“[S]ome governments have made moving public pronouncements in support of the treaty, only then to make bilateral agreements which will, in effect, create one system of law for 193 countries of the world, while exempting the most powerful state.” -- Jody Williams, Nobel laureate, at the Opening Session of the Fourth Meeting of States Parties to the Mine Ban Treaty (16 September 2002)

“The first phase of the work of the Court will be crucial for its credibility and effectiveness. We are pleased that the Assembly has adopted modalities for the first election of judges which will be conducive to an equitable representation of all regions as well as of both men and women. An international court without representation of all regions would be a misnomer, and the presence of qualified women is indispensable for its credibility.” -- Amb. Claudia Fritsche of Liechtenstein, at the First session of the Assembly of States Parties meeting (10 September 2002)

A high level panel of international law experts was brought together during the ASP meeting by the Project on International Courts and Tribunals (PIT) at New York University to discuss the issue of the election of judges. Panelists included E.J. Pam Spies, Program Director, Women’s Caucus for Gender Justice; Ann Scott, Counsel, Prem-ansor Mission of Australia to the UN; Chloë Cheklin, Professor, London School of Economics; Thad’s Ingardotter, Associate, The Project on International Courts and Tribunals, N.Y.; Cherie Booth, QC, Marion Chamber, UK; Shepaul Forman, Director, Center on International Cooperation, NYU; H.E. Navaneetha Pillay, President, International Criminal Tribunal for the Former Yugoslavia; H.E. Wouter van Vugt, Former Secretary General of the UN, and Kofi Asante, Director, International Criminal Justice Institute. As the States Parties to the Rome Statute participated in controversial discussions about the procedures for the nomination and election of the highest officials of the ICC, the PICT conference highlighted the dramatic under-representation of women in international judicial bodies, and the need to ensure that the Court has more balanced representation.

The historic first meeting of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ASP) held from 3-10 September at UN headquarters was, in contrast to so many current UN processes, a very positive and productive meeting, which saw the adoption of four years of painstaking work produced by the UN Preparatory Commission for the International Criminal Court. The success of the first ASP meeting was in large measure due to the skill and expertise of the Assembly’s newly-elected President, Prince Zeid Ra’ad Zeid Al Hussein, the Ambassador of Jordan to the United Nations. UN Secretary General Kofi Annan, UN Legal Counsel Hans Corell, foreign ministers, ambassadors, leaders of major international organizations and non-governmental organizations, and other well-known political and legal experts assembled to witness the historic beginning of the work of the world’s first permanent International Criminal Court (ICC).

The tremendous international support for the creation of this institution, reaffirmed again by the numerous statements made by countries from all regions of the world, provides great hope that the potential of the ICC will be realized. The first ICC Assembly coincided with solemn commemorations of the horrific crimes against humanity committed on 11 September 2001, when terrorists attacked New York and other US cities, killing over 3,000 innocent people. As delegates met to begin formally building the new world court, untold numbers of human beings around the world - in Burundi, CIS countries, Colombia, Côte d’Ivoire, the Democratic Republic of Congo, Israel and Palestine, Kashmir, Macedonia, Northern Ireland, Spain, Sri Lanka, Sudan, and so many other places in the world - were facing the threat of unrelenting violence against themselves and their loved ones, and were suffering from the commission of horrific acts of atrocity.

Those who have worked to ensure the creation of a permanent international judicial body to hold individuals accountable for acts of torture, rape and murder when they constitute genocide, crimes against humanity or war crimes, have held the vision that a different world is possible. With the plight of so many of the world’s citizens in mind, it is particularly shocking and disappointing that the government of the United States of America, a government which has contributed to the development and enforcement of international law and human rights standards, should be the only government in the world working actively to undermine an institution designed to punish those who have committed crimes against humanity.

Nevertheless, it is heartening to see that despite the US opposition, more than 80 countries have now ratified the Rome Statute of the ICC, only four years after its adoption by 120 nations in 1998. Fifteen of these ratifications have occurred since the US government denounced its signature on May 6 of this year. Many more countries are well-advanced in the ratification process and are working together to address the legal issues that must be resolved. This support does not signal an anti-American sentiment, but rather an understanding that US concerns about the Court are unfounded. Countries around the globe share the genuine belief that the ICC will provide justice for the commission of the horrific crimes that have affected millions of people, including US citizens, or will deter such crimes from occurring. There is widespread hope that, as the Court begins to function in approximately six to nine months, the US government and the handful of other countries that have expressed concerns that the ICC will be an unrepresentative and politically-motivated Court, will see their reservations laid to rest.

The successful completion of the first session of the ICC’s governing body is an important step in this
“Our achievements were only possible because the position of the international community was unshakable in its support for the court, anchored in the conviction that humanity will never truly advance, rest with its conscience, find comfort or peace, unless we do what we hitherto have been unable to do: provide a global juridical instrument to deter those persons seeking to commit the gravest of crimes, prosecute those accused of having already brought enormous suffering on the innocent, and offer truth and justice to the victims and to ourselves collectively.”

– H. R. H. Prince Zeid Ra’ad Zeid Al-Hussein of Jordan, President of the Assembly of States Parties

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Transitions: Coalition Leadership Changes

By Bill Pace

Jayne Stoyles, who has served as the director of the Coalition’s international staff and programs for the last three years, is moving on in October, and Ms. Tanya Karanasiou will be taking over the leadership reins from Jayne. Ms. Karanasiou is completing several years of work at the United Nations, as the focal point for the Office for the Coordination of Humanitarian Affairs (OCHA) on the issue of protection of civilians in armed conflict. Previously, Tanya had worked with the UN Mission in Kosovo and for the Human Rights Chamber for Bosnia and Herzegovina. Longtime Coalition members and government representatives will remember Jayne’s work on the ICC prior to and during Rome, on behalf of the Parliamentarians for Global Action, Human Rights Watch, and as a legal consultant to the CICC. She joins the Coalition again at a truly historic juncture as the Assembly of State Parties begins the actual construction of the new world court and the implementation of a new system of international criminal justice.

It is impossible to express in words how much the work and leadership of Jayne Stoyles has meant to the Coalition. She has crafted the much smaller secretariat and programs of 1999 into the solid, comprehensive, global network and campaign that has won worldwide praise. I am very pleased that Jayne will continue to consult with WFM and CICC from her new home away from New York. Jayne has been one of the finest persons I have ever had the honor to work with and know. The CICC will not be the same without her.

After three years of Jayne Stoyles’ (left) visionary leadership at the CICC, Tanya Karanasiou will be the new Program Director.
Relevance of the ICC to Other Campaigns to Strengthen Human Security

By Jody Williams

The Relevance of the ICC to Other Campaigns to Strengthen Human Security

The International Campaign to Ban Landmines (ICBL) and the NGO Coalition for the International Criminal Court (ICC) are examples of the increasing strength of global grassroots movements to promote peace, human rights protection and the rule of law by seeking effective cooperation at the international level. Both campaigns are structured around a diverse global network of non-governmental organizations (NGOs) whose collaboration with governments and the UN has resulted in strong international consensus on important human security issues.

Many interrelated problems contributed to the proliferation of landmines: the trafficking of light weapons and small arms, religious and ethnic conflicts, social and economic disparities, and, in particular, the dozens of internal conflicts carried out in the context of the Cold War, to name a few. As has been clearly demonstrated through the successes of the ICBL, the complexity and transnational effect of such problems necessitate strong domestic and international solutions. As the terrorist attacks of September 11th and their aftermath have reminded us, the security of the entire world is threatened when one troubled region of the world is ignored for too long.

In our experience with the ICBL, we have repeatedly had to deal with the links between the landmine problem and the conditions which have resulted in that way. How can the problem of landmines, or of any of the myriad threats that confront humankind today, be effectively addressed with our examining their root causes? As a result, the issue of landmines is directly addressed in the Antipersonnel Mine Ban Treaty, issues of direct relevance to anti-lawnmower advocates are also incorporated in the ICC. Further, intentionally directing an attack against a civilian population or non-military target is a war crime under the Rome Statute, and the vast majority of landmine victims are civilians (including children). Given the frequent link between the aggravation of conflicts and the escalation of landmine use, attempts to prevent and resolve conflicts using the ICC could have significant implications in reducing the number of mines incidents.

Likewise the creation of the ICC is of tremendous relevance to those working on a wide variety of issues, and it is important for these groups to better acquaint themselves with the ICC and take advantage of the momentum the ICC has generated.

