



Assembly of States Parties

Distr.: General
17 November 2023

Original: English

Twenty-second session

New York, 4-14 December 2023

Annotated list of items included in the provisional agenda

Note by the Secretariat

The following annotated list of the items contained in the provisional agenda for the twenty-second session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/22/1) has been prepared to assist the Assembly in its consideration of issues before it at its twenty-second session, which will be convened at United Nations Headquarters, New York, on Monday, 4 December 2023, at 10 a.m. The status of the documentation reflected herein is current as at 26 October 2023.

*Re-issued for technical reasons

1. Opening of the session by the President

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly meets once a year in regular session. At the 9th meeting of the twenty-first session, on 9 December 2023, the Assembly decided to hold its twenty-second session in New York from 4 to 14 December 2023.

2. Silent prayer or meditation

Pursuant to rule 43 of the Rules of Procedure of the Assembly of States Parties, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

3. Election of the President for the twenty-third to twenty-fifth sessions

In accordance with article 112, paragraphs 3 (a) and (b), of the Rome Statute, the Assembly shall have a Bureau consisting of a President, two Vice-Presidents and 18 members elected by the Assembly for three-year terms. Furthermore, the Bureau shall have a representative character, taking account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world.

In accordance with rule 29 of the Rules of Procedure of the Assembly of States Parties,¹ “[s]hould the regular session of the Assembly marking the end of the Bureau’s term of office be held later in the calendar year than the previous regular session, the Bureau shall continue to serve until the conclusion of that session. Unless the Assembly decides otherwise, the Assembly shall elect a new composition of the Bureau at the regular session marking the end of the term of office of the Bureau. The Bureau so elected shall assume its functions only at the conclusion of the session at which it is elected and shall hold office until the end of its term. The Bureau shall assist the Assembly in the discharge of its responsibilities.”

At its twenty-second session, the Assembly will elect the President for the twenty-third to twenty-fifth sessions.

4. Election of two Vice-Presidents and eighteen members of the Bureau for the twenty-third to twenty-fifth sessions

Pursuant to rule 29 of the Rules of Procedure, as amended by resolutions ICC-ASP/3/Res.2 and ICC-ASP/12/Res.8, at the 5th meeting of its third session, the Assembly agreed on the following composition of the Bureau:

- (a) Group of African States: 5