



Assembly of States Parties

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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 ninth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/9/1) has been prepared to assist the Assembly in its consideration of issues before it at its ninth session, which will be convened at United Nations Headquarters, New York, on Monday, 6 December 2010, at 10 a.m. The status of the documentation reflected herein is current as at 24 November 2010.

Annotated list of items included in the provisional agenda

1. Opening of the session by the President

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly of States Parties ("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 7th meeting of its sixth session, on 14 December 2007, decided to convene its ninth session in New York and at the 8th meeting of its eighth session, on 26 November 2009, the Assembly decided that the ninth session would be held for a period of five working days as early as possible in December 2010 with the specific dates to be fixed by the Bureau.² At its fourteenth meeting, on 5 October 2010, the Bureau, on the basis of General Assembly decision 65/501, dated 14 September 2010, fixed 6 to 10 December 2010 as the dates for the ninth session.

At the 6th meeting of its sixth session, on 13 December 2007, the Assembly elected Mr. Christian Wenaweser (Liechtenstein) President of the Assembly for the seventh to ninth sessions.³ Rule 30 of the Rules of Procedure provides that the President shall declare the opening of each plenary meeting of the session.

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 ninth session (ICC-ASP/9/1) was issued on 8 July 2010. 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/9/1)

4. 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 Parties⁴ 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

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.

² *Official Records ...Eighth session... 2009* (ICC-ASP/8/20), vol. I, part II, resolution ICC-ASP/8/Res.3, para. 57.

³ *Official Records ... Sixth session...2007* (ICC-ASP/6/20), vol. I, part I.B, para. 22. In accordance with rule 29 of the Rules of Procedure, the President is elected for a three-year term.

⁴ ICC-ASP/4/14.

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 of States Parties before the Assembly decided on any requests for exemption under article 112, paragraph 8, of the Rome Statute.⁵

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 rights⁶ 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.⁷

Documentation

Report of the Bureau on the arrears of States Parties (ICC-ASP/9/27)

5. Credentials of representatives of States at the ninth session

(a) Appointment of the Credentials Committee

(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.

6. 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.

7. General debate

No documentation

8. 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.

⁵ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (ICC-ASP/4/32), part III, ICC-ASP/4/Res.4, paras. 40, 43 and 44.

⁶ *Official Records ... Fifth session ... 2006* (ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, annex III.

⁷ *Ibid.*, para. 42.

Documentation

Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/9/21)

Report of the Bureau on cooperation (ICC-ASP/9/24)

Report of the Court on the public information strategy 2011-2013 (ICC-ASP/9/29)

Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/9/30)

Report of the Bureau on the Independent Oversight Mechanism (ICC-ASP/9/31)

Report of the Bureau on the strategic planning process of the International Criminal Court (ICC-ASP/9/32)

9. 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 previous session of the Assembly.

Documentation

Report on the activities of the Court (ICC-ASP/9/23)

10. Election of six members of the Committee on Budget and Finance

By its resolution ICC-ASP/1/Res.4, the Assembly decided to establish a Committee on Budget and Finance. The Committee is composed of 12 members of different nationalities who shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall be elected by the Assembly for a term of office of three years on the basis of equitable geographical distribution.

The terms of office of six members of the Committee will expire on 20 April 2011.

Documentation

Election of members of the Committee on Budget and Finance (ICC-ASP/9/22)

11. Appointment of the External Auditor

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor for a period of four years and the appointment may be renewed.

At its fifth session, the Assembly endorsed the recommendation of the Committee on Budget and Finance to appoint as the External Auditor for a second quadrennium (2007-2010) the National Audit Office of the United Kingdom of Great Britain and Northern Ireland.⁸

The Assembly will consider the appointment of an External Auditor for the quadrennium 2011–2014.

⁸ *Official Records...Fifth session...* (ICC-ASP/5/32), part I, para. 31 and part II, para. 43.

Documentation

Report of the Committee on Budget and Finance on the work of its fifteenth session (ICC-ASP/9/15)

Report of the Court on the appointment of the External Auditor (ICC-ASP/9/33)

12. Consideration and adoption of the budget for the ninth 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 on Budget and Finance 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.⁹

At its eighth session, the Assembly invited the Court to engage in a dialogue with States Parties on the utilization of internal and external counsel and the revised costs analysis of the two options, taking into consideration the comments of the Committee on Budget and Finance at its thirteenth session, and requested the Court to present to the Assembly at its ninth session an updated report on the comparison between internal and external counsel, including the revised cost analysis.¹⁰

At its eighth session, the Assembly, *inter alia*, invited the Court to report on the feasibility and the conditions for the establishment of a voluntary system of funding family visits, with a view to its establishment by the Assembly at its ninth session.¹¹ The Assembly further invited the Court to review the relevant parts of the Regulations of the Registry in light of this resolution and the Reports of the Bureau on family visits for indigent detainees¹² and invited the Registrar to continue the dialogue with States Parties. Furthermore, the Assembly invited the Court to report on the measures undertaken pursuant to resolution ICC-ASP/8/Res.4 and their financial implications. The Assembly will take a decision on the issue of funding family visits to indigent detainees.

Documentation

Proposed Programme Budget for 2011 of the International Criminal Court (ICC ASP/9/10, Corr. 1 and Corr. 2)

Report of the Committee on Budget and Finance on the work of its fourteenth session (ICC-ASP/9/5)

Report of the Committee on Budget and Finance on the work of its fifteenth session (ICC-ASP/9/15)

Report of the Court on its assessment of the implementation of International Public Sector Accounting Standards (ICC-ASP/9/3)

Report of the Court on analytic accountability (ICC-ASP/9/4)

Report on budget performance of the International Criminal Court as at 31 March 2010 (ICC-ASP/9/6)

⁹ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part II.A.8(b), para. 50, and part II.A.1, para. 4.

