
Assembly of States Parties

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The Hague

28 November to 3 December 2005

Report of the Bureau on the permanent premises of the Court

At its third session, in resolution ICC-ASP/3/Res.8 the Assembly of States Parties requested the Bureau, inter alia, “to focus upon those priority issues which the Bureau considers most appropriate, including in particular the premises of the Court...” and to “report back informally to the Assembly of States Parties in advance of its fourth session in relation to each priority issue”. In December 2004, the Bureau of the Assembly decided to establish two informal working groups, one in The Hague and the other in New York. The Hague Working Group of the Bureau was mandated to consider, inter alia, the issue of permanent premises. The Bureau took note of the fourth meeting of The Hague Working Group and decided to forward that report to the Assembly for its consideration.

Annex

BUREAU OF THE ASSEMBLY OF STATES PARTIES

HAGUE WORKING GROUP

Report of the fourth meeting

Ministry of Foreign Affairs of the Netherlands

2 November 2005, 9.30-13.30 hrs

1. The meeting was opened by the Chair of The Hague Working Group, Ambassador Gilberto Vergne Saboia (Brazil).
2. After adoption of the agenda (appendix 1), the Chair recalled that the Working Group was considering, for the second time, the issue of the permanent premises for the Court and that given the forthcoming fourth session of the Assembly of States Parties the meeting of the Working Group provided the opportunity for an analysis of the issue and a substantive discussion on the possible outcome of the consideration by the Assembly of this item.
3. In particular, the Chair drew attention to the fact that the technical and financial aspects contained in the relevant documents would constitute the core of the Working Group's deliberations, but that it was necessary not to lose sight of the broader implications of the issue of permanent premises for the future of the Court. In order to operate effectively as a fully operational judicial institution, the Court needed to be equipped with adequate and dignified resources.
4. After highlighting the comments and recommendations of the Committee on Budget and Finance on the matter, contained in document ICC-ASP/4/27, the Chair noted that, accordingly, although the Assembly would not be likely to reach a definitive conclusion on the issue, it was preferable that it reaches some preliminary decision regarding the available housing options, in order to enable the continuation of the work on a time schedule compatible with the 2012 deadline. Given also the picture that emerged from the report on "Financing Methods Used for the Premises of Other International Organizations", the fourth session of the Assembly would constitute an adequate moment for a debate where States Parties would have an opportunity to express views on this issue and its possible impact on the future of negotiations. Consideration could also be given to the establishment of a subsidiary body of the Assembly, composed of personalities with the necessary technical and political requirements to contribute to attaining a positive solution on the issue.
5. The Chairman of the Inter-Organ Committee on the Permanent Premises, Judge Hans-Peter Kaul, then made a presentation on the issue of permanent premises.
6. Subsequently, the Working Group was also addressed by Ambassador Edmond Wellenstein, Director General, ICC Task Force, Ministry of Foreign Affairs of the Netherlands.
7. The Working Group then had an exchange of views on the content of the reports presented by the Court, as well as on the recommendations of the Committee on Budget and Finance and on the best means of moving forward on the item. The issues discussed included, the following: the cost of an environmental clean up of the Alexanderkazerne being financed by the host State prior to the Court being able to begin construction on the premises; additional discussion on the possibility of the Court holding trials away from the seat of the Court; possible financial support by the host State for the permanent premises, in terms that

are more favourable than those of a commercial nature; the likelihood of cost overruns and a longer than expected time-period for conclusion of the permanent premises, along with the practical and financial implications of such scenarios; and the need to bear in mind not only the financial aspects of the different options for permanent premises, but also other key elements such as security concerns.

8. The Working Group also had a discussion on its possible future role, after the fourth session of the Assembly. A view was expressed that the Assembly consider the possibility of extending the work of the Working Group in order to provide ongoing support to the Court in a variety of matters.

9. After a lengthy discussion, the Working Group came to the conclusions contained in appendix 2.

Appendix 1

Agenda

1. Adoption of the agenda.
2. Organization of work.
3. Permanent premises.
4. Other matters.

Appendix 2

Conclusions

1. The Working Group examined the following reports prepared by the Court at the request of the Committee on Budget and Finance on the issue of permanent premises for the Court: “Financial Comparison of Housing Options” (ICC-ASP/4/23); “Interim Report on the Composition of Estimated Staffing Levels” (ICC-ASP/4/24); and, “Financing Methods Used for the Premises of Other International Organizations” (ICC-ASP/4/25). It also considered the comments and recommendations made by the Committee on the matter, contained in the report of the Committee on the work of its fifth session (ICC-ASP/4/27).

2. The Working Group welcomed the reports prepared by the Court, as well as the detailed briefings provided to the Working Group. However, the Working Group shared the view expressed by the Committee that, in the absence of the Court Capacity Model and the Strategic Plan, a definitive decision on the issue of permanent premises could not possibly be attained this year. The Working Group noted that these documents would be essential in order to facilitate a decision on this matter. The Working Group also took note that the Court itself had identified the Alexanderkazerne as the most preferable option and of the views of the Committee on Budget and Finance on this matter. It also noted that the report on “Financial Comparisons of Housing Options” indicated that the cost difference between the three options seem to be relatively minor.

3. The Working Group further noted that, as shown in the report on “Financing Methods Used for the Premises of Other International Organizations”, organizations examined in the report were offered more favourable conditions than the ones currently being offered by the host State to the Court, and that if conditions prevailing in other venues were applied to the future permanent premises of the Court the financial burden on States Parties could be considerably reduced.

4. The Working Group stressed the need for negotiations to proceed further on pending issues, in particular with a view to clarify costs and acceptable financial modalities so that a definitive decision on the development of permanent premises can be taken by the Assembly as early as possible.

5. The Working Group was also of the view that States Parties have a paramount interest on a favourable and early solution of the issue of permanent premises. In that regard it suggests that the Assembly consider the recommendations of the Committee in relation to the establishment of expert committee on buildings and finance and its relationship to the work of the Working Group.