



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Ninth meeting

The Hague

4 June 2018

Agenda and decisions

The President of the Assembly, H.E. O-Gon Kwon (Republic of Korea), chaired the meeting.

The President expressed his appreciation to the Registrar for making interpretation into French and English available for the meeting, and also thanked the staff of the Language Services Section.

1. 20th anniversary of the adoption of the Rome Statute

The Coordinator of The Hague Working Group, Ambassador Jens-Otto Horslund (Denmark), informed the Bureau of the status of arrangements for the 20th anniversary events jointly organized by some States Parties and the Court, to be held on 16 and 17 July. The events would begin on 16 July with a mock trial organized by the Court that would focus on select topics of global interest, and would be followed by a high-level dinner at ministerial level. The 17 July event would include a high-level symposium with ministerial participation, followed by a symposium on stocktaking to assess where the Court stood after 20 years. The latter would consist of two panels focusing on challenges faced by the Court (judicial aspects), while the second would focus on political issues, e.g. cooperation, universality. The written summary and conclusions would inform the Assembly's consideration of its discussion on the twentieth anniversary.

The Coordinator and the President thanked those States that had contributed to funding the event, including the Steering Committee, and encouraged States in a position to do so to also contribute to the event.

As regards participation, some States requested to be informed as early as possible of the list of high-level attendees, to better facilitate their planning. In response to a query, the Court indicated that one Head of State had, so far, indicated his attendance and a number of States were in the process of confirming high-level participation.

The Netherlands and the Republic of Korea informed the Bureau that they were considering making a financial contribution to the 20th anniversary events.

Denmark recalled that the Court had previously raised the possibility of States Parties contributing to the 17 July reception, as well as contributions of a cultural nature. In that regard, the Court had received an offer from one State.

France informed the Bureau that the co-facilitators on cooperation, France and Senegal, were assembling contributions for a video that would be broadcast on 17 July. States were encouraged to make contributions to the video compilation. The Republic of Korea indicated that it was planning to host seminar in October in Seoul.

As regards New York, the President indicated that an event would be held on 17 July that would focus on the significance of the activation of jurisdiction over the crime of aggression.

The President thanked the Steering Committee, Court officials and States Parties for their work in organizing the 16-17 July events in The Hague

2. Interpretation for Bureau meetings

France welcomed the fact that the Registrar would provide information to the 11 June meeting of the Bureau regarding the provision of interpretation. In relation to the Registrar's 8 May letter, he indicated that it had not specifically responded to his 17 April queries, and noted that the responses related mostly to the budgetary aspect, the limited resources of the Court and the resulting difficulty for the Registry to provide interpretation services.

It was stated that the question was not only budgetary but related to an issue of principle set out in rule 38 of the Rules of Procedure of the Assembly.¹ The question was posed whether, considering the mission of the Bureau and in light of the very clear rules on linguistic services in the Court, it was not compulsory to provide interpretation for all the official meetings of the Bureau. That primary issue should be considered before the budgetary aspects.

Some States highlighted that rule 38 related to an issue of the principle, but noted also that States had to bear in mind the budgetary impact of interpretation into all languages. While English and French were the working languages, there were six official languages, and the principle applied equally to all languages. It was suggested that future budgets should ensure that the interpretation enshrined in Rules of Procedure of the Assembly would be assured. A question was posed as to whether the principle also applied to meetings held in New York.

The Director of the Secretariat briefed the Bureau on the practice of the Secretariat in relation to interpretation during previous presidencies. In accordance with resolution ICC-ASP/2/Res.3, the Secretariat relied on the Court for interpretation and translation services where these were not linked to the Assembly session, and he noted that this was necessary since the Secretariat did not have its own interpretation/language unit, nor staff to interpret/translate. The Court had been able to provide interpretation into French for the Bureau meetings held in The Hague during the fifth Assembly presidency (2015-2017) and the Registrar had indicated that for 2018 he would continue with this practice. If there was no capacity for the Court to provide interpretation in 2019, then States Parties would need to provide budgetary resources for the recruitment of interpreters and would also need to decide whether the budget for that purpose would be part of the Secretariat (Major Programme IV) or the Registry (Major Programme III).