Biolological/Chemical Warfare and Attacks on the Environment and Public Health:

States that have committed or threatened domestic attacks on the environment or public health are also being targeted. The US is one of the few countries that has not signed the Biological Weapons Convention, and, as we know, there are many examples of biological weapons use by Iran, Iraq, and Syria. Additionally, the UK has used chemical weapons in the ongoing conflict in Iraq.

Child Soldiers:

Children are often the most vulnerable targets of violent crimes in times of conflict and so-called peace.

US Launches Global Campaign for Impunity

On 6 May 2002, in a letter from US Undersecretary of State John Bolton to UN Secretary General Kofi Annan, the Bush administration formally declared its intention not to ratify the Rome Statute of the International Criminal Court (ICC), and denounced any legal obligations arising from its signature of the treaty. While US government officials have maintained that they respect the rights of other countries which support the ICC, in effect, US actions reflect a multi-pronged attack on the Court and its supporters.

The assault continued when the US attempted to secure immunity for US peacekeepers involved in the UN mission in East Timor, followed by efforts in the Security Council to grant immunity for peacekeepers in the mission to Bosnia and Herzegovina. After the passage of the controversial UN Security Council Resolution 1422 on 12 July 2002, which requires the ICC from commencing or proceeding with investigations or prosecutions of peacekeepers and other officials of non-States Parties for twelve months, US Ambassador to the UN John D. Negroponte warned that “this is a resolution in a first step” in the campaign to exempt its citizens from the Court.

He noted that the US would undertake a “multifaceted approach” in its efforts to prevent the extradition of US nationals to the ICC, as the US “will use the coming year to find the additional protections we need, using a bilateral agreement (as provided in Article 98 of the Rome Statute of the ICC).” However, as recalled by key delegates at the Rome Conference, Article 98 of the Rome Statute was included in the treaty to address the issue of concerns about existing international obligations, such as Status of Forces Agreements (SOFAs). The provision simply requires the Court to seek the appropriate waiver of immunity from the US on a request for surrender. This provision does not accord in individual immunity from prosecution, as the Court would maintain its oversight function.

Article 27 disallows any immunity from the US for operations, States that are applying for membership in NATO, as well as others. As of the time of this publication, the US has reportedly concluded agreements with Romania, Israel, Tajikistan, East Timor, Dominican Republic, Honduras, Marshall Islands, Mauritania, Palau and Uzbekistan. Some, if not all, of these agreements will need to be ratified by their parliaments.

After having expressed regret at Romania’s decision, the European Union has asked EU candidate countries to refrain from responding to the request to sign these so-called Article 98 agreements with the US until the EU has reached a “a pan-European response.” EU foreign ministers are expected to make a decision at the end of September on a common position. The US has labeled “inappropriate” the EU’s request that countries take time to respond and has criticized the EU for applying pressure on prospective members against signing bilateral agreements with the US - an ironic position for the country that is reportedly the author of an intentionally vague plea for the provision of military assistance and a favorable response to the request to grant immunity to US nationals.

As of 20 September 2002, Canada, the Netherlands, Norway, Slovenia, Switzerland, and Yugoslavia had made public statements expressing their reservations about signing such agreements. In August, a legal analysis produced by the Council of Europe and leaked to the media concluded that the type of agreement being sought by the US government is not permitted by the Rome Statute. On 4 September, the legal
The Assembly of States Parties met for the first time from 3-10 September 2002, at United Nations Headquarters in New York. The meeting was chaired by H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan), who was elected President of the bureau as one of the first orders of business, along with two Vice-Presidents and eighteen other members of the bureau, divided equally among all regions. The meeting was fairly uneventful, with delegates readily agreeing to adopt most of the work of the Preparatory Commission. Among the many instruments that were adopted were the Elements of Crimes and the Rules of Procedure and Evidence, and the budget for the first financial period.

The Assembly did agree to small changes to the Agreement on Privileges and Immunities regarding its potential application to nationals in their own States of nationality or residence. The Assembly also reached agreement on procedures for the election of judges, concluding what were five difficult months of informal consultations and negotiations. The nomination period for judges and the prosecutor was officially opened on 9 September 2002 (Please see the article by Pam Spees for more information).

Among the other decisions taken, the Assembly decided to transmit to the ICC the report of the intersessional meeting of experts held in March 2002 in The Hague and confirmed its desire to see the UN serve as the provisional secretariat for the Assembly, until such time that a decision can be taken as to the form and function of a permanent secretariat. The Bureau reiterated its intention to submit proposals on the subject of a permanent secretariat at the Assembly's second meeting, in September 2003.

The Assembly also postponed other decisions, including any relevant decisions on the International Criminal Bar and on the nomination period for the members of the Board of Directors of the Trust Fund for the benefit of victims. The bureau has also been requested by the Assembly to examine the question of appointing an external auditor and to report to the Assembly at the resumed session of the first meeting in February 2003. Finally, the bureau created a subcommittee to draft proposals for how the Assembly should continue discussions on the crime of aggression, to be further considered at the resumed session in February.

The Assembly also received an update on the work of the Advance Team and approved the appointment of Bruno Cathala (France) to serve as the first Director of Common Services for the Court. Mr. Cathala currently serves as the Deputy Registrar of the International Criminal Tribunal for the former Yugoslavia (ICTY). The mandate of the Advance Team was extended to 31 October 2002 to allow for overlap between the Advance Team and the staff of the Director's term of employment.

Finally, during the last two days, the Assembly heard general statements from forty-two States Parties (including states speaking on behalf of the European Union and the Rio Group), from six non-States Parties, and from Palestine on behalf of the Arab Group. The statements reiterated the governments' strong support for the Court and for the process to establish the Court, many also commending the role of civil society in the process. The Assembly also heard from the Coalition as well as high level representatives of seven Coalition member organizations. Statements from the Assembly of States Parties are available on the Coalition's website at http://www.iccw.n.org. Documents of the Assembly of States Parties, including a report on the first session, are available on the UN website at http://www.un.org/ law/icc/asps/aspsfr.htm.

Jennifer Schense is the Legal Adviser for the Coalition for the International Criminal Court.

The Agreement on Privileges and Immunities was officially opened for signature and ratification on 10 September 2002, and was signed that day by thirteen States and ratified by one: Norway. States are strongly encouraged to sign and notify this agreement as soon as possible.
ASP Adopts Unprecedented Voting Procedures for Election of Judges

by Pam Spees

After long and highly controversial negotiations on the rules of elections of judges and the Prosecutor at the 10th Preparatory Commission (PrepCom) meeting in early July 2002, delegates to the first session of the ICC Assembly of States Parties completed the discussions and adopted a final resolution on election procedures. These rules ensure that the elections of judges to the ICC will be the first elections to an international judicial institution subject to voting requirements for women, and also set in place important regional voting requirements to ensure fair geographical representation.

The negotiations on election rules were plagued at the outset by the lethargy of many delegations during the 9th PrepCom. This was due in part to the reluctance of some states, including the United Kingdom and France, to have rules that would contain any requirements or obligations whatsoever. For other delegations, the hesitation seemed to be the result of a genuine confusion about how to accommodate the many layers of the Statute’s requirements in a coherent way.

The inertia was broken when the delegates from Liechtenstein and Hungary renewed the discussions at the 10th PrepCom. Along with several co-signers, they introduced a proposal which provided a practical framework for the voting process that eventually led to the resolution adopted by the Assembly. The proposal was filed as a compromise between those governments wanting “free elections,” i.e., no mandates or restrictions, and those wanting quotas.

The proposal set out a system whereby delegates would be required to vote for a minimum number of male and female candidates, a minimum number of candidates from each region (as defined by the UN system), and a minimum number of candidates from List A (criminal law background) and List B (international law background). While many delegates involved in the negotiations were satisfied with this approach, there were difficulties sticking points on specific questions, such as the actual minimum voting requirements for gender and region, and whether delegates could have valid abstentions from voting.

Ultimately, delegates reached an impasse in the last moments of the 10th session on the issue of fair regional representation. The original proposal by Hun Gary and Liechtenstein provided a uniform minimum voting requirement of two judges from each region.

Some African countries sided with several countries from Western Europe in urging a system of proportional representation so that regions with more States Parties would have a higher minimum voting requirement than those with fewer. Many Asian states protested this variation and argued to maintain the original formula.

At the same time, France and the United Kingdom insisted there should be a provision allowing for abstention. The original proposal had provided that ballots not adhering to the minimum voting requirements would be invalidated. Opponents of abstention argued that it would undermine the voting procedures altogether.

