



INTERNATIONAL COURT OF JUSTICE

Peace Palace, Carnegieplein 2, 2517 KJ The Hague, Netherlands

Tel.: +31 (0)70 302 2323 Fax: +31 (0)70 364 9928

Website: www.icj-cij.org

Press Release

Unofficial

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United Nations General Assembly and Security Council elect Ms Joan E. Donoghue as Member of the Court

THE HAGUE, 10 September 2010. Yesterday, the General Assembly and the Security Council of the United Nations elected Ms Joan E. Donoghue as a Member of the International Court of Justice (ICJ), with immediate effect.

Of American nationality, Ms Joan E. Donoghue succeeds Mr. Thomas Buergenthal, former judge of the Court, who resigned as of 6 September 2010. Pursuant to Article 15 of the Statute of the Court, Ms Donoghue will hold office for the remainder of Mr. Buergenthal's term, which will expire on 5 February 2015.

Ms Donoghue's biographical note is annexed to this press release. It is also available on the Court's website (www.icj-cij.org), under the heading "The Court/Members of the Court/Current Members".

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General

The International Court of Justice, which is the principal judicial organ of the United Nations, is composed of 15 judges, who are each elected to a nine-year term of office and may be re-elected. In order to ensure a measure of continuity in the composition of the Court, one third of the membership is renewed every three years.

In accordance with Article 2 of the Statute of the Court, judges are elected "regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law".

Article 9 of the Statute further requires that, "in the body as a whole, the representation of the main forms of civilization and of the principal legal systems of the world should be assured". This principle has been reflected in the following distribution of membership of the Court among the principal regions of the globe: three judges for Africa, two for Latin America, three for Asia, five for Western Europe and other States (North America and Oceania) and two for Eastern Europe (including Russia). In addition, no two Members of the Court may be of the same nationality.

Election procedure

Members of the Court are elected by the General Assembly and by the Security Council (where no right of veto applies for the purpose of the election). These organs vote simultaneously but separately. In order to be elected, a candidate must receive an absolute majority of the votes in both organs (that is to say, 97 votes in the General Assembly and eight votes in the Security Council).

Submission of candidacies

All States parties to the Statute of the Court (currently 192) have the right to propose candidates. However, candidates are not nominated directly by governments but by the national groups in the Permanent Court of Arbitration (PCA) or, in the case of States not participating in the PCA, by similarly constituted national groups.

The PCA, which is based in The Hague, was established under the Hague Conventions of 1899 and 1907. Each State party to those Conventions (currently 111) has its own national group, that is to say a group of up to four jurists who can be called upon to serve as members of an arbitral tribunal under the Conventions.

When an election takes place to fill vacancies at the International Court of Justice, each national group can propose up to four candidates, not more than two of whom may be of its own nationality. The others may be from any other country. The names of candidates must be communicated to the Secretary-General of the United Nations.

Information Department:

Mr. Andrey Poskakukhin, First Secretary of the Court, Head of Department (+31 (0)70 302 2336)

Mr. Boris Heim, Information Officer (+31 (0)70 302 2337)

Ms Joanne Moore, Associate Information Officer (+31 (0)70 302 2394)

Ms Genoveva Madurga, Administrative Assistant (+31 (0)70 302 2396)

Judge Joan E. DONOGHUE
(Member of the Court since 9 September 2010)

Previous position

United States Department of State

2007-2010

Principal Deputy Legal Adviser

- Senior career attorney of the Department of State
- Acting Legal Adviser, January to June 2009 (advice to Secretary Clinton and President Obama on all aspects of international law)
- Advice on development, interpretation and application of international humanitarian law and human rights law
- United States submissions in advisory proceedings in *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo* (International Court of Justice)
- Advice on drafting, negotiation and implementation of resolutions of the Security Council, General Assembly and other United Nations bodies
- Oversight of legal work related to the law of the sea, Antarctica, the Arctic, fisheries and the environment
- Supervision of United States advocacy in Iran-United States Claims Tribunal and North American Free-Trade Agreement (NAFTA) investor-state arbitration
- Head of delegation, bilateral claims negotiations with Iraq
- Legal advice and congressional testimony regarding 2008 United States-Iraq Security Agreement and Strategic Framework Agreement
- Implementation of President Obama's Executive Orders on Guantanamo, detention and interrogation
- Oversight of treaty approval process, including testimony for advice and consent of United States Senate
- Representative to United States-European Union Legal Dialogue
- Representative to Council of Europe Committee of Legal Advisers

Previous international law positions

George Washington University School of Law

2005

Adjunct Professor, Public International Law

United States Department of State

2000-2001

Deputy Legal Adviser

- Oversight of bilateral law enforcement cooperation
- Implementation of legislation on foreign assistance and economic sanctions
- Supervision of international economic issues, including legal aspects of bilateral investment treaty (BIT) negotiation and formulation of model BIT provisions

