



Assembly of States Parties

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Fourteenth session

The Hague, 18-26 November 2015

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 fourteenth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/14/1/Rev.1) has been prepared to assist the Assembly in its consideration of issues before it at its fourteenth session, which will be convened in The Hague, on Wednesday, 18 November 2015, at 10:00 a.m. The status of the documentation reflected herein is current as at 13 November 2015.

1. Opening of the session by the President

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 (“Rules of Procedure”),¹ the Assembly, at the 13th meeting of its thirteenth session, on 17 December 2014, decided to convene its fourteenth session in The Hague from 18 – 26 November 2015.

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 fourteenth session was issued on 1 May 2015. In accordance with rule 19 of the Rules of Procedure, the agenda shall be submitted to the Assembly for approval as soon as possible after the opening of the session.

Pursuant to rule 12 of the Rules of Procedure of the Assembly of States Parties, South Africa and Kenya, respectively, submitted requests for inclusion of a supplementary item in the agenda of the fourteenth session of the Assembly:

- (a) Request by South Africa for inclusion of a supplementary agenda item titled ‘Application and Implementation of Article 97 and Article 98 of the Rome Statute’.
- (b) Request by Kenya for inclusion of a supplementary item titled ‘Review of the Application and implementation of amendments to the Rules of Procedure and Evidence introduced at the 12th Assembly’.

Documentation

Provisional agenda (ICC-ASP/14/1/Add.1)

List of supplementary items requested for inclusion in the agenda of the fourteenth session of the Assembly (ICC-ASP/14/35, Add.1 and Add.2)

4. 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 took note of the report of the Bureau on the arrears of States Parties² and the recommendations therein and invited the Bureau to report back to the fifth session of the Assembly on the status of arrears, including on suggestions, if necessary, of measures to promote the timely, full and unconditional payment of assessed contributions and advances towards the costs of the Court. Furthermore, the Assembly decided that requests for exemption under article 112, paragraph 8, of the Rome Statute, should be submitted by States Parties to the Secretariat of the Assembly at least one month before the session of the Committee on Budget and Finance (“the Committee”), so as to

¹ *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* (ICC-ASP/1/3 and Corr.1), part II.C.

² ICC-ASP/4/14.

facilitate the Committee's review of the requests and that the Committee should advise the Assembly before the Assembly decided on any requests for exemption under article 112, paragraph 8, of the Rome Statute.³

At its fifth session, the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. In this connection, the Assembly adopted resolution ICC-ASP/5/Res.3 containing recommendations setting out a specific procedure for requesting exemptions from the loss of voting rights⁴ and decided that the Bureau should review on a regular basis the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by States Parties, as appropriate.⁵

At its twelfth session, the Assembly decided to biannualize the report on the arrears of States Parties.⁶

Documentation

Report of the Bureau on the arrears of States Parties (ICC-ASP/14/40)

5. Credentials of representatives of States at the fourteenth session

(a) Appointment of the Credentials Committee

Rule 25 of the Rules of Procedure of the Assembly of States Parties, provides that a Credentials Committee shall be appointed at the beginning of each session. It shall consist of representatives of nine States Parties, which shall be appointed by the Assembly on the proposal of the President.

(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.

6. 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.

7. General debate

No documentation

8. 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 that regard.

³ *Official Records ... Fourth session ... 2005* (ICC-ASP/4/32), part III, ICC-ASP/4/Res.4, paras. 40, 43 and 44.

⁴ *Official Records ... Fifth session ... 2006* (ICC-ASP/5/32), part III, ICC-ASP/5/Res.3, annex III.

⁵ *Ibid.*, para. 42.

⁶ *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. I, part III ICC-ASP/12/Res.8, annex I, para. 10.

Documentation

Report of the Bureau on cooperation (ICC-ASP/14/26 and Add.1)

Report of the Bureau on the Study Group on Governance (ICC-ASP/14/30)

Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/14/31)

Report of the Bureau on complementarity (ICC-ASP/14/32)

Report of the Bureau on the Strategic planning process of the International Criminal Court (ICC-ASP/14/37)

Report of the Bureau on non-cooperation (ICC-ASP/14/38)

Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/14/39)

Report of the Bureau on the arrears of States Parties (ICC-ASP/14/40)

Report of the Bureau on the review of the procedure for the nomination and election of judges of the Court (ICC-ASP/14/41)

Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/14/42)

9. 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 since the previous session of the Assembly.

