Moon; the President of the Bureau of the Assembly of States Parties, His Excellency Amb. Christian Wenaweser; Director of the Secretariat of the Assembly of States Parties, Mr. Renan Villacis; The Registrar of the ICC, Ms Silvana Arbia. Credit: CICC/Peter de Groot

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I. INTRODUCTION



Participants on opening day of the ninth Assembly of States Parties.

The present report constitutes a summary of the ninth session of the Assembly of States Parties to the Rome Statute. The Coalition Secretariat takes all care to ensure accuracy. Corrections, clarifications and additions are always welcome.

The ninth session of the Assembly of States Parties (ASP) was held in New York, at the United Nations Headquarters, on 6-10 December 2010.

Representatives from 104 of the 114 ICC states parties, who together form the ASP, the management oversight and legislative body of the International Criminal Court, gathered to decide upon a number of issues central to the Court's operations. Amongst these issues were the adoption of the Court's budget; the independent oversight mechanism; the working group on amendments to the Rome Statute; cooperation; governance; the permanent premises of the Court; and upcoming judicial, prosecutorial and other elections.

The ninth session was the first meeting of the Assembly since the first-ever Review Conference that was held in Kampala, Uganda from May 31 to June 11, 2010. As with previous sessions of the ASP, the ninth session was a pivotal event for NGOs. More than 100 representatives from NGOs from all parts of the world attended the session. NGOs from four situation territories were also present: Uganda; DRC; Sudan; and Kenya.

The continued commitment of NGOs to invest time and resources in the ASP is a clear indication of the sustained support for the Rome Statute system. The consultative arrangements for NGOs in the ASP and the ICC are extraordinary and this constructive cooperation was evident throughout the ninth session.

As in previous years, NGOs coordinated their activities through the Coalition. A number of side-events were held, creating a platform for dialogue between the participating NGOs on the one hand, and the Court and states parties on the other. Although consensus on issues could not always be found between the parties, the dialogue was constructive and informative. Various states parties continued to invest time and resources in crucial side events, with the intention of building capacity, continuing dialogue and exchanging information.

Prior to the ninth session of the ASP, the Coalition continued its advocacy for a fair, effective and independent ICC by addressing a number of key issues in relation to the Rome Statute System and the International Criminal Court. The Coalition produced a number of Team papers in this regard, which were made available prior to and during the ASP to all the participants at the session. At the conclusion of each day the Coalition produced reports of the events that took place.

The next and tenth session of the ASP will take place on 12-21 December 2011, in New York, with a host of elections being prominent amongst the regular business of the session, including elections for six new Judges. It is also expected that the elections for a new Prosecutor will be

held at the tenth ASP. The eleventh session of the ASP (in 2012) will be held in The Hague, The Netherlands.

Relevant Documents

The CICC informal daily summaries of the ninth ASP session can be found at:

<http://www.coalitionfortheicc.org/?mod=asp9>

All Coalition Team Papers and individual Coalition members' recommendations can be found at

<http://coalitionfortheicc.org/?mod=asp9&idudctp=21&show=all#21>

The official records of the ninth ASP session can be found at:

<http://www.icc-cpi.int/Menu/ASP/Sessions/Documentation/9th+Session/Ninth+session+of+the+Assembly+of+States+Parties.htm>

You may also connect with the Coalition on facebook, <http://www.facebook.com/pages/New-York-NY/Coalition-for-the-International-Criminal-Court/151245993784>, twitter, <http://twitter.com/CICC>, and flickr <http://www.flickr.com/photos/coalitionforicc/>.

II. PLENARY SESSIONS AND THE GENERAL DEBATE

The plenary session opened with an introductory statement by the President of the ASP Ambassador Christian Wenaweser (Liechtenstein), followed by a minute of silence and the adoption of the agenda for the ninth ASP session. The plenary session continued with remarks by United Nations Secretary General Ban Ki-moon.

Colombian President, Juan Manuel Santos Calderón then addressed the plenary and spoke about complementarity and how the system envisioned in the Rome Statute is being applied in Colombia. The President also presented the views of his government on cooperation with the ICC and transitional justice and the reparations process in Colombia, and the Trust Fund for Victims among other topics.

Subsequently, the ICC President, Judge Sang-Hyun Song presented a report on the activities of the Court. Topics highlighted by the President included the progress made by the Court in 2010, the outcomes of the 2010 ICC Review Conference, the 2011 ICC budget and issues of complementarity.

ICC Prosecutor, Luis Moreno-Ocampo, took the floor next and reported on the activities of his office in the course of 2010. The issues raised by the Prosecutor included, among others, the importance of the Review Conference, complementarity and cooperation, as well as outstanding arrest warrants and despite continuing violence, particularly in Darfur; situations under preliminary examinations (including the newly announced examination of recent events in the Republic of Korea and Nigeria); the Independent Oversight Mechanism of the ICC; OTP priorities for 2011, and the upcoming elections of a new ICC Prosecutor.

This presentation was followed by an intervention of Chair of the Board of Directors of the Trust Fund for Victims, Elizabeth Rehn. Ms. Rehn emphasised the Trust Fund's unique undertaking and the Trust Fund's need for continued financial support from states among other issues.

ASP President Wenaweser presented a report on the activities of the ASP Bureau and mentioned the successful outcomes of and expected next steps following the Review Conference.

Also, on the 10th December 2010, the ASP elected Ms. Simona Mirela Miculescu, Romania, as one of the Vice-Presidents of the Assembly. Ms. Miculescu will complete the term of former Vice-president Mr. Zachary Muburi-Muita, Kenya, who resigned on 27 August 2010. The elections of a new ASP President were deferred to the opening of the next ASP session in December 2011.

[Ms. Simona Mirela Miculescu](#)



The General Debate

The General Debate statements were made on 6, 7 and 9 December 2010. Statements were made by representatives of 47 states parties to the Rome Statute, three observer states, two international governmental organisations and seven NGO's.

Representatives of Argentina, Austria, Belgium (on behalf of the European Union), Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Central African Republic, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo (on behalf of the African states parties and on its own behalf of), Denmark, Ecuador, Estonia, Fiji, Finland, France, Germany, Ghana, Guinea, Hungary, Italy, Japan, Jordan, Kenya, Lesotho, Luxemburg, Mexico, New Zealand (on behalf of Canada, Australia, and New Zealand), Nigeria, Norway, Peru, Poland, Republic of Korea, Saint Lucia, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain,

Switzerland, Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland and Zambia gave a statement. A number of states, in their speeches, thanked the Coalition for its work, particularly in relation to the Review Conference.

Statements were also delivered by Representatives of three observer states, not party to the Rome Statute: The United States of America, Guatemala and Kuwait. The League of Arab States and the International Committee of the Red Cross also addressed the ASP in a General Debate statement.



Human Rights Watch
International Justice
Director, Richard Dicker
addresses the plenary of
the 9th session of the ASP

Statements were given by the following NGOs: the Coalition for the International Criminal Court, Amnesty International, Fédération Internationale des Ligues des Droits de l'Homme, Parliamentarians for Global Action, International Commission of Jurists - Kenya, International Society for Traumatic Stress Studies and Human Rights Watch.

Issues raised by NGOs in the statements included, amongst others, the outcomes of and follow-up on the ICC Review Conference – with a focus on pledges made at the Conference; cooperation with the ICC; political support to the Court; universality; complementarity and the importance of implementing legislation; the Court's budget for 2011; ICC outreach and communications; ICC elections; and recognition of the role played by the Coalition for the ICC and civil society. Both NGOs and States parties welcomed those states which had recently ratified the Rome Statute: Bangladesh, Seychelles, Saint Lucia and Moldova.

