
Assembly of States Parties

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New York

9-13 February 2009

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 second resumption of the seventh session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/7/35) has been prepared to assist the Assembly in its consideration of issues before it at the second resumption of the seventh session, which will be convened in New York on Monday, 9 February 2009, at 10 a.m. The status of the documentation reflected herein is current as of 8 December 2008.

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 second resumption of the seventh session (ICC-ASP/7/35) was issued on 5 December 2008. 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/7/35)

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 its fourth session, 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 its fifth session, the Assembly adopted resolution ICC-ASP/5/Res.3, which contains recommendations on the arrears of States Parties in annex III thereto.

At its sixth session, the Assembly called upon States Parties to fully and without further delay implement the recommendations contained in resolution ICC-ASP/5/Res.3, annex III.¹

Documentation

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.

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, Sixth session, New York, 30 November - 14 December 2007 (International Criminal Court publication, ICC-ASP/6/20), vol. I, part III, resolution ICC-ASP/6/Res.2, annex III.

¹ *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 III, resolution ICC-ASP/6/Res.2, annex III.

3. Credentials of representatives of States at the second resumption of the seventh 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 5th meeting of its seventh session, on 17 November 2008, the Assembly appointed the following States to serve on the Credentials Committee: Costa Rica, Estonia, Ireland, Lesotho, Netherlands, Republic of Korea, Serbia, Suriname 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. 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 its fourth session, in 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.²

² *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.

At its fifth session in 2006, the Assembly also decided to hold a resumed session of four days for the Special Working Group on the Crime of Aggression in the first half of 2008 in New York.³

At its sixth session, in 2007, the Assembly decided, inter alia, to devote at least two days of the seventh session to the work of the Special Working Group and to hold a resumed seventh session of five days, as necessary, in 2009 in New York to conclude the work of the Special Working Group, at a date to be determined by the Bureau.⁴

Documentation

Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Resumed sixth session, New York, 2 - 6 June 2008 (International Criminal Court publication, ICC-ASP/6/20/Add.1), annex II.

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. I, annex III.

6. Other matters

No documentation

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³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November to 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, para. 38.

⁴ *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 III.A, resolution ICC-ASP/6/Res.2, para. 43.