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Report of the Bureau on the assessment of the Secretariat**I. Introduction**

1. At its sixteenth session the Assembly of States Parties requested the Bureau to “conduct an assessment of the core functions of the Secretariat [of the Assembly of States Parties] in assisting and servicing the current needs of the Assembly¹ and to report thereon to the Assembly in advance of its seventeenth session”.²

2. The Bureau considered the assessment of the Secretariat at eleven of its meetings throughout 2018.³ In addition, the President of the Assembly undertook informal consultations with States Parties through The Hague Working Group and New York Working Group of the Bureau, with the assistance of the Vice-President and Coordinator respectively. Based on these consultations, the President proposed outcomes for the consideration of the Bureau. This report sets out the conclusions of the Bureau.

II. Bureau discussions

3. During discussions in the Bureau, many States Parties expressed their satisfaction with the assistance and servicing provided by the Secretariat and commended the professional and cooperative attitude of its Director and staff. In particular, the ongoing implementation by the Director of the Secretariat of many of the recommendations contained in ICC-ASP/16/INF.3 was welcomed. At the same time, it was recognized that the Bureau had a responsibility to exercise its oversight function and constructive suggestions were made about possible improvements to the work and functions of the Secretariat, including on enhancing accountability and efficiency.

4. Regarding working methods for the assessment, it was considered important to gather views from outside the Bureau membership. Accordingly, at the Bureau meeting on 4 May 2018 Bureau members concurred with the suggestion of the President to conduct consultations with a wide range of stakeholders, including facilitators, and to request the Vice-President in New York, Ambassador Michal Mlynár, and the Coordinator of The Hague Working Group, Ambassador Jens-Otto Horslund, to consult with States Parties and gather relevant information.

5. It was also recalled that the assessment should seek to identify forward-looking, practical solutions to meet the current needs of the Assembly, and to ensure the proper and effective functioning of the Secretariat. In this regard, a view was expressed that it would be useful to consider the issue of cooperation between Secretariat staff based in New York

¹ See ICC-ASP/16/INF.3.

² ICC-ASP/16/Res.6, annex, para. 7(b).

³ See Bureau decisions of 29 January 2018, 17 April 2018, 4 May 2018, 4 June 2018, 11 June 2018, 20 September 2018, 26 October 2018, 15 November 2018, 4 December 2018, 7 December 2018 and 10 December 2018.

and The Hague as well as between the New York Liaison Office and the Secretariat, and the issue of the pooling of resources between the Registry and the Secretariat. A view was also expressed that the Secretariat should provide the same servicing for the work conducted in New York as it does for the work conducted in The Hague.

6. On 15 May 2018 Ambassador Mlynár invited New York-based delegates to complete a questionnaire assessing the core functions of the Secretariat in assisting and servicing the current needs of the Assembly. On 20 September 2018 Ambassador Horslund invited delegates in The Hague to complete a similar questionnaire. Responses to the questionnaires were summarized and transmitted to the President to be taken into account in his proposal to the Bureau.

7. At its meeting on 26 October 2018, the Bureau considered an initial proposal from the President based on the discussions and informal consultations including the outcome of the two questionnaires. The President presented a revised proposal to the Bureau at its meeting on 15 November 2018.

III. Proposal of the President

8. In presenting his proposal, the President recalled the general oversight function of the Bureau, as contained in the resolution establishing the Secretariat.⁴ The President noted that many delegations had expressed their satisfaction with the servicing provided by the Secretariat, as well as their appreciation of the sometimes difficult circumstances under which the Secretariat had to work, including resource and time constraints. The institutional memory and professional, cooperative and respectful attitude of the Director and staff had been noted by many.

9. The President also noted that a number of areas of possible improvement had been highlighted by delegations. Some concerns had been expressed regarding the timeliness and quality of reporting and meeting-related documentation. It had also been suggested that there was room for more substantive servicing by the Secretariat, and that enhanced legal, procedural and substantive advice from the Secretariat would be useful before and during Assembly sessions. In particular, it had been noted that the organization, preparation and conduct of meetings could benefit from stronger guidance and planning by the Secretariat early in each work stream. A more proactive approach by the Secretariat could also alleviate problems with late invitations for meetings and circulation of documents. Many delegations had also found online provision of (working) documents limited, and expressed a wish for more forward planning in regard to meetings. It had been suggested that specific guidelines could be introduced for meetings, for example invitations to be issued at least one week in advance, documentation to be distributed at least two days in advance, and draft summaries of Bureau meetings to be sent to Bureau members within one week of a meeting. A view was expressed that the Bureau should continue to keep under review the mandate of the Secretariat contained in resolution ICC-ASP/2/Res.3.

