



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Fifth meeting**

**New York**

22 September 2017

Agenda and decisions<sup>1</sup>

*The meeting was chaired by the President of the Assembly of States Parties, H. E. Mr Sidiki Kaba (Senegal).*

**1. Preparations for the sixteenth session of the Assembly**

*a) Incoming Bureau*

*i) Judge O-Gon Kwon, candidate recommended for the position of President of the Assembly*

The delegation of the Republic of Korea, speaking on behalf of Judge Kwon, thanked the President and the members of the Bureau for the smooth conduct of the nomination process and outlined the main pillars of the future Presidency program, namely universality, the strengthening of dialogue and cooperation. The delegation finally reiterated the support of the Government and the Permanent Mission of the Republic of Korea to Judge Kwon.

*ii) Status of consultations on the composition of the future Bureau*

As regards identifying the other 20 members of the future Bureau, the Bureau had previously designated the Czech Republic, Gabon, Japan and Norway<sup>2</sup> to lead the consultations in the Eastern European, African, Asia-Pacific and Western European and other States regional groups. All regional focal points indicated that they would continue the regional consultations to identify candidates for the Bureau.

Colombia, speaking on behalf of the Group of Latin American and Caribbean States, indicated that consultations were under way to identify a regional focal point and the candidate countries for the Bureau.

The President requested the regional focal points to conclude their consultations by 15 October 2017 and to inform the Secretariat of the outcome of the consultations.

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<sup>1</sup> The decision adopted via silence procedure, which ended on 27 July 2017, is reflected in the annex.

<sup>2</sup> See Bureau decisions of 20 February, 5 and 21 June 2017.

*b) Judicial elections*

*i) Status of nominations for the election of judges*

Further to the Bureau's 20 February 2017 decision to open the nomination period for the election of six judges of the Court during the sixteenth session of the Assembly, to run from 26 April to 16 July 2017, the President had, pursuant to resolution ICC- ASP/3/Res.6<sup>3</sup>, extended the nomination period three times, with the final extension period closing on 27 August 2017.

The President announced that the Bureau had received 12 nominations at the end of the nomination period.<sup>4</sup>

*ii) Nomination of national tellers*

Following his request of 5 June 2017, the President reminded regional groups that in the coming weeks they would have to communicate to the Secretariat the five national tellers selected to assist with the election. The Secretariat will organize a training session for national tellers on 1 December 2017 at the United Nations Headquarters.

*c) Election of members of the Committee on Budget and Finance: status of nominations*

The President informed the Bureau that the number of candidates for the Committee on Budget and Finance remained below the number of seats, pointing out that there was a lack of candidates from Africa and Western Europe. In accordance with paragraph 4 of resolution ICC-ASP/1/Res.5, the nomination period for the members of the Committee was extended for a second time until 24 September 2017<sup>5</sup>.

*d) Credentials Committee*

The President invited the representatives of the regional groups to inform the Bureau whether the members of the Credentials Committee for the fifteenth session<sup>6</sup> would be willing to serve on the Committee during the sixteenth session. In the absence of confirmation from them, the President requested that regional groups hold consultations and, ideally by the end of November, indicate the States wishing to be members of the next Credentials Committee.

*e) Seating arrangement*

In accordance with Assembly decision ICC-ASP/1/Decision.4,<sup>7</sup> the President drew lots to choose the State Party that would occupy the first desk on the Assembly floor: Chile.

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<sup>3</sup> Paragraph 11 stipulates: "The President of the Assembly of States Parties shall extend the nomination period for two weeks, but no more than three times, if at the end of the nomination period any regional or gender minimum voting requirement is not matched with at least twice the number of candidates fulfilling that requirement."

<sup>4</sup> ICC-ASP/16/3.

<sup>5</sup> ICC-ASP/16/6.

<sup>6</sup> Czech Republic, Kenya, Panama, Peru, Republic of Korea, Senegal, Slovakia, Sweden and the United Kingdom of Great Britain and Northern Ireland.

<sup>7</sup> ICC-ASP/1/ Decision 4 states as follows: "The Assembly of States Parties recommends that the President of the Assembly of States Parties draw lots for the purpose of choosing the State Party to occupy the first desk on the Assembly floor from which the alphabetical seating order will begin. After a given State Party's name is drawn, the delegation of that State Party will sit at the first desk to the right of the President and the other States Parties will follow in English alphabetical order. For the purposes of the first meeting of the Assembly, the Secretary-General of the United Nations will draw the lots."

*f) Programme of work*

The Bureau began its consideration of the draft program of work which will be the subject of a subsequent Bureau decision. This will allow for the opening of the list of speakers for the general debate.

The President called for further consultations to reach consensus on the date of the election of the incoming Bureau. The provisional programme would also include a segment on the twentieth anniversary of the Rome Statute.

*g) General debate*

Following the practice introduced at the eleventh session of the Assembly, the President indicated to States the possibility of participating in the debate by making written submissions, which will be posted on the website of the Assembly and further, invited States in a position to do so to submit written statements only.

*h) Side events*

In order to facilitate proper planning by the Secretariat, the President requested States, observers and non-governmental organizations wishing tentatively to hold side-events during the sixteenth session to so indicate to the Secretariat by 31 October 2017, with a view to the preparation of a draft advance Journal for dissemination in the week of 6 November 2017.

