

**Report of the Sixth Assembly of State Parties to the Rome Statute of the
International Criminal Court (ICC) held at the United Nations Headquarters from
30th November – 14th December 2007**

Introduction: The sixth session of the Assembly of States Parties (ASP) to the Rome statute held at the United Nations headquarters, New York from 30th November to 14th December 2007. The 2-week meeting considered reports on the activities of the Court, report of the Board of Directors of the Trust Fund for Victims, and report on the activities of the Bureau among others. During the session, elections were held to fill judicial vacancies (some judges resigned their appointments while others had completed their tenures); and for the Committee on Budget and Finance. I was privileged to attend until the 7th of December, 2007. I arrived NY on the 27th of November 2007 ahead of the ASP in order to attend the preliminary/preparatory meetings of the Coalition on the ICC on the 28th and 29th of November 2007.

From the moment the International Criminal Court opened its annual two-week meeting, its credibility was being put to the test because of its failure to start prosecuting two Sudanese charged with crimes against humanity in conflict-wracked Darfur. Sudan had earlier on Friday reiterated its refusal to hand them over for trial.

OPENING SESSION; The session opened on the **30th of November 2007** with a Plenary of all State Parties. In his opening remarks, Assembly President Bruno Stagno Ugarte recalled that the Assembly was the custodian of one of the most incredible creations of humankind, an international criminal court unlike any other in history. Its uniqueness was based on the promise of its universality; its standing as a permanent and independent institution; its complementarity, neutrality and impartiality; and its provisions for the participation and reparation of victims.

The Assembly then adopted its agenda for the next two weeks and went over procedural matters such as rules governing States in arrears, observer status and non-party States. It was decided that four working groups would be established: the Special Working Group on the Crime of Aggression, chaired by Christian Wenaweser (Lichtenstein); the working group for the 2008 budget, chaired by Hans Magnusson (Sweden); the permanent premises of the Court, chaired by Masud Husain (Canada); and the Review Conference, chaired by Rolf Fife (Norway). An omnibus resolution on matters such as arrears would be elaborated.

In his address to the delegates on the first day of the Assembly, ICC President Philippe Kirsch said that the Court is half the way to its eventual goal of universal ratification of the Rome Statute with 105 State Parties. The President reviewed 1) the activities of the Court since the fifth session of the Assembly; 2) cooperation between the Court and States, international organizations and civil society, and 3) specific issues on the agenda of the session of the Assembly.

Turning to a report on the Court's activities, Philippe Kirsch, President of the International Criminal Court, spoke of significant progress in 2007 on investigations and proceedings in the Democratic Republic of the Congo, the Darfur region of the Sudan,

Uganda and the Central African Republic. He announced that the UN Secretary-General would address the Assembly before the general debate opens next Monday, noting that his presence 'reaffirms the special relationship between both institutions.'

With regard to cooperation, President Kirsch noted the 'essential contributions' of civil society to promoting ratification in many States and their assistance in assuring the Court receives the necessary cooperation from States. He also spoke of the relative silence observed in situation "where public support for the Court and for justice more broadly would have been expected," indicating that the latter sends the wrong message to perpetrators and would-be perpetrators.

REPORT OF THE PROSECUTOR: ICC Prosecutor Luis Moreno-Ocampo presented a report to the Assembly which was organized around three main topics: 1) detailed update of the situations and cases; 2) an analysis of the Court's activities and 3) a briefing on issues relating to the institutional development including news that a number of strategic documents are to be disseminated. NGOs, he said, have been proactively contributing to the consultations on the latter which looks to improve the Court's overall strategy for victims. The Prosecutor said that in 2008, his office would open a third case in the Democratic Republic of Congo (DRC), continue investigations in Darfur and present evidence to the Judges concerning the Court's investigation in Central African Republic (CAR) where the Prosecutor plans to visit in January-adding that CAR's preparations for a conciliation process (the National Dialogue) is an opportunity to ensure that the process is "fully compatible with the Rome Statute."

The third case in the DRC might include crimes in the Kivu by the FDLR and by Laurent Nkunda's forces and/or other high officials having "financed and organized Militia in DRC." Concerning Darfur, the Prosecutor made mention of a second and third case into crimes against internally displaced persons and those responsible for the attacks against peacekeepers and humanitarian personnel. He announced that his office was looking into new cases in Darfur centering on crimes targeting refugee camps and attacks on peacekeepers and aid workers. 'We will seek to identify which individuals bear the greatest responsibility for the ongoing crimes committed against the persons displaced; we will also seek to identify which individuals bear the greatest responsibility for attacks against peacekeepers -- such as happened in Haskanita -- and humanitarian personnel,' the prosecutor said.'

