



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Thirteenth ICC-ASP Bureau Meeting**

**15 June 2012**

**Agenda and Decisions**

*The President of the Assembly, Ambassador Tiina Intelmann (Estonia), chaired the meeting.*

Bureau members welcomed the holding of the meeting in The Hague, and viewed it as a further opportunity to strengthen the ties between New York and The Hague.

The Bureau adopted the provisional agenda as amended, to include the agenda item “ICC staff detained in Libya”.

**1. Commemoration of the tenth anniversary of the entry into force of the Rome Statute**

The President indicated that, in connection with the eleventh session of the Assembly, there were plans to organize events to mark the tenth anniversary of the entry into force of the Rome Statute (“tenth anniversary”), in The Hague. In this connection, she recalled that, at its 29 May meeting, the Bureau had decided that the eleventh session would start in the afternoon of Wednesday 14 November.

The events would include:

- a) A commemoration of the tenth anniversary in the evening of Tuesday 13 November, at the Atrium in The Hague City Hall;
- b) A solemn commemoration at the Knight’s Hall (Ridderzaal) in the morning of 14 November; and
- c) A luncheon at the Sociëteit De Witte, on 14 November, to accommodate additional speakers.

The Vice-President of the Assembly, Ambassador Markus Börlin (Switzerland), briefed the Bureau on the preparations that were underway. Further to the Assembly’s call to States and other stakeholders to consider commemorating the tenth anniversary, stakeholders in The Hague had had an initial exchange of views.

A key consideration for stakeholders was the importance of allowing for as wide as possible a participation by representatives of all States, New York-based delegations, NGOs, etc. Holding these events in connection with the 14 November opening of the eleventh session of the Assembly would allow for such broad participation and could attract the interest of the media, and thus assist in raising the awareness about the Court.

Another consideration was that the responsibility for the planning, organization and financing of these events should rest with the key stakeholders, the States Parties, assisted where possible by other stakeholders, including the Court. He stressed that the suggested events did not foresee any expenses to be incurred by the Court’s budget.

The commemorative events would be a “package” which would be reflected in the Journal of the Assembly and be open to the widest possible participation. Furthermore, it was not an Assembly

event and therefore the decision-making and financing of the events did not fall under the Assembly's responsibility but, rather, exclusively under the respective organizers.

In addition to the events already mentioned, consideration was being given to organizing a side-event on permanent premises, which could include laying the first stone at the construction site of the Alekanderkazerne, as well as a photo exhibit on the ten years of the Rome Statute.

As these events required both human and financial resources, the Vice-President called for States and other stakeholders to contribute financially. He invited those in a position to do so to join the sponsors of the events,<sup>1</sup> and stressed that all contributions were most welcome and helpful, even in small amounts.

The representative of the host State, Ambassador Pieter de Savornin Lohman (Netherlands), reiterated that the package of events was not an Assembly or a host State event, but was being organized jointly by the interested stakeholders.

As regards the budget for the events, the point was made that in the past few months the issue of funds had been before States Parties, and it was suggested that discussions on the budget should be streamlined. Furthermore, it was suggested that the question of voluntary contributions be considered at a later meeting.

The President echoed the call of the Vice-President encouraging interested stakeholders to make contributions to the tenth anniversary events, in particular Bureau members.

The Bureau welcomed the initiative to organize tenth anniversary events in The Hague as part of the commemoration of the tenth anniversary, which would allow for the participation of all attending the eleventh session of the Assembly.

## **2. Briefing by the Chair of the Oversight Committee on permanent premises**

The Chair of the Oversight Committee on permanent premises ("the Committee"), Mr. Roberto Bellelli (Italy), briefed the Bureau on the most important issues that have been before the Committee over the past months, in relation to the start of the construction stage, and the financial matters of the project.

He indicated that the demolition of the Alexanderkazerne site by the host State was ongoing, and noted that the building permit application had been submitted. In this connection, the Committee was discussing the amount of the permit fee (€2.5 million) with the host State and the Municipality of The Hague.

The Chair also noted that the Committee was informed of a cost overrun of €10 million; therefore, it may have to review the requirements of the project, in order to achieve the necessary savings to deliver the project within the approved budget. He also mentioned the total financial impact of the project on States Parties, composed of the construction budget of €190 million, as well as other costs (administrative costs of the project and 2gv elements) amounting to €26 million.

The Bureau was informed that the Committee was considering extending the deadline for the one-time payment option, which will in principle expire on 15 October 2012, given the advantages it presented for all States Parties. The Oversight Committee was also considering the issue of the total cost of ownership, and had consulted the Committee on Budget and Finance on this medium-term technical issue.

The Bureau took note of the briefing.

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<sup>1</sup> The host State, the Municipality of The Hague, and the Governments of Estonia and Switzerland.

### **3. Contingency Fund**

The Bureau had before it the 1 June 2012 supplementary budget notification, addressed to the Chair of the Committee on Budget and Finance, in the sum of €275,400, submitted by the Registrar pursuant to regulation 6.7 of the Financial Regulations and Rules. The supplementary budget notification had been submitted to cover unforeseen expenses associated with the situation in Kenya, namely, a limited number of legal support staff required to assist in the preparation of the two cases for trial during the remainder of 2012. The Bureau also had before it the 13 June 2012 reply of the Chair of the Committee on Budget and Finance to the Registrar, in response to her previous 14 May notification concerning the situation in Côte d'Ivoire and the 1 June notification, by which he indicated that the Committee would return to this issue of access to the Contingency Fund at its September session.

