

**Assembly of States Parties**Distr.: General
31 May 2013

Original: English

Twelfth session

The Hague, 20-28 November 2013

**Report of the Advisory Committee on Nominations of Judges on the
work of its first meeting***Contents*

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction		2
A. Opening of the session	1	2
B. Election of officers	2-3	2
C. Adoption of the agenda	4	2
II. Consideration of issues on the agenda of the Committee		3
A. Input from the Independent Panel on ICC Judicial Elections of the Coalition for the International Criminal Court	5-6	3
B. Working methods	7-13	3
C. Calendar of meetings	14	4
D. Funding of the activities of the Advisory Committee on Nominations of Judges	15-17	4
E. Other matters	18	4
Annex		5

I. Introduction

A. Opening of the session

1. The first meeting of the Advisory Committee on Nominations of Judges (“the Committee”) was held at the seat of the Court in The Hague, on 19 April 2013. The President of the Assembly, Ambassador Tiina Intelmann (Estonia), opened the meeting and delivered welcoming remarks. The President of the Court, Mr. Sang-Hyun Song, also addressed the Committee.

B. Election of officers

2. The Committee elected Mr. Philippe Kirsch (Canada) as Chairperson, and Ms. Mónica Pinto (Argentina) as Vice-Chairperson by consensus, in accordance with its provisional Rules of Procedure. The term of the mandate of the Chairperson and Vice-Chairperson would last as long as their current term as members.
3. The Secretariat of the Assembly of States Parties (“the Secretariat”) provided the substantive servicing for the Committee, and the Director, Mr. Renan Villacis, acted as Secretary.

C. Adoption of the agenda

4. The Committee adopted the following agenda:
 1. Opening of the session
 2. Election of a Chairperson and Vice-Chairperson
 3. Input from the Independent Panel on ICC Judicial Elections of the Coalition for the International Criminal Court
 4. Working methods
 5. Calendar of meetings
 6. Funding of the activities of the Advisory Committee on Nominations
 7. Other matters
5. The following members participated in the meeting:
 1. Mr. Leonardo Nemer Caldeira Brant (Brazil);
 2. Mr. Hiroshi Fukuda (Japan);
 3. Mr. Philippe Kirsch (Canada);
 4. Mr. Daniel David Ntanda Nsereko (Uganda);
 5. Mr. Ernest Petri (Slovenia);
 6. Ms. Mónica Pinto (Argentina);
 7. Mr. Árpád Prandler (Hungary);
 8. Mr. Bruno Simma (Germany); and
 9. Mr. Raymond Claudius Sock (Gambia)

II. Consideration of issues on the agenda of the Committee

A. Input from the Independent Panel on ICC Judicial Elections of the Coalition for the International Criminal Court

6. The Committee held a discussion with two members of the Independent Panel on ICC Judicial Elections ("Independent Panel") of the Coalition for the International Criminal Court regarding the experience and the lessons which it had learned.
7. The Committee took note of the information provided by the Independent Panel members and expressed its appreciation for the exchange of views. The Committee also noted the differences in mandates between the Committee and the Independent Panel.

B. Working methods

Decision making

8. The Committee decided to adopt provisionally the corresponding rules of the Rules of Procedure of the Assembly of States Parties relating to decision-making, i.e. rules 61, 63 and 64, as adapted to the structure and mandate of the Committee (see annex).
9. The Committee noted that the Rules of Procedure of the Assembly specified that "Every effort shall be made to reach [...] consensus" and provided that "decisions shall be taken by vote" in the absence of consensus. In this regard, the Committee recognized the need to determine the modalities of conducting such a vote.

Means of communication

10. The Committee held a discussion on the means of communication to be employed in its deliberations, taking into account the relevant terms of reference, which envisaged means of remote communication.¹
11. The Committee concluded that the preferred means of communication would be the holding of meetings in the presence of members, in particular when carrying out their function of the technical assessment of candidates. Other technological means of communication via long distance could also be used, e.g. teleconference, Skype, but should not constitute an alternative to meeting in person when the latter is deemed necessary.
12. The Committee expressed its view that candidates should be present at the venue where the Committee would meet for interviews and that the Assembly should, whenever necessary, cover the costs of the travel of candidates for this purpose.

Confidentiality

13. The Committee recognized the importance of ensuring the confidentiality of their deliberations and considered the means of achieving this objective including the establishment of an Extranet and the use of other means of communication. The appropriate means of communication among the members would be developed over time.

¹ Report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court (ICC –ASP/10/36), annex, para. 8.

C. Calendar of meetings

14. The Committee took note that an election to fill a judicial vacancy would be held during the twelfth session of the Assembly, scheduled to take place from 20 to 28 November 2013 in The Hague and, taking into account the timeline, agreed to meet on 18 October 2013 in The Hague.

D. Funding of the activities of the Advisory Committee on Nominations of Judges

15. The Committee considered the provisions of the report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court relating to funding of their activities.²
16. Given its key role as a subsidiary body of the Assembly mandated to facilitate that the highest-qualified individuals are appointed as judges of the International Criminal Court, and the requirement that they serve in their personal capacity and not take instructions from States Parties, States or any other organizations or persons,³ the Committee decided to recommend that all costs relating to the meetings of the Committee should be borne by the Assembly as of 2014.
17. The Committee was of the view that it should be able to meet physically whenever issues of substance were on its agenda. In this regard, it would prepare a draft budget for 2014 as the election of six judges would take place during the thirteenth session of the Assembly of States Parties to be held in November/December 2014. The Committee would formally submit a request for budgetary resources to the Assembly at a later stage, once it had had time to organize its work, including the possibilities of face to face interviews with candidates.

E. Other matters

18. The Committee also had a preliminary discussion of the nature and modalities of execution of its mandate.

² ICC-ASP/10/36, para. 13.

³ ICC-ASP/10/36, annex, para. 3.

Annex

Provisional Rules of Procedure of the Advisory Committee on Nominations of Judges

Rule 1 Application

The Advisory Committee on Nominations of Judges shall apply these Rules as well as, as appropriate, relevant Rules of Procedure of the Assembly of States Parties⁴ to its work, as adapted to the structure and mandate of the Committee as may be required.

Rule 2 Consensus

Every effort shall be made to reach decisions in the Committee by consensus. If consensus cannot be reached, decisions shall be taken by vote.

Rule 3 Decisions on matters of substance

Subject to rule 2, and except as otherwise provided in the Statute and as reflected in these Rules, decisions on matters of substance must be approved by a two-thirds majority of members participating and voting.

Rule 4 Decisions on matters of procedure

1. Subject to rule 2 and except as otherwise provided in the Statute and as reflected in these Rules, decisions on matters of procedure shall be taken by a simple majority of members participating and voting.
2. If the question arises whether a matter is one of procedure or of substance, the Chairperson shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the Chairperson's ruling shall stand unless the appeal is approved by a simple majority of the members participating and voting.

⁴ ICC/ASP/1/3 and Corr. 1