



Eighteenth session

The Hague, 2-7 December 2019

**Report of the Bureau assessing the benefits and challenges
with regard to current schedule of the Assembly sessions****I. Introduction**

1. The mandate for this report was derived from resolution ICC/ASP/17/Res.5, which was adopted by the Assembly of States Parties at its seventeenth session. In annex I, paragraph 11 (i), the Assembly requested “the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first semester of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency”.

II. Bureau discussions

2. The Secretariat of the Assembly submitted “Report of the Secretariat on assessing benefits and challenges with regard to current schedule of Assembly sessions”, dated 17 October 2019, contained herewith in annex I to the Bureau on 22 October 2019. The Bureau discussed the contributions by the Secretariat on 24 October and 11 November 2019.

3. The Bureau considered comments submitted by some non-governmental organizations on scheduling of the Assembly session, dated 25 November 2019 contained in annex II.

4. The Court submitted its comments contained herewith in annex III on 28 November 2019.

Annex I

Report assessing benefits and challenges with regard to current schedule of Assembly sessions

A. Background

1. Operative paragraph 103 of the resolution ICC-ASP/17/Res.5 entitled “Strengthening the International Criminal Court and the Assembly of States Parties” adopted by the Assembly of States Parties (“the Assembly”) on 12 December 2018, requested “the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first semester of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency.”

B. Challenges

1. Adoption of annual budget

2. The annual budget of the International Criminal Court is adopted near the end of calendar year during the annual sessions of the Assembly. If the annual session takes place in the first semester of the year the budget would, presumably, be adopted earlier than is the case now. This may in turn mean that the budget so adopted would not be aligned with the January to December calendar year.

3. As an alternative, the budget could be adopted during a resumed session near the end of a given year; holding a resumed session this would have programme budget implications.

2. Impact on the meetings of other bodies

4. The annual sessions of other subsidiary bodies of the Assembly, including the Committee on Budget and Finance¹ and the Audit Committee² may have to be rescheduled in order to consider the budgetary and financial review and monitoring of the resources in advance of an Assembly session, if the budget is to be considered during the first semester.

5. The meetings of the Advisory Committee on nominations of judges may also have to be rescheduled to interview candidates in advance of an Assembly session, if the election of judges is scheduled during an Assembly session held in the first semester of the year. This would not be the case if a resumed session is held toward the end of the second semester; holding a resumed session this would have programme budget implications.

3. Impact on elections

6. If the Assembly session takes place in the first semester, several elections³ may have to be rescheduled. This may in turn require a change in the term of office of the elected officials, transitional arrangements, amendments to the respective resolutions and change in the dates to open the nominations to the respective elected bodies.

¹ Duration of the Committee on Budget and Finance: 1st session: five working days; 2nd session: 10 working days.

² Duration of the Audit Committee: 1st session: two working days; 2nd session: two working days.

³ Election of the President and Vice-Presidents of the Assembly of States Parties, Bureau, members of the Advisory Committee on nominations of judges, Committee on Budget and Finance, Board of Directors for Trust Fund for Victims as well as elections of judges and Prosecutor.

4. Venue reservations

7. In The Hague, the Court has an agreement in principle regarding tentative dates of the sessions at the World Forum for the next quinquennium. The World Forum Convention Centre is a commercial venue with multiannual commitments with various clients. In order to allow delegations to attend Assembly sessions, the dates of the sessions are scheduled to avoid overlap with the annual Conference of States Parties to the Organization for the Prohibition of Chemical Weapons (OPCW) as well as meetings of the Sixth Committee taking place in New York in the second semester.⁴

8. The costs of the Assembly sessions held at the World Forum are borne to an important extent by the Kingdom of the Netherlands and the Municipality of The Hague. The host State has pledged financial support for period of 2019-2021 for Assembly sessions scheduled to be held in The Hague.

9. In New York, the Secretariat requests reservations with the United Nations Secretariat. As it is rather difficult to schedule non-calendar meetings at the United Nations, the United Nations Secretariat exceptionally reserves conference rooms for the Assembly sessions early to mid-December when their schedule allows. As the United Nations Secretariat has an intense schedule of meetings during the General Assembly, it is easier to schedule the session in December or early in the calendar year. Furthermore, the United Nations reserves a right to cancel any rooms if necessary.⁵

5. Length of the Assembly sessions

10. Annex I, paragraph 11(a), of the resolution ICC-ASP/15/20 regarding mandates of the Assembly of States Parties decided that “annual session shall have a duration of seven working days with a possible extension of up to two additional days in election years, as required, and to focus, in such cases, the first two days on the elections of judges”. The duration of the Assembly session has been discussed at length under the topic of the reform of the working methods.⁶ The Assembly approved the nine day session for 2017, which was held at the United Nations Headquarters in order to allow for two additional days for the elections of judges.

