

RESOLUTION

as adopted by the Steering Committee in Paris on 24 November 2002, and as authorized by the Montreal Resolution of 15 June 2002

By decision of the Steering Committee in Paris on 24 November 2002, and as authorized by the Montreal Resolution of 15 June 2002:

1. An Advance Team, comprising the persons set out in Annexure A, is hereby established as a preparatory legal entity under the law of the Netherlands authorized to represent the International Criminal Bar in relation to all matters in advance of the first General Assembly, and to take all such steps as may be necessary.
2. The first General Assembly shall be convened by the Advance Team.
3. The Advance Team shall invite applications for registration at the first General Assembly from all organizations and individuals that are recorded as having attended the Montreal Conference of 13-15 June 2002, or the Paris Steering Committee of 23-24 November 2002, and shall also receive applications from others seeking to register for the purposes of the first General Assembly.
4. Such applications shall be considered by the Advance Team for compliance with the requirements for membership in this Constitution.
5. The approved applicants for membership of the first General Assembly shall be admitted to membership as individual, collective or associate members.
6. The Advance Team may require, in advance of the General Assembly, the payment of such reasonable registration sum related to the costs of holding the General Assembly and a preliminary membership fee.
7. The First General Assembly shall elect the first Council and the First Council shall elect the first Executive Committee, whereupon the Steering Committee and the Advance Team shall dissolve after such transfer as may be required in accordance with the law of the Netherlands.
8. The Final Proposed Text of the Constitution of the International Criminal Bar, including this Resolution as a proposed Article (Transitional Provisions), shall be submitted for adoption to the first General Assembly, subject to textual adaptation as may be advised by the Advance Team to effect compliance of its provisions with the law of the Netherlands.

9. Four Sub-Committees, on Organization and Finance, Ethics, Professional Training, and Legal Aid and Facilities for Counsel, are hereby constituted. The members of these Sub-Committees are listed in Annexure B.

10. The Working Document on Ethics as prepared by the Sub-committee on Ethics, shall be submitted to the Director of Common Services (as Acting Registrar of the International Criminal Court) as work in progress, and will be disseminated for comment and revision.

11. The draft Constitution as approved by this Steering Committee today as work in progress is attached as Annexure C.

Done in Paris, this 24th day of November 2002.

Annexure A

Advance Team

Vincent Asselineau
Jenifer Balint
Jeroen Brouwer
Chrystel Deray
Kenneth Gallant
Elise Groulx
Jeremy Gauntlett
Kan-you Kim
Eberhard Kempf
Christina Loayza
Sergey Popov
Fatoumata Sylla
Luc Walley

Annexure B

Sub-Committees

Organization and Finances

Federico Bucci, Chair
Eberhard Kempf, Chair
Chiffot Bourgeois
Jeroen Brouwer
Elise Groulx
Sophie Bouriachon
Francois Daviault
Steven Kelliher
Emmanuel Altit
Patrick Chabert
Wojciech Hermelinski
Yasushi Higashizawa
Christophe Baron
Hugette Andre-Coret
Advisor on Organization: John Fish

Professional Training

Nancy Hollander, Chair
Peter Murphy, Chair
Dominico Calazza
Anne Souleliac
Jennifer Balint
Fernando Olivan Lopez
Marie-Pierre Poulain
Xavier Jean Keita
Gregor Guy-Smith
Ekaterina Sologoub
Ginger Lindsay

Ethics

Giuseppe Battista, Chair
David Levy, Chair
Elise Groulx
Chrystel Deray
Salvatore Orestano
Yasushi Higashizawa
John Fish
Ken Hurwitz
David Morgan
John Wesley Hall
Dan Arshack
Stephane Kirsch
Fatoumata Sylla
Caroline Souza
Wojciech Hermelinski
Luc Walley
Philip Moser
David Stolting
Asem Rababa
Jose Maria Davo
Nathalie Muller-Sarallier

Legal Aid and Facilities for Counsel

Erick Vanchestein, Chair
Speedy Rice, Chair
Jean-Marie Biju-Duval
Christophe Baron
Catherine Mabile
Kenneth Mann
Sergey Popov
Alain Ramamison
Yvan Razafindratandra
Kenneth Carr
Tanayi Mbuy-Mbiye

Annexure C

Draft Constitution (work in progress)

**Consolidated DRAFT Text
Changes from Montreal Documents underlined or otherwise
specifically indicated.**

**CONSTITUTION
OF THE INTERNATIONAL CRIMINAL BAR**

PREAMBLE

APPLYING the statute of the International Criminal Court and its draft Rules of Procedure and Evidence

CONSIDERING Rule 20(3) of the draft Rules of Procedure and Evidence of the International Criminal Court

REITERATING that the independence, integrity and quality of counsel are essential to a fair trial and the effective protection of human rights and fundamental freedoms,

STRIVING to represent the diversity of the world's regions, peoples and legal systems.

