



## The International Criminal Court: new crimes and a new Prosecutor

Standard Note: SN/IA/6014

Last updated: 28 June 2011

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As the International Criminal Court (ICC) moves towards opening its fourth trial, its jurisdiction is being widened and its most public face, the ICC Prosecutor, is about to be replaced at the end of his term.

An agreement to incorporate a definition of the crime of aggression into the ICC's Rome Statute was the main outcome of the ICC's first review conference, in 2010. To some surprise, provisions requiring the Security Council to act as a 'filter' for prosecutions were not adopted, even though the crime requires there to have been an illegal use of armed force by a state.

But the issue was so controversial that states parties also agreed that the ICC will be only able to exercise its jurisdiction over the crime of aggression subject to a decision to be taken after 1 January 2017. In other words, there is now a definition of the crime of aggression, but no means (yet) of prosecution for it at the ICC.

The crime of aggression was not the only issue at the review conference. There was an amendment expanding the situations in which certain weapons are illegal, and a 'stocktaking' segment, assessing and reflecting on the progress of the ICC. Other issues raised recently include whether states parties should continue to be able to suspend the jurisdiction of the ICC temporarily for war crimes committed on their territory or by their nationals, and whether the General Assembly, in addition to the Security Council, should be allowed to defer proceedings before the ICC. The apparently increasing involvement of the US in the ICC is another notable development, although it still seems unlikely to join the ICC.

In the coming year, the ICC's member states will elect a new chief Prosecutor to replace the controversial Argentinian Luis Moreno-Ocampo, whose term comes to an end in June 2012. This could significantly change the approach of the ICC and the way it is perceived.

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# 1 The crime of aggression

## 1.1 Introduction

Incorporating a definition of the crime of aggression into the Rome Statute<sup>1</sup> was the most important outcome of the [first review conference](#) of the International Criminal Court (ICC)'s [Rome Statute](#), held between 31 May and 11 June 2010 in Kampala, Uganda. The ICC's Statute, adopted in Rome in 1998, already had aggression on its list of core international crimes, alongside genocide, crimes against humanity and war crimes. But a definition of the crime was originally omitted, largely because of the difficulties of getting agreement between states about the degree to which this should be a legal matter or instead left to political relations between states. The requirement for a review conference was written into the original Rome Statute largely in order to deal with the definition of the crime of aggression.<sup>2</sup>

The controversy continued at the review conference. Despite agreeing a definition at the last minute, states parties decided that the ICC will not be able to exercise its jurisdiction over the crime of aggression until a year after thirty states parties have accepted the amendments, and even then it will be subject to a decision to be taken by two thirds of the states parties after 1 January 2017. In other words, there is now a definition of the crime of aggression, but no means (yet) of prosecution for it at the ICC.

## 1.2 Definition

The crime of aggression has since the Nuremberg Charter been considered part of the "hard core" of international crimes. However, defining it for the ICC brought several problems:

- aggression is not usually defined as a crime domestically, so there is little national experience to draw upon for technical issues such as how to inscribe the idea of self-defence as a legal use of force;
- the ICC has jurisdiction only over individuals, not states – but the crime of aggression presupposes that an illegal act has been committed by a state, and so requires some kind of prior determination of the legality of that state's conduct;
- the issue of the use of force by states is a matter for the UN Security Council, so the ICC's authority relative to that of the Security Council needs to be determined; and
- there is a risk that states seeking to justify their wars will seek self-serving interpretations.<sup>3</sup>

The UN General Assembly agreed a definition of aggression in a 1974 resolution,<sup>4</sup> but this concerned aggression by states, not by individuals, and was not designed with prosecution in mind.

A 'Special Working Group on the Crime of Aggression', established by the ICC Assembly of States Parties, concluded its work on 13 February 2009 and published a report<sup>5</sup> which formed the basis of the discussions at the review conference.