'In the 'ongoing crimes' against the 2.5 million displaced persons Moreno Ocampo identifies Sudanese minister Ahmed Haroun, already wanted by the court for other war crimes in Darfur as a 'key actor. "Ahmed Haroun is controlling the victims inside the camps, controlling their access to food, humanitarian aid, and security; attacks against the civilians and the displaced in particular take upon multiple forms; women are raped; emerging local leaders are targeted; displaced are surrounded by hostile forces,' the prosecutor said. Last May, the ICC issued arrest warrants for Haroun and pro-government Janjaweed militia leader Ali Kosheib, who face a long list of charges of crimes against humanity and war crimes. Sudan has refused to hand them over.

The primary focus of the report is the lack of cooperation by the Government of Sudan. In its assessment on cooperation by the Government of Sudan, the Office of the prosecutor has taken four factors into consideration: the existence of a request made to the Government of Sudan by the Court; the existence of an obligation to comply with the request; the response of the Government of Sudan; and the implications for the UN Security Council and the Court. The report once again has detailed information on the crimes committed within the jurisdiction of the Court:

The Office of the Prosecutor reports forcibly that the Government of Sudan is not cooperating on the execution of the arrest warrants; particularly it has taken no steps to arrest and surrender Ahmad Harun and Ali Kushayb. The report asks that Council members must ensure respect for UN SC resolution 1593 and secure the full and immediate cooperation of the Government of Sudan to arrest and surrender of the two individuals, and that justice remain an integral part of a comprehensive solution and for the Council to put an end to this pattern of non-cooperation.

Crimes within the jurisdiction of the Court continue to be committed in Darfur. Available information points that the crimes committed are not isolated acts but point to a pattern of coordinated multiple attacks against the civilian population: forcible displacement of civilians; continuous abuse against persons displaced including rapes, sexual violence, illegal detentions, unlawful killings; attacks against those venturing out of the camps; failure to provide security near and around camps and failure of police and security forces to investigate such crimes; failure to disarm the Militia/Janjaweed and promoting their operations with impunity, including encampment near or around IDP camps; promoting occupation by new settlers of land previously belonging to or occupied by persons displaced; preventing persons displaced from organizing politically; and hindering or blocking delivery of humanitarian relief to persons displaced, thereby causing drastic worsening of life conditions. The victimisation of displaced persons could be seen as a continuation of a policy of deliberately targeting the civilian population thought to be associated with rebel forces.

In addition, allegations of crimes committed by other parties, including alleged rebel attacks against AU peacekeepers warrant further investigations by the Office of The Prosecutor (OTP). In terms of admissibility, the Government of Sudan has continued to publicly insist that it is willing and able to prosecute all those responsible for serious crimes but has not taken any further steps.

Regarding the situation in Uganda, the Prosecutor said: "A lot can be done by all of you to support efforts to arrest. State parties can start with cutting off of any support [no supplies, no financial aid] the indictees might receive." To illustrate this point, he qualified the help of States in monitoring assistance from Diaspora communities to the LRA as "very helpful."

The Office has pursued contacts with international organizations including the AU, the UN, the League of Arab States, with local groups, NGOs and others. In relation to the

Memorandum of Understanding between the Court and the AU, the AU legal advisor reported on 12 November that the MOU text is now in the process of being finalized.

In terms of outreach, the Office of the Prosecutor has dedicated specific efforts to inform the Arab-speaking public through international and regional Arabic and Sudanese media. The Prosecutor traveled to Cairo in July and November 2007. The Court conducted workshops in Africa and at the seat of the Court. There is worrisome information that Sudanese participants in such activities have been threatened upon returning to Sudan.

In terms of UN cooperation, since the last briefing, the Prosecutor and the Deputy Prosecutor have met respectively with UN Secretary-General Ban Ki-Moon and with Deputy Secretary-General Asha-Rose Migiro. In addition, the OTP met with the UN Office of Legal Affairs, the Department of Peacekeeping Operations, the Department of Political Affairs, and the Office for the Coordination of Humanitarian Affairs, as well as the UN Special Envoy on Sudan, the High Commissioner for Human Rights, the UN Special Representative on Sudan, and the UN Special Representative of the SG on the prevention of genocide. The Prosecutor noted that his Office is analyzing situations on three continents, notably in Colombia and Côte d'Ivoire. During his mission to Colombia in October 2007, the Prosecutor collected information. And for the latter, the planned mission for purposes of preliminary examination has not yet been made possible. The prosecutor concluded that the lack of arrest in the situation countries can affect the credibility and long term deterrent impact of the Court.