Documentation

Report on the activities of the International Criminal Court (ICC-ASP/14/29)

10. Report of the Board of Directors of the Trust Fund for Victims

By its resolution ICC-ASP/1/Res.6,⁷ 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.

In accordance with paragraph 11 of resolution ICC-ASP/1/Res.6, the Board shall report annually to the Assembly on the activities and projects of the Fund and on all offered voluntary contributions, regardless of whether they were accepted or refused.

Documentation

Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2014 to 30 June 2015 (ICC-ASP/14/14)

⁷ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part IV.

11. Advisory Committee on the nominations of judges

The establishment of the Advisory Committee on nominations of judges is foreseen in article 36, paragraph 4 (c), of the Rome Statute. Its terms of reference are set out in the report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court.⁸

According to its terms of reference, the Advisory Committee on nominations of judges is mandated to “facilitate that the highest-qualified individuals are appointed as judges of the International Criminal Court”. The information and analysis presented by the Committee is to inform the decision-making of States Parties and is not in any way binding on them or on the Assembly of States Parties.

At its thirteenth session, the Assembly requested⁹ the Bureau to undertake, in consultation with the Advisory Committee and at the end of its mandate, a review of the experience of the Committee and to report to the Assembly at its fifteenth session on that experience, including suggestions, as appropriate, on how to improve the terms of reference contained in the annex of the Report of the Bureau on the establishment of an Advisory Committee on nominations of Judges of the International Criminal Court (ICC-ASP/10/36).¹⁰

The Advisory Committee held its fourth meeting on 16 and 17 April 2015 to assess the candidates nominated to fill a judicial vacancy, and submitted its report to the Assembly.

Documentation

Report of the Advisory Committee on Nominations of Judges on the work of its fourth meeting (ICC-ASP/13/46)

12. Election of the members of the Advisory Committee on the nominations of judges

Article 36, paragraph 4 (c), of the Rome Statute provides that the Assembly “may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee’s composition and mandate shall be established by the Assembly of States Parties.”

At its eleventh session, the Assembly, on the recommendation of the Bureau,¹¹ appointed by consensus the nine members of the Advisory Committee on Nominations. In accordance with the terms of reference, Committee members were designated for three-year terms, with the possibility of being re-elected only once, and four of the first members designated were asked to serve only for one three year term, so as to stagger membership and provide continuity.¹²

Committee members are designated for three year terms, with the possibility of being re-elected only once. The first election of the Committee members took place at the eleventh session of the Assembly in 2012. Four of the first members were chosen to serve only for one three year term, so as to stagger membership and provide continuity.

At its thirteenth session, the Assembly, by decision ICC-ASP/13/Dec.2,¹³ approved by consensus the decision to waive the impediment, contained in paragraph 6 of the terms of reference of the Advisory Committee on Nominations (annex to ICC-ASP/10/36), of the re-election of four of the first members of the Committee, in order to facilitate the continuity of its work. All members of the Committee are consequently eligible for re-election at the fourteenth session.

⁸ ICC-ASP/10/36, annex and ICC-ASP/13/Res.5, para. 45 and annex III.

⁹ ICC-ASP/13/Res.5, annex I, para. 4 (b).

¹⁰ Such as the question of conflict of interest.

¹¹ Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/11/47).

¹² *Ibid.*, para. 6.

¹³ Waiver of the impediment of four members of the Advisory Committee on Nominations of Judges to be re-elected.

Documentation

Election of members of the Advisory Committee on Nominations (ICC-ASP/14/24)

Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/14/42)

13. Election of the members of the Board of Directors of the Trust Fund for Victims

By 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. The relevant resolutions for the nomination and election of the members of the Board are ICC-ASP/1/Res.6 (as amended by resolutions ICC-ASP/4/Res.5 and ICC-ASP/4/Res.7) and ICC-ASP/1/Res.7.

At its second meeting, on 9 March 2015, the Bureau decided that the fifth election of the members of the Board of Directors of the Trust Fund for Victims would be held during the fourteenth session of the Assembly and that the nomination period would run from 19 May to 11 August 2015 (CET). On 13 August 2015, since the number of candidates remained less than the number of seats, the President extended the nomination period for a period of two weeks, until 25 August 2015 (CET), pursuant to paragraph 4 of resolution ICC-ASP/1/Res.7. At the close of the nomination period, on 25 August 2015, seven candidates had been nominated.

