The International Criminal Court

Guaranteeing an Independent International Criminal Court

Report of the December 2000 Preparatory Commission and
FIDH Recommendations to the February/March 2001 Preparatory Commission
TABLE OF CONTENTS

SUMMARY OF FIDH RECOMMENDATIONS .......................................................... p.3

GENERAL INTRODUCTION ................................................................................. p.4

SECTION I - REPORT OF THE SIXTH SESSION OF THE PREPARATORY COMMISSION FOR AN ICC ............................................................ p.6

SECTION II - RELATIONSHIP AGREEMENT BETWEEN THE ICC AND THE UN ................................................................. p.7
1. The United States opposition: "ICC now, but not for us!" ........................................ p.7
2. FIDH Recommendation on PCNICC/WGICC-UN/DP.17 ............................................... p.7
3. On the Independence of the Court and its Relationship with the United Nations. .................. p.8
4. On the Reach of the Agreement Between the ICC and the United Nations ........................................ p.8
5. On the Exchange of Information Between the ICC and the United Nations ........................................ p.9
7. FIDH Recommendations on Draft Article 8 ........................................................................ p.10

SECTION III - THE DRAFT FINANCIAL REGULATIONS ........................................ p.11
A - GENERAL ISSUES ......................................................................................... p.11
1. Which Currency Should be Used for the Budget of the Court? ........................................ p.11
2. Which Scale of Assessment Should be Used for State Party Contributions? ......................... p.11
3. Respective Obligations of the Registrar, the President, and the Assembly of States Parties. .......... p.11
4. The Creation of a Committee on Budget and Finance ....................................................... p.11
B - THE DEVELOPMENT OF RELEVANT AND STRICT CRITERIA FOR VOLUNTARY CONTRIBUTIONS TO THE INTERNATIONAL CRIMINAL COURT ........................................ p.12
1. Elements ................................................................................................................. p.12
2. The rationale for requiring relevant and strict criteria for voluntary contributions from non-state entities ................................................................. p.12
3. Use of Voluntary Contributions .................................................................................. p.12
4. Procedure of Approval of Voluntary Contributions by the Committee on Budget and Finance ................................................................. p.12
5. Trust Funds or Special Accounts .................................................................................. p.12
6. Trust Fund for Victims According to article 79 of the Rome Statute ........................................ p.13
7. FIDH Recommendations on the issue of Voluntary Contributions ........................................ p.13

SECTION IV - OTHER AGREEMENTS ................................................................. p.14
A - DRAFT AGREEMENT ON THE PRIVILEGES AND IMMUNITIES ........................................ p.14
1. The Independent Ratification of the Draft Agreement ....................................................... p.14
2. ICC Jurisdiction and the Draft Agreement ....................................................................... p.14
B - NGO ACCESS WITHIN THE DRAFT AGREEMENT ON THE RULES OF PROCEDURE OF THE ASSEMBLY OF STATES PARTIES .................................................. p.14

SECTION V - NEGOTIATIONS ON THE CRIME OF AGGRESSION ........................................ p.15
1. The Issue of the Definition of the Crime of Agression ..................................................... p.15
2. Exercise of Jurisdiction of the Court ............................................................................. p.15
3. Principle of Complementarity and the Crime of Aggression ............................................ p.15

SECTION VI - THE UNITED STATES AND THE INTERNATIONAL CRIMINAL COURT ........................................ p.16
1. Proposal of the United States contained in Document DP.1 (for DP.17 see Section II 1 and 2. above) ................................................................. p.16
2. United States for “à la carte” International Justice .......................................................... p.16

SECTION VII - THE FIDH CASABLANCA APPEAL FOR AN INTERNATIONAL CRIMINAL COURT ........................................ p.18
Guaranteeing an Independent International Criminal Court

SUMMARY OF MAIN FIDH RECOMMENDATIONS TO THE MARCH PREPCOM

I - On the Draft Relationship Agreement Between the ICC and the United Nations

1. Oppose the U.S. proposal PCNICC/WGICC-UN/DP.17 for the following reasons:
   - it would establish impunity for those that commit crimes on foreign territories, even if the state on whose territory the crimes were committed is a party to the Statute
   - it is fundamentally contrary to article 13 of the Rome Statute
   - it is unnecessary, and jeopardizes both the integrity of the Statute and the functioning of the Court

2. Regarding draft article 8 on the waiver of immunity:
   - ensure that the UN waive automatically any immunity granted to its personnel if allegedly accused of crimes within the jurisdiction of the Court
   - delete the terms "if necessary"

3. Regarding the footnote to draft article 10 proposed by the U.S.
   - Oppose any attempt that would grant U.N. peacekeepers a “special” procedure regarding their transfer to the Court

II - On the issue of Voluntary Contributions to the ICC

1. On the issue of strict criteria for voluntary contributions (general budget and the Trust Fund for Victims)
   - establish strict criteria as to the requirements that must be met for voluntary contributions from non-state entities to the ICC to be permitted
   - replace the language in regulation 7.2 “are consistent with the nature and functions of the Court,” with “are accepted for purposes that are consistent with the independence and impartiality of the Court ”
   - commit themselves to refuse voluntary contributions to the ICC from non-state entities whose origins are complicit in human rights abuses, tolerate forced or compulsory labour or the use of child labor, or that otherwise does not comply with the ICC mandate
   - ensure that the strict criteria that will be adopted by the ASP for the ICC budget (reg. 7.2) also be used for the Trust Fund for Victims.

2. On Procedural Aspects
   In order to help the Committee on Budget and Finance (CBF) decide on the compliance of voluntary contributions with the relevant criteria, incorporate into regulation 7.2, that
   - “The CBF shall establish a public and transparent procedure of acceptance of voluntary contributions and allow written observations by IGOs, NGOs or any other institution, group or individual. The CBF final decision of acceptance of voluntary contributions decision shall be motivated”

3. On the Use of Voluntary Contributions to the General Budget and to Trust Funds or Special Accounts
   - prohibit the use of voluntary contributions for a particular investigation or work of the Prosecutor
   - add to regulation 7.3: “Contributions accepted for purposes specifically by the donors shall be treated as trust funds or special accounts, provided that the accounts do not discriminate against any particular ethnic, religious, or political group, or benefit one group over another.”

   - to strongly consider the importance of full NGO access and participation to the future International Criminal Court, in particular to the formal sessions of the Assembly of States Parties.

Guaranteeing an Independent International Criminal Court

GENERAL INTRODUCTION

Challenges of the current negotiations on the International Criminal Court

During the two-week seventh session of the Preparatory Commission for the International Criminal Court (Prepcom), beginning in New York on 26 February 2001, state representatives worldwide gather to negotiate four additional texts to the Rome Statute. Behind the technical aspects of the legal instruments on the table lie challenges of great importance, including maintaining both the integrity of the Statute and the independence of the Court.

Indeed, the independence of the future International Criminal Court is one of the themes common to all of the texts under discussion. Since 1996, the FIDH, together with the other members of the Coalition for an International Criminal Court (CICC), has been lobbying for the creation of the ICC as a politically and financially independent international judicial institution. The realization of its independence will be attained, among other things, as a result of the acknowledgment of its distinct mandate vis à vis the United Nations; the adoption of transparent - yet flexible - financial rules; and the refusal to create an “à la carte” Court to accommodate certain powerful states.