These election rules were designed to ensure more transparency in the process, as demonstrated by the provision requiring that information about candidates posted on the UN website as soon as possible in any language. In addition, some provisions for the nomination process were intended to ensure that the requirements in Article 36(5) and 36(6) are implemented and taken into consideration during the election process, such as the notification to States Parties concerning the number of candidates from each region, i.e., gender, and in each category (ie. Lists A and B).

The nomination procedures also provide that the nomination period is extended until 8 December 2002 in the event the number of candidates in a particular category is less than what is required (see table for more information).

While the discussion of rules for the election process for judges reached a stalemate at the 10th PrepCom, delegates were able to agree on a series of nomination rules as well as rules for the election of the Prosecutor and Deputy Prosecutors. The rules relating to the election of the Prosecutor provide that nominations submitted should have the support of multiple states and further that the election of the Prosecutor should be done by consensus as much as possible. In the event consensus is not reached, the Prosecutor will be elected by an absolute majority of members of the Assembly.

The rules governing the elections were ultimately adopted by a resolution from the ASP. The resolution relies on the voting requirement system first introduced in the Hungary-Liechtenstein proposal. It requires that governments vote for at least: 9 candidates from List A and 5 from List B, 3 candidates from each region unless there are fewer than 3/18 States Parties from a region; and 6 male and female candidates unless there are fewer than 9 candidates from either gender in which case the voting requirement is reduced according to a scale set in the resolution (see table). The final resolution also requires that ballots not adhering to the voting requirements be invalidated. However, the minimum voting requirements are to be discontinued after four rounds of voting if all of the judges have not been elected by then.

Asian states which had previously protested the proportional geographical voting requirement accepted the enhanced provision which established the principle of uniform

ICC Nomination and Election Procedures

**Voting Requirements**
- **Qualifications.** Must vote for at least 9 from List A* and 5 from List B**.
- **Region.** Must vote for at least 3 candidates from each region. If the number of States Parties from a region is less than 3/18 of the total number of States Parties, the minimum voting requirement is one less than the number of candidates from that region.
- **Gender.** Must vote for at least six women and at least six men. If the number of candidates from either gender is fewer than 10, the following formula is to be applied:
  - No. of Candidates
  - **10 Female and Male Candidates**
  - **8 Female and Male Candidates**
  - **6 Female and Male Candidates**
  - **4 Female and Male Candidates**
  - **2 Female and Male Candidates**
  - **1 Female and Male Candidate**
  - **0 Female and Male Candidate**
- **Invalidation.** Ballots not meeting all of the voting requirements will be invalided.

**Discontinuation.** The use of minimum voting requirements will be discontinued after 4 rounds if all 18 judges have not been elected.

**Timeline**
- **9 September 2002 - Opening of nomination period**
- **1 November 2002 - The President of the ASP will inform States Parties if there are less than 10 qualified candidates in each category:**
  - 13 Candidates from List A*
  - 9 Candidates from List B**
  - 10 Female and Male Candidates
  - 6 Candidates from each region (if the number of States Parties from a region is less than 3/18 of the total number of States Parties at that moment, this number will be 4)
  - **30 November 2002 - Closing of nomination period (if extended) in the event the above numbers are not achieved**
  - **3-7 February 2003 - Elections of judges and Prosecutor**

* List A contains candidates with established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate, or in other similar capacity, in criminal proceedings.
** List B contains candidates with established competence in other aspects of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court.
It is well understood that States Parties to the Rome Statute, and not the International Criminal Court (ICC) itself, have the primary responsibility for bringing to justice those responsible for genocide, crimes against humanity, and war crimes. Consequently, with entry into force of the Statute on 1 July 2002, promoting the successful development of ICC implementing legislation in countries that have ratified the Statute has become an increasing priority. States that ratify the treaty no longer have a “grace period” in which to implement the provisions of the Rome Statute into domestic law. Upon ratification, there is a duty to exercise jurisdiction over the crimes contained in the Statute and to cooperate with the Court as necessary.

Unfortunately, despite the fact that 81 States have already ratified the Statute and several more will ratify before the end of the year, only a handful of these States have enacted legislation to implement the Statute’s provisions domestically. Thus, in many cases, even those States that wish to prosecute crimes within the ambit of the Court committed by their nationals, or upon their territory may not have the legal or procedural means to do so. At the same time, States will not be able to fulfill their obligations under the Rome Statute until they cooperate with the Court. Why are we faced with this situation? There is no clear answer, but there is one clear solution: the obstacles to domestic prosecution for the crimes under the Statute include the fact that, in many States, most crimes under international law are not crimes under national law. In other States, the scope of national jurisdiction is restricted to those situations where the crime is committed within the State’s borders, and thus it is insufficient to prosecute many cases of genocide, crimes against humanity and war crimes. A further obstacle is posed by the fact that some States simply ignore requests to surrender suspects to international tribunals, as national law refers only to a procedure for extradition of suspects on the basis of reciprocity. Moreover, amnesty laws and pardon procedures exist in many countries and may impede judicial action against those responsible for international crimes.

The solution to all of these obstacles is for States Parties to the Rome Statute to enact strong and effective legislation which unambiguously implements the legal and procedural provision of the Rome Statute into national law. A number of States have already made successful efforts to address these obstacles. One methodological approach to achieving this goal is the establishment of national commissions to draft implementing legislation. Such commissions, however, often consist solely of government officials. Meanwhile, there has been a growing awareness that NGOs, the International Committee for the Red Cross, lawyers and other experts on crimes under international law can play a significant role in drafting implementing legislation.

The Coalition for the ICC (CICC) strongly endorses the participation of civil society organizations and individuals in the implementation drafting process. Even more so than with the ratification campaign, the success of implementation efforts will take place, at least in part, at the grassroots level. National and local stakeholders must feel a sense of ownership in the implementation process, as the process itself is dependent upon country-specific legal and political circumstances that national officials will best understand. Even where direct involvement in drafting is not possible, advocacy efforts will be instrumental to the passage of strong and effective legislation. Moreover, the stakeholders must understand the legislation so that they can play a role in its application should a case arise in their respective countries. As the emphasis in the ICC cases, or should the Court make a cooperation request. A diverse range of civil society stakeholders should participate in implementation efforts. These include, but are not limited to, NGOs; bar associations; judges; university professors in the field of penal law and international criminal law; prosecutors’ groups; and child welfare organizations.

As there are many different stakeholders, so there are many ways in which they can contribute to implementation efforts. One proven example is the national law expert meeting is that CICC members have helped to organize, and which had a profound impact on the development of strong and effective implementing legislation. The experience provided through these meetings is often crucial to the ability of governments to draft implementing legislation, even where political will already exists, as they allow for a technical and results-oriented consideration of pertinent issues. In order to promote experience-sharing at these meetings, a small number of representatives from other countries are often invited to participate.

The CICC is committed to supporting its members in carrying out these and other implementation efforts, through its information services and coordination mechanisms. The Coalition will soon launch a new website (in English), which will provide copies of draft and enacted implementing legislation, NGO comments on this legislation, manuals and checklists for implementation efforts, major articles on implementation, as well as calendars of implementation-related events and contact information for implementation experts. Similar documents will be available on the CICC’s Spanish and French websites.

One of the principal challenges faced by any successful organization such as the CICC, is that it must provide substantially different services to its different members based upon their specific needs. While the Coalition has many members with significant expertise on these issues, other CICC members may want to become involved in implementation efforts but have limited experience. Providing them with a large amount of information alone may not place them in a position to advocate for and participate in the development of implementing legislation.

Consequently, the CICC will also engage in a systematic capacity-building effort through its regional coordinators, who maintain a presence in their regions and are already as focal points for CICC national and regional members. The CICC regional coordinators will work closely with members to build their capacity to work on implementation through regular training sessions and on-going support, and will have all essential implementation-related documents for their respective regions. The CICC looks forward to working more closely with all Coalition members as we seek to address the need for strong domestic implementing legislation to be enacted in all ratifying countries as quickly as possible. For more information, contact Isaac Rattau at: cicc12@iccs.org, or Hugo Relva at: hrrelva@way.com.ar (for inquiries on implementing in Latin America).

