

**Assembly of States Parties to
the Rome Statute of the
International Criminal Court**

**Seventh session
The Hague, 14 – 22 November 2008**

**Official Records
Volume I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Decision”.

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Contents

| | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| Part I | | |
| Proceedings | 1-44 | 1 |
| A. Introduction..... | 1-16 | 2 |
| B. Consideration of issues on the agenda of the Assembly at its seventh session..... | 17-44 | 4 |
| 1. States in arrears..... | 17-18 | 4 |
| 2. Credentials of representatives of States Parties at the seventh session | 19 | 4 |
| 3. General debate | 20 | 5 |
| 4. Report on the activities of the Bureau | 21-25 | 5 |
| 5. Report on the activities of the Court..... | 26 | 6 |
| 6. Consideration and adoption of the budget for the seventh financial year | 27-33 | 6 |
| 7. Consideration of audit reports | 34 | 7 |
| 8. Report of the Board of Directors of the Trust Fund for Victims..... | 35 | 7 |
| 9. Report of the Special Working Group on the Crime of Aggression..... | 36 | 7 |
| 10. Premises of the Court | 37-39 | 7 |
| 11. Review Conference..... | 40 | 8 |
| 12. Decisions concerning dates of the next session of the Assembly of States Parties..... | 41 | 8 |
| 13. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance | 42 | 8 |
| 14. Other matters | 43-44 | 8 |

| | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| Part II | | |
| External audit, internal audit, programme budget for 2009 and related documents | 1-29 | 9 |
| A. External audit | 1-2 | 10 |
| B. Internal audit | 3-4 | 10 |
| C. Other audit matters | 5-6 | 10 |
| D. Exchange of views on general matters relating to the budget | 7-13 | 11 |
| (a) Administrative efficiencies | 8-11 | 11 |
| (b) Timeliness of documentation | 12 | 11 |
| (c) Financial implications of judicial decisions | 13 | 12 |
| E. Consideration of the proposed programme budget of the Court for 2009 | 14-29 | 12 |
| 1. Recommendations of the Committee on Budget and Finance of a general nature | 14-17 | 12 |
| (a) Contingency Fund | 14 | 12 |
| (b) Family visits | 15-16 | 12 |
| (c) Reclassifications | 17 | 13 |
| 2. Specific recommendations of the Committee on Budget and Finance on major programmes | 18-23 | 13 |
| (a) Major programme III: Registry | 18 | 13 |
| (b) Major programme IV: Secretariat of the Assembly of States Parties | 19-20 | 13 |
| (c) Major programme VI: Secretariat of the Trust Fund for Victims | 21-23 | 14 |
| 3. Resolution | 24-29 | 14 |

| | <i>Page</i> |
|---|-------------|
| Part III | |
| Resolutions adopted by the Assembly of States Parties | 17 |
| ICC-ASP/7/Res.1 Permanent premises..... | 18 |
| ICC-ASP/7/Res.2 Venue of the Review Conference | 26 |
| ICC-ASP/7/Res.3 Strengthening the International Criminal Court and the Assembly of States Parties..... | 28 |
| ICC-ASP/7/Res.4 Programme budget for 2009, the Working Capital Fund for 2009, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for the year 2009 and the Contingency Fund | 37 |
| ICC-ASP/7/Res.5 Amendment to the Financial Regulations and Rules | 41 |
| ICC-ASP/7/Res.6 Amendment to the Rules of Procedure of the Assembly of States Parties..... | 42 |
| ICC-ASP/7/Res.7 Amendment to the Rules of Procedure of the Committee on Budget and Finance..... | 43 |
| Annexes | |
| I. Report of the Credentials Committee | 44 |
| II. Report of the Working Group on the Review Conference | 46 |
| III. Report of the Special Working Group on the Crime of Aggression | 47 |
| IV. Statement by the Hon. Fredrick Ruhindi, Deputy Attorney General/ Minister of State for Justice and Constitutional Affairs of the Republic of Uganda at the sixth meeting of the Assembly, on 20 November 2008 | 59 |
| V. List of documents | 61 |

Part I
Proceedings

A. Introduction

1. In accordance with the decision taken by the Assembly of States Parties (hereinafter “the Assembly”) to the Rome Statute of the International Criminal Court, taken at the 7th meeting of its sixth session, on 14 December 2007, the Assembly convened its seventh session from 14 to 22 November 2008 in The Hague.
2. In accordance with the Rules of Procedure of the Assembly,¹ the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure of the Assembly, invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court or in consultative status with the Economic and Social Council of the United Nations whose activities were relevant to the activities of the Court or that had been invited by the Assembly of States Parties attended and participated in the work of the Assembly.
5. In accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People’s Republic of Korea, Equatorial Guinea, Grenada, Kiribati, Lao People’s Democratic Republic, Lebanon, Maldives, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, Swaziland, Tonga, Turkmenistan, Tuvalu and Vanuatu.
6. The list of delegations to the session is contained in document ICC-ASP/7/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Mr. Christian Wenaweser (Liechtenstein), who had been elected, by acclamation, President of the Assembly for the seventh to ninth sessions during the sixth session of the Assembly.³

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* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 61/43, 61/259 and decision 56/475.