The States must consider:

- the draft relationship agreement between the ICC and the United Nations. As the ICC Statute makes numerous references to the U.N. system, in particular the Security Council, it is necessary that both institutions define their own limits and obligations that will govern their functional and procedural interactions. The main challenges in the draft Relationship Agreement concern the independence of the Court; the mutual recognition of the two institutions; the conformity of article 8 (relating to the waiver of immunities for persons working for the United Nations) with article 27 of the Statute; and finally, the United States' proposals aimed at directly or indirectly guaranteeing 100% immunity for its nationals from ICC prosecution.

- the draft Financial Regulations. The Financial Rules are critical to both the maintenance of independence and the effective implementation of the Court. The main challenges are: the link between the budget and the necessary independence of the Prosecutor; the determination of the scale of assessment, and the choice of the currency for the Court; the creation of the Trust Fund for Victims; and the establishment of strict criteria for the acceptance of voluntary contributions to the Court.

- the draft agreement on the Privileges and Immunities of the International Criminal Court. This agreement must be ratified autonomously by each state regardless of whether a party to the Rome Statute. One of the main issues are: the question of privileges and immunities for defense counsels; and whether to extend the status granted to witnesses and experts to victims appearing before the Court.

- the draft Rules of Procedure for the Assembly of States Parties (ASP). While this position paper is being written, the draft text is not yet public. Still, this text deals with one of the most fundamental issues for the FIDH: full recognition of NGO access and participation to the ICC.

The PrepCom will meet for a second time in 2001 (24 September to 6 October), and continue to meet until the Court enters into force (following the sixtieth state ratification of the Statute). Thus, the ASP, composed of one representative from each state party, will meet for the first time upon the dissolution of the PrepCom. The first meeting of the ASP will deal, in part, with the formal vote for adoption of the texts discussed and adopted during the PrepComs.
Composition of the Bureau of the Preparatory Commission for the ICC and Working Group coordinators

As established at the first session of the Preparatory Commission (February 16-26, 1999), the Bureau of the Commission is comprised of Philippe Kirsch (Canada) as Chair; Muhamed Sacirbey (Bosnia and Herzegovina), Medard R. Rwelamira (South Africa) and George Winston McKenzie (Trinidad and Tobago) as Vice-Chairs; and Salah Suheimat (Jordan) as Rapporteur. In addition, the Chair appointed coordinators to facilitate work on other subjects within the Preparatory Commission’s mandate. These coordinators are Georg Witschel (Germany) for the Financial Regulations; Cristián Maquieira (Chile) for the Relationship Agreement between the Court and the United Nations; Phakiso Mochochoko (Lesotho) for the Agreement on the Privileges and Immunities; and Tuvaku Manongi (United Republic of Tanzania) for the definition of the crime of Aggression and its elements, and the conditions for the exercise of its jurisdiction. Mr. Manongi was appointed in November 1999, before the third PrepCom session, to lead the Working Group on the Crime of Aggression, and work on the crime of Aggression was undertaken along with work on the Rules of Procedure and Evidence and the Elements of Crimes.

The remaining areas which were not addressed in the sixth session are the budget for the first year of the Court’s operation, the basic principles governing a headquarters agreement, and the Rules of Procedure of the Assembly of States Parties. The chair designated contact points Zsolt Hetesy (Hungary) for the headquarters agreement and other general issues, and Saeid Mirzaee-Yengejeh (Islamic Republic of Iran) for the first year’s budget and the Rules of Procedure of the Assembly of States Parties.

---

**Rome Statute Signature and Ratification Chart**

29 ratifications (*) & 139 signatures (as of February 26, 2001)

<table>
<thead>
<tr>
<th>Country</th>
<th>Country</th>
<th>Country</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Cyprus</td>
<td>Kyrgyzstan</td>
<td>Romania</td>
</tr>
<tr>
<td>Algeria</td>
<td>Czech Republic</td>
<td>Latvia</td>
<td>Russian Federation</td>
</tr>
<tr>
<td>Andorra</td>
<td>Democratic Republic of the Congo</td>
<td>Lesotho*</td>
<td>Samoa</td>
</tr>
<tr>
<td>Angola</td>
<td>Congo</td>
<td>Liberia</td>
<td>San Marino*</td>
</tr>
<tr>
<td>Antigua and Barbuda</td>
<td>Djibouti</td>
<td>Lichtenstein</td>
<td>Sao Tome and Principe</td>
</tr>
<tr>
<td>Argentina*</td>
<td>Dominica*</td>
<td>Lithuania</td>
<td>Senegal*</td>
</tr>
<tr>
<td>Armenia</td>
<td>Dominican Republic</td>
<td>Luxembourg*</td>
<td>Seychelles</td>
</tr>
<tr>
<td>Australia</td>
<td>Ecuador</td>
<td>Macedonia, Former</td>
<td>Sierra Leone*</td>
</tr>
<tr>
<td>Austria*</td>
<td>Egypt</td>
<td>Yugoslav Rep.</td>
<td>Slovakia</td>
</tr>
<tr>
<td>Bahrain</td>
<td>Eritrea</td>
<td>Madagascar</td>
<td>Slovenia</td>
</tr>
<tr>
<td>Bahamas</td>
<td>Estonia</td>
<td>Malawi</td>
<td>Solomon Islands</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>Fiji*</td>
<td>Mali*</td>
<td>South Africa*</td>
</tr>
<tr>
<td>Barbados</td>
<td>Finland*</td>
<td>Malta</td>
<td>Spain*</td>
</tr>
<tr>
<td>Belize*</td>
<td>France*</td>
<td>Marshall Islands*</td>
<td>St. Lucia</td>
</tr>
<tr>
<td>Benin</td>
<td>Gabon*</td>
<td>Mauritius</td>
<td>Sudan</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Gambia</td>
<td>Mexico</td>
<td>Switzerland</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>Germany*</td>
<td>Monaco</td>
<td>Syria</td>
</tr>
<tr>
<td>Botswana*</td>
<td>Georgia</td>
<td>Mongolia</td>
<td>Tajikistan*</td>
</tr>
<tr>
<td>Brazil</td>
<td>Ghana*</td>
<td>Morocco</td>
<td>Tanzania</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Greece</td>
<td>Mozambique</td>
<td>Thailand</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>Guinea</td>
<td>Namibia</td>
<td>Trinidad and Tobago*</td>
</tr>
<tr>
<td>Burundi</td>
<td>Guinea-Bissau</td>
<td>Nauru</td>
<td>Uganda</td>
</tr>
<tr>
<td>Cambodia</td>
<td>Guyana</td>
<td>Netherlands</td>
<td>Ukraine</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Haiti</td>
<td>New Zealand*</td>
<td>United Arab Emirates</td>
</tr>
<tr>
<td>Canada*</td>
<td>Honduras</td>
<td>Niger</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>Hungary</td>
<td>Nigeria</td>
<td>United States</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>Iceland*</td>
<td>Norway*</td>
<td>Uruguay</td>
</tr>
<tr>
<td>Chad</td>
<td>Iran</td>
<td>Oman</td>
<td>Yemen</td>
</tr>
<tr>
<td>Chile</td>
<td>Ireland</td>
<td>Panama</td>
<td>Yugoslavia</td>
</tr>
<tr>
<td>Colombia</td>
<td>Italy*</td>
<td>Paraguay</td>
<td>Venezuela*</td>
</tr>
<tr>
<td>Comoros</td>
<td>Israel</td>
<td>Peru</td>
<td>Zambia</td>
</tr>
<tr>
<td>Congo (Brazzaville)</td>
<td>Jamaica</td>
<td>Philippines</td>
<td>Zimbabwe</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Jordan</td>
<td>Portugal</td>
<td></td>
</tr>
<tr>
<td>Cote d ’Ivoire</td>
<td>Kenya</td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>Kuwait</td>
<td>Republic of Korea</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Republic of Moldova</td>
<td></td>
</tr>
</tbody>
</table>
The PrepCom Enters into a Second Phase of Negotiations

