

**ASSEMBLY OF STATES PARTIES TO
THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**NINTH SESSION
NEW YORK, 6 – 10 DECEMBER 2010**

**OFFICIAL RECORDS
VOLUME I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Decision”.

Pursuant to resolution ICC-ASP/7/Res.6, volume I of the Official Records is available in all languages of the Assembly, while volume II is available in Arabic, English, French and Spanish.

Secretariat, Assembly of States Parties
International Criminal Court
P.O. Box 19519
2500 CM The Hague
The Netherlands

asp@icc-cpi.int
www.icc-cpi.int

Tel: +31 (0)70 515 9806
Fax: +31 (0)70 515 8376

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Part I Proceedings

A. Introduction

1. In accordance with the decision of the Assembly of States Parties to the Rome Statute of the International Criminal Court (hereinafter “the Assembly”), taken at the 8th meeting of its eighth session, on 26 November 2009, and on the basis of General Assembly decision 65/501, the Bureau fixed 6 to 10 December 2010 as the dates for the ninth session.
2. In accordance with the Rules of Procedure of the Assembly,¹ the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure of the Assembly (hereinafter “the Rules of Procedure”), invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.
5. In addition, in accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People’s Republic of Korea, Equatorial Guinea, Grenada, Kiribati, Lao People’s Democratic Republic, Lebanon, Maldives, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, Swaziland, Tonga, Turkmenistan, Tuvalu and Vanuatu.
6. The list of delegations to the session is contained in document ICC-ASP/9/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Mr. Christian Wenaweser (Liechtenstein), who had been elected, by acclamation, as President of the Assembly for the seventh to ninth sessions during the sixth session of the Assembly.³
8. The Bureau of the Assembly, having been elected at the seventh session for a term of three years, continued in office during the ninth session, with the exception of Vice-President of the Assembly, Mr. Zachary D. Muburi-Muita (Kenya), who, by a letter, dated 27 August 2010, resigned from his position. The Bureau was therefore composed for the remainder of its term as follows:

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 61/43, 61/259, 63/131, 63/132, 64/3, 64/121, 64/122, 64/123, 64/124 and decision 56/475.

³ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part I.B, para. 22.

President:

Mr. Christian Wenaweser (Liechtenstein)

Vice-Presidents:

Mr. Jorge Lomónaco (Mexico)

Ms. Simona Mirela Miculescu (Romania)

Rapporteur:

Ms. Simona Drenik (Slovenia)

Other members of the Bureau:

Australia, Brazil, Burkina Faso, Estonia, Gabon, Georgia, Japan, Jordan, Kenya, Nigeria, Norway, Samoa, South Africa, Spain, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Venezuela (Bolivarian Republic of).

9. At its 1st meeting, on 6 December 2010, in accordance with rule 25 of the Rules of Procedure, the following States were appointed to serve on the Credentials Committee:

Costa Rica, Estonia, Ireland, Lesotho, Netherlands, Republic of Korea, Serbia, Suriname and Uganda.

10. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

11. At its 5th meeting, on 10 December 2010, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure of the Assembly.

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/9/1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Adoption of the agenda.
4. States in arrears.
5. Credentials of representatives of States at the ninth session:
 - (a) Appointment of the Credentials Committee;
 - (b) Report of the Credentials Committee.
6. Organization of work.
7. General debate.
8. Report on the activities of the Bureau.
9. Report on the activities of the Court.
10. Election of six members of the Committee on Budget and Finance.
11. Appointment of the External Auditor.
12. Consideration and adoption of the budget for the ninth financial year.
13. Consideration of the audit reports.
14. Report of the Board of Directors of the Trust Fund for Victims.
15. Premises of the Court.
16. Amendments to the Rome Statute.
17. Review Conference follow-up.
18. Election of the President of the Assembly for the tenth to twelfth sessions.
19. Decision concerning the date of the next session of the Assembly of States Parties.
20. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
21. Other matters.

13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/9/1/Add.1).

14. Also at its 1st meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. In addition to the Working Group on Amendments, established by resolution ICC-ASP/8/Res.6,⁴ the Assembly established a Working Group on the Programme Budget for 2011.

15. Ms. Lydia Morton (Australia) and Mr. Paul Seger (Switzerland) were appointed to chair the Working Group on the Programme Budget for 2011 and the Working Group on Amendments, respectively.