TRUST FUND FOR VICTIMS: With regard to the activities and projects of the Trust Fund for Victims, Executive Director André Laperriere read a statement on behalf of Mme Minister Simone Veil, Chair of the Board of the Directors, asserting that the Fund was now a "real body", highlighting the progress made in 2007 and urging States to consider two issues vital to the growth of the Fund: amending Regulation 27 and sparing the fund from the recommendation of the Committee on Budget and Finance (CBF) regarding personnel vacancy rates.

In the afternoon session, the Plenary considered States in arrears and approved exemption requests from Democratic Republic of Congo, Bolivia, Guinea, Niger, Malawi to ensure that all States Parties were eligible to vote.

ELECTION OF JUDGES: The states engaged in the election of ICC judges, to fill three judicial vacancies arising from the resignations of Judges Maureen Harding Clark (Ireland), Karl T. Hudson-Phillips (Trinidad and Tobago), and Claude Jorda (France). For the purposes of this election to the Court, at least two judges had to be from list A (having established competence in criminal law and procedure and the necessary relevant experience in criminal proceedings). After the election of the three judges, one judge will be selected by lot to serve the remaining 1-2 years of Judge Jorda's term (2009) and will be eligible for re-election for an additional 9-year term. The two other judges will serve only the remaining 3-4 years of Judges Clark's and Hudson-Phillips' terms, both who were serving nine-year terms expiring in 2012.

Two rounds of votes took place on this first day. During the first round, the following two candidates, out of five, were elected by two-thirds majorities of those present and voting States Parties: SAIGA, Fumiko of Japan, a legal expert on international humanitarian, human rights and gender issues with 82 votes; COTTE, Bruno of France, an expert in international criminal law with 79 votes.

During the second round, no ICC judge was elected by two-third majority (69) of the 104 valid votes. The remaining 3 candidates on the ICC ballot were not elected and received the following number of votes (listed according to the number of votes received): NSEREKO, Daniel David of Uganda with 53 votes; PERMANAND, Jean Angela of Trinidad and Tobago with 26 votes; DIXON, Graciela of Panama with 25 votes. The candidate from Nigeria withdrew before the commencement of the session.

A third round of elections was scheduled for Monday (3 December), followed by the elections for the Committee on Budget and Finance.

PRESS BRIEFING: A press briefing was organized by the Coalition on the ICC at which the long-running conflict in Uganda, where the Government was a State party to the Rome Statute was discussed. Uganda's Government was not fully cooperating with the Court and had yet to enact a 2004 bill aimed at facilitating such cooperation. The big challenge is the demand of Lord's Resistance Army leadership that the case before ICC be withdrawn. If this is done, it will send the wrong signals to those who have committed crimes against humanity within the region. The situation in Darfur was also discussed and the refusal of the Sudanese government to surrender the indictees was condemned.

Since the ICC has no police force of its own, it needs robust political backing to bring accused war criminals to trial. This year the Sudanese government has starkly shown the level of resistance the International Criminal Court faces in its work. Although the UN Security Council referred the situation in Darfur to the ICC in 2005, Khartoum has refused to hand over two individuals subject to ICC arrest warrants. The government has kept one suspect, Ahmed Haroun, in his post as state minister for humanitarian affairs, and even appointed him to a committee whose mandate includes hearing human rights complaints. The government released the other suspect, "Ali Kosheib" (the nom de guerre of Ali Mohammed Ali), who had been in domestic custody, on the ground of lack of evidence.

CSOs wondered why the UN and its many members that have joined the court have been far too quiet about Khartoum's frontal assault on the ICC and its blatant disregard for the Security Council resolution that referred Darfur to the court. The Secretary-General was urged to clearly call on Sudan to surrender suspected war criminals to the ICC.

With active conflicts in every situation where the ICC is involved - Darfur, Eastern Congo, northern Uganda, and the Central African Republic - the relationship between peace and justice featured prominently at the session. As peace talks to end the conflict in northern Uganda continued this year, some states parties at times seemed keen to support measures that could lead to impunity. The ICC issued arrest warrants in 2005 for leaders of the rebel Lord's Resistance Army for crimes committed in northern Uganda.

The Sixth ASP general debate on **Monday 3 December 2007** at UN headquarters in New York opened with remarks by UN Secretary-General (SG) Ban Ki-moon. The Secretary General voiced support for the work of the Court, calling it the international community's answer to a growing need for a permanent forum to address the most egregious atrocities: "The Court is the centrepiece of our system of international criminal justice, it both embodies, and drives a profound evolution in international culture and law." He noted that cooperation of all States with the Court was essential: "The Court, and The Trust Fund for Victims, needs the support and assistance of all States for the important work that is underway."