Eighteen months of negotiation were needed in order for the PrepCom to adopt by consensus, on 30 June 2000, pursuant to Resolution F of the Final Act of the Rome Statute, the two most fundamental texts for the future functioning of the ICC: the Rules of Procedure and Evidence and the Elements of Crimes. The adoption of these texts represented a symbolic step in the long – yet irreversible – entrance into force of the Court.

Until June 30, the negotiations dealt with substantial issues that aimed at clarifying the articles of the Rome Statute. For example, the discussions on the Rules of Procedure and Evidence led the States to define the practical modalities of victims’ participation before the Court, of which only the principal had been mentioned in the Statute.

Since November 2000, the PrepCom has entered a new phase of its mandate to discuss more technical issues with regard to the Court, including:

- the Financial Regulations
- the Relationship Agreement between the ICC and the U.N.
- the Agreement on Privileges and Immunities

Finally, States have continued discussion on the definition of the crime of Aggression, and the exercise of jurisdiction by the Court with regard to that crime.

The technicalities of the debates had brought some government delegations to consult experts that knew little or nothing about ICC related negotiations. The NGOs have remained mobilized, and likewise have had to adapt their work to these new issues.

NGOs: Watchdogs of the ICC Statute

Organized in working groups, NGOs closely followed the negotiations, and did not hesitate to recall, on several occasions, the necessity to maintain the integrity of the Statute.

The massive presence of NGOs at the sixth PrepCom matched the size of the threats that came from the United States delegation in order to secure 100% immunity for its nationals by negotiating a proposal with the U.N. Secretariat for an insertion into the Relationship Agreement. In effect, the United States declared that it wished to insert an article into the Agreement regarding the status of nationals of non-party states before the Court.

Finally, the CICC took the opportunity of the December PrepCom to invite representatives from the South in order to report on the local impact of the international ratification campaign for the ICC, particularly from countries where such information is scarce, and where meetings between NGOs and governments are rare or impossible.

The FIDH was represented by many member organizations, including ONDH (Senegal), the Law Society (Palestine), Ligue Iteka (Burundi), OCDH (Congo Brazzavile), PAHRA (Philippines), MNDH (Brazil), CLO (Nigeria), and APRODEH (Peru).
The first discussions for the Relationship Agreement, coordinated by Cristián Maquieira from the Chilean delegation, included eight Working Group sessions and three informal sessions. The draft Relationship Agreement has been entirely written by the United Nations Secretariat.

Following the discussions, the Coordinator proposed a rolling text on all issues except the Preamble and article 8 regarding the waiver of immunity. As article 8 was very contentious, the Working Group has preferred to indicate which proposals were tabled, and to postpone the negotiations until the March 2001 session.

1. The United States initiatives

It seems that, at the very last moment, the United States delegation decided to change its strategy, which was most likely planned during the months before the December 2000 PrepCom. Indeed, all official speeches made in March 2000 led us to believe that the United States would come up with a series of concrete proposals to the Working Group on the Relationship Agreement. The United States hinted that they were looking at a proposal to allow non-state parties to refuse the surrender of their nationals to the ICC.

On 4 December 2000, it was rumored that a proposal concerning article 124 had been drafted by a Like-Minded Country to extend the exemption of article 124 to non-state parties. Article 124 allows states, when they ratify the Statute, to refuse the jurisdiction of the Court for war crimes committed by their nationals, or on their territory, for a period of seven years. That ghost proposal, which fortunately was never tabled, clearly aimed at accommodating the interests of the United States.

However, a United States proposal to be incorporated into the Relationship Agreement aimed at guaranteeing immunity from prosecution by the ICC for U.S. citizens was tabled on 7 December 2000. This proposal was finally not what the majority of states and NGOs had expected, but was written with the same objective as previous proposals: to seek immunity for U.S. nationals from the jurisdiction of the ICC. It is interesting to note that Cristián Maquieira is both the Coordinator for the Relationship Agreement and the contact point for the so-called paragraph 4 of the 1998 Resolution 53/105 of the General Assembly. It should be recalled that this paragraph, inserted on the initiative of the United States, calls for ways to enhance the effectiveness and acceptance of the Court, and address U.S. concerns.1

U.N. Document PCNICC/2000/WGICC-UN/DP.17 states that, "In order to encourage contributions by States to promote international peace and security, and unless there has been a referral to the Court pursuant to article 13 (b) of the Statute, the United Nations and the Court agree that the Court shall determine on its own motion pursuant to article 19 (1) the admissibility of a case in accordance with article 17 when there is a request for the surrender of a suspect who is charged in such case with a crime that occurred outside the territory of the suspect’s State of nationality".

This procedural and technical proposal in reality seeks to guarantee that United States military personnel will not be subject to the jurisdiction of the Court. This proposal could consequently extend immunity to any national of a state that might fulfill the requirements of DP.17. Its placement within the Relationship Agreement is questionable, and it introduces notions unknown to the Statute, such as the promotion by states of international peace and security, or the distinguishing between the accused committing crimes outside of his or her state of nationality, and other accused.

For the ICC to have jurisdiction over a case, either the State of nationality of the accused, or the State on whose territory the crime was committed, must be a party to the Statute. The fact that the person commits a crime on his territory or on a foreign land is irrelevant.

DP.17 would complicate or even block the surrender of a person, “who is charged in such case with a crime that occurred outside the territory of the suspect’s State of nationality”, even if the state on whose territory the crimes were committed is a party to the Statute.
According to Article 19, paragraph 1, the Court, "may, on its own motion, determine the admissibility of a case in accordance with article 17". DP.17 goes further than article 19(1), as it requires, instead of suggests, that the Court determine, on its own motion in the referred situations, the admissibility of a case. The purpose of DP.17 is to bypass any request for the surrender of a U.S. national to the Court by requiring that the Court look at article 17 criteria: whether the case is under investigation, or is prosecuted in the state of nationality of the alleged perpetrator.

2. FIDH Recommendations on PCNICC/WGICC-UN/DP.17

DP. 17 is unnecessary, and jeopardizes both the integrity of the Statute and the functioning of the Court. States must, in principle, reaffirm the need for flexibility at this very early stage of investigation.

It should be recalled that the United States has signed the Statute, and even though it is not legally bound, the U.S. delegation has an obligation not to go against the object and purpose of the Statute, namely the individual criminal prosecutions at the international level of the three core crimes within the jurisdiction of the Court—genocide, crimes against humanity, and war crimes.