B. Consideration of issues on the agenda of the Assembly at its ninth session

1. States in arrears

16. At the 1st meeting, on 6 December 2010, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to five States Parties.

17. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2011 in a timely manner.

2. Credentials of representatives of States Parties at the ninth session

18. At its 5th meeting, on 10 December 2010, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

3. General debate

19. At the 1st plenary meeting, the President of Colombia, H.E. Mr. Juan Manuel Santos, delivered a statement during the general debate. At the 1st, 2nd, 3rd and 4th plenary meetings, on 6, 7 and 9 December 2010, statements were made by the representatives of Argentina, Austria, Belgium (on behalf of the European Union), Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Central African Republic, Colombia, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo (on behalf of the African States Parties and, further, on its own behalf), Denmark, Ecuador, Estonia, Fiji, Finland, France, Germany, Ghana, Guatemala, Guinea, Hungary, Italy, Japan, Jordan, Kenya, Kuwait, Lesotho, Luxembourg, Mexico, New Zealand (on behalf of Canada, Australia, and New Zealand), Nigeria, Norway, Peru, Poland, Republic of Korea, Saint Lucia, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Switzerland, Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, and Zambia. Statements were also made by representatives of the League of Arab States and the International Committee of the Red Cross and by representatives of the following non-governmental organizations: Amnesty International, Coalition for the International Criminal Court, Fédération internationale des ligues des droits de l'Homme, Human Rights Watch, International Commission of Jurists, International Society for Traumatic Stress Studies and Parliamentarians for Global Action.

4. Report on the activities of the Bureau

20. At its 1st meeting, on 6 December 2010, the Assembly took note of the oral report on the activities of the Bureau, delivered by the President, Mr. Christian Wenaweser (Liechtenstein). The President noted that, since the eighth session, the Bureau had held 19 meetings in order to assist the Assembly in carrying out its activities under the Rome Statute.

⁴ *Official Records ... Eighth session... 2009* (ICC-ASP/8/20), vol. I, part II, ICC-ASP/8/Res.6, para. 4.

21. The President expressed appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Jorge Lomónaco (Mexico) and Ambassador Zachary D. Muburi Muita (Kenya), who had continued to serve as Coordinators of the respective Working Groups of the Bureau. On 27 August 2010, Ambassador Muburi-Muita had informed him of his resignation from the post of Vice-President. The President thanked him for his work as Vice-President during his term on the Bureau, and as focal point for the issue of the African Union Liaison Office.

22. The President had visited Uganda in January, in order to discuss the preparations for the Review Conference. He also visited the field office in Kampala and travelled to northern Uganda to get a first hand impression of projects of the Victims Trust Fund, where he met with affected communities. He had visited a Trust Fund for Victims project in Bunia, Democratic Republic of the Congo. In Addis Ababa, Ethiopia, he had discussed the possibility of establishing a liaison office, the status of preparations of the Review Conference and other issues related to the activities of the Court.

23. In October, he visited the seat of the Court and met with Court officials, State representatives and the host State. He met with the plenary of the judges in an informal meeting. Furthermore, he organized a retreat with the President of the Court, the Prosecutor and the Registrar, to discuss governance issues, with the valuable assistance of Vice-President Lomónaco.

24. As part of his efforts to engage in outreach activities and to promote the universality of the Court, he visited El Salvador in April and Guatemala in August, upon the invitation of the respective Governments.

25. The President identified the Review Conference as the highlight of the past year. The stocktaking topics provided a solid basis for action to advance the work of the international community on the four topics, which are essential for the effective functioning of the Court in the long run. He thanked the Government of Uganda for the hospitality extended to participants in the Conference.

26. The Assembly, through the Bureau, had engaged with the Court on an increasing number of issues, some of them very complex, which had led to a greater appreciation of the respective responsibilities.

27. The Secretariat of the Assembly of States Parties had continued to discharge its mandate in assisting the work of the Assembly and its subsidiary bodies, in accordance with resolution ICC-ASP/2/Res.3. It had also coordinated, as appropriate, with the different organs of the Court on the issues on the agenda of the Assembly, and on other matters which touch and concern the Assembly. The Secretariat had continued to fulfil its mandate under the Plan of action. Furthermore, in coordination with the Government of Uganda, the Secretariat had organized the Review Conference in Kampala, including through the negotiation of memoranda of understanding with the host State and with the United Nations.