On 29 October 2015, the Embassy of Bosnia and Herzegovina informed the Secretariat of the withdrawal of the candidature of Mr Goran Salihovi .

The Assembly will elect members of the Board of Directors for a three-year term, to commence on 1 December 2015, to fill the vacancies arising upon the conclusion of the terms of office of the five current members of the Board on 30 November 2015.

Documentation

Fifth election of members of the Board of Directors of the Trust Fund for Victims (ICC-ASP/14/23)

14. Election to fill a vacancy on the Committee on Budget and Finance

Pursuant to paragraph 2(a) of the annex to resolution ICC-ASP/1/Res.4, the Bureau decided, on 1 October 2015, that the election to fill the vacancy which arose from the resignation of Mr. Juhani Lemmik (Estonia) would take place during the fourteenth session of the Assembly and that the nomination period to fill the vacancy would run from 6 October to 5 November 2015. The Bureau recalled that nominations would be open to candidates from the Eastern European Group.

By the closing date of the nomination period, 5 November 2015, one nomination by a member State of the Eastern European Group had been received.

Documentation

Election to fill a vacancy on the Committee on Budget and Finance (ICC-ASP/14/36)

15. Consideration and adoption of the budget for the fifteenth 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 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 shall make the relevant recommendations to the Assembly.

At its third session, the Assembly endorsed the recommendation of the Committee that the Court should include in future performance reports data on financial performance and results achieved rather than outputs. This information should be submitted annually to the Assembly through the Committee either in the draft programme budget or in a separate performance report.¹⁴

Documentation

Registry's first half-yearly report on legal aid (July-December 2014) (ICC-ASP/14/2)

Report on the measures implemented by the Office of the Prosecutor to achieve savings of 2.0 per cent on the funds allocated to its Investigation Division in the 2014 budget (ICC-ASP/14/3)

Report on the progress of consideration of the financial impact of the Office of the Prosecutor's Strategic Plan 2016-2018 and of the cost implications for the Office of the Prosecutor and for the other organs of the International Criminal Court (ICC-ASP/14/4)

Report of the Committee on Budget and Finance on the work of its twenty-fourth session (ICC-ASP/14/5)

Report of the Committee on Budget and Finance on the work of its resumed twenty-fourth session (ICC-ASP/14/5/Add.1)

Report of the Court on the Proposed and Supplementary Budgets (ICC-ASP/14/6)

Report of the Court on Human Resources Management (ICC-ASP/14/7)

Report on activities and programme performance of the International Criminal Court for the year 2014 (ICC-ASP/14/8)

Report of the Registry on its achievement of final savings in the approved programme budget for 2014: Executive Summary (ICC-ASP/14/9)

Proposed programme budget for 2016 of the International Criminal Court (ICC-ASP/14/10, Corr.1 and Corr.2 and Add.1)

Report on Budget Performance of the International Criminal Court as at 30 June 2015 (ICC-ASP/14/11)

Financial statements of the International Criminal Court for the year ended 31 December 2014 (ICC-ASP/14/12)

Financial statements of the Trust Fund for Victims for the year ended 31 December 2014 (ICC-ASP/14/13)

Report of the Committee on Budget and Finance on the work of its twenty-fifth session (ICC-ASP/14/15)

Report on the progress of the use of synergies among the organs of the International Criminal Court (ICC-ASP/14/16)

Report of the Court on policy issues (Anti-fraud, whistleblower policies, financial disclosure programme, longer-term investment options and employee benefit liabilities) (ICC-ASP/14/17)

Report on the review of the organizational structure of the Registry - Outcomes of Phase 4 of the *ReVision* Project - Decisions on the structure of the Registry (ICC-ASP/14/18)

Report of the Registry on the outcome of the *ReVision* process (ICC-ASP/14/19)

Office of the Prosecutor: Strategic plan 2016-2018 (ICC-ASP/14/22)

Registry's biannual report on legal aid (January – June 2015) (ICC-ASP/14/25)

¹⁴ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part II.A.8(b), para. 50, and part II.A.1, para. 4.

16. 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,¹⁵ 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.¹⁶

At its tenth session, the Assembly endorsed the Committee's recommendation to appoint *la Cour des comptes* (France) as the new External Auditor of the International Criminal Court and the Trust Fund for Victims for four years starting with the financial year 2012.¹⁷

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.