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<sup>1</sup> [Resolution RC/Res.6](#)

<sup>2</sup> See *Rome Statute* art 123

<sup>3</sup> See *The International Criminal Court and its Review Conference: Summary of the International Law Discussion Group meeting held at Chatham House on Thursday 29 April 2010*; Ian Hurd, "How Not to Argue Against the Crime of Aggression: A Response to Michael Glennon", SSRN, 6 May 2010

<sup>4</sup> [GA Res. 3314 \(XXIX\)](#), 14 December 1974

At the last minute, the states parties at the review conference adopted by consensus amendments to the Rome Statute which would allow the ICC to take jurisdiction over the crime of aggression. They also adopted revised *Elements of Crimes* (which are drawn up under the Rome Statute to assist the ICC in the interpretation and application of the crimes over which it has jurisdiction) and a series of ‘understandings’ about the crime of aggression.<sup>6</sup>

The definition of “crime of aggression” adopted at the review conference forms a new Article 8 *bis* of the Rome Statute:

For the purpose of the Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity or scale, constitutes a manifest violation of the Charter of the United Nations.<sup>7</sup>

“Act of aggression” is defined in the following paragraph as:

the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.<sup>8</sup>

According to this article, an act of aggression does not require a declaration of war. A series of examples follows, including invasion, bombardment and blockade, taken from the 1974 General Assembly Resolution.

The definition adopted was exactly the one recommended by the Special Working Group after “years of negotiation and many compromises”.<sup>9</sup> One of the main problems with this definition is ascertaining what might constitute a “manifest” violation of the UN Charter. Does it require an obviously illegal violation, a violation with serious consequences, or a violation which is both obviously illegal and serious?<sup>10</sup>

The ICC’s revised *Elements of Crimes* elaborate on the definition:

2. There is no requirement to prove that the perpetrator has made a legal evaluation as to whether the use of armed force was inconsistent with the Charter of the United Nations.
3. The term “manifest” is an objective qualification.
4. There is no requirement to prove that the perpetrator has made a legal evaluation as to the “manifest” nature of the violation of the Charter of the United Nations.

The ‘understandings’ agreed at the conference also provide some further interpretation:

6. It is understood that aggression is the most serious and dangerous form of the illegal use of force, and that a determination whether an act of aggression has been

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<sup>5</sup> [Report of the Special Working Group on the Crime of Aggression](#), ICC-ASP/7/20/Add.1

<sup>6</sup> [Resolution RC/Res.6](#), Annex III. See “[The International Criminal Court: Reviewing the Review Conference](#)”, *Chatham House International Law Meeting Summary*, 24 June 2010

<sup>7</sup> Rome Statute art 8 *bis*, para 1

<sup>8</sup> Rome Statute art 8 *bis*, para 2

<sup>9</sup> [Report of the Special Working Group on the Crime of Aggression](#), ICC-ASP/7/20/Add.1, 2009, para 13

<sup>10</sup> Dapo Akande, “What exactly was agreed in Kampala on the crime of aggression?”, [Equality of Arm Review: Special Edition Kampala Review Conference](#), November 2010

committed requires consideration of all the circumstances of each particular case, including the gravity of the acts concerned and their consequences, in accordance with the Charter of the United Nations.

7. It is understood that in establishing whether an act of aggression constitutes a manifest violation of the Charter of the United Nations, the three components of character, gravity and scale must be sufficient to justify a “manifest” determination. No one component can be significant enough to satisfy the manifest standard by itself.<sup>11</sup>

However, there is disagreement between lawyers over whether these ‘understandings’ have any authority.<sup>12</sup> It seems that they were agreed partly in response to the objections of the US – which is not a state party – to aspects of the definition.<sup>13</sup>

### 1.3 Exercising jurisdiction

The states parties at the review conference, having agreed a definition of the crime of aggression, nevertheless delayed its implementation. They agreed that the ICC may not exercise jurisdiction over aggression until (1) one year after 30 states have accepted the amendments, and (2) two-thirds of ICC member states have taken a further decision after 1 January 2017 to activate the provisions. The latter vote need not wait for a further full review conference called by the UN Secretary General, but can take place at any meeting of the ICC’s Assembly of States Parties (ASP).

The main reason for this delay was that states disagreed over whether the triggering mechanism for a prosecution should be political (the UN Security Council or General Assembly) or legal (the ICC Office of the Prosecutor and its pre-trial chamber, or the International Court of Justice).

The Security Council can at present choose to refer any situation, anywhere in the world, to the ICC for prosecution. Some states had suggested that this should be the only way that the ICC could take on cases of aggression, because the Security Council has the primary role in maintaining international peace and security under to article 39 of the UN Charter. It will remain the only way of prosecuting where a crime of aggression is committed on the territory of or by a national of a non-state party or a state party that does not accept the ICC’s jurisdiction over the crime of aggression.<sup>14</sup>

However, the two other ICC referral mechanisms – state referral and referral by the ICC chief Prosecutor (known as *proprio motu* referrals) – have been retained for crimes of aggression committed on the territory of or by nationals of states parties that accept the ICC’s jurisdiction over the crime of aggression.