28. The President noted that the Court had continued to grow in influence and had expanded the scope of its investigative, prosecutorial and judicial activities. Although cooperation by States has assisted the Court in advancing its mandate, there remained a number of outstanding arrest warrants, as well as areas in which other forms of cooperation could be extended, such as the enforcement of sentences. He had held discussions with two States Parties regarding questions of cooperation.

29. The President shared some personal reflections, which are reflected in the full text of his address at the following website address: http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/Statements/ASP9-PASP-Statements-ENG.pdf.

5. Report on the activities of the Court

30. At its 1st meeting, on 6 December 2010, the Assembly heard statements by Judge Sang-Hyun Song, President of the Court and by Mr. Luis Moreno-Ocampo, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court.⁵

⁵ ICC-ASP/9/23.

6. Election of six members of the Committee on Budget and Finance

31. In a note dated 28 October 2010, the Secretariat submitted to the Assembly a list of six candidates nominated by States Parties for election to the Committee on Budget and Finance.⁶

32. At its 1st meeting, on 6 December 2010, the Assembly elected the following six members of the Committee on Budget and Finance, in accordance with resolution ICC-ASP/1/Res.5⁷ of 12 September 2003:

Mr. David Banyanka (Burundi)
 Ms. Carolina María Fernández Opazo (Mexico)
 Mr. Gilles Finkelstein (France)
 Mr. Juhani Lemmik (Estonia)
 Mr. Gerd Saupe (Germany)
 Mr. Ugo Sessi (Italy)

33. In accordance with paragraph 11 of resolution ICC-ASP/1/Res.5, the Assembly dispensed with a secret ballot and elected the six members of the Committee on Budget and Finance by acclamation. The term of office of the six members shall begin to run on 21 April 2011.

7. Consideration and adoption of the budget for the ninth financial year

34. The Assembly, through its Working Group, considered the proposed programme budget for 2011 on the basis of the draft proposal submitted by the Registrar, the reports of the Committee on Budget and Finance and the reports of the External Auditor.

35. At its 5th meeting, on 10 December 2010, the Assembly adopted the report of the Working Group on the programme budget, wherein it, inter alia, conveyed the recommendation of the Working Group, that the Assembly endorse the recommendations of the Committee on Budget and Finance at its fifteenth session⁸ as a whole, with the adjustments reflected in sections VIII and IX of resolution ICC-ASP/9/Res.4.

36. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2011.

37. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/9/Res.4, concerning the programme budget in relation to the following:

- (a) Programme budget for the year 2011, including appropriations totalling €103,607,900 for the major programmes and staffing tables for each of the major programmes;
- (b) Working Capital Fund for 2011;
- (c) Scale of assessments for the apportionment of the expenses of the International Criminal Court;
- (d) Financing of appropriations for the year 2011;
- (e) Contingency Fund;
- (f) Amendment of the Financial Regulations and Rules;
- (g) Transfer of funds between major programmes under the 2010 programme budget;
- (h) External Auditor;
- (i) African Union Liaison Office; and
- (j) Family visits for indigent detainees.

⁶ ICC-ASP/9/22.

⁷ As amended by resolution ICC-ASP/2/Res.4.

⁸ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. II, part B.2.

8. Consideration of audit reports

38. At its 5th meeting, on 10 December 2010, the Assembly adopted the report of the Working Group on the Programme Budget for 2011.⁹ The Assembly also took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2009¹⁰ and of the Trust Fund for Victims for the same period.¹¹

9. Report of the Board of Directors of the Trust Fund for Victims

39. At its 1st meeting, on 6 December 2010, the Assembly heard a statement by Ms. Elisabeth Rehn, Chairperson of the Board of Directors of the Trust Fund for Victims. The Assembly considered and took note of the report on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2009 to 30 June 2010.¹²

10. Amendments to the Rome Statute

40. At its 5th meeting, on 10 December 2010, the Assembly adopted the report of the Working Group on Amendments (see annex II).

41. The Assembly decided to hold informal consultations in New York between its ninth and tenth sessions, during which delegations would have the opportunity to present amendments already submitted and views could be expressed on the substance of proposed amendments as well as on the advisability of proceeding with further amendments regarding crimes within the jurisdiction of the Court at this stage of its existence. Delegations would also discuss working methods, procedures and the role of the Working Group with respect also to possible future amendments, on the basis of a paper to be prepared by the Coordinator.

