



**Fifteenth ICC-ASP Bureau meeting**

**19 October 2010**

**Agenda and Decisions**

*The President of the Assembly, H.E. Mr. Christian Wenaweser (Liechtenstein), chaired the meeting*

**1. Working Groups of the Bureau**

*a) New York Working Group*

*Update by the facilitators*

*i) Arrears*

The facilitator, Mr. Yukihiro Wada (Japan), briefed the Bureau on the 8 October informal consultations on the issue. He indicated that eight States Parties were currently in arrears, owing a total of €70,424. In his capacity as facilitator, he would contact those States in arrears and encourage them to pay their outstanding contributions.

*ii) Geographical representation and gender balance in the recruitment of staff of the Court*

The facilitator, Mr. Eden Charles (Trinidad and Tobago), indicated his plans to consider the topic at a forthcoming informal meeting, likely to be held during the week of 25 October.

The President noted that the reports of the Working Groups should be submitted to the Bureau by 28 October 2010, to allow for timely circulation in advance of the next session of the Assembly.

*b) The Hague Working Group*

*i) Request by The Hague Working Group Coordinator for a mandate on the mechanism referred to in paragraph 9 of resolution ICC-ASP/8/Res.6*

The Bureau considered further the proposals contained in the letter, dated 1 October 2010, from the Coordinator of The Hague Working Group, Ambassador Jorge Lomónaco (Mexico), regarding the establishment of a consultation mechanism to enable the Bureau to carry out its mandate contained in paragraph 9 of resolution ICC-ASP/8/Res.6.

In order to engage in a structured dialogue between States Parties and the Court, the Bureau mandated The Hague Working Group to discuss the establishment of a consultation

mechanism, including its scope, duration and composition, for consideration by the Bureau and the Assembly at its ninth session. When appropriate, States Parties will be represented at their highest possible level in the consultation mechanism.

*ii) Deferral of the report of The Hague Working Group on complementarity*

The Bureau deferred the 28 October 2010 date for submission of the report of The Hague Working Group on the issue of complementarity until 5 November 2010, so as to allow that report to reflect an event on complementarity organized by the International Center for Transitional Justice on 29 October. The Bureau will consider the report at its meeting on 10 November.

*iii) Recommendation of The Hague Working Group on the Independent Oversight Mechanism*

The Bureau considered the recommendations of The Hague Working Group on:

- The appointment of a Selection Panel to carry out the recruitment procedure for the Head of the Independent Oversight Mechanism; and
- The commissioning of an assurance mapping study into the existing oversight mechanisms of the Court

The Bureau adopted the decision on the appointment of the Selection Panel to carry out the recruitment procedure for the Head of the Independent Oversight Mechanism contained in the annex to this document.

With a view to further considering a reservation on the draft decision voiced by a delegation, the Bureau decided to defer consideration of the draft decision on the commissioning of an assurance mapping study into the existing oversight mechanisms of the Court to its next meeting.

## **2. Preparations for the ninth session of the Assembly of States Parties**

*a) Provisional programme of work for the ninth session of the Assembly of States Parties*

In light of the proposed additional agenda items on pledges and relating to the pension scheme regulations for judges, as well as the election of the President of the Assembly and issues relating to the Independent Oversight Mechanism, the Bureau decided to revert to this topic at its next meeting.

*b) Establishment of a Working Group on Amendments pursuant to resolution ICC-ASP/8/Res.6*

The Bureau appointed Ambassador Paul Seger, Permanent Representative of Switzerland to the United Nations, as the Coordinator of the Working Group on Amendments, established by resolution ICC-ASP/8/Res.6.

*c) Appointment of a facilitator for the omnibus resolution*

Further to his briefing to the Bureau at its fourteenth meeting, the President informed the Bureau that his consultations to identify a facilitator for the omnibus resolution were still ongoing. He also emphasized the necessity of taking a decision on this question at the next meeting of the Bureau on 28 October, in order to allow for a timely start of work on the omnibus resolution.

*d) General debate*

Rule 45 of the Rules of Procedure of the Assembly provides for representatives to address the Assembly, with the permission of the President.

