

**Assembly of States Parties to
the Rome Statute of the
International Criminal Court**

**Sixth session
New York, 30 November - 14 December 2007**

**Official Records
Volume I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Decision”.

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Part I
Proceedings

A. Introduction

1. In accordance with the decision taken by the Bureau at its 19th meeting, on 23 October 2006, the Assembly of States Parties (hereinafter “the Assembly”) to the Rome Statute of the International Criminal Court held its sixth session in New York from 30 November to 14 December 2007.
2. In accordance with the Rules of Procedure of the Assembly,¹ the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure of the Assembly, invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court or in consultative status with the Economic and Social Council of the United Nations whose activities were relevant to the activities of the Court or that had been invited by the Assembly of States Parties attended and participated in the work of the Assembly.
5. In accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Cook Islands, Democratic People’s Republic of Korea, Equatorial Guinea, Grenada, Kiribati, Lao People’s Democratic Republic, Lebanon, Maldives, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, Suriname, Swaziland, Tonga, Turkmenistan, Tuvalu and Vanuatu.
6. The list of delegations to the session is contained in document ICC-ASP/6/INF.5.
7. The session was opened by the President of the Assembly of States Parties, Mr. Bruno Stagno Ugarte (Costa Rica), who had been elected, by acclamation, President of the Assembly for the fourth to sixth sessions during the third session of the Assembly.³
8. The Bureau of the Assembly that had been elected at the fourth session, for a term of three years, continued during the sixth session, as follows:

President:

Mr. Bruno Stagno Ugarte (Costa Rica)

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 61/43, 61/259 and decision 56/475.

³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part I, para. 45.

Vice-Presidents:

Mr. Erwin Kubesch (Austria)
 Ms. Hlengiwe Mkhize (South Africa)

Rapporteur:

Ms. Alina Orosan (Romania)

Other members of the Bureau:

Belize, Bolivia, Croatia, Cyprus, Democratic Republic of the Congo, Denmark, Estonia, France, Gambia, Kenya, Netherlands, New Zealand, Niger, Peru, Republic of Korea, Romania, Samoa and Serbia.

9. At its 1st meeting, on 30 November 2007, in accordance with rule 25 of the Rules of Procedure, the following States were appointed to serve on the Credentials Committee:

Benin, Costa Rica, France, Ireland, Jordan, Paraguay, Serbia, Slovenia and the United Republic of Tanzania.

10. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

11. At its 1st meeting, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure of the Assembly.

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/6/1/Rev.1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Adoption of the agenda.
4. States in arrears.
5. Credentials of representatives of States at the sixth session:
 - (a) Appointment of the Credentials Committee;
 - (b) Report of the Credentials Committee.
6. Organization of work.
7. General debate.
8. Election of the President of the Assembly for the seventh to ninth sessions.
9. Election of the members of the Committee on Budget and Finance.
10. Election to fill judicial vacancies.
11. Report on the activities of the Bureau.
12. Report on the activities of the Court.
13. Consideration and adoption of the budget for the sixth financial year.
14. Consideration of the audit reports.
15. Report of the Board of Directors of the Trust Fund for Victims.
16. Report of the Special Working Group on the Crime of Aggression.
17. Premises of the Court.

18. Recommendations concerning the election of the Registrar.
 19. Review Conference.
 20. Decisions concerning dates and venues of the next sessions of the Assembly of States Parties.
 21. Decisions concerning dates and venue of the next session of the Committee on Budget and Finance.
 22. Other matters.
13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/6/1/Add.1/Rev.1).
14. Also at its 1st meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Special Working Group on the Crime of Aggression, established pursuant to Assembly resolution ICC-ASP/1/Res.1, of 9 September 2002, met in accordance with the arrangements reached by the Assembly at the 8th meeting of its first session, on 7 February 2003.⁴ In accordance with paragraph 2 of the above-mentioned resolution, the Special Working Group was open on an equal footing to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.
15. In addition, the Assembly established a Working Group on the Programme Budget for 2008, a Working Group on the Permanent Premises and a Working Group on the Review Conference.
16. The President, following consultations with the Bureau, appointed Mr. Christian Wenaweser (Liechtenstein) to continue to chair the Special Working Group on the Crime of Aggression; Mr. Hans Magnusson (Sweden) to chair the Working Group on the Programme Budget for 2008; Mr. Masud Husain (Canada) to chair the Working Group on the Permanent Premises; and Mr. Rolf Fife (Norway) to chair the Working Group on the Review Conference.
17. The Assembly re-appointed Mr. Rolf Fife (Norway) as the focal point on the review of the Rome Statute.

