

Annexure C

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**Election of the Deputy Prosecutor of the
International Criminal Court****Note by the Secretariat**

1. Under the terms of article 42, paragraph 4, of the Rome Statute of the International Criminal Court, and paragraph 32 of Assembly of States Parties resolution ICC-ASP/1/Res.2 on the procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the Court, the Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled.
2. In a letter dated 15 July 2004, the Prosecutor of the Court transmitted to the President of the Assembly of States Parties his nomination of the following three candidates for the position of Deputy Prosecutor of the Court (see annex):

Ms. Fatou Bensouda (The Gambia)
Ms. Nicola Crutchley (New Zealand)
Mr. Josaia Naigulevu (Fiji)
3. In addition, the letter included a description of the procedures followed for the selection of candidates (see annex, appendix I), as well as a compilation of statements of qualifications (see annex, appendix II), submitted in accordance with paragraph 33 of the above-mentioned resolution.
4. Under the terms of paragraph 37 of the same resolution, the procedures for the election of the Prosecutor in section E of that resolution shall apply mutatis mutandis to the election of any Deputy Prosecutor.

Annex

Letter dated 15 July 2004 from the Prosecutor of the International Criminal Court to the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court

[Original: English/French]

I have the honour to inform you, in your capacity as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, that the process of selection of candidates for nomination to the position of Deputy Prosecutor (Prosecutions) has been finalised.

The candidates hereby nominated have been selected from a pool of one hundred ninety-eight applicants from sixty-six countries, States Parties and non-States Parties. The large number of applications received is the consequence of efforts to widely disseminate the call for applications for the position. The Office of the Prosecutor gratefully acknowledges the assistance received from the Secretary of the Assembly of States Parties in this regard.

In order to ensure a large and varied candidate pool, the Office sent letters publicising the call for applications to representatives of all States Parties. We made efforts to raise awareness of the vacancy in geographic regions that are underrepresented at the ICC by sending letters to the Heads of Missions to the United Nations from the African, Asian, and Eastern European UN Regional Groups. The call for applications was further announced in a press release of 12 March 2004. Finally, a number of non-governmental organisations, in particular the Coalition for the International Criminal Court, the International Association of Prosecutors, and the Women's Initiatives for Gender Justice, were also instrumental in circulating the vacancy.

The Office sought foremost to attract candidates of the highest competence, integrity and experience, to represent all regions and legal systems of the world. Deliberate efforts were made to attract qualified women, consistent with the provisions of articles 44 and 36, paragraph 8, of the Rome Statute. As a result, substantially more female candidates applied for this position compared to the number who applied for the position of Deputy Prosecutor (Investigations) last year. There was also a substantial increase in the number of African, Asian, Latin American and Caribbean candidates (exact details may be found in appendix I to this letter).

After reviewing all of the applications, in May, June and July 2004, ten candidates were invited for a day-long visit to the seat of the Court. Aside from their interviews with me, the candidates met individually for in-depth discussions with senior staff of the Office. They were informed at the outset of their visit that at the day's end they would be expected to offer their reflections on the role the Deputy Prosecutor would be expected to fulfil.

The candidates were informed of and asked to reflect on the three most important tasks the Deputy Prosecutor (Prosecutions) would be expected to undertake. These include managing the Prosecution Division, interacting with the Investigation Division and the Deputy Prosecutor (Investigations) and assisting me to take strategic decisions as a member of the Executive Committee (a committee comprised of the heads of the OTP's three operative divisions).

After careful deliberation, and pursuant to article 42, paragraph 4 of the Rome Statute, I have decided to nominate three candidates who possess the experience and qualifications necessary to excel in the position of Deputy Prosecutor (Prosecutions). These are Ms. Fatou Bensouda (The Gambia), Ms. Nicola Crutchley (New Zealand), and Mr. Josaia Naigulevu (Fiji). I request, Excellency, that you transmit their names to the Assembly of States Parties for consideration at the upcoming Third Session in September 2004. An order of preference of the selected candidates is not provided, in order to allow the Assembly to exercise its prerogative to select any of them for the position. The three candidates are persons of broad and recognised experience in criminal prosecutions. They also fully meet the strict requirements of the Statute.