The revised provisional agenda for the ninth session, which the Bureau approved at its twelfth meeting, on 6 July, contains an agenda item entitled "General debate".

*(i) Time limits*

Rule 50 of the Rules of Procedure provides that the Assembly may limit the time to be allowed to each speaker and the number of times each representative may speak on any question.

The Bureau recommended, on the basis of previous decisions of the Assembly, to request speakers in the general debate to observe a time limit of five minutes.

The Bureau requested the President to inform States that a general debate would be held on 6 December and on 7 December in the morning, of the opening of the list of speakers on 1 November 2010 (Central European Time), and of the time limit for such statements.

*(ii) Participation of observers and non-governmental organizations*

Rule 92 of the Rules of Procedure provides for the participation by representatives designated by entities, intergovernmental organizations and other entities that have received a standing invitation from the General Assembly of the United Nations, as observers in the sessions and work of the Assembly, without the right to vote.

The Bureau recommended, on the basis of previous Assembly decisions, that the Assembly allocate 45 minutes to the participation in the general debate of observers, pursuant to rule 92 of the Rules of Procedure of the Assembly.

Furthermore, Rule 93 provides for the participation in the meetings of the Assembly by non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or having consultative status with the Economic and Social Council of the United Nations.

The Bureau recommended that 45 minutes be allocated to the non-governmental organizations for the delivery of statements at the end of the general debate.

*e) Side events*

In view of the current space constraints at United Nations Headquarters, the Bureau requested States, observers and non-governmental organizations wishing tentatively to hold side-events during the ninth session to so indicate to the Secretariat by 31 October 2010, with a view to the preparation of a draft Journal for consideration by Bureau at its November meeting.

*f) Review Conference follow-up*

*Pledges*

The Netherlands, co-facilitator for the issue of pledges, requested the allocation of a plenary meeting to this topic, and noted that this would be done under item 17 of the provisional agenda, "Review Conference follow-up". The President indicated that this would be taken into account in a new provisional programme of work, to be circulated in advance of the next Bureau meeting.

**3. Composition of the current Bureau**

The delegation of South Africa, which had been appointed by the Bureau at its fourteenth meeting to lead the consultations within the African Group to identify a successor to serve for the remainder of the term of former Vice-President Ambassador Muburi-Muita (Kenya), briefed the Bureau on those consultations. The President and the delegation of South Africa expressed their hope that consultations would continue with a view to reaching a decision at the next meeting of the Bureau.

**4. Election of the President of the Assembly for the tenth to twelfth sessions**

The President informed the Bureau that preliminary consultations for identifying a candidate for the election as President of the Assembly were ongoing. He reiterated that under the principle of equitable regional representation, the next President should, if possible, come from the African or the Eastern European Group, and should, in keeping with established practice, be a Permanent Representative based in New York. The President asked all delegations and especially those from the African and Eastern European Groups to continue their consultations in this regard.

**5. Election of the Prosecutor for the period starting 2012**

The President introduced –draft terms of reference for a possible Search Committee for the position of the ICC Prosecutor. He noted that he had considered, in particular, delegations' concerns on transparency and confidentiality when drafting the terms of reference. He also underscored the need for the appointment of the Prosecutor to occur, ideally, at the tenth session of the Assembly of States Parties and certainly no later than January 2012 in order to allow for an orderly transfer between the incoming and outgoing Prosecutors.

Following a discussion in the Bureau, the President indicated that he would produce a revised version of this paper for consideration by the Bureau at its next meeting.

**6. Other matters**

*a) Visit of the President to the Court*

The President briefed the Bureau on his 11 – 14 October visit to the seat of the Court including an informal plenary meeting of the judges that he attended and a retreat with the heads of the Court's organs on the issue of governance, which he had convened.

*b) Request for the inclusion of an additional item on the agenda of the ninth session*

The Bureau decided to revert to this issue at the next Bureau meeting by which time more information on the date of the solemn undertaking of judges, pursuant to article 45 of the Statute, or the actual date of commencement of the respective terms of office of the judges concerned would be obtained.