B. Consideration of issues on the agenda of the Assembly at its sixth session

1. States in arrears

18. At the 1st meeting, on 30 November 2007, the Assembly was informed that article 112, paragraph 8, of the Rome Statute was applicable to five States Parties. At the same meeting, the Assembly approved the requests for exemption under article 112, paragraph 8, submitted by the following States Parties: Bolivia, Democratic Republic of the Congo, Guinea, Malawi and Niger.
19. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2008 in a timely manner.⁵

⁴ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session (first and second resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, Sales No. E.03.V.8), part I, paras. 38 and 39.

⁵ See also resolution ICC-ASP/6/Res.2, annex III, part III of this report.

2. Credentials of representatives of States Parties at the sixth session

20. At its 7th meeting, on 14 December 2007, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

3. General debate

21. At the 2nd and 3rd meetings, on 3 and 4 December 2007, respectively, statements were made by the representatives of Argentina, Austria, Belgium, Benin, Bolivia, Brazil, Burkina Faso, Canada (on behalf of CANZ), Chad, Colombia, Costa Rica, Croatia, Cyprus, Democratic Republic of the Congo, Denmark, Ecuador, Egypt, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Japan, Jordan, Kenya, Lesotho, Liechtenstein, Luxemburg, Madagascar, Mexico, Netherlands, Nigeria, Norway, Peru, Poland, Portugal (on behalf of the European Union), Republic of Korea, Senegal, Serbia, Sierra Leone, South Africa, Spain, Switzerland, Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay and Venezuela (Bolivarian Republic of). At the 4th meeting, on 7 December 2007, statements were also made by representatives of the following non-governmental organizations: Coalition for the International Criminal Court, Amnesty International, Human Rights Watch, Indonesian Association of Families of the Disappeared, Fédération Internationale des Ligues des Droits de l'Homme, Caritas France, National Coalition for the ICC-Central African Republic, INSAF Centre for Justice and Peace (Sudan), Human Rights First, and Ligue pour la Paix et les Droits de l'Homme Coordination Nationale (DRC).

4. Election of the President of the Assembly for the seventh to ninth sessions

22. At its 6th meeting, on 13 December 2007, the Assembly, pursuant to rule 29 of the Rules of Procedure of the Assembly, as amended by resolution ICC-ASP/3/Res.2, elected by acclamation Ambassador Christian Wenaweser (Liechtenstein), President of the Assembly for the seventh to ninth sessions.

5. Election of members of the Committee on Budget and Finance

23. In a note dated 11 September 2007, the Secretariat submitted to the Assembly a list of nine candidates nominated by States Parties for election to the Committee on Budget and Finance (ICC-ASP/6/9). On 30 October and 26 November 2007, the Secretariat was informed of the withdrawal of the candidatures of Mr. Rodrigo Yáñez Pilgrim (Bolivarian Republic of Venezuela) and Mr. Peter Lovell (United Kingdom of Great Britain and Northern Ireland), respectively. Furthermore, on 7 December 2007, the Assembly was informed of the withdrawal of the candidature of Ms. Rossette Nyirinkindi Katungye (Uganda).

24. At its 4th meeting, on 7 December 2007, the Assembly proceeded to elect the following six members of the Committee on Budget and Finance, in accordance with resolution ICC-ASP/1/Res.5 of 12 September 2003:

Mr. David Banyanka (Burundi)
 Ms. Carolina María Fernández Opazo (Mexico)
 Mr. Gilles Finkelstein (France)
 Mr. Juhani Lemmik (Estonia)
 Mr. Gerd Saupe (Germany)
 Mr. Ugo Sessi (Italy)

25. In accordance with paragraph 11 of resolution ICC-ASP/1/Res.5, the Assembly dispensed with a secret ballot and elected the six members of the Committee on Budget and Finance by acclamation. The term of office of the six members shall begin to run on 21 April 2008.