{Note: Proposed addition to the text discussed at Paris meeting}

DRAWING on the preparatory deliberations of the Paris Conference of 6 and 7 December 2001 and The Hague Colloquium of 28 and 29 May 2002

NOW WE, THE ASSOCIATIONS OF LEGAL PRACTITIONERS, NON-GOVERNMENTAL ORGANIZATIONS AND THE INDIVIDUAL LEGAL PRACTITIONERS HERE GATHERED IN MONTREAL ON 15 JUNE 2002, RESOLVE TO CREATE AN INDEPENDENT REPRESENTATIVE BODY OF COUNSEL BEFORE THE INTERNATIONAL CRIMINAL COURT AND INDEPENDENT LEGAL ASSOCIATIONS, IN THE FOLLOWING TERMS:

**Article 1
Definitions**

{Note: Proposed adaptations of definitions consequential to the text of other articles approved by the Steering Committee at the Paris Meeting of 23-24 in the full Steering Committee: this text section not discussed in Paris}

The following words or acronyms shall bear the following meanings in this Constitution:

Association of Counsel—Independent association of legal practitioners or Bars, eligible for collective membership, and recognized as such by the Council.

Bar—An independent body of which counsel authorized to practice in the jurisdiction of the body are members, and recognized as such by the Council. In this Constitution, “Bar” refers also to Law Societies.

Council—The governing body of the International Criminal Bar, comprising the “Bestuur” (management) under the law of the Netherlands.

Counsel—Counsel, legal representatives and persons offering legal assistance or services, as described in the Statute of Rome of 17 July 1998 and the Rules of Procedure and Evidence of the International Criminal Court.

Court—The International Criminal Court, created by the Statute of Rome of 17 July 1998.

Executive Committee—The Executive Committee of the Council, to which the power of representation is allocated under this Constitution and the law of the Netherlands.

ICB—The International Criminal Bar as established in Montreal on 15 June 2002.

Members—Persons, whether natural or juridical, eligible for any category of membership in the International Criminal Bar, who have joined the International Criminal Bar, upon payment of annual fee, and whose membership has not been terminated.

Present and voting—shall mean present in person or by proxy, and voting as provided in article 8, 9 and 10 as the case may be.

Proxy—Authority in writing, but shall not include electronic mail, delivered or transmitted to the Secretary of the Executive Committee not less than seven days before the meeting to which it applies.

Writing—Any form of writing, including electronic mail and facsimile transmissions.

Article 2
Name, Legal Organisation and Seat

1. The name of this association shall be the International Criminal Bar (ICB).
2. The ICB shall be established as an association pursuant to the law of the Netherlands.
3. The seat of the ICB shall be at The Hague.

Article 3
General Principles

The ICB shall be based on the following principles:

1. It shall promote and defend the role and independence of counsel for the defence and for victims before the International Criminal Court (the Court).
2. It shall promote the principle of freedom of choice of counsel.
3. It shall facilitate the work of counsel before the Court.
4. It shall promote effective communication between the organs of the Court and counsel.
5. It shall promote the acquisition of knowledge and skills of counsel before the Court.
6. It shall participate in regulating the practice of counsel before the Court.
7. It shall reflect the diversity of the legal systems and the geographical areas of the world.
8. It shall strive to promote the principle of complementarity in relation to the functions, rights and duties of national, regional and international associations of legal practitioners.

Article 4
Objectives, Functions and Powers

1. The ICB shall promote and advance:
 - a. Ethics for counsel and disciplinary proceedings.
 - b. Professional training.

- c. The development and administration of the legal aid system of the Court.
- d. The administration of the list of legal practitioners eligible to be appointed by the Court, the development and amendment process of the Elements of Crimes, Rules of Procedure and Evidence and other relevant instruments of the Court; general support for counsel before the Court.
- e. The resolution of disputes relating to the professional conduct of counsel and their remuneration.
- f. Other matters relating to the independence and effectiveness of counsel before the Court or the principles of the ICB.