Ms. Fatou Bensouda has worked as a lawyer, a prosecutor, and a government minister in the Republic of The Gambia. She began her career as a Public Prosecutor in 1987. She rose to the positions of Deputy Director of Public Prosecutions, Solicitor General, Attorney General and Secretary of State for (Minister of) Justice of her country. In May 2002, she took up the position of Legal Advisor and Trial Attorney at the International Criminal Tribunal for Rwanda. She was the manager for a leading commercial bank and a delegate of The Gambia to the Preparatory Commission meetings on the Establishment of the International Criminal Court in New York in 1999.

Ms. Nicola Crutchley was a community worker in the early stages of her career. She pursued law studies in New Zealand and was admitted to the bar in 1984. She began her legal practice as a Staff Solicitor and then as a Crown Prosecutor, a position she held for seven years. Between 1991 and 1996 she served as a barrister, and in 1996 joined the Crown Law Office in Wellington, where she has served as Deputy Solicitor General. Ms. Crutchley has dealt in complex cases, involving serious crimes and appeals, including appeals to the Superior Courts on behalf of the Crown. She currently manages Crown prosecutors and supervises criminal jury trials in New Zealand. She has served as a member of the Executive Committee of the International Association of Prosecutors.

Mr. Josaia Naigulevu studied law in Fiji and in Australia, and has now reached the peak of a long career as a prosecutor. He started his legal career in 1987 as a private solicitor then became a Legal Officer in the Crown Law Office of Fiji in 1988. He has served as State Counsel, Principal Legal Officer, and Deputy Director of Public Prosecutions. Mr. Naigulevu has prosecuted criminal trials and appeals in all the Fijian courts, including recently, cases of historic importance for his country. He has held the post of Director of Public Prosecutions, a constitutional appointment, since 2001, in which capacity he supervises all criminal prosecutions.

The curricula vitae of the nominees are attached as appendix II to this letter, for the consideration of the Assembly. A detailed report of the selection process is also attached, as appendix I.

(Signed) Luis **Moreno-Ocampo**
Prosecutor

Appendix I

Report on the procedures followed for the selection of candidates for nomination for the position of Deputy Prosecutor (Prosecutions) in the Office of the Prosecutor of the International Criminal Court

I. Publicising of the vacancy notice

The vacancy notice for the position of Deputy Prosecutor (Prosecutions) of the Office of the Prosecutor of the International Criminal Court was posted on the website of the ICC on 24 February 2004, in both working languages of the Court. The vacancy notice was also publicised in a press release from the Office of the Prosecutor on 12 March 2004. The initial deadline was extended three times to ensure that the time allotted for the dissemination of the notice was sufficient to allow the Office to receive applications from qualified individuals from around the world. The final deadline for applications was 31 May 2004.

The call for applications was circulated among the diplomatic missions of States Parties to the Rome Statute of the International Criminal Court. Letters were sent by Prosecutor Luis Moreno-Ocampo to all Heads of Mission of States Parties accredited to the Kingdom of The Netherlands, and representatives of other States Parties without mission to the Kingdom of The Netherlands. Additionally, in an effort to increase awareness of the call for applications in geographic regions that are underrepresented at the ICC, the Office sent letters to the Heads of Missions to the United Nations from the African, Asian, and Eastern European UN Regional Groups. The call for applications was also sent to the Secretary-General of the International Association of Prosecutors and to the Convenor of the Coalition for the International Criminal Court, and was disseminated extensively by the Women's Initiatives for Gender Justice.

II. Statistics of applications received

A total of 198 applications for the position of Deputy Prosecutor (Prosecutions) were received. Below is a breakdown by gender, ratification status of country of nationality, and geographic origin.

Total number of applications received	198			
		% of total	Subtotal	% of subtotal
Female applicants	63	(32%)		
Male applicants	135	(68%)		
State Party applicants	152	(77%)		
Females			44	(29%)
Males			108	(71%)
Non-State Party applicants	46	(23%)		
Females			19	(41%)
Males			27	(59%)
African applicants	65	(33%)		
Asian applicants	21	(11%)		
Eastern European applicants	9	(4%)		
Latin-American and Caribbean applicants	25	(13%)		
Western European and other States applicants	78	(39%)		

III. Interview process

Applications for the position of Deputy Prosecutor (Prosecutions) were screened to ensure that applicants complied with the requirements set out in article 42, paragraph 3 of the Rome Statute and in light of the duties and responsibilities envisaged for the position, as set out in the vacancy announcement.

