



BUREAU OF THE ASSEMBLY OF STATES PARTIES

First meeting

The Hague

24 January 2020

10:00 – 12:00

Agenda and decisions

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

1. Independent Expert Review – update

The President recalled that, by resolution ICC-ASP/18/Res.7, the Assembly had appointed the Group of Independent Experts to conduct the Review of the International Criminal Court and the Rome Statute system. The experts had held their initial meeting on 21 to 23 January, and had elected Mr. Richard Goldstone (South Africa) as the Chair.

The Assembly’s mandate to the experts was “make concrete, achievable, actionable recommendations aimed at enhancing the performance, efficiency and effectiveness of the Court and the Rome Statute system as a whole.” Further, in the Terms of Reference, the Assembly highlighted that the emphasis of the reporting shall be on “providing concrete, practical and realistic solutions and the reports shall be as concise as possible. Priority shall be given to the issues with the greatest impact on performance, efficiency and effectiveness of the Court.”

The experts appointed to Cluster I, “Governance”,¹ who were continuing their work in The Hague for some additional days, briefed the Bureau on the work of the Experts during the first meeting of the Group.

They noted that the Chair, Mr. Goldstone, had presented an overview of the work of the Experts to the meeting of The Hague Working Group on 23 January. The Group has agreed on a statement issued at the end of the first meeting² in which the experts had invited recommendations and views from civil society and States. They would meet with NGOs on 24 February.

During the first meeting, the experts had met with the three Heads of organ of the Court and other Court officials, and Cluster I planned to meet with staff and organs of the Court. The cluster would rely on the Court’s organs and States Parties to assist them by providing useful information and by highlighting the challenges and main issues which required attention. At the end of June, the Chair would provide an interim report to States, and would present the final report in September.

¹ Mr. Nicolas Guillou (France), Ms. Mónica Pinto (Argentina) and Mr. Mike Smith (Australia).

² https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/IER%20Statement%2023.01.2020.pdf

Bureau members welcomed the start of the mandate of the experts and underlined their commitment to supporting their work. The Court was at a crossroads and the Review was seen as absolutely essential for the future of the Court. The year 2020 would be very important as issues affecting the Court would arise, namely, the election of Court officials (judges and the new Prosecutor) and the Review process. Bureau members thanked the experts for devoting their time to the project, noted that States needed the experts' experience and knowledge, and highlighted the importance of an exchange between the Bureau and the Group of Independent Experts. In that regard, it was important for the experts to share the progress of their work.

Bureau members urged the experts to present a concrete, results-oriented report containing clear guidance and recommendations which would result in concrete outcomes that would strengthen the Court. They invited the experts to be as creative and inventive as possible and to "not be paralysed by any taboo". An important element would be States' capacity to implement the key recommendations, in order to improve the Court. They noted that the Assembly's own processes could be improved and that some work had already been done in that regard.

It was suggested that the experts should not limit their consultations with stakeholders within the Court to staff at the higher levels, but should also engage with staff at all levels on their views on the functioning of the Court.

The issues of complementarity and efficiency were identified as fundamental matters requiring the attention of the experts. Complementarity was a bedrock principle on which the Court was founded, and as regards efficiency, the Court had become large and expensive and would benefit from the experts' advice. In addition, it was important for States to be involved and to defend to their respective governments the large contributions to the budget of the Court.

In responding, the experts indicated their agreement with the sentiments and comments of the Bureau, which they would bear in mind. Their starting point was the goal of seeing international criminal justice strengthened. The three experts of Cluster 1 had different backgrounds and experiences which would allow them to address a broad range of issues. It was noted that the speed of responses at the international level did not match that of national systems. Further, they noted that it would not be possible to impose solutions for other international organizations on the Court. The experts reaffirmed their commitment to carrying out their mandate.

The experts would regularly update the Bureau on their work. They had a clear timeline and budget to adhere to and thus were committed to carrying out their mandate, with the support of the Court and States Parties.

2. Confidential issue of concern to the Assembly and the Court

The Registrar briefed the Bureau on a confidential issue of concern to the Assembly and the Court.

3. Committee on the Election of the Prosecutor – update

The President recalled that, at its 28 November 2019 meeting, the Bureau had received a briefing from Ambassador Marcin Czepelak, a member of the Committee on the Election of the Prosecutor. The panel of experts had met in The Hague on 2 and 3 December to consider the applications received, and to submit their initial assessment to the Committee for further consideration. The President presented an overview of the 89 applications received by region, gender and legal system. On the way forward, the Committee would meet on 20 to

21 February in New York to decide on the list of candidates to be interviewed and the modalities for the interviews, following which the interviews would take place in The Hague between 28 and 30 April. The report of the Committee, which would contain an unranked shortlist of three to six candidates for the consideration of the Assembly, was expected by the end of May.