10. States Parties had expressed general satisfaction with the structure and management of the Secretariat. Many delegations had highlighted the need to preserve the independence and unity of the Secretariat due to the nature of the work undertaken, and to ensure that the Director had the necessary flexibility in operating the Secretariat. At the same time, there seemed to be a general desire for more clarity on the structure of the Secretariat, and the areas of responsibility of the different staff members. There also appeared to be a need for better information sharing and communication, and more delegation of responsibilities. The President noted that some delegations had suggested it would be appropriate to establish a Deputy Director position. This would help to avoid issues relating to the division of tasks within the Secretariat, including as regards the Executive Secretary of the Committee on Budget and Finance, and would also ensure continuity in workflow during absences, and optimal distribution of workloads, as well as devoted management time for staff issues.

⁴ ICC-ASP/2/Res.2, annex, paragraph 10.

11. Regarding performance appraisals of the Director, who is responsible to the Bureau for the proper functioning of the Secretariat, the President noted that there may be value in aligning the appraisals with the standard Registry procedures. The President also noted that there was no limit on the tenure of the appointment of the Director, unlike other Assembly-appointed positions such as the Head of the Independent Oversight Mechanism. Given the nature of the role, the President indicated that there may be value in considering tenure limits for future appointments.

12. As regards the relationship between the New York Liaison Office and the Secretariat, the President suggested that, in general, the two offices in New York should work together unless confidential or sensitive matters arose. The President noted that he had proposed an “Understanding on the Servicing of the Assembly of States Parties in New York” to the Presidency of the Court, and that this was under consideration by the Coordination Council.

Views on the proposal of the President

13. In response, Bureau members expressed their appreciation for the work undertaken by the President. Bureau members also noted their general satisfaction with the services of the Secretariat, although there was room for improvement. The cultural and linguistic diversity of the staff of the Secretariat was welcomed. A view was expressed that the support of the Secretariat was particularly valuable for smaller delegations.

14. Bureau members emphasized the importance of receiving documentation in a timely manner, while at the same time noting that this was not always within the control of the Secretariat. Support was expressed for the proposal to have a journal of meetings. Furthermore, it was stated that more assistance could be provided to delegations based in Brussels, in order to allow them to have a better understanding of the key issues to be discussed.

15. The importance of maintaining an independent Secretariat was emphasized, especially vis-à-vis the Court and the Registrar. It was also emphasized that the unified character of the Secretariat needed to be preserved.

16. A view was expressed that it was important for performance appraisals to take place in accordance with standard Registry procedures, and that clear performance and management objectives were welcome. At the same time, the point was made by some delegations that neither the Registrar nor other Court officials should participate in performance appraisals or assessments of the Secretariat. Some States, however, noted that performance appraisals should incorporate the views of stakeholders benefiting from the work of the Secretariat and cooperating with it, and that from an administrative perspective Secretariat staff were attached to the Registry. The President noted that while he intended to take into account the views of the Registrar, as one of a number of relevant stakeholders, any final views or decisions would be entirely independent.

17. As regards the proposal for the Secretariat to establish a repertory of Assembly practice, including a collection of legal opinions issued, the Secretariat confirmed that it had the capacity to work on such a repertory during the first months of the year when the meeting schedule was less intense, although the number of legal opinions involved would not be numerous.

18. There was limited support for proposals which might have budgetary implications, such as: a) the creation of a Deputy Director position, or b) the establishment of a separate Secretariat for the Committee on Budget and Finance.

19. Some Bureau members saw value in a tenure limit for the position of Director of the Secretariat, but others were not convinced that it was necessary or appropriate. While the President was of the view that the Bureau could consider such a limit for future appointments, as it was not applicable to the incumbent, he advised that he did not intend to pursue this proposal.