Article 5 Membership

- 1. Membership of the ICB shall be voluntary.
- 2. An individual who qualifies to practice before the Court may be admitted as an individual member.
- 3. The following may be admitted as collective members:
 - a. Bars. [replacing “Independent Bars and Law Societies”]
 - b. [deleting “Independent”] Associations of counsel.
- 4. Any other association concerned with the work of the Court may be accredited as an associate member.
- 5. Conditions of admission or accreditation as a member or associate member shall be determined by the Council.

PART TWO GOVERNANCE OF THE INTERNATIONAL CRIMINAL BAR

Article 6 General Assembly

- 1. The General Assembly shall consist of all the members of the ICB.
- 2. All the powers and functions of the ICB which have not been vested in the Council by law or by the articles shall be vested in the General Assembly.

3. The General Assembly shall meet in biennial general meeting not later than six months after the end of the official year following the official year in which the General Assembly is not held.
4. The biennial general meeting shall inter alia:
 - a. consider the annual report and financial statements for the past two years, accompanied by a report from the Council.
 - b. elect the members of the Council.
 - c. appoint the Audit Committee, the Disciplinary Committee and such other committees as it may constitute.
 - d. consider proposals of the Council, the Executive Committee or of the members, specified in the notice convening the meeting.
5. The Council or Executive Committee shall convene the meeting of the General Assembly by notice in writing (including the agenda) not less than thirty days before the date of the meeting.
6. Members may propose issues to be determined at a meeting of the General Assembly session by notice in writing by facsimile or by electronic mail to the Executive Committee at least seven working days prior to the date of the meeting.
7. A special meeting of the General Assembly shall be held as occasion may require and as the Council or the Executive Committee may decide.
8. The members of the General Assembly may request in writing a special General Assembly meeting by petition of not less than one-tenth of the members. The Executive Committee shall then be obliged to convene a special General Assembly meeting within thirty days.
9. All General Assembly meetings shall be held at The Hague.
{Should this be changed to add "or such other venue as the Council may determine"??}
10. Suspended members of the ICB and its Council or Executive Committee shall not be entitled to attend or vote at meetings of the General Assembly.
11. The General Assembly may make rules not inconsistent with this Constitution or the law of The Netherlands relating to the functioning of the ICB and its organs.

Article 7

Proceedings of the General Assembly

1. Meetings of the General Assembly shall be presided over by the President, and in his or her absence, the Deputy or Vice-president.

2. The Secretary, or another person designated by the chairperson, shall keep minutes of each meeting. The minutes shall be confirmed and signed by the chairperson and the Secretary or such other person, and shall be subject to adoption at the next meeting of the General Assembly.

DRAFT AMENDMENTS TO ARTS. 8, 9, 10 after 24 November 2002 Steering Committee discussions

All changes from Montreal documents are underlined.

In the definitions, Bars will be defined to include Bars and Law Societies, and Associations of Counsel shall be defined as Independent Associations of Counsel.

Proxies shall be in the definitions as follows: Proxy—Authority in Writing, but shall not include electronic mail, delivered or transmitted to the Secretary of the Executive Committee not less than seven days before the meeting to which it applies.

Present and voting—shall mean present in person or by proxy, and voting as provided in article 8, 9 and 10 as the case may be.

Article 8 Decisions of the General Assembly

1. A quorum of the General Assembly shall comprise ten percent of the collective members and ten percent of the individual members. The members comprising the quorum may be present in person or by proxy.

2. In decisions of the General Assembly:

a. Individual members may cast one vote each.

b. Collective members may cast one vote each, subject to subarticle (c).

c. The votes of the Bars of each State shall be recorded as one joint vote per State.

d. Associate members shall be entitled to participate in all debates, but shall not vote, except in relation to article 9(2)(c).

e. A decision of the General Assembly must be taken by a majority vote of the members present and voting. In the event of a decision being challenged at the meeting by a majority of the Bars present and voting, it may only be rescinded by a vote at that meeting of not less than three-fourths of the Bars present and

voting. Elections of Members of the Council may not be challenged in this manner.

{Note: Substitute “collective members” for “Bars”?}

3. A decision to amend the Constitution may be adopted by a two-thirds majority of votes of Bars present and voting, a two-thirds majority of independent associations of counsel present and voting and a two-thirds majority of individual members present and voting.