DP.17 would establish impunity for those that commit crimes on foreign territories, even if the state on whose territory the crimes were committed is a party to the Statute. This is fundamentally contrary to article 13 of the Rome Statute, adopted by 120 states and since ratified by 29.

Any exemption of any kind cannot be tolerated without consequently negatively affecting the integrity of the Statute, and the mandate of the ICC to fight against impunity.

3. On the Independence of the Court and its Relationship with the United Nations

Article 4 of the Rome Statute recognizes that the ICC is an international legal personality with the legal capacity necessary for the exercise of its functions and the fulfillment of its purposes.

The Court is not a subsidiary organ of the United Nations, nor is it governed by the rules of the U.N. It functions as an independent judicial organ governed by the Rules of Procedure and Evidence that have been adopted on the one hand in Rome on 17 July 1998, and on the other hand in New York on 30 June 2000 during the fifth session of the Preparatory Commission for the International Criminal Court.

Nevertheless, the Statute makes references to U.N. principal organs, such as the Security Council, the General Assembly, the Secretary-General, and the International Court of Justice (ICJ), which will all work with the future ICC on issues of jurisdiction, functioning, and the settlement of disputes.

This explains the purpose of article 2 of the Statute, which states that, "The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute, and thereafter concluded by the President of the Court on its behalf".

It is the opinion of the FIDH that the draft text crafted by the Secretariat is far too United Nations oriented. It is fundamental that the relationship fully acknowledge the legal personality of the Court, and that although the Court may be brought into a relationship with the U.N., it is in no way a subsidiary organ of the U.N.

Draft article 1 of the Relationship Agreement did not successfully transpose the language of the Statute, which brought a number of states to reaffirm the importance of the maintenance of the integrity of the Statute. These positions are now reflected in the Coordinator’s rolling text.

4. On the Reach of the Agreement Between the ICC and the U.N.

A debate took place on the question of whether the Relationship Agreement should cover judicial cooperation in addition to institutional aspects.

There were discussions on the interpretation of article 87.6, which provides the Court with the ability to ask any inter-governmental organization to provide information or documents with regard to requests for cooperation.
The fact that article 54.2(d) already allows the Prosecutor to make any agreements that he deems necessary to facilitate cooperation, including with IGOs, makes article 6 - at first glance - seem unnecessary. Article 6 was eventually revised to grant the Court greater control over the request for cooperation, in particular paragraph 3 to give the Court more flexibility.

The draft text for article 6.3 now reads, "In the event that disclosure of information or documents, or the provisions of other forms of cooperation, would endanger the safety or security of former personnel of the United Nations or otherwise prejudice the security or proper conduct of any operation or activity of the United Nations, the Court may order, particularly at the request of the United Nations, appropriate measures of protection”.

5. On the Exchange of Information Between the ICC and the U.N.

Articles 4, 10, and 12 concern the exchange of information between the ICC and the UN.

- According to article 4 on the cooperation between the Security Council and the UN, the delegations stressed that the burden on the Prosecutor with regard to the transmission of information was too weighty, and that no specific article was necessary as it would be redundant with some of the dispositions of the Rules of Procedure and Evidence.

The draft text required that the Court give the Security Council preference concerning the time allocated to submit observations to the Court when deciding on its jurisdiction in cases involving the Council. The FIDH believes that such a prerogative should lie with the Court and not with the Security Council. Fortunately, the draft article has been deleted.

- Regarding article 10, the text has been modified to reduce the obligations of the Court in matters of the exchange of information with the U.N. The reference to daily exchanges has been deleted.

- Regarding article 12 on the Reports to the U.N., its periodicity, compulsory nature, and purposes were discussed in length.

Finally, draft article 12 reads that the Court, "may, if it deems it appropriate, submit on its activities reports to the United Nations through the Secretary-General."

6. On the Question of the Waiver of Immunity by the U.N. of Other Persons Working in the Service of the United Nations

The draft article 8 on the cooperation between the U.N. and the Court in cases of the exercise by the Court of its jurisdiction over persons enjoying privileges and immunities in connection with their work for the United Nations was left unresolved.

Draft article 8 currently reads, "...the U.N. undertakes to cooperate with the Court in such a case or cases and, if necessary, will waive the privileges and immunities of the person or persons concerned in accordance with the provisions of the relevant instruments."
In fact, article 27, paragraph 2 of the Statute, on the irrelevance of official capacity, states that, "Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person."

Recognizing that those persons that work for the U.N. enjoy privileges or immunities would be therefore contrary to article 27.

The main discussions were on the interpretation of the terms, "in accordance with relevant agreements" and "if necessary".

On the request of the States, the Secretariat was asked to clarify some of the terms contained in the draft articles. The Secretariat described the relevant agreements as bilateral agreements that contain dispositions on privileges and immunities for certain categories of U.N. workers, and include, for example, host agreements for U.N. regional offices or subsidiary organs such as the International Criminal Tribunal for the Former Yugoslavia (ICTY), status of forces agreements for peacekeeping forces (SOFAS), or mutual assistance agreements.

Regarding the "if necessary" clause, the Secretariat indicated that bilateral agreements have to be adopted by the General Assembly, which is also composed of states that are not parties to the Statute. The Secretariat stressed that it would not have any problems with deleting article 8, but that if it was kept and modified to create obligations on non-state parties, the General Assembly would have difficulties to adopt the said article.

The concern of the U.N. is to reconcile the ICC principle of complementarity with international agreements that give states exclusive jurisdiction over their nationals, such as SOFAS and peacekeeping agreements.

In that regard, it should be noted that the U.N. Convention on Privileges and Immunities, which is referred to in article 8, only provides immunity at the national level, and cannot hinder the jurisdiction of the ICC.

The rolling text does not contain a draft proposal for article 8, but does contain four new proposals that have been annexed to the rolling text, submitted by Norway, Belgium, a group of Arab states, and France.

Norway and Canada are keen on keeping article 8. Norway considers that the referred to privileges and immunities are only in the interests of the U.N., and not in the interests of the individuals. It stressed that, in the absence of a U.N. police force for situations envisaged by article 8, the cooperation with another state through a bilateral agreement might be necessary. Norway proposed the deletion of the terms, "if necessary".

Canada considered that the draft article 8 was not in contradiction with article 27 of the Statute.

To illustrate that, it described three different situations: 1) the case of a person that is already before the Court and does not have immunity, 2) the case of the surrender of a national of a state party that cannot assume immunity, and 3) the situation of a non-state party that is not bound by the Statute, but by the Vienna Convention on the Law of Treaties. If the U.N. does not waive the immunity, the state party can refuse to transfer the person to the Court until the U.N. does so.

The issue of article 8 is relevant to the February/March 2001 PrepCom.

7. FIDH Recommendations on the Draft Article 8

The FIDH recommends that States:
- ensure that the UN waive automatically any immunity granted to its personnel if allegedly accused of crimes within the jurisdiction of the Court
- delete the terms "if necessary".

Notes:
1. For more details on the History of Negotiations on this Resolution see FIDH Position Report "CPI : les nouveaux défis", N° 282 de Juillet 1999
Like the other texts in discussion in the December 2000 PrepCom, the Financial Regulations were drafted by the U.N. Secretariat. The Secretariat looked for pre-existing models in order to draft the ICC Financial Rules. Therefore, the draft is a near replica of the International Tribunal for the Law of the Sea (ITLOS) Financial Regulations.