3. Confidentiality of IOM reports

The Bureau continued its discussion on the confidentiality of IOM reports. It had before it the 11 May 2018 letter, in which the Acting Head of the Independent Oversight Mechanism (IOM) had responded to the 17 April queries posed by France. The President recalled that the mandate for the review of the work and operational mandate of the Independent Oversight Mechanism was being considered in the context of The Hague Working Group, under the facilitator, Ambassador Eduardo Rodriguez (Bolivia) while the Study Group on Governance had the mandate to consider amendments to rule 26 of the Rules of Procedure and Evidence. A co-focal point for Cluster I² of the Study Group on Governance, Argentina, referred to the letter and clarified that the mandate of Cluster I was to consider amendments to rule 26 aimed at ensuring consistency between the Operational Mandate of the IOM and that rule.

The Acting Head of the IOM noted that while valid concerns had been raised on the confidentiality of IOM investigation reports, especially where the Assembly would require the details of an investigation before taking action against an elected official, the IOM's mandate required it to report only to the authority that had requested the investigation. Disclosure of investigation reports to a third party was therefore not possible. She

¹ Rule 38, "Official and working languages", provides as follows: Arabic, Chinese, English, French, Russian and Spanish, which are both the official and working languages of the General Assembly of the United Nations, shall be the official and working languages of the Assembly (hereinafter "languages of the Assembly").

² Increasing the efficiency of the criminal process.

had consulted with the United Nations Representatives of Investigative Services Network on the practice of its member organizations on confidentiality and the disclosure of investigation reports. The survey indicated that the vast majority of United Nations bodies did not disclose their investigation reports to third parties. She noted that confidentiality was a valid issue and could be raised in the facilitation on the review of the Operational Mandate of the IOM.

In commenting on the issue, some Bureau members noted the need for a clear interpretation of the provisions of the Operational Mandate of the IOM on confidentiality, highlighted the relevance of paragraphs 38 and 39 of the Operational Mandate,³ and suggested that it was possible under these provisions for redacted reports to be given to the Bureau. A point was made that a dilemma existed between the obligations of the Bureau on the one hand, and the mandate of the IOM on the other.

The Bureau agreed that the issue of confidentiality would be better addressed in the facilitation on the review of the operational mandate of the IOM.

4. Assessment of the Secretariat

The Bureau continued its consideration of the assessment of the Secretariat. The President informed the Bureau that, taking into account the views expressed by Bureau members and non-Bureau members alike, he had requested the Coordinators of the New York and The Hague Working Groups, Ambassador Michal Mlynár (Slovakia) and Ambassador Jens-Otto Horslund (Denmark), respectively, to consult with States Parties in order to gather relevant information and opinions and to then share that information with the Bureau. Ambassador Mlynár had, on 15 May, invited New York-based States Parties to complete a questionnaire assessing the core functions of the Secretariat in assisting and servicing the current needs of the Assembly.

Ambassador Horslund briefed the Bureau on his on-going consultations in The Hague.

The Director of the Secretariat made a brief presentation of his 16 April 2018 report.

The President suggested inviting the Registrar to give his views on the 16 April report but as there was no consensus on this course of action, the President indicated that he would consult directly with the Registrar, as appropriate.

5. Confidential issues concerning the Bureau and the Court

The Bureau continued its consideration of confidential issues of concern to the Bureau and the Court.

6. Other matters

a) Elections to the Committee on Budget and Finance

Ambassador Lee Yun Young (Republic of Korea), who had conducted consultations in the Asia-Pacific group in relation to the election of six members of the Committee on Budget and Finance during the sixteenth session of the Assembly in 2017, recalled the seat-sharing arrangement agreed to by the three States seeking election to the two seats allocated to the Asia-Pacific group at the sixteenth session in December 2017.⁴ He informed the Bureau that the Philippines had officially withdrawn its candidate. The two members from that regional group elected at the sixteenth session would therefore serve on the Committee for the full three-year term.

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³ https://asp.icc-cpi.int/iccdocs/asp_docs/Resolutions/ASP12/ICC-ASP-12-Res6-ENG.pdf

⁴ See: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-07.pdf and *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixteenth session, New York, 4 - 14 December 2017* (ICC-ASP/16/20), vol. I, part I, para. 36 and footnote 13.