

## Resolution ICC-ASP/13/Res.5

*Adopted at the 13th plenary meeting, on 17 December 2014, by consensus*

### ICC-ASP/13/Res.5

## Strengthening the International Criminal Court and the Assembly of States Parties

*The Assembly of States Parties,*

*Mindful* that each individual State has the responsibility to protect its population from the crime of genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

*Convinced* that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

*Convinced also* that there can be no lasting peace without justice and that peace and justice are thus complementary requirements,

*Convinced further* that justice and the fight against impunity and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

*Welcoming* the Court's central role as the only permanent international criminal court within an evolving system of international criminal justice and the contribution of the Court to guarantee lasting respect for and the enforcement of international justice,

*Noting* the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

*Reaffirming* its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

*Welcoming* the efforts and achievements of the Court in bringing the most responsible for the crimes under the Rome Statute to justice and *noting* the jurisprudence of the Court on the issue of complementarity,

*Recalling* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are capable of genuinely prosecuting such crimes,

*Recalling further* that the application of articles 17 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

*Recalling further* that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

*Underscoring* its respect for the judicial independence of the Court and its commitment to ensuring respect for and the implementation of the Court's judicial decisions,

*Taking note with appreciation* of the annual United Nations General Assembly resolutions concerning the Court,

*Welcoming* the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard,

*Recalling* the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010,

*Recalling also* the decision by the Assembly of States Parties ("the Assembly") to establish a representation of the Court at the African Union Headquarters in Addis Ababa, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

*Appreciating* the invaluable assistance that has been provided by civil society to the Court,

*Conscious* of the importance of equitable geographical representation and gender balance in the organs of the Court, and, as appropriate, in the work of the Assembly and its subsidiary bodies,

*Mindful* of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

*Recognizing* that victims' rights to equal and effective access to justice, protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, and *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims,

*Conscious* of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

*Conscious also* of the risks faced by personnel of the Court in the field,

*Recalling* that the Court acts within the constraints of an annual programme budget approved by the Assembly,

## **Universality of the Rome Statute**

1. *Invites* States not yet parties to the Rome Statute of the International Criminal Court, to become parties to the Rome Statute, as amended, as soon as possible, and *calls upon* all States Parties to intensify their efforts to promote universality;
2. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;
3. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;
4. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law and international cooperation and judicial assistance with the Court and, in this regard, *urges*

States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as appropriate;

5. *Welcomes* the report of the Bureau regarding the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute,<sup>1</sup> *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly of States Parties, the Assembly of States Parties, States Parties, and of civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

### **Agreement on Privileges and Immunities**

6. *Welcomes* the States Parties that have become a Party to the Agreement on the Privileges and Immunities of the International Criminal Court and *recalls* that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard *calls upon* States Parties, as well as non-States Parties, that have not yet done so to become parties to this Agreement as a matter of priority and to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

7. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on the Privileges and Immunities of the International Criminal Court in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

### **Cooperation**

8. *Refers* to its resolution ICC-ASP/13/Res.3 on cooperation;

9. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing legislation, enforcement of Court decisions and execution of arrest warrants;

10. *Also calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;

11. *Takes note* of the report on arrest strategies by the Rapporteur;<sup>2</sup>

12. *Welcomes* the conclusion of the first voluntary agreement between the Court and a State Party on interim release;

13. *Further welcomes* the memorandum of understanding between the Court and the United Nations Office on Drugs and Crime on strengthening the capacity of States to enforce sentences;

14. *Recalls* the non-cooperation procedures adopted by the Assembly in ICC-ASP/10/Res.5, *recognizes with concern* the negative impact that the non-execution of Court requests has had on the ability of the Court to execute its mandate, *takes note* of the

<sup>1</sup> ICC-ASP/13/34.

