



Assembly of States Parties

Distr.: General
29 November 2018

Original: English

Seventeenth session

The Hague, 5-12 December 2018

Annotated list of items included in the provisional agenda

Note by the Secretariat

The following annotated list of the items contained in the provisional agenda for the seventeenth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/17/1/Rev.2) has been prepared to assist the Assembly in its consideration of issues before it at its seventeenth session, which will be convened in The Hague on Wednesday, 5 December 2018, at 10 a.m. The status of the documentation reflected herein is current as at 29 November 2018.

1. Opening of the session by the President

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly meets once a year in regular session. In accordance with rule 5 of the Rules of Procedure of the Assembly of States Parties (“Rules of Procedure”),¹ the Assembly, at the 11th meeting of its sixteenth session, on 14 December 2017, decided to convene its seventeenth session in The Hague from 5 to 12 December 2018.

2. Silent prayer or meditation

Pursuant to rule 43 of the Rules of Procedure, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

3. Adoption of the agenda

Rules 10 to 13 and 18 to 22 of the Rules of Procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the seventeenth session was issued on 5 October 2018. In accordance with rule 19 of the Rules of Procedure, the agenda shall be submitted to the Assembly for approval as soon as possible after the opening of the session.

Documentation

Provisional agenda (ICC-ASP/17/Rev.2)

4. Election of a Vice-President

Following the resignation of a Vice-President of the Assembly, Ambassador Momar Diop (Senegal), effective 19 March 2018, due to the end of his term in the Netherlands, the Assembly will elect a Vice-President to complete the term of Ambassador Diop. Article 112 of the Rome Statute and rule 29 of the Rules of Procedure of the Assembly provide that the Assembly shall have a Bureau consisting of a President, two Vice-Presidents and 18 members elected by the Assembly for three-year terms.

On 15 November 2018, the Bureau decided to recommend to the Assembly that Ambassador Jens-Otto Horslund (Denmark) be elected Vice-President of the Assembly for the remainder of the term of Ambassador Momar Diop, i.e. until the nineteenth session.

5. Election of a Bureau member

Article 112, paragraph 3 (b), of the Rome Statute provides that the Bureau shall have a representative character, taking account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world.

Pursuant to rule 29 of the Rules of Procedure, as amended by resolution ICC-ASP/3/Res.2, at the 5th meeting of its third session, the Assembly agreed on the following composition of the Bureau:

- (a) Group of African States: 5 seats;
- (b) Group of Asia-Pacific States: 3 seats.
- (c) Group of Eastern European States: 4 seats;
- (d) Group of Latin American and Caribbean States: 4 seats; and
- (e) Group of Western European and other States: 5 seats;

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* (ICC-ASP/1/3 and Corr.1), part II.C.

At its sixteenth session, the Assembly, pursuant to rule 29 of its Rules of Procedure, elected the Bureau for the seventeenth to nineteenth sessions of the Assembly. The members from the Asia-Pacific group elected to the Bureau, on the recommendation of the Bureau, were Japan and the State of Palestine. At its prior seventh meeting, on 4 December 2017, the Bureau had taken note of an internal arrangement agreed to by the three candidate States Parties, i.e. Bangladesh, Japan and the State of Palestine, whereby Japan and the State of Palestine would serve until the conclusion of the seventeenth session; Bangladesh and Japan would serve from the day after the conclusion of the seventeenth session until the conclusion of the eighteenth session; and Bangladesh and the State of Palestine would serve from the day after the conclusion of the eighteenth session until the conclusion of the nineteenth session.² At its seventeenth session, the Assembly will elect Bangladesh to replace the State of Palestine.

6. States in arrears

According to article 112, paragraph 8, of the Rome Statute, “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.”

At its fourth session, the Assembly took note of the report of the Bureau on the arrears of States Parties³ and the recommendations therein and invited the Bureau to report back to the fifth session of the Assembly on the status of arrears, including on suggestions, if necessary, of measures to promote the timely, full and unconditional payment of assessed contributions and advances towards the costs of the Court. Furthermore, the Assembly decided that requests for exemption under article 112, paragraph 8, of the Rome Statute, should be submitted by States Parties to the Secretariat of the Assembly at least one month before the session of the Committee on Budget and Finance (“the Committee”), so as to facilitate the Committee’s review of the requests and that the Committee should advise the Assembly before the Assembly decided on any requests for exemption under article 112, paragraph 8, of the Rome Statute.⁴

At its fifth session, the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. In this connection, the Assembly adopted resolution ICC-ASP/5/Res.3 containing recommendations setting out a specific procedure for requesting exemptions from the loss of voting rights⁵ and decided 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 payments by States Parties, as appropriate.⁶

At its sixteenth session, the Assembly decided that the Bureau, through the President of the Assembly, the Coordinator of the Working Group and the focal point or facilitator, “should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and report thereon to the Assembly”.⁷

Documentation

Report of the Bureau on the arrears of States Parties (ICC-ASP/17/37)

² See: Agenda and decisions of the 4 December 2017 meeting of the Bureau at https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-07.pdf.

