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Report of the Bureau on the arrears of States Parties**Note by the Secretariat**

Pursuant to paragraph 68 of resolution ICC-ASP/9/Res.3, of 10 December 2010, the Bureau of the Assembly of States Parties hereby submits for consideration by the Assembly the report on the arrears of States Parties. The present report reflects the outcome of the informal consultations held by the New York Working Group of the Bureau.

I. Introduction

1. The present report is submitted pursuant to the mandate given to the facilitator on the issue of arrears, Mr. Yukihiro Wada (Japan), upon his appointment by the Bureau of the Assembly of States Parties (“the Assembly”) at its second meeting, on 1 February 2011. The report follows the submission of reports to the fourth, fifth, sixth, seventh, eighth and ninth sessions of the Assembly by the previous facilitators on the same issue and aims to build on their findings and recommendations.¹ It should thus be read in conjunction with the said reports, whose recommendations have been endorsed by the Assembly. The facilitator held informal consultations with the New York Working Group on 10 November 2011.

2. The facilitation on the issue of arrears has a number of objectives:

(a) To find ways to ensure that no assessed contributions to the Court remain outstanding by promoting a culture of financial discipline;

(b) To seek ways of cooperating with States Parties which have not met their financial obligations in order to reverse any outstanding balances;

(c) To examine what could be done in cases in which these outstanding contributions amount to arrears under article 112 of the Rome Statute and/or when obligations have not been met due to circumstances beyond the control of the State Party in question;

(d) To keep under review the mechanism allowing States Parties to seek exemptions to article 112;² and

(e) To enhance communication among the Assembly, the Court and States Parties in arrears, so as to address the issue of outstanding assessed contributions more effectively.

3. In addition to endorsing the recommendations of the Bureau on the arrears of States Parties,³ the Assembly, at its sixth session, “urge[d] all States Parties to the Rome Statute

¹ ICC-ASP/4/14, ICC-ASP/5/27, ICC-ASP/6/19, ICC-ASP/7/26, ICC-ASP/8/41 and ICC-ASP/9/27.

² Article 112, paragraph 8, of the Rome Statute provides as follows: “A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party”.

to transfer their assessed contributions in full and by the deadline for contributions”⁴ and “decide[d] that the Bureau should review on a regular basis the status of payments received throughout the financial year of the Court and consider additional measures to promote prompt payment of contributions by States Parties, as appropriate”.⁵

II. Status of contributions and States in arrears as at 10 November 2011

4. As at 10 November 2011, nine States Parties are in arrears. The total amount of outstanding contributions to the Court by States Parties that are in arrears stands at €187,019, while the total outstanding contributions as at 6 October 2011 by all States Parties since 2002 amount to €9,419,899. Nine States Parties will be required to make a minimum payment before the ninth session of the Assembly (to be held from 12 to 21 December 2011), so as to avoid inducing the application of article 112 of the Rome Statute.

5. The total outstanding contributions by all States Parties to the approved programme budget for 2011 amount to €8,829,705, which is equivalent to 8.5 per cent of the total budget of €103,623,280.

III. Informal consultations

6. The summary of the informal consultations held on 10 November 2011 is as follows:

(a) It was noted that, while the total outstanding contributions by States Parties in arrears had more than doubled since last year, the total outstanding contributions by all States Parties since 2002 had diminished by approximately €4.5 million compared to last year, thus presenting a mixed situation. Noting that the total outstanding contributions had decreased, the view was expressed that this still had a negative impact on the functioning of the Court. Given the budgetary pressures experienced by the Court, arrears should be kept under close examination; and

(b) The desirability of improving coordination with and within States Parties was noted. In this regard, it was suggested that States in arrears be informed that the forthcoming session of the Assembly brought with it elections in which they would be unable to participate if they did not make the minimum required payment or apply for and be granted an exception under article 112, paragraph 8 of the Statute. It was also suggested that States Parties be reminded to pay their assessed contributions multiple times, both in New York and in The Hague, with a clear indication of the date by which their payments should be received.

IV. Conclusions

7. Finding ways to encourage and assist States Parties in arrears which are subject to article 112 continues to be one of the main aims of States Parties’ strategy to combat arrears. In order to improve the situation, communication with those States Parties in arrears needs to be strengthened as much as possible. In this regard the meeting mandated the focal point to contact the affected States to discuss the matter. Furthermore, bearing in mind that the elections would take place at tenth session of the Assembly, the Secretariat of the Assembly was requested to send a note to the affected States ahead of the tenth session of the Assembly of States Parties, reminding them of the outstanding contributions and informing them of the procedure available under article 112, paragraph 8, of the Rome Statute should they wish to seek exemption.

8. Furthermore, considering the relatively large amount of outstanding contributions falling outside the scope of article 112, it is suggested that more attention continue to be given to this issue in future considerations by States Parties.

³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November - 14 December 2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.2, para. 48, and annex III.

⁴ *Ibid.*, para. 46.

⁵ *Ibid.*, para. 48.