<sup>2</sup> ICC-ASP/13/29/Add.1.

decisions of the Court conveyed to the Assembly to date and of the report of the Bureau on non-cooperation;<sup>3</sup> *welcomes* the efforts of the President of the Assembly of States Parties in implementing the procedures on non-cooperation during her tenure and *recalls* that the President serves *ex officio* as focal point for his or her region;<sup>4</sup> *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly of States Parties, including when accomplishing his task with the support of the regional focal points for non-cooperation;

15. *Also recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council, *calls on* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *welcomes* the efforts of the President of the Assembly to consult with the Security Council and *encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

### **Host State**

16. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters agreement and *notes with appreciation* the ongoing commitment of the host State to the Court with a view to its more efficient functioning;

### **Relationship with the United Nations**

17. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;

18. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

- a) providing effective follow up of situations referred by the Council to the Court,
- b) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council and increased cooperation between Sanctions Committees and the Court;
- c) enhanced engagement by the Council with Court representatives and on matters related to the International Criminal Court in various formats, and
- d) institutionalizing Council cooperation with and support for the Court in this regard;

19. *Welcomes* the constructive discussion between the Security Council and the Court on their relationship and interaction during the visit by the Security Council to The Hague in August 2014;

20. *Also welcomes* the open debate held by the Security Council on 23 October 2014 on working methods of the Council, which included a focus on follow up of the referrals to the International Criminal Court;

21. *Recalls* the report of the Court on the status of ongoing cooperation with the United Nations, including in the field,<sup>5</sup> and *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court;

22. *Encourages* all United Nations Offices, funds and programmes to strengthen their cooperation with the Court and to collaborate effectively with the Office of Legal Affairs as Focal Point for cooperation between the United Nations system and the Court;

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<sup>3</sup> ICC-ASP/13/36.

<sup>4</sup> ICC-ASP/11/29, para. 12.

<sup>5</sup> ICC-ASP/12/42.

23. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

24. *Welcomes* that the Bureau has been informed throughout 2014 on Court-related developments at the United Nations and in particular at the Security Council and *calls on* Bureau members and other States Parties to continue providing the Bureau with information about their efforts at the United Nations and in any other international or regional fora to promote the fight against impunity;

25. *Also welcomes* the presentation of the tenth report of the Court to the General Assembly of the United Nations;<sup>6</sup>

26. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council have been borne exclusively by States Parties, and in that regard *urges* States Parties to begin discussions on the proper implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that Article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements;

27. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

### **Relationships with other international organizations and bodies**

28. *Welcomes* the efforts undertaken by various regional organizations to support the Court in the fulfilment of its mandate;

29. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *commits* to the Court's further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office; *recognizes* the engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

30. *Welcomes* the conclusion of an Exchange of Letters on 5 August 2014 establishing a Framework Cooperation Arrangement between the Court and the Parliament of MERCOSUR, Common Market of the South, in accordance with article 87, paragraph 6, of the Rome Statute and *invites* the Court to continue with the efforts to strengthen the relationships with other international organizations and bodies, including by concluding bilateral arrangements/agreements;

31. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law, and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

### **Activities of the Court**

32. *Takes note* of the latest report on the activities of the Court to the Assembly of States Parties;<sup>7</sup>

33. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court's activities including its preliminary examinations, investigations and judicial proceedings in various situations

<sup>6</sup> United Nations document A/69/321.

<sup>7</sup> ICC-ASP/13/37.

which either States Parties or the United Nations Security Council<sup>8</sup> referred to the Court or which the Prosecutor initiated *proprio motu*;

34. *Recalls* its invitation to the Court to continue to take note of best practices of other relevant international and national organizations and tribunals, including those gained by national institutions that have investigated and prosecuted crimes that fall within the Court's jurisdiction, in solving operational challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court, and in this regard welcomes the fact that the Court hosted a two-day International Tribunals' Developed Practices Workshop at its premises;

35. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

36. *Welcomes* the Policy Paper on Sexual and Gender-Based Crimes released by the Office of the Prosecutor in June 2014 and stresses the importance of the effective investigation and prosecution of sexual and gender-based crimes by the Court and by national courts, in order to end impunity for perpetrators of sexual violence crimes and *calls upon* States Parties to consider the Policy Paper to strengthen the investigation and prosecution of sexual and gender-based crimes domestically;

37. *Also welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry, and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia with a view to ensuring full transparency, good governance and sound management;

38. *Notes with appreciation* the efforts undertaken by the Registrar, including in the context of the Registry ReVision project, to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and visibility and *encourages* the Court to continue to optimize its field offices in order to ensure the Court's continued relevance and impact in States in which it carries out its work;

39. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;

## Elections

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

41. *Stresses* the importance of elected judges who have made their solemn undertaking being available to take up their full-time service when the Court's workload so requires;

42. *Decides* to adopt the amendment to the procedure for the nomination and election of judges<sup>9</sup> contained in annex II to the present resolution;

43. *Also decides* to review the procedure for the election of judges as set forth in sections B and C of resolution ICC-ASP/3/Res.6 as amended, including by the present resolution, on the occasion of future elections with a view to making any improvements as may be necessary;

44. *Takes note* of the report of the Advisory Committee on Nominations,<sup>10</sup> containing the assessment of the nominations submitted to elect six judges at the thirteenth session of

<sup>8</sup> United Nations Security Council resolution 1593 (2005) and 1970 (2011).