In no case will the Security Council have to determine that an act of aggression has taken place, although it can defer an investigation or prosecution under Article 16 of the Rome Statute. If the referral has come from a state or from the ICC Prosecutor, and there is no such determination from the Security Council, an investigation will be delayed by six months and will require the authorisation of the full ICC Pre-Trial Division (not just three judges as is normally the case).

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<sup>11</sup> [Resolution RC/Res.6](#), Annex III

<sup>12</sup> See Kevin Jon Heller, “[Are the Aggression “Understandings” Valid?](#)”, *Opinio Juris*, 16 June 2010

<sup>13</sup> See Harold Hongju Koh and Stephen J Rapp, [U.S. Engagement with the International Criminal Court and the Outcome of the Recently Concluded Review Conference](#), 15 June 2010

<sup>14</sup> *Rome Statute* Art 15 *bis*

The following table summarises the methods available for referring crimes of aggression to the ICC for prosecution:

	Security Council referral	State referral	Referral by the ICC Prosecutor
States parties that have accepted ICC jurisdiction over the crime of aggression	Yes	Yes	Yes
States parties that have not accepted ICC jurisdiction over the crime of aggression	Yes	No	No
Non-states parties	Yes	No	No

This relates to the fact that the aggression amendment will not automatically apply to all ICC states parties. Instead, each state will have to accept or ratify it individually (and it will come into force for that state one year after its acceptance or ratification).<sup>15</sup> There is also a provision allowing states to opt out of ICC jurisdiction by state referral or referral by the ICC Prosecutor, but it is not clear why this is needed given that states could simply choose not to ratify the aggression amendment.<sup>16</sup>

**1.4 Incorporating the crime of aggression into UK law**

There is a campaign to incorporate the crime of aggression into UK law.<sup>17</sup> This would allow the courts here to investigate and, if necessary, prosecute crimes of aggression allegedly committed by UK nationals, persons resident in this country and UK service personnel. Robert Manson, a British criminal lawyer, suggests that this would show:

that the present day Government of this country now recognises the importance and supreme quality of that rule of international criminal law, and pledges thereby that it shall in future be observed, upheld and enforced by the political leadership of the Government of this country, answerable to the laws of this country, as in turn we contributed in the past to its previous enforcement against the political leadership of Nazi Germany, more than six decades ago at Nuremberg. Such that henceforth no British Prime Minister could act in future, pursuant to his perception of this country’s transient political interests, wholly secure in the knowledge that no British Court could thereafter ever hold him permanently accountable for his actions, under the recognised supreme crime in international law.<sup>18</sup>

Manson has published a proposed [draft Bill](#) to amend the [International Criminal Court Act 2001](#), which extends to England, Wales and Northern Ireland. The approach of the current Government suggests that no such amendment will be forthcoming soon:

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<sup>15</sup> Rome Statute Art 121(5)  
<sup>16</sup> See Dapo Akande, “What exactly was agreed in Kampala on the crime of aggression?”, [Equality of Arm Review: Special Edition Kampala Review Conference](#), November 2010; Robbie Manson, [Identifying the rough edges of the Kampala compromise](#) [undated; accessed 23 June 2011]  
<sup>17</sup> Robert Manson, Institute for Law, Accountability & Peace, [Response to a future finding by the Chilcott Inquiry Report Justifying the view that the Iraq War was illegal](#), September 2010  
<sup>18</sup> Robert Manson, Institute for Law, Accountability & Peace, [Response to a future finding by the Chilcott Inquiry Report Justifying the view that the Iraq War was illegal](#), September 2010

**International Criminal Court**  
**Question**  
**11.10 am**  
**Asked By Baroness Stern**

To ask Her Majesty's Government what is their response to the outcome of the Review Conference on the Rome Statute of the International Criminal Court held in Kampala, Uganda, from 31 May to 11 June.

