



Fifth ICC-ASP Bureau Meeting

5 April 2011

Agenda and Decisions

The President of the Assembly, H.E. Mr. Christian Wenaweser (Liechtenstein), chaired the meeting.

The Bureau observed a minute of silence in honour of Mr. Alain Kongolo Lubamba, the first staff member of the Court killed while performing his functions when a MONUSCO airplane crashed at Kinshasa airport on 4 April 2011.

1. Election to fill a vacancy on the Committee on Budget and Finance

Further to its 23 March decision taken pursuant to resolution ICC-ASP/1/Res.4,¹ as amended by resolutions ICC-ASP/2/Res.5² and ICC-ASP/4/Res.6,³ to open the nomination period for the presentation of candidates to fill the vacancy that arose on 14 March 2011 on the Committee on Budget and Finance, the Bureau proceeded to the election of one member of the Committee, pursuant to paragraph 2 (b) of the annex to the aforementioned resolution. Given that one nomination had been received, and given that this nomination had been endorsed by the Asian Group, the Bureau decided to dispense with the secret ballot, pursuant to paragraph 11 of resolution ICC-ASP/1/Res.5 and elected Mr. Masatoshi Sugiura (Japan) by consensus.

2. Search Committee for the position of Prosecutor

The Coordinator of the Search Committee, H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan), informed the Bureau that the Search Committee for the position of Prosecutor had held its second meeting on 28 March, which the President of the Assembly had attended. The Committee reviewed the developments since its first meeting, including briefings given to regional groups, a press conference by the President and the Coordinator on 8 February 2011, and contacts with the International Association of Prosecutors and the International Society of Barristers. It had been decided to broaden the reach of the Search Committee to include francophone organizations. The Committee also reviewed communications received from NGOs on the qualities desirable in a Prosecutor and decided to bear these in mind, but to apply only the rules laid down in the Statute.

The Search Committee had reviewed the curricula vitae received thus far. Of the 12 potential candidates, five were nationals of States in the African group, two of States in the Group of Latin American and Caribbean States and five of States in the Western European and Others group. Two were considered not to have met the minimum requirements, while the other candidates would be kept under further consideration. A number of other candidates had been identified, and the Search

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), part IV, ICC-ASP/2/Res.5, annex, para. 2 (a).

² *Official Records ... Second session ... 2003* (ICC-ASP/2/10), part IV.

³ *Official Records ... Fourth session ... 2005* (ICC-ASP/4/32), part III.

Committee would now attempt to conduct deeper enquiries. Its next meeting would be held on 2 June 2011.

In response to questions, the Coordinator clarified that any individual could suggest potential candidates to the Committee. The President invited all members of the Bureau to communicate with the Search Committee in order to share ideas or names of potential candidates, recalling the responsibility of the members of the Search Committee to all States Parties, particularly within their respective regional groups.

3. Consultations to identify a President for the tenth to twelfth sessions

The focal point, Ambassador Simona Miculescu (Romania), had continued her consultations to identify a President for the tenth to twelfth sessions of the Assembly, having had further discussions with members of the African and Eastern European groups. She hoped to be in a position to share some expressions of interest at the next meeting.

The President recalled that the Presidency is just one part of the Bureau and encouraged the focal points appointed to identify Bureau members for the tenth to twelfth sessions to liaise with the Vice-President on this topic. As he would like to conduct a joint visit with the future President to The Hague at the end of the year, it would be beneficial to have identified an agreed candidate by June or July.

4. Consultations to identify a Bureau for the tenth to twelfth sessions

The Bureau appointed Romania as the focal point for the Eastern European group, to conduct consultations in order to identify States willing to serve on the Bureau for the tenth to twelfth sessions.

The representative of Gabon (African group) informed the Bureau that consultations were ongoing and that she hoped to be in a position to provide more information at the next meeting.

The representative of Japan (Asian group) informed the Bureau that he had not yet begun consultations, but would make contact with members of that group soon.

The representative of Romania (Eastern European group) stated that, in the course of the Vice-President's consultations to identify the next President, she had already received some expressions of interest from within that regional group. Additional information would be forthcoming at the next meeting of the Bureau.

The representative of Venezuela (Bolivarian Republic of) (Group of Latin American and Caribbean States) informed the Bureau that she might have one confirmed expression of interest, and would inform the Bureau accordingly at its next meeting.