11. Review Conference follow-up

42. During consideration of the Review Conference follow-up, on 8 December 2010, the focal points for the impact of the Rome Statute system on victims and affected communities (Chile and Finland) and for complementarity (Denmark and South Africa) presented updates of the work that had been undertaken since Kampala in the framework of The Hague Working Group. The focal points on pledges (Netherlands and Peru) invited States to submit new pledges for the next session of the Assembly, as well as to follow up on the pledges which they had already made.

43. At its 5th meeting, on 10 December 2010, the Assembly adopted resolution ICC-ASP/9/Res.2, by which it, *inter alia*, requested the Bureau to establish, for a period of one year, a study group within The Hague Working Group to facilitate the dialogue referred to in paragraph 1 thereof, with a view to identifying issues where further action is required, in consultation with the Court, and formulating recommendations to the Assembly through the Bureau.

⁹ ICC-ASP/9/WGPB/1.

¹⁰ *Official Records ... Ninth session... 2010* (ICC-ASP/9/20), vol. II, part C.1.

¹¹ *Ibid.*, part C.2.

¹² ICC-ASP/9/2.

12. Premises of the Court

44. At its 4th meeting, on 9 December 2010, the Assembly took note of the oral report of the Chairperson of the Oversight Committee, Mr. Martin Strub (Switzerland), and of the report on the activities of the Oversight Committee,¹³ which highlighted that the permanent premises project remained within budget and schedule. The report also indicated that the Preliminary Design and the Building Delivery System had been approved by the Committee on the recommendation of the Project Board,¹⁴ and that the Committee kept the governance structure of the project under examination.¹⁵

45. At its 5th meeting, on 10 December 2010, the Assembly adopted, by consensus, resolution ICC-ASP/9/Res.1, whereby it welcomed the finalization of the preliminary design and formally approved the overall budget for the project at no more than €190 million (at 2014 price levels). The Assembly also, inter alia, requested the Oversight Committee, in cooperation with the Court and the host State, to continue its examination of the governance structure of the project and to implement any adjustments that might be required on a provisional basis, until approved by the Assembly of States Parties.

13. Election of the President of the Assembly for the tenth to twelfth sessions

46. At its 5th meeting, on 10 December 2010, the Assembly, on the recommendation of the Bureau, decided to defer the election of the President for the tenth to twelfth sessions to the tenth session, in accordance with rule 29 of the Rules of Procedure.

14. Decision concerning dates of the next session of the Assembly of States Parties

47. At its 5th meeting, on 10 December 2010, the Assembly decided to hold its tenth session in New York, from 12 to 21 December 2011, and decided further to hold its eleventh session in The Hague and its twelfth, thirteenth and fourteenth sessions in The Hague and New York, alternately.

15. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance

48. At its 5th meeting, on 10 December 2010, the Assembly decided that the Committee on Budget and Finance would hold its sixteenth session from 11 to 15 April 2011 and its seventeenth session from 22 to 30 August 2011, in The Hague.¹⁶

16. Other matters

(a) Composition of the current Bureau

49. At its 5th meeting, on 10 December 2010, the Assembly elected Ms. Simona Mirela Miculescu (Romania) as one of the Vice-Presidents of the Assembly to complete the term of former Vice-President Mr. Zachary Muburi-Muita (Kenya), who resigned on 27 August 2010.

(b) Independent Oversight Mechanism

50. At its 5th meeting, on 10 December 2010, the Assembly adopted resolution ICC-ASP/9/Res.5, by which it decided that the investigative function of the Independent Oversight Mechanism shall operate in accordance with the provisions of the Operational Mandate contained in the annex thereto.

¹³ ICC-ASP/9/28.

¹⁴ Ibid., paras. 20-24 and 28-30.

¹⁵ Ibid., paras. 61-62.

¹⁶ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. II, part B.2, para. 142.

51. The Assembly also invited the Court to continue to work with the Temporary Head and, once appointed, the Head of the Independent Oversight Mechanism, on the amendments to existing legal instruments, with a view to the adoption, at the next session of the Assembly, of all the amendments necessary for the full operationalization of the investigative function of the Independent Oversight Mechanism.

(c) Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

52. The Assembly expressed its appreciation to Australia, Ireland and Poland for their contributions to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

53. The Assembly noted with satisfaction that 25 delegations had made use of the Trust Fund to attend the ninth session of the Assembly.