**The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford):** My Lords, our response is positive. The ICC review conference in Kampala was a major milestone in the international community's fight to combat impunity for the most serious crimes of international concern. The stocktaking of international criminal justice will help shape the future development of the court. The UK will now consider whether to ratify the amendment on the use of certain weaponry in a non-international armed conflict. The conference agreed a package, including the definition of the crime of aggression and the conditions for exercise of jurisdiction, to be put forward for discussion and possible adoption in 2017.<sup>19</sup>

The UK has a principled position: that the UN Security Council has primary responsibility for dealing with aggression. We maintain that that is right. If in the discussion the complexities of developing a further definition can be overcome, then the general purpose—all are agreed—is the right one. However, there are some obvious complexities here that need resolving. They are not in any way against carrying forward the concern with crimes of aggression; the only question is the technique and method by which that should be done.<sup>20</sup>

## **2 Other developments**

The crime of aggression was not the only issue at the review conference. There was an amendment expanding the situations in which certain weapons are illegal, and also a stocktaking segment, assessing and reflecting on the progress of the ICC, although this was unlikely to make any material differences.

Other issues raised recently include: whether states parties should be allowed to continue to suspend the jurisdiction of the ICC for seven years for war crimes committed on their territory or by their nationals; and whether the General Assembly, in addition to the Security Council, should be allowed to defer proceedings before the ICC.

The apparently increasing involvement of the US in the ICC is another notable development, although it still seems unlikely to join the ICC.

### **2.1 Use of prohibited weapons**

A relatively uncontroversial amendment to Article 8 of the Rome Statute was agreed at the 2010 review conference. It extends the ICC's jurisdiction to cover the use of certain weapons in conflicts of a non-international character which are already prohibited in international armed conflict. These include: poison; poisoned weapons; asphyxiating, poisonous or other gases; and all analogous liquids and bullets that expand or flatten in the

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<sup>19</sup> HL Deb 22 July 2010 c1061

<sup>20</sup> HL Deb 22 July 2010 c1062-3

body (so-called 'dum-dum' bullets). The resolution amending Article 8 also includes the relevant Elements of Crime.<sup>21</sup>

## 2.2 Stocktaking

The part of the review conference looking at how the ICC was progressing produced four 'outcomes documents':

- the Kampala Declaration, which reaffirmed states' commitment to full implementation of the Rome Statute, to increased domestic implementation and to full cooperation with the ICC;
- the Resolution on Complementarity, which reiterated the primary responsibility of states to investigate and prosecute the most serious crimes of international concern;
- the Resolution on Impact on Victims and Affected Communities; which recognised the rights of victims to have access to justice and to participate in judicial proceedings; and
- the Declaration on Cooperation, which emphasised the importance of states complying with requests for cooperation from the ICC.

The discussions provided practical recommendations and gave examples of good practice. States were also invited to make concrete pledges, and over 30 were made although some were very general. But the discussions and outcomes documents are nevertheless unlikely to have much impact on their own. And given that the ICC has yet to finish a full judicial cycle of a case from investigation to final judgment, there is much still to be learnt.<sup>22</sup>

## 2.3 Temporary suspensions of ICC jurisdiction

Article 124 of the Rome Statute allows ICC state parties to opt out of ICC jurisdiction for war crimes for seven years. Only two countries (France and Colombia) have used this provision, and there was a proposal at the review conference to remove it.

However, some states felt it did no harm to leave it in, while others suggested that the provision could attract further states to ratify. The provision was left in and will be assessed by the Working Group on Amendments that was set up by the December 2010 Assembly of States Parties (ASP) before an automatic review of the article in 2015.<sup>23</sup>

## 2.4 Deferring ICC proceedings

A proposal from the African Union that did not make it on to the agenda at the review conference was that Article 16 of the ICC Statute be amended to allow the General Assembly, in addition to the Security Council, to defer proceedings before the ICC.

Consideration of this proposal had been deferred until the 2010 ASP, but there was not enough time to discuss the substance of the proposed amendments then. Again, this is likely to go to the Working Group on Amendments for consideration.

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<sup>21</sup> Lorraine Smith, "What did the ICC Review Conference achieve?", International Bar Association *Equality of Arm Review (EQ) vol 2 issue 2*, November 2010, p3

<sup>22</sup> Lorraine Smith, "What did the ICC Review Conference achieve?", International Bar Association *Equality of Arm Review (EQ) vol 2 issue 2*, November 2010, pp4-5; Judge Sang-Hyun Song, "Reflections on the ICC Review Conference: perspectives of the ICC President", International Bar Association *Equality of Arm Review (EQ) vol 2 issue 2*, November 2010, pp7-9

<sup>23</sup> See Chandra Lekha Sriram, "ICC hypocrisy over war crimes", *Guardian*, 22 June 2010



