



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Sixth meeting

14 June 2023

(via remote link)

Agenda and decisions

The meeting was chaired by the President, Ms. Silvia Fernández de Gurmendi. Vice-Presidents Ambassador Robert Rae (Canada) and Ambassador Kateřina Sequeñová (Czech Republic) also participated.

1. Review Mechanism- update

The State Party representative on the Review Mechanism, Ambassador Michael Imran Kanu (Sierra Leone), also on behalf of Ambassador Paul van den IJssel (Netherlands), briefed the Bureau on the work of the Review Mechanism.

Ambassador Kanu provided an overview of the discussions held at the 13 June 2023 meeting of the Review Mechanism. Those discussions had focused on the implementation of “Remaining recommendations to be assessed by the Court”, i.e. recommendations that were judiciary-led, according to the Comprehensive Action Plan. They fell under Chapter XVII of the IER’s 2020 report, “Victim participation”: recommendations RR 336, 337 and 339; and Chapter XVIII: “Victims’ reparations and Assistance”, i.e., RR 345, 348, 349 and 352. Recommendations R359 and R360, which fall under Section C, “The TFV and its Secretariat: Governance and functioning”, were led by the Registry.

With regard to the recommendations led by the Judiciary, the judges had completed their assessment thereof at their 2 June retreat. The Chef de Cabinet of the ICC Presidency had indicated that R336, R337, R345 and R349 had been positively assessed with modifications and R348 and R352 had been positively assessed.

With regard to the recommendations led by the Registry, the Registry focal point had indicated that R339, R359 and R360 had been negatively assessed.

Ambassador Kanu noted that in this meeting the Review Mechanism had concluded the assessment of all the recommendations which it had allocated to itself in the Comprehensive Action Plan, with deference to the assessment by the judges of the Court.

Moving forward, the Review Mechanism envisaged one additional roundtable, to be held in the second half of June, which would focus on the implementation of recommendations concerning the Secretariat of the Trust Fund for Victims. The Review Mechanism was committed to submitting its report on the overall progress of its work by 30 June, in accordance with resolution ICC-ASP/21/Res.4.

As has been its practice since the inception of its mandate, the Mechanism would continue to consult with States Parties, facilitators, the Court, civil society, and all stakeholders,

in the interest of inclusiveness and transparency. In particular, the Mechanism would like to hear views on the issue of the future of the Review Mechanism.

The Review Mechanism would also continue to regularly brief States Parties and all stakeholders on its work through briefings to the Bureau and its working groups.

The President welcomed that the Mechanism was engaging on its future and she noted that it was a topic upon which States Parties and all stakeholders had started to reflect.

2. Request of States Parties for an IOM evaluation of the Secretariat

The President recalled that at the Bureau's preliminary discussion of the issue at its 10 May meeting, the Bureau had agreed to continue consultations on the potential scope of the evaluation with the assistance of Germany. As was the standard practice, it would be for the IOM to prepare the precise terms of reference for the evaluation based on what the Bureau agreed.

Germany introduced the draft text of the Bureau's mandate to the IOM. Germany had liaised with the IOM as well as with some States Parties. The proposal was underpinned by three considerations: a) it was the right thing to do, as there had been evaluations of other organs and offices of the Court and it was time to look at this part of the system; (b) it followed up on the IER recommendations R369 and R370. While the recommendations had been negatively assessed, States Parties thought the Secretariat was ripe for an evaluation; and (c) elaborating text that would garner support from all States Parties, while at the same time not tying the hands of the IOM, so as to enable it to provide sufficient guidance to States Parties without micromanagement.

The Head of the IOM clarified the process regarding the Terms of Reference. Once the language of the mandate was finalized and the request formally conveyed to the IOM, the IOM would then engage with key stakeholders, e.g. the Director of the Secretariat, States Parties, and the Presidency. On the basis of those consultations, the IOM would prepare the Terms of Reference. He noted that the earlier process for the evaluation of the Secretariat of the Trust Fund for Victims had followed these lines.

The Head of the IOM drew attention to the fact that he had included in the IOM's proposed programme budget for 2024 funds to cover this evaluation, for which an External Expert would be recruited.

The President noted the comments made during the discussion about the need to consider the working environment in consultation with the Staff Union Council. She also noted the comment made about the need for caution in assessing the geographical representation, given the small size of the office, as well as the query on the possibility of including a consideration of gender balance.

The Bureau agreed to request the IOM to prepare terms of reference for the evaluation of the Secretariat taking into account the following mandate agreed by the Bureau:

“The Bureau requests the IOM to evaluate the work of the SASP, focusing on issues of governance, resources, effectiveness, streamlining of functions and geographical representation. This would include the Professional and General Services staff of the Secretariat, and the support provided by the Registry of the Court and by the New York Liaison Office. Furthermore, the IOM evaluation would seek to identify areas, if any, in which the efficiency and effectiveness of the Secretariat can be enhanced.”

3. Twenty-fifth anniversary of the adoption of the Rome Statute- update

The President informed the Bureau that preparations were ongoing for the commemorative events. Concerning the 12 July 2023 commemorative event in The Hague, the Secretariat would be sending the invitation in the following days once the programme had been finalized.