It is worth mentioning that this ITLOS instrument has been under discussion for more than three years in the U.N., as the States disagree on its substance. The draft Secretariat proposal has been considered a useful tool for first considerations of the ICC Financial Regulations, but the delegations have stressed that it does not take into account any of the specificities of the Court, such as the independence of the Prosecutor or the Assembly of States Parties.

A - General issues

The Working Group on the Financial Regulations has met four times in formal sessions and four times in informals under the coordination of Georg Witschel from Germany. The Working Group completed a first reading of the entire document, and a second informal reading of regulations 1 through 10.

1. Which Currency Should be Used for the Budget of the Court?

A debate took place on the question of whether to use the U.S. dollar or the Euro. No compromise was reached, although many delegations, in particular the European Union states, consider that the logical solution would be to use the local currency of the host country - that is, the Euro.

2. Which Scale of Assessment Should be Used for State-Party Contributions?

The question of the scale of assessments is highly sensitive and political. The interpretations differ with regard to article 117 of the Rome Statute, which states that, "the contributions of state parties shall be assessed in accordance with an agreed scale of assessments based on a scale adopted by the United Nations for its regular budget, and adjusted in accordance with the principles on which that scale is based". In fact, the U.N. model is frequently criticized for its politization. That issue will most likely be postponed for determination by the Assembly of States Parties, or could be the subject of an inter-sessional meeting. The issue of floors and ceilings has also been postponed. Clearly, the resolution of this question could have an influence on the decision of a state to ratify the Statute. There was a consensus to model the ICC scale of assessments after the U.N.'s scale.

3. Respective Obligations of the Registrar, the President, and the Assembly of States Parties

According to the draft ICC Financial Regulations, the Registrar is accountable to the Presidency of the Court, which puts the judges in a difficult situation with regard to financial decision. The Registry is under the control of the Registrar, who is himself elected for five years by the judges, pursuant to paragraphs four and five of article 43 of the Statute. The ASP should be able to create a structure, independent from the Court, and propose an authorization mechanism that would take the burden off the judges in budgetary and financial matters. The ASP has two primary responsibilities: the adoption of, and control and implementation of, the budget - possibly via the Committee on Finance and Budget (CBF).

4. The Creation of a Committee on Budget and Finance (CBF), within the ASP

The creation of such a committee has been agreed upon in informal discussions of the Working Group on Financial Regulations of the Court. However, as of today, there is no clear indication of its intended composition, functioning, not the frequency of its meetings.
B - The development of Relevant and Strict Criteria for Voluntary Contributions to the International Criminal Court

1. Elements

The issue of voluntary contributions involves both ethical and political considerations. The French expression, "l'argent n'a pas d'odeur", in the context of the financing of the ICC, takes on a human dimension.

Pursuant to article 116 of the Rome Statute, the Court may, "receive and utilize, as additional funds, voluntary contributions from Governments, international organizations, individuals, corporations, and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties".

In the current rolling text, the first paragraph of regulation 7.2 reads, "Voluntary contributions, gifts and donations, whether or not in cash, may be accepted by the Registrar, provided that the [Presidency] is satisfied that the purposes for which the contributions are made, are consistent with the nature and functions of the Court."

The inclusion of non-state entities among possible donors to the ICC budget is an "absolute novelty... in the case of the constitutive instrument of an international body".

Since the ASP is required to establish those criteria, the FIDH urges states to engage in constructive discussion during the Prepcom in the view of helping the Assembly of States Parties in its future work on that issue.

2. The rationale for requiring relevant and strict criteria for voluntary contributions from non-state entities

The fact that U.N. has incorporated little or no criteria in its financial regulations for the acceptance of voluntary contributions from non-state entities has questioned both its mission and integrity.

It has to be recalled that there is no clear recognition of criminal accountability for corporations, and that unfortunately the Rome Treaty failed to include ICC jurisdiction over corporations, as was debated and fought for by various delegations in Rome.

The FIDH believes that it is precisely because corporations continue to act in complete impunity, as distinct legal entities, for the crimes over which the ICC will have jurisdiction, that it is critical that the Prepcom establish such criteria for the acceptance of voluntary contributions from corporations.

As a guideline, the Prepcom might wish to consider the recently adopted Guidelines of Cooperation between the United Nations and the Business Community issued by the Secretary-General of the United Nations on 17 July 2000.

In order to ensure that the Court refuses funds which would be inconsistent with its necessary independence and impartiality, and contrary to its mandate – the prosecution of the most heinous international crimes.

In the cases of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), voluntary contributions, which are estimated to have comprised 7.5% and 2.0% respectively of their overall annual accounts since 1997, have indeed been used for essential activities of the tribunals, including supporting prosecution and investigation activities.

Nevertheless, there is a danger that the Court be biased if voluntary contributions are used for one particular case or cases and that it would inevitably influence the Prosecutor, and possibly the verdict(s).

Therefore, the FIDH believes that for the Court to be protected from politically motivated voluntary contributions, those given for a particular investigation or work of the prosecutor should be rejected.

4. Procedure of Approval of Voluntary Contributions by the Committee on Budget and Finance (CBF)

At the outcome of the December 2000 PrepCom, there was a consensus that a Committee on Budget and Finance (CBF) shall be established, and that it shall be subordinate to the Assembly of States Parties (ASP), although this has not been reflected in the coordinator’s rolling text.

There was also a general agreement that members of the CBF should be independent experts nominated by the ASP.

The FIDH believes that the CBF should be designated as the institution mandated to check the compliance of voluntary contributions with the "relevant criteria" approved by the ASP.

The FIDH recommends that states consider the establishment of a public and transparent procedure regarding the acceptance of voluntary contributions.

5. Trust Funds or Special Accounts

Regulation 7.3 reads, "Contributions accepted for purposes specified by the donors shall be treated as trust funds or special accounts." This regulation was also modeled after the U.N. Financial Regulations.

It has been noted by delegations that it is essential that voluntary contributions not discriminate against any particular ethnic, religious, or political group, or work to benefit specific criminals or cases.
6. Trust Fund for Victims According to Article 79 of the Rome Statute

During the November/December 2000 Preparatory Commission, the Coordinator for the Working Group on Financial Regulations mentioned that the Group would like to work on the establishment of the Trust Fund for Victims under article 79 of the Statute. The Trust Fund has no criteria yet for accepting voluntary contributions.

Article 79 reads, "1. A Trust Fund shall be established by decision of the Assembly of States Parties for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims… 3. The Trust Fund shall be managed according to the criteria to be determined by the Assembly of States Parties."

The FIDH recommends that the Assembly of States parties, and thus the delegations now working on the Financing Regulations of the ICC, adopt strict criteria with regard to the acceptance of voluntary contributions to the Trust Fund for Victims.

