



Assembly of States Parties

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Fifteenth session

The Hague, 16-24 November 2016

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 fifteenth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/15/1/Rev.1) has been prepared to assist the Assembly in its consideration of issues before it at its fifteenth session, which will be convened in The Hague, on Wednesday, 16 November 2016, at 10:00 a.m. The status of the documentation reflected herein is current as at 10 November 2016.

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 12th meeting of its fourteenth, on 26 November 2016, decided to convene its fifteenth session in The Hague from 16 to 24 November 2016.

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 fifteenth session was issued on 4 October 2016. 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.

Documentation

Provisional agenda (ICC-ASP/15/1/Rev.1)

4. Election of a Vice-President

Following the 20 September 2016 resignation of Mr. Alvaro Moerzinger (Uruguay) as a Vice-President of the Assembly, the Assembly would proceed to the election of a Vice-President who would complete the term of office of the former Vice-President.

The former Vice-President had been nominated by the Latin American and Caribbean Group (GRULAC).

The Assembly would proceed to the election of a Vice-President of the Assembly pursuant to rule 29 of the Rules of Procedure of the Assembly of States Parties.

5. 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 facilitate the Committee’s review of the requests and that the Committee should advise the

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.

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/15/28)

6. Credentials of representatives of States at the fifteenth 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.

7. 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.

8. General debate

No documentation

9. 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/15/18)
- Report of the Bureau on the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/15/19)
- Report of the Bureau on the Study Group on Governance (ICC-ASP/15/21)
- Report of the Bureau on complementarity (ICC-ASP/15/22)
- Report of the Bureau on the review of the procedure for the nomination and election of judges of the Court (ICC-ASP/15/23)
- Report of the Bureau on legal aid (ICC-ASP/15/25)
- Report of the Head of the Independent Oversight Mechanism (ICC-ASP/15/26*)
- Report of the Bureau on the arrears of States Parties (ICC-ASP/15/28)
- Report of the Bureau on the Strategic planning process of the International Criminal Court (ICC-ASP/15/29)
- Report of the Bureau on non-cooperation (ICC-ASP/15/31 and Add.1)
- Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/15/32)

10. 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/15/16)

11. 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 2015 to 30 June 2016 (ICC-ASP/15/14)

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

12. 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 and fourteenth sessions, 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).

The Advisory Committee held its fifth meeting on 26 September 2016 and submitted its report to the Assembly.

Documentation

Report of the Advisory Committee on Nominations of Judges on the work of its fifth meeting (ICC-ASP/15/8)

13. Election of six members of the Committee on Budget and Finance

By its resolution ICC-ASP/1/Res.4, the Assembly established a Committee on Budget and Finance. The Committee is composed of 12 members of different nationalities who shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall be elected by the Assembly for a term of office of three years on the basis of equitable geographical distribution.

On 10 March 2016, the Bureau of the Assembly of States Parties (“the Assembly”) decided that the election of six members of the Committee on Budget and Finance would take place at the fifteenth session of the Assembly. Pursuant to the decision, the nomination period for the candidates for six seats on the Committee on Budget and Finance ran from 18 May to 9 August 2016 (Central European Time).

The distribution of seats among the regional groups for the purpose of the first election was established in paragraph 8 of resolution ICC-ASP/1/Res.5 as follows:

- (a) Two seats for the Group of African States;
- (b) Two seats for the Group of Asian States;
- (c) Two seats for the Group of Eastern European States;
- (d) Two seats for the Group of Latin American and Caribbean States; and
- (e) Four seats for the Group of Western European and Other States.

The six members whose terms of office end on 20 April 2017 belong to the following regional groups:

- (a) African States, one seat;
- (b) Eastern European States, one seat;

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) and ICC-ASP/14/Res.4, annex I, para 5 (b).

- (c) Latin American and Caribbean States, one seat; and
- (d) Western European and Other States, three seats.

By the closing date of the nomination period, 9 August 2016, eight nominations had been received. Of the eight nominations, two were submitted by the Group of African States; two by the Group of Eastern European States; one by the Group of Latin American and Caribbean States; and three by the Group of Western European and Other States.

Documentation

Election of members of the Committee on Budget and Finance (ICC-ASP/15/6)

14. Consideration and adoption of the budget for the sixteenth 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.¹⁰

Documentation

Registry's bi-annual report on legal aid (July-December 2015) (ICC-ASP/15/2)

Report on activities and programme performance of the International Criminal Court for the year 2015 (ICC-ASP/15/3)

Report of the Committee on Budget and Finance on the work of its twenty-sixth session (ICC-ASP/15/5)

Proposed programme budget for 2017 of the International Criminal Court (ICC-ASP/15/10 and Corr.1)

Report on budget performance of the International Criminal Court as at 30 June 2016 (ICC-ASP/15/11)

Financial statements of the International Criminal Court for the year ended 31 December 2015 (ICC-ASP/15/12 and Corr.1)

Financial statements of the Trust Fund for Victims for the year ended 31 December 2015 (ICC-ASP/15/13)

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

Report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council (ICC-ASP/15/30)

Interim report of the Court on the Court-wide impact of the OTP "Basic-Size" (ICC-ASP/15/33)

Final report of the Court on the Court-wide impact of the OTP Basic Size model (ICC-ASP/15/34)

¹⁰ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part II.A.8 (b), para. 50, and part II.A.1, para. 4.