Stressing that there could be no peace without justice, Secretary-General Ban Ki-moon told the 105 signatory countries to the Rome Statute -- the instrument which formed the basis for the International Criminal Court -- the work of the Court went hand in hand with that of the United Nations, since the struggle for peace could not succeed without the Court's efforts for justice. He recalled that the fully-operational International Criminal Court was currently investigating cases pertaining to four situations: in the Democratic Republic of the Congo, where thousands of civilians became victims of mass atrocities; in Darfur, where crimes on a massive scale were still being committed; in northern Uganda, where the Lord's Resistance Army had abducted thousands of children and used them as child soldiers, servants and sex slaves; and in the Central African Republic, where egregious allegations of rape and other acts of sexual violence against women had surfaced.

Questions about the relationship between peace and justice were unavoidable in each of those situations, Mr. Ban said, adding that the simultaneous quest for peace and justice was a 'morally and legally charged balancing act' with no easy answers. However, the overarching principle was clear: that there could be no sustainable peace without justice, he stressed. He noted that there were still a number of outstanding arrest warrants to be executed, and reminded the Assembly that the most important determinant of success for any international tribunal was cooperation from States, the United Nations, other international organizations, civil society and the non-governmental community. Cooperation was also needed from victims, witnesses and other individuals.

In the debate that followed, the Secretary-General's call for more cooperation was echoed by many delegations, particularly with respect to outstanding warrants of arrest for Sudanese citizens implicated in crimes against humanity in Darfur. The representative of the United Kingdom remarked that justice was an essential part of delivering a sustainable peace. He joined others in asking the Security Council to send a clear message to the Sudanese Government, in which it should insist on the implementation of the arrest warrants.

Another issue raised frequently at today's debate was the possible inclusion into the Rome Statute of a definition of the crime of aggression.. Mr. Ban Ki-moon presented cooperation as "the determinant of success for any international tribunals," stressing the need for collective cooperation from States, the UN, International Organisations, civil

society and the NGO community, and cooperation from victims, witnesses and other individuals.

On cooperation between the UN and the ICC specifically, the SG gave his assurances that the UN would continue to cooperate with the ICC. He then thanked the ASP for its contribution to the UN system of international justice, and said he looked forward to cooperating with states parties to strengthen the Court, and advance the cause of justice and peace. The SG underscored the ICC's work as being mutually reinforcing with that of the UN by emphasising that the UN's struggle for peace could not succeed without the ASP's efforts for justice. Using the case of the situation in Uganda, the SG stressed that: "There can be no sustainable peace without justice. Peace and justice, accountability and reconciliation are not mutually exclusive... they go hand in hand."

The Secretary-General's remarks were followed by public statements by delegates from Spain, Japan, Portugal, On behalf of European Union, United Kingdom, Denmark, Liechtenstein, South Africa, Costa Rica, Netherlands, Colombia, Belgium, Austria, Germany, Bolivia, Brazil, Jordan, France, Mexico, Chad, Croatia and Argentina.

A number of states reiterated their support for the Court. Key themes that emerged during the day included the urgent need for international cooperation with the Court as a judgment on the effectiveness of states parties; the need to support the funding and activities of the Victims Trust Fund; the Court's independence and impartiality; the importance of a continued emphasis on the participation of victims; the need for the universal ratification and implementation of the Rome Statute, particularly in the under-represented Asia/Pacific and MENA regions; the urgency of agreeing on a definition of the crime of aggression; the importance of the upcoming review conference and the need for a practical decision regarding venue; and the need for gender balance in the recruitment of Court staff at the highest levels. A number of states acknowledged the role of civil society, and several explicitly mentioned the contributions of the CICC and its members.

Here are a few highlights from the day's statements:

Japan: "As you are aware, Japan experienced the international tribunal for itself after World War II. All the better for this experience, Japan has been following a path toward a peace-loving nation for more than sixty yearsJapan believes it is important to uphold the ICC for the sake of a bright future."

Germany: "With regard to the Court's jurisdiction on the crime of aggression.. .the Court's independence and partiality must be guaranteed.. .we further insist that everybody must be equal before the law...We further think that the Review Conference should concentrate on a limited number of items, with an emphasis on the crime of aggression. It would be wise not to make the event a Rome Conference II."

Netherlands: "Without the cooperation of States, the Court cannot fulfill its mission to serve justice as a foundation for lasting peace...[Sudan's appointment of Haroun and the

release of Kushayb] is not only a slap in the face of the International Criminal Court, but also an insult to the UN Security Council itself."

South Africa: "The Court, with the cooperation and support of States, can successfully fight against impunity and contribute to a more stable world, thus establishing the necessary conditions for development. We believe that the most sustainable form of redress for victims is affording them conditions under which they can live free of poverty and with resources to prosper. It is for that reason that we support the work of the Victims Trust Fund..."

