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**Third session**

The Hague  
6-10 September 2004

**Annotated list of items included in the provisional agenda**

**Note by the Secretariat**

The following annotated list of the items contained in the provisional agenda for the third session of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC-ASP/3/1) has been prepared to assist the Assembly in its consideration of issues before it at its third session, which will be convened in The Hague on Monday, 6 September 2004, at 10 a.m. The status of the documentation reflected herein is current as of 27 August 2004.

## **Annotated list of items included in the provisional agenda**

### **1. Opening of the session**

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly meets once a year in regular session. In accordance with rule 5 of the Rules of Procedure of the Assembly of States Parties,<sup>1</sup> the Assembly, at the 5th meeting of its second session, on 12 September 2003, decided to convene its third session in The Hague from 6 to 10 September 2004.<sup>2</sup>

At the 1st meeting of its first session, on 3 September 2002, the Assembly elected H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan) President.<sup>3</sup> In accordance with rule 29 of the Rules of Procedure, the President is elected for a three-year term. Rule 30 of the Rules of Procedure provides that the President shall declare the opening of each plenary meeting of the session

### **2. Silent prayer or meditation**

Pursuant to rule 43 of the Rules of Procedure, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

### **3. Adoption of the agenda**

Rules 10 to 13 and 18 to 22 of the Rules of Procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the third session (ICC-ASP/3/1) was issued on 28 June 2004. In accordance with rule 19 of the Rules of Procedure, the agenda has to be submitted to the Assembly for approval.

Pursuant to rule 12 of the Rules of Procedure, on 6 August 2004 the Court requested the inclusion of two supplementary items in the agenda, namely a proposal on tax reimbursement of staff and officials of the Court, and a proposal on protection of the name and abbreviation of the International Criminal Court.

#### *Documentation*

Provisional agenda (ICC-ASP/3/1)

Proposal by the Court of a supplementary item to the agenda: Tax reimbursement of staff and officials of the International Criminal Court (ICC-ASP/3/19)

Proposal by the Court of a supplementary item to the agenda: Protection of the name of the International Criminal Court (ICC-ASP/3/20)

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<sup>1</sup> 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.

<sup>2</sup> Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Second session, New York, 8-12 September 2003 (United Nations publication, Sales No. E.03.V.13), part I, para. 64.

<sup>3</sup> Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, part I., para. 7.

**4. Credentials of representatives of States Parties at the third session**

**(a) Appointment of the Credentials Committee and its nine members**

**(b) Report of the Credentials Committee**

Representation and credentials are regulated by rules 23 to 28 of the Rules of Procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

**5. Organization of work**

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

**6. Report on the activities of the Bureau**

In accordance with article 112, paragraph 2(c), of the Rome Statute, the Assembly shall consider the reports and activities of the Bureau and take appropriate action in regard thereto. Accordingly, the President will present an oral report on the activities of the Bureau during the second year of its operation (September 2003 – September 2004).

**7. Report on the activities of the Court**

Under article 112, paragraph 2(b) of the Rome Statute, the Assembly shall provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. In accordance with article 112, paragraph 5, of the Rome Statute, the President of the Court, the Prosecutor and the Registrar or their representatives may participate in meetings of the Assembly. As provided in rule 34 of the Rules of Procedure, they may make oral or written statements and provide information on any question under consideration. Accordingly, the President of the Court will present a report on the activities of the Court during the second year of its operation (September 2003 – September 2004).

*Documentation*

Report on the activities of the Court (ICC-ASP/3/10)

**8. Consideration and adoption of the budget for the third financial year**

In accordance with article 112, paragraph 2(d), of the Rome Statute, the Assembly shall consider and decide on the budget of the Court.

Regulation 3 of the Financial Regulations and Rules of the Court<sup>4</sup> provides that the Registrar shall prepare the proposed programme budget for each financial period and submit it to the States Parties as well as to the Committee on Budget and Finance for consideration. The Committee on Budget and Finance shall make the relevant recommendations to the Assembly.

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<sup>4</sup> Ibid., part II.D.

*Documentation*

Draft programme budget for 2005 (ICC-ASP/3/2\*)

Report of the Committee on Budget and Finance, August 2004 (ICC-ASP/3/18, Corr.1 and Add.1/Rev.1)

**9. Consideration of the audit reports**

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the Financial Regulations and Rules. At the 11th meeting of its first session, on 22 April 2003, the Assembly was informed that the Bureau, acting under the delegated authority of the Assembly,<sup>5</sup> had appointed the National Audit Office of the United Kingdom of Great Britain and Northern Ireland as Auditor for the Court for a period of four years.

In accordance with regulation 12.7, the Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period. In accordance with regulations 12.8 and 12.9, audit reports, before their submission to the Assembly, are subject to examination by the Registrar and the Committee on Budget and Finance. The Assembly considers and approves the financial statements and audit reports forwarded to it by the Committee on Budget and Finance.