³ ICC-ASP/4/14.

⁴ *Official Records ... Fourth session ... 2005* (ICC-ASP/4/32), part III, ICC-ASP/4/Res.4, paras. 40, 43 and 44.

⁵ *Official Records...Fifth session... 2006* (ICC-ASP/5/32), part III, ICC-ASP/5/Res.3, annex III.

⁶ *Ibid.*, para. 42.

⁷ *Official Records...Sixteenth session... 2017* (ICC-ASP/16/20), vol. I, part III, ICC-ASP/16/Res.6, annex I, para. 16(b).

7. Credentials of representatives of States at the seventeenth session*(a) Appointment of the Credentials Committee*

Rule 25 of the Rules of Procedure of the Assembly of States Parties, provides that a Credentials Committee shall be appointed at the beginning of each session. It shall consist of representatives of nine States Parties, which shall be appointed by the Assembly on the proposal of the President.

(b) Report of the Credentials Committee

Representation and credentials are regulated by rules 23 to 28 of the Rules of Procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

8. Organization of work

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

9. General debate

No documentation

10. Report on the activities of the Bureau

In accordance with article 112, paragraph 2(c), of the Rome Statute, the Assembly shall consider the reports and activities of the Bureau and take appropriate action in that regard.

Documentation

Annual report of the Head of the Independent Oversight Mechanism (ICC-ASP/17/8)

Report of the Court on cooperation (ICC-ASP/17/16)

Report of the Bureau on cooperation (ICC-ASP/17/17)

Report of the Bureau on the Advisory Committee on Nominations (ICC-ASP/17/21)

Report of the working group on the revision of the judges' remuneration (ICC-ASP/17/28)

Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism (ICC-ASP/17/29)

Report of the Bureau on the Study Group on Governance (ICC-ASP/17/30)

Report of the Bureau on non-cooperation (ICC-ASP/17/31)

Report of the Bureau on the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/17/32)

Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises (ICC-ASP/17/33)

Report of the Bureau on complementarity (ICC-ASP/17/34)

Report of the Working Group on Amendments (ICC-ASP/17/35)

Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/17/36)

Report of the Bureau on the arrears of States Parties (ICC-ASP/17/37)

Report on the constitution and activities of the International Criminal Court Bar Association (“ICCBA”) (ICC-ASP/17/38)

11. Report on the activities of the Court

Under article 112, paragraph 2(b), of the Rome Statute, the Assembly shall provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. In accordance with article 112, paragraph 5, of the Rome Statute, the President of the Court, the Prosecutor and the Registrar or their representatives may participate in meetings of the Assembly. As provided in rule 34 of the Rules of Procedure, they may make oral or written statements and provide information on any question under consideration. Accordingly, the President of the Court will present a report on the activities of the Court since the sixteenth session of the Assembly.

Documentation

Report on the activities of the International Criminal Court (ICC-ASP/17/9)

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

By its resolution ICC-ASP/1/Res.6,⁸ the Assembly established a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

In accordance with paragraph 11 of resolution ICC-ASP/1/Res.6, the Board shall report annually to the Assembly on the activities and projects of the Fund and on all offered voluntary contributions, regardless of whether they were accepted or refused.

Documentation

Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2017 to 30 June 2018 (ICC-ASP/17/14)

13. Election of the members of the Advisory Committee on the nomination of judges

Article 36, paragraph 4 (c), of the Rome Statute provides that the Assembly “may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee’s composition and mandate shall be established by the Assembly of States Parties.” At the eleventh session, the Assembly established the Advisory Committee and, on the recommendation of the Bureau,⁹ appointed by consensus the nine members of the Committee. At its fourteenth session, the Assembly, on the recommendation of the Bureau,¹⁰ appointed by consensus the nine members of the Advisory Committee on Nominations for a three-year term commencing on 18 November 2015. The Assembly will, on the recommendation of the Bureau, appoint members of the Advisory Committee.

Documentation

Designation of the members of the Advisory Committee on Nominations (ICC-ASP/17/19)

Report of the Bureau on the Advisory Committee on Nominations (ICC-ASP/17/21)

⁸ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part IV.

⁹ Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/11/47).

¹⁰ Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/14/42).

14. Election of the members of the Board of Directors of the Trust Fund for Victims

By resolution ICC-ASP/1/Res.6, the Assembly established a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund. The relevant resolutions for the nomination and election of the members of the Board are ICC-ASP/1/Res.6 (as amended by resolutions ICC-ASP/4/Res.5 and ICC-ASP/4/Res.7) and ICC-ASP/1/Res.7.

