



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Tenth meeting

23 October 2020

via WebEx remote link

Agenda and decisions

1. Election of the Prosecutor - the next steps

The Bureau continued its consideration of the way forward with respect to the election of the Prosecutor scheduled to take place at the nineteenth session of the Assembly of States Parties.

The President recalled that the Committee on the Election of the Prosecutor (CEP) had submitted its report,¹ containing an unranked shortlist of four candidates, on 30 June 2020. Following hearings with the shortlisted candidates, a consultation process had commenced to identify a consensus candidate as foreseen in the Terms of Reference for the Election of the Prosecutor.² The President recalled his conclusion, at the ninth meeting of the Bureau, that it did not seem possible to build consensus around one of the four shortlisted candidates under the current process. Accordingly, the President had recommended that the consultations be extended to include the ten other candidates interviewed by the CEP, i.e. the “longlist”, provided those candidates gave their consent.

Taking into account the views expressed at the ninth meeting, the President, in consultation with the Vice-Presidents, had prepared a proposal for the “Way Forward” dated 22 October 2020. The President noted that the proposal was intended to supplement the process contained in the Terms of Reference adopted by the Bureau in April 2019. He clarified that it would involve a request from the Bureau for the CEP to reconstitute itself and to contact the ten longlisted candidates to ascertain if they wished to continue to be considered for the position. The CEP would prepare a short appraisal of each candidate who remained willing to be considered, taking into account the confidential views expressed by the Panel of Experts, and would submit it to the Bureau and States Parties along with the candidates’ CVs and motivation letters. The process which the candidates would be subject to, including the information that would be made available about them, would be clearly communicated to them, and their consent to its release would be a condition of their participation. Public hearings would then be organised with all of the candidates who remained willing to be considered, including those on the shortlist. Consultations would then continue, with the assistance of five focal points (one from each regional group). The President noted that the Chair of the CEP had indicated the CEP would be willing to assist as outlined.

¹ ICC-ASP/19/INF.2, Add.1 and Add.2.

² ICC-ASP/18/INF.2.

Bureau members discussed the proposed way forward, including ways to ensure that the process would respect the confidentiality provisions of the Terms of Reference and offer a fair and transparent process for all candidates. Various delegations expressed significant support to the proposal of the President. A view was expressed that more intensive consultations were needed on the shortlist, and that broadening the consultations to include the names on the longlist would be detrimental to the process. It was agreed that the President would continue to undertake informal consultations on the way forward, with the assistance of the Vice-Presidents, and that the Bureau would consider the next steps further at a future meeting. It was reiterated that formal nominations by States Parties were not expected or encouraged at this stage.

2. Preparations for the nineteenth session of the Assembly- update by the Secretariat

a) The Hague

The Secretariat of the Assembly informed that the preparations for the nineteenth session, including the contract with the World Forum Convention Center, are proceeding according to the Bureau decision dated 1 October 2020. The additional draft decisions regarding the General debate, provisional work programme, the procedure for adoption of decisions by the Assembly during the nineteenth session of the Assembly (should in-person meetings of the Assembly not be feasible due to (COVID-19) pandemic) as well as further information regarding submission of credentials would be conveyed for the consideration by the Bureau in the coming days.

The Netherlands indicated that the host State is willing to provide financial support for the session in The Hague.

b) New York

Vice-President Michal Mlynar informed the Bureau about the tentative possibility of holding the elections during a resumed nineteenth session at United Nations Headquarters (UNHQ) in New York from 17 to 23 December 2020, including possibility of holding the plenary meetings at the General Assembly Hall from 17 to 18 December and the election of six judges in a walk-through, non-plenary format in conference room 4 from 21 to 23 December 2020. Nonetheless, it is subject to the consideration and approval by: a) the relevant UN offices, including by the UN medical services, of a detailed plan prepared by the Secretariat of the Assembly; b) the UN Office of Legal Affairs to provide substantive servicing for the session; c) the United Nations General Assembly to meet during the main part of the seventy-fifth session of the General Assembly at UNHQ.

c) Nomination of national tellers

Further to the 11 September Bureau consideration of this item, the President requested Bureau members to continue to consult within their respective regional groups and to inform the Secretariat of the name of the representative nominated as the national teller from each regional group as soon as possible, but no later than 23 November 2020. Further, since the elections would tentatively be held in New York, the tellers, whom the Bureau would recommend to the Assembly for appointment, should be based in New York, and should not be representatives of States Parties that had presented candidates.

d) Election of the President and the Bureau for the twentieth to twenty-second sessions

The President recalled that he had previously encouraged all regional groups to conduct consultations in order to identify the States that would form the next Bureau, as well

as to identify two candidates for election as Vice-Presidents, taking into account the principle of regional rotation.

A representative of the Group of Latin American and Caribbean States (GRULAC) informed the Bureau that the group would meet soon and expected to nominate its candidates, including a candidate for election as President. The group would inform the Bureau of its decision.

The President urged all regional groups to continue their consultations with a view to identifying the candidates that the Bureau would recommend for election as the Bureau for the twentieth to twenty-second sessions.

3. Modalities for the roundtables with candidates for judicial elections

The President recalled that on 14 October he had drawn lots to determine the composition of the roundtables for candidates for judicial election.³ He informed the Bureau that, due to a *force majeure* situation which had necessitated the deferral of the roundtables, they would be held from 3 to 6 November 2020 from 08:00 New York / 14:00 The Hague time.

The President informed the Bureau that Ambassador Paul van den IJssel (Netherlands) had agreed to assume the role of moderator of the roundtables. The Coalition for the International Criminal Court had identified as vice-moderator Ms. Mariana Pena, Senior Legal Officer at Open Society Justice Initiative, and as second vice-moderator, Mr. Allan Ngari, Senior Researcher at the Institute for Security Studies.

He noted that the Secretariat had also conveyed to States Parties his 22 October 2020 letter regarding modalities for the questions for the roundtables.⁴

4. Other matters

a) Appointment of a Bureau focal point for “Scheduling of Assembly sessions”

The President recalled his 12 October message inviting Bureau members to indicate their interest in assuming the role of Bureau focal point for the topic “Scheduling of Assembly sessions”. In the absence of any indications of interest, the President encouraged Bureau members to consider taking up this role, given that the discussions in New York were advanced and should be completed before the nineteenth session.

³ https://asp.icc-cpi.int/en_menus/asp/elections/judges/2020/Pages/Roundtables.aspx

⁴ *Ibid.*