*Documentation*

Financial statements for the period 1 September 2002 to 31 December 2003 (ICC-ASP/3/4)

Victims Trust Fund financial statements for the period 1 September 2002 to 31 December 2003 (ICC-ASP/3/5)

Report of the Committee on Budget and Finance, August 2004 (ICC-ASP/3/18, Corr.1 and Add.1/Rev.1)

**10. Election of the Deputy Prosecutor**

Article 42, paragraph 4, of the Rome Statute, provides that the Deputy Prosecutor(s) shall be elected by secret ballot by an absolute majority of the members of the Assembly from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled. In accordance with article 42 (4) of the Rome Statute, unless a shorter term is decided upon at the time of the election, the Deputy Prosecutor shall hold office for a term of nine years and shall not be eligible for re-election. The procedure for the nomination and election of Deputy Prosecutor(s) is regulated by Assembly resolution ICC-ASP/1/Res.2.

*Documentation*

Note by the Secretariat on the election of the Deputy Prosecutor of the International Criminal Court (ICC-ASP/3/8)

**11. Election of members of the Committee on Budget and Finance**

By its resolution ICC-ASP/1/Res.4, the Assembly decided to establish a Committee on Budget and Finance. The Committee is composed of 12 members of different nationalities who shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall be elected by the Assembly for a term of office of three years on the basis of equitable geographical distribution.

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<sup>5</sup> Ibid., part I, para. 29.

At the 5th meeting of its second session, on 12 September 2003, the Assembly decided by consensus to amend the last sentence of paragraph 2 of the annex to its resolution ICC-ASP/1/Res.4 on the establishment of the Committee on Budget and Finance to read: "Of the 12 members who are initially elected, 6 shall be elected for a period of two years and the remaining 6 for a period of three years." At the same meeting, the President of the Assembly drew lots to select members elected who would serve two and three years, respectively.

At the 10th meeting of its first session, on 21 April 2003, the Assembly decided that the term of office of members would begin to run on 21 April 2003. Since the term of office of six members of the Committee would expire on 21 April 2005, the Assembly, at the 5th meeting of its second session, on 12 September 2003, decided to hold elections for the six members at its third session in 2004.

*Documentation*

Note by the Secretariat on the election of the members of the Committee on Budget and Finance (ICC-ASP/3/9)

**12. Report of the Registrar on activities regarding defence counsel, including the legal representation of victims, and the process of consultation followed**

At its first session, the Committee on Budget and Finance recommended that the Court provide a separate report to the Assembly of States Parties, through the Committee, presenting options for ensuring adequate defence counsel for accused persons. In addition, the Assembly, at the 5th meeting of its second session, on 12 September 2003,<sup>6</sup> took note of the statement of the focal point on the establishment of an international criminal bar, in which he had made recommendations to the Registrar.

*Documentation*

Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons (ICC-ASP/3/16)

Overview of the efforts of the Registrar in relation to the defence, the legal participation of victims, and the consultation process followed (ICC-ASP/3/7)

**13. Report of the Registrar on the participation of and reparations to victims**

At its first session, the Committee on Budget and Finance recommended that the Court provide a separate report to the Assembly, through the Committee, on its plans for participation of and reparations to victims. The Committee requested that the report clearly delineate resources dedicated to such reparations work and the administrative costs of assistance to the Trust Fund for Victims.

*Documentation*

Report on participation of and reparations to victims (ICC-ASP/3/21)

Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons (ICC-ASP/3/16)

Overview of the efforts of the Registrar in relation to the defence, the legal participation of victims, and the consultation process followed (ICC-ASP/3/7)

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<sup>6</sup> Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Second session, annex V, paras. 4 and 5.

**14. Report of the Board of Directors of the Victims Trust Fund**

By its resolution ICC-ASP/1/Res.6, the Assembly established a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

At the 5th meeting of its second session, on 12 September 2003, the Assembly elected the five members of the Board of Directors, whose terms of office commenced on the same date. In accordance with paragraph 11 of the resolution establishing the Trust Fund, the Board should submit an annual report to the Assembly on the activities and projects of the Fund.

*Documentation*

Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims, 2003-2004 (ICC-ASP/3/14/Rev.1)

**15. Special Working Group on the Crime of Aggression**

By its resolution ICC-ASP/1/Res.1, the Assembly decided to establish a special working group on the crime of aggression, open on an equal footing to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of elaborating proposals for a provision on aggression.

At the 8th meeting of its first session, on 7 February 2003, the Assembly decided, inter alia, on the basis of a proposal of the Bureau, that the Special Working Group should meet during annual sessions of the Assembly, starting from its second session in 2003. It also decided that two to three meetings of the Assembly should be allocated to the Special Working Group, and that that pattern should be repeated, as necessary, each year.

An informal inter-sessional meeting of the Special Working Group was held in Princeton, New Jersey, United States, from 21 to 23 June 2004.

*Documentation*

Informal inter-sessional meeting of the Special Working Group on the Crime of Aggression (ICC-ASP/3/SWGCA/INF.1)

**16. Decisions concerning the dates and venue of the next meeting of the Assembly of States Parties**

In accordance with rule 5 of the Rules of Procedure, the date of commencement and duration of each session of the Assembly shall be decided by the Assembly at its previous session.

