



THE SECRETARY-GENERAL

ICTY

DLA

GA/63rd

17 November 2008

Dear Mr. President,

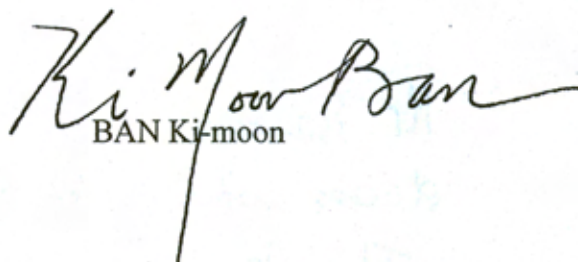
I have the honour to refer to article 13 *bis*, paragraph 2, of the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, which reads as follows:

"In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 13 of the statute for the remainder of the term of office concerned."

On 30 June 2008, Judge Wolfgang Schomburg notified the Secretariat of his resignation from service with the International Tribunal for the former Yugoslavia effective 18 November 2008. In consultation with your predecessor and the President of the Security Council, I appointed Judge Christoph Flügge to replace Judge Schomburg. Please find attached his curriculum vitae.

I should be grateful if you would bring this appointment to the attention of the members of the General Assembly.

Please accept, Mr. President, the assurances of my highest consideration.


BAN Ki-moon

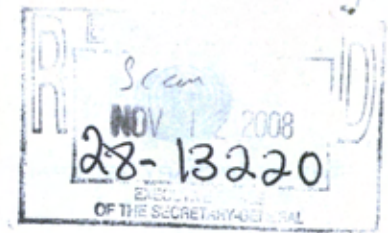
His Excellency
Mr. Miguel d'Escoto Brockmann
President of the General Assembly
New York

28-13220

ACTION AC ✓
COPY IN

Note to the Secretary-General

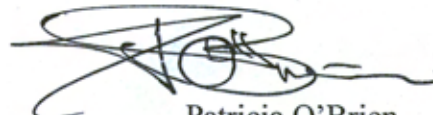
Through Mr. Nambiar



Appointment of a permanent Judge: International Tribunal for the former Yugoslavia //

1. In accordance with Article 13 *bis*, paragraph 2, of the Statute of the International Tribunal of the former Yugoslavia, in the event of a vacancy among the permanent judges of the International Tribunal, the Secretary-General, after consulting with the President of the Security Council and the President of the General Assembly, shall appoint a person who meets the qualifications for office stipulated in the Statute for the remainder of the term of office of the person whose departure or death has caused the vacancy to arise.
2. On 30 June 2008, Judge Wolfgang Schomburg notified the Secretariat of his resignation from service with the International Tribunal effective 18 November 2008. Further to your letters of 25 July 2008 to the Presidents of both the General Assembly and the Security Council, and further to their respective replies of 29 and 30 July 2008, the Secretary-General appointed Judge Christoph Flügge to replace Judge Schomburg.
3. In the absence of an agenda item during the 62nd session of the General Assembly, it was not possible to issue the exchange of letters as official documents of the Assembly. On 29 September 2008 the Secretary-General requested the inclusion of an additional item in the agenda of the 63rd session in order that the General Assembly may take note of the appointment of Judge Christoph Flügge as a permanent Judge of the International Tribunal. At the 20th meeting of 6 October 2008 the General Assembly decided to include the requested additional item as agenda item 154.
4. Further to a request from the Director of the General Assembly and ECOSOC Affairs Division, Ms. Margaret Kelly, we would be grateful if the Secretary-General would send the attached letter to the current President of the General Assembly requesting official circulation of the exchange of letters between the Secretary-General and the previous President of the General Assembly, including Judge Flügge's curriculum vitae, in order that the General Assembly may take note of the appointment.

Mr. Nambiar,
please authorize Oscar
Thank you
flamand
14 Nov 08



Patricia O'Brien
7 November 2008

UNITED NATIONS



NATIONS UNIES

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HL/NO/11/14

21 October 2008

JP

TO: Mr. Peter Taksøe-Jensen
Assistant Secretary-General, Office of Legal Affairs

FROM: Margaret A. Kelley, Director

M. Kelley

SUBJECT: ICTY (Appointment of Judges)

Reference is made to the memorandum dated 26 September 2008 from Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs, The Legal Counsel.

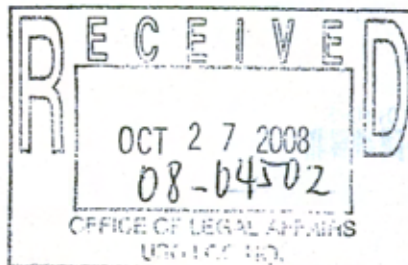
As requested by the Secretary-General, the General Assembly decided at its 20th plenary meeting on 6 October 2008 to include in the agenda of the sixty-third session, agenda item 154 entitled: "Judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia since 1991."

The General Assembly, at its 23rd meeting on 9 October 2008 decided to endorse the recommendation of the Secretary-General that was endorsed by the Security Council in its resolution 1837 (2008) of 29 September 2008 extending the terms of office of the ICTY judges to 31 December 2008 (decision 63/402).

On 13 August 2008, the Secretary-General appointed Judge Christoph Flügge, replacing Judge Wolfgang Schomburg as a permanent Judge of the International Tribunal. Before this, the Secretary-General had consulted with the President of the sixty-second session of the General Assembly regarding this appointment in July and August 2008.

In order for the General Assembly to take note of this appointment at its sixty-third session, a note from the Secretary-General, informing the President of the General Assembly of the appointment is needed. The Secretary-General's note will also be issued as a document of the General Assembly under agenda item 154.

cc: Mr. Botnaru





General Assembly

Distr.: General
29 September 2008

Original: English

Sixty-third session

Request for the inclusion of an additional item in the agenda of the sixty-third session

Judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General

1. By his letters to the Secretary-General dated 5 June 2008 and 1 September 2008, Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia, requested the General Assembly and the Security Council to authorize the extension of the terms of office of the judges of the International Tribunal.
2. The current terms of office of the ad litem judges come to an end on 23 August 2009, and the current terms of office of the permanent judges come to an end on 16 November 2009. It is the view of the International Tribunal that to maintain the integrity of each trial, it is necessary to ensure the continuous sitting of the same judges throughout the trial process. The extension will also provide President Pocar with maximum flexibility to assign benches in the remaining cases. Furthermore, it will be necessary to extend the terms of office of the permanent judges that sit in the Appeals Chamber to 31 December 2010 in order that they may complete their appeals cases.
3. The Statute of the International Tribunal does not provide for extending the terms of office of these judges. In the absence of such a provision, the approval of the Security Council, as the parent organ of the Tribunal, and of the General Assembly, as the organ that elects its judges, would be needed in order to extend the terms of office of the ad litem and permanent judges of the Tribunal.
4. In addition, on 13 August 2008, after consultation with the President of the Security Council and the President of the General Assembly, the Secretary-General appointed Mr. Christoph Flüge (Germany) to replace Judge Wolfgang Schomburg, who will resign from service with the International Tribunal on 18 November 2008.



5. In order for the General Assembly to consider the above-mentioned matters, the Secretary-General has the honour, pursuant to rule 15 of the rules of procedure of the General Assembly, to request the inclusion in the agenda of the sixty-third session of the General Assembly of an additional item of an important and urgent character entitled "Judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991". This will enable the letters from the International Tribunal to be circulated as official documents of the General Assembly.

6. The Secretary-General requests that the item be considered directly in plenary meeting.