Amnesty International is among the groups opposed to this proposal, considering that even the current rule is regrettable because it undermines the independence of the ICC:

gives the Security Council the ability to give persons suspected or accused of the gravest possible crimes under international law amnesties, undermining the rule of law and the very reason for a permanent international criminal court.<sup>24</sup>

## 2.5 Further crimes

Other proposals submitted to the 2009 Assembly of States eighth session that were not taken forward to the review conference included adding crimes of drug trafficking and terrorism. These too could go to the Working Group on Amendments.<sup>25</sup>

## 2.6 US involvement in the ICC

The US, which is not an ICC member state, now takes a close and growing interest in the ICC after years of hostility. It sent 23 delegates to the Kampala Review Conference, “in the spirit of renewed engagement, with the aims of supporting a constructive outcome that is based on consensus, that strengthens the Court as an institution, and that advances the cause of human rights and international criminal justice.”<sup>26</sup> Although the US was only an ‘observer’ nation, its delegates were involved in detailed discussions in Kampala, and it presented this as a distinct change in its level and quality of engagement:

it did feel like the end of the beginning of the U.S’s 12-year relationship with this court. After 12 years, I think we have reset the default on the U.S. relationship with the court from hostility to positive engagement. In this case, principled engagement worked to protect our interest, to improve the outcome, and to bring us renewed international goodwill. As one delegate put it to me, the U.S. was once again seen, with respect to the ICC, as part of the solution and not the problem. The outcome in Kampala demonstrates again principled engagement can protect and advance our interests, it can help the states parties to find better solutions, and make for a better court, better protection of our interests, and a better relationship going forward between the U.S. and the ICC.<sup>27</sup>

The US has also offered assistance to the ICC in completing its current prosecutions:

Although the United States is not a party to the Rome Statute, we too have an abiding interest in seeing the Court successfully complete the prosecutions it has already begun. Mr. President, as President Obama’s recently released national security strategy so clearly stated: “the end of impunity and the promotion of justice are not just moral imperatives; they are stabilizing forces in international affairs.” Our national security strategy recognizes, and I quote again, that “those who intentionally target innocent civilians must be held accountable, and we will continue to support institutions and prosecutions that advance this important interest.”

That is why we have been meeting with Court officials to examine specific ways we might assist the Court in successfully completing the prosecutions already underway. We owe it to those who have endured crimes of epic scope and savagery to do all we

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<sup>24</sup> Amnesty International, *International Criminal Court: Concerns at the ninth session of the Assembly of States Parties (6 to 10 December 2010)*, IOR 53/016/2010, 17 November 2010, p12

<sup>25</sup> Amnesty International, *International Criminal Court: Concerns at the ninth session of the Assembly of States Parties (6 to 10 December 2010)*, IOR 53/016/2010, 17 November 2010, p10

<sup>26</sup> Harold Hongju Koh, Legal Adviser, US Department of State, *Statement at the Review Conference of the International Criminal Court*, 4 June 2010

<sup>27</sup> Harold Hongju Koh and Stephen J Rapp, *U.S. Engagement with the International Criminal Court and the Outcome of the Recently Concluded Review Conference*, 15 June 2010

can to ensure that the Court can bring those cases to a successful end, to hold the perpetrators to account, to provide recognition and relief for the victims, and by doing so, to create a future of greater safety and security.<sup>28</sup>

But “the signs that it will actually put its signature to [the Rome Statute are] still a bit fuzzy and remote”.<sup>29</sup>

### 3 A new ICC Prosecutor

In December, the ICC’s states parties will [elect a new Prosecutor](#) for the ICC, to succeed Luis Moreno-Ocampo whose term draws to a close in June 2012. Moreno-Ocampo, from Argentina, was the Court’s first Prosecutor, taking office in 2002. His activist approach has brought a lot of publicity – both good and bad – to the Court.