**7. Other matters**

*Future Bureau meetings*

The Bureau will meet on 28 October to listen to an update from the Prosecutor of the Court on his work, in particular with respect to the ongoing investigations in the Democratic Republic of the Congo and Kenya, and to consider other issues it had decided to take up at that meeting.

It will also meet on 10 November to consider the Report of The Hague Working Group on complementarity, and discuss other issues as necessary.

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## Annex

### Decision of the Bureau on the appointment of the Selection Panel to carry out the recruitment procedure for the Head of the Independent Oversight Mechanism

Recalling resolution ICC-ASP/8/Res.1 (“the resolution”), by which the Independent Oversight Mechanism was established, and in particular paragraph 3 of the annex thereto which provides that “the recruitment process for the position of the head of the oversight mechanism shall be conducted by the Bureau in co-ordination with the Court”, the Bureau decides the following:

1. The Bureau appoints the Selection Panel, which shall be based in The Hague and shall be comprised of the following representatives of the States Parties:
  - (a) Mr. Pavel Caban (Czech Republic)
  - (b) Ms. Yolande Dwarika (South Africa)
  - (c) Mr. Kanbar Hossein Bor (United Kingdom)
  - (d) Mr. Tsuyoshi Ideta (Japan)
  - (e) Mr. Guillaume Michel (Mexico)
2. The Selection Panel shall carry out the recruitment procedure for the Head of the Independent Oversight Mechanism, pending the decision on the staffing level which may be taken by the Assembly at its ninth session, starting with the placing of the vacancy announcement and ending with the selection of the suitable candidate(s);
3. The Selection Panel shall decide on the rules to be applied in its work, in accordance with the resolution and this decision. The Selection Panel shall regularly report the progress of its work to the Hague Working Group;
4. The Selection Panel shall endeavour to take all its decisions by consensus. However, if consensus cannot be reached, the Selection Panel shall take decisions by the majority of its members, unless otherwise provided by this decision;
5. The Selection Panel shall be assisted in its work by the Temporary Head of the Independent Oversight Mechanism, who shall be present at all meetings of the Selection Panel, unless otherwise decided by the Selection Panel, but shall have no right to vote;
6. In performing administrative and other practical tasks, the Selection Panel shall be assisted by the Court and the Secretariat of the Assembly of the States Parties. The Selection Panel may decide to delegate some of its functions, such as pre-selection of the applicants, to the Court and the Temporary Head of the Independent Oversight Mechanism and may decide to invite one or more representatives of the Court to be present at its meetings. All applications shall be made available to the members of the Selection Panel;
7. Once the Selection Panel draws up a short-list of three to five suitable candidates, the short-list shall be submitted to the Court, which may give its views about each of the short-listed candidates. The views of the Court shall be taken into consideration by the Selection Panel, but shall have no binding effect on the Selection Panel;
8. At the end of the recruitment process, the Selection Panel shall, by consensus, select one candidate and propose to the Bureau the appointment of this candidate to the position of the Head of the Independent Oversight Mechanism. The proposal of the Selection Panel shall be accompanied by the reasons why the particular candidate was selected, as well as the views of the Court, if any, about that candidate;

9. If the decision on the selection of one suitable candidate cannot be taken by consensus, the Selection Panel shall submit to the Bureau the names of two or more suitable candidates, together with the observations of the members of the Selection Panel with respect to each of the candidates and the views of the Court, if any, about the candidates;

10. After receiving the proposal/information from the Selection Panel in accordance with paragraphs 8 or 9 of this decision, the Bureau may:

- (a) Request further information about the candidate(s) from the Selection Panel;
- (b) Interview the proposed candidate(s);
- (c) Decide on the appointment and request the Registrar to formally appoint as Head of the Independent Oversight Mechanism the candidate proposed by the Selection Panel in accordance with paragraph 8 or one of the candidates whose names are forwarded to the Bureau in accordance with paragraph 9;
- (d) Request the Selection Panel to review the selection procedure if none of such candidates is found suitable for appointment.

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