

**Assembly of States Parties**

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**Resumed fifth session**

New York

29 January – 1 February 2007

**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 resumed fifth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/5/24/Rev.1) has been prepared to assist the Assembly in its consideration of issues before it at its resumed fifth session, which will be convened in New York on Monday, 29 January 2007, at 10 a.m. The status of the documentation reflected herein is current as of 13 December 2006.

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

### **1. 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 of the Assembly.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the resumed fifth session (ICC-ASP/5/24) was issued on 6 November 2006 and a revised version (ICC-ASP/5/24/Rev.1) on 13 December 2006. In accordance with rule 19 of the Rules of Procedure, the agenda has to be submitted to the Assembly for approval.

#### *Documentation*

Provisional agenda (ICC-ASP/5/24/Rev.1)

### **2. States in arrears**

According to article 112, paragraph 8, of the Rome Statute, "A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years."

At the 4th meeting of its fourth session, on 3 December 2005, the Assembly adopted resolution ICC-ASP/4/Res.4, containing operative paragraphs 40 to 47 that deal with the issue of the arrears of States Parties.

At the 7th meeting of its fifth session, on 1 December 2006, the Assembly adopted resolution ICC-ASP/5/Res.3, which contains recommendations on the arrears of States Parties in annex III thereto.

#### *Documentation*

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November-1 December 2006, (International Criminal Court publication ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, annex III.*

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November-3 December 2005, (International Criminal Court publication ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.4.*

### **3. Credentials of representatives of States at the resumed fifth session**

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.

In accordance with rule 25 of the Rules of Procedure, at the 1st meeting of its fifth session, on 23 November 2006, the Assembly appointed the following States to serve on the Credentials Committee: Benin, France, Honduras, Ireland, Jordan, Paraguay, Serbia, Slovenia and Uganda.

The Credentials Committee shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

#### **4. 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.

#### **5. Election of the members of the Board of Directors of the Trust Fund for Victims**

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.

The relevant resolutions for the nomination and election of the members of the Board are ICC-ASP/1/Res.6 and ICC-ASP/1/Res.7, both of 9 September 2002. The annex to resolution ICC-ASP/1/Res.6 provides that the Board shall have five members who shall be elected for a term of three years and may be re-elected once. They shall serve in an individual capacity on a pro bono basis. It also provides that the Assembly shall elect the members of the Board, all of whom shall be of a different nationality, on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes.

Pursuant to resolution ICC-ASP/1/Res.7, the distribution of seats in the Board shall be as follows:

- African States, one seat;
- Asian States, one seat;
- Eastern European States, one seat;
- Group of Latin American and Caribbean States, one seat;
- Western European and Other States, one seat.

Furthermore, resolution ICC-ASP/1/Res.7 provides that States Parties shall nominate candidates during the nomination period, which shall be fixed by the Bureau of the Assembly of States Parties. Nominations submitted before or after the nomination period shall not be considered. In this connection, the Bureau decided to fix a nomination period which ran for 12 weeks from 5 June 2006 to 27 August 2006. In accordance with paragraph 4 of resolution ICC-ASP/1/Res.5, the President of the Assembly extended the nomination period four times. The fourth extension ended on 19 November 2006.

At the end of the nomination period, no candidate had been nominated for the Group of Asian States. Consequently, at the 6th meeting of its fifth session, on 30 November 2006, the Assembly elected four members of the Board and decided to defer the election for the seat allocated to the Group of Asian States to the resumed fifth session of the Assembly.

*Documentation*

Note by the Secretariat on the second election of members of the Board of Directors of the Trust Fund for Victims (ICC-ASP/5/28)

**6. Report of the 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 to be submitted to the Assembly for its consideration at a review conference, with a view to arriving at an acceptable provision on the crime of aggression for inclusion in the Statute in accordance with its relevant provisions. The Assembly decided further that the Special Working Group should meet during the regular sessions of the Assembly or at any other time that the Assembly deemed appropriate and feasible.

At the 8th meeting of its resumed 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.

At the 4th meeting of its fourth session, on 3 December 2005, the Assembly decided, inter alia, that the Special Working Group in the years 2006 to 2008 should be allocated at least 10 exclusive days of meetings in New York during resumed sessions and should hold inter-sessional meetings, as appropriate.<sup>1</sup> It also decided to hold a resumed fifth session of not less than three days of the Special Working Group on the Crime of Aggression in 2007 in New York. For its part, the Bureau at a meeting of 13 January 2006 decided on the specific dates and to convene the resumed fifth session at United Nations Headquarters in New York, at the end of January 2007.<sup>2</sup>

An informal inter-sessional meeting of the Working Group was held in Princeton, New Jersey, United States of America, from 8 to 11 June 2006. The report of the inter-sessional meeting is annexed to the proceedings of the fifth session of the Assembly.

*Documentation*

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November - 1 December 2006* (International Criminal Court publication ICC-ASP/5/32), annex II.

**7. Other matters**

*No documentation*

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<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.4, para. 37.

<sup>2</sup> *Ibid.*, para. 53.