1994-1999

Assistant Legal Adviser for Economic and Business Affairs

- Legal adviser in negotiation of understandings with the European Community regarding United States economic sanctions and conflicts of jurisdiction
- Litigation regarding United States state and local sanctions (*Crosby v. National Foreign Trade Council*, United States Supreme Court)
- Legal adviser and supervisor in investment negotiations (bilateral investment treaties and Organization for Economic Cooperation and Development (OECD) Multilateral Agreement on Investment)
- Legal advice regarding OECD Anti-Corruption Convention
- Formulation of United States positions in NAFTA investor-state cases (*Loewen Group, Methanex*)
- Legal adviser in bilateral aviation negotiations

1993-1994

Assistant Legal Adviser for African Affairs

- Legal advice on the transition to democracy in South Africa, including work with United States Congress to revise federal law and work with United States states to repeal state sanctions
- Advice on international humanitarian law, including on the establishment of the International Criminal Tribunal for Rwanda

— Advice on recognition and state succession

Council on Foreign Relations International Affairs Fellow and visiting professor, Boalt Hall School of Law, University of California at Berkeley

1992

- Research and writing on international environmental law and immunities law
- Teaching of United States foreign relations law and international environmental law

Georgetown University Law Center

1991

Adjunct Professor, Foreign Relations Law

United States Department of State

1989-1991

Assistant Legal Adviser for Oceans, Environment and Science

- Legal adviser, negotiation of United Nations Framework Convention on Climate Change
- Legal adviser, negotiation of Protocol Concerning Specially Protected Areas and Wildlife to the Cartagena Convention
- Legal Adviser, Meeting of the Consultative Parties to the Antarctic Treaty
- Formulation of positions in General Agreement on Tariffs and Trade dispute settlement (*Tuna-Dolphin* and *Turtle-Shrimp*)
- Submission to United States Senate of United States-USSR treaty on maritime boundary
- Representative to legal expert groups on liability for environmental damage
- Head of delegation and legal adviser in fisheries negotiations

1986-1989

Director, Office of Diplomatic Law and Litigation

- Head of office responsible for foreign state immunity, head of state immunity, immunity of diplomats and special missions immunity
- Litigation and legislation regarding United States Foreign Sovereign Immunities Act
- Litigation regarding immunity of Heads of State, diplomats and other personnel
- Congressional testimony regarding diplomatic immunity

- Negotiation of international agreements governing privileges and immunities

1986

Attorney, Office of Law Enforcement and Intelligence

- Negotiation of extradition and mutual legal assistance agreements
- Legal advice related to international narcotics issues

1984-1986

Attorney, Office of Inter-American Affairs

- Member, United States team in *Nicaragua v. United States* (International Court of Justice)
- United States-Cuba migration negotiations
- Legal advice regarding implementation of Panama Canal Treaty
- Legal adviser in negotiation of Commission for the Study of Alternatives to the Panama Canal (United States-Panama-Japan)

Other professional experience

Freddie Mac

General Counsel and Corporate Secretary
2003-2005

Associate General Counsel, Legislative and Regulatory Affairs
2001-2003

- Leadership of Office of General Counsel after Board of Directors replaced the most senior executives in 2003 (initially as Acting General Counsel)
- Oversight of all litigation in regulatory and judicial proceedings
- Overhaul of corporate governance
- Elected Member of Board of Directors

United States Department of the Treasury

1999-2000

Deputy General Counsel

- Supervision of all aspects of Department's legal work

- Oversight of legal advice regarding regulations, licences and litigation under the International Emergency Economic Powers Act
- Supervision of legal work with respect to international financial institutions
- Management of litigation against Department of the Treasury

Covington & Burling, Washington, D.C.

1981-1984

- Federal court and administrative litigation

Education

Boalt Hall School of Law, University of California, Berkeley, J.D., 1981

University of California, Santa Cruz, B.A. with Honours in Russian Studies; BA with Honours in Biology, 1978

Publications

“The public face of private international law: prospects for a convention on foreign State immunity”, 57 *Law and Contemporary Problems* 305 (1994); “International law and policy-making about global change”, in *The Ecological and Social Dimensions of Global Change* (David D. Caron, Terry Chapin, Joan Donoghue, Mary Firestone, John Harte and Lisa Wells, eds., Institute of International Studies, University of California at Berkeley, 1994).

Book review, *The International Politics of the Environment*, by Andrew Hurrell and Benedict Kingsbury, 88 *American Journal of International Law* 411 (1994).

“EC participation in the protection of the marine environment”, 17 *Marine Policy* 515 (1993).

“Taking the ‘sovereign’ out of the foreign sovereign immunities act: a functional approach to the commercial activities exception”, 17 *Yale Journal of International Law* 489 (1992).

“The trade provisions of international environmental agreements: can they be reconciled with the GATT?”, 86 *American Society of International Law Proceedings* 233 (1992).

“Perpetual immunity for foreign diplomats? A response to ‘the Abisinito Affair: a restrictive theory of diplomatic immunity?’”, 27 *Columbia Journal of Transnational Law* 615 (1989).

Selected honours and awards

Distinguished Honor Award (highest award given by the Secretary of State) (2009)

Presidential Rank Award (Meritorious Executive) (2009)

Younger Federal Lawyer (awarded by the Federal Bar Association) (1988)

Other information

Member, American Society of International Law

Member, District of Columbia Bar Association

Studied Russian, Arabic, Spanish and French