The Prosecutor of the Court selected ten applicants, each of whom was invited for an interview at the seat of the Court. The breakdown of the list of applicants interviewed by gender, ratification status of country of nationality, and geographical origin, appears below.

Total number of candidates interviewed	10
Female applicants	8
Male applicants	2
State Party applicants	9
Non-State Party applicants	1
African applicants	5
Asian applicants	3
Eastern European applicants	0
Latin-American and Caribbean applicants	0
Western European and other States applicants	2

The interviews took place at the seat of the Court during May, June, and July 2004. They were conducted by Prosecutor Luis Moreno-Ocampo, and were complemented with a series of meetings with senior staff of the Office of the Prosecutor. After careful consideration, and a thorough check of references, the Prosecutor decided to nominate Ms. Fatou Bensouda (The Gambia), Ms. Nicola Crutchley (New Zealand) and Mr. Josaia Naigulevu (Fiji) for the position of Deputy Prosecutor (Prosecutions).

Appendix II

Alphabetical list of candidates nominated for the position of Deputy Prosecutor (Prosecutions) in the Office of the Prosecutor of the International Criminal Court with statements of qualifications¹

1. Bensouda, Fatou (The Gambia)

Statement of qualifications

Date of Birth: 31 January 1961
Place of Birth: Banjul, The Gambia
Nationality: Gambian
Status: Married with children

Education

1990-1991: Master of Laws, International Maritime Law, UN/IMO International Maritime Law Institute.
1986-1987: Barrister-at-Law, Nigeria Law School, Lagos, Nigeria.
1983-1986: Bachelor of Laws (Honours), University of Ife (Now OAU University), Ife, Nigeria.

Language knowledge

Wolof, English, French: Good knowledge.

Professional experience

2002- Present: Legal Adviser/Trial Attorney, ICTR, Kigali, Rwanda.
2002: General Manager, International Bank for Commerce Limited, Banjul, The Gambia.
2000-2002: Private Legal Practitioner, Ya Sadi Chambers, Bensouda and Co. Leman St. Banjul, The Gambia.
1998-2000: Attorney General and Secretary of State for (Minister of) Justice of the Republic of The Gambia.
1997-1998: Solicitor General and Legal Secretary of the Republic of The Gambia.
1993-1997: Deputy Director of Public Prosecutions, Republic of The Gambia.
1992-1993: Principal State Counsel.
1990-1992: Senior State Counsel.
1988-1990: State Counsel.

¹ Based on *curricula vitae* submitted by the applicants for the position of Deputy Prosecutor (Prosecutions).

1987-1988: Public Prosecutor.

1980-1982: Clerk of the Court, Judicial Department.

Other professional training

2001: Diploma: Volunteerism, International Olympic Committee, New York, USA.

1998: Certificate: Computer and Information Technology, Management Development Institute, The Gambia.

1994: Certificate: Oxford Conference on Mutual Legal Assistance, Oxford, England.

1993: Certificate: Conference on Judicial Independence and Judicial Accountability, The Gambia.

1989: Certificate: Human Rights Training for Commonwealth Public Officials, Banjul, The Gambia.

1988: Certificate: International Law Programme, International Court of Justice, The Hague, The Netherlands.

Memberships in professional organizations

Member, The Gambia Bar Association.

Member, Nigeria Bar Association.

2000-present: Member, International Advisory Council, International Board of Maritime Healthcare.

2000-present: Member, Professional Women's Advisory Board.

1998-2000: Member, Advisory Board, The African Centre For Democracy and Human Rights Studies.

Other related activities

1994-present: Member, Executive Committee of The Marina International School, The Gambia.

1992-1995: Member, Gambia High School Board of Governors.

- 1ST Vice President, Gambia National Olympics Committee (GNOC).

- Member of Board of Directors, Gambia Committee on Harmful Traditional Practices GAMCOTRAP- (National Branch of The Inter African Committee).

Conferences

- Delegate to the Asian African Legal Consultative Committee Meeting, 39th Session for Justice Ministers 19–23 February 2000, Cairo, Egypt.

- Inaugural Meeting of Women Ministers of Justice by Council of Women World Leaders and the United Nations, New York, November 1999.