Notes:
1. Regulation 7.2**The Registrar shall submit the draft budget for the following financial period to the Committee on Budget and Finance before the end of February of the year preceding the financial period for examination.
2. "Money has no smell."
4. "Money has no smell."
7. See footnote 6.
8. Text of the draft Financial Regulations of the International Criminal Court, 5 December 2000, Regulation 7.3

7. FIDH RECOMMENDATIONS ON THE ISSUE OF VOLUNTARY CONTRIBUTIONS

A - On the issue of strict criteria for voluntary contributions (general budget and to the trust funds)

The FIDH recommends that States

1. establish strict criteria as to the requirements that must be met for voluntary contributions from non-state entities to the ICC to be permitted.
2. replace the language in regulation 7.2 "are consistent with the nature and functions of the Court," with "are accepted for purposes that are consistent with the independence and impartiality of the Court"*
3. commit themselves to refuse voluntary contributions to the ICC from non-state entities which origins are complicit in human rights abuses, tolerate forced or compulsory labour or the use of child labor[5], are involved in the sale or manufacture of anti-personnel mines or their components, or that otherwise do not meet relevant obligations or responsibilities by the United Nations, are not eligible for partnership.
4. "The CBF shall establish a public and transparent procedure of acceptance of voluntary contributions and allow written observations by IGOs, NGOs or any other institution, group or individual. The CBF final decision of acceptance of voluntary contributions decision shall be motivated."

B - Procedure

The FIDH recommends that States: In order to help the Committee on Budget and Finance (CBF) decide on the compliance of voluntary contributions with the relevant criteria, incorporate into regulation 7.2, that

"The CBF shall establish a public and transparent procedure of acceptance of voluntary contributions and allow written observations by IGOs, NGOs or any other institution, group or individual. The CBF final decision of acceptance of voluntary contributions decision shall be motivated."

C - On the Use of Voluntary Contributions to the General Budget and to Trust Funds or Special Accounts

The FIDH recommends that States

1. in adopting the "relevant criteria" mentioned in regulation 7.2 should include the prohibition of the use of voluntary contributions for core activities of the Court.
2. add to regulation 7.3: "Contributions accepted for purposes specifically by the donors shall be treated as trust funds or special accounts, provided that the accounts do not discriminate against any particular ethnic, religious, or political group, or benefit one group over another."
SECTION IV - OTHER AGREEMENTS

A - DRAFT AGREEMENT ON THE PRIVILEGES AND IMMUNITIES

The Working Group on Privileges and Immunities, chaired by Phakiso Mochochoko from Lesotho, has met 3 times in formal sessions and 4 times in informal sessions.

The FIDH agrees with the views expressed by some delegations that not only counsels, but also persons assisting such counsels, be granted the same treatment in the context of the Agreement on the Privileges and Immunities. Likewise, article 17 of the draft Agreement should not only encompass experts and witnesses, but also victims, "participating in the proceedings in accordance with rules 89 to 91 of the Rules of Procedure and Evidence". Therefore, the FIDH supports the current drafting of articles 16 and 17.

1. The Independent Ratification of the Draft Agreement on the Privileges and Immunities

One of the specificities of the Agreement on the Privileges and Immunities is that it is an autonomous treaty that must be ratified separately by States, regardless of whether or not they are parties to the ICC Statute.

This inconsistency could create conflicts in cases in which ICC personnel travel to countries that have not recognized the Agreement. In such cases, states might refuse to grant those persons the privileges from which they should normally benefit in the exercise of their functions.

The FIDH recommends that one partial solution to this separate treaty would be the inclusion of an article noting that the APIC should be ratified by the States party to the Rome Statute at the time of ratification of the Statute, or as soon as completed by those who have already ratified.

2. ICC Jurisdiction and the Draft Agreement on the Privileges and Immunities

While it is understood that the draft Agreement does not protect ICC-related personnel from criminal prosecution by the Court, the draft Agreement does not specify this in its provisions. Thus, to ensure that this is clearly understood, Belgium, Switzerland and Germany proposed an Article 12 (bis), which states that the personnel of the Court and anyone appearing before the Court are indeed subject to its jurisdiction. The FIDH believes that although this rule might be seen as redundant, it is nevertheless useful for clarification.

B - NGO ACCESS WITHIN THE DRAFT AGREEMENT ON THE RULES OF PROCEDURE OF THE ASSEMBLY OF STATES PARTIES

The FIDH believes in the importance of cooperation, and the sharing of information, between NGOs and the ICC. The negotiations on the ICC sprouted an historic and unprecedented development with regard to the "cooperation" between NGOs and governments. The Coalition of NGOs for an ICC, in development since 1994, represents a successful and unprecedented example of working constructively with governments towards a common end. In addition, the example of the NGO relationship with the two ad hoc tribunals demonstrates that a strong and yet independent relationship can be established with a court without threatening the administration of international justice.

Building upon past General Assembly resolutions regarding NGO access, the FIDH urges states, during their first reading of the draft text, to strongly consider the importance of full NGO access and participation to the future International Criminal Court, in particular to the formal sessions of the Assembly of States Parties.

Note:
1. For example, the recent Resolution adopted by the Sixth Committee General Assembly A/RES/55/155 on Establishment of the International Criminal Court : " 7. Notes that non-governmental organizations may participate in the work of the Preparatory Commission by attending its plenary and its other open meetings, in accordance with the rules of procedure of the Commission, receiving copies of the official documents and making available their materials to delegates ".

Guaranteeing an Independent International Criminal Court
SECTION V - NEGOTIATIONS ON THE CRIME OF THE AGGRESSION

The Working Group on the Crime of Aggression has been meeting since November 1999, the first session of the Preparatory Commission for the ICC under the Presidency of Tuvaku Manongi of Tanzania.

The negotiations on the crime of Aggression continue to raise several fundamental questions:

1. The issue of the definition of the crime of Aggression

The main question is whether the crime of Aggression shall have a general definition, or an exhaustive definition enumerating the constitutive acts. The preference of the states seems to tend towards a general definition based on international customary law.

War of Aggression v. Acts of Aggression

The German proposal maintains that the central element of the definition of Aggression should concern war of Aggression. Although no consensus has been reached on this issue, there seems to be a consensus that war of Aggression is easier to define, and that its threshold would be high enough to include the crime of Aggression together with genocide, crimes against humanity, and war crimes.

The legal basis for the definition of the crime of aggression lies within customary international law and is very controversial. Between those states that believe that the legal rationale must come from the Nuremberg and Tokyo precedents, and those states that wish to include acts other than war of Aggression, who generally rely on the 1974 General Assembly Resolution and on the International Law Commission Draft Code of International Crimes. One of the issues to be resolved is whether the aforementioned General Assembly Resolution, which only deals with state responsibility, can be transposed to individual criminal responsibility.

2. Exercise of jurisdiction of the Court

Most of the states recognize that article 5.2 of the Rome Statute and article 39 of the U.N. Charter require that the Security Council consider the commission of an act of Aggression to have occurred before the ICC can claim jurisdiction over the case.

When the Security Council does not qualify an act as one of Aggression, some states believe that alternative mechanisms should still allow the Court to exercise its jurisdiction over a crime of Aggression. Greece and Portugal, for instance, suggested that if the Security Council does not decide before an agreed upon period of time, the Court could exercise its jurisdiction. Bosnia-Herzegovina, on the other hand, suggested that, as a precondition of jurisdiction, an advisory opinion be asked to the General Assembly or the International Court of Justice.

The five permanent members of the Security Council insist that the Security Council decision is the only binding way, and that no alternative is acceptable.

3. The principle of complementarity and the crime of Aggression

This issue concerns how national courts may exercise their principle of complementarity with regard to the crime of Aggression if its legal qualification relies on a decision from the Security Council.

