



Reference: ICC-ASP/14/SP/06

The Secretariat of the Assembly of States Parties presents its compliments to States Parties and has the honour to refer to the decision of the Bureau of the Assembly of States Parties, taken at its second meeting, on 9 March 2015, regarding the election of members of the Advisory Committee on nominations, which will take place at the fourteenth session of the Assembly, on the basis of a recommendation of the Bureau.

The Bureau decided to fix the nomination period, which would run for 12 weeks, from 29 June to 20 September 2015 (Central European Time). Nominations received by the Secretariat before or after the nomination period shall not be considered.

Nominating States are requested to include a statement as to how candidates fulfil the criteria established in the terms of reference of the Advisory Committee (annex I).

Article 36, paragraph 4 (c), of the Rome Statute provides as follows:

“(c) The Assembly of States Parties may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee’s composition and mandate shall be established by the Assembly of States Parties.”

Resolution ICC-ASP/10/Res.5, entitled “Strengthening the International Criminal Court and the Assembly of States Parties” provides as follows:

“19. *Welcomes* the report, adopted by the Bureau pursuant to paragraph 25 of resolution ICC-ASP/9/Res.3¹, *decides* to adopt the recommendations contained therein, and *requests* the Bureau to start the process of preparing the election, by the Assembly of States Parties, of the members of the Advisory Committee on nominations of judges of the International Criminal Court in accordance with the terms of reference annexed to the report;

20. *Emphasizes* the importance of nominating and electing the most highly qualified judges in accordance with article 36 of the Rome Statute; for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates [...].”

Regarding the composition of the Committee, the terms of reference provide as follows:

“A. Composition

1. The Committee should be composed of nine members, nationals of States Parties, designated by the Assembly of States Parties by consensus on recommendation made by the Bureau of the Assembly also made by consensus, reflecting the principal legal systems of the world and an equitable geographical representation, as well as a fair representation of both genders, based on the number of States Parties to the Rome Statute.

2. Members of the Committee should be drawn from eminent interested and willing persons of a high moral character, who have established competence and experience in criminal or international law.

¹ Report of the Bureau on the establishment of an Advisory Committee on the appointment of judges of the International Criminal Court (ICC-ASP/10/36).

3. Members of the Committee would not be the representatives of States or other organizations. They would serve in their personal capacity, and would not take instructions from States Parties, States or any other organizations or persons.

4. The Committee will designate a coordinator to chair its meetings and organize its work.”

At a future meeting, the Bureau would decide to establish a working group of the Bureau, comprising one member from each regional group, which would be tasked with identifying nine candidates for nomination by the Bureau and election by the Assembly, and with ensuring that the requirements set out in the Committee’s terms of reference are respected.

Nominations shall be communicated through the diplomatic channel to the Secretariat of the Assembly of States Parties, International Criminal Court, Room A-0448, Maanweg 174, 2516 AB The Hague, The Netherlands (or via fax +31-70-515-8376 or via e-mail to asp@icc-cpi.int). If feasible, the Secretariat would appreciate receiving an electronic copy of the nomination and supporting documents.

The Hague, 13 March 2015

Annex I

Terms of reference for the establishment of an Advisory Committee on nominations of judges of the International Criminal Court¹

A. Composition

1. The Committee should be composed of nine members, nationals of States Parties, designated by the Assembly of States Parties by consensus on recommendation made by the Bureau of the Assembly also made by consensus, reflecting the principal legal systems of the world and an equitable geographical representation, as well as a fair representation of both genders, based on the number of States Parties to the Rome Statute.
2. Members of the Committee should be drawn from eminent interested and willing persons of a high moral character, who have established competence and experience in criminal or international law.
3. Members of the Committee would not be the representatives of States or other organizations. They would serve in their personal capacity, and would not take instructions from States Parties, States or any other organizations or persons.
4. The Committee will designate a coordinator to chair its meetings and organize its work.

B. Mandate²

5. The Committee is mandated to facilitate that the highest-qualified individuals are appointed as judges of the International Criminal Court.
6. Committee members would normally be designated for three year terms, with the possibility of being re-elected only once. Four of the first members designated shall be asked to serve only for one three year term, so as to stagger membership and provide continuity.

In the event of a vacancy, an election shall be held in accordance with the procedure for the nomination and election of members of the Advisory Committee on nominations. The procedure shall apply *mutatis mutandis*, subject to the following provisions:

- (a) The Bureau of the Assembly of States Parties may fix a nomination period which is shorter than the one used for other elections;
- (b) The Bureau of the Assembly of States Parties may elect the member; and
- (c) A member elected to fill a vacancy shall serve for the remainder of the predecessor's term and may be re-elected.

6 bis. For a period of three years after the end of the mandate or after the resignation of a member of the Committee, that person shall not be nominated as a candidate for election to the Court.

7. The work of the Committee is based on the applicable provisions of the Rome Statute and its assessment of the candidates will be based strictly on the requirements of article 36, paragraphs (3) (a), (b) and (c).

C. Working methods

8. The Committee will convene in person, by correspondence, or via remote links, once candidates have been nominated by States. The members of the Committee shall ensure the confidentiality of all communications during the process.
9. The Committee may proceed to communicate with all candidates, including by interviewing, both orally and in writing, with regard to their qualification in accordance with the Rome Statute.

¹ Report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court, (ICC-ASP/10/36), annex.

² As amended by resolution ICC-ASP/13/Res.5, annex III.

10. The evaluation procedure of the Committee shall be transparent. To that purpose, the Committee shall regularly and in detail brief the Bureau on its activities. The States Parties to the Rome Statute would be kept informed through the reporting procedures of the Bureau, and by briefings to the New York and The Hague Working Groups.

11. Once the Committee has completed its work, it will prepare information and analysis, of a technical character, strictly on the suitability of the candidates, which would be made available to States Parties and observers by submission to the Bureau, in sufficient time to allow for thorough subsequent consideration by the Assembly of States Parties.

12. Information and analysis presented by the Committee is to inform the decision-making of States Parties and is not in any way binding on them or on the Assembly of States Parties.

Annex II

List of Advisory Committee on nominations members elected at the eleventh session of the Assembly

- (a) BRANT, Leonardo Nemer Caldeira (Brazil)¹
- (b) FUKUDA, Hiroshi (Japan)
- (c) KIRSCH, Philippe (Canada)
- (d) NSEREKO, Daniel David Ntanda (Uganda)
- (e) PETRIČ, Ernest (Slovenia)
- (f) PINTO, Mónica (Argentina)
- (g) PRANDLER, Árpád (Hungary)²
- (h) SIMMA, Bruno (Germany)
- (i) SOCK, Raymond Claudius (Gambia)

The terms of the members run until 13 November 2015.

The Committee members would normally be designated for three-year terms, with the possibility of being re-elected only once. The four members selected by the drawing of lots to serve only for one three year term, so as to stagger membership and provide continuity are: Mr. Hiroshi Fukuda (Japan), Ms. Mónica Pinto (Argentina), Mr. Bruno Simma (Germany) and Mr. Raymond Claudius Sock (Gambia).

¹ Mr. Brant resigned on 18 June 2014.

² Mr. Prandler passed away on 4 February 2014.