- Delegate of The Gambia to Preparatory Commission meetings on the Establishment of the International Criminal Court, New York, USA, 1999.
- Representative to the Commonwealth Law Minister's Meeting in Port of Spain, Trinidad, 3-7 May 1999.
- Representative to the OAU Ministerial Meeting on Human Rights in Africa Grand Baie, Mauritius 12-16 April 1999.
- Part of Gambian delegation to the UNDP International Conference on Good Governance, UN, New York, July 1997.
- Official to the Meeting of Law Ministers of Small Commonwealth Jurisdictions, Barbados, 28 July–1 August 1997.
- The Gambia's delegate to the United Nations Conference on Crime Prevention and Treatment of Offenders, Preparatory Meeting, Kampala, Uganda, 1995.
- Member of delegation to the 9th UN Congress on Crime Prevention and Treatment of Offenders, Cairo, Egypt, 1995.
- Ministry of Justice permanent delegate to ECOWAS series of meetings on:
 - The ECOWAS Treaty,
 - The West African Parliament,
 - The ECOWAS Tribunal.
- Legal Expert to the Sub-Regional Commission on Fisheries meeting on the Convention on the Rights of Hot Pursuit, Guinea Conakry, 1993.

Miscellaneous

- Special Envoy of His Excellency, the President of the Republic of The Gambia, to His Excellency, The President of the Federal Republic of Nigeria, May 1999.
- Special Envoy of His Excellency, the President of the Republic of The Gambia, to His Excellency, The President of Zambia, October 1999.
- Assigned by His Excellency, the President of the Republic of The Gambia, to oversee the Department of State for Local Government, Lands and Religious Affairs, June 1999.

2. Crutchley, Nicola (New Zealand)**Statement of qualifications**

Date of birth: 4 October 1952
 Place of birth: Nelson, New Zealand
 Nationality: New Zealand
 Status: Married with children

Academic qualifications

1984: Bachelor of Laws, Auckland University, New Zealand.

Professional experience

1996-present: Deputy Solicitor-General, Crown Law Office, Wellington, New Zealand.
 1991-1996: Barrister Sole.
 1984-1991: Crown Prosecutor, Wellington Crown Solicitor; Luke Cunningham & Clere (Partner, Associate, Staff Solicitor), Wellington, New Zealand.
 1984: Staff Solicitor, Perry Wylie, Solicitors, Wellington, New Zealand.
 1978-1983: Community Activities Officer, National Council of Adult Education, New Zealand.
 1975-1977: Community Development Officer, Community Services, Town Planning Department and Wellington City Council, Wellington, New Zealand.

Language knowledge

English: Good knowledge.
 French: Basic knowledge.

Recent involvement in continuing legal education

1993-1998: New Zealand Law Society (NZLS)
 1993-1995: Faculty Member, New Zealand Law Society (NZLS) Litigation Skills Programme.
 1996: Co-presenter, NZLS “Running an Employment Law Case” travelling seminar.
 1997: Deputy Director, NZLS Litigation Skills Programme.
 1998: Director, NZLS Litigation Skills Programme.
 1998: Presenter and Panel Member, NZLS “Banishing the Cinderella Syndrome” Symposium for senior criminal lawyers.
 1996: Panelist on Appellate Advocacy, New Zealand Bar Association Annual Conference.

1997: Guest Lecture to LL.M. students on Battered Women's Syndrome, Institute of Criminology, Cambridge, England.

Memberships in professional associations

1984: Admission as a Barrister and Solicitor of the High Court of New Zealand.

1984-present: Member, *Wellington District Law Society*.

1992-1999: Panel Mediator, *Arbitrators and Mediators Institute of NZ (AMINZ)*.

1994-present: Advanced Panel Mediator *Lawyers Engaged in Alternative Dispute Resolution (LEADR)*. Attended Harvard Law School Mediation Workshop, Sydney Australia.

1995-1996: Member, Psychologists Board.

1995-1996: Member, Accident Compensation Commission Medical Misadventure Committees.

1996-present: *International Association of Prosecutors (IAP)*

1996-2001: Executive Committee Member, *IAP*.

1998: Vice President, *IAP* Annual Conference in Dublin, Ireland.

2001-present: Member of Senate, *IAP*.

1997-2003: *Head of Prosecuting Agencies Conference (HOPAC)*

1997: Organized and hosted *HOPAC*, on Solicitor-General's behalf in Wellington, NZ.

1999: Presented papers on prosecution issues at *HOPAC* in Fiji .