CICC PANEL AT ASP

Before the general debate reconvened in the afternoon, the Coalition for the ICC sponsored a well-attended lunchtime panel on situation countries at which NGO representatives and government delegates of the 4 situations countries spoke and debated.

FOURTH ROUND: RESULTS OF ELECTIONS OF ICC JUDGES

The afternoon session was dedicated to ICC judicial elections. Candidate Daniel David Nsereko of Uganda (List A) received 74 votes, making him the last judge to complete the ICC bench. He was elected by two-third majority of the 102 State Parties present and voting (68 votes). After the election of all three judges, Ambassador Saiga was selected by lot to serve the remaining 1-2 years of Judge Jorda's term (2009) and will be eligible for re-election for an additional 9-year term. Judge Cotte and Professor Nsereko will serve the remaining 3-4 years of Judges Clark's and Hudson-Phillips' terms, both who were serving nine-year terms expiring in 2012.

CSO MEETING WITH PROSECUTOR: The Coalition on the ICC convened a meeting of CSOs with the Court Prosecutor Luis Moreno-Ocampo (Argentina). He summarized developments and said his office would open new investigations next year in the Democratic Republic of the Congo and Darfur. Analyses of crimes on three continents would also be investigated, including a follow-up to his recent visit to Colombia. Moving on to analysis work by his office, he said situations on three continents were being investigated. A delegation had met with victims, officials, and others in Colombia at the Government's invitation to see whether the Court would look into the matter. The new ambassador of Cote d'Ivoire to the United Nations should urge the country's Government to comply with the Court's request.

Reviewing the policies, processes and practices of his office, the Prosecutor said standards were being developed for interaction with victims with an emphasis on outreach and reparation. A text on those regulations would be issued this year. Efficiency was being improved, particularly vis-à-vis victim protection. A lean and efficient operation was the aim and the Court must therefore be financially supported to implement its mandate. The Rome Statute was meant to protect citizens in situations where States could not. Lack of arrest could determine the Court's long-term impact. Now was the time to arrest the indicted.

AOB: In other business, the Assembly took note of an oral interim report of the

Credentials Committee, presented by its Chair, Prince Zeid Ra'ad Zeid Al Hussein. He said the Committee considered 50 formal credentials from States parties and information from 55 States parties on the appointment of their representatives to the sixth session..."

4th December 2007 began with a continuation of the public statements by state delegates. The states that spoke today and yesterday were, in order of presentation: Spain, Japan, Portugal, United Kingdom, Denmark, Liechtenstein, South Africa, Costa Rica, Netherlands, Colombia, Belgium, Austria, Germany, Brazil, Jordan, France, Mexico, Chad, Argentina, Croatia, Venezuela, Lesotho, Switzerland, Uganda, Nigeria, Uruguay, Senegal, Ecuador, Trinidad and Tobago, Peru, Finland. Democratic Republic of Congo, Republic of Korea, Luxembourg, Ghana, Canada (on behalf of Canada, Australia and New Zealand), Hungary, Sierra Leone, United Republic of Tanzania, Cyprus, Burkina Faso, Serbia, Greece, Kenya, Poland, Benin and Bolivia. Observer, non-ICC states that spoke were Madagascar, Guatemala and Egypt.

The key themes that began to emerge yesterday were continued in today's session. Many states again voiced concern over the outstanding warrants, and how if not executed, they could negatively affect the credibility of the Court and international justice at its core. On cooperation, Ghana said: "On this point, we wish to reiterate our position that the ICC can only be strong and effective as the states allow it, or even want it to be." Others echoed the belief that peace and justice are not conflicting ideas. States urged all countries, both state parties and non-members, to cooperate with the Court.

The Victim's Trust Fund and outreach in general were also key issues of the day. As were the Review Conference, the need for finality on the definition of the crime of aggression, timely payment of financial dues, universality through ratification, and the issue of permanent premises. Poland called for special attention to be given to on-site investigations which "determines ultimate success at the investigative stage" and Bolivia urged for gender and geographical balance in personnel recruitment at the Court. Numerous States and Observer States reaffirmed their commitment to the ICC and the values of the Rome Statute and urged all other states to "join the family" (as Serbia called it). They further pledged an active role in garnering these future new members.

Here are a few highlights from the day's statements:

Republic of Korea: "How the ICC handles these cases will be an important determinant of the Court's future and of whether it will be embraced by universal membership. To ensure the best possible performance by the Court, States should provide it with the financial, logistical, political and legal support it needs to perform its work, thus enabling the ICC to realize the rule of law and end impunity for crimes under its jurisdiction. "

Republic of Poland: "The fundamental reason for establishing the Court - the need to eradicate impunity with regard to the most serious international crimes... - has lost none of its urgency. Guided by the same motives that led us to create the Court, we should do everything in our power to effectively support the ICC. In this context, we should include our full collaboration with the Court..."