**17. Decisions concerning the dates and venue of the next meeting of the Committee on Budget and Finance**

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee shall meet when required and at least once per year. At its third session, the Committee decided to recommend to the Assembly that its fourth and fifth sessions be held in The Hague from 4 to 6 April 2005 and from 1 to 5 August 2005, respectively. The Committee further noted that the dates would need to be reconsidered in the event that the Assembly decides to amend the financial period, pursuant to the recommendation contained in paragraph 25 of the Committee's report.

*Documentation*

Report of the Committee on Budget and Finance, August 2004 (ICC-ASP/3/18, Corr.1 and Add.1/Rev.1)

**18. Other matters****(a) Establishment of a staff representative body, disciplinary measures and a system for appeals by members of staff against administrative decisions**

Regulation 8.1 of the Staff Regulations, approved by the Assembly in resolution ICC-ASP/2/Res.2, requires the Registrar, in consultation with the Prosecutor, to establish a staff representative body. Regulations 10.1 and 11.1 require the Registrar or the Prosecutor, as appropriate, to establish administrative machinery to advise them in disciplinary cases and in case of an appeal by staff members against an administrative decision. Furthermore, regulation 12.2 requires the Registrar, with the agreement of the Presidency and the Prosecutor, to provide staff rules consistent with the Staff Regulations.

*Documentation*

Report on the establishment of a staff representative body, disciplinary measures, appeals, and amendments and implementation of the staff rules (ICC-ASP/3/13)

**(b) Relationship Agreement between the Court and the United Nations**

Article 2 of the Rome Statute stipulates that the Court shall be brought into a relationship agreement with the United Nations through an agreement to be approved by the Assembly of States Parties to the Statute and thereafter concluded by the President of the Court on its behalf.

*Documentation*

Report on the negotiated Draft Relationship Agreement between the International Criminal Court and the United Nations (ICC-ASP/3/15\*)

**(c) Establishment at United Nations Headquarters of a small representation of the Court**

In paragraph 11 of resolution ICC-ASP/2/Res.7, the Assembly recommended that the Court consider the desirability and feasibility of establishing, at United Nations Headquarters, a small representation common to all parts of the Court, and requested the Registrar to report to the Assembly on the question, including its budgetary implications.

*Documentation*

Establishment of a New York Liaison Office for the International Criminal Court and the Secretariat of the Assembly of States Parties (ICC-ASP/3/6)

**(d) Proposal regarding conditions of service and compensation of judges and elected officials**

Article 49 of the Rome Statute stipulates that the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall receive such salaries, allowances and expenses as may be decided upon by the Assembly of States Parties.

The conditions of service and compensation of the judges were adopted by the Assembly at its first session.<sup>7</sup>

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<sup>7</sup> Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, part III, annex VI. At its second session, the various language versions of paragraph 11 of the conditions were aligned with the English text and the conditions were reissued in Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Second session, part III.A.

*Documentation*

Proposal regarding conditions of service and compensation of judges and elected officials (ICC-ASP/3/12)

**(e) Code of Professional Conduct for counsel**

Rule 8, paragraph 1, of the Rules of Procedure and Evidence stipulates that the Presidency, on the basis of a proposal made by the Registrar, shall draw up a draft Code of Professional Conduct for counsel, after having consulted the Prosecutor. Rule 8, paragraph 2, stipulates that the draft Code shall be transmitted to the Assembly for adoption.

*Documentation*

Proposal for a draft Code of Professional Conduct for counsel before the International Criminal Court (ICC-ASP/3/11/Rev.1)

**(f) Establishment of an International Criminal Court Staff Pension Committee**

In its decision ICC-ASP/1/Decision 3, the Assembly requested the Registrar to take the necessary steps in order for the Court to apply for membership in the United Nations Joint Staff Pension Fund and to conclude with the United Nations Joint Staff Pension Fund an agreement as referred to in article 3(c) of the Regulations of the Fund.

In resolution 58/262, the General Assembly of the United Nations decided to admit the Court to membership in the United Nations Joint Staff Pension Fund, effective 1 January 2004. Consequently, the need has arisen for the Court to establish a staff pension committee in accordance with the practice of other international organizations.

*Documentation*

Establishment of an ICC staff pension committee (ICC-ASP/3/3)

**(g) Proposal by the Court of a supplementary item to the agenda: Tax reimbursement of staff and officials of the International Criminal Court (ICC-ASP/3/19)**

Pursuant to rule 12 of the Rules of Procedure, the Court requested the inclusion of this supplementary item in the agenda on 6 August 2004.

**(h) Proposal by the Court of a supplementary item to the agenda: Protection of the name of the International Criminal Court (ICC-ASP/3/20)**

Pursuant to rule 12 of the Rules of Procedure, the Court requested the inclusion of this supplementary item in the agenda on 6 August 2004.