Many states recognize the crime of Aggression in their domestic legislation, but do not make any reference to the Security Council.
1. Proposal of the United States contained in document PCNICC/2000/DP.1

"The United States of America proposes for the consideration of the Preparatory Commission the development of factors for the Court that may be relevant for the investigation, prosecution and surrender of suspects, including the context within which an alleged crime has occurred and a State’s contribution to international peace and security.”

On 8 December 2000, the United States tabled a proposal which was neither formally introduced nor discussed in a Working Group. This proposal asked the Prepcom to extend its mandate in order to consider new factors relevant for the investigation, prosecution and surrender of suspects, including the context within which an alleged crime has occurred, and for a State's contribution to international peace and security.

The proposal introduces new elements that do not appear to fit in the mandate of the Preparatory Commission. Indeed, any attempt to modify the Rules of Procedure and Evidence that were adopted by consensus on 30 June 2000 should be opposed.

What is the United States trying to achieve with the DP.1 proposal?
The United States is attempting to introduce a new threshold based on a State’s contribution to international peace and security. It is interesting to note that this reference is also mentioned in the U.S. proposal DP.17, which was tabled in the context of the negotiations on the Draft Agreement between the ICC and the U.N.

First and above all, the ICC Statute does not contain such a reference. The ICC has no mandate and no power to evaluate the contribution of a state to international peace and security without entering into political, and therefore not objective, considerations.

It is not clear in which context the United States wishes to discuss such proposal. In any case, the FIDH considers that this proposal is irrelevant in the context of the Prepcom discussions.

2. United States for "à la carte" International Justice

The United States is neither very in favor nor very against international justice. It seems to take a pragmatic approach to the evolution of international criminal law by being both selective and partial in accordance with its interests.

Elements

When the United States seeks to legitimize its use of their military forces abroad, or to reaffirm its hegemony and at the same time consider national interests, it does not hesitate to aggressively and publicly denounce grave human rights violations.

Under these conditions, the United States usually requires the implementation of mechanisms of international criminal prosecution if and only if it can secure effective control over such a mechanism. In addition, the United States only engages in the fight against impunity if guaranteed that its nationals will have immunity from any potential prosecution at the international level.

Once those guaranties are met, the United States embraces the cause of international justice. However, if U.S. Senate feels threatened with the possible ratification of the International Criminal Court, it considers it "declaration of war". The American government operates with an ultra conservative Senate, a comparably conservative Congress, and departments such as the Pentagon that are unwilling to accept new mechanisms of international justice which seem to "threaten", directly or indirectly, United States sovereignty and fundamental interests.

Practical Application of the Partial and Selective Approach taken by the United States

While the United States reluctantly abides by the U.N. conventional mechanism, it still deny all jurisdiction from supranational tribunals, especially criminal, to prosecute crimes committed by its nationals. On the other hand, in the name of military supremacy and
economic hegemony, it gives itself a unilateral prerogative to react selectively and partially to human rights violations committed by others governments.

Indeed, the only times when the United States seems interested in international justice is when it serves its own interest. Otherwise, how could we explain the American refusal to denounce the grave violations committed by Israel? Also, the United States ignored the violations committed by the Iraqi governmental forces during the entire 1980s, yet a few of years later, following the invasion of Kuwait, vigorously denounced the Sadaam Hussein regime now that its interests had been threatened, and asked for the creation of an international criminal ad hoc tribunal to judge those responsible.

It is paradoxical and appalling that the United States on the one hand opposes the future ICC, and on the other hand, within the same intergovernmental building, requires the U.N. Security Council to create international criminal tribunals for Iraq, Cambodia, and Sierra Leone.

An Effective Control: the “sine qua none” requirement for U.S. Support

The United States joins the fight against impunity only when it is guaranteed effective control over the international justice mechanisms established. The United States is not, in fact, an opponent of the creation of international criminal tribunals. On the contrary, it has to be recalled that, since 1945, the United States has been one of the greatest supporters of ad hoc tribunals. From Nuremberg to the future tribunals for Sierra Leone and Cambodia, the United States has expressed support for such initiatives.

However, maintaining an effective control over the functioning and jurisdiction of international criminal tribunal is a “sine qua none” requirement for such support. Therefore, the United States will only support judicial institutions that emerge from Security Council resolutions. Numerous interventions from former U.S. President Bill Clinton demonstrated that the Executive Branch of the U.S. government was in favor of the creation of a permanent ICC. While the U.S. saw the ICC as the logical follow-up to the current ad hoc tribunals, its support required a strong subordination of the ICC to the Security Council so that it could use its veto power if it perceived its national interest to be threatened. Fortunately, the 120 States that voted in favor of the Court on 17 July 1998 did not fold under the weight of U.S. pressures.

International Justice: a Strategy to Establish United States’ Power

The insistence of the United States on a Security Council resolution for the maintenance of international justice did not prevent the United States military from bombing Kosovo without prior authorization from the Security Council. At the same time, the U.S. supports the international warrant for arrest issued by the ICTY against Slobodan Milosevic, but still refuses to be subjected to the jurisdiction of that same court. In an article in the New York Times dated 3 January 2000, Mrs. Orentlicher, Law Professor at the American University, maintained that by intervening in Kosovo, the United States tacitly subjected themselves to the jurisdiction of the Tribunal for the Former Yugoslavia.

International Justice is, for the United States, a strategy to install its power in various countries and, in that optic, the creation of ad hoc international criminal tribunals are a good way to achieve that. By financing a large amount of the projects, the United States had guaranteed control over their functionings.

The FIDH considers that the fight against impunity is intrinsically indivisible, and cannot be attained at half measure.

One is either for or against international justice.

It is time that the United States choose a side!

Jeanne Sulzer
Emmanuelle Duverger
in La lettre de la FIDH, November 2000

Notes:

1. Expression used by Jesse Helms, president of the Senate Committee for Foreign Affairs threatening Washington in the case of a U.S. signature of the ICC Statute
2. The United States presented the compulsory report on the implementation of the Civil and Political Rights Covenant five years after the deadline. Likewise, they have failed to present their report before the Committee against all forms of racial discrimination and continue to oppose the right of individual petition, before the Human Rights Committee
3. Refers to the necessary requirements in order to obtain U.S. support.
SECTION VII - THE FIDH CASABLANCA APPEAL FOR AN ICC

The signatories of this Casablanca Appeal met from 5 to 8 January 2001 in Casablanca (Morocco) for the third regional workshop on international justice organized by the International Federation for Human Rights (FIDH) in cooperation with the Organisation Marocaine des Droits Humains (OMDH) and the Association Marocaine des Droits Humains (AMDH). The participants: [...]
SIGNATORY ORGANIZATIONS OF "THE CASABLANCA APPEAL"

January 08 janvier 2001

REGIONAL ORGANISATIONS:

- Algérie / Collectif des familles de disparus en Algérie
- Bahrein / Committee for the Defense of Human Rights in Bahrain (CDHRB)
- Egypt / Egyptian Organization for Human Rights (EOHR)
- Iran / Ligue Iranienne des droits de l'Homme
- Israel / Association for Civil Rights in Israel (ACRI)
- Lebanon / SOLIDA
- Libya / Ligue Libyenne des droits de l'Homme
- Morocco / Organisation Marocaine des droits humains (OMDH) / Association Marocaine des droits humains (AMDH) / ASAD / ATTAC / Collectif des rescapés sahraouis des disparitions / Comité de coordination des sahraouis victimes de la disparition forcée et la détention arbitraire / CDIFDH / Espace associatif / Forum Vérité et Justice / Transparency International Maroc
- Tunisia / Ligue Tunisienne des droits de l'Homme (LTDH)
- Turkey / IHHD
- Yemen / Yemen Human Rights Center (YHRC) / Yemen Organization for the Defense of Human Rights and Freedoms (YODHRF)

NON REGIONAL ORGANIZATIONS:

- Cambodia / ADHOC
- Chad / Ligue Tchadienne des droits de l'Homme (LTDH)
- Chile / Comité de Defensa de los Derechos del Pueblo (CODEPU)
- Colombia / Colectivo de Abogados
- United Kingdom / Kurdish Human Rights Project (KHRP)
- Ireland / Irish Council for Civil Liberties (ICCL)
- Peru / Asociacion Pro Derechos Humanos (APRODEH)
- Rwanda / Réseau des citoyens
- Sénégal / Organisation Nationale des droits de l'Homme (ONDH)/ RADDHO
- United Kingdom / Kurdish Human Rights Project (KHRP)
- United States / Center for Constitutional Rights (CCR)

REGIONAL AND INTERNATIONAL ORGANIZATIONS AND COALITIONS:

- International Federation for Human Rights (FIDH)

Due to their specific mandates the International Coalition for an ICC (CICC) and the Arab NGO Coalition for an ICC sign Part II of the "Casablanca Appeal".

Guaranteeing an Independent International Criminal Court
The International Federation of Human Rights (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, the FIDH has 114 national affiliates in all regions. To date, the FIDH has undertaken more than a thousand international fact-finding, judicial, mediation or training missions in over one hundred countries.

71 affiliate members

- ALGERIE (LADDH)
- ALLEMAGNE (ILMR)
- ARGENTINE (LADH)
- AUTRICHE (OLFM)
- BAHREIN (ICCL)
- BENIN (LDDH)
- BELGIQUE (LDH et VZW)
- BURKINA FASO (MBDHP)
- BURUNDI (ITERA)
- CAMBODGE (ADHOC)
- CAMEROUN (LDCD)
- CANADA (LLO)
- CENTRAFRICAINE (LDCD)
- CHILI (CODEPU)
- CHINE (CCR)
- COLOMBIE (CC)
- CONGO BRAZZAVILLE (OCDD)
- COTE D’IVOIRE (LIDO)
- CROATIE (CCDH)
- EGYPTE (EOHR)
- EL SALVADOR (CDHES)
- EQUATEUR (INREDH)
- ESPAGNE (LEDH)
- FINLANDE (FLHR)
- FRANCE (LDH)
- GRECE (LHRI)
- GUATEMALA (CDHG)
- GUINEE (OOGV)
- GUINEE BISSAU (LGGH)
- IRAN (LDDH)
- IRLANDE (ICCL)
- ISRAEL (LIDH)
- ITALIE (CCDH)
- KENYA (KHRC)
- KOSOVO (CDH)
- MALI (AMDH)
- MALTé (MHR)
- MAROC (OMDH)
- MAROC (AMDH)
- MAURITANIE (AMDH)
- MEXIQUE (CMDPH)
- MEXIQUE (UMEDDH)
- MOZAMBIQUE (LMDH)
- NIGER (AMDH)
- NIGERIA (CIDH)
- PAKISTAN (KHPD)
- PANAMA (CCS)
- PAYS BAS (LVRM)
- PEROU (CEDAL)
- PEROU (APRODEH)
- PHILIPPINES (PAHRC)
- PORTUGAL (CIVITAS)
- RDC (ASADKO)
- REPUBLIQUE DE YOUGOSLAVIE (CHR)
- ROUMANIE (LADO)
- ROYAUME-UNI (LIBERTY)
- RWANDA (CLADHO)
- Soudan (SHRO)
- SENEGAL (ONHD)
- SUISSE (LSDH)
- SYRIE (CDF)
- TCHAD (LTDH)
- TOGO (LTDH)
- TUNISIE (LTDH)
- TURQUIE (HOD/A)
- VIETNAM (CVDDH)

and 41 correspondent members

- AFRIQU DU SUD (HRC)
- ALBANIE (AHRS)
- ALGÉRIE (LADDH)
- ARGENTINE (CAJ)
- ARGENTINE (CELS)
- ARMENIE (ACHR)
- BOUTHAN (PFHRB)
- BULGARIE (LPBP)
- BREUIL (JC)
- CAMBODGE (LACADHO)
- COLOMBIE (CPDDH)
- COLOMBIE (ILSA)
- ECOSSIE (SHRC)
- ESPAGNE (APDH)
- ETATS UNIS (CCCR)
- ETHIOPIE (EHRCO)
- IRLANDE DU NORD (CAJ)
- ISRAEL (B’TSELEM)
- JORDANIE (JSHR)
- KIRGHIZISTAN (KCHR)
- LAOS (MLDH)
- LETTONIE (LHH)
- LIBAN (ALDHOM)
- LIBAN (FHHRL)
- LIBERIA (LWHR)
- LIBIE (LLHR)
- LITUANIE (LHRA)
- MOLDOVIE (LADO)
- RDC (LE)
- ROCOONGO (LTOUS)
- REPUBLIQUE DE DUBOUT (LDDH)
- RUSSIE (CWD)
- RUSSIE (MHMR)
- RWANDA (LPRC)
- Sénégal (RASDH)
- TANZANIE (LHRC)
- TCHAD (ATPDH)
- TUNISIE (COLT)
- TURQUIE (HRFT)
- TURQUIE (HOD/D)
- YEMEN (YODHFR)
- ZIMBABWE (ZIMRHRTS)

Subscriptions

La Lettre
France - Europe : 150 FF / £ 15
League Members : 125 FF / £ 13
Air mail (outside Europe) : 175 FF / £ 18
Students / Unwaged : 100 FF / £ 10

La Lettre and mission reports
France - Europe : 300 FF / £ 30
League Members : 275 FF / £ 28
Air mail (outside Europe) : 350 FF / £ 35
Students / Unwaged : 250 FF / £ 25

Supporters subscription : 1000 FF / £ 100

La Lettre

is published by Fédération Internationale des Ligues des Droits de l’Homme (FIDH), founded by Pierre Dupuy.
It is sent to subscribers, to member organisations of the FIDH, to international organisations, to State representatives and the media.

17, passage de la Main d’Or - 75011 - Paris - France
CCP Paris : 76 76 Z
Tel : (33-1) 43 55 25 18 / Fax : (33-1) 43 55 18 80
E-mail : fidh@fidh.org/ Internet site: http://www.fidh.org

Director of the publication : Sidiki Kaba
Editor : Antoine Bernard
Coordinator and Writer : Jeanne Sulzer
Writer and Research Assistant : Carmel Gabbay
Assistant of publication : Céline Ballereau-Tetu

Original : English, ISSN en cours.
Printing by the FIDH
Dépôt légal : February 2001 - Commission paritaire
N°0904P11341
Fichier informatique conforme à la loi du 6 janvier 1978
(Déclaration N° 330 675)

Prix : £ 2.50