*i) Trust Fund for the participation of least developed countries and other developing States*

Considering the limited funds available in the Trust Fund to enable representatives of least developed countries and other developing States to participate in the sixteenth session, the President encouraged States that can do so to contribute to the Fund before the end of October 2017.

## **2. Amendments to the Regulations of the Court**

The Bureau took note that on 12 July 2017, the judges of the Court, at their thirty-sixth plenary session, adopted amendments to the Regulations of the Court. The judges determined, pursuant to article 52(3) of the Rome Statute, that the amendments would enter into force upon their publication by way of a press release. The amendments entered into force on 20 July 2017 upon the publication of a press release of that date.

On 21 July 2017, the Secretariat circulated the amendments to States Parties for comments, which should be conveyed to the Secretariat Friday, 19 January 2018. In the absence of objections from a majority of States Parties, the amendments shall remain in force.

The President requested States Parties wishing to submit comments to do so before the deadline specified.

## **3. Activities of the President**

The President informed the Bureau of the successful holding of International Criminal Justice Day on 17 July in Dakar on the theme "Challenges and opportunities for the ICC on the eve of the 20<sup>th</sup> anniversary of the Rome Statute" and the bilateral meetings he held at the seventy-second session of the United Nations General Assembly in the context of promoting the universality of the Rome Statute and strengthening diplomatic and political

support to the Court. The President finally recalled that he would preside at the sixteenth session of the Assembly to be held from 4 to 14 December 2017 in New York.

#### 4. Other matters

##### *a) Developments at the United Nations Security Council and the United Nations*

In its capacity as focal point for the States Parties to the Rome Statute in the Security Council for 2017, Italy announced that the Prosecutor of the Court would present her report on Libya before the Security Council in November 2017 and her report on Darfur in December 2017.

Italy also indicated that it is leading an initiative for the extension of the Working Group on International Crimes in order to highlight the importance of justice and cooperation within the Council.

Furthermore, Italy announced the unanimous adoption on 21 September by the Security Council of resolution 2379 on the fight against impunity for crimes committed by Daesh in Iraq.<sup>8</sup> Although the resolution contains no reference to the International Criminal Court, it sends a strong message on the importance of the fight against impunity and offers the possibility for Iraq to resort to an international tribunal where appropriate.

The Liaison Office of the Court in New York informed the Bureau that the President of the Court would present the Court's report on its activities to the General Assembly of the United Nations on 30 October.

##### *b) Decision 3859 of the Administrative Tribunal of the International Labour Organisation, dated 28 June 2017*

The Bureau examined decision 3859 of the Administrative Tribunal of the International Labour Organisation (ILOAT),<sup>9</sup> by which the Tribunal set aside the Assembly's 17 December 2014 decision insofar as it provided that the amended Pension Scheme Regulations for judges applied to the complainants, two former judges of the Court.

The Bureau noted the advice provided by the Registrar to The Hague Working Group that the funds for the payments required as a result of the ILOAT decision would be taken mainly from the underspend of the 2016 budget. In this connection, a view was expressed that the 2016 budget should not have been used without explicit authorization from States Parties.

The President indicated that this issue could be further discussed in the context of the budgetary facilitation of The Hague Working Group.

##### *c) Status of arrears and contributions*

The Bureau noted that according to the information provided by the Court, as at 31 August 2017 the Court had recovered 79 per cent of the 2017 contributions, in other words €129,375,742, and that arrears for the 2017 budget stood at €33,647,085. Furthermore, the number of States subject to article 112, paragraph 8 of the Rome Statute and therefore ineligible to vote in the Assembly and the Bureau was 13.

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<sup>8</sup> S/RES/2379(2017).

<sup>9</sup> Decision dated 28 June 2017, available at: [http://www.ilo.org/dyn/triblex/triblexmain.fullText?p\\_lang=en&p\\_judgment\\_no=3859&p\\_language\\_code=EN](http://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=3859&p_language_code=EN)

The President urged those States Parties in arrears to make every effort to pay their assessed contributions to the budget of the Court<sup>10</sup> as soon as possible.

*d) Contingency Fund notifications*

The Bureau took note of the supplementary budget notifications, dated 11 September 2017 submitted by the Registrar pursuant to regulation 6.7 of the Financial Regulations and Rules to meet unforeseen and unavoidable costs regarding:

- i) Reparations, in the case *The Prosecutor v. Jean-Pierre Bemba Gombo*;
- ii) Legal aid, in the cases *The Prosecutor v. Jean-Pierre Bemba Gombo et al. (Article 70)*, *The Prosecutor v. Al Mahdi*, *The Prosecutor v. Dominic Ongwen* and *The Prosecutor v. Bosco Ntaganda*.

The status of Contingency Fund notifications, reflects that as at 12 September 2017, the total amount requested stood at €1,532,500.00.

Some Bureau members expressed concerns regarding the use of the Contingency Fund in the cases notified by the Registrar, and also regarding the classification of those costs as “unforeseen” and “unavoidable”.

Finally, the Bureau noted that the Committee on Budget and Finance would be considering the Contingency Fund notifications submitted by the Court at its twenty-ninth session.

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## **Annex**

On 27 July 2017, the Bureau appointed via silence procedure Mr. Alfredo Álvarez Cárdenas (Mexico) as co-focal point for the Study Group on Governance (Cluster II: Governance) to replace Ms. Lourdes Suinaga (Mexico).

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<sup>10</sup> See the letter of the President of the Assembly dated 21 September 2017.