Residence of the International Criminal Court Inaugurated

The temporary site of the International Criminal Court now houses members of the Advance Team for the ICC, who will continue their work on the establishment of a functioning Court. The Advance Team, consisting of 8 technical experts, worked closely with the Host State to the prepare the first year budget for the Assembly of States Parties (ASP), which was adopted at the ASP’s first session in September 2002. Now, the team is assisting in the recruitment for and basic operations of the Court. As such, the Advance Team will act as a custodian for all information, evidence, and other materials which individuals, non-governmental organizations or others may present to the Court. Systems have been established to allow the Advance Team to take possession of such material, register it in accordance with international standards, and store it in a safe place until it can be given to the Prosecutor when he or she takes up office, which is expected to be early 2003.

The Court itself is located at the ARC building, on the outskirts of The Hague, and will likely move to its permanent residence at the Alexanderkazerne in 2010.

International Criminal Court

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Photo credit: Advance Team for the ICC.
### UPCOMING ICC EVENTS  
**October 2002 - March 2003**

<table>
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<th>Tentatively Scheduled</th>
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| **1-3 October** | First International Conference on Justice and Law, organized by the Supreme Popular Tribunal of the Republic of Cuba, Havana, Cuba. For more information, contact Dr. Ortelio Jaz Prieto at: dietsp@cenai.inf.cu or Midgalia Luna Cisneros at: midgalia@palco.cu  
| **3-4 October** | Conference on implementation of the Rome Statute in Mongolia, organized by the CICC and the Ministry of Foreign Affairs of Mongolia, with support from the Constitutional and Legal Project Institute (COLPI) and the Government of Canada. Ulaanbaatar, Mongolia. For more information, contact Isaac Flattau at: cicc12@iccnow.org  
| **4 October** | "Course on the International Criminal Court," oriented to lawyers and attorneys from the International Bar Association for Public Defense of Guatemala, Guatemala City, Guatemala. For more information, contact Jose Antonio Guevara at cicc20@iccnow.org  
| **7 October** | "Le principe d'universalité en droit pénal face à la criminalité envers les enfants" (International Symposium on Universality of Criminal Law with regard to Children), organized by Terre des Hommes Foundation, Zurich, Switzerland. For more information, contact Isaac Flattau at: cicc12@iccnow.org  
| **8-9 October** | Experts' Conference on the ICC: Ratification/Accession and Implementation of the Rome Statute, with the support of the Government of Canada, Phnom Penh, Cambodia. For more information, contact Evelyn Serrano at: ciccasia@iccnow.org  
| **9-11 October** | "Forum on Human Rights," organized by Sistema Educativo UAS-ITIESO, an association formed by educational centers from the Compañía Jesús in Mexico, Puebla, Mexico. For more information, visit: http://www.pue.uass.mx/forodh/  
| **11 October** | "Paradigms of International Justice," a conference organized by the Whitney R. Harris Institute for Global Legal Studies at Washington University School of Law. Keynote speakers include: Professor M. Cherif Bassiouni, International Human Rights Law Institute; Richard Dicker, Human Rights Watch; David Schell, United Nations Association of the United States of America and Former Ambassador-at-Large for Human Rights, South African Constitutional Court and first Chief Prosecutor to the International Criminal Tribunal for the Former Yugoslavia (ICTY); St. Louis, Missouri, United States. For more information, visit: http://law.wustl.edu/igls/current.html or contact Linda McClain via phone: +1-314-935-7988 or email: lmcclain@wulaw.wustl.edu  
| **14-16 October** | "International Seminar on the ICC," organized by the French Embassy in Peru, in collaboration with the Comision Andina "EYES on the ICC: What Americans Want to Know about the new International Criminal Court," a half-day conference at the University of Maine Law School, organized by the Independent Student Coalition for the ICC. Portland, Maine, United States. For more information, contact thesil@midcoast.com or register online at: www.unamaine.org/ICCEvent  
| **18-20 October** | Conference on Universal Jurisdiction over International Crimes, organized by Africa Legal Aid, to include a discussion of ICC implementing legislation. Arusha, Tanzania. For more information, contact Evelyn Ankuah at: EA.Ahkmabi@AFLA.unamaas.nl  
| **21-27 October** | Conventions on draft implementing legislation, organized by the Government of the Democratic Republic of Congo, Lawyers' Committee for Human Rights, Human Rights Watch, and CICC. Kinshasa and Lumumbashi, Democratic Republic of Congo. For more information, contact Alphonse Nkunzimana at cicc8@iccnow.org  
| **26 October** | "EYES on the ICC: What Americans Want to Know about the new International Criminal Court," a half-day conference at the University of Maine Law School, organized by the Independent Student Coalition for the ICC. Portland, Maine, United States. For more information, contact thesil@midcoast.com or register online at: www.unamaine.org/ICCEvent  
| **29-31 October** | "La Corte Penal Internacional, su importancia, Funcionamiento y Futuros Retos, (The International Criminal Court: Importance, Functioning and Upcoming Challenges)" organized by the InterAmerican Institute on Human Rights, Universidad de La Salle, and Colegio de Abogados de Costa Rica, in collaboration with the Supreme Court of Costa Rica and the International Committee for the Red Cross. San José, Costa Rica. For more information, contact Kasia Jiménez at: katiag@costarricense.cr  
| **4-6 November** | Parliamentary Assembly for the International Criminal Court (ICC) and the Promotion of the Rule of Law, organized by Parliamentarians for Global Action with the support of the European Commission, the Canadian Department of Foreign Affairs and International Trade (DFAT), the Government of Sweden and the Ford Foundation. Ottawa, Canada. For more information, contact Juan Kim at: juan.kim@pgaction.org  
| **15-18 November** | Conference on the International Criminal Court, organized by ERA Consumers Group and Forum Asia, with support from the European Union. Kuala Lumpur, Malaysia. For more information, contact Niza Conception at: niza@forumasia.org  
| December TBD | Follow up workshop on the ICC, jointly organized by CICC, Forum Asia and INSEC Kathmandu, Nepal. For more information, contact Niza Conception at: niza@forumasia.org  
| **14-16 December** | Forensi Investigation of Genocide, War Crimes and Crimes Against Humanity: Mass Graves Protocols Workshop, organized by Forensic Foundation Poole, United Kingdom. For more information, contact Judy Geldart at: jgeldart@bournemouth.ac.uk  
| **3-7 February** | Resumed Meeting of Assembly of States Parties to the Rome Statute, held at UN headquarters. New York, United States. For more information, contact: cicc8@iccnow.org  

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"Above all, the independence, impartiality and the integrity of the Court must be preserved. The ICC is not — and must never become — an organ for political witch hunting. Rather, it must serve as a bastion against tyranny and lawlessness, and as a building block in the global architecture of collective security."

— UN Secretary General Kofi Annan at the historic first session of the Assembly of States Parties to the Rome Statute of the ICC (10 September 2002)

"We, the member states of the Rio Group, believe that the integrity and effectiveness of the Rome Statute is not negotiable. We are convinced that its full application and interpretation, in keeping with the principles of public international law and the law of treaties, are absolutely necessary to ensure the noble objectives which motivated the creation of the Court. We therefore, urgently plead to all States to respect both the letter and the spirit of the Rome Statute, and actively guarantee its effectiveness and legitimacy. The Rio Group will make the strongest efforts to this effect. ... The seed planted in Nuremberg, today, after more than 5 decades, has finally born fruits. Congratulations."

— H.E. Mr. Bruno Stagno, Ambassador and Permanent Representative of Costa Rica to the United Nations, on behalf of the Rio Group (9 September 2002)

For even amongst the Court’s detractors, I am convinced that there is universal consensus that all States have a duty to the countless victims of crimes against humanity, to their survivors, and to the succeeding generations who will bear the burden of their legacy—an obligation to do all that is in our power to prevent those horrors from recurring. And while there may be those who advocate the ad hoc and often unilateral pursuit of these aims, I would contrast that view with the wise words of that great American jurist Robert Jackson at Nuremberg: ‘We are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us.’

It was, I believe, this philosophy that inspired the creation of the Court. It is this spirit that must inform our future endeavours."

— The Honorable Bill Graham, Minister of Foreign Affairs of Canada (9 September 2002)

"Individuals — of whatever rank in society — who participate in serious and widespread violations of international humanitarian law can no longer expect to be acting with impunity. We are convinced that the ICC will serve as a deterrent and a mechanism of accountability in the years to come."