4. Votes may be exercised by proxies. No person may hold more than three proxies.

Article 9 Elections to the Council

1. The Council shall have forty-two members, constituted as follows:

Twenty-one elected from representatives of Bars (five each from Africa, the Americas, Asia, and Europe; and one from Oceania);

Seven elected from individual members;

Seven elected from representatives of associations of counsel;

Seven elected from representatives of associate members, with a consultative and not deliberative role.

2. A person may stand for election to the Council from only one of the above Colleges and must be eligible to become an individual member.

{Note: Does this requirement of eligibility for indiv. membership exist for the Council as well as the Executive Committee? See art. 10(6).}

3. The General Assembly shall elect the members of the Council for four year terms as follows:

a. Each individual member of the International Criminal Bar may vote for the seven individual members of the Council. The seven individual member candidates receiving the highest number of votes shall be declared elected.

b. Bars of each State on each continent may, voting as set out in Article 8(3), cast as many votes as there are seats on the Council for that continent. The candidates from each continent of Bars receiving the highest number of votes shall be declared elected.

c. Associations of counsel may vote for their seven representatives. The seven persons receiving the highest number of votes shall be declared elected.

4. Members of the International Criminal Bar shall make every effort to ensure equitable gender distribution among the members of the Council.
5. After the first election, members of the Council shall draw lots to determine the length of their terms, as follows:
 - a. For individual members, associations of counsel, and associate members, four members of the Council shall have four year terms, and three shall have two year terms.
 - b. For Bars from Africa, the Americas, Asia and Europe, three shall have four year terms, and two shall have two year terms. The member from Oceania shall have a four year term.
5. Thereafter all elections shall be for four year terms, under the rules described in Article 9(3)

Article 10 The Council

1. The Council shall consist of the members elected as in article 9 for a period of four years.
2. The Council shall meet at least twice a year on dates to be determined by it or failing such determination, by the Executive Committee.
3. A quorum of the Council shall comprise eighteen deliberative members, including those present by proxy. No person may hold more than three proxy votes.
4. The Council shall determine its own procedures for meetings.
5. The Council shall carry out the decisions of the General Assembly and shall direct the activities of the Executive Council.
6. The Council shall elect from any of its voting members a Executive Committee comprising the President, two Vice-Presidents, Secretary and Treasurer, who may be representatives of Bars and Law Societies or independent associations, but who shall also be qualified as individual members of the ICB. The Council shall fill vacancies on the Committee. Three members shall be a quorum of the Executive Committee.
7. A majority of the collective representatives present and voting and a majority of the individual representatives present and voting shall be required for a decision of the Council.
8. Associate members of the Council may participate in discussions but shall not vote.

Article 11
Finances

1. The official year of the ICB shall run from the first day of January up to and including the the thirty-first day of December.
2. The Executive Committee shall be obliged to keep all financial records and accounts of the ICB.
3. The financial records of the ICB shall be disclosed on an annual basis to the members and the Registrar of the Court.
4. The Executive Committee shall submit its annual report to the General Assembly within six months of the end of the official year, except where an extension is authorised by the General Assembly.
5. The Executive Committee shall submit a balance sheet and financial statements of receipts and payments providing an accurate accounting of the administration conducted during the last year.
6. The General Assembly shall annually appoint at least two peseons from among the members, who are not members of the Executive Committee, to sit on an Audit Committee. The purpose of the Audit Committee shall be to examine the statement of receipts and payments of the Executive Committee and report to the general meeting.
7. The Executive Committee shall keep the records referred to in paragraphs 2 and 3 for a period of seven years.

PART THREE
MATTERS OF DISCIPLINE

Article 12
Ethics and Discipline

1. The General Assembly shall adopt rules and procedures relating to ethics and discipline.
(Note: It may be necessary under Netherlands law to provide in detail here, or attach a code as an annexure)
2. The Council may appoint a Disciplinary Committee.

**PART FOUR
GENERAL PROVISIONS**

**Article 13
Dissolution**

1. The ICB may be dissolved by a resolution of the General Assembly. (The provisions of the paragraphs 1, 2 and 3 of article 5 shall apply accordingly. To be verified).

2. Any balance of funds remaining after dissolution and liquidation of assets shall be divided between members at the time when the resolution to dissolve was adopted on an equal basis, unless the resolution to dissolve provides otherwise.

**Article 14
Transitional Provisions**

See Resolution to which this is an Annexure.