³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November - 14 December 2007* (International Criminal Court publication, ICC-ASP/6/20), vol. I, part I.B, para. 22.

8. At its 1st meeting, on 14 November 2008, the Assembly elected the other members of the Bureau, which, consequently, is composed as follows:

President:

Mr. Christian Wenaweser (Liechtenstein)

Vice-Presidents:

Mr. Jorge Lomonaco (Mexico)

Mr. Zachary D. Muburi-Muita (Kenya)

Rapporteur:

Ms. Simona Drenik (Slovenia)

Other members of the Bureau:

Australia, Brazil, Burkina Faso, Estonia, Gabon, Georgia, Japan, Jordan, Nigeria, Norway, Romania, Samoa, South Africa, Spain, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Venezuela (Bolivarian Republic of).

9. At its 5th meeting, on 17 November 2008, in accordance with rule 25 of the Rules of Procedure, the following States were appointed to serve on the Credentials Committee:

Costa Rica, Estonia, Ireland, Lesotho, Netherlands, Republic of Korea, Serbia, Suriname and Uganda.

10. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

11. At its 1st meeting, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure of the Assembly.

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/7/1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Adoption of the agenda.
4. States in arrears.
5. Election of two Vice-Presidents and 18 members of the Bureau.
6. Credentials of representatives of States at the seventh session:
 - (a) Appointment of the Credentials Committee;
 - (b) Report of the Credentials Committee.
7. Organization of work.
8. General debate.
9. Report on the activities of the Bureau.
10. Report on the activities of the Court.
11. Consideration and adoption of the budget for the seventh financial year.
12. Consideration of the audit reports.
13. Report of the Board of Directors of the Trust Fund for Victims.
14. Report of the Special Working Group on the Crime of Aggression.

15. Premises of the Court.
16. Review Conference.
17. Decisions concerning dates of the next session of the Assembly of States Parties.
18. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance.
19. Other matters.

13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/7/1/Add.1/Rev.2).

14. Also at its 1st meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Special Working Group on the Crime of Aggression, established pursuant to Assembly resolution ICC-ASP/1/Res.1, of 9 September 2002, met in accordance with the arrangements reached by the Assembly at the 8th meeting of its first session, on 7 February 2003.⁴ In accordance with paragraph 2 of the above-mentioned resolution, the Special Working Group was open on an equal footing to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.

15. In addition, the Assembly established a Working Group on the Programme Budget for 2009 and a Working Group on the Review Conference.

16. The President, following consultations with the Bureau, continued in his capacity as Chairperson of the Special Working Group on the Crime of Aggression, while Mr. Masud Husain (Canada) was appointed to chair the Working Group on the Programme Budget for 2009. Mr. Rolf Fife (Norway), the Assembly's focal point on the review of the Rome Statute, chaired the Working Group on the Review Conference.

B. Consideration of issues on the agenda of the Assembly at its seventh session

1. States in arrears

17. At the 1st meeting, on 14 November 2008, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to six States Parties.

18. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2009 in a timely manner.

2. Credentials of representatives of States Parties at the seventh session

19. At its 7th meeting, on 21 November 2008, the Assembly adopted the report of the Credentials Committee (see annex I).

⁴ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session (first and second resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, Sales No. E.03.V.8), part I, paras. 38-39.

3. General debate

20. At the 1st, 2nd, 3rd and 4th meetings, on 14 and 15 November 2008, statements were made by the representatives of Australia (on behalf of Canada, Australia and New Zealand), Argentina, Austria, Barbados, Belgium, Bolivia, Botswana, Brazil, Chile, Colombia, Costa Rica, Croatia, Democratic Republic of the Congo, Denmark, Ecuador, Egypt, Finland, France (on behalf of the European Union), Germany, Greece, Guatemala, Hungary, Iran (Islamic Republic of), Italy, Japan, Jordan, Kenya, Lao People's Democratic Republic, Lesotho, Liechtenstein, Luxembourg, Mexico, Netherlands, Nigeria, Norway, Peru, Poland, Portugal, Republic of Korea, Senegal, Sierra Leone, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania (on behalf of the African Union), Uruguay and Venezuela (Bolivarian Republic of). Statements were also made by a representative of the League of Arab States and representatives of the following non-governmental organizations: Coalition for the International Criminal Court, Coalition nationale pour la Cour pénale internationale (RDC), Comisión Colombiana de Juristas, Fédération internationale des ligues des droits de l'Homme, Justice without Frontiers (on behalf of the Lebanese coalition for the ICC), Human Rights Watch, Informal Sector Service Centre (on behalf of National Coalition for the ICC in Nepal), No Peace Without Justice, Ligue pour la Paix et les Droits de l'Homme, Coalition marocaine pour la Cour pénale internationale.