— H.E. Ms. Lene Espersen, Minister of Justice of Denmark, on behalf of the European Union and associated countries
SELECTED LIST OF DOCUMENTS ADOPTED BY THE ASSEMBLY OF STATES PARTIES:

Below is a selected list of documents adopted at the first session of the Assembly of States Parties. Nearly 30 instruments were adopted during this historic meeting, covering issues related to the crime of aggression, the creation of subsidiary bodies of the ASP, financial matters, issues relating to officials and staff of the Court, and other issues. For a complete list of documents, visit: http://www.un.org/law/icc/asp/aspfra.htm

- Rules of Procedure and Evidence (PCNICC/2000/1/Add.1)
- Elements of Crimes (PCNICC/2000/1/Add.2)
- A relationship agreement between the Court and the United Nations (PCNICC/2001/1/Add.1)
- Basic principles governing a headquarters agreement to be negotiated between the Court and the host country (PCNICC/2002/1/Add.1)
- Financial regulations and rules (PCNICC/2001/1/Add.2 and Corr.1 and PCNICC/2002/1/Add.2)
- An agreement on the privileges and immunities of the Court (PCNICC/2001/1/Add.3)
- A budget for the first financial year (PCNICC/2002/2/Add.1)
- The rules of procedure of the Assembly of States Parties (PCNICC/2001/1/Add.4)
- Composition of the Bureau at the first meeting of the Assembly of States Parties (PCNICC/2002/2, para. 11)
- Draft resolution of the Assembly of States Parties on the establishment of the Committee on Budget and Finance (PCNICC/2001/1, annex I)
- Draft resolution of the Assembly of States Parties relating to the establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims (PCNICC/2002/2, annex XIII)
- Draft resolution of the Assembly of States Parties relating to the procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court (PCNICC/2002/2, annex XII)
- Draft decision of the Assembly of States Parties relating to interim arrangements for the exercise of authority pending the assumption of office by the Registrar (PCNICC/2002/2, annex VII)
- Activities of the Bureau subcommittee acting as an interlocutory with the host country (PCNICCC/2002/L.1/Rev.1, paras. 11-13; PCNICC/2002/L.4/Rev.1, para. 11; and PCNICC/2002/2, paras. 12 and 13)
- Establishment of an international criminal bar (PCNICC/2002/2, para. 14)

"From around the world, strong and clear voices have been raised in a call for justice to prevail, by punishing the most serious of crimes of international concern. The Court has come to existence as the answer to that call. In order for this new body to fulfill the expectations placed upon it, it must be responsive to every voice which may call to it. In this regard, it is worthwhile to recall that almost all delegates have emphasized, throughout the discussion of the Preparatory Commission and, in particular, in this first Assembly, the importance of the universal nature of this Court."
-- Mr. Tomoaki Ishigaki, representative of Japan to the First Assembly of States Parties (9 September 2002)

"For this institution to be credible, the judges and the prosecutor must be elected in a fair, transparent and democratic process. Quality and competence should be the main criteria. I have confidence that the nomination and election procedure which delegates agreed on last week will be adequate to secure a fair election process."
-- H. E. Mr. Jaag de Hoop Scheffer, Minister of Foreign Affairs of the Kingdom of the Netherlands (9 September 2002)

"The first Assembly of States Parties enables us to send a clear message that perpetrators of atrocities will no longer remain unpunished. This represents not only enormous progress for the rule of law the world over; it is a major step forward in the history of humankind. We have finally ensured, for the victims of these atrocities, that there is access to justice and redress."
-- The Honorable Eke Ahmed Halloway, Attorney General and Minister of Justice of the Republic of Sierra Leone (10 September 2002)

"We all must work to ensure that the ICC is given the opportunity to prove itself. We are doing this in the memory of the millions who have died in conflicts in recent decades; children, women, and men. We are doing it for future generations; to bring to an end the culture of impunity, to ensure that the most serious crimes of concern to the international community do not go unpunished, and in the words of the preamble "to guarantee lasting respect for and enforcement of international justice."
-- H.E. Ambassador Don MacKay, Permanent Representative of New Zealand to the United Nations (10 September 2002)
Conferences Stress Implementation and Universal Ratification

As we move from entry into force of the Rome Statute to a functioning Court, governments, NGO representatives, lawyers and members of the media organized conferences around the world to develop strategies for ratification and implementation of the Rome Statute, as well as to discuss issues related to the administration of the Court. Meetings were held in countries in all regions, illustrating the importance placed on universal acceptance of the ICC.

Africa

8th Annual Women’s World Congress, held at Makerere University in Kampala, Uganda from 21-27 July 2002. Participants were drawn from every region of the world to address the theme: “Documenting experiences of women in conflict resolution and peace,” including a panel entitled, “The International Criminal Court: A mechanism for solving the problem of impunity in armed conflict.” Participants viewed and discussed a film produced by the Women’s Caucus for Gender Justice, “If Hope were Enough.” For more information, contact Mary Kabogoza at: cicceafrica@iccnow.org

Seminars on International and Domestic Justice, organized jointly by the Burundian League of Human Rights (ITEKA), and the International Federation of the Leagues of Human Rights (IDH), held in Bujumbura, Burundi, from 22-26 July 2002. About fifty participants from governments, judicial authorities, the Bar, the Parliament, NGOs, and the media attended the meeting, which was opened by the Burundian Minister of Human Rights and Institutional Reform. Among the topics at the conference were: international and regional standards relating to the equitable trial; the International Criminal Court; universal jurisdiction; atrocities and immunities; systems of traditional justice; and the death penalty. One session was also devoted to conforming the Rome Statute with national legislation. For more information, contact Desire Assogbavi at: cicc9@iccnow.org

Americas

International Seminar on Implementation of the Rome Statute in Peru, organized by the Public Ministry of the Prosecutor’s Office of Peru, Fiscalía de la Nación and the Instituto de Investigaciones Zevallos Roeder, in collaboration with the Asociación de Abogados para la Defensa Penal Internacional and the CICC, held in Lima, Peru from 21-23 August 2002. More than 300 experts on the ICC attended the meeting, in addition to prosecutors from the Peruvian Chamber of Prosecutors in the Public Ministry, in order to discuss implementation of the Rome Statute. This three-day seminar included workshops on the “Ecuadorian Experience in Implementation” and “Cooperation with the ICC”, and was the second seminar on implementation in the region. For more information, contact Olena Wolcott at: owolcott@psu.edu.pe

Seminars on the International Criminal Court, organized by Colegio de Abogados de la Paz Sociedad Boliviana de Ciencias Penales. Among the topics discussed were the defense before the ICC, international cooperation and attorneys and the ICC. For more information, contact Edgar Montano at: emontano@ceibo.entelnet.bo

In celebration of World Day for International Justice on July 17th, non-governmental organizations around the world organized conferences, press briefings, celebrations and other events in recognition of the emerging system of international justice. As this day also marks the fourth anniversary of the adoption of the Rome Statute on 17 July 1998, NGOs planned activities to raise awareness of and solicit involvement in the campaign for the ICC. For more information on this year’s July 17th events, visit: www.iccnw.org/July17.html or contact Joydeep Sen Gupta at: cicc6@iccnow.org

“Women and Public International Litigation,” a panel discussion organized by the Project on International Courts and Tribunals (PICT), held at New York University Law School on 9 September 2002. The panel drew attention to the importance of securing fair representation of women judges and professionals at the International Criminal Court and other tribunals. The panel highlighted that women judges are absent from or under-represented at international courts and tribunals. For example, of the 173 judges who comprise the twelve principal international courts, only twenty-six are women. The chair of the panel was Cherie Booth QC, and other panelists included: Kelly Askin, Christine Chinkin, Thordis Ingadottir, H.E. Navanethem Pillay, Pam Spees, Cate Steains, and Ambassador Wgger Christian Strømmen. For background papers and more information, visit the PICT website at: www.pict-peti.org

Asia

“The Assembly for Japan’s early accession to the Rome Statute,” a conference organized by the Japanese Network for the ICC (JNCC), held in Tokyo, Japan on 1 July 2002. Participants included members of the Diet of Japan as well as NGO representatives. During the meeting, Professor Osamu Niikura of Aoyama Gakuin University explained the ICC’s jurisdiction over genocide, crimes against humanity and war crimes. Delegates from each political party (Liberal Democratic, Democratic, Komei, Communist, Liberal, Social Democratic, and Conservative) then urged Japan’s early accession to the Rome Statute. Mr. Mitsunori Ueki, President of the World Federalist Movement of Japan, proposed the establishment of a Diet committee for the promotion of Japan’s accession to the Rome Statute, which was approved. The conference also adopted an appeal that “the government of Japan approve the Rome Statute and accede to it as soon as possible.” For more information, contact Mr. Takashi Kirihashi at: kyw07636@nifty.ne.jp

