



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Fourteenth meeting

11 December 2020

via WebEx remote link

Agenda and decisions

The meeting was chaired by the President of the Assembly, Mr. O-Gon Kwon (Republic of Korea). The Vice-Presidents of the Assembly, Ambassador Jens-Otto Horslund (Denmark) and Ambassador Michal Mlynár (Slovakia) also participated.

1. Preparations for the nineteenth session of the Assembly

a) Update on preparations for the nineteenth session

The Secretariat updated the Bureau on the preparations for the nineteenth session of the Assembly, to be held at the World Forum Convention Center. Following the Bureau decision dated 19 November, only one representative per State will be admitted to attend in-person and a limited number of other participants (Court organs, subsidiary bodies of the Assembly, interpreters) will be admitted to the World Forum at any given time, following the social distancing measures and the use of masks by all participants to diminish the COVID-19 risk.

The representative of the host State (Netherlands) informed the Bureau that the Government of the Netherlands would contribute €75,000 towards the costs of the Assembly held in The Hague. The President expressed his appreciation for the contribution of the host State, on behalf of the Assembly.

b) Credentials Committee

The Bureau agreed to recommend to the Assembly the appointment of the following States Parties to the Credentials Committee for the nineteenth session, pursuant rule 25¹ of the Rules of Procedure of the Assembly: Belgium, Finland, Hungary and Romania.

c) Nomination of national tellers

The Bureau agree to recommend that Ms. Vreeshini Raojee (Mauritius), Mr. Joseph D N Ndiaye (Senegal) and Mr. Nasir Uddin (Bangladesh) be appointed as national tellers from the African group and the Asia-Pacific group, respectively, for the elections to be held during the nineteenth session of the Assembly.

¹ **Rule 25
Credentials Committee**

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. The Committee shall elect its own officers. It shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

d) Appointment of the Rapporteur for the nineteenth session

The Bureau decided to recommend that the Assembly appoint Mr. Idrissa Sadio (Senegal) as Rapporteur for the nineteenth session to be held in The Hague, and to also appoint Mr. Mamadou Racine Ly (Senegal) as Rapporteur for the resumed nineteenth session in New York.

e) Appointment of Coordinators for the nineteenth session

The Bureau decided to recommend that the Assembly make the following appointments:

- Working Group on the Programme Budget: Ambassador Andrés Terán Parral (Ecuador)
- Informal consultations on the omnibus resolution: Mr. Vincent Rittener (Switzerland).

2. Preparations for the resumed nineteenth session- update

The Secretariat updated the Bureau on the arrangements for the resumed nineteenth session of the Assembly, to be held in New York from 17 to 23 December 2020. Only one representative per State Party will be admitted to the United Nations Headquarters at any given time as per the time slots to be indicated by the Secretariat, in order to minimize contact between the participants. The meetings on 17 and 18 December shall be held at the General Assembly Hall in the plenary format. The 21 to 23 December meetings shall take place in the Trusteeship Council Chamber in the non-plenary format, which allows for voting via a secret ballot (the “walk-through” election format).

The Bureau adopted the work programme for the resumed nineteenth session, dated 7 December 2020, on the understanding that it is provisional and subject to modifications.

3. Judicial Remuneration Panel- report

The Bureau took note that the report of the Judicial Remuneration Panel had been submitted on 27 November 2020, and issued as an official document of the Assembly on 1 December 2020 (ICC-ASP/19/18). The Coordinator of The Hague Working Group, Vice-President Jens-Otto Horslund (Denmark), informed the Bureau that the report and the draft resolution had been discussed in the framework of The Hague Working Group facilitation on the budget. Vice-President Horslund had been informed by the facilitator of the budget, Ambassador Andrés Terán Parral (Ecuador), that the working group was in agreement with the recommendations of the Panel. The Bureau agreed that the report would be submitted to the nineteenth session of the Assembly with a recommendation that the draft resolution, contained in annex II to the report, be adopted.