Documentation

Financial statements of the International Criminal Court for the year ended 31 December 2014 (ICC-ASP/14/12)

Financial statements of the Trust Fund for Victims for the year ended 31 December 2014 (ICC-ASP/14/13)

17. Premises of the Court

At its sixth session, the Assembly adopted resolution ICC-ASP/6/Res.1, whereby it, inter alia, decided that the permanent premises of the Court should be constructed on the Alexanderkazerne site. Furthermore, the Assembly established an Oversight Committee, composed of ten States Parties, to provide strategic oversight for the permanent premises project in accordance with annex II of that resolution.¹⁸

Annex II of that resolution also provides, inter alia, that the Oversight Committee shall submit any draft resolutions or information to the Assembly through the Bureau and provides that the Chairperson of the Oversight Committee shall report to the Assembly.

The Assembly would consider the report of the Oversight Committee which would provide an update on, inter alia, the status of the construction and transition project, including the handover of the premises from the general contractor to the Court on 2 November 2015; the plans for the move of the Court into the permanent premises in the first half of December 2015; the financial data concerning the project, which would include the cash flow projections, the financing needs and an indication of the extent to which the loan provided by the host State could be accessed and when in 2016 the final cost of the permanent premises could be known with certainty.

The Assembly would be requested to make some key decisions via the draft resolution contained in the report on, inter alia, the following issues:

- (a) The financing of the costs of the premises which have not been entirely catered for;
- (b) Whether the scale of assessments from 2013-2015 or from 2016-2018 should be applied once the final cost of the project is known in the first trimester of 2016 to

¹⁵ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part I, para. 29.

¹⁶ *Official Records... First session (first and second resumptions) ... 2003* (ICC-ASP/1/3/Add.1), part I, para. 40.

¹⁷ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part II, para. 10.

¹⁸ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part. III, ICC-ASP/6/Res.1, paras. 1 and 4.

determine precisely how much of the cost of the new premises each State Party is responsible for;

- (c) The establishment of a governance arrangement for the permanent premises which takes into account the interests of States Parties, possibly via a permanent premises committee; and
- (d) The membership of the Oversight Committee for the following year, since the mandate of the ten members will expire on 20 December 2015.

Documentation

Second interim report on the activities of the Oversight Committee (ICC-ASP/14/28)

Report on the activities of the Oversight Committee (ICC-ASP/14/33 and Add.1)

18. Amendments to the Rome Statute and the Rules of Procedure and Evidence

By resolution ICC-ASP/8/Res.6, the Assembly established a Working Group of the Assembly of States Parties for the purpose of considering, as from its ninth session, amendments to the Rome Statute proposed in accordance with article 121, paragraph 1, of the Statute at its eighth session,¹⁹ as well as any other possible amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be adopted in accordance with the Rome Statute and the Rules of Procedure of the Assembly of States Parties.

The Assembly will consider the report of the Working Group.

Documentation

Report of the Working Group on Amendments (ICC-ASP/14/34)

19. Cooperation

By resolutions ICC-ASP/13/Res.3 and ICC-ASP/13/Res.5, the Assembly requested the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court.

The Assembly also noted with appreciation the need to include cooperation as a standing agenda item for future sessions of the Assembly. On 20 November 2015, the Assembly will hold a panel discussion in plenary session to consider the topic of cooperation.

Documentation

Report of the Bureau on cooperation (ICC-ASP/14/26 and Add.1)

Report of the Court on cooperation (ICC-ASP/14/27)

20. Decision concerning the date of the next session of the Assembly of States Parties

In accordance with rule 5 of the Rules of Procedure, the date of commencement and the duration of each session of the Assembly shall be decided by the Assembly at its previous session. At its thirteenth session, the Assembly decided to hold its fourteenth session in The Hague from 18 to 26 November 2015 and its fifteenth session in The Hague.²⁰

¹⁹ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, annex II.

²⁰ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. I., part I, para. 70.

21. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee on Budget and Finance shall meet when required and at least once per year. At its twenty-fifth session, the Committee decided, tentatively, to hold its twenty-sixth session from 18 to 22 April 2016 and its twenty-seventh session from 19 to 30 September 2016, respectively.²¹

22. Other matters

²¹ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 174.