11. Pursuant to a request from the Assembly at its seventeenth session, the Bureau⁷ decided to hold the eighteenth session for a total of six working days, thus shortening the session by one working day.

6. Locations of the Assembly sessions

12. The Assembly may only meet in The Hague or at United Nations headquarters. The practice of the Assembly has been to meet for two consecutive years in The Hague and the third year in New York. The triennial session in New York allows for greater representation of all States Parties during the election of judges.

C. Benefits

13. If Assembly sessions take place earlier in the year that may allow for greater participation of delegations during the negotiation of ICC issues, as the current schedule coincides with the busy period of the annual General Assembly at the United Nations, which starts in September.

⁴ The firm commitment with the World Forum for the following year is only confirmed after adoption of the annual omnibus resolution by the Assembly in December, so there is essentially a 12 month period between locking in the engagement and the date of the Assembly session.

⁵ The Memorandum of Understanding between the ICC and the United Nations states that the “rooms are provided on the strict understanding that the meetings would have to be accommodated on an “as available” basis, within available facilities and services, so that the activities of the General Assembly itself are not adversely affected.”

⁶ ICC-ASP/12/59.

⁷ Bureau decision of 7 February 2019.

14. Having a resumed session of the Assembly devoted to particular issues, such as election/budget may also allow a greater focus on other issues at the general/main Assembly session.

15. In terms of costs and time for the Court officials and for delegations, if a resumed session is held for the purpose of the election of judges in New York (two days for example), there would be savings as with the exception of Secretariat staff organizing the session, Court staff would not need to travel to New York for the election; this may also be the case for many delegations who have election officers at UNHQ.

D. Bureau meetings

16. The Bureau meets more or less on a monthly basis, alternating between The Hague and New York. During an Assembly session, it can meet whenever necessary, usually in the morning before the daily Assembly work begins.

Appendix I

List of ASP sessions

<i>ASP Session</i>	<i>Location</i>	<i>Dates</i>	<i>Working Days</i>
First	New York	03 – 10.09.2002	6
First – First Resumption	New York	03 – 07.02.2003	5
First – Second Resumption	New York	21 – 23.04.2003	3
Second	New York	08 – 12.09.2003	5
Third	The Hague	06 – 10.09.2004	5
Fourth	The Hague	28.11 – 03.12.2005	6
Fourth – Resumption	New York	26 – 27.01.2006	2
Fifth	The Hague	23.11 – 01.12.2006	8
Fifth – Resumption	New York	29.01 – 01.02.2007	3
Sixth	New York	30.11 – 14.12.2007	11
Sixth – Resumption	New York	02 – 06.06.2008	5
Seventh	The Hague	14 – 22.11.2008	8
Seventh – First Resumption	New York	19 – 23.01.2009	5
Seventh – Second Resumption	New York	09 – 13.02.2009	5
Eighth	The Hague	18 – 26.11.2009	8
Eighth – Resumption	New York	22 – 25.03.2010	4
Review Conference	Kampala	31.05 – 11.06.2010	10
Ninth	New York	06 – 10.12.2010	5
Tenth	New York	12 – 21.12.2011	8
Eleventh	The Hague	14 – 22.11.2012	8
Twelfth	The Hague	20 – 28.11.2013	8
Thirteenth	New York	08 – 17.12.2014	8
Thirteenth -Resumption	The Hague	24 – 25.06.2015	2
Fourteenth	The Hague	18 – 26.11.2015	8
Fifteenth	The Hague	16 – 24.11.2016	8
Sixteenth	New York	04 – 14.12.2017	9
Seventeenth	The Hague	05 – 12.12.2018	7
Eighteenth	The Hague	02 – 07.12.2019	6

*The Hague venue: World Forum Convention Centre (Saturday is a working day)

**New York venue: United Nations Headquarters

Appendix II

Major Law-related meetings at the United Nations Headquarters in New York for 2019