6. Election to fill judicial vacancies

26. At 2nd meeting, on 30 November 2007, the Assembly, on the recommendation of the Bureau, decided that for the purposes of electing judges of the International Criminal Court, any meeting of the Assembly should continue until as many candidates as were required for all seats to be filled had obtained, in one or more ballots, the highest number of votes and a two-thirds majority of the States Parties present and voting. Consequently, all candidates elected as judges should be considered as having been elected at the same meeting irrespective of whether or not the ballot continued for one or more days.

27. At the same meeting, the Assembly recommended that all candidates should not be present in the conference room at all times that the Assembly was engaged in the process of voting.

28. At its 2nd meeting, on 30 November and 3 December 2007, the Assembly proceeded to elect three judges of the International Criminal Court to fill judicial vacancies in accordance with the relevant provisions of the Rome Statute, as well as resolution ICC-ASP/3/Res.6, as amended by resolution ICC-ASP/5/Res.5.

29. The following candidates were elected judges of the International Criminal Court:

Mr. Bruno Cotte (France, list A, Western European and Other States, male)
Mr. Daniel David Ntanda Nsereko (Uganda, list A, African States, male)
Ms. Fumiko Saiga (Japan, list B, Asian States, female)

30. The Assembly conducted 4 ballots. In the first round, 105 ballots were cast, of which 0 were invalid and 105 were valid; the number of States Parties voting was 105; and the required two-thirds majority was 70. The following candidates obtained the highest number of votes and a two-thirds majority of the States Parties present and voting: Fumiko Saiga (Japan) (82) and Bruno Cotte (France) (79).

31. In the fourth round, 103 ballots were cast, of which 1 was invalid and 102 were valid; the number of States Parties voting was 102; and the required two-thirds majority was 68. The following candidate obtained the highest number of votes and a two-thirds majority of the States Parties present and voting: Daniel David Ntanda Nsereko (Uganda) (74).

Commencement of terms of office of judges

32. At the 2nd meeting, on 30 November 2007, the Assembly, on the recommendation of the Bureau, decided that the term of office of the judges elected to fill judicial vacancies shall run from the date of the election for the remainder of the term of their predecessors. Pursuant to a drawing of lots, which took place on 3 December, the term of office of Ms. Fumiko Saiga shall end on 10 March 2009, while the terms of office of Mr. Bruno Cotte and Mr. Daniel Nsereko shall end on 10 March 2012.

33. At the same meeting, the Assembly decided, on the recommendation of the Bureau, that the judges elected during this session of the Assembly will hold office subject to the terms and conditions of office to be adopted during the sixth session.

7. Report on the activities of the Bureau

34. At its 1st meeting, on 30 November 2007, the Assembly took note of the oral report of its President, Mr. Bruno Stagno Ugarte (Costa Rica), on the activities of the Bureau. In his report, the President noted that during the period between the end of the resumed fifth session of the Assembly in January and 30 November 2007, the Bureau had held 11 meetings in order to assist the Assembly in carrying out its activities under the Rome Statute.

35. As regards the Secretariat of the Assembly, the Bureau proceeded to fill the post of Director. In order to ensure an open, fair and transparent selection process, the Bureau established a pre-selection committee in The Hague, composed of one representative of each regional group, which was in charge of reviewing the 59 applications received, as well as preparing a first short-list. The pre-selection committee short-listed ten candidates and conducted telephone interviews. The pre-selection committee was later transformed into a selection panel in New York and entrusted by the Bureau with preparing a second short-list. The selection panel held personal interviews with the four candidates that were short-listed. The candidates were evaluated on the basis of a fixed set of criteria, were given an equal opportunity to present their candidature and met with the Bureau to make a presentation. The Bureau then appointed, by consensus, Mr. Renan Villacis (Ecuador) as Director of the Secretariat of the Assembly.

36. The Working Group in The Hague had made considerable progress on the issues such as the implementation of the strategic planning process of the Court, the equitable geographical representation and gender balance in the recruitment of staff members, the permanent premises of the International Criminal Court, and the budget of the Court, while respecting the special role of the Committee on Budget and Finance.

