



## BUREAU OF THE ASSEMBLY OF STATES PARTIES

### Fourteenth meeting

3 December 2014

### Agenda and Decisions

#### 1. Preparations for the thirteenth session of the Assembly

##### *a) High-level speakers*

The Bureau was informed that in addition to the invitation to H.E. Ms Catherine Samba-Panza, President of the Central African Republic, the Under-Secretary of Legal Affairs of the United Nations, H.E. Mr. Miguel de Serpa Soares, would speak at the opening meeting in representation of the United Nations Secretary-General, H.E. Mr. Ban Ki Moon. The Bureau was informed that the Minister of Foreign Affairs of Senegal, H.E. Mr. Mankeur Ndiaye, will speak on behalf of the President of Senegal H.E. Macky Sall.

##### *b) Composition of the Bureau for the thirteenth to sixteenth sessions of the Assembly*

The Bureau was informed that consultations to identify an individual from among the members of the Bureau, with the rank of both Ambassador and head of mission, to serve as Vice-president in New York, are still ongoing.

##### *c) List of supplementary agenda items*

The Bureau had before it the “Request by the Court for inclusion of the supplementary item ‘Applicability of the former Court’s pension regime to former Court’s judges Cotte and Nsereko’ (ICC-ASP/13/34/); a revised version of the request by Uganda for inclusion of an additional item in the agenda pursuant to rule 13 of the Rules of Procedure of the Assembly of States Parties (ICC-ASP/13/35/Rev.1); and a note verbale from the Permanent Mission of France to the United Nations, dated 28 November 2014.

The Bureau decided to recommend to the Assembly, the inclusion, under rule 12, of a supplementary item to the agenda: “Applicability of the former Court’s Pension regimes to Former Judges Cotte and Nsereko” as submitted by the Court. The documentation for this item would comprise the original documentation submitted by the Court as well as the documentation submitted by Uganda and France.

The Bureau continued its consideration of the request made by Kenya for a supplementary agenda item.

*d) Credentials Committee*

The Bureau decided to recommend to the Assembly the appointment of the following States as members of the Credentials Committee: Cote d'Ivoire, Mali, Denmark and Liechtenstein

The Bureau appointed Argentina as GRULAC focal point to identify two members for the Credentials Committee.

*e) Judicial elections: National tellers*

The Bureau decided to appoint Mali and the Netherlands as the national tellers for the African Group and the Group of Western European and other States.

*f) Pledges*

The Bureau took note of that the information available on the webpage of the Assembly on the pledges ceremony.

*g) Provisional work programme*

The Bureau decided to allocate additional time in the work programme as follows: a) 30 additional minutes to permanent premises, on 15 December from 12:30-13:00 and b) to schedule a meeting of the Working Group on Amendments on 12 December from 16:30 to 17:30, to continue and potentially conclude the discussion on the proposals to amend rules 76, 101 and 144 of the Rules of Procedure and Evidence.

A revised programme of work would be disseminated to States and placed on the Internet.

*h) Other preparations*

The Bureau was informed by the Secretariat of the Assembly limited seating capacity available in conference room 1 in the renovated UN Secretariat building, which had been allocated by UN for the thirteenth session of the Assembly, which meant that two seats would be available per delegation. Additional seats would be available for delegates in the rear part of the conference room

The Bureau was also informed that more than 500 representatives from civil society have registered under rule 93 of the Rules of Procedure of the Assembly and that in the absence of the availability of an "overflow" room for delegates and members of civil society, the Secretariat had requested the webcasting of the opening meeting of the Assembly.

In accordance with the paper-light approach endorsed by the Assembly in recent years, there will be limited printed documentation in the plenary room. Pen drives containing all the pre-session documentation for the Assembly would be made available for delegates, while the official documentation would continue to be made available via the webpage of the Assembly.

Bureau meetings were scheduled for every day of the Assembly session, from 8:30 to 9:30 in conference room 7.

## **2. Reports of the Bureau**

The Bureau adopted the report on non-cooperation and the report of the Working Group on Amendments, both dated 2 December.

The Bureau took note of the request made to ensure that in the future Bureau member be given sufficient time to consider the reports.

## **3. Independent Oversight Mechanism: Selection panel recommendation**

Belgium, the facilitator of the consultations on the recruitment of the permanent head of the IOM, informed the Bureau that it had conveyed to the delegation of Uganda the reply from the recruitment panel of the additional clarification Uganda had requested on the written test; thus it considered that having satisfied all inquiries, the Bureau was in a position to make a decision and that such decision should be taken by this Bureau whose mandate would conclude on 8 December.

The President informed that she intended to request the Bureau to make a decision at its next meeting.

## **4. Other matters**

### *a) Quarterly report by the Court on legal aid*

The Bureau took note of the Registry's sixth quarterly report on legal aid, dated 1 December 2014.

### *b) Judicial Developments*

The Court informed the Bureau of judicial developments:

**Situation of the DRC, Prosecutor v Thomas Lubanga Dyilo:**<sup>1</sup> 1 December 2014, the Appeals Chamber of the ICC, delivered, in open session, its judgments on Mr. Lubanga's appeal against the verdict issued by ICC Trial Chamber I, that Mr. Lubanga was guilty of the enlistment, conscription and use in hostilities of children under the age of fifteen. The Appeals Chamber issued simultaneously its judgment on the appeals of the Prosecutor and Mr Lubanga against the sentence imposed by the Trial Chamber. The Appeals Chamber confirmed, by majority, the

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<sup>1</sup> [http://icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr1069.aspx](http://icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1069.aspx)

verdict declaring Mr. Lubanga guilty and the decision sentencing him to 14 years of imprisonment.

**Situation of Kenya, Prosecutor v Kenyatta:**<sup>2</sup> On 3 December, the Court issued its decision rejecting the Prosecution's request for a further adjournment of the case against Mr. Uhuru Kenyatta, as well as the Defence's request to terminate the proceedings. The Chamber instead directed the Prosecution to file a notice, within one week, indicating either (i) its withdrawal of the charges in this case, or (ii) that the evidentiary basis has improved to a degree which would justify proceeding to trial.

On 3 December, the Court also issued its decision on the Prosecution request, dated 29 November 2013, for a finding of non-cooperation against the Kenyan Government and referral of the matter to the Assembly of States Parties to the Rome Statute, alleging that the Government had failed to comply with a request to produce financial and other records relating to Mr Kenyatta. The Chamber found that the approach of the Kenyan Government to the cooperation had not met the standard of good faith cooperation required from States Parties under the Rome Statute. In particular, the Chamber found that the Kenyan Government had taken no meaningful steps to compel production of the materials requested by the ICC Prosecutor. According to Trial Chamber V(B), the Kenyan Government's non-compliance has impinged upon the Court's ability to fulfil its functions and powers and in particular, the Chamber's truth-seeking functions. Despite having expressed strong concerns regarding the approach of the Kenyan Government, the Chamber exercised its discretion in not referring the matter to the Assembly of States Parties, since the Chamber was not persuaded that a referral would facilitate a fair trial, was in the interests of justice or was otherwise appropriate in the particular circumstances.

**Annual Report on Preliminary Examinations of the Office of the Prosecutor** was issued on 2 December and is available on the Court's website.<sup>3</sup>

*c) Next Bureau meeting*

The Bureau decided to meet on 5 December.

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<sup>2</sup> [http://icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/PR1071.aspx](http://icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/PR1071.aspx)

<sup>3</sup> [http://icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/PR1070.aspx](http://icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/PR1070.aspx)