



Coalition for the International Criminal Court

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**2011 ICC Prosecutorial Elections: States Parties Working Towards
Consensus Candidate**

Fatou Bensouda and Mohamed Chande Othman Heading the Field

WHAT: Following a meeting of International Criminal Court (ICC) states parties on 23 November in New York, it appears states remain committed to finding a consensus candidate for the election of the next ICC prosecutor. Of the four candidates shortlisted for the position, most states at this stage seem to be supporting Ms. Fatou Bensouda, of The Gambia, and Mr. Mohamed Chande Othman, of Tanzania. This news follows informal consultations lead by the president of the Assembly of States Parties (ASP)—the ICC's governing body—amongst ICC states parties to identify one candidate for formal nomination and election by consensus at the tenth annual session of the ASP on 12 December 2011. The ASP president had asked the five regional UN ambassadors—from Timor Leste, Costa Rica, the Netherlands, Botswana, and Estonia—to poll governments in order to try to identify a consensus candidate for election at the upcoming ASP session on 12 December 2011.

WHO: On 25 October 2011, the Search Committee for the position of International Criminal Court Prosecutor released the names of the four shortlisted candidates it had recommended to the Bureau of the ASP—the ASP's executive committee. They were:

Fatou B. Bensouda, currently deputy prosecutor, International Criminal Court; Andrew T. Cayley, currently international co-prosecutor, Extraordinary Chambers in the Courts of Cambodia; Mohamed Chande Othman, currently chief justice of Tanzania; Robert Petit, currently counsel, crimes against humanity and war crimes section, department of justice, Canada.

NEXT STEPS: The deadline for nominations for the position of ICC prosecutor has been extended from 25 November to 30 November 2011 to give states more time to achieve consensus on one of the two front-runners. States parties to the Rome Statute—the ICC’s founding treaty—will meet again on 1 December 2011 in New York to determine whether consensus has been reached on a single candidate or, failing this, whether both candidates will be formally nominated for election at the upcoming ASP on 12 December 2011.

WHY: In accordance with Article 42 (4) of the Rome Statute, the term of the first ICC prosecutor, Luis Moreno-Ocampo, is due to expire in June 2012 and cannot be renewed. Unless a shorter term is decided upon at the time of the election, his successor will be elected for a nine-year term at the tenth session of ASP to be held on December 12-21 at UN Headquarters in New York.

HOW: Under the Rome Statute rules governing the prosecutor’s election, any state party can still formally nominate a candidate for the position of prosecutor. If multiple states parties nominate candidates, the prosecutor will need to be elected by an absolute majority of the ASP in December 2011. In February 2011, the Bureau of the ASP established the Search Committee for the Prosecutor of the ICC to facilitate the nomination and election by consensus of the next prosecutor.

The Search Committee had received expressions of interest, or otherwise identified, 52 individuals, 8 of whom were interviewed from 10-13 October in New York, from those interviewed, four were shortlisted.

Until the cut-off date of 9 September 2011, the Search Committee received informal ‘expressions of interest’ for the position of ICC prosecutor submitted by candidates themselves or on their behalf by third parties (NGOs, associations, States, individuals and so forth). In addition to this process, the Search Committee sought to identify highly qualified candidates for the position. By 9 September 2011, the Search Committee had received a total of 52 expressions of interest, of these at least 12 candidates were publicly identified as female, 30 were male; 21 were nationals of the African Group, one from the Eastern European Group, three from GRULAC and 16 from WEOG.

The Search Committee is composed of states parties’ representatives from each UN regional grouping: H.R.H. Prince Zeid Ra’ad Zeid Al-Husseini (Asian Group), H.E. Mr. Baso Sangqu (African Group), H.E. Mr. Miloš Koterec (Eastern Europe Group), Mr. Joel Hernández García (Latin American and Caribbean States (GRULAC)), and Sir Daniel Bethlehem (Western European and Others Group (WEOG)).

BACKGROUND: The 2011 prosecutorial elections will impact almost every aspect of the ICC for years to come. The new prosecutor will take responsibility for all ongoing and future investigations. This includes the cases currently before the ICC in relation to situations in Central African Republic, Côte d’Ivoire, Darfur, Democratic Republic of

Congo, Kenya, Libya and Uganda, as well as the numerous preliminary examinations undertaken in Asia, Africa, Europe, Latin America, and the Middle East.

Two of the ICC's first trials may be completed shortly after the election, and the appeals and reparations phases for these trials are expected to be ongoing after the election. As part of its global campaign on ICC elections, the Coalition has been actively monitoring the Search Committee process for the next ICC prosecutor. The Coalition successfully advocated for greater transparency and reporting by the Committee—including on gender and regional statistics—as well as encouraging the identification of potential candidates from all regions. The Coalition also hosted interviews with the four candidates in New York.

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity, and genocide. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unwilling or unable to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes. There are currently seven investigations before the Court: Central African Republic; Cote d'Ivoire; Democratic Republic of the Congo; Darfur, the Sudan; Uganda; Kenya; and Libya. The ICC has publicly issued 18 arrest warrants and nine summonses to appear. Three trials are ongoing. The ICC prosecutor has also made public that it is examining eight situations on four continents: Afghanistan, Colombia, Georgia, Guinea, Honduras, Republic of Korea, Nigeria and Palestine.

The Coalition for the International Criminal Court is a global network of civil society organizations in over 150 countries working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity and genocide. For more information, visit: www.coalitionfortheicc.org

For more information on prosecutorial elections, visit:
<http://www.coalitionfortheicc.org/?mod=electionprosecutor>

Members of the Coalition are available for background information and comments on these issues. Experts list available upon request to:
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Please note that the Coalition as a whole does not endorse or oppose individual candidates but advocates for the integrity of the nomination and election procedures. Individual member organisations of the Coalition may choose to take positions on particular candidates in representing their own respective organizations, but these positions may not be taken in the name of the Coalition.