Europe

“Hearing on the International Criminal Court: Entry into Force of the Rome Statute and the Challenges Ahead,” organized by the European Parliament and the CICC European office, held in Brussels, Belgium on 25 June 2002. The conference celebrated the entry into force of the Rome Statute and called for a renewed commitment for the ICC. The conference also included presentations on the key issues to be addressed in the Court’s first year, the role of the European Union in obtaining worldwide and geographically balanced support for the European Conference on Ratification and Implementation of the Rome Statute of the ICC, organized by the Senate of Spain in collaboration with Parlaments for Global Action (PAGA), held in Madrid, Spain from 27-28 June 2002. (l-r) H.E. Jose Maria Michavil Nafrez, Junior Minister of Justice of Spain; H.E. Alfredo Prada Presa, Vicepresident of the Senate of Spain & Chairman of the Madrid Conference; H.E. Senator Marcelo Lopez, President of the Senate of Argentina and PAGA Board Member; and Mr. Manuel Cervero, Secretary General of the Senate of Spain.
Support of Least Developed Countries Vital to ICC

One of the reasons the Coalition is able to celebrate the establishment of the ICC is the significant role played by Least Developed Countries (LDCs). At the time of writing, 81 countries from every region of the world have ratified the Rome Statute, and approximately one-half of States Parties are developing or least developed countries. This represents one of the important achievements of the United Nations Voluntary Trust Fund to assist Least Developed Countries, and of the governments and others that supported and cooperated with the Trust Fund. Special recognition should be extended to the contributions made by the International Human Rights Institute (IHRLI) at DePaul University led by Professor Cherif Bassioni. IHRLI has been a member of the Coalition since 1996.

The initiative to assist LDCs has had a significant impact on the legitimacy of the new International Criminal Court. The participation of Least Developed Countries in the ICC process has not only made the establishment of the Court more universal and democratic, but has also provided opportunities for more countries to exchange information, ideas and strategies with regard to ratification and implementation of the Rome Statute. This has resulted in more universal support for the Court, a key factor in ensuring its fairness and effectiveness as a new world institution.

The International Human Rights Institute at DePaul University, in cooperation with the United Nations Voluntary Trust Fund, has been helping LDC delegates participate at Preparatory Commission meetings since 1997, with assistance ranging from logistical to technical support. In addition, IHRLI helped LDCs take part in the negotiations at the first meeting of the ASP. In total, IHRLI has assisted 40 delegations with a cumulative 158 delegates over 10 meetings from 1997 to the present, including the five-week long Rome Diplomatic Conference that culminated in the adoption of the Rome Statute for the International Criminal Court on 17 July 1998. In addition, IHRLI, in cooperation with the International Institute for Higher Studies in Criminal Sciences (ISISC) and the Association Internationale de Droit Pénal, organized a number of inter-sessional meetings in Siracusa, Italy in 1996, 1997 and 1999, where 65 countries were represented with a total of 245 delegates, many from LDCs. The combined resources of these organizations have made significant contributions to the work of the ICC Preparatory Commission, and ultimately to the establishment of a more universal Court. The John D. and Catherine T. MacArthur Foundation, which helps fund the Coalition, provided major contributions to IHRLI for the LDC program.

The Coalition estimates that governments and others contributed over a million dollars to the ICC Trust Fund for LDCs since 1996. Reportedly, more than $100,000 remains in the fund that the Coalition hopes will be converted for use by LDCs in the Assembly of States Parties.
Resources for the ICC Campaign

New Web Resources

http://www.iccnow.org

The Coalition for the International Criminal Court is launching its new website! This resource features a new ratification and implementation toolkit, a well-organized documents section and press room, reports on ICC meetings as well as a calendar of all upcoming events, a new section on ‘building the Court’ including information on elections, an updated country-by-country section on the status of ratification and implementation efforts, and much more. This new website is designed to be an even more effective tool to serve all governments, NGOs, academics, students and others interested in following the ICC process and involved in the worldwide campaign to ensure that the Court will be as fair, effective and independent as possible.

http://www.icc.int/

The official website of the International Criminal Court has been launched. This website has five sections:
* The ICC at a Glance (8 subsections)
* Media Information (3 subsections)
* Internet Links
* Contact Details
* Employment Opportunities


The UN website for the International Criminal Court now includes a special section on the upcoming election of judges and prosecutor for the ICC. The website lists the nominees whose applications have been received and processed by the UN. Available to the public for review are the credentials of the nominees and letters of support from their respective governments.

http://www.iccwomen.org/

The Women’s Caucus for Gender Justice has a new section of their website, dedicated to fair representation of women and men judges on the International Criminal Court.

http://web.amnesty.org/web/icc_petition.nsf

“International Justice System Under Attack”: Amnesty International has launched an online petition urging all governments against signing “impunity agreements” with the United States.

http://www.EndGenocide.org/

The WFA Campaign to End Genocide website has been updated with the latest on US actions against the ICC. You will find an overview of the US effort to strong arm countries into agreements exempting US nationals from the jurisdiction of the Court, a chronology of ICC legislation from May 2001-August 2002, a section-by-section summary of the American Servicemembers Protection Act (ASPA), and an analysis of the waivers and exceptions in the ASPA.

http://www.amicc.org/

A new Spanish resource is now available, entitled “La Corte penal Internacional: Ensayos para la Ratificacion e Implem en tacion de su Estatuto”, edited by José A. Guevara B. and Mariana Valdes Riveroll, and published by the Universidad Iberoamericana, the Foreign Affairs Secretary of Mexico and the CICC (2002). ISBN# 968-859-466-0. For more information, contact José Guevara at: cicc6@iccnow.org

CICC Faith-based Caucus: An electronic forum for religious NGOs and the interfaith community working to support the ICC. You can choose to read all postings on the web, or receive only one email a day. To subscribe, send an email to: icc-faithcaucus-subscribe@yahoogroups.com

As part of an information project on Universal Jurisdiction, the Center for Justice and Accountability and Redress have an email list that provides a forum for experts and practitioners to keep abreast of the latest developments and exchange their information on this issue. To subscribe, send an email to: uj-info-subscribe@yahoogroups.com

Portuguese email list on the ICC (TPI - Tribunal Penal Internacional, Português): This Portuguese language email group disseminates information on developments toward ratification and implementation of the Rome Statute, media reports, and progress toward a functioning Court. To subscribe, send a blank email to: tpi-port-subscribe@yahoogroups.com

Articles/Books

The next issue of the Berlin Journal, published by the American Academy, will be dedicated to the ICC. It will include a paper of Professor Ruth Wedgwood and replies by various people, including Justice Richard Goldstone and Kai Ambos. For more information, please contact Miranda Robbins, Assistant Editor of The Berlin Journal, at: m.robbins@snafu.de

A new book entitled, “International Criminal Justice and Children,” has been published by the UNICEF Innocenti Research Centre and No Peace Without Justice (September 2002). For more information, contact Joysdeep Sengupta at: cicc6@iccnow.org

A new Spanish resource is now available, entitled “La Corte penal Internacional: Ensayos para la Ratificacion e Implementacion de su Estatuto”, edited by José A. Guevara B. and Mariana Valdes Riveroll, and published by the Universidad Iberoamericana, the Foreign Affairs Secretary of Mexico and the CICC (2002). ISBN# 968-859-466-0. For more information, contact José Guevara at: cicc2@iccnow.org

http://www.cicc.org/

The Arab Coalition for the ICC has a new website (in Arabic), which features general information about the ICC, activities to promote the ICC in the region, information about network contacts in Arab countries, and publications on the ICC.
Coalition Nominated for Nobel Peace Prize

The Coalition for the ICC has been nominated for the 2002 Nobel Peace Prize, an honor that has been noted in recent newspaper articles since the prize will be awarded in the coming weeks. The Coalition Secretariat is deeply honored that a distinguished group of international legal experts valued the contributions of the Coalition for the ICC as so significant to the struggle against impunity that they have nominated it for the Nobel Peace Prize.

In the nomination cover letter, the legal experts stated, "The Coalition Secretariat is deeply honored that a distinguished group of international legal experts valued the contributions of the Coalition for the ICC as so significant to the struggle against impunity that they have nominated it for the Nobel Peace Prize."