It would be necessary to consider the best way forward, including holding roundtables or a similar setting with the shortlisted candidates after the report had been finalized and disseminated.

4. Advisory Committee on Nominations of Judges

The President recalled that by resolution ICC-ASP/18/Res.4,³ the Assembly amended the terms of Reference of the Advisory Committee on Nominations of Judges (ACN) and allocated greater responsibilities to it. It was his view that, in light of the additional functions of the Advisory Committee, it would be necessary for the ACN to consider the amended terms of reference and the new procedures for assessing candidates.

The President noted that in the Review discussions, there had been much focus on the important issue of the election of judges. It therefore seemed necessary to consider a schedule of additional meetings for the Advisory Committee. In his view, the ACN would need to hold at least two meetings in 2020: one preliminary meeting to consider how to proceed with the additional mandate, and one meeting for the assessment of the candidates nominated, which would include face-to-face interviews. It was thus important for the ACN to meet in advance, instead of one meeting to screen candidates.

He noted however, that since the 2020 approved budget of the Secretariat foresaw only one six-day meeting for the evaluation of candidates, an additional preliminary meeting would have budgetary implications. The existing budget covered travel under certain conditions, i.e. business class tickets and 140 per cent DSA. The President had discussed the matter with the Vice-Presidents and sought the Bureau's endorsement to explore the possibility of having the funds to cover more than one meeting by downgrading the ACN members' class of travel. He proposed that, in order to cover the costs of an additional two-day initial meeting, the class of travel be downgraded to economy class, or premium economy for longer flights, and that DSA be paid at 100 per cent.

Some Bureau members expressed support generally for efforts to reduce costs but noted the need for flexibility, given the duration of some flights. Further, it was suggested that the ACN be encouraged to look at technological fixes, e.g. videoconferences, conference calls, etc.

The Bureau approved the President's proposal which would allow the two meetings to be funded: a preliminary two-day meeting in February and a six-day meeting in May or June for the assessment of the candidates.

5. Appointment of facilitators and focal points

The Bureau appointed the facilitators, focal points and the Chair of the Study-Group on Governance on the recommendation of The Hague Working Group (see annex).

³ Resolution on the review of the procedure for the nomination and election of judges, annex II.

6. Independent Oversight Mechanism

a) IOM Activity Report, October to December 2019

The Head of the Independent Oversight Mechanism (IOM), Mr. Saklaine Hedaraly, introduced the Activity report of the Independent Oversight Mechanism for the period October to December 2019, dated 15 January 2020.⁴

The Bureau took note of the Activity report of the Independent Oversight Mechanism.

b) Evaluation report of the Secretariat of the Trust Fund for Victims

The Chair of the Board of Directors of the Trust Fund for Victims, Mr. Felipe Michelini, participated in the discussion via video conference from Montevideo. He recalled that the Board of Directors had, in December 2018, requested an evaluation of the Secretariat of the Trust Fund for Victims, which had been submitted in December 2019. The report focused on, inter alia, the strategic focus, managing risk and monitoring and evaluation. The Board had requested the Executive Director of the Secretariat of the Trust Fund for Victims, Mr. Pieter de Baan, to submit an implementation plan, which he submitted on 24 December 2019. The Board was interested in the implementation of that plan. It was clear that the Board needed to move forward fast, so that the Trust Fund could fulfil its goal in both mandates in the best manner. The Board shared the view of the IOM regarding the need to clarify roles and strengthen the roles and responsibilities of the Board of Directors, including through amendments to the Regulations of the Trust Fund for Victims as necessary. All Board members were convinced of the need to move forward to consolidate the changes, to strengthen the strategy and procedures and, at the same time strengthen both mandates in order for the Board to better carry out its mandate on behalf of the victims and their families. Amendments to the Regulations were important, as was the implementation of the recommendations of the IOM Evaluation report.

7. Current schedule of Assembly sessions

The President recalled the Bureau's previous discussions on this item and referred to the mandate of the Assembly at its eighteenth session contained in resolution ICC-ASP/18/Res.6.⁵ He further recalled the Bureau's previous discussion on this topic at its 28 November 2019 meeting and that a report⁶ had been issued as an Assembly document reflecting the comments received. He noted that the following points were itemized in the resolution: the proposal to hold the future Assembly meetings in the first six months of each calendar year; length, including the proposal to shorten the Assembly; location of the meetings of the Assembly and of the Bureau; and recommendations to improve efficiency.