The representative of the United Kingdom (Western Europe and Others group) informed the Bureau that he had engaged in some bilateral consultations, and communicated with members of that group via an informal e-mail. He had received the first expressions of interest and hoped to formalise his consultations through a formal letter to the Chair of the regional group by the end of April.

5. Report of the Oversight Committee

The Bureau took note of the report of the Oversight Committee, dated 1 April 2011, submitted by its Chairman, Mr. Martin Strub (Switzerland), pursuant to resolution ICC-ASP/6/Res.1.⁴

The delegation of the host State informed the Bureau that the results of the value engineering phase were being discussed with the municipality of The Hague. It was not certain that all proposed design changes would be approved by the municipality. She underscored that any proposed design changes must be approved by the municipality, otherwise they could not be implemented.

6. Quarterly report of the Independent Oversight Mechanism

The Bureau took note of the quarterly activity report of the Independent Oversight Mechanism (IOM), dated 31 March 2011, submitted by the Temporary Head of the IOM, Ms. Beverly Mulley, pursuant to resolution ICC-ASP/8/Res.1.⁵

7. Interim premises

As regards the negotiations to extend the lease of the Arc building beyond June 2012, the President noted that the joint letter from the Court and the host State to the Rijksgebouwendienst that was before the Bureau contained the revisions made after the first silence procedure, and had been adopted via a second silence procedure that ended on 1 April. It had then been duly signed, and a copy would be made available to members of the Bureau.

The President noted that the Committee on Budget and Finance had now been seized of the matter and would take it up at its sixteenth session, commencing 11 April.

8. Non-cooperation

The President introduced the paper entitled “Non-paper on potential Assembly procedures relating to non-cooperation”, dated 1 April 2011, prepared pursuant to paragraph 12 of resolution ICC-ASP/9/Res.3,⁶ and expressed his hope that the paper could serve as a basis for future discussion.

The President clarified that he intended the paper to serve as elements for a future report to the Assembly. It had been prepared after a careful reflection on the Rome Statute, and especially articles 87, paragraph 7 and 122, paragraph 2. The paper took a narrow approach, and included only serious issues of non-cooperation and those on which there were relevant findings by the Court. Some preliminary comments were made on the paper, which would be subject to further consideration at a later date.

In this connection, upon the recommendation of the President, the Bureau appointed Mr. Stefan Barriga (Liechtenstein) to lead consultations on the topic of non-cooperation.

⁴ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, annex III, para. 15.

⁵ *Official Records ... Eighth session ... 2008* (ICC-ASP/8/20), vol. I, part II, ICC-ASP/8/Res.1, annex, para. 15.

⁶ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part III, ICC-ASP/9/Res.3.

9. Other matters

a) *Requests of the Court to access the Contingency Fund*

The Bureau took note of the following correspondence relating to the Court's requests to access the Fund:

- i) Letter, dated 28 February 2011, from the Registrar to the Chair of the Committee, setting out a detailed supplementary budget notification in the amount of €229,995 to meet unavoidable costs relating to the transfer of four witnesses from the Democratic Republic of the Congo to The Hague;
- ii) Letter, dated 1 March 2011, from the Registrar to the Chair of the Committee, setting out a detailed supplementary budget notification in respect of unavoidable costs in the situation in the Democratic Republic of the Congo, regarding legal aid costs for Mr. Callixte Mbarushimana;
- iii) Letter, dated 10 March 2011, from the Chair of the Committee to the Registrar, in response to the supplementary budget notification of 28 February 2011;
- iv) Letter, dated 25 March 2011, from the Registrar to the Chair of the Committee, containing the further information requested in the letter of the Chair of the Committee, dated 10 March 2011.

b) *Libya situation: financing of the investigation*

The President stated that the legal basis for why States Parties bore the costs arising from the Libya situation was United Nations General Assembly resolution 65/12 and the Relationship Agreement between the Court and the United Nations, which was the reason that the Security Council had "recognized" the practice.

Some reservations were expressed regarding the arrangement whereby the Court would continue to bear the costs of situations referred by the Security Council. Greater coordination between the Court and the United Nations, especially the General Assembly, was needed, and the matter should be further discussed.

The President stated that the matter could be further discussed in the Bureau, but changes would have to be effected in the General Assembly resolution.

c) *Next Bureau meeting*

The next Bureau meeting will be held on 3 May 2011.