<sup>9</sup> *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part III, ICC-ASP/3/Res.6.

<sup>10</sup> ICC-ASP/13/22.

the Assembly and *notes* that the Advisory Committee will also carry out its mandate in relation to the election to fill a judicial vacancy;

45. *Decides* to adopt the amendments to the terms of reference of the Advisory Committee on Nominations<sup>11</sup> contained in annex III to the present resolution;

### **Secretariat of the Assembly of States Parties**

46. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties (“the Secretariat”), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;

### **Counsel**

47. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;

48. *Also notes* the need to improve gender balance and equitable geographical representation on the list of counsel, and thus *continues to encourage* applications to the list of counsel established as required under rule 21(2) of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

### **Legal aid**

49. *Acknowledges* the Court’s efforts to continue implementing the revised legal aid remuneration policy as adopted by the Bureau on 23 March 2012, *takes note* of the fulfilled reporting obligation in this regard, and *stresses* the need for continuous monitoring of the efficiency of the legal aid system to uphold and strengthen the principles of the legal aid system, namely fair trial, objectivity, transparency, economy, continuity and flexibility;<sup>12</sup>

50. *Welcomes* the initiative of the Registrar, in the context of the legal aid related aspects of the Registry ReVision project, to reorganize, streamline and strengthen the Registry’s support to the defence and victim participation and representation, and *underlines* the need for measures to achieve greater synergy and efficiency in the legal aid system, in line with the mandates laid down in resolution ICC-ASP/12/Res.8 with regard to legal aid,

### **Study Group on Governance**

51. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence and *invites* the organs of the Court to further engage in a such a dialogue with States Parties;

52. *Takes note* of the Bureau’s report on the Study Group of Governance<sup>13</sup> and the recommendations contained therein;

53. *Extends* for another year the mandate of the Study Group, provided in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5 and ICC-ASP/11/Res.8;

<sup>11</sup> ICC-ASP/10/36, annex.

<sup>12</sup> ICC-ASP/3/16, para. 16.

<sup>13</sup> ICC-ASP/13/28.

54. *Welcomes* the report of the judges' Working Group on Lessons Learned on the "Pre-Trial and Trial Relationship and Common Issues" and *encourages* the judges to continue their work on this issue into 2015;

55. *Looks forward to* receiving the judges' Working Group on Lessons Learned report on "Victims participation and reparations" in 2015;

56. *Calls upon* States Parties to continue considering amendment proposals by the Working Group on Lessons Learned;

### **Proceedings of the Court**

57. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution as well as the best possible use of its resources;

58. *Welcomes* the Court's efforts to enhance the efficiency and effectiveness of proceedings;

### **Working methods review**

59. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;

60. *Welcomes* the steps already undertaken by the Bureau in this regard, including the organization of a retreat on governance by the President of the Assembly, as well as the Bureau's express determination to remain seized of the matter as set out in its report entitled "Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau";<sup>14</sup>

61. *Decides* to further improve the working methods of the Bureau and the governance of the Assembly of States Parties, and to that effect

- a) *adopts* the roadmap for the implementation of mandates of the Working Groups of the Bureau contained in annex IV;<sup>15</sup>
- b) *decides* to have future invitations and documentation for meetings of the Bureau and its subsidiary bodies posted on the Extranet in combination with an alert by e-mail;<sup>16</sup> and
- c) *reconfirms* the Bureau support for a paper-light approach to documentation, with a view to moving in the direction of a paper-less approach;

62. *Recalling* the representative geographical character of the Bureau, *encourages* Bureau members to strengthen their communication with States Parties of their respective regional group to inform the discussion of the Bureau, *welcomes* the efforts of the Bureau to ensure communication and cooperation between its subsidiary bodies and *invites* the Bureau to continue such efforts;

### **Strategic planning**

63. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach<sup>17</sup> in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

64. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while acknowledging the significant contribution of other stakeholders;

<sup>14</sup> ICC-ASP/12/59.