20. Regarding the relationship between the New York Liaison Office and the Secretariat, a view was expressed that a sustainable and practical solution was necessary. The provisions of the resolution establishing the Secretariat⁵ and the Bureau option paper on the New York Liaison Office⁶ were recalled in this regard.

IV. Conclusions and recommendations

21. The Bureau decided to endorse the proposals contained in annex I and to recommend the resolution language contained in annex II for the consideration of the Assembly.

⁵ ICC-ASP/2/Res.3.

⁶ ICC-ASP/4/6.

Annex I

Proposals endorsed by the Bureau

The Bureau endorses the following proposals as the outcome of its assessment of the Secretariat:

1. Secretariat to create and maintain a directory of all delegations, in The Hague and in New York, to be made available to States Parties.
2. Secretariat to maintain a directory of Secretariat staff members, including their areas of responsibility, which should be updated on a regular basis and made available to States Parties.
3. Secretariat to create and maintain a journal of planned meetings, to be circulated weekly in order to assist delegations with tracking meetings, on the understanding that the journal may be adjusted after its circulation.
4. Secretariat to improve the website of the Secretariat and the Assembly and Bureau extranets, within existing resources, so that they are more user-friendly, and to ensure that they are regularly kept up to date.
5. Secretariat to establish, within existing resources, and in line with the priorities of the Assembly and Bureau, a repertory of Assembly practice, including a collection of legal opinions issued.
6. Secretariat to seek to ensure timely reporting on Bureau and Working Group meetings, and timely distribution of meeting-related documentation, noting that timeliness will not always be within its control. As a guideline, invitations to be issued at least one week in advance, documentation to be distributed at least two days in advance, and draft Bureau summaries to be sent within one week of a meeting.
7. Taking into account resolution ICC-ASP/2/Res.3 establishing the Secretariat, performance appraisals of the Director to continue to be undertaken by the President of the Assembly on behalf of the Bureau. To this end, the President shall seek input from States Parties and may, as appropriate, seek information on administrative matters, bearing in mind the independence of the Secretariat. Clear performance and management objectives to be set and measured by the President, in consultation with the Bureau.
8. Registry to continue to extend all currently planned Court-wide processes to foster staff engagement to the staff of the Secretariat, including: being part of the ICC staff survey, the implementation of 360-degrees feedback for all line managers, and the availability of mediation services.
9. Secretariat and Registry to continue to consult regularly on opportunities for synergies and efficiencies, in accordance with their respective mandates.
10. New York Liaison Office and Secretariat to work together where possible, unless confidential or sensitive matters arise. President to inform the Bureau of the results of the consideration given by the Coordination Council on the proposed "Understanding on the Servicing of the Assembly of States Parties in New York" to consider improvement of servicing of States Parties both in The Hague and New York.
11. In order to improve servicing of the Assembly and States Parties in New York, President, with the assistance of the Director of the Secretariat, to consider providing additional support staff in New York, within existing resources, for the busiest parts of the year. Substantive servicing support not available with the New York based staff to be provided to New York from The Hague, as appropriate, including via use of video-conferences.
12. Secretariat to organize an annual briefing for delegations based in Brussels, within existing resources, in order to assist them with preparations for regular Assembly sessions.

Annex II

Draft language for the omnibus resolution

The Bureau recommends the following language for the omnibus resolution to be adopted by the Assembly at its seventeenth session.

Secretariat of the Assembly of States Parties

The Assembly of States Parties,

1. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties (“the Secretariat”), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;
2. ***Recalls the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;***¹
3. ***Welcomes the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;***²

Mandates annex

With regard to ~~the Secretariat,~~

~~(a) requests the latter to report on its current establishment and the functions of each post, including by publishing a regularly updated staff directory; and~~

~~(b) noting the increased workload of the Assembly, requests the Bureau to conduct an assessment of the core functions of the Secretariat in assisting and servicing the current needs of the Assembly³ and to report thereon to the Assembly in advance of its seventeenth session;~~

(a) invites the President to report to the eighteenth session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;⁴

¹ ICC-ASP/2/Res.3, annex, para. 10.

² ICC-ASP/17/39.

³ ~~ICC-ASP/17/39.~~

⁴ ICC-ASP/17/39.