¹⁰ *Official Records...Eighth session...2009* (ICC-ASP/8/20), part II, ICC-ASP/8/Res.3, para. 26.

¹¹ *Ibid.*, ICC-ASP/8/Res.4, para. 4.

¹² ICC-ASP/8/42.

Report on programme performance of the International Criminal Court for the year 2009 (ICC-ASP/9/7)

Report of the Court on human resources management (ICC-ASP/9/8)

Updated Report of the Court on legal aid: Legal and financial aspects of funding victims' legal representation before the Court, the comparison between internal and external counsel (ICC-ASP/9/9)

Report of the Court on the Kampala Field Office: activities, challenges and review of staffing levels; and on memoranda of understanding with situation countries (ICC-ASP/9/11)

Report on the review of field operations (ICC-ASP/9/12)

Report on budget performance of the International Criminal Court as at 30 June 2010 (ICC-ASP/9/16)

Report on the job evaluation study of posts at Professional level (ICC-ASP/9/17)

Report of the Court on its proposed schedule and budget for the implementation of the International Public Sector Accounting Standards (IPSAS) (ICC-ASP/9/18)

Updated Report of the Court on capital investment replacements (ICC-ASP/9/19)

13. 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,¹³ 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.¹⁴

At its fifth session, the Assembly reappointed as External Auditor for a second quadrennium (2007-2010) the National Audit Office of the United Kingdom of Great Britain and Northern Ireland.¹⁵

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 on Budget and Finance.

Documentation

Report of the Committee on Budget and Finance on the work of its fifteenth session (ICC-ASP/9/15)

Financial statements for the period 1 January to 31 December 2009 (ICC-ASP/9/13)

Trust Fund for Victims financial statements for the period 1 January to 31 December 2009 (ICC-ASP/9/14)

¹³ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part I, para. 29.

¹⁴ *Official Records... First session (first and second resumptions) ... 2003* (ICC-ASP/1/3/Add.1), part I, para. 40.

¹⁵ *Official Records ... Fifth session ... 2006* (ICC-ASP/5/32), part II, para. 43.

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

By its resolution ICC-ASP/1/Res.6,¹⁶ 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 activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2009 to 30 June 2010 (ICC-ASP/9/2)

15. Premises of the Court

At its sixth session, the Assembly adopted resolution ICC-ASP/6/Res.1, whereby it, inter alia, decided that the permanent premises of the Court should be constructed on the Alexanderkazerne site and, in this connection, authorized the host State to launch the architectural design competition. Furthermore, the Assembly established an Oversight Committee, composed of ten States Parties, to provide strategic oversight for the permanent premises project in accordance with annex II of resolution ICC-ASP/6/Res.1.¹⁷

Resolution ICC-ASP/6/Res.1, annex II, provides, inter alia, that the Oversight Committee shall submit any draft resolutions or information to the Assembly through the Bureau. Furthermore, annex II provides that the Chairperson of the Oversight Committee shall report to the Assembly.

Documentation

Report on the activities of the Oversight Committee (ICC-ASP/9/28)

16. Amendments to the Rome Statute

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,¹⁸ 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.

17. Review Conference follow-up

The Review Conference, in its consideration of the stocktaking topics, adopted resolutions and a declaration. The Bureau, through its Working Groups, has considered the follow-up to the decisions of the Review Conference on the respective topics.

Further, pursuant to resolution ICC-ASP/8/Res.6, by which the Assembly decided that the Bureau shall, inter alia, as part of the follow up to the Review Conference, keep under constant review the question of enhancing the efficiency and effectiveness of the Court, including by considering the possibility of establishing mechanisms within its New

¹⁶ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part IV.

¹⁷ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part. III, ICC-ASP/6/Res.1, paras. 1 and 4.

¹⁸ *Official Records ... Eighth session... 2009* (ICC-ASP/8/20), vol. I, annex II.

York and The Hague working groups,¹⁹ the Assembly would consider the outcome of the deliberations of The Hague Working Group on this issue.

Documentation

Report of the Bureau on cooperation (ICC-ASP/9/24)

Report of the Bureau on the impact of the Rome Statute system on victims and affected communities (ICC-ASP/9/25)

Report of the Bureau on complementarity (ICC-ASP/9/26)

18. Election of the President of the Assembly for the tenth to twelfth sessions

In accordance with rule 29 of the Rules of Procedure of the Assembly of States Parties, unless the Assembly decides otherwise, the Assembly shall elect a President at the last regular session prior to the end of the term of office of the President. The President so elected shall assume his or her functions only at the beginning of the session for which he or she is elected and shall hold office until the end of his or her term.

19. Decisions concerning dates of the next session of the Assembly of States Parties

In accordance with rule 5 of the Rules of Procedure, the date of commencement and the duration of each session of the Assembly shall be decided by the Assembly at its previous session.

20. Decisions concerning 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 fifteenth session, the Committee decided, tentatively, to hold its sixteenth session from 11 to 15 April 2011 and its seventeenth session from 22 to 30 August 2011, in The Hague.²⁰

21. Other matters

No documentation

¹⁹ Ibid., part II, resolution ICC-ASP/8/Res.6, para. 9.

²⁰ Report of the Committee on Budget and Finance on the work of its fifteenth session (ICC-ASP/9/15), para. 142.