4. Report on the activities of the Bureau

21. At its 1st meeting, on 14 November 2008, the Assembly took note of the oral report on the activities of the Bureau, delivered by President, on behalf of the outgoing President, Mr. Bruno Stagno Ugarte (Costa Rica). In his report, the President noted that, since the sixth session held in November/December 2007 and 14 November 2008, the Bureau had held 13 meetings in order to assist the Assembly in carrying out its activities under the Rome Statute.

22. The Working Group in The Hague had made considerable progress on the issues such as the strategic planning process and its concrete implementation, including on the priority issues identified in resolution ICC-ASP/5/Res.2. In addition, the Working Group continued its work on cooperation, intensified the dialogue with the Court on Outreach and considered the proposed programme budget for 2009. At its 11th meeting, on 9 September 2008, the Bureau assigned the issue of the assessment of the Regulations of the Trust Fund for Victims and the issue of the establishment of an independent oversight mechanism, provided for in article 112, paragraph 4, of the Rome Statute, to The Hague Working Group.

23. The Working Group in New York had been particularly engaged with the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute, the issue of arrears, including measures to promote payments by States, the identification of ways to improve equitable geographical representation within the existing model, and the preparations for the Review Conference, including financial and legal implications, as well as practical and organizational issues.

24. The Secretariat of the Assembly had provided the Oversight Committee on the permanent premises, The Hague Working Group and the Committee on Budget and Finance with independent substantive servicing, as well as administrative and technical assistance in the discharge of their responsibilities. The Secretariat assisted in coordinating the work of the Bureau and of the New York Working Group and facilitated the dissemination of information and communications. In addition, the Secretariat had organized the resumed sixth session of the Assembly, devoted to the Special Working Group on the Crime of Aggression, at United Nations Headquarters in June 2008. The Secretariat also provided logistical support for events to mark the tenth anniversary of the adoption of the Rome Statute, both in The Hague and in New York.

25. Furthermore, in accordance with paragraph 6, sub-paragraph (h), and paragraph 7, of the Plan of action for achieving universality and full implementation of the Rome Statute, the Secretariat had requested all States to convey information relevant to the promotion of the ratification and implementation of the Rome Statute.

5. Report on the activities of the Court

26. At its 1st meeting, on 14 November 2008, the Assembly heard statements from Judge Philippe Kirsch, President of the Court, and from Mr. Luis Moreno-Ocampo, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court (ICC-ASP/7/25).

6. Consideration and adoption of the budget for the seventh financial year

27. The Assembly, through its Working Group, considered the proposed programme budget for 2009 on the basis of the draft proposal submitted by the Registrar, the reports of the Committee on Budget and Finance and the reports of the External Auditor.

28. At its 7th meeting, on 21 November 2008, the Assembly considered and approved, by consensus, the programme budget for 2009 (see part II).

29. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/7/Res.4, concerning the programme budget in relation to the following:

- (a) Programme budget for the year 2009, including appropriations totalling €101,229,900 for the major programmes and staffing tables for each of the major programmes;
- (b) Working Capital Fund for 2009;
- (c) Scale of assessments for the apportionment of the expenses of the International Criminal Court;
- (d) Financing of appropriations for the year 2009; and
- (e) Contingency Fund.

30. In relation to the financing of the 2009 programme budget, the Assembly decided, on an exceptional and one-time basis, that the assessments would be based on €96,229,900 of the programme budget and further decided to allow the Court to draw up to €5 million from the Working Capital Fund, following a notification from the Registrar to the President of the Assembly and the Chair of the Committee on Budget and Finance providing a detailed report on efforts made to find efficiencies and other savings.

31. The Assembly also decided to extend indefinitely the Contingency Fund.

32. At the same meeting, the Assembly also adopted, by consensus, resolution ICC-ASP/7/Res.5 by which it amended rule 110.1 of the Financial Regulations and Rules.

33. Furthermore, at the same meeting, the Assembly adopted resolution ICC-ASP/7/Res.6 by which it amended rule 40 of the Rules of Procedure of the Assembly of States Parties, and resolution ICC-ASP/7/Res.7 by which it amended rule 28 of the Rules of Procedure of the Committee on Budget and Finance.

