



## **BUREAU OF THE ASSEMBLY OF STATES PARTIES**

### **Sixteenth meeting**

#### **New York**

26 October 2018

*The meeting was chaired by the President of the Assembly, H.E. O-Gon Kwon (Republic of Korea)*

#### **1. Assessment of the Secretariat**

The President recalled that the agenda item has been discussed extensively since January 2018, indicating that the coordinators of two Working Groups in The Hague and New York were entrusted to consult with the broader membership. Based on the input received from the two coordinators in consultations with various stakeholders, the Bureau considered the President's proposal on the Assessment of the Secretariat, dated 25 October 2018. The President expressed his hopes for reaching an agreement after discussing the topic with the Bureau members at the 15 November in The Hague with the aim of proposing a concrete text for the omnibus resolution.

The President introduced his proposal in Parts. As regards to Part I of the proposal entitled "Servicing of the ASP", the President stated that many delegations expressed appreciation and satisfaction with the work of the Secretariat, its ability to deal with difficult situations as well as the preservation of the institutional memory. Some concerns were expressed in regards to timeliness and quality of the documents, noting there is room for improvement in organization and servicing of meetings, such as sending documents at least one week in advance of a meeting, as well as improvement of the ASP website and extranet.

Regarding Part II entitled "Structure and management of the SASP", the President noted based on the questionnaire input, there was overall satisfaction with the structure and management, emphasizing that unity and independence of the Secretariat were vital. Delegations also welcomed that the staff is geographically diverse and multilingual. However, he also noted that States Parties indicated there is a need for more clarity on the structure and on the responsibility of staff with the suggestion to have a staff directory, increase transparency and enhance team building. Furthermore, the President noted that Bureau could consider establishing a post of Deputy Director in the longer term, which would however have budgetary implications, that performance appraisals of the Director would continue to be undertaken by the President of the Assembly following established Registry procedures, and that the President could be assisted by the Human Resources section on some technical aspects thereon. Lastly, it was advised that

discussions consider setting a limitation of tenure for future appointments of the Director of the Assembly Secretariat.

Bureau members indicated that they would need more time to consult their capitals/regional group as they had only received the proposal a day in advance of the meeting and thus could only offer preliminary comments. An appeal was also made that in the future it would be preferable to avoid trying to have two Bureau meetings during International Law Week at UNHQ as the intense schedule of meetings in New York posed challenges for Bureau members to be present. The President explained that the sending of the proposal to Bureau members had been delayed due to the input from The Hague Working Group having arrived on 24 October.

Bureau members welcomed the forward looking approach of the proposal and certain suggestions in regards to improve servicing, expeditious distribution of documents, relationship with the New York Liaison Office and enhancing the Assembly webpage. It was further suggested that improving overall efficiency and effectiveness of the Court should be applied to the Secretariat. Some Bureau members welcomed the proposal on the Secretariat structure and management, including the setting of clear performance criteria.

Some Bureau members expressed that certain parts of proposal dealing with substantive changes, i. e. those on possible modifications to the structure of the Secretariat, including the suggestion to possibly establish a post of Deputy Director, were not acceptable, as those proposals would lead to budgetary implications. It was also noted that additional support staff in New York would also lead to an increase in budget. Furthermore, there was a need for caution, especially in preserving the independence of the Secretariat and ensuring that the evaluation of the Secretariat should be a State driven process.

It was expressed that the directory of Secretariat staff members or organizational structure would be helpful to understanding the division of labor and core functions. However, it was indicated that a weekly calendar of meetings and staff directory were not necessary given the limited resources of the Secretariat.

In regards to tenure limit for future Directors, some Bureau members indicated that such a proposal could be discussed in the future, while some concern was expressed about having such a term limit focusing on one particular post only.

It was also expressed that it would be useful to consider a discussion on functions of the Secretariat as stipulated in resolution ICC-ASP/2/Res.3 and whether it is still fit for that purpose or whether its role should be broadened to providing policy advice as the expectations of States Parties were not always clear.

