



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Sixth meeting**

31 January 2012

Agenda and Decisions

**1. The Hague Working Group: Appointment of facilitators**

The Coordinator of The Hague Working Group, Ambassador Markus Börlin (Switzerland), indicated that he had received the following expressions of interest for the facilitation of issues within the Working Group:

- Cooperation: Ambassador Anniken Krutnes (Norway)
- Legal Aid (coordinator): Mr. Irvin Hoyland (Norway)
- Strategic Planning: Ambassador Jean-Marc Hoscheit (Luxembourg)
- Complementarity: Denmark and South Africa as *ad country* facilitations

He highlighted the importance of seeking balanced regional representation in the facilitations.

The Bureau took note of the expressions of interest indicated and would revert to the designation of the respective facilitators, including for the remaining topics within the mandate of the Working Group, i.e. budget; Independent Oversight Mechanism; reparations; victims and affected communities and Trust Fund for Victims. The President encouraged the Coordinator to continue his consultations to this end, and also encouraged delegations interested in assuming the facilitations to contact the Vice-President in advance of the 9 February meeting of the Working Group.

In view of the brief timeline set out in the Assembly's mandate to the Registry to present a proposal for a review of the legal aid system to the Bureau before 15 February 2012, pursuant to resolution ICC-ASP/10/Res.4, the Bureau agreed to delegate to The Hague Working Group the designation of the legal aid coordinator via a Hague Working Group silence procedure until the end of 3 February 2012.

*Study Group on Governance*

As regards the Study Group on Governance, the Bureau appointed Ambassador Pieter de Savornin Lohman (Netherlands) as Chairperson for 2012.

**2. Other matters**

*a) Pension regime applicable to two judges elected in 2007*

Recalling the 16 January 2012 note verbale conveyed by Uganda on the matter, the representative of Uganda stated that it would be unethical for the Bureau to leave the issue of the pension payable to two judges unresolved before the end of their terms on 10 March 2012

and requested a reconsideration of the decision of the Assembly, taken at its sixth session, regarding the applicability of the amended pension regime to the judges elected at that session. Furthermore, she indicated that the application of the amended pension regime to the two judges was contrary to article 49 of the Rome Statute.

The view was expressed that, although bearing in mind the personal situation of the two judges, the issue should be considered on a legal basis. It was stated that the dates of the election of the two judges, i.e. 30 November and 3 December 2007, were relevant since, in accordance with the annex to resolution ICC-ASP/3/Res.3, the pension regime applied to judges called to full-time service, whereas the two judges concerned had not been called to full-time service until 1 June 2008. Furthermore, it was noted that at the time of the election the candidates knew of the proposed amendment to the pension regime.

Furthermore, on the interpretation of article 49 of the Rome Statute, it was posited that the provision related to the non-reduction of salaries, allowances and expenses during the term of office of a judge, while the pension became payable after the completion of the term of office, and thus could not be considered as falling within the scope of the article.

It was also posited that this issue was of a legal nature and thus did not fall within the purview of the Bureau. In addition, the prerogative of the Bureau to undertake decisions of a budgetary nature was not foreseen in the relevant norms.

Furthermore, it was stated that although the issue had been discussed at some sessions of the Assembly, its determination could perhaps fall within the mandate of another body, such as the Administrative Tribunal of the International Labour Organization.

The representative of Uganda suggested that the Bureau provide clarity that the issue should be considered in another forum, given that successive sessions of the Assembly and the Committee on Budget and Finance had considered it without arriving at a conclusion.

The President recalled that the issue had been raised at the previous meeting of the Bureau and in her view the Bureau did not have the competence to take decisions concerning budgetary issues. She would continue consultations and revert to the issue at a future meeting.

*b) Vacancy announcement for the post of Deputy Prosecutor*

As regards the vacancy announcement for the post of Deputy Prosecutor, which had been posted on the website of the Court on 24 January 2012, the Bureau requested all States to ensure the widest possible dissemination of the announcement at the national level, in order to have as wide a pool of candidates as possible, in particular since the deadline for the submission of application was quite brief, i.e. 26 February 2012.

Some surprise was expressed at the timing of the vacancy announcement in light of the understanding at the tenth session of the Assembly that the list of candidates referred to in article 42 would be drawn up by the Prosecutor-elect once she assumed office in June 2012, with the Assembly then proceeding with the election at its eleventh session in November.

In response to a query as to whether the timing of the vacancy announcement was indicative of a possible resumed tenth session of the Assembly for the purpose of the election, the President recalled that the Assembly had not agreed to such a possibility, the understanding being that the election would be held during the eleventh session.

Furthermore, the Bureau noted that the decision on the number of Deputy Prosecutors lay with the Prosecutor.

c) *Eleventh session of the Assembly*

As regards the structure of future sessions of the Assembly, support was expressed for a balanced outcome of the Assembly, and there was a strong preference for the discussion of more substantive issues at the sessions. There was interest in retaining the general debate as a means whereby States could reflect comprehensively on their commitments to the Court. Furthermore, it was proposed that the general debate be organized so as to ensure a substantive debate, rather than constitute a lengthy list of statements. The President recalled that the provision of interpretation services to allow for the general debate outside of the regularly scheduled daily six hours had programme budget implications, tentatively estimated to be over €4,000 for an evening session.

It was proposed that the agenda for the Assembly sessions be considered in consultation with the Working Groups, in order to identify the substantive agenda items for inclusion thereon.

As regards the working methods of the Assembly, it was proposed that once the inclusion of an item had been agreed, attention focus on how the issue should be prepared and presented.

The practice of reopening issues at the Assembly after their thorough consideration by the Working Groups was deplored and a call was made for this to be addressed. In this regard, the President recalled that each State Party had the sovereign right to raise issues at the Assembly. On the relationship between The Hague and New York Working Groups, she noted that the concerns expressed regarding the reopening of issues at the Assembly had not been shared by Bureau members in New York. The President undertook to continue hearing views of Bureau members on this issue.

*Next Bureau meeting*

The next Bureau meeting will be held on 28 February 2012.

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