Relevant Documents

The statements made by States, organisations and NGOs in the General Debates are available at: http://www.icc-cpi.int/Menus/ASP/Sessions/Documentation/9th+Session/GENERAL+DEBATE+_+Ninth+Session+of+the+Assembly+of+States+Parties.htm

The statement by the United Nations Secretary General is available at: <http://www.un.org/apps/sg/sgstats.asp?nid=4979>

The statement by the Colombian president (in Spanish) is available at http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/Statements/ICC-ASP9-statements-JuanManuelSantos-SPA.pdf

The statement by the ICC President is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/Statements/ICC-ASP9-statements-SangHyunSong-ENG.pdf

The statement by the ICC Prosecutor is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/Statements/ICC-ASP9-statements-LuisMorenoOcampo-ENG.pdf

The statement by the Chair of the Board of Directors of the Trust Fund for Victims is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/Statements/ICC-ASP9-statements-ElisabethRehn-ENG.pdf

The 2010 Report on the activities of the Court is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-23-ENG.pdf

III. THE OMNIBUS RESOLUTION

Background

Since 2003 the ASP has adopted an ‘Omnibus Resolution,’ formally titled ‘Strengthening the International Criminal Court and the Assembly of States Parties,’ at each of its sessions. The Omnibus Resolution addresses a number of substantive issues before the Assembly. It calls for ratification of the Rome Statute and other agreements; notes developments linked to institution building and linked to each organ of the Court; highlights cooperation issues; and deals with administrative matters. The Coalition believes many of these issues should be addressed by separate resolutions as they are afforded only a few sentences or paragraphs in the Omnibus Resolution.

Following informal consultations on its draft content, chaired by the Facilitator for the Omnibus Resolution, Mr. Zenon Mukongo Ngay (Democratic Republic of Congo), the Omnibus Resolution as adopted by the ninth ASP focuses primarily on complementarity; cooperation; residual issues/permanent premises; elections; outreach and public information; review conference follow-up and amendments; and AU-ICC relations.

ASP Discussions

Complementarity

The primary responsibility of national jurisdictions to prosecute the gravest crimes was reaffirmed. A call was made on states parties to prioritise the adoption of implementing legislation, and states parties were also encouraged to implement victims-related provisions as appropriate. States parties also resolved to enhance the capacity of national jurisdictions to prosecute international crimes, pursuant to the principle of complementarity.

Cooperation

The ASP called upon states parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate under Part 9 of the Statute. The Omnibus Resolution gives examples of specific forms of cooperation, both mandatory and non-mandatory. States parties also welcomed the establishment of the Special Fund for the Relocation of Witnesses and called on states parties to contribute to this Fund. In addition, the resolution recognised the negative impact that non-execution of Court requests can have on its ability to execute its mandate, and requested the Bureau to produce a report on the procedures required for the Assembly to address non-cooperation with the Court. In the continuation of her two-year mandate, the Cooperation Facilitator, Ambassador Mary Whelan (Ireland), was requested to explore proposals to facilitate the sharing of experiences and other initiatives to improve cooperation, such as the inclusion of cooperation as a standing item within the agenda of future ASP sessions.

Residual Issues/ Permanent Premises

States parties encouraged the Court to continue dialogue with other international tribunals to assist with their planning on residual issues after their closure. The ASP invited the Court to assess possible modalities of hosting one or more residual mechanisms of the ICTY and ICTR at the permanent premises of the ICC on a cost-neutral basis.

Elections

In addition to emphasising the importance of electing the most highly qualified judges, the Omnibus Resolution called for states to *nominate* the most highly qualified judges for the upcoming judicial elections at the tenth ASP session in 2011. It also encouraged a thorough and transparent election process. The ASP also requested its Bureau to prepare a report on the potential implementation of an Advisory Committee on Nominations, pursuant to Article 36(4)(c) of the Rome Statute. The resolution further requested the Bureau to consider the view of the

Committee on Budget and Finance that the Assembly provide guidance to the Court on the extension of the term of a judge, in particular, but not limited to, the reparations phase.

Outreach and Public Information

Language was included in the resolution reiterating the need to continue to improve and adapt outreach activities, and encouraging the Court to further develop and implement the Strategic Plan for Outreach in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage. The Omnibus Resolution also welcomed the 2011-2013 ICC Public Information Strategy.

Review Conference Follow up and Amendments

The resolution recognised the important outcomes of the Review Conference, and called for the implementation of the resolutions and recommendations adopted during the stocktaking exercise. With regards to the stocktaking panel on Victims and Affected Communities, the resolution called for the Court to consider all aspects of the recommendations of the panel, including any budgetary implications.

The Omnibus Resolution made reference to the amendments adopted in Kampala and called on states to consider ratifying or accepting these amendments. The ASP requested its Bureau to prepare a report on the rules of procedure and guidelines on the Working Group on Amendments for the tenth session of the ASP in 2011. Finally, the ASP recalled the submission of ICC-supporting pledges during the Review Conference, and called on states and regional organisations to submit new pledges.

AU - ICC relations

The resolution noted the decision of the AU Summit to reject – at present - the establishment of an AU-ICC Liaison Office in Addis Ababa, Ethiopia. However, the resolution reiterated that such an office would enhance dialogue between the AU and the ICC. Consequently, the resolution emphasised the need to pursue efforts aimed at intensifying dialogue with the AU.

Relevant Documents

The Omnibus Resolution ('Strengthening the International Criminal Court and the Assembly of States Parties') is available at: http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/ICC-ASP-9-Res.3-ENG.pdf

CICC Team on Cooperation, Comments and Recommendations to the 9th ASP:
http://coalitionfortheicc.org/documents/CICC_Cooperation_Team_Paper.pdf

CICC Team on Elections, Comments and Recommendations to the 9th ASP:
http://www.iccnw.org/documents/CICC_Elections_Team_Paper_ASP9_26Nov2010.pdf

The CICC Announcement to the Assembly of State Parties on The Independent Panel on International Criminal Court Judicial Elections is available at:
http://www.coalitionfortheicc.org/documents/Judicial_Panel_Announcement.pdf

CICC Team on Communications, Comments and Recommendations to the 9th ASP:
http://www.iccnw.org/documents/CICC_Communications_Team_Paper.pdf

CICC Team on ASP Structures, Comments and Recommendations to the 9th ASP:
http://www.coalitionfortheicc.org/documents/CICC_ASP_Structures_Team_Paper.pdf

IV. COOPERATION

Background

Discussions on cooperation among states parties gained momentum during the stocktaking exercise at the Review Conference of the Rome Statute in Kampala, Uganda in May-June 2010. These discussions highlighted that the ability of the Court to execute its mandate is acutely linked to the level of cooperation it receives, principally from states parties, but also other actors, such as international and regional organisations. They also demonstrated the value of bolstering opportunities within the ASP to share cooperation best practices, to provide assistance to states parties in meeting cooperation obligations, and to discuss and address constructively challenges in the provision of support and cooperation to the Court.

Events since the Review Conference — including the visits of President Omar Al-Bashir of Sudan to two ICC states parties without arrest — have brought to light the difficulties that the Court has and continues to face with respect to securing cooperation, particularly when it comes to arrests, and highlighted the impact that non-compliance with decisions can have on the authority of the Court.

The Coalition had advocated for the establishment of a dedicated forum for inter-sessional work on cooperation and a standing agenda item on cooperation at future Assembly sessions. The Coalition also urged the Assembly to conduct discussions on possible non-cooperation procedures which could be adopted in the event of a finding of non-cooperation by the Court. The Assembly and the Court were in addition, urged to continue their engagement with AU organs and diplomatic missions in Addis Ababa and work towards ensuring the future opening of an AU-ICC Liaison office in Addis Ababa.