At its third meeting, on 29 January 2018, the Bureau decided that the sixth election of the members of the Board of Directors of the Trust Fund for Victims would be held during the seventeenth session of the Assembly and that the nomination period would run from 6 June to 28 August 2018 (CET). On 29 August and 12 September 2018, since the number of candidates remained less than the number of seats, the President extended the nomination period for a period of two weeks each, until 11 September and 25 September 2018 (CET), respectively, pursuant to paragraph 4 of resolution ICC-ASP/1/Res.7. At the close of the nomination period, on 25 September 2018, five candidates had been nominated.

The Assembly will elect members of the Board of Directors for a three-year term, to commence on 5 December 2018, to fill the vacancies arising upon the conclusion of the terms of office of the five current members of the Board on 30 November 2018.

Documentation

Sixth election of members of the Board of Directors of the Trust Fund for Victims (ICC-ASP/17/18)

15. Consideration and adoption of the budget for the seventeenth financial year

In accordance with article 112, paragraph 2(d), of the Rome Statute, the Assembly shall consider and decide on the budget of the Court.

Regulation 3 of the Financial Regulations and Rules of the Court provides that the Registrar shall prepare the proposed programme budget for each financial period and submit it to the States Parties as well as to the Committee on Budget and Finance for consideration. The Committee shall make the relevant recommendations to the Assembly.

At its third session, the Assembly endorsed the recommendation of the Committee that the Court should include in future performance reports data on financial performance and results achieved rather than outputs. This information should be submitted annually to the Assembly through the Committee either in the draft programme budget or in a separate performance report.¹¹

Documentation

Report on activities and programme performance of the International Criminal Court for the year 2017 (ICC-ASP/17/2)

Report on the performance of the Court's legal aid system in 2017 (ICC-ASP/17/3)

Report of the Court on the progress of the development of proposals for adjustments to the legal aid remuneration system as of 2019 (ICC-ASP/17/4)

Report of the Committee on Budget and Finance on the work of its thirtieth session (ICC-ASP/17/5)¹²

Report of the Court on Human Resources Management (ICC-ASP/17/6)

Proposed Programme Budget for 2019 of the International Criminal Court (ICC-ASP/17/10, Corr.1 and Add.1)¹³

Report on Budget Performance of the International Criminal Court as at 30 June 2018 (ICC-ASP/17/11)

¹¹ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part II.A.8 (b), para. 50, and part II.A.1, para. 4.

¹² *Official Records... Seventeenth session.... 2018* (ICC-ASP/17/20), vol. II, part B.1.

¹³ *Ibid.*, part A.

Report of the Committee on Budget and Finance on the work of its thirty-first session (ICC-ASP/17/15 and Corr.1)¹⁴

Report of the Court on solutions for the funding of long-term capital replacements at its Headquarters in The Hague (ICC-ASP/17/23)

Report of the Court on options for securing payment of withdrawing States Parties' contributions to the loan granted by the host State (ICC-ASP/17/24)

Report on reclassification matters at the Court (ICC-ASP/17/25)

Report of the Registry on financial investigations conducted by the Registry and the seizure and freezing of assets (ICC-ASP/17/26)

Report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council (ICC-ASP/17/27)

Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises (ICC-ASP/17/33)

16. Consideration of the audit reports

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the Financial Regulations and Rules. At the 11th meeting of its first session, on 22 April 2003, the Assembly was informed that the Bureau, acting under the delegated authority of the Assembly,¹⁵ had appointed the National Audit Office of the United Kingdom of Great Britain and Northern Ireland as Auditor for the Court for a period of four years.¹⁶

At its tenth session, the Assembly endorsed the Committee's recommendation to appoint *la Cour des comptes* (France) as the new External Auditor of the International Criminal Court and the Trust Fund for Victims for four years starting with the financial year 2012.¹⁷ At its fourteenth session, the Assembly agreed to extend the term of the External Auditor by two years so as to include the financial statements of the Court and the Trust Fund for Victims for 2016 and 2017, and decided to expand the scope of that mandate by including performance audits.¹⁸ At its fifteenth session, the Assembly agreed to extend the term of the External Auditor by a further two years so as to include the financial statements of the Court and the Trust Fund for Victims for 2018 and 2019.¹⁹

In accordance with regulation 12.7, the Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period. In accordance with regulations 12.8 and 12.9, audit reports, before their submission to the Assembly, are subject to examination by the Registrar and the Committee on Budget and Finance. The Assembly considers and approves the financial statements and audit reports forwarded to it by the Committee.