<sup>15</sup> See *ibid.*, para. 27(a).

<sup>16</sup> See *ibid.*, para. 23(d).

<sup>17</sup> ICC-ASP/5/12.



65. *Notes with appreciation* the initiatives undertaken to celebrate, in the context of its information and communication strategy,<sup>18</sup> 17 July as Day of International Criminal Justice<sup>19</sup> and *recommends* that, on the basis of lessons learned, all relevant stakeholders, together with the Court, continue to engage in preparation of the annual celebrations with a view to reinforcing the international fight against impunity;

66. *Takes note* of the revised Court's Strategic Plan for 2013-2017, and *welcomes* the Court's intention to adapt its Plan, as appropriate, on an annual basis, including for the purpose of the formulation of the budget assumptions and to inform the Bureau thereon with a view to further strengthening the budgetary process;

67. *Also takes note* of the implementation of the new Strategic Plan of the Office of the Prosecutor, *welcomes* advice that the Strategic Plan is having a positive impact on the work of the Office of the Prosecutor, and *notes* that in 2015 the Office plans to produce a new strategic plan for the period 2016-2018;

68. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;

69. *Welcomes* the Registrar's strategic approach, in the context of the ReVision project, to analyze the Registry functions where overlap, fragmentation or gaps exists; *recognizes* the need to address those areas and *notes*, in particular, that the Court has established as a priority the strengthening of its presence in the field, with the strategic goal of increasing the Court's impact and effectiveness and efficiency of its operations; and *acknowledges* that the impact of the ReVision project also needs to be considered from the perspective of its budgetary implications;

### **Victims and affected communities, reparations and Trust Fund for Victims**

70. *Refers* to its resolution ICC-ASP/13/Res.4 on victims and affected communities, reparations and Trust Fund for Victims;

71. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and *emphasizes* the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims;

### **Recruitment of staff**

72. *Welcomes* the Court's continued efforts, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children and *encourages* further progress in this regard;

73. *Stresses* the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members;

### **Complementarity**

74. *Recalls* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are willing and able genuinely to carry out investigations and prosecutions of such crimes;

<sup>18</sup> ICC-ASP/9/29.

<sup>19</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II.B, Kampala Declaration (RC/Decl.1), para. 12.

75. *Resolves* to continue and strengthen, within the appropriate fora, effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;

76. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

77. *Also welcomes* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society, and in that context *takes note* of the important work being undertaken in the United Nations on the post-2015 development agenda, including the promotion of rule of law at the national and international levels and ensuring equal access to justice for all;<sup>20</sup>

78. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of those laws, and *urges* States to do so;

79. *Welcomes* the report of the Bureau on complementarity;<sup>21</sup>

80. *Also welcomes* the report by the Secretariat of the Assembly of States Parties on the progress in giving effect to its mandate to facilitate the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions;<sup>22</sup> and *welcomes further* the work that has already been undertaken by the Secretariat and the President of the Assembly;

81. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while recalling the Court's limited role in strengthening national jurisdictions and also *encourages* inter-State cooperation in that regard;

## **Independent Oversight Mechanism**

82. *Refers* to its resolution ICC-ASP/12/Res.6 on the Independent Oversight Mechanism;

83. *Recognizes* the importance of a fully operational Independent Oversight Mechanism, in accordance with ICC-ASP/8/Res.1 and ICC-ASP/9/Res.5, to the efficient and effective operation of the Court;

## **Programme budget**

84. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;

85. *Recalls* that, according to its Rules of Procedure,<sup>23</sup> the Committee on Budget and Finance shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

<sup>20</sup> See United Nations General Assembly resolution 68/309.

<sup>21</sup> ICC-ASP/13/30.

<sup>22</sup> *Ibid.*, annex II.

<sup>23</sup> *Official Records ... Second session ... 2003* (ICC-ASP/2/10), annex III.

86. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

87. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court, and *expresses its appreciation* to those that have done so;

## Review Conference

88. *Recalls* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime;<sup>24</sup> and adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character,<sup>25</sup> and decided to retain, for the time being, article 124 of the Rome Statute;<sup>26</sup>

89. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute and *notes with appreciation* the recent ratifications of the amendments;

90. *Calls upon* all States Parties to consider ratifying or accepting these amendments and *resolves* to activate the Court's jurisdiction over the crime of aggression as early as possible, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Rome Statute;

91. *Recalls* with appreciation pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls on* these States and the regional organization to ensure the swift implementation of these pledges, and further *calls on* States and regional organizations to submit additional pledges and to inform, as appropriate, on the implementation thereof at future sessions of the Assembly;

## Consideration of amendments

92. *Welcomes* the report of the Bureau on the Working Group on Amendments;<sup>27</sup>

## Participation in the Assembly of States Parties

93. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;

94. *Encourages* the continuation of efforts undertaken by the President of the Assembly of States Parties to hold an ongoing dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in his undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

95. *Decides* to entrust the Court, the Bureau, the President of the Assembly and the Secretariat, as appropriate, with the mandates contained in annex I to the present resolution.

<sup>24</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

<sup>25</sup> *Ibid.*, RC/Res.5.

<sup>26</sup> *Ibid.*, RC/Res.4.

<sup>27</sup> ICC-ASP/13/31.

## Annex I

### Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
  - (a) *endorses* the recommendations of the report of the Bureau regarding the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute,<sup>1</sup> and
  - (b) *requests* the Bureau continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its fourteenth session;
2. With regard to **cooperation**,
  - (a) *requests* the President of the Assembly, to continue to engage actively and constructively with all relevant stakeholders, in accordance with the Bureau procedures on non-cooperation, both to prevent instances of non-cooperation and to follow up on a matter of non-cooperation referred by the Court to the Assembly;
  - (b) *invites* the Bureau to continue discussions on arrest strategies, with a view to submitting a consolidated draft Action Plan on Arrest Strategies for consideration of the Assembly;
  - (c) *also invites* the Bureau to discuss the feasibility of establishing a coordinating mechanism of national authorities, taking into consideration the study in annex II of the report of the Bureau on cooperation<sup>2</sup> and to report to the Assembly well in advance of the fourteenth session;
  - (d) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its fourteenth session;
  - (e) *also requests* the Bureau, through its Working Groups, to review the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>3</sup> in close cooperation with the Court;
  - (f) *further requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court; and
  - (g) *further requests* the Bureau to actively engage throughout the inter-sessional period with all relevant stakeholders to continue to ensure the effective implementation of the non-cooperation procedures and to submit a report on its activities to the Assembly at its fourteenth session with recommendations in light of lessons learned;
3. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;
4. With regard to **elections**,
  - (a) *requests* the Bureau to report to the Assembly at its fourteenth session on the review of the procedure for the election of judges as set forth in sections B and C of resolution ICC-ASP/3/Res.6 as amended, including by the present resolution, on the occasion of future elections with a view to making any improvements as may be necessary;

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<sup>1</sup> ICC-ASP/13/34.

<sup>2</sup> ICC-ASP/13/29.

<sup>3</sup> Resolution ICC-ASP/6/Res.2, annex II.

(b) *also requests* the Bureau to undertake, in consultation with the Advisory Committee on Nominations and at the end of its mandate, a review of the experience of the Advisory Committee and to report to the Assembly at its fifteenth session on that experience, including suggestions, as appropriate, on how to improve the terms of reference contained in the annex of the report of the Bureau on the establishment of an Advisory Committee on nominations of Judges of the International Criminal Court (ICC-ASP/10/36);<sup>4</sup> and

(c) *further requests* the Advisory Committee on Nominations to report on the progress of its work well in advance of the session at which the judicial vacancy is to be filled;

5. With regard to **Legal Aid**,

(a) *requests* the Court and the Bureau to keep the legal aid system under review; and *recalling* the mandates laid down in paragraph 6 of annex I of resolution ICC-ASP/12/Res.8 with regard to legal aid, *calls on* the Court to ensure their full and timely implementation, as appropriate;

(b) *calls on* the Court to continue monitoring the implementation performance of legal aid;

(c) *requests* the Court, in the context of the ongoing reorganization and streamlining of the Registry and in line with paragraph 6 of annex I of resolution ICC-ASP/12/Res.8, to continue reassessing the functioning of the legal aid system and to report on its findings to the Bureau; as well as to present, as appropriate, a proposal to the Bureau for adjustments of the existing legal aid system upon the completion of the first full judicial cycles<sup>5</sup> and within the timeframe as indicated in the above mentioned resolution; and