Details for the programme of the 17 July 2023 commemorative event in New York were being finalized. Concerning the Ministerial Roundtable to be held during the morning session, the President indicated that while the participation of Ministers was preferred, the Secretariat had accepted requests to inscribe Deputy Ministers, on the understanding that Ministers would take precedence and taking into account equitable geographical representation, to allow for a cross-regional discussion on the strategic vision for the Court for the next decade. As at 14 June 2023, the Secretariat had received six Ministerial-level inscriptions and two Vice-Ministerial inscriptions for the Ministerial Roundtable, mostly from the Western Europe and Others regional group. The President encouraged States Parties to inscribe participants in the Ministerial Roundtable, ideally Ministers, on the speakers list before 30 June 2023. She recalled that some Ministers would already be present and participating in the High-Level Political Forum on Sustainable Development, held under the auspices of the United Nations Economic and Social Forum, taking place in parallel to the commemorative event on 17 July 2023.

Regarding the time allocated for speakers, the President noted that it would depend on the number of speakers as it should allow for enough time to give meaningful remarks, given the time constraints. The President further indicated that the time limit would be assessed at the closing of the list, i.e. the end of June.

In addition to the Ministerial Roundtable during the commemorative event on 17 July, the President informed the Bureau that Ministers would have the opportunity to provide substantive remarks during the Security Council Arrria-formula meeting tentatively entitled “25th Anniversary of the Rome Statute Adoption: the contribution of the International Criminal Court to the Maintenance of International Peace and Security”, sponsored by Japan and Switzerland, which was scheduled to be held on 18 July 2023, from 15:00 to 18:00 hours (New York).

Concerning the Treaty Ceremony, the President indicated that while it was unlikely that additional States would join the Rome Statute during the commemorative event in New York, some States had indicated their intention to sign or announce the imminent signature of voluntary cooperation agreements with the Court during the event.

The President noted that the commemorative event on 17 July 2023 would be webcast via UN WebTV and recalled that further information about commemorative events and updated documentation was available on the respective webpage of the Assembly.¹

4. Status of contributions

The Bureau took note that, as at 31 May 2023, the Court had received 78 per cent of the assessed contributions to the approved budget for 2023. The total amount of outstanding contributions, for 2023 and for prior years, was €56 million. A total of 32 States Parties had outstanding contributions of more than one year, and 15 of those were ineligible to vote under article 112, paragraph 8, of the Rome Statute.

The Presidency acknowledged the substantial efforts which had enabled payment of some significant outstanding contributions in 2023. As a result, and provided certain

¹ <https://asp.icc-cpi.int/asp-events/25a-Adoption-RS>.

assumptions were borne out, the Court did not anticipate a liquidity shortfall in 2023. Nonetheless, the Presidency would continue to deploy all efforts to obtain the timely payment of contributions in consultation and coordination with the Court and with the facilitator for arrears, once appointed.

5. Implementation of IER recommendation R169: actions to counter measures against Court officials

Due to technical issues, Vice-President Ambassador Bob Rae addressed this item on behalf of the President. He recalled the implementation of recommendation R169 of the Independent Expert Review by the Bureau with the adoption of a strategy for responding to “any threat or attack against the Court, its officials and those cooperating with it, which has the potential to undermine the integrity, effectiveness or impartiality of the Court”.²

Pursuant to the strategy, the Presidency had issued statements on 22 March and 20 May 2023, in response to measures by the Russian Federation against the Prosecutor and pre-trial judges involved in the Ukraine situation, reiterating its support to the Court, its officials and staff. It had expressed its deep concern over reported measures and regretted the acts of intimidation and the unacceptable attempt to undermine the Court’s mandate. The latest press release issued by the Presidency was followed by a statement from the Court which called upon “States Parties and Rome Statute stakeholders to enhance their efforts to protect the Court, its officials and personnel, and ensure that it is capable to continue to deliver on its independent mandate”.

In addition to the statements issued by the Presidency, during the President’s recent mission to The Hague she had been in contact with the principals of the Court and pre-trial judges. The ASP President, the President of the Court and the Registrar had agreed on the importance of the Agreement on Privileges and Immunities in enhancing the legal protection of ICC officials and staff.

In light of the circumstances, it was considered appropriate to seize the Bureau pursuant to the strategy that had been adopted. It was proposed to have a discussion on measures that could be taken at the next Bureau meeting, including the possibility of issuing a joint statement.

The Bureau agreed that a draft joint statement would be circulated by the Presidency in advance of its next meeting on 5 July 2023. It also agreed to invite the Registrar to give a detailed briefing on the risks and measures taken to enhance the security of the Court and its personnel.

6. Extension of contract of the Head of the IOM

The Bureau continued its consideration of a possible extension of the contract of the Head of the IOM, and would return to the matter at its next meeting in order to take a decision on whether to extend the contract and, in that case, for how long.

7. Other matters

a) Meeting of the Advisory Committee on Nominations of Judges

The President drew to the attention of the Bureau that the Advisory Committee on Nominations of Judges would hold its ninth session on 3 to 14 July 2023, at which the Committee would interview the candidates. The Committee had approved the schedule for interviews and the Secretariat had informed the Embassy or Permanent Mission of the

² <https://asp.icc-cpi.int/sites/asp/files/2022-08/Bureau-Proposal-Rec-169-ENG.pdf>.

respective nominating States of the date and time for the interview of their candidate. The Committee's report was expected to be issued by the end of July.

The President also recalled that, pursuant to resolution ICC-ASP/21/Res.2, once the Committee had carried out its assessment of candidates, and as early as possible prior to elections, the Bureau would facilitate public roundtable discussions to be held with all candidates. The relevant provisions set out certain modalities for the roundtables and indicated that the remaining modalities would be determined by the New York Working Group. Discussions were already underway in the facilitation on the Procedure on the nomination and election of judges and the Bureau would be informed of the progress of those discussions in the coming weeks.