37. The Working Group in New York had been particularly engaged with the implementation of the plan of action for achieving universality and full implementation of the Rome Statute, the issue of arrears, including suggestions to promote timely payment, the proposals for an independent oversight mechanism, and in advance preparations for the Review Conference, in particular as regards the applicable rules of procedure and practical and organizational issues.

38. The issue of cooperation was considered in both Working Groups. While the dual facilitation of the issue of cooperation had worked well, the Bureau noted that the facilitators had had to overcome a range of organizational and procedural difficulties, caused by the fact that the issue was being dealt with in New York and The Hague.

39. The Secretariat of the Assembly had provided The Hague Working Group and the Committee on Budget and Finance with independent substantive servicing, had assisted in organizing the intersessional meeting of the Special Working Group on the Crime of Aggression held in Princeton, New Jersey, United States of America, and had organized the resumed fifth session of the Assembly at United Nations Headquarters at the end of January 2007 devoted to the Special Working Group on the Crime of Aggression.

8. Report on the activities of the Court

40. At its 1st meeting, on 30 November 2007, the Assembly heard statements from Judge Philippe Kirsch, President of the Court, and from Mr. Luis Moreno-Ocampo, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court (ICC-ASP/6/18).

9. Consideration and adoption of the budget for the sixth financial year

41. The Assembly, through its Working Group, considered the proposed programme budget for 2008 on the basis of the draft proposal submitted by the Registrar, the reports of the Committee on Budget and Finance and the reports of the External Auditor.

42. At its 7th meeting, on 14 December 2007, the Assembly considered and approved, by consensus, the programme budget for 2008 (see Volume II, part A).

43. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/6/Res.4, concerning the programme budget in relation to the following:

- (a) Programme budget for the year 2008, including appropriations totalling € 90,382,100 for the major programmes and staffing tables for each of the major programmes;
- (b) Working Capital Fund for 2008;
- (c) Scale of assessments for the apportionment of the expenses of the International Criminal Court; and
- (d) Financing of appropriations for the year 2008.

44. At the same meeting, the Assembly also adopted, by consensus, resolution ICC-ASP/6/Res.6, by which it decided to amend the pension scheme regulations for judges of the Court, effective as of the sixth session of the Assembly.

45. Furthermore, at that meeting, the Assembly adopted resolution ICC-ASP/6/Res.5, by which it decided to amend rule 110.1 of the Financial Regulations and Rules.

10. Consideration of audit reports

46. At its 7th meeting, on 14 December 2007, the Assembly took note of the report of the Working Group on the Programme Budget for 2008 (ICC-ASP/6/WGPB/1) and, inter alia:

- (a) took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2006 (ICC-ASP/6/5) and of the Trust Fund for Victims for the same period (ICC-ASP/6/6);
- (b) approved the recommendations contained in the External Auditor's reports and requested that the Court ensure their full implementation;
- (c) endorsed the recommendations contained in paragraphs 22 and 23 of the report of the Committee on Budget and Finance on the work of its ninth session⁶ relating to the roles of the Internal Auditor and the External Auditor, recommended the approval by the Audit Committee of the annual programme of work of the Office of Internal Audit, and the annual reporting by the Audit Committee to the Committee on Budget and Finance;
- (d) recommended that Internal Control regulations be drafted to specify audit procedures, and that the Registry submit annually to the Assembly a report summarizing the main activities undertaken by the Office of the Internal Auditor, and in this regard, that the Registrar ensure access by States Parties to the information contained in any particular report, taking appropriate measures to safeguard confidential or personal information.

11. Report of the Board of Directors of the Trust Fund for Victims

47. At its 1st meeting, on 30 November 2007, the Assembly heard a statement delivered by Mr. Andre Laperrière, Executive Director of the Secretariat of the Trust Fund for Victims on behalf of Ms. Simone Veil, Chair of the Board of Directors of the Trust Fund for Victims. The Assembly considered the report on the activities and projects of the Board of Directors of the Trust Fund for Victims, for the period 1 July 2006 to 30 June 2007 (ICC-ASP/6/11 and Corr.1 (French only)), and took note of the report.