7. Consideration of audit reports

34. At its 7th meeting, on 21 November 2008, the Assembly took note of the report of the Working Group on the Programme Budget for 2009 (ICC-ASP/7/WGPB/1) and, inter alia:

- (a) Took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2007 (ICC-ASP/7/10 and Corr.1) and of the Trust Fund for Victims for the same period (ICC-ASP/7/11);
- (b) Took note that the Committee on Budget and Finance had endorsed the recommendations contained in the External Auditor's reports;
- (c) Endorsed the recommendation of the Committee on Budget and Finance in its report on the work of its eleventh session⁵ that, inter alia, the Court should work towards the implementation of the International Public Sector Accounting Standards (IPSAS) in the medium term and that the Court should report to the Assembly at its eighth session through the Committee;
- (d) Decided to amend the reporting requirements of the Registrar in respect of the activities of the Office of Internal Audit by amending rule 110.1 of the Financial Regulations and Rules; and
- (e) Invited the Court to revisit the terms of reference of the Audit Committee, with a view to aligning the composition of the Audit Committee more closely with the model recommended by the Committee on Budget and Finance and the External Auditor, and urged the Court to redouble its efforts to identify external members and commence the functioning of the Audit Committee.

8. Report of the Board of Directors of the Trust Fund for Victims

35. At its 1st meeting, on 14 November 2008, the Assembly heard a statement delivered by Ms. Simone Veil, Chair of the Board of Directors of the Trust Fund for Victims. The Assembly considered the report on the activities and projects of the Board of Directors of the Trust Fund for Victims, for the period 1 July 2007 to 30 June 2008 (ICC-ASP/7/13), and took note of the report.

9. Report of the Special Working Group on the Crime of Aggression

36. At its 7th meeting, on 21 November 2008, the Assembly took note of the report of the Special Working Group on the Crime of Aggression (ICC-ASP/7/ SWGCA/1*) (see annex III).

10. Premises of the Court

37. At its 1st meeting, on 14 November 2008, the Assembly heard a statement delivered by Mr. Jorge Lomonaco (Mexico), Chairperson of the Oversight Committee on the permanent premises of the Court, and took note of the report of the Oversight Committee on the permanent premises (ICC-ASP/7/22 and Add.1/Rev.1). At its 7th meeting, on 21 November 2008, the Assembly adopted resolution ICC-ASP/7/Res.1 whereby it, inter alia, accepted the offer of the host State to provide a loan of up to a maximum of €200 million, to be repaid over a period of 30 years at an interest rate of 2.5 per cent, specifying that this would not create any legal obligation for the Court to borrow the full amount or limit the discretion of the Court to seek funds for the same purpose from any other source.

⁵ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Seventh session, The Hague, 14-22 November 2008* (International Criminal Court publication, ICC-ASP/7/20), vol. II, part A, para. 18.

38. The Assembly further agreed to invite States Parties to consider making a one-time payment equal to their share in the value of the total estimated overall construction costs, subject to an adjustment once the final cost of the project is determined. These States Parties would not be assessed for the accrued interest and the repayment of the host State loan.

39. Furthermore, the Assembly agreed to establish, within the ambit of the annual proposed programme budget, a permanent premises budget for the purpose of payment of accrued interest on the loan and repayment of the loan through regular annual installments.

11. Review Conference

40. At its 6th meeting, on 20 November 2008, the Assembly heard a statement by H.E. Mr. Fredrick Ruhindi, Deputy Attorney General and Minister of State for Justice and Constitutional Affairs of Uganda (see annex IV). At its 7th meeting, on 21 November 2008, the Assembly took note of the report of the Working Group on the Review Conference (ICC-ASP/7/WGRC/1) (see annex II) and adopted resolution ICC-ASP/7/Res.2 on the venue of the Review Conference.

12. Decisions concerning dates of the next session of the Assembly of States Parties

41. At its 7th meeting, on 21 November 2008, the Assembly decided to hold its eighth session in The Hague from 18 to 26 November 2009 (resolution ICC-ASP/7/Res.3, para. 67).

13. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance

42. At its 7th meeting, on 21 November 2008, the Assembly decided that the Committee on Budget and Finance would hold its twelfth session from 20 to 24 April 2009 and its thirteenth session from 14 to 22 September 2009 in The Hague (resolution ICC-ASP/7/Res.3 para. 59).

14. Other matters

(a) Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

43. The Assembly expressed its appreciation to Finland, Greece, Netherlands and Poland for their contributions to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

44. The Assembly noted with satisfaction that 17 delegations had made use of the Trust Fund to attend the seventh session of the Assembly.