(d) *mandates* the Bureau, as appropriate, to further consider the matter having recourse to any appropriate process or mechanism, and to elaborate and propose any structural changes to the legal aid system, to be, if necessary, adopted by the Assembly, including proposing measures to further enhance the efficiency of the legal aid system;

6. With regard to the **Study Group on Governance**,

(a) *requests* the Study Group to report back to its fourteenth session;

(b) *invites* the Court to monitor the use of intermediaries through its Working Group on Intermediaries with a view to safeguarding the integrity of the judicial process and the rights of the accused; and

(c) *requests* the Court to inform States Parties, when appropriate, about important developments pertaining to the use of intermediaries, which might require the Court to amend the Guidelines;

7. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice; and

(b) *requests* the Court to intensify its efforts to develop qualitative and quantitative indicators that would allow the Court to demonstrate better its achievements and needs, as well as allowing States Parties to assess the Court's performance in a more strategic manner, bearing in mind existing recommendations and discussions, in particular in the context of the Study Group on Governance and the Committee on Budget and Finance;

(c) *decides* to include a specific item on the efficiency and effectiveness of Court proceedings on the agenda of the fourteenth session of the Assembly with a view to strengthening the Rome Statute system;

<sup>4</sup> Such as the question of conflict of interest.

<sup>5</sup> The end of the full judicial cycles refers to the issuance of a final appeal decisions in the case of *The Prosecutor v. Thomas Lubanga Dyilo* and the case of *The Prosecutor v. Mathieu Ngudjolo Chui* respectively, including, as appropriate, a final decision on reparations.

8. With regard to the **working methods review**,

(a) *invites* the Bureau to implement the recommendations of the 2013 working methods report,<sup>6</sup>

(b) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;<sup>7</sup>

(c) *mandates* the two Coordinators of the Working Groups of the Bureau to monitor the implementation of the Report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau<sup>8</sup> and, in that regard, also to conduct an evaluation of the mechanisms established for carrying out the mandates received, including through a survey conducted among the members of the Working Groups and the biennialization or triennialization of reporting to the Assembly;<sup>9</sup> and

(d) *calls upon* the Secretariat to continue its efforts in regard to a paper-light approach to documentation, with a view to moving in the direction of a paper-less approach, and *recalls* in this connection that reports of the Court and Assembly bodies should be limited to sixteen pages;<sup>10</sup>

9. With regard to **strategic planning**,

(a) *requests* the Bureau to continue to engage with all relevant stakeholders, on the basis of lessons learned, in dialogue with a view to developing a coordinated and comprehensive approach vis-à-vis the communication strategy of the Court;

(b) *invites* the Court to continue to hold annual consultations with the Bureau in the first trimester of each year, on the implementation of its strategic plans during the previous calendar year, with a view to improving performance indicators updated on the basis of lessons learned;

(c) *also invites* the Office of the Prosecutor to adjust its new Strategic Plan in accordance with its implementation experience and to inform the Bureau on a regular basis thereon;

(d) *requests* that the Court, in consultation with States Parties, continues to work towards setting a hierarchy of its priorities in order to facilitate strategic and budgetary choices;

(e) *requests* the Bureau to continue to engage in a dialogue with the Court on the development of a comprehensive risk-management strategy and to report thereon to the fourteenth session of the Assembly; and

(f) *also requests* the Bureau to continue to engage in dialogue with the Court on the implementation of the strategic approach to the Court's presence in the field with a view to the development of the Court strategy on field operations and to report thereon on a regular basis;

10. With regard to **Victims and affected communities, reparations and Trust Fund for Victims**,

(a) *invites* the Bureau to explore, through its Study Group on Governance and based on a report the Court is requested to submit in 2015, the need for possible amendments to the legal framework for the participation of victims in the proceedings;

(b) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority and report back to the Assembly at its fourteenth session;

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<sup>6</sup> ICC-ASP/12/59.

