

Progress On Operational Rules

The Preparatory Commission (PrepCom) for the International Criminal Court (ICC) concluded its second, three-week session in August, during which it made considerable progress on the rules concerning the operation of the court.

PrepCom working groups addressed a number of issues including the organisation and administration of the court, rules relating to investigation, prosecution,



trial, appeal and review, war crimes and the crime of aggression. Also, in line with a resolution of the General Assembly, the PrepCom undertook consultations on the acceptability of the ICC to the United States. PrepCom decided to set up a working group to define aggression.

Without a proper definition, the Commission said, the court's reputation could be damaged. Jurisdiction over aggression will be established once agreement is reached on a definition.

The PrepCom concluded that procedural rules are a key to credibility. Judge Gabrielle Kirk McDonald, President of the International Criminal Tribunal for the former Yugoslavia, said that "For an international criminal court to have credibility, its rules must address the actual circumstances and cases that it confront(s) on a daily basis." One of the most important lessons learned by that tribunal, she told the PrepCom, was about the role the judges played in the rule-making process.

The ICC, already ratified by four countries, will begin to function once its statute is ratified by 60 States. The treaty establishing the court, the Rome Statute, has been approved by 120 countries and signed by 84.

The International Criminal Court will be a permanent international tribunal that will investigate and bring to justice individuals (not States) who commit the most serious crimes of concern to the international community such as genocide, war crimes and crimes against humanity. These include widespread murder of civilians, torture and mass rape. The ICC will complement national legal systems and will assume jurisdiction only after national courts have shown themselves unwilling or unable to prosecute. □