ASP Discussions

During the ASP two sessions of informal discussions took place, at which time a number of states discussed the need for cooperation in order to ensure the continued effectiveness of the Court. States also discussed the ways in which their respective governments had implemented legislation and concluded agreements with the Court in order to further cooperation. Certain states addressed the need for the ASP to address the issue of non-cooperation and the procedure to be adopted in the case of non-cooperation. Some states also stated their desire to have a standing agenda item on cooperation at future sessions of the ASP.

The Coalition was invited by the Cooperation Facilitator to address participants during the informal discussions and Mr. Richard Dicker, International Justice Director of Human Rights Watch gave a presentation on behalf of the Coalition. Mr. Dicker stated that he was struck by the rich and substantive content of the debate on cooperation and particularly non-cooperation and procedures to address said non-cooperation. This, he said was especially pertinent given developments since the Review Conference in Kampala, such as the visit of President Al-Bashir to Chad and Kenya without arrest, which had heightened attention on cooperation. It was stated that civil society had seen the positive effect of states working together to enhance the Court. Indeed, efforts by states and civil society had stopped a repeat visit to Kenya and a visit to the Central African Republic by President Al-Bashir.

Mr. Dicker requested that the ASP and the Bureau continue the discussions on non-cooperation and the appointment of a facilitator on cooperation who would be able to mainstream diplomatic support for the ICC's mission, including at the UN, where topics concerning the ICC are touched upon in a highly public way. Furthermore, it was stated that sharing best practices was crucial to enhance cooperation. In conclusion, Mr. Dicker emphasised that cooperation needs to be a

standing item on the agenda of the ASP at future sessions, and that the establishment of a Working Group on cooperation was crucial.

Pursuant to the Omnibus Resolution (see above) the ASP resolved that the ASP Bureau consider the procedures that may be relevant for the ASP to discharge its responsibility with respect to non-cooperation (article 112(2)(f) of the Rome Statute) and the possibility of a standing agenda item on cooperation at the next ASP. The Bureau will discuss this during their meetings at the working groups throughout 2011.

2011 will be the second year of the Cooperation Facilitator's (Ambassador Mary Whelan, Ireland) two-year mandate on cooperation and so states parties will need to consider how the ASP should take the issue of cooperation forward, including renewal of the mandate of the Facilitator and/or creation of a special Working Group on cooperation.

The Coalition together with one of its key members, Parliamentarians for Global Action also organised a side event on cooperation (see below).

Relevant Documents

The Omnibus Resolution ('Strengthening the International Criminal Court and the Assembly of States Parties') is available at: http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/ICC-ASP-9-Res.3-ENG.pdf

The Report of the Bureau on Cooperation is available at:
http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-24-ENG.pdf

CICC Team on Cooperation, Comments and Recommendations to the 9th ASP:
http://coalitionfortheicc.org/documents/CICC_Cooperation_Team_Paper.pdf

CICC Team on ASP Structures, Comments and Recommendations to the 9th ASP:
http://www.coalitionfortheicc.org/documents/CICC_ASP_Structures_Team_Paper.pdf

V. THE ICC PERMANENT PREMISES

The International Criminal Court is currently housed in interim premises in The Hague, The Netherlands. As the host state, The Netherlands, is providing the current premises, known as the “Arc”, free of charge until 2012. The interim premises do not fulfil the Court’s requirements in terms of office space and security in the long term. The permanent premises of the Court, to be built on the site of the Alexanderkazerne, a former military barracks complex on the outskirts of The Hague near Scheveningen, will be built by Schmidt Hammer Lassen Architects (Denmark). Construction of the new premises is scheduled to start in 2012 and scheduled for completion in 2015.

ASP Discussions

The Assembly took note of the oral report of the Chairperson of the Oversight Committee, Mr. Martin Strub (Switzerland), and of the report on the activities of the Oversight Committee which included a video on the preliminary concept for the new premises’ design by Schmidt Hammer Lassen Architects. The report highlighted that the permanent premises project remained within budget and schedule, with construction starting in 2012 and scheduled to be completed in 2015.



A view of the main entrance and parterre garden of the future ICC permanent premises.

Hans Heemrood, Project Director for the construction of the premises, presented the ASP with further information on the project’s status, budget and timeline.

The Assembly adopted - by consensus - a draft resolution on the permanent premises, whereby the states parties welcomed the finalisation of the preliminary design and formally approved the overall budget for the project at no more than €190 million (at 2014 price levels). The ASP also decided the timeline for construction of the premises. The Assembly also, inter alia, requested the Oversight Committee, in cooperation with the Court and the host State, to continue its examination of the premises project and to implement any adjustments that might be required on a provisional basis, until approved by the Assembly of States Parties.

Relevant Documents

The Resolution on the Permanent Premises, Resolution ASP-ICC/9/Res.1 is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/OR/ICC-ASP-9-20-Vol.I-Part.III-ENG.20Dec1800.pdf

The Draft Report on Permanent Premises for the Court is available here: http://icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-28-Add.1-ENG.pdf

To view the new ICC website on the Permanent Premises, visit: <http://www.icc-cpi.int/Menu/Go?id=c0bf504b-5ca8-4b1a-bb69-15c62a15ef8f&lan=en-GB>

VI. ELECTIONS

Background

Elections for six of the ICC's eighteen judges will be held during the tenth session of the ASP scheduled for 12 – 21 December 2011. It is expected that the election of the ICC's new Prosecutor will also be held during the tenth ASP session.

The initial eighteen judges of the ICC were elected in February 2003 during the first resumption of the first ASP session. In accordance with the Rome Statute and to allow for varying termination dates, six of the judges were selected for a term of three years, six of the judges for a term of six years, and six of the judges for a term of nine years. The upcoming judicial election fits within this three-year election cycle, and will create six judicial vacancies with nine year terms.

The current Prosecutor of the ICC, Mr. Luis Moreno-Ocampo, was unanimously elected by the ASP on 21 April 2003 as the only formally nominated candidate. The election took place during the second resumption of the first ASP session. The Prosecutor took office on 16 July 2003 for a term of nine years, and therefore the position is set to become vacant in the middle of July 2012.

The ninth session of the ASP provided an important opportunity for the ASP to prepare for the upcoming elections of the six judges and the new Prosecutor. The ASP is ultimately responsible for ensuring that these elections are fair and transparent and that candidates are elected based on their merits.

ASP Discussions

The majority of elections-related outcomes from the ninth session of the ASP were included within the 'Omnibus Resolution'.

In the resolution, states parties emphasised the importance of nominating and electing the most highly qualified judges in accordance with Article 36 of the Rome Statute and encouraged states parties to conduct thorough and transparent processes to identify the best candidates. The ASP also requested the Bureau to prepare a report to the ASP for its tenth session in 2011 on the potential implementation of article 36, paragraph 4(c) of the Rome Statute regarding the establishment of an Advisory Committee on nominations, whose composition and mandate would be decided by the ASP.

During the ninth ASP session, the Coalition formally announced the creation of the Independent Panel on ICC Judicial Elections. As discussed in the CICC Elections Team Paper, the Panel will be composed of distinguished persons from within the fields of criminal law and international law, and will produce expert assessments on nominees for ICC judicial elections. Like the Coalition, the Panel, which will operate independently of the Coalition, will neither oppose nor support individual candidates. On 7 December, during the General Debate, the UK acknowledged the announcement of the Panel.

The election of a new ASP President was scheduled for the ninth ASP session, however, the ASP decided to postpone the election until the tenth session of the ASP in 2011.