Cyprus: "If the ICC is to fulfill the purpose for which it was created; fighting impunity and serving as a strong deterrent to prospective serious crimes as a result of its robustness and far-reaching support, we must insist on the goal of universal ratification of its Statute, regardless of how long that might take."

Sierra Leone: "The International Criminal Court is in some ways the middle child; it has some years under its belt but has not yet begun a fully-fledged trial. It still needs nurturing and understanding from us as it breaks new ground and feels its way into the world. But it is also now old enough to be subject to analysis, to set some examples, as it has had the opportunity to learn from those that came before it. It is a difficult stage to be in and it is critical that we ... ensure that we maintain the right balance of constructive criticism to help the Court fulfill its mandate to bring an end to impunity across the world, for this and future generations. ...to fulfill its potential [the Court] needs to be more engaged and to do this, it needs to be geared less towards headquarters and more towards the field, which is where the real trenches are and where the real battles will be fought."

Egypt: "The Delegation of Egypt attaches importance to the current efforts aiming at reaching a definition to the crime of aggression without linking it to a role of the Security Council to decide that an act of aggression took place. Our position emanates from the complete conviction that committing a crime of aggression against peoples is only the beginning of a chain of crimes against humanity, including mass expulsion and murder, enforced deportation. ..." Note that Egypt is not a state party to the Court and spoke during the plenary as an observer state.

There was wide acknowledgement of the role played by civil society. Guatemala expressed its recognition of the work of civil society. Explicit mention of the contributions of the Coalition for the ICC to the functioning and vitality of the Court was made. Spain spoke of the "active support of the thousands of non-governmental organizations throughout the world that through the Coalition for the International Criminal Court promoted the formation of a world public opinion committed to the defense of irreducible core of our common humanity. Their work is vital to strengthen the functioning of the international criminal justice system and deserve the deepest gratitude." Portugal, on behalf of the European Union said: "We would like to pay tribute to the valuable contribution of the Coalition for the International Criminal Court, and its members to advancing the objectives of the Court and adding value to its work." Hungary: "...We cannot forget the valuable contribution of the non-government organisations and their members to the everyday operation of the Court and the background work of the Member States."

REPORT ON THE REVIEW CONFERENCE: Rolf Fife of Norway, Focal Point for the Review Conference, summarized the main points of the report that will be presented for adoption on Friday. This progress report details the consultations on the Review Conference on issues such as the scope, duration, timing and the venue of the Conference. A number of states and civil society organizations, including the CICC, have

contributed to the discussions. Mr. Fife noted that meetings on this issue were held in Torino and Mexico and contributed to the dialogue. Mr. Fife acknowledged that there was broad agreement on a number of issues and on certain goals, one of which being the deep commitment by states parties to protect the integrity of the Rome Statute. On the timing of the review conference, the Focal Point believes the Review Conference should be held during first half of 2010. Regarding duration, it should be held over five to ten working days. Amendments brought to the conference would only be those with broad consensus. It was also thought that the review conference could be a good opportunity for stocktaking, by hearing authoritative speakers, considering lessons learned and continuing the peace and justice discussion. On the venue, the ASP will look into three possibilities: NY, TH or a third venue, Uganda having expressed interest in hosting the conference.

SPECIAL WORKING GROUP ON THE CRIME OF AGGRESSION DISCUSSION: The Special Working Group on the Crime of Aggression opened its session with a debate on a proposal (or "non-paper") drafted by Mr. Christian Wenaweser of Liechtenstein, the Chairman of the Group on defining the individual's conduct.

The Chair concluded that it had been a positive debate and was grateful for the general welcome of his proposal which parallels more closely the structure for the other crimes. Delegates agreed with the structure and overall design of the first part of paragraph 1 of the provision on aggression. The Chair also noted possible agreement on having an Article 25 paragraph 3 bis, while some indicated a preference for further changes to the paragraph. Some minor editorial changes, as suggested by the UK, were accepted.

Discussion was held on the scope of the leadership clause, with a focus on the inclusion of the clause in Article 25 paragraph 3 bis. The Chair concluded that, for the time being, the current language in the non-paper seemed to best capture what was generally felt should be reflected in the text, however further bilateral discussions will be held and will consider the role of the Elements of Crimes on this issue.

CICC PANELS AT ASP: The Coalition for the ICC sponsored two regional meetings with African and Asian delegates and NGO representatives during the lunch break on 4 December. In the morning, the Coalition sponsored a brainstorming session on worldwide media strategies and an afternoon informational session on US-ICC relations.