Furthermore, it was noted that it would be useful to have information of how many States Parties had expressed a preference for the parts of the proposal that had raised main concerns, including any suggestion with possible programme budget implications: the possible Secretariat structure changes, including the Deputy Director proposal, and the limited tenure of future directors; it was posited that such proposals merited careful consideration and that there did not seem to be a need to rush with any decision on such proposals. It was posited that deeper discussions could be centered on Part II of the proposal and on those parts which may require discussion with a view to including any decision thereon in the omnibus resolution. Other Bureau members expressed their hope for a comprehensive report to be submitted.

The President reiterated that any changes to structure including the possibility of a Deputy Director post, which would lead to budgetary implications, could be discussed in the long term. He also indicated that there should be a clear line of delegation of work within the Secretariat when the Director is absent from The Hague and that he could make an administrative proposal thereon regarding the legal officers. Regarding additional professional staff to assist the New York Working Group, it would lead to budgetary increases and had to be carefully considered based on existing needs, noting that the New York Liaison Office could provide technical servicing, which is something it has been called upon to do but had not always been fully implemented. The President informed that he was discussing his proposal on the New York Liaison Office with the Court and indicated that the Liaison Office would fall under Registry as of January 2019, when its staffing would return to its usual level, as one person had been on extended sick leave in 2018.

The Director of the Secretariat expressed that States should indicate what kind of assistance they need regarding New York based bodies, so as to decide whether such a person should be temporary or full time, or whether such assistance could be provided by legal officers based in/traveling from The Hague, noting advantages and disadvantages of these options. He also noted that there are always ways of improving the servicing of the Assembly bodies. He informed that the Court had improved its website in the last quinquennium but that the funding had been insufficient to cater to improving the ASP webpage. It was also indicated that the Secretariat often relies on timely submission of documents by different stakeholders, including for example the Court, which can lead to delays in the distribution of the reports. In terms of delegation of duties when the Director may be away from The Hague/on leave, he noted that the hierarchical line had been consistently applied as it allowed for clarity on who was the officer in charge at the Secretariat.

The representative of the Liaison Office, Mr. Osvaldo Zavala, noted that the Office is an observer organization to the United Nations and that any person employed by the Court with a duty station in New York should be formally under the aegis of the Liaison Office as the employees represent one organization, as is already the case with the Court's field offices which have staff from different organs and with distinct mandates; he also stressed that there was no issue with accommodating additional staff in the Liaison Office. He confirmed that the Liaison Office can also provide logistical/technical support with regards to meetings, including the photocopying of documents, while adding that if conference rooms are reserved by the ICC there is a cost to pay, unlike conference rooms reserved by UN Member States.

It was noted that the Chair of the Working Group on the Amendments had been faced with certain challenges in the drafting of timely reports due to lack of Secretariat personnel to provide the requisite assistance.

The Vice-President indicated that he is committed to continuing consultations to improve the situation, noting that as of 29 October, the Secretariat will have an additional short-term appointment legal officer to assist delegations with their work until December 2018; this had been feasible thanks to some savings made in Major Programme IV. He also noted the closer cooperation with the Liaison Office resulting from the impulse originating from the Office.

## **2. Other matters**

### **a) Advisory Committee on nominations of judges**

The Bureau members in New York would continue consultations in identifying the five members of the Bureau by 2 November. The working group so constituted could then meet the week of 5 November for a brief meeting to adopt the respective report, which would be submitted for consideration by the Bureau, possibly at its 15 November meeting in The Hague.

### **b) Election of the next Prosecutor of the International Criminal Court**

Further to the prior discussions, the Bureau members were requested via the Vice-President to share their views by 9 November on the preferred composition of the Search Committee for the position of the Prosecutor, as well as how the members of this Committee should be identified.

Bureau members noted that it was a short deadline and some expressed that they would like to avoid the risk of duplication of efforts and a fragmentation of discussions, stressing that the search process and in particular decisions could take place in New York. However other Bureau members welcomed having discussion in both The Hague and New York as this would encourage transparency.

The President informed the Bureau that he plans to hold the next Bureau meeting in New York in February or March 2019 where the topic could be discussed further with the aim of agreeing on the composition of the Search Committee and its terms of reference in a transparent way.

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