- 02.19–02.27: 2019 session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
- 03.25–04.05: 2nd session of the Intergovernmental Conference (IGC) on an international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ)
- 05.02–05.03: 14th round of informal consultations of States Parties to the United Nations Fish Stocks Agreement
- 06.10–06.14: 20th meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP)
- 06.17–06.19: 29th meetings of States Parties to the 1982 United Nations Convention on the Law of the Sea (SPLOS)
- 07.22–07.26: 25th session of the Assembly of the International Seabed Authority (Kingston, Jamaica)
- 07.29–07.30: 12th meeting of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (UNRP)
- 08.19–08.30: 3rd session of the Intergovernmental Conference (IGC) on an international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ)
- 10.01–10.04: 1st round of informal consultations on the draft resolutions under agenda item “Oceans and the Law of the Sea”
- 10.07–11.20: Meetings of the Sixth (Legal) Committee
- 11.12–11.19: Informal consultations on the draft resolution under agenda item “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”
- 11.20–11.26: 2nd round of informal consultations on the draft resolutions under agenda item “Oceans and the Law of the Sea”

Annex II

Comments submitted by non-governmental organizations on scheduling of the Assembly session, dated 25 November 2019

<i>Name of organization</i>	<i>Does your organization agree that the Assembly of States Parties (ASP) Meeting be moved from December to a different period of the year? What are your challenges in attending ASP at the end of the year? What the benefits?</i>	<i>Give reasons for your view that the ASP meeting should be moved from December to a different period of the year.</i>	<i>Please indicate if you prefer the ASP Meeting to be held during the beginning of the year, mid-year or end of the year, and why.</i>	<i>Any other comments.</i>
1. Recherches et Documentation Juridiques Africaines (RDJA) asbl	<p>(This is my personal opinion not the position of my organization as a whole).</p> <p>I think that I could be preferable to give each UN Regional Group to host the ICC ASP on a rotative basis. The choice of the appropriate country should be done by consensus within the the region.</p> <p>Once the host country is selected, the Secretariat of the ICC should make arrangements to schedule the ICC ASP one or two weeks prior the annual regional Meeting of that Group (i.e the annual Meeting of African Union Head of States and Government; the annual Meeting of ASEAN Head of States and Government; the annual Meeting of Head of States and Government of GRULAC...)</p>	The rotative Meeting of the ICC ASP prior the regional group will likely give the opportunity for other stakeholders and the population of that region (who don't usually have the opportunity to attend the ICC ASPs held in The Hague or in New York) to know more about the ICC's activities and to mitigate the misunderstanding that some political leaders state on the ICC.	Please refer to my answer at the item 4	n/a
2. American Branch International Law Association/ Washington University	<p>I think the current cycle works well. All periods of the year pose challenges. The challenge to me as an academic is that this is the end of the year; but typically classes are over, so that is a benefit.</p>	I think it works in December.	The beginning of the year is very busy so that would not be my preference. Many academics do attend, so December typically works well for us. May or June would probably work well too.	December works for our organization; May or June probably would as well. For individuals in the Northern Hemisphere, July and August typically serve as vacation time.
3. Club des amis du droit du Congo	No. We think for our part that the end of November or early December remain the ideal for ASP. It would be difficult do it in another period.		End of the year. Because we are already used to this calendar. And all years, we have projects in the following period.	None

Annex III

Comments by the Court, submitted on 28 November 2019

1. The Court thanks the Bureau for these consultations; we value the opportunity to weigh in as appropriate on important issues.
2. The Court is mindful that the matter at hand is a matter for States Parties.
3. In the context of an annual budget cycle, synchronising it with the calendar year has several implications for the Court's budget process:
 - (a) It allows the Court to develop its budgetary assumptions based on the annual judicial calendar;
 - (b) It allows the Court to closely monitor any developments in the assumptions with budgetary implications throughout the year, up until the ASP; and
 - (c) It allows the Court to monitor cash availability and contributions throughout the year, and plan accordingly;
4. In addition, a number of processes are linked to the Court's annual budget:
 - (a) Sessions of the CBF;
 - (b) Audit plans;
 - (c) The work of external auditors, in particular in relation to the Court's accounts;
 - (d) Procurement processes;
 - (e) Contracts with vendors and external parties; and
 - (f) Contracts of GTA staff (temporary assistance);
5. While it is possible to adapt to changes as decided by States Parties in this regard, it would require coordination and sufficient advance notice to ensure adequate and smooth transitions.