4. Oral report of the Bureau

The Bureau approved the “Oral report on the activities of the Bureau”, dated 9 December 2020, which the President would present at the first plenary meeting, on 14 December 2020.

5. ASP19- requests for waiver of loss of voting rights

The Bureau took note that, as at 30 November 2020, a total of 10 States Parties were subject to article 112, paragraph 8, of the Rome Statute. The Bureau recalled the practice of the Assembly in that regard and took note of the recommendations of the Committee on Budget and

Finance² concerning requests for exemptions from the loss of voting rights in light of article 112, paragraph 8.³

The Bureau considered requests for a waiver of loss of voting rights from the Republic of Congo and the Bolivarian Republic of Venezuela, dated 2 and 10 December 2020, respectively. The Bureau agreed to return to the matter at its next meeting.

6. Status of contributions

The Bureau took note that, as at 30 November 2020, the Court had received €145.14 million of the contributions for 2020 (88 per cent). The total amount of outstanding contributions, for 2020 and for previous years, stood at €40.8 million. The President requested all States Parties that had not yet done so to make every effort to pay their assessed contributions to the 2020 budget of the Court as soon as possible.

7. List of meetings of subsidiary bodies held in private in 2020

Pursuant to the “Understanding on the participation of Observer States in meetings of the Assembly of States Parties”, which the Bureau adopted on 18 October 2017, the Bureau took note of the list of meetings in 2020 which were either wholly or partially open to States Parties only.

8. Election of the Prosecutor- the next steps

The Bureau received an update in relation to the election of the Prosecutor scheduled to take place at the nineteenth session of the Assembly of States Parties. President Kwon noted that virtual public hearings had been held with the expanded list of nine candidates for the position of Prosecutor on 9 and 10 December.

As regards the need to ensure that the Prosecutor met all of the requirements in the Rome Statute, including in relation to high moral character, the President noted that on 10 December 2020 the Bureau had adopted the text of a declaration which would be submitted for signature by all candidates (see annex I). The Secretariat would send the declaration to all candidates, and publish the signed declarations on the website of the Assembly once they had been received.

The Bureau agreed on specific modalities for the consultations to identify a consensus candidate for Prosecutor (see annex II). The first round of consultations would be carried out before the start of the resumed session of the Assembly on 17 December 2020. In case it did not prove possible to conclude the consultations before the end of the resumed session in New York, inquiries were being made regarding the availability of a suitable conference room at the United Nations Headquarters in late January or early February. A decision would need to be taken by the Assembly regarding possible deferral of the election.

9. Independent Oversight Mechanism - Annual report

The Bureau took note of the Annual report⁴ of the Head of the Independent Oversight Mechanism⁵ and submitted the report for the consideration of the Assembly.

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² Reports of the Committee on Budget and Finance on the work of its thirty-second session (ICC-ASP/18/5, paras. 29-30; on the work of its thirty-third session (ICC-ASP/18/15), paras. 170-171; on the work of its thirty-fourth session (ICC-SAP/19/R), paras. 38-41; and on the work of its thirty-fifth session (ICC-ASP/19/15), paras. 155-158.

³ Article 112, paragraph 8, provides in the relevant part as follows:

“a State Party which is in arrears in the payment of its financial contributions toward 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.”

⁴ ICC-ASP/19/26.

⁵ Submitted pursuant to ICC-ASP/12/Res.6, annex, para. 46.

Annex I

**BUREAU
ELECTION OF THE PROSECUTOR: DECLARATION**

(If any of these statements are not true, please give details)

I,, do solemnly declare that:

1. No aspect of my conduct while serving as a judge, a prosecutor, a lawyer, a scholar or in any other relevant capacity has been the subject of formal censure or other adverse disciplinary finding.
2. I have never, by reason of unethical or unprofessional conduct, been disqualified from involvement in a case or otherwise barred from acting in a professional capacity.
3. I have always maintained complete independence from outside influence in the discharge of my professional duties.
4. I respect the need to promote diversity and inclusiveness on the grounds, for instance, of race, colour, gender, religion, disability, age and sexual orientation.
5. There has never been an investigation or a finding against me of harassment, sexual harassment or gender-based violence, either work-related or otherwise.
6. I have never been declared bankrupt nor had a finding against me for financial impropriety or an inability to pay my debts.
7. There are no pending or past criminal, administrative or civil proceedings against me.
8. I am fluent in at least one of the working languages of the Court and able to speak in public hearings or meetings and to draft my own documents and submissions.
9. I hereby acknowledge that this declaration will be made public.

