BASIC FACTS ABOUT THE INTERNATIONAL CRIMINAL COURT (ICC)

Location
- The Hague, the Netherlands.
- The International Court of Justice (ICJ) is also located in The Hague and is a civil court that primarily resolves disputes between states. The ICC is a criminal court that can only try individuals.

Rome Statute
- The ICC was created by the Rome Statute, which was adopted on July 17, 1998.
- The Rome Statute entered into force on July 1, 2002. Over 120 countries have ratified it.
- The Rome Statute currently criminalizes genocide, crimes against humanity and war crimes.
- The ICC is a permanent institution meant to punish the most gross and serious atrocity crimes in these categories. It also has the ultimate purpose of deterring these crimes.
- The Rome Statute places a strong emphasis on victims’ rights and protections, providing both punitive and redemptive justice.

Governance
- The ICC is an independent institution. It is not part of the United Nations.
- The ICC is overseen by the Assembly of States Parties, which is composed of the States Parties to the Rome Statute.
- The Assembly of States Parties, among other duties, elects the judges and the Prosecutor (and can remove them if they fail to uphold their duties), approves the budget and elects the Committee on Budget and Finance, debates and votes on any amendments to the Rome Statute, and exercises oversight over all aspects of the Court’s work.
- The Court’s budget is financed by mandatory dues from its member states. It may also receive voluntary contributions from other sources, including the UN, principally in cases of a Security Council referral.

People
- The 18 ICC judges serve for non-renewable terms of nine years. Each of these judges is assigned to one of the three judicial divisions of the Court: Pre-Trial, Trial and Appeals.
- The first group of judges was elected in February 2003 and sworn in on March 11, 2003.
- Since March 2009, Judge Sang-Hyun Song (Republic of Korea) has served as President; Judge Sanji Mmasenono Monageng (Botswana) is the First Vice-President; and Judge Cuno Tarfusser (Italy) is Second Vice-President.
- The Court’s Prosecutor, Fatou Bensouda (The Gambia), previous the Deputy Prosecutor, started her nine-year term on June 15, 2012.
- The Registrar, currently Silvana Arbia (Italy), oversees the administration of the Court and serves a five-year term.
Jurisdiction
- The ICC has jurisdiction over crimes committed since **July 1, 2002**, when the Rome Statute entered into force.
- The ICC is complementary to domestic courts: upon request it defers to a national court with jurisdiction over the crime. The ICC will only reject this request when the relevant country/countries make it in bad faith or are actually unwilling or unable to proceed in a case.
- The ICC has jurisdiction when:
  - The accused is a national of a State Party;
  - The alleged crime took place on the territory of a State Party; or
  - The UN Security Council refers a situation.
- States Parties or the UN Security Council can refer situations to the Court. Individuals, NGOs and other sources may submit evidence to the Office of the Prosecutor, which can initiate investigations of situations and potential cases with the approval of a pre-trial panel of judges.
- The Security Council can vote to block ICC investigations and prosecutions for renewable periods of one year.
- The ICC has formally initiated eight investigations: **Uganda, Democratic Republic of the Congo, Central African Republic, Darfur (Sudan), Kenya, Libya, Côte d’Ivoire and Mali.**

Background on the US-ICC Relationship
- The US under the **Clinton administration** participated in the negotiations for the Court but had concerns about it. President Clinton signed the Rome Statute on December 31, 2000.
- The **Bush administration** opposed the ICC and on May 6, 2002 adopted a policy of hostility toward it. The US informed the UN Secretary-General that it did not intend to ratify the Rome Statute, thus suspending the legal force of the US signature under President Clinton.
- The Bush administration conducted a **Bilateral Immunity Agreement (BIA)** campaign to pressure states to agree that they will not transfer US citizens, officials, service members or contractors to the ICC for prosecution. This campaign provoked strong negative reactions from the international community including many key US allies, particularly the European Union. The US State Department reports that the US has concluded over 100 BIAs. That campaign has now ended.
- The **American Servicemembers’ Protection Act (ASPA)** was signed into law in January 2002. ASPA prohibits US cooperation with the ICC and until January 2008 stipulated that the US could withhold military aid from ICC States Parties that have refused to conclude BIAs.
- Foreign operations appropriations bills for FY 2005, FY 2006 and FY 2008 contained the controversial **Nethercutt Amendment**, which ended Economic Support Fund assistance to ICC States Parties that refused BIAs. The funds affected support initiatives including peacekeeping, anti-terrorism measures, democracy building and drug interdiction. Nethercutt was not renewed for FY 2009, meaning that all forms of anti-ICC sanctions have expired or been repealed.

The US and the ICC Today
- The **Obama administration** has expressed support for the ICC, especially on Darfur and Libya, and has vowed to end US hostility toward the Court. It now attends ICC meetings and cooperates with the Court on a case-by-cases basis.
- While the US is not currently a State Party to the ICC, public opinion polls consistently show strong American support for the ICC with **60-70% in favor of US ratification** of the Rome Statute of the ICC.

*Updated February 20, 2013*