Some Bureau members expressed the view that the Court's notifications to access to the Contingency Fund in 2012 thus far reflected the result of a budget that had not been properly resourced. Therefore, it would be necessary to ensure in future budget negotiations that the Court had limited need to access the Fund.

The Bureau took note of the fifth supplementary budget notification and of the response of the Committee on Budget and Finance regarding the fourth and fifth notifications.

### **4. ICC staff detained in Libya**

The President briefed the Bureau on the efforts underway by the Court and States, as well as her own efforts in respect of the four Court staff detained in Zintan, Libya, since 7 June 2012. The Court had established a crisis committee to resolve the situation. She noted that the understanding was that there was still room for quiet diplomacy, that all available tools should be used and that she was also quietly working in this regard. Furthermore, the President briefed the Bureau on discussions taking place in the United Nations Security Council and noted further that the President of the Court, the President of the Assembly and the respective States of nationality of the staff members had issued statements on the matter.

Bureau members voiced their concern over the situation, expressed support for the course of action taken and indicated their willingness to assist, as appropriate.

### **5. Other matters**

#### *a) Update on non-cooperation*

The President recalled that she had, at the 1 March 2012 meeting of the Bureau, informed members of her meeting with the Permanent Representative of Chad to the United Nations, as a follow-up to her 16 January 2012 letter addressed to the Foreign Minister of Chad, conveying the Decision of Pre-Trial Chamber I of the Court dated 13 December 2011. She had subsequently addressed a letter to all States Parties, dated 2 March 2012, drawing attention to her 16 January 2012 letter to the Foreign Minister of Chad and requesting States Parties to use their bilateral contacts with Chad to ask it to abide by its obligations under the Rome Statute.

The President drew the attention of the Bureau to the note verbale dated 23 May 2012 addressed by the Ministry of Foreign Affairs of Chad to the Court as a response to her letters of 16 January and 2 March 2012; she noted that the note verbale once again referred to the African Union decisions on the matter and the necessity to reconcile the imperatives of peace and justice.

Some Bureau members were of the view that the Bureau should adopt a stronger stance in response to the 23 May note verbale, rather than take note of the response of the Government of Chad, since its status as a party to the Rome Statute meant that Chad had committed to implementing the Statute and cooperating with the Court. The note verbale sent by Chad referred only to another treaty

obligation without acknowledging the obligations deriving from the Rome Statute itself. It was noted that this could constitute a precedent and that the Bureau's response should be one of principle.

The President noted that non-cooperation was being dealt with in New York and that the Bureau had held a special meeting on 1 March 2012 on this issue. The Assembly procedures on non-cooperation, set out in resolution ICC-ASP/10/Res.5 (annex), called for the appointment of regional focal points to assist the President in her good offices. This matter was still before the Bureau. She intended to pursue this issue further in New York, where representatives of Chad are present. The President further noted that the issue of non-cooperation was a matter for all States Parties and should not therefore be limited to the diplomatic community in New York, but should be raised at all political levels.

As regards an expression of willingness to consider any action in respect of non-cooperation, including the appropriate demarches, there was a view that further careful consideration was required and in this connection attention was brought to the Assembly procedures on non-cooperation, in particular paragraph 14 c) thereto.

The Bureau took note of the 23 May 2012 note verbale from the Ministry of Foreign Affairs of Chad and would revert to the matter at a future meeting.

The President also informed the Bureau of the recent decision of the Government of Malawi not to host a person subject to an outstanding arrest warrant on its territory.

*b) Update on the activities of the President*

In addition to her visits to Cairo, Egypt, from 6 to 7 May, to Addis Ababa, Ethiopia, from 8 to 11 May, and to Rabat, Morocco, from 16 to 17 May, on which she had briefed the Bureau at its 29 May meeting, the President referred to her participation at a 30 and 31 May meeting in Stockholm, Sweden, entitled "Meeting of interested states and organizations on complementarity". The meeting was hosted by the Ministry of Foreign Affairs of Sweden and the International Center for Transitional Justice. It had focused on the way ahead, following on the Greentree II meeting. She noted that the discussion on complementarity was timely and could remove some of the misunderstandings by States Parties.

*c) Staff Pension Committee*

The President indicated that Mr. Rodrigo Waghorn (Chile) had submitted his resignation from the Staff Pension Committee. Consequently, Mr. Pavel Caban (Czech Republic), currently an alternate member of the Committee, would be appointed as a member of the Committee. She expressed the appreciation of the Bureau to Mr. Waghorn, who had chaired the Committee.

The President requested The Hague Working Group to recommend the name of another representative to occupy the vacant position of alternate member.

*d) Brussels seminar*

The representative of Belgium informed the Bureau about a 5 June International Colloquium hosted by the Belgian Interministerial Commission for Humanitarian Law, entitled "10<sup>th</sup> anniversary of the entry into force of the Rome Statute: From Rome to Kampala, the first two amendments to the Rome Statute", held in Brussels. The meeting had, inter alia, encouraged States to ratify the amendments on aggression before the end of 2016, and information on a draft instrument on judicial assistance and extradition in relation to genocide, war crimes and crimes against humanity, being prepared by the delegations of Belgium, the Netherlands and Slovenia, had been presented.

The President welcomed this initiative related to the tenth anniversary, as well as all other initiatives, and encouraged stakeholders to have information on their respective activities posted on the Court's tenth anniversary website.<sup>2</sup>

*e) Next Bureau meeting*

The next meeting of the Bureau is tentatively scheduled for early July.

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<sup>2</sup> <http://www.10a.icc-cpi.info>