SIGNATURE

Done on the.....day of2020, at.....

Annex II

BUREAU OF THE ASSEMBLY OF STATES PARTIES

Election of the Prosecutor

Modalities for Consultations and the Focal Points

First consultation round

- The focal points will contact all States Parties, directly and via Permanent Missions in New York, to solicit views on the candidates under consideration.
- In the consultations between the focal points and States Parties, the following questions will be put to States Parties. States Parties may choose to respond to some, or all, of the questions.
 1. Would your country like to express your national position about the candidates for the post of the Prosecutor of the ICC?
 2. Who is the best candidate for the post of the Prosecutor of the ICC?
 3. Are there particular reasons you prefer that candidate?
 4. Which candidate is your second preference?
 5. Are there particular reasons you prefer that candidate?
 6. Do you see a significant distinction between your first and second preferences?
 7. Who are the other candidates whom you are ready to support?
 8. Is there any candidate that is unacceptable/problematic to you? What is the reason?
 9. How would you rank the remaining candidates?
 10. Are there any other comments you wish to make?
- This list of questions will be circulated to all States Parties, via the Secretariat, prior to the commencement of the consultations.
- States Parties may provide comments at any stage in this process. Every State Party shall be contacted during each round of consultation and offered the opportunity to convey their views.
- In each consultation with a State Party, preferably two focal points shall be present. Focal points shall not be limited to consultation with members of their regional group. The focal points shall decide among them which States will be consulted by which pair of focal points.
- The first round of consultations should be carried out before the start of the resumed session of the ASP on 17 December 2020.
- In the spirit of transparency, States Parties should be informed of the timelines for reaching consensus, including the possibility of convening a resumed session in late January/early February 2021 for the purpose of electing the Prosecutor. A decision on the deferral of the agenda item, if needed, will be taken by the ASP.
- The responses received from States Parties shall be confidential and the position of individual States Parties shall not be shared beyond the group of focal points, the Vice-President NYWG and the President, although aggregated information will be provided to the Bureau.

- The responses received from States Parties will be collated and made available, and strictly limited to, the focal points, the Vice-President NYWG and the President.
- Once all States Parties that wish to offer views have done so, the Vice-President NYWG will brief the Bureau on the state of play, including the number of 1st preference and 2nd preferences received by each candidate, and seek guidance on the way forward, including with respect to candidates around which consensus could, potentially, gather.

Second and, if necessary, subsequent rounds of consultation

- Following this meeting with the Bureau, the focal points shall engage again with States Parties on a bilateral basis.
- The purpose of this second round of consultation shall be to advise States Parties on the state of play with respect to the level of support individual candidates have received, with a focus on those that have received the highest levels of support.
- States Parties shall then be invited to express preferences (and, if possible, a ranking) on those candidates receiving the highest levels of support. States Parties may make any other comments that they wish.
- Once all States Parties, wishing to do so, have offered views to the focal points, the Vice-President NYWG will brief the Bureau on the state of play and once again seek guidance on the way forward, including with respect to candidates around which consensus may gather.
- This process of consultation between the focal points, and as appropriate the Vice-President NYWG and President, shall continue. The Bureau shall be briefed at each stage and shall offer guidance on the way forward, with a view to identifying a consensus candidate.

General matters

- The above modalities and timelines related to this phase of consultations with States Parties shall be communicated to all States Parties, including on the basis of subsequent decisions of the Bureau with respect to timelines.
- In the spirit of transparency, all communications received by the Committee on the Election of the Prosecutor from external parties shall be shared with members of the Bureau and with the focal points.