Relevant Documents

CICC Team on Elections, Comments and Recommendations to the 9th ASP:
http://www.iccnw.org/documents/CICC_Elections_Team_Paper ASP9_26Nov2010.pdf

The CICC Announcement to the Assembly of State Parties on The Independent Panel on International Criminal Court Judicial Elections is available at:
http://www.coalitionfortheicc.org/documents/Judicial_Panel_Announcement.pdf

The Omnibus Resolution ('Strengthening the International Criminal Court and the Assembly of States Parties') is available at: http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/ICC-ASP-9-Res.3-ENG.pdf

VII. PUBLIC INFORMATION AND OUTREACH

Background

ICC external communications functions include a) external relations, b) public information, and c) outreach. These functions are defined in the Court's Integrated Strategy for External Relations, Public Information and Outreach.

Over the past five years, the ICC Registry, which is responsible for designing and carrying out outreach activities, has developed and increased its outreach activities in situation countries to promote understanding of and support for the Court's mandate, thereby managing expectations and enabling affected communities to follow and understand its processes. The Court's outreach efforts aim not only to sensitise or simply provide information, but also to engage those communities in a two-way dialogue. The ICC's outreach work is the quintessential non-judicial function of the Court, and is vital to conducting successful investigations in the field.

The ICC is also carrying out public information activities i.e. distributing information about the principles, objectives and activities of the Court to the public at large and target audiences, through different channels of communication, including media and communications materials such as the ICC website or audiovisual summaries of proceedings. These activities are targeted to a broader audience and aim to increase general understanding and awareness about the Court.

During 2010, the Court has achieved substantial progress in the development and implementation of its communications activities. Outreach activities in the Central African Republic (CAR) have accelerated and important initiatives were undertaken to target affected communities more precisely stemming from independent surveys carried out in situation countries. In addition the ICC elaborated a new public information strategy which was welcomed by states parties at the ninth ASP session.

ASP Discussions

Presentation of the Court's 2010 Outreach Report

The Court launched its 2010 Outreach Report at the ASP session, during an event entitled "Making Justice Meaningful" on 7 December 2010, attended by states delegates and NGOs. The event featured an introduction by ICC Registrar Silvana Arbia, a screening of a video report of outreach activities, and a questions and answer session with Claudia Perdomo, ICC interim Head of the Public Information and Documentation Section (PIDS); Jelena Vukasinovic, ICC Associate Legal Outreach Officer; Maria Mabinty Kamara, ICC Field Outreach Co-ordinator (Uganda); Daphne Anayiotos, ICC Field Outreach Coordinator (DRC); Fabienne Chassagneux, ICC Field Public Information and Outreach Coordinator (CAR). In particular, the Court reported that in 2010 in connection with the five situations countries, the Outreach Unit held a total of 422 interactive sessions targeting 46,499 people, of which 11,605 were women. Estimated audiences of nearly 70 million people were regularly exposed to Court information through local radio and television programmes.

Budget

In relation to PIDS, the total proposed budget for 2011 was 3.515 million Euros. This would have represented an increase of 7.3% on the approved budget for 2010 of 3.275 million Euros. However, the Committee on Budget and Finance (CBF) recommended that this be cut to 3.4614 million Euros, which would still be an increase of 5.7% on the 2010 budget of 3.275 million Euros. Although the Assembly did not mention specific cuts to the PIDS budget, in light of the ASP's decision for zero growth mentioned above, it remains to be seen whether the Court would

absorb some of the 300,000 Euros reduction by the ASP of the CBF's overall budget recommendation by not fully increasing the 2011 PIDS budget.

Omnibus Resolution: Early Outreach and ICC Public Information Strategy

In the Omnibus Resolution, states reiterated the need to continue to improve and adapt outreach activities and encouraged the ICC to further develop and implement the Strategic Plan for Outreach in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage. The resolution also reiterated that the wider issues of public information and communication on the Court and its activities were of a strategic nature and welcomed the 2011-2013 ICC Public Information Strategy.

Relevant Documents

The 2011-2013 ICC Public Information Strategy :

http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-29-ENG.pdf

The ICC Integrated Strategy for External Relations, Public Information and Outreach:

http://www.icc-cpi.int/NR/rdonlyres/425E80BA-1EBC-4423-85C6-D4F2B93C7506/185049/ICCPIDSWBOR0307070402_IS_En.pdf

The Strategic Plan for Outreach of the International Criminal Court:

http://www.icc-cpi.int/NR/rdonlyres/FB4C75CF-FD15-4B06-B1E3-E22618FB404C/185051/ICCASP512_English1.pdf

CICC Communications Team, Comments and Recommendations to the 9th ASP:

http://www.iccnw.org/documents/CICC_Communications_Team_Paper.pdf

CICC Webpage on communications:

<http://www.coalitionfortheicc.org/?mod=communications>

ICC Webpage on outreach:

<http://www.icc-cpi.int/Menu/ICC/Structure+of+the+Court/Outreach/Outreach.htm>

The ICC 2010 Outreach Report is available at:

<http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

The ICC 2010 Outreach Video is available at:

http://www.youtube.com/user/IntlCriminalCourt#p/u/6/VRe8Ag_emOg

The Omnibus Resolution ('Strengthening the International Criminal Court and the Assembly of States Parties') is available at: http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/ICC-ASP-9-Res.3-ENG.pdf

General debate statements:

<http://www.icc-cpi.int/Menu/Go?id=412d7a6e-86d1-4d5f-beb0-67ca5b0b7d9a&lan=en-GB>

VIII. REVIEW CONFERENCE FOLLOW-UP AND AMENDMENTS

Background



The opening of the 2010 ICC Review Conference in Kampala.
Credit: ICC Review Conference

During discussions at the eighth session of the ASP in 2009 many delegations recognised the importance of a stocktaking segment at the Review Conference.

Consequently, in the lead-up to the Review Conference in Kampala, Uganda, states and non-states parties were encouraged by the ASP Bureau and civil society to make pledges that would contribute significantly to advancing the Rome Statute system and the Court. The process of stocktaking was an integral part of the Review Conference and involved reflection on the performance of

the system as established by the Rome Statute and the sharing of experience by a diverse group of relevant actors. The stocktaking exercise was organised around four topics: the impact of the Rome Statute system on victims and affected communities, complementarity, cooperation and peace and justice.

106 pledges were made by 35 states parties, as well as pledges by a regional organisation and non-State Parties. Included among the pledges were commitments to ratify the Agreement on Privileges and Immunities of the Court, to pass domestic implementation legislation, to increase state cooperation with the ICC, to make contributions to the Trust Fund for Victims, and to engage in capacity building for national investigations and prosecutions.

The follow-up to the Review Conference at the ninth ASP provided an opportunity to discuss the implementation of the outcomes of the stocktaking sessions on the impact of the Rome Statute system on victims and communities and complementarity (follow-up to the stocktaking on cooperation was dealt with in the cooperation agenda item at the ninth session), as well as an opportunity for states parties to follow-up on pledges they made at the Review Conference or for states that had recently ratified or acceded to the Rome Statute to make new pledges.

ASP Discussions

Follow-Up

During the segment on the Review Conference follow up, the focal points for the impact of the Rome Statute system on victims and affected communities (Chile and Finland) and for complementarity (Denmark and South Africa) presented updates of the work that had been undertaken since Kampala in the framework of The Hague Working Group.

In relation to victims and affected communities, the focal points stated that The Hague Working Group had agreed that the follow-up and implementation of the findings and recommendations presented in the focal points' final report; 'Stocktaking of international criminal justice: The impact of the Rome Statute system on victims and affected communities' were important and that the

momentum created by the Kampala Review Conference to keep the focus on victim-related issues should be maintained. Discussions in The Hague Working Group had also included an overview from the Court of some areas where progress had been made since Kampala and the Court had indicated its willingness to consider the findings and recommendations of the report. The focal points also addressed the Trust Fund for Victims and the need for informative dialogue regarding the reparations phase of trials. A paragraph was also adopted to be included in the Omnibus Resolution.