⁶ ICC-ASP/6/12, Corr.1 (English only), Corr. 2 and Add.1.

48. On the basis of a proposal by the Board of Directors⁷, the Assembly, by resolution ICC-ASP/6/Res.3 decided to amend regulation 27 of the Regulations of the Trust Fund for Victims.

12. Report of the Special Working Group on the Crime of Aggression

49. At its 7th meeting, on 14 December 2007, the Assembly took note of the report of the Special Working Group on the Crime of Aggression (ICC-ASP/6/SWGCA/1) and decided that the report of the intersessional meeting contained in document ICC-ASP/6/SWGCA/INF.1 should be annexed to the proceedings of the sixth session of the Assembly (see annex II to this report).

13. Premises of the Court

50. At its 7th meeting, on 14 December 2007, the Assembly took note of the report of the Working Group on the Permanent Premises (ICC-ASP/6/WGPP/1/Rev.1). At its 7th meeting, on 14 December 2007, the Assembly adopted resolution ICC-ASP/6/Res.1 whereby it, inter alia, decided to authorize the host State to launch the architectural design competition and to establish an Oversight Committee as a subsidiary body of the Assembly to provide strategic oversight for the project (see part III of this report).

51. Furthermore, the Assembly also decided that the Oversight Committee shall be composed of members from the following States:

South Africa (Group of African States)
Japan and Republic of Korea (Group of Asian States)
Poland (Group of Eastern European States)
Brazil and Mexico (Group of Latin American and Caribbean States)
Germany, Italy, Switzerland, United Kingdom (Group of Western European and Other States).

14. Recommendation concerning the election of the Registrar

52. At its 6th meeting, on 13 December 2007, the Assembly recalled that a list of candidates for the post of Registrar (ICC-ASP/6/16* and Add.1) had been received from the Presidency.

53. At its 7th meeting, on 14 December 2007, the Assembly, on the recommendation of the Bureau, adopted by consensus recommendation ICC-ASP/6/Recommendation 1 (part III of this report).

54. During the same meeting, the Assembly noted that, in explanation of position after adoption of the recommendation, some delegations were of the view that the judges should first proceed to appoint the Registrar, taking into account the recommendations made by the Assembly, and subsequently proceed with the election of the Deputy Registrar, since to do so in the reverse order may result, by virtue of the recommendations formulated by the Assembly, in disqualifying the best candidate for the post of Registrar. Moreover, it was suggested that the newly elected Registrar play an active role in the election of the Deputy Registrar.

15. Review Conference

55. At its 7th meeting, on 14 December 2007, the Assembly took note of the report of the Working Group on the Review Conference (ICC-ASP/6/WGRC/1).

⁷ ICC-ASP/6/11, annex B.

16. Decisions concerning dates and venues of the next sessions of the Assembly of States Parties

56. At its 7th meeting on 14 December 2007, the Assembly recalled its decision to hold its seventh session from 14 to 22 November 2008 in The Hague and not less than 2 days in 2009 in New York for a resumed session for elections, the dates of which shall be fixed by the Bureau (see resolution ICC-ASP/6/Res.2, paragraph 64, in part III of this report).

57. At the same meeting, on 14 December 2007, the Assembly decided to hold its eighth, ninth and tenth sessions in The Hague, New York and in The Hague, respectively (ICC-ASP/6/Res.2, paragraph 63, in part III of this report).

17. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance

58. At its 7th meeting, on 14 December 2007, the Assembly decided that the Committee on Budget and Finance would hold its tenth session in The Hague from 21 to 25 April 2008, and a further eight-day session on dates to be determined by the Committee (resolution ICC-ASP/6/Res.2, paragraph 61, in part III of this report).

18. Other matters

Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

59. The Assembly expressed its appreciation to Canada, Finland, Germany, Greece, Ireland, Montenegro, Netherlands, Switzerland and the United Kingdom of Great Britain and Northern Ireland for their contributions to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

60. The Assembly noted with satisfaction that 14 delegations had made use of the Trust Fund to attend the sixth session of the Assembly.