<sup>7</sup> As outlined, e.g., in paras. 21(a) and 23(b) of the Report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

<sup>8</sup> ICC-ASP/12/59.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

(c) *recalls* its request to the Court to continue to develop a scheme in regard to the declaration of indigence of the accused for the purpose of legal aid and to report back to the Assembly on related substantial developments at its fourteenth session;

(d) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

(e) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(f) *decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable; and

(g) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism;

11. With regard to **recruitment of staff**,

(a) *recommends* that the Bureau continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the fourteenth session of the Assembly;

(b) *requests* the Court to submit a comprehensive report on Human Resources to the Assembly at its fourteenth session, which would include an update on the implementation of the recommendations on the topic which would be made by the Committee on Budget and Finance in 2015;

12. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness protection and sexual and gender-based crimes;

(b) *also requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to report to the fourteenth session of the Assembly on further progress in this regard;

13. With regard to the **programme budget**,

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that, with the understanding that the facilitation in the New York Working Group and its report to the Assembly on arrears is biennialized, the Bureau should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by States Parties, as appropriate, continue to engage in dialogue with States Parties in arrears and report thereon to the Assembly at its fourteenth session; and

(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

14. With regard to the **Review Conference**,

(a) *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

(b) *also requests* the Bureau to report further at the fourteenth session of the Assembly on the implementation by States and by the regional organizations of the pledges undertaken in Kampala;

15. With regard to **consideration of amendments**,

(a) *invites* the Working Group to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group, and *requests* the Bureau to submit a report for the consideration of the Assembly at its fourteenth session; and

(b) *decides* to review the provisions of article 124 of the Rome Statute in the context of the Working Group on Amendments during the fourteenth session of the Assembly;

16. With regard to **participation in the Assembly of States Parties**,

(a) *decides* to hold a pledge ceremony during the fifteenth session of the Assembly on the ratification of the Agreement on Privileges and Immunities to invite States Parties to ratify it before the 20<sup>th</sup> anniversary of the Rome Statute (July 2018);

(b) *also decides* that the Committee on Budget and Finance shall hold its twenty-fourth session from 20 to 24 April 2015 and its twenty-fifth session from 21 September to 2 October 2015;

(c) *Concerned* by the need for the Court to have a full bench of judges in 2015, as provided by the Rome Statute, *further decides* to mandate the Bureau to consider the practicalities of holding a resumed session to fill the remaining judicial vacancy, including the location, timing and financial implications, and if appropriate to proceed with the convening of such a resumed session in the second quarter of 2015; and

(d) *further decides* that the Assembly shall hold its fourteenth session in The Hague from 18 to 26 November 2015 and its fifteenth session in The Hague.

## Annex II

### Amendments to resolution ICC-ASP/3/Res.6, regarding the procedure for the nomination and election of judges

*Replace paragraph 27 (b) with the following text:*

“27 (b). The nomination period shall open 18 weeks before the elections and shall last six weeks.



## Annex III

### Amendments to the terms of reference of the Advisory Committee on Nominations, contained in the annex to document ICC-ASP/10/36

Add the following text to the end of paragraph 6:

“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.”

Insert the following as a new paragraph 6 bis:

“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.”

## Annex IV

### General Roadmap for facilitations<sup>1</sup>

<i>Date</i>	<i>Body</i>	<i>Agenda</i>
Towards the end of an Assembly session	Bureau	Allocate items entrusted to the Bureau for the coming year between The Hague and New York Working Groups
By end of February	Bureau	Consideration of renewal of mandates and decision on appropriate process or mechanism (facilitation, rapporteur or other), based on evaluation previously conducted by the Coordinators of the Working Groups Appointment of facilitators, focal points, rapporteurs and/or others, if necessary
By end of March	HWG, NYWG	Submission by each facilitator and/or focal point of a program of work to the Coordinator of their Working Group, containing a timeline including a set of goals to be achieved until the commencement of the Assembly session, as well as, if possible, scheduled meetings
Seven weeks ahead of the ASP	HWG, NYWG	Submission of draft reports and resolutions by facilitators and focal points
Six weeks ahead of the ASP	HWG, NYWG	Adoption of draft reports and resolutions
Five weeks ahead of the ASP	Bureau	Adoption of draft reports and resolution
Four weeks ahead of the ASP	ASP Secretariat	Dissemination of official documentation for the ASP
Xx - xx November/December	ASP	Consideration of draft reports and resolutions

<sup>1</sup> The above indicative roadmap applies equally to the Study Group on Governance (SGG), whereas within that framework, a special timeline applies for Cluster I of the Study Group. In accordance with past practice and specific circumstances governing the omnibus and the budget facilitations, as well as the Working Group on Amendments (WGA), those topics shall be discussed in accordance with a separate roadmap, which would be established by the respective facilitator on a yearly basis.