The focal points on complementarity discussed the outcomes of the Review Conference, in particular the progress made in the acknowledgment of the role of states in making the Rome Statute system work and the need to strengthen national jurisdictions in order to fight impunity. They stated that since the Review Conference, the discussion of a concept of positive complementarity had generated much interest from states, international and regional organisations as well as civil society. Consequently, the “exploring of ways to enhance capacity at the national level” had begun. The report of the focal points also discussed pledges made during the Review Conference in respect of positive complementarity and commitments with regard to implementing legislation. Finally, the report addressed the future work of the ASP and the Court with regards to complementarity, including the need for enhanced dialogue between all relevant stakeholders to strengthen complementarity initiatives within states. A paragraph on complementarity was included in the Omnibus Resolution.

Amendments

The Assembly adopted the report of the Working Group on Amendments reflecting on discussions held during the course of the week. In these discussions, Mexico and Trinidad and Tobago raised their amendments, to add the use or threat of use of nuclear weapons as a war crime to the Rome Statute and to include international drug trafficking, respectively as additional crimes under article 5 of the Rome Statute. Said delegations expressed frustration that there was not enough time scheduled for a full discussion of their amendments.

At the same time, some delegations were of the view that before entering into a substantive consideration of amendments, the Working Group should develop rules of procedure, including as regards decision-making.

In its adopted report, the ASP decided to hold informal consultations in New York in 2011, between its ninth and tenth sessions. During these consultations delegations will have the opportunity to present amendments already submitted and views can be expressed on the substance of proposed amendments as well as on the advisability of proceeding with further amendments regarding crimes within the jurisdiction of the Court at this stage of its existence. Delegations will also be able to discuss working methods, procedures and the role of the Working Group with respect also to possible future amendments, on the basis of a paper prepared by the Coordinator of the Working Group, Mr Paul Seger (Switzerland).

Relevant Documents

The Report of the Working Group on Amendments is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/OR/ICC-ASP-9-20-Vol.I-Annexes-ENG.pdf (Annex II).

The Report of the Bureau on the impact of the Rome Statute system on victims and affected communities is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-25-ENG.pdf

The Report of the Bureau on complementarity is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-26-ENG.pdf

CICC Team on ASP Structures, Comments and Recommendations to the 9th ASP: <http://www.coalitionfortheicc.org/documents/CICC ASP Structures Team Paper.pdf>

IX. BUDGET AND FINANCE

Background

The report of the Committee on Budget and Finance (CBF), and the recommendations contained therein on the Court's proposed budget for 2010, formed the basis of discussion at the ninth session of the ASP.

The proposed budget of the ICC for 2011 was €107.02 million. This reflected an increase of €4 million or 4.7 per cent over the proposed budget for 2010. This was justified due to the cost of running simultaneous trials, the increased cost of detention, certain capital investments and reclassification of posts. Notably, the Court requested a total of €2.13 million to fund parallel trials for 6 months.

The Committee on Budget and Finance, the ASP's expert body on budgetary matters, considered the proposed budget of the Court at its fifteenth session, following which it issued its report and recommendations for the ninth session of the ASP. As in previous years, members of the Coalition had the opportunity to address the CBF at its fourteenth and fifteenth sessions in May and August 2010, respectively. This complemented the submission of team papers to the CBF for consideration at said sessions, and followed consultations with the Court prior to and following the issuance of its budget proposal in order to gauge the needs and priorities of the Court.

The CBF recommended in its report that the ASP approves a budget of €103.91 million for 2011, which would have been an increase of 2.65 per cent on the approved budget of €101.23 million for 2010. In relation to the request for funding of parallel trials the CBF recommended that the budget provide for approximately 4 months of parallel trials.¹ The suggested cut was based on the use of the ICC courtrooms in 2010 where 200 days were initially projected, compared to 146 days of actual courtroom activity which took place, as well as the 'unjustified' number of positions requested in relation to parallel trials.

The CBF report and the budget proposal of the Court were the subject of discussions within The Hague Working Group of the ASP chaired by the Budget Facilitator, H.E. Ambassador Lydia Morton (Australia). A number of states were of the opinion that the CBF recommendations be adopted their entirety. A handful of states, however, also raised in discussions the prospect of reducing the budget recommended by the CBF. Indeed some states advocated for 'zero nominal growth' which would have reduced the CBF recommended budget by 1.6 percent to a figure of €102,253.9 million.

The Coalition's Team on Budget and Finance (Team) raised a number of concerns in its position paper, advocating for the ASP to ensure that its decision on the 2011 budget should be based on a thorough review of the proposed budget and the Report of the Committee on Budget and Finance, and reject demands for arbitrary cuts below those recommended by the Committee. The Team also addressed the need for states parties' contributions to be paid on time and in full; the role of the CBF in the management oversight provided to the Court; the Assembly's continued support of the Court's use of the contingency fund when required, especially in relation to parallel trials; the need for the Assembly's continued investment in the Court's field offices strategy, with a view to strengthening their role and building on the Court's legacy in situation countries; the funding of family visits; and the continued allocation of financial resources associated with ensuring the future opening of the AU-ICC Liaison Office in order to enable the Court to continue its visibility and engagement in Addis Ababa.

¹ This constitutes a cut of €700,000 from the Court's proposed budget for parallel trials for 2011.

These concerns were raised by the Coalition in formal and informal diplomatic briefings prior to the ASP. The Court also raised its own concerns both in The Hague and New York leading up to the ASP. The Coalition's concerns were also presented at the EU Council Working Group on Public International Law (COJUR) and the Court's pre-ASP diplomatic briefings.

ASP Discussions

During the ninth ASP session, the Assembly elected six members of the CBF which consists of a total of twelve members. The Assembly dispensed with a secret ballot and elected, by acclamation, the six members of the CBF, fulfilling the following regional criteria: one nominee from the African States group, one nominee from the Eastern European States group, one nominee from the Latin and Caribbean States group and three nominees from the Western European and other States group.

The six elected members are:

Mr. David Banyanka (Burundi)
Ms. Carolina Maria Fernandez Opazo (Mexico)
Mr. Gilles Finkelstein (France)
Mr. Juhani Lemmik (Estonia)
Mr. Gerd Saupe (Germany)
Mr. Ugo Sessi (Italy)

These members of the CBF are all incumbent and will serve three-year terms from 21 April 2011 to 20 April 2014.

Discussions on the budget opened with a formal presentation from the Registrar of the Court, Ms Silvana Arbia, highlighting the Court's budgetary needs and its principle concerns. This was followed by a presentation by the Committee on Budget and Finance of its report from its fifteenth session in August and its budgetary recommendations. The plenary session concluded with consideration of the audit reports.

Discussions on the budget within the Working Group on the Budget focused principally on the funding associated with the African Union Liaison Office and the retention of the post of Deputy Prosecutor of Investigations; and the creation of a voluntary fund for family visits of detainees. Certain states also expressed their views on the proposal by certain states to implement zero nominal growth on the budget.



Jonathan O'Donohue of Amnesty International addresses the Working Group on the Budget

The Team Leader of the Coalition's Budget and Finance Team, Mr. Jonathan O'Donohue of Amnesty International, was also invited to give a brief presentation to the Working Group on the Budget.

The ASP approved a budget of €103,607.9 million for 2011, being the budget allocation for 2010 plus the rate of inflation of The Netherlands (1.3%). This was approximately €300,000 less than the amount recommended by the CBF. This followed significant discussions on the total amount to be allocated to the Court in 2011 in the context of the global financial climate. The Court indicated that the approved budget was acceptable to them and that the €300,000 reduction from the CBF recommendation, which the Court will not receive, could be absorbed by the Court in 2011.