CICC SIDE-EVENTS: The following meetings were held today:

- i. At the Implementation of the Rome Statute meeting, participants raised their concerns over the general lack of technical support in numerous countries, particularly in Africa, at the legislation drafting stage. State delegations from Samoa, Gambia, Uganda, Namibia, CAR and Cameroon were in attendance as were NGOs such as ICRC, Amnesty International and Parliamentarians for Global Action. Gambia noted that if it received assistance, the country would be in a better position to accede to the Rome Statute by next year.

ii. The Cooperation Meeting addressed common strategies used to lobby issues such as implementing legislation, arrest and surrender and regional relationship agreements with the Court. Participants emphasized the need to use the ASP Bureau report on cooperation in their lobbying efforts at the regional and national level.

iii. The Portuguese Presidency of the European Union convened a lunchtime meeting on EU strategy as regards the ICC generally for EU member states and NGOs. The EU Council presented their newly published booklet "The EU and the ICC."

On **5 December, 2007**, the Special Working Group on the Crime of Aggression continued its second meeting during the Sixth Session of the Assembly of State Parties. One of the questions were if and how to make use of the UN Resolution 3314, passed on December 14, 1974, in the definition of the state act of aggression which is one of the elements of the crime of aggression. Many states welcomed the basic approach of the non-paper of the Chairman. States looked in particular at the different roles of the Court and the Security Council. The Special WG also started its discussion on the jurisdictional conditions. The focus was on the ways of incorporating different aspects of the jurisdictional conditions into the Statute.

The Victims' Rights Working Group (VRWG), a network of more than 300 civil society groups, held its first informal meeting. The meeting focused on this year's judicial decisions impacting victims' participation and protection and included a discussion on the modalities of participation, the role of intermediaries.

A handful of Coalition for the ICC members following victims' rights issues voiced concerns over a newly published report on victim participation by the War Crimes Research Office of American University's Washington College of Law. This report recommended changes to the underlying design of the Court's victim participation framework and suggested limiting the right of victims to participate in the investigation phase as established by jurisprudence of Pre-Trial Chamber I. NGOs, however, felt that instead of limiting existing rights, it would be preferable finding ways how to make established rights more meaningful.

CICC-SPONSORED REGIONAL MEETINGS: The Coalition sponsored a MENA Regional lunch meeting that brought together representatives from Lebanon, Egypt, Algeria, Morocco, Sudan, Yemen and Iraq. Representatives stressed the need to strengthen the resolve of MENA country governments and civil societies to promote the ratification of the Rome Statute. Participants identified a number of obstacles affecting ratification efforts across countries in the region, particularly the lack of Arabic-language resources and tools; weak political will and the general lack of coordination among civil society organizations and the media with regard to ICC campaigns.

On the **6th of December 2007**, the Special Working Group on the Crime of Aggression met in a closed session all day. The Coalition on the ICC used the opportunity to hold its Steering Committee meeting and some of the regional meetings.

On 7th December 2007 NGOs were invited to speak during ASP general debate. Ten NGOs addressed the Sixth Assembly of States Parties: the CICC Secretariat; Amnesty International; Human Rights Watch; Indonesian Association of Families of the Disappeared; the International Federation of Human Rights; Caritas France; National Coalition for the ICC, Central African Republic, INSAF Centre for Justice and Peace (Sudan); Human Rights First (in order of appearance).

Please find highlighted excerpts from the statements below.

CICC: "Now is the time to build momentum for continuous and consistent public support for the Court, in and through all relevant bilateral and international efforts, including the United Nations..."

Amnesty International (AI): "...[We] are calling on the Assembly to demonstrate its full support of the Court by responding strongly and collectively to condemn the inaction of the Sudanese government.. [We] are concerned that some declarations made upon ratification by some states amount to disguised reservations. ..."

HRW: "This Court will fail without the firm backing of its member states. That is a matter of political will. The surrender of suspects [from other tribunals] shows that over time diplomatic pressure can make the difference."

FIDH: "...Your Assembly should also reaffirm that no peace process should put aside the need to fight against impunity, nor the independence and efficiency of the Court's prosecutions."

IKOHI- Indonesia: "...The Court is a young institution- --one that needs to continue receiving unabated support from...all those who believe that it will ultimately have a powerful deterrent effect and will help ensure that the gravest crimes against humanity no longer remain unpunished. ..."

International Refugee Rights Initiative and the INSAF Center for Justice and Peace Sudan: "...The African Union has also been mute in recent months despite its affirmation of the vital importance of the role of international justice in a series of Peace and Security Council decisions on the Darfur crisis. It is time for action....."

League for Peace and Human Rights (DRC) : "...At this stage, the Court does not provide any form of support to victims or intermediaries in their work [in DRC] which is nevertheless vital to the mandate of the Court....."