Proposed Programme Budget for 2017 of the International Criminal Court - Executive Summary (ICC-ASP/15/INF.2)

15. 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,¹¹ 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.¹²

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 2012.¹³

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

External audit of the International Criminal Court: Audit report on the budget performance of the permanent premises project (ICC-ASP/15/4)

Financial statements of the International Criminal Court for the year ended 31 December 2015 (ICC-ASP/15/12 and Corr.1)

Financial statements of the Trust Fund for Victims for the year ended 31 December 2015 (ICC-ASP/15/13)

Audit report of the ReVision project of the International Criminal Court's Registry (ICC-ASP/15/27)

16. 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.¹⁴

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.

Documentation

Report on the activities of the Oversight Committee (ICC-ASP/15/17)

External audit of the International Criminal Court: Audit report on the budget performance of the permanent premises project (ICC-ASP/15/12 and Corr.1)

¹¹ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part I, para. 29.

¹² *Official Records ... First session (first and second resumptions) ... 2003* (ICC-ASP/1/3/Add.1), part I, para. 40.

¹³ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part II, para. 10.

¹⁴ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part. III, ICC-ASP/6/Res.1, paras. 1 and 4.

17. 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,¹⁵ 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/15/24*)

18. Cooperation

By resolutions ICC-ASP/14/Res.3 and ICC-ASP/13/Res.4, 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.

On 18 November 2016, the Assembly will hold a panel discussion in plenary session to consider the topic of cooperation.

Documentation

Report of the Court on cooperation (ICC-ASP/15/9)

Report of the Bureau on cooperation (ICC-ASP/15/18)

19. Enhancing the efficiency and effectiveness of Court proceedings

At its fourteenth session, the Assembly encouraged the Bureau, including through the two Working Groups and the Study Group on Governance, to continue to support the Court's efforts to enhance the efficiency and effectiveness of proceedings, and to consider including, if appropriate, a specific item on this issue on the agenda of the fifteenth session of the Assembly.¹⁶ The Study Group on Governance considered the provisional amendments to rule 165 which the plenary of judges adopted on 10 February 2016 and conveyed its report, titled "Report of the Study Group on Governance Cluster I in relation to the provisional amendments to rule 165 of the Rules of Procedure and Evidence", dated 27 July 2016 to the Working Group on Amendments.

The Assembly will consider the report of the Working Group on Amendments.

Documentation

Report of the Study Group on Governance, Cluster I in relation to the provisional amendments to rule 165 of the Rules of Procedure and Evidence (ICC-ASP/15/7)

Report of the Bureau on the Study Group on Governance (ICC-ASP/15/21)

Report of the Working Group on Amendments (ICC-ASP/15/24*)

¹⁵ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, annex II.

¹⁶ ICC-ASP/14/Res.4, annex I, para. 8 (c).

20. Review of the working methods of the subsidiary bodies of the Bureau and the Assembly

At its fourteenth session, the Assembly recognized the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload, and welcomed the steps already undertaken by the Bureau for the improvement of the working methods.¹⁷ The Assembly also decided to include a specific item on the working methods of the subsidiary bodies of the Bureau and the Assembly on the agenda of the fifteenth session of the Assembly.¹⁸

No Documentation

21. Pledging ceremony for the Agreement on the Privileges and Immunities of the International Criminal Court

The Assembly, by resolution ICC-ASP/13/Res.5,¹⁹ the Assembly decided to hold a pledge ceremony during the fifteenth session of the Assembly on the ratification of the Agreement on Privileges and Immunities to invite States Parties to ratify it before the 20th anniversary of the Rome Statute (July 2018) and by resolution ICC-ASP/14/Res.4, the Assembly recalled its decision of its thirteenth session.²⁰

No Documentation

22. 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 fourteenth session, the Assembly decided to hold its fifteenth session in The Hague from 16 to 24 November 2016 and its sixteenth session in New York.²¹

23. 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-seventh session, the Committee decided, tentatively, to hold its twenty-eighth session from 1 to 5 May 2017 and its twenty-ninth session from 18 to 29 September 2017, respectively.²²

24. Other matters

¹⁷ ICC-ASP/14/Res.4, paras. 63 and 64.

¹⁸ *Ibid.*, annex I, para. 9 (e).

¹⁹ *Official Records ... Thirteenth session... 2014* (ICC-ASP/13/20), vol. I, part III, ICC-ASP/13/Res.5, annex I, para. 16 (a).

²⁰ *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. I, part III, ICC-ASP/14/Res.4, annex I, para. 17 (a).

²¹ *Ibid.*, para. 16 (c).

²² Report of the Committee on Budget and Finance on the work of its twenty-seventh session (ICC-ASP/15/15), para 242.