The ASP urged the Court to exercise fiscal restraint and to identify areas where the Court could increase its efficiency. The ASP noted the increased costs which would be faced in 2012 (interim premises rent, capital replacement, implementation of IPSAS). It challenged the Court to find savings and increase efficiency to offset these costs. In addition to its normal budget for 2012, the

ASP requested the Court to draw up budget options for 2012, which would detail and cost the full range of core Court activities (investigations, prosecutions and trials) and also cost those other important activities which could be achieved within the same budget allocation as 2011. This would assist the Court and the Assembly in making decisions on funding priorities.

One delegation suggested that a two-tiered approach be applied to the payment of assessed contributions. States parties would pay 95 per cent of their assessed contribution. At the end of the financial year, the Court could review its level of expenditure and determine, on that basis, whether a request to the states parties for the remaining 5 per cent of the assessed contribution would be justified.

In relation to the AU-ICC Liaison Office in Addis Ababa, the ASP requested that the Court make available from existing funds the amount of €38,300 to continue diplomatic engagement with the regional body and pending a revision of its decision dated 27 July 2010, to postpone the establishment of the Office.

The ASP also created a voluntary fund to facilitate family visits to indigent detainees, to which Germany made a contribution of €85,000 at the session.

Relevant Documents

The Resolution on the Budget - ICC-ASP/9/Res.4 is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/OR/ICC-ASP-9-20-Vol.I-Part.III-ENG.20Dec1800.pdf

The Proposed Programme Budget for 2011 of the International Criminal Court can be found at: http://icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-10-ENG.pdf

The Report of the Committee on Budget and Finance on the work of its fifteenth session can be found at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-15-ENG.pdf

CICC Team on Budget, Comments and Recommendations to the 9th ASP:
http://www.iccnw.org/documents/CICC_Budget_and_Finance_Team_Paper_30Nov2010.pdf

Information on the individual CBF election candidates can be found at: <http://www.icc-cpi.int/Menus/ASP/Elections/Committee+on+Budget+and+Finance/2010/Nominations/Alphabetical+listing.htm>

X. GOVERNANCE

Background

In the lead-up to the ninth ASP session, the ASP The Hague Working Group discussed the establishment of a study group on governance to conduct a structured dialogue between states parties and the Court with a view to strengthening the institutional framework of the Rome Statute System and enhancing the efficiency and effectiveness of the Court, while preserving its judicial independence. The Coalition cautioned that any new or existing ASP bodies must respect the legal dimensions of the Court's statutory mandate and the independence of the Court's organs, in both their administrative and legal functions. Due to the fact that the terms "efficiency" and "effectiveness" are unclear and subject to varying interpretations, the Coalition urged that the ASP establish clear and distinct mandates for ASP bodies in order for them to assist the ASP as a whole with the fulfilment of its management oversight responsibilities.

In its advocacy prior to the ninth session of the ASP, the CICC ASP Structures Team (Team) noted the ASP's management oversight role with respect to the administration of the Court under Article 112(2) of the Rome Statute. The Team had a number of concerns about the establishment of the study group, principally in relation to safeguarding the independence of the Court. The Team was also concerned that any proposed mechanism should not serve as an extension of budgetary discussions primarily focussed on identifying cost-cutting measures. Finally, the Team recalled its recommendation from the eighth ASP session in 2009; that states parties consider whether the current management oversight structures of the ASP and the Bureau are sufficient to meet its obligations under article 112 of the Rome Statute. In this regard, the Team was concerned about the establishment of a mechanism that would assist the ASP in its oversight role without first assessing the extent to which existing oversight mechanisms are already performing that function. The Team therefore urged the Assembly to consider the effectiveness of the current structures in place providing oversight and support to the Court.

ASP Discussions

The ASP Vice-President, H.E. Ambassador Jorge Lomonaco (Mexico), presented in his capacity as the Chair of The Hague Working Group the draft resolution entitled 'The Establishment of a Study Group on Governance.' The draft generated no further discussion and the ASP adopted the resolution unanimously and without change.

The ASP mandated the study group, for the period of one year, to identify issues where further action on the enhancement of efficiency and effectiveness of the Court is required, in consultation with the Court, and to formulate recommendations to the ASP. The issues to be dealt with by the study group will include, but are not limited to, matters pertaining to the strengthening of the institutional framework within the Court and also between the Court and the Assembly, as well as considering other relevant questions related to the operation of the Court.

Relevant Documents

The Resolution on the Establishment of a Study Group on Governance is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/OR/ICC-ASP-9-20-Vol.I-Part.III-ENG.20Dec1800.pdf

CICC Team on ASP Structures, Comments and Recommendations to the 9th ASP: <http://www.coalitionfortheicc.org/documents/CICC ASP Structures Team Paper.pdf>

XI. THE INDEPENDENT OVERSIGHT MECHANISM

At its eighth session in November 2009, the ASP established an Independent Oversight Mechanism (IOM) in accordance with article 112(4) of the Rome Statute. The purpose of the IOM is to ensure the effective and meaningful oversight of the Court through evaluation, inspection and investigations into alleged cases of (serious) misconduct by ICC officials. With the establishment of the IOM in 2009, the ASP decided that the independent investigative function would be implemented immediately, while the inspection and evaluation functions would be brought into operation at a later stage.

Mr. Vladimir Cvetković (Serbia) facilitated the discussion on the IOM within The Hague Working Group in the lead-up to the ninth session of the ASP. Discussions primarily focused on the development of the IOM Operational Mandate, which was presented for adoption at the ninth ASP session. Although the IOM Operational Mandate is in itself not entirely sufficient for the full operationalisation of the investigative function of the IOM, it is intended to serve as the basis for the future work and further operationalisation of the IOM in 2011. In particular, the IOM Operational Mandate is intended to serve as a foundation from which the IOM Manual of Procedures shall be drafted and submitted to the Assembly for approval at its tenth session in December 2011.

In 2010 the Temporary Head of the IOM, seconded from the UN Office of Internal Oversight Services (OIOS), set out to draft the IOM Operational Mandate to incorporate the broad charter of the IOM, including its scope, functions, accountability through internal and external reporting avenues, authority to access persons and information, notification to national authorities for possible criminal activity, whistleblower protection through confidentiality obligations and its operational independence. This draft was the subject of extensive discussions within The Hague Working Group, as a debate arose on the IOM's power of initiating an investigation on its own accord ("*proprio motu*") into staff members of the Office of the Prosecutor (OTP). The OTP argued that Article 42(2) of the Rome Statute, which gives the Prosecutor administrative independence over OTP staff, did not allow for such *proprio motu* investigations. Instead, the OTP suggested that the IOM would seek authorisation of the Prosecutor, in his capacity as Head of Organ, before the initiation of any *proprio motu* investigation. However, the Coalition's Team on the IOM were of the view that such authorisation would arguably impinge upon the independence necessary for the IOM to carry out its investigations.

In a compromise to safeguard the independence of both the OTP and the IOM, the IOM mandate as adopted by the ninth ASP now provides that a 'third party' will be involved in cases where the IOM starts an investigation on a *proprio motu* basis regarding the operational activities of one of the organs. The process will be as follows:

1. The IOM shall notify the Head of Organ of a report of alleged (serious) misconduct that merits an investigation;
2. In case of an objection by a Head of Organ that an investigation initiated by the IOM on its own motion would undermine prosecutorial or judicial independence of that organ, he or she will notify the IOM of the concerns;
3. Should the IOM still consider that it should carry out the investigation notwithstanding the concerns, the matter of whether an IOM investigation would proceed will be referred to the third party.
4. If the third party determines that an IOM investigation would not undermine the judicial or prosecutorial independence of the relevant organ, the IOM shall proceed with the investigation.
5. If, however, the third party determines the opposite, the Head of Organ will conduct its own investigation and submit a report of the findings to the IOM. If the IOM is not satisfied with the investigation or its outcome, it can seek consultations with or clarifications from

the relevant Head of Organ. Should the matter not be resolved to the satisfaction of the IOM, the IOM can apply its oversight powers to investigate the Head of Organ for failing to properly address the specific concerns of the IOM and it can bring the issue, as appropriate, to the attention of the Assembly.