2001: Presented papers on prosecution issues at *HOPAC* in Edinburgh, Scotland.

2003: Presented papers on prosecution issues at *HOPAC* in Darwin, Northern Territory, Australia.

Conferences

Accompanied the Attorney-General as the New Zealand Official at the *Commonwealth Law Ministers Conference* (organized through the Commonwealth Secretariat) November 2002.

Miscellaneous

2001-2002: *Pitcairn Trials Act*, directly involved in policy development and treaty negotiations between New Zealand and the United Kingdom and the preparation of New Zealand legislation culminating in that act.

3. Naigulevu, Josaia (Fiji)**Statement of qualifications**

Date of Birth: 25 October 1953
 Place of Birth: Fiji
 Nationality: Fijian
 Status: Married with children

Academic qualifications

2004: Enrolled as candidate in Doctor of Juridical Sciences programme, Queensland University of Technology, Australia.

2004: ETHICS Diploma in International Criminal Law, European University Institute, Florence, Italy.

2003: Diploma in Advanced Litigation Skills, New Zealand Law Society, New Zealand.

1995: Master of Laws, Queensland University of Technology, Australia (Australian Government Scholarship).

1986: Bachelor of Laws, University of Otago, New Zealand (Fiji Government Scholarship).

1977: Bachelor of Arts in Administration, University of the South Pacific, Fiji (Fiji Government Scholarship).

Professional qualifications

1980: Barrister and Solicitor of the High Court of New Zealand.

Barrister and Solicitor of the High Court of Fiji.

1988: State Counsel, Fiji.

Language knowledge

Fijian, English: Good knowledge.

French: Basic knowledge.

Professional experience

2000-present: Director of Public Prosecutions Office, Suva, Fiji

1988-2000: State Counsel (served as Legal Officer, Senior Legal Officer, Principal Legal Officer, Assistant DPP, Deputy Director of Public Prosecutions), State Law Office, Suva, Fiji.

1988: Legal Officer, Crown Law Office, Fiji.

1987: Solicitor, Cool, Allan, Gibson, New Zealand.

Memberships

- Member of War Pensions Board, Fiji, since 1990.
- Member of International Association of Prosecutors.
- Director, Asia Crime Prevention Foundation (ACPF) (Consultative UN status).
- Member of Board of Governors, Veiuto Primary School, Suva, Fiji, 2000–2002.

Papers presented

- “Policy Perspectives and Contemporary Problems in Crime Prevention and Criminal Justice,” United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI), 84th International Seminar, Japan 1990.
- “Conditions for Prosperity Without Crime,” ACPF World Conference, Japan 1992.
- “Prosecution Difficulties, Corruption Prevention and Awareness Course,” Australian Government sponsored training, Fiji 1991.
- “Resource Implications in Criminal Assistance Process,” ACPF Pacific Conference.
- “Terrorism and Poverty,” 9th ACPF World Conference, Japan 2002.
- “Legislating Against Terrorism,” International Association of Prosecutors Conference, Washington DC 2003.
- “Making Standards Work (UN),” ACPF Working Group meeting for implementation of Vienna Declaration, Bangkok, 2003
- “Ethics and Professional Responsibility in Court,” Institute of Judicial and Legal Studies, University of the South Pacific, Fiji, 2001.
- “Issues of Medical Consent,” Doctor and the Law Seminar, 2003.
- “Prosecuting Offenders in Tourism Courts,” Tourism Convention, 2002.
- “International Accounting Standards and Public Sector Accounting,” Auditor Generals Pacific Islands Workshop, 2004.
- Speeches to welcome Judges of the Supreme Court [5/12/02, 26/6/02, 18/6/03, 8/4/03].

Papers published

- “Policy perspectives and contemporary problems in Crime Prevention and Criminal Justice,” UNAFEI Resource Material Series 1990.
- “Terrorism and Poverty,” ACPF Today December 2003.

Teaching experience

- 2003: New Zealand Law Society / Crown Law Office Litigation Skills Workshop, 2003.
- 2004: Commonwealth Secretariat sponsored Money Laundering Workshop for Prosecutors, Fiji.
- 2004: Commonwealth Secretariat sponsored Money Laundering Workshop for Investigators, Fiji.

Miscellaneous

- 2004: Assigned to lead Fiji Government's delegation to the South Pacific Forum Regional Security Meeting.

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