Coalition for the ICC, CAR: "...The success of the Court will depend on the comprehension and acceptance of it by local populations. ..the presence of the ICC in CAR constitutes an opportunity to end impunity for international crimes and offers hope for justice and durable peace among those in CAR who also expect it...." (Unofficial translation provided by the CICC Secretariat)

Caritas France: "...We hope the ICC...will give the example, encourage national jurisdictions to deal with these situations [sexual violence in conflicts] and ensure that political and military systems that are developing these practices or that leave perpetrators unpunished be condemned and renounce to such acts." (Unofficial translation provided by the CICC Secretariat)

UGANDAN BID FOR REVIEW CONFERENCE VENUE IN 2010: The Minister of Justice and Constitutional Affairs, Attorney General Khiddu Makubuya, presented a slideshow to advocate for Uganda's bid to host the Review Conference in 2010. According to a number of states parties, there may be a decision on the venue for the Review Conference as early as June 2008 at the inter-sessional ASP meeting.

ELECTION OF MEMBERS OF CBF (ARTICLE 9): The election of Sixth Committee on Budget and Finance (CBF) members took place today. The ASP elected the six following candidates to serve in the Committee for a period of three years: David Banyanka (Burundi); Carolina Fernández Opazo (Mexico); Gilles Finkelstein (France); Juhani Lemmik (Estonia); Gerd Saupe (Germany); Ugo Sessi (Italy). The CBF consists of 12 members who are elected by the Assembly of States Parties (ASP) for a period of three years. At the first election in 2003, six members were elected for a period of two years and six for a period of three years, assuring in this way that for future elections only six members will be elected at a time.

The distribution of seats for the elections is as follows: African States (1 seat); Eastern European States (1 seat); Group of Latin American and Caribbean States (1 seat); and Western European and Other States (3 seats). With the withdrawal of the candidatures of Mr. Peter Lovell (United Kingdom), Mr. Rodrigo Yáñez Pilgrim (Venezuela), and Ms. Rossette Nyirinkindi Katunge (Uganda), the number of nominees per region equaled the number of seats to be elected; thus members were elected by consensus.

The Working Group on the Crime of Aggression concluded three days of meetings today. There was a written intervention today from the Samoa delegate who spoke about the amendment process "Ambiguities in Articles 5 (2); 121, 123 of the Rome Statute. Five NGOs made interventions including the Union Internationale des Avocats, the CICC Secretariat, the Institute for Law and Peace (UK), Amnesty International, and Just War (in order of appearance). "

ASP AND CICC-SPONSORED SIDE EVENTS: The CICC organized several NGO strategy meetings throughout the day including:

- i. A regional lunch co-sponsored by CICC and Nottingham University for government representatives and NGOs from the Latin America/Caribbean region. Participants shared information on ICC-related developments in their respective countries, as well as strategies for collaboration and partnership within the framework of the principles and mandate of the Rome Statute.
- ii. The ASP Hearing on Outreach, hosted by the Sierra Leone Delegation and sponsored by 30 states, was an opportunity for numerous state representatives and NGOs to share

their views on ICC outreach. The discussion centered primarily on the Court's outreach efforts in 2007, a year one participant described as the "take-off" year. Some of the topics raised included the scope of outreach tools to reach communities; personnel issues; and the relationship between the Court's field offices with the Office of Outreach in The Hague. Several NGOs made strong statements and offered several recommendations that shall be addressed during a meeting next Tuesday with Court officials.

iii. Registrar of the International Criminal Court, Bruno Cathala, met with NGOs during an informal meeting. The Registrar spoke of the Registry's growth over the last few years and the opening of new field offices. He focused his remarks on the workings of the Field Operation Section of the Court, which serves as an interface between ICC headquarters in The Hague and field offices in situation countries and elsewhere.

iv. "The Role of Victims in fulfilling the ICC's Mandate," sponsored by France and the Victims Rights Working Group of the CICC brought together numerous state representatives and NGOs around a discussion on victims' participation and rights. From the Court, Executive Director of the ICC's Victim's Trust Fund gave an overview of the Fund's strategy with regard to the role of victims; several NGOs presented including REDRESS, FIDH, Ugandan Victims Rights Working Group; CAR Coalition for the ICC; and LIPADHO of the DRC.

CONCLUSION: The weeklong meeting was a huge learning process for me. It afforded me the opportunity to meet with other CICC Steering Committee members and learn of the expectations of members. The meetings with the Prosecutor of the ICC, the President as well as some of the Judges of the court brought home the reality of the court. I exchanged ideas and learnt from NGOs from other regions of the world working to achieve universal ratification of the ICC Treaty.

Prepared by

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