Documentation

Financial statements of the International Criminal Court for the year ended 31 December 2017 (ICC-ASP/17/12)²⁰

Financial statements of the Trust Fund for Victims for the year ended 31 December 2017 (ICC-ASP/17/13)²¹

Final audit report on Human Resources Management (ICC-ASP/17/7)

¹⁴ *Ibid.*, part B.2.

¹⁵ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part I, para. 29.

¹⁶ *Official Records ... First session (first and second resumptions) ... 2003* (ICC-ASP/1/3/Add.1), part I, para. 40.

¹⁷ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part II, para. 10.

¹⁸ *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. I, part III, ICC-ASP/14/Res.1, para K.2.

¹⁹ *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. I, part III, ICC-ASP/15/Res.1, para K.2.

²⁰ *Official Records ... Seventeenth session... 2018* (ICC-ASP/17/20), vol. II, part C.1.

²¹ *Ibid.*, part C.2.

17. Review of the work and operational mandate of the Independent Oversight mechanism

At its twelfth session, the Assembly of States Parties adopted the operational mandate of the Independent Oversight Mechanism (IOM)²² and decided that the work and the operational mandate of the IOM would be fully reviewed at its fifteenth session. In light of the lengthy recruitment process for the Head of the IOM, following which the first Head assumed duty in October 2015, the Assembly recognized that the review would not be possible at the fifteenth session. In order to give the new Head sufficient time to acquire the necessary experience to properly inform the Assembly's review of its work and operational mandate, the Bureau decided, at its 13 July 2016 meeting, that the review would take place at the seventeenth session of the Assembly, once a reasonable period had transpired with the IOM being properly staffed.²³

At its sixteenth session, the Assembly recalled the above-mentioned recommendation of the Bureau²⁴ and decided to fully review the work and the operational mandate of the Independent Oversight Mechanism at its seventeenth session.²⁵

Documentation

Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism (ICC-ASP/17/29)

18. Amendments to the Rome Statute and the Rules of Procedure and Evidence

By resolution ICC-ASP/8/Res.6, the Assembly established a Working Group of the Assembly of States Parties for the purpose of considering, as from its ninth session, amendments to the Rome Statute proposed in accordance with article 121, paragraph 1, of the Statute at its eighth session,²⁶ as well as any other possible amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be adopted in accordance with the Rome Statute and the Rules of Procedure of the Assembly of States Parties.

The Assembly will consider the report of the Working Group.

Documentation

Report of the Working Group on Amendments (ICC-ASP/17/35)

19. Cooperation

By resolutions ICC-ASP/15/Res.3²⁷ and ICC-ASP/15/Res.5,²⁸ the Assembly requested the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court.

On 7 December 2018, the Assembly will hold a plenary session on cooperation, which will be divided into two segments. The first one will address the topic of Financial Investigations, and the second one will focus on voluntary agreements. .

Documentation

Report of the Court on cooperation (ICC-ASP/17/16 and Corr.1)

Report of the Bureau on cooperation (ICC-ASP/17/17)

²² ICC-ASP/12/Res.6, annex.

²³ https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2016-Bureau-05-13Jul2016.pdf.

²⁴ ICC-ASP/16/Res.6, para. 120.

²⁵ Ibid, annex I, para. 15.

²⁶ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, annex II.

Report of the Registry on financial investigations conducted by the Registry and the seizure and freezing of assets ICC-ASP/17/26)

20. Twentieth anniversary of the adoption of the Rome Statute

On 7 December 2018, the Assembly will hold a plenary session dedicated to the twentieth anniversary of the adoption of the Rome Statute.

No documentation

21. Addressing the threats directed at the International Criminal Court, its Judges and States Parties cooperating with the Court

On 4 October 2018, the State of Palestine submitted a request for the inclusion of an agenda item entitled “Addressing the threats directed at the International Criminal Court, its Judges and States Parties cooperating with the Court”.

Documentation

Request by the State of Palestine for inclusion of an item on the provisional agenda of the seventeenth session of the Assembly (ICC-ASP/17/22)

22. Decision concerning the date of the next session of the Assembly of States Parties

In accordance with rule 5 of the Rules of Procedure of the Assembly of States Parties, the date of commencement and the duration of each session of the Assembly shall be decided by the Assembly at its previous session. At its sixteenth session, the Assembly decided to hold its eighteenth session in The Hague. The Assembly will take a decision on the dates of its eighteenth session and the venue of its nineteenth session.

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

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee on Budget and Finance shall meet when required and at least once per year. At its twenty-ninth session, the Committee decided tentatively to hold its thirty-second session from 29 April to 3 May 2019 and its thirty-third session from 26 August to 6 September 2019.²⁷ The Assembly will take a decision on the dates and venue of the thirty-second and thirty-third sessions of the Committee.

24. Other matters

²⁷ ICC-ASP/17/15, para. 280.