Elections, continued from page 5

The success of the coalition is the result of a comprehensive and multifaceted strategy that has been implemented by the Coalition Secretariat, working with a broad range of international organizations and NGOs. The Coalition has been able to achieve this success through the cooperation of governments, international organizations, and NGOs, as well as through the support of individuals and organizations around the world.

Pam Spees is the Program Director for the Women's Caucus for Gender Justice, a network of individuals and groups committed to strengthening advocacy for women's human rights.
PrepCom Completes its Mandate as Rome Statute Enters into Force
By Matthias Goldmann

The tenth and final session of the Preparatory Commission for the International Criminal Court (PrepCom) was held at UN Headquarters in New York from 1-12 July 2002. This meeting was of historic significance, as its opening day coincided with the entry into force of the Rome Statute of the International Criminal Court. The Chairman of the Bureau for the ICC, Ambassador Philippe Kirsch (Canada), called it a day “that brings hope to all who seek an end to impunity for the worst crimes against human kind.” As of that day, the Advance Team of the ICC set up its offices in the ICC’s interim building in The Hague. With Australia and Honduras depositing their instruments of ratification on the same day, the meeting started.

The PrepCom was established at the end of the Rome Conference in 1998 and was charged with the preparation of documents necessary for the effective functioning of the Court, including the Rules of Procedure and Evidence, the Elements of Crimes, the Agreement on Privileges and Immunities of the Court and its personnel, and other important legal, financial, and administrative instruments. Most issues on the agenda of the PrepCom had already been tackled at previous sessions. At the final session, crucial issues relating to the work of the Assembly of States Parties (the Court’s governing body comprised of countries that ratify the Rome Statute) and a number of financial issues including the Trust Fund for Victims, were to be brought to a close. The Crime of Aggression was also discussed, including consideration of how to take the debate forward in the Assembly of States Parties about the definition and precursors for the exercise of the Court’s jurisdiction over this crime.

The session was somewhat overshadowed by the discussions in the Security Council in response to US attempts to exempt its peacekeepers and other officials from the ICC’s reach, claiming that US nationals participating in the UN missions in Bosnia and Herzegovina had been put at risk when the United States vetoed a Security Council resolution to extend the mission, on the grounds that US demands for immunity from surrender to the Court were not met. In light of this confrontation, a special plenary meeting of the PrepCom was convened, where numerous delegations declared that the Security Council would exceed its powers and undermine the integrity of the Rome Statute, should it yield to US pressure. The PrepCom adopted a statement urging the Security Council to fully respect the letter and spirit of the Rome Statute, and more than 120 countries made or re-emphasized by statements made to the same effect in an open session of the Security Council on July 10. On the final day of the session, a resolution was adopted by the Security Council after several days of acrimony and debate over numerous versions of the draft resolution. Resolution 1422, adopted on 12 July 2002, provides a one-year renewable exemption for “current or former officials or personnel from a contributing State not a Party to the Rome Statute over acts or omissions relating to a United Nations mission or authorized operation.” This was generally considered to be a major step back from the original US proposal, but many still questioned its legality.

Although the proceedings in the Security Council were a distraction from the agenda of the PrepCom, delegates at the meeting completed their work on time. The tenth session consisted of the remaining five working groups that were yet to conclude their work. These included working groups on the Crime of Aggression, Preparatory Documents for the Assembly of States Parties, the First Year Report, the Remuneration of Judges, and other Financial Issues including the Victims Trust Fund.

The drafting of procedures for the election of judges, the Prosecutor and the Registrar was postponed until the central issue of the working group on the Assembly of States Parties—Preparatory Documents. It was again co-ordinated by Mr. Staffan de Mistura (Italy) and contained a number of financial issues including the Trust Fund for Victims. Following the Crime of Aggression, the PrepCom was asked to con sider how to take the debate forward in the Assembly of States Parties about the definition and precursors for the exercise of jurisdiction by the ICC. The purpose of this approach was to achieve conformity between the provision on the crime of aggression and the other crimes under the Rome Statute. Although there was little time left for open debate, most delegations welcomed the new approach that would give the negotiations a new central thread.

The co-ordinator of this working group, Ms. Silvia Fernandez de Gurmendi (Argentina), issued a revised discussion paper at the end of the session, which contained different options for the definition of the crime and the conditions for the exercise of jurisdiction. The second part of the paper listed the elements of the crime of aggression, thereby reflecting the Sejmowo纹理 proposal. Although the paper is likely to bring new momentum to the discussion, there was no agreement as to the most crucial issues, including the role of the Security Council in the implementation of an act of aggression.

The working group on the Remuneration of Judges, chaired by Mr. John Holmes (Canada), finalized its work on the conditions of service of non-full-time judges. It was decided that these judges will receive an annual allowance of 20,000 euros, and that those whose annual income is less than 60,000 euros will receive an additional allowance to supplement their income up to that amount. However, it was decided that non-full-time judges will not be granted pension benefits. As had been previously decided, full-time judges will earn 180,000 euros.

The working group on the Victims Trust Fund, under the chairmanship of Ms. Gaile Ramozaus (Trinidad & Tobago), drafted a resolution on the establishment of a Trust Fund for the benefit of victims of crimes under the jurisdiction of the Court. The Trust Fund will be managed by a five-member Board of Directors, each one from each geographical region. The Directors must have experience in assistance to victims of serious crimes and must work on a provisional period, at this session measures were taken for the timely establishment of a permanent Secretariat of the Assembly, which may be independent from the UN. At this session, delegations were quite concerned about establishing a mechanism to continue the discussion in the working group on the Crime of Aggression after the end of the PrepCom and to note that this crime can only be included in the Rome Statute at a treaty review conference, which can only take place seven years after entry into force or 2009. Based on a proposal by the Movement of Non-Aligned Countries, a draft resolution was adopted by which a special working group of the Assembly of States Parties on the crime of aggression is to be established.

Under the able sponsorship of Ambassador Philippe Kirsch of Canada, the Preparatory Commission for the ICC successfully completed its final session on 12 July 2002.

The draft provisions for the establishment of the Court were contained in the Rome Statute, which was completed in 1998 and was now scheduled for 3-7 February 2003. In order to enable as many States as possible to nominate candidates, the closing of the nomination period was established as 30 November 2002. States in the process of ratification that wish to submit a nomination will have to deposit their instrument of ratification before the end of November.

The Rome Statute provides that at the Court must be comprised of judges with criminal law experience as well as judges with legal experience, and that the different geographical regions, the principal legal systems of the world, and both genders should be adequately represented among the judges. In order to implement these criteria, the proposal was made that States’ Parties be obliged to vote for a certain minimum number of candidates from each of the above-mentioned categories. This proposal was not accepted by delegations that favored outcome-oriented quotas or those that were against any restrictions at all. No agreement was achieved on this issue, especially since some differences on the geographical distribution of seats could not be bridged. This issue was left to be reconsidered by the Assembly of States Parties.

Regarding the Committee on Budget and Finance, it was decided that the group of Western European and other States will be entitled to four seats in the Committee, while the other groups will have two seats each. Moreover, each geographical group would hold one of the key positions of the Bureau of the Assembly, H.R.H. Prince Zeid Ra’ad Zeid Al Hussein of Jordan was nominated to be the first President of the Assembly.

While it was decided at the ninth session that the UN Secretariat should provide the Assembly with secretariat services for a
Impunity, continued from page 3

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page

nary, with the Law of Treaties, "a state is obliged to refrain
travesty.
However, as a non-Party that has pledged
to the execution of requests for
requests for cooperation under the Court. By contrast, the
so-called Article 98 agreements that the US is seeking
are constitutionally sole for the purpose of providing
individuals or groups of individuals with immunity from the ICC.
Moreover, Article 98 was included in the
Rome Statute, in accordance with the principle
of complementarity, in order to reinforce national
legal systems’ primary responsibility over their
nations. This provision does not accord
immunity from prosecution to individuals, as
the Court would maintain its oversight jurisdiction.
However, the US Party that has pledged
to cooperate with the Court, the US is seeking
impunity even if the investigation and
prosecution of a national government is a
temporary matter.