In early February, the ICC [set up a search committee](#) to identify some potential candidates to succeed Moreno-Ocampo. The search committee comprises five members, one from each regional group, including Sir Daniel Bethlehem QC, Legal Adviser to the UK FCO. It will produce a shortlist of three or more candidates:

Over the next few months, the Committee will informally receive expressions of interest from individuals, States, regional and international organizations, civil society, professional associations and other sources. The Search Committee will also actively identify and informally approach individuals who may satisfy the applicable criteria, in particular those contained in article 42 of the Rome Statute. The Search Committee will review the expressions of interest and produce a shortlist of at least three suitable candidates, where possible for consideration by the Bureau of the Assembly of States Parties. The next Prosecutor will be elected by the tenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court.<sup>30</sup>

At the December 2011 Assembly of State Parties, every ICC member state will have one vote in deciding the ICC’s second Prosecutor. As the vast majority of states parties come from Africa, South America and Asia, it is highly unlikely that the new Prosecutor will be North American or European. The African Union has already been clear that it wants an African Prosecutor to lead the Court.<sup>31</sup> However, there is no requirement for countries to vote for a Prosecutor from their region, and the only nationality requirement is that the Prosecutor and the Deputy Prosecutors must be of different nationalities.<sup>32</sup>

The Rome Statute sets some rather general requirements for the ICC Prosecutor and Deputy Prosecutors, who:

shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.<sup>33</sup>

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<sup>28</sup> Stephen J Rapp, US Ambassador-at-Large for War Crimes Issues, [Statement to the Review Conference of the International Criminal Court](#), 1 June 2010

<sup>29</sup> HL Deb 22 July 2010 c1063

<sup>30</sup> ICC press release, [“Search Committee for the position of ICC Prosecutor takes up work”](#), 8 February 2011

<sup>31</sup> [“African leaders demand ICC Prosecutor's post”](#), *Afrique en ligne*, 3 February 2011

<sup>32</sup> Rome Statute, Art 42

<sup>33</sup> Rome Statute, Art 42

The lack of detail here has prompted various civil society groups to add further desirable characteristics. The [Open Society Justice Initiative has issued a statement](#) outlining the qualities it wants to see in the next Prosecutor:

- demonstrated experience of professional excellence in complex criminal cases;
- demonstrated ability to act with independence and impartiality in the exercise of professional duties;
- a proven track-record of professional excellence in institutional management;
- demonstrated experience in working with other bodies or agencies effectively; and
- demonstrated experience in communicating effectively to a wide variety of constituencies.

Amnesty International proposes an overlapping set of criteria:

- first and foremost, recognition in his or her jurisdiction as an outstanding lawyer;
- second, recognized excellent management experience at the highest levels of his or her national criminal justice system;
- third, experience in preparing and prosecuting large, highly complex cases in a professional way consistent with the internationally recognized right to fair trial, preferably cases involving crimes under international law; and
- fourth, demonstrated impartiality, independence, integrity and good judgement.<sup>34</sup>

The [Justice in conflict](#) blog has a series of articles on the election of a new Prosecutor, including [considerations about nationality, etc](#) and [profiles of possible candidates](#).

At the same time as the Prosecutor's election, there will also be [elections for six of the ICC's 18 judges](#). The Rome Statute does not require them to have judicial experience, and – unlike the rules for the Prosecutor – Article 36 on the qualification and election of judges incorporates a nationality element:

3. (a) The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.

(b) Every candidate for election to the Court shall:

(i) Have 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; or

(ii) Have established competence in relevant areas 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;

(c) Every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

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<sup>34</sup> Amnesty International, [International Criminal Court: Concerns at the ninth session of the Assembly of States Parties \(6 to 10 December 2010\)](#), IOR 53/016/2010, 17 November 2010, p3

[...]

8. (a) The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for:

(i) The representation of the principal legal systems of the world;

(ii) Equitable geographical representation; and

(iii) A fair representation of female and male judges.

(b) States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.

## 4 Further reading

[International Criminal Court website](#)

[Justice in conflict website](#)

[Coalition for the International Criminal Court \(CICC\) website](#)

Amnesty International, *International Criminal Court: Concerns at the ninth session of the Assembly of States Parties (6 to 10 December 2010)*, 17 November 2010

International Bar Association, *Equality of Arm Review: Special Edition Kampala Review Conference*, November 2010

Robbie Manson, *Identifying the rough edges of the Kampala compromise* [undated]

Ian Hurd, "How Not to Argue Against the Crime of Aggression: A Response to Michael Glennon", *SSRN*, 6 May 2010

Richard Dicker, "Peace & Justice", *The World Today*, January 2010

*The International Criminal Court: Current Cases and Contemporary Debates*, House of Commons Library Standard Note SN/IA/5042, 20 April 2009

*Report of the Special Working Group on the Crime of Aggression*, ICC-ASP/7/20/Add.1, 2009