A request was made that a paper be prepared indicating the options and costs of the different venues of the Assembly sessions.

The Director of the Secretariat referred to a paper had been prepared at the seventeenth session containing the views of States Parties, the Court and NGOs, including on the most suitable time of year for the Assembly sessions.

The President noted that the topic required further discussion, and he intended to raise it at the Bureau meeting in New York, in order to obtain views from all States Parties. He may then consider having subsequent discussions on the topic led by the two Vice-Presidents,

⁴ Submitted pursuant to resolution ICC-ASP/12/Res.6.

⁵ ICC-ASP/18/Res.6, para. 102 and annex I, para. 11(i).

⁶ Report of the Bureau assessing the benefits and challenges with regard to current schedule of the Assembly sessions (ICC-ASP/18/INF.6).

as part of the discussions on the working methods of the Assembly, which States had indicated they would assume as part of their own work on the review of the Court. He would consider the possibility of an ad hoc working group to discuss the issue further.

The Bureau decided to revert to this agenda item at its future meetings.

8. Status of contributions

The President informed the Bureau of the status of contributions to the approved budget of the Court as at 31 December 2019. As of that date, the Court had received 90 per cent of the approved budget for 2019. The Court had also received contributions from three States Parties for the 2020 approved budget. The total amount of outstanding contributions, for 2019 and for prior years, stood at €25.8 million. A total of 20 States Parties had outstanding contributions of more than one year, and 11 of those were ineligible to vote under article 112, paragraph 8 of the Rome Statute.

He encouraged all States Parties that have outstanding contributions to make every effort to pay them at the earliest opportunity.

9. Staff Pension Committee of the International Criminal Court

The Bureau would revert to this item at a later date.⁷ The President encouraged representatives in The Hague Working Group to consider volunteering for the two vacant positions of alternate members of the Staff Pension Committee appointed by the Bureau (resolution ICC-ASP/3/Res.3).

10. Other matters

a) Judges Remuneration Panel

Vice-President of the Assembly, Ambassador Jens-Otto Horslund (Denmark) updated the Bureau on the panel of three members who would facilitate the Assembly's consideration of possible adjustments to the remuneration of the judges of the Court.⁸ The Panel would be composed of the following members: the Vice-President and Coordinator of the Hague Working Group (Ambassador Jens-Otto Horslund (Denmark)); the facilitator on the budget (Ambassador Andrés Terán Parral (Ecuador)); and "one outgoing or former member of the Committee on Budget and Finance, to be appointed by the Bureau". The President would recommend the current or former member of the Committee on Budget and Finance to the Bureau for its consideration and appointment.

As soon as the panel was in place, it would begin its work. He intended to recommend that the panel begin consulting the judges. He noted that, previously, the Assembly had not discussed numbers related to judges' remuneration, but at this stage, when numbers would be discussed, the panel would hear the judges. The panel would also consult with all States Parties.

b) Calendar of meetings

The President would finalize a calendar of meetings, taking into account the calendars of other meetings, including the Group of Independent Experts, the Committee on the

⁷ No recommendations were received from The Hague Working Group for appointments to the Staff Pension Committee.

⁸ ICC-ASP/18/Res.2, annex I.

Election of the Prosecutor, the Advisory Committee on Nomination of Judges, and the
Judicial Remuneration Panel.

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Annex

Appointments by the Bureau of mandate holders of The Hague Working Group

24 January 2020

Budget: Facilitator - Ambassador Andrés Terán Parral (Ecuador)

Budget Management Oversight: Focal point - Ambassador Annika Markovic (Sweden)

Complementarity: *Ad country* co-focal points - Australia and Romania

Cooperation: Co-facilitators - Ambassador Luis Vassy (France) and Ambassador Momar Gueye (Senegal)

Plan of action for achieving universality and full implementation of the Rome Statute: *Ad country* co-focal points - Netherlands and Republic of Korea

Premises: Focal point - Ms. Marija Stajic-Radivojsa (Serbia)

Review of the work and operational mandate of the Independent Oversight Mechanism: Facilitator - Ambassador Päivi Kaukoranta (Finland)

Study Group on Governance

- **Chairperson** - Ambassador María Teresa de Jesús Infante Caffi (Chile)

- **Co-focal points** - Mr. Jan Christoph Nemitz (Germany), Ms. Edith Ngungu (Kenya) and Ms. Laura Victoria Sanchez (Colombia).