Under Article 18 of the Vienna Convention
on the Law of Treaties, "a state is obliged to refrain
from acts which would defeat the object and
purpose of the treaty." The object and purpose of
the Rome Statute is to end impunity and to
maintain the fundamental purpose – under Article
27 – that no one is above the law. Any possible
exception from the Statute must, therefore, be
unprecedentedly, in a manner consistent with
its object and purpose. Thus, any agreement that
precludes the ICC from exercising its
complementary function of acting when a state is
unable or unwilling to do so, defeats the object
and purpose of the Statute as well as
to the execution of requests for
provision for cooperation under the Court. By contrast, the
so-called Article 98 agreements that the US is seeking
are constitutionally sole for the purpose of providing
individuals or groups of individuals with immunity from the ICC.
Moreover, Article 98 was included in the
Rome Statute, in accordance with the principle
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However, the US Party that has pledged
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Under Article 18 of the Vienna Convention
on the Law of Treaties, "a state is obliged to refrain
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exception from the Statute must, therefore, be
unprecedentedly, in a manner consistent with
its object and purpose. Thus, any agreement that
precludes the ICC from exercising its
complementary function of acting when a state is
unable or unwilling to do so, defeats the object
and purpose of the Statute as well as
to the execution of requests for
provision for cooperation under the Court. By contrast, the
so-called Article 98 agreements that the US is seeking
are constitutionally sole for the purpose of providing
individuals or groups of individuals with immunity from the ICC.
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signatories that enter into so-called Article 98
agreements that create impunity will violate their
obligations under the Rome Statute and the
Vienna Convention. States that ratify such
agreements could also be in contravention of their
obligations under the Geneva Conventions, which enshrine the legal
principle of ad bellum jus ad bellum – States’ responsibility of
States either to prosecute serious violations of international humanitarian law or to extradite
them to a jurisdiction that will. All international
agreements, including SOPAs, must ensure
that they do not lead to impunity and a denial of the
right of of some to reparations.

Furthermore, the US is seeking coverage over
a broader range of persons than in any other
agreement or as indicated in Security Council
Resolution 1422. Indeed, the so-called Article 98
agreements seek to cover both current and former
officials, including, in some instances, former
American civilian defense contractors regardless of
nationality, and are not limited to persons
who have connection to a UN established or
authorized organization, as in Resolution 1422. One
should further note that a decision on whether
surrender is barred by Article 98(2) is up to the
International Criminal Court alone, and not
the self-regulating decision of a State.

John Washburn, Convener of the
American NGO Coalition for
the ICC, and Heather Hamilton,
Coordinator of the Working
Group for the ICC, strategize about
the US attempts to seek
immunity for its
peacekeepers.

At the COJUR meeting, proposals were made
for changes to the agreement to make them
consistent with the Statute: provisions would
need to be included to ensure that persons who
commit crimes within the jurisdiction of the
Court would not enjoy impunity; any solution
could only cover the surrender of persons who are
not nationals of the ICC state party; and only
persons on the territory of a requested state that
had been sent by a sending state could be
covered by the agreement. The manner in which these
basic principles will be interpreted remains to be
determined, and the formal position of the European
Union will only be known after the General
Affairs Council meeting on 30 September. The
Coalition hopes that the European Union will
bear in mind the critical impact that its decision
will have on the resolution of this issue in other
capital agreements, and will base its response in sound legal
analysis. The Coalition also strongly encourages other
region al groups such as the Rio Group and the
South ern African Development Community
to develop common positions on the legality of
the proposed US agreements. Again, short-term
political considerations can not be permitted to weaken a treaty that has entered into force and
that has such widespread international support.

American Servicemen’s Protection Act

On 2 August 2002, President Bush signed into law the
American Servicemen’s Protection Act (ASPA),
representing a national effort to
undermine the Court through anti-ICC
legislation. The final version of the ASPA is weaker
than the original Act introduced by Tom Delay in
Congress and Jesse Helms in the Senate over a
year ago. While the bill still contains harsh
language regarding the ICC, the "invasion" provision allowing for the
President to "use all means necessary and appropriate" to free
a US national detained by the Court, in reality it
does not require the President to enact any of its provisions
due to its broad wavers. The new draft
also benefits from language that allows the US
to cooperate with the ICC in order to bring criminals
who commit egregious crimes to justice (the
"Dodd-Wyden Amendment.)

Officials in the Bush Administration, making
use of Section 2007 of the ASPA, have, reportedly,
warned countries that they could lose all US
military assistance if they become or were
members of the ICC without pledging to protect
US nationals in the current treaties from
the Court’s reach, via so-called Article 98
agreements. This action represents the United States’ broadest
and most coercive tool so far. However, as noted
above, the waivers in the legislation are such that
the President is not in fact required to follow the
provisions and the decision to invoke them is left to
belligerent governments acceptable agreements deemed illegal by
almost all US citizens (who have unilaterally
taken legal action), which
to the US administration.

Our thanks to Ettu Tumbay, of the Independent
Student Coalition for the ICC, who contributed to this article.

PrepCom, continued from page 14

pro bono basis. The Board shall also determine the acceptance of voluntary contributions to the
Fund, which must be in keeping with the goals
of the Fund. NGOs were concerned about the
potential for the independence of the Trust
Fund to be compromised if the Registrar were
to play a role in its administration. However, it
was decided that the Registrar would be on the
Board, and the Board would be in an advisory
capacity, without specifying the tasks of the Registry.
The post of Executive Director for the administration of
the Trust Fund may be created outside the
Registry.

Mr. Valentin Zellweger (Switzerland) was
entrusted with the challenging task of
coordinating the working group on the first
Year Report. The PrepCom adopted a draft
budget for the first financial period (September
2002 - December 2003), which proposes a
structure for the organs of the Court and
outlines the cost estimates for the operation of
the main organs and for the meetings of the
various bodies of the Court. The estimated costs
for this six-month period amount to
30,893,500 euros. The working group had to
take into account the budgetary implications of
decisions made by other working groups. Some
provisions were made for both an external
auditor and an initial audit before the Registrar
takes up his duties. During that period, the
Director of the Common Services Division will
carry out the functions of the Registrar. The staff
of the Court is expected to consist of
61 posts in 2002 and 202 posts in 2003. The working group
set up procedural guidelines for the selection of
the ICC staff. The ICC will also apply for
membership in the United Nations Joint Staff
Pension Fund.

During the PrepCom, Mr. Sam Muller, the
Coordinator of the Team of the ICC, which
had been established since the 9th
session of the PrepCom, informed the
information mechanism of the PrepCom with the
government about the preparations for the
temporary offices of the Court. He presented
a detailed program of activities to be carried out
until the Advanced Team’s term ends on
30 September 2002.

Subsequent to the recent conference in
Montreal on the creation of an International
Criminal Bar, Mr. Hans Bevers (Netherlands)
held consultations on this issue. The PrepCom
welcomed the developments and recommended
that the Assembly of States Parties await the
constitution of this body before taking further
steps.

For a more detailed report, please visit
www.iccnow.org.

Mathias Goldmann was a member of the
debate for the European Law Students’
Association (ELSA) at the 15th Preparatory
Commission.
To Join the Coalition

The NGO Coalition for the International Criminal Court (ICC) welcomes the participation of non-governmental organizations from all sectors of civil society.

To be a participating organization of the Coalition, a non-governmental organization must (1) endorse in principle the creation of a fair, effective and independent International Criminal Court; (2) wish to be involved at some level in supporting the establishment of the ICC; and (3) make an active commitment to the earliest possible worldwide ratification and entry into force of the Rome Statute for the ICC adopted on 17 July 1998, and (4) make an active commitment to the adoption of comprehensive national implementing legislation following the Commission of Observers.

We encourage both organizations and individuals to support the Coalition as they are able. There is no membership fee to join the Coalition. The Coalition does not have individual members. In general the Coalition does not take positions, but serves to raise awareness of the positions of its members. To join the Coalition, or to receive more information in the future, please fill out the form below and return it to the Coalition Secretariat.

To Subscribe to the Email List

If you are interested in keeping abreast of day-to-day developments pertinent to the ICC, you are invited to subscribe to the ICC email list. To subscribe, please send a blank email to: icc-info-subscribe@yahoo.com

To Contribute to the Coalition

If you are interested in making a tax-deductible contribution to the Coalition, please make the check payable to the ICC and send it to:

NGO Coalition for the ICC, c/o WFM, 777 UN Plaza, 12th Floor, New York, NY 10017, USA

States Parties and Signatories to the Rome Treaty

Alphabetical as of 19 September 2002

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Name & Title

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City

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0 My organization would like to be a participating organization of the NGO Coalition for an ICC as described in “To Join the Coalition”.

0 Please keep me/my organization informed about progress on the ICC negotiations.