The IOM mandate provides that the third party will have judicial or prosecutorial expertise and be appointed by the ASP Bureau. All other parameters such as the mandate, the composition and independence of the third party will be fleshed out in the IOM manual. The manual will be drafted by the IOM Temporary Head in the coming year, discussed within the ASP The Hague Working Group and presented to the ASP at its 10th session in December 2011.

The resolution on the IOM adopted by the ninth ASP also welcomes the commissioning by the Bureau of the ASP of an assurance mapping study into the existing oversight mechanisms of the Court (being primarily the Committee on Budget and Finance, the Audit Committee, the External Auditor, the Internal Auditor and the IOM). This study, carried out by the UN OIOS, will serve in the effort to avoid any duplication when activating the inspection and evaluation functions of the IOM. The finding of the study will also be considered in the context of the discussion on the overall governance framework of the Court. It is expected to be ready and presented to the ASP during the course of 2011.

Relevant Documents

The resolution on the Independent Oversight Mechanism (ICC-ASP/9/Res.5) is available at:
http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/OR/ICC-ASP-9-20-Vol.I-Part.III-ENG.20Dec1800.pdf

CICC Team on the Independent Oversight Mechanism, Comments and Recommendations to the 9th ASP:
http://www.iccnw.org/documents/CICC_IOM_Team_Paper.pdf

CICC Team on ASP Structures, Comments and Recommendations to the 9th ASP:
<http://www.coalitionfortheicc.org/documents/CICC ASP Structures Team Paper.pdf>

XII. SIDE-EVENTS

Monday 6th December

“Victims’ Participation before the ICC”

Organised by the Victims’ Rights Working Group (VRWG), panellists Silvana Arbia, ICC Registrar; Carla Ferstman, REDRESS; Robert Falay Yuma, Synergie Congolaise pour les Victimes; and Raymond Brown, ICC Legal Representative of Victims, spoke about victims’ participation in ICC proceedings and addressed challenges to making sure this process is effective. They also addressed what victims’ participation means for victims, and the role of legal representation for victims before the Court. The panel was moderated by Paulina Vega of FIDH. For more information on the VRWG, visit: <http://www.vrwg.org/>.

Sudan Referendum Panel Discussion

A panel discussion was held by the New York City Coalition for Darfur in conjunction with UBUNTU/ NYU STAND, the NYU students’ anti-genocide group and the Darfur People’s Association of New York, to discuss issues surrounding the upcoming referendum on South Sudanese independence and the current human rights situation in Sudan. For more information, visit: http://action.savedarfur.org/site/PageNavigator/Events/All_Events.

“Reflections of a Trial judge at the ICC”



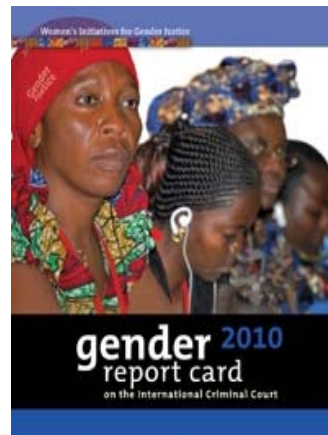
ICC Judge, Sir Adrian Fulford gave a presentation in which he reflected on his experience as the President of the ICC Trial Division and the Presiding Judge in the Trial against Thomas Lubanga. Judge Fulford raised a number of challenges the ICC faces and suggested a number of proposals that would “form part of a wider fundamental review of how the Court conducts its trials.” To read Judge Fulford’s presentation please visit: http://www.coalitionfortheicc.org/documents/Reflections_of_a_Trial_Judge_ASP_New_York_6_December_2010.pdf

Judge Sir Adrian Fulford speaks with Mr. William R. Pace, Convenor of the CICC

Launch of the “Gender Report Card on the International Criminal Court, 2010”

Women’s Initiatives for Gender Justice launched the Gender Report Card on the International Criminal Court, 2010. The launch, one of the first events to be co-hosted by UNIFEM as part of the new agency for women (UN Women), was attended by States Parties, UN officials, ICC officials and NGO members. Speakers included Margot Wallström, Special Representative of the UN Secretary-General for Sexual Violence in Conflict; Joanne Sandler, Deputy Director of UNIFEM; and Brigid Inder, Executive Director of Women’s Initiatives for Gender Justice.

The Gender Report Card analyses the institutional developments of the ICC throughout 2010, as well as the Court’s substantive work and jurisprudence. The review of the ICC’s substantive progress includes an examination of the investigation and prosecution strategy of the Office of the Prosecutor, an overview of trial proceedings and analysis of key judicial decisions with a focus on cases where gender-based crimes



have been charged or where these issues have arisen during the legal proceedings, as well as those decisions affecting victims and witnesses appearing before the Court. The Gender Report Card on the International Criminal Court, 2010 provides the most comprehensive gender analysis of the ICC currently available.

The Gender Report Card on the International Criminal Court 2010 is available at: http://www.iccwomen.org/documents/GRC10-WEB-11-10-v4_Final-version-Dec.pdf

The speech given by Brigid Inder, Executive Director of Women's Initiatives for Gender justice, at the launch of the Gender Report Card is available at: http://www.iccwomen.org/documents/GRCLaunch2010-Speech_2.pdf

Tuesday 7th December

Press Briefing by the Coalition for the International Criminal Court

The Coalition held a press briefing featuring panellists Mr. William R. Pace, the Coalition's Convenor; Mr. Richard Dicker, Director of the Human Rights Watch International Justice Program, and Ms. Stella Ndirangu, Legal Officer at the International Commission of Jurists – Kenya. Panellists addressed key issues at stake before the ASP, issues of cooperation, support to the ICC and complementarity before the ICC, and the role civil society has played in Kenya.

[Stella Ndirangu of ICJ Kenya](#)



The Coalition's press briefing can be viewed on UNTV at:

<http://www.unmultimedia.org/tv/webcast/2010/12/press-conference-coalition-for-the-international-criminal-court.html>

The UN Department of Public Information report on the Coalition's press briefing is available on: http://www.un.org/News/briefings/docs//2010/101207_ICC.doc.htm

Press Conference by the President of the ASP and the ICC

President of the Assembly of States Parties H.E. Ambassador Christian Wenaweser, ICC President Judge Sang-Hyun Song and ICC Prosecutor Luis Moreno-Ocampo held a joint press conference on the work of the ASP.

The press briefing can be viewed on UNTV at:

<http://www.unmultimedia.org/tv/webcast/2010/12/press-conference-the-9th-session-of-the-assembly-of-states-parties-to-the-rome-statute-of-the-international-criminal-court.html>

Meeting of the JRR Policy Group

No Peace without Justice hosted a meeting of the Justice Rapid Response Policy Group, a multilateral stand-by facility to rapidly deploy criminal justice and related professionals. At the meeting, the group reported on recent developments in the Justice Rapid Response Mechanism. To read more on the JRR Policy Group, visit: <http://www.justicerapidresponse.org/>

Caribbean States on the Ratification and Implementation of the Rome Statute

The Permanent Mission of Trinidad and Tobago and the Permanent Mission of Slovakia (in its capacity of Facilitator for the Plan of Action on Universality and Full Implementation of the Rome Statute) organised a working lunch with Caribbean states on ratification and full implementation of the ICC Rome Statute. Panellists included representatives from the ASP, the Commonwealth secretariat, the ICRC, PGA and the CICC. Participants addressed some of the challenges and progresses with regard to ratification and implementation in the Caribbean region and discussed available resources to move forward on implementation processes, including model ICC

implementing legislations from the Commonwealth, the OAS and the ICRC. For more information on ICC and the Caribbean, see: <http://www.iccnw.org/?mod=subregion&idusubreg=22>

Cooperation with the International Criminal Court

The Coalition for the ICC and Parliamentarians for Global Action (PGA) co-hosted an event on cooperation with the International Criminal Court. Panellists spoke about the obligation of states parties under the Rome Statute to cooperate with the ICC; obstacles to cooperation; strategies to generate effective cooperation through political support and execution of arrest warrants; and the ASP's mandate to promote cooperation.

Speakers included Mr. William Pace, Coalition for the ICC; Mr. Amady Ba, Office of the Prosecutor of the ICC; Mr. Musa Sirma, Kenyan MP, PGA Kenya National Group; Senator Mwamba Mushikonke Mwamus, PGA DRC National Group; Mr. Jørgen Poulsen, Danish MP, Foreign Affairs Committee (Denmark); Mr. Richard Dicker, Human Rights Watch; and Ms. Stella Ndirangu, ICJ Kenya.



Coalition Convenor William Pace and Amady Ba of the ICC Office of the Prosecutor, listen to a representative from the CAR during the CICC/PGA event on Cooperation with the ICC

Making Justice Meaningful - The ICC Public Information and Documents Section Discussion

The ICC Public Information and Documents Section (PIDS) hosted a discussion entitled "Making Justice Meaningful". This event featured an introduction by ICC Registrar, Ms. Silvana Arbia, a screening of a video report of outreach activities and a Q and A session with Ms. Claudia Perdomo, the interim Head of the PIDS; Ms. Jelena Vukasinovic, ICC Associate Legal Outreach Officer; Ms. Maria Mabinty Kamara, ICC Field Outreach Co-ordinator (Uganda); Ms. Daphne Anayiotos, ICC Field Outreach Coordinator (DRC); and Ms. Fabienne Chassagneux, ICC Field Public Information and Outreach Coordinator (CAR).

The ICC 2010 outreach report is available at:

<http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Outreach/Outreach+Reports/>

The Report of the ICC on the Public Information Strategy for 2011-2013 (ICC-ASP/9/29) is available at: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-29-ENG.pdf

Wednesday 8th December

Launch of the Trust Fund for Victims Fall 2010 Programme Progress Report

The Permanent missions of Germany and South Africa co-organised the launch of the Trust Fund for Victims (TFV) Fall 2010 Programme Progress Report. This report – "Learning from the TFV's Second Mandate: From Implementing Rehabilitation Assistance to Reparations" – provides an update on the TFV's active projects in the situations of northern Uganda and the Democratic Republic of the Congo. The report builds on the TFV's field experience and results from the

survey of 2,600 victims receiving assistance in both situations to reflect on lessons learned for Court-ordered reparations.

The event featured presentations given by Mr. Pieter de Baan, Executive Director, TFV Secretariat; and Ms. Kristin Kalla, Senior Program Officer, TFV Secretariat. Opening and closing remarks were given by Ms. Elisabeth Rehn, Chair of the Board of Directors of TFV; and H.E. Andries Nel, Deputy Minister of Justice and Constitutional Development of South Africa. Panelists discussed TFV activities and the results of victims' impact research in the DRC and Northern Uganda.

The TFV Fall 2010 Programme Progress Report can be accessed at:

<http://www.trustfundforvictims.org/sites/default/files/imce/TFV%20Programme%20Report%20Fall%202010.pdf>

Read more on the Trust Fund for Victims on: <http://www.trustfundforvictims.org/>

"Implementation of ICC Agreements on the enforcement of sentences: Maintaining family links and ICRC visits to detainees"

Belgium hosted the event where speakers included Ms. Cristina Pellandini of the International Committee of the Red Cross, Mr. Dahirou Sant-Anna of the ICC Office of the Registrar, and Ms. Miia Aro-Sanchez, the former facilitator for the 8th ASP Resolution on Family Visits for Indigent Detainees.

The speakers emphasised that proper sentencing procedures are a humanitarian priority. It is essential to the functioning of the international criminal justice system that prisoners be allowed family visits. The ICRC and other organisations were said to be constantly looking for ways to facilitate family visits. More parties were urged to sign agreements which would allow prisoners to be taken into their detention centers and help the Court with its detention process.

OTP Presentation on Preliminary Examinations

The ICC Office of the Prosecutor (OTP) gave a presentation on preliminary examination activities. Speaking on behalf of the OTP, ICC Prosecutor Mr. Luis Moreno-Ocampo discussed situations currently under preliminary investigation by the Court and OTP's Policy Paper on Preliminary Examinations, which seeks to explain how the Office undertakes its preliminary examinations. The OTP has made public that it is examining at least nine situations on four continents, including Afghanistan, Colombia, Côte d'Ivoire, Georgia, Guinea, Palestine, Nigeria, Honduras, and the Republic of Korea.



To read more on Preliminary Examinations, visit the Court's website at: <http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Office+of+the+Prosecutor/Comm+and+Ref/>

Read the OTP Draft Policy Paper on Preliminary Examinations at: http://www.icc-cpi.int/NR/rdonlyres/E278F5A2-A4F9-43D7-83D2-6A2C9CF5D7D7/282515/OTP_Draftpolicypaperonpreliminaryexaminations04101.pdf

Thursday 9th December

“Making Complementarity Work: The Way Forward”

The International Centre for Transitional Justice (ICTJ) held an event, during which panelists gave a brief overview of complementarity discussions, in particular on the links between international justice and rule of law development, from the ICTJ retreat in October 2010, and discussed concrete steps to move complementarity forward in policy and practice.

Speakers included Mr. David Tolbert, President of ICTJ; Mr. Stephen Mathias, Assistant Secretary-General for Legal Affairs; Mr. Djordje Djordjevic, Rule of Law, Justice and Security Advisor, Bureau for Crisis Prevention and Recovery, United Nations Development Program.

More information on the event can be found at:

<http://www.ictj.org/en/index.html>



President of the ICTJ, David Tolbert speaks during the ICTJ side event on complementarity.

Friday 10th December

Presentation of the Final Report on Delegates’ Visits to Uganda

The Uganda Coalition for the ICC (UCICC), No Peace Without Justice (NPWJ), HURINET, and the governments of Argentina, Botswana, Finland and South Africa hosted a presentation of the ‘Final Report on Delegates’ Visits to Uganda’. This report presented the findings and recommendations of delegations from state parties who visited Uganda to engage in dialogue with victims and communities affected by the work of the International Criminal Court, civil society and other stakeholders in the fight against impunity. These visits were organised by UCICC, NPWJ, and HURINET.



Joyce Apio, Coordinator of the Ugandan Coalition for the ICC, NPWJ representative Niamh Gibbons, ICC Registrar Silvana Arbia and Julian Guerrero Orozco, Chargé d’ Affairs of the Colombian Embassy to The Netherlands, at the presentation of the Final Report on Delegates’ Visits to Uganda

The report is available at:

http://www.npwj.org/sites/default/files/documents/File/Delegates_Visits_Final_ReportFINAL%20for%20website.pdf

“Legal Tools Project” - Briefing

The Case Matrix Network hosted a briefing on the Capacity-Building Platform “Legal Tools Project”. The Legal Tools Project provides the general public with free access to the Legal Tools Database of basic legal information in international criminal law.

Read more on the project at: <http://www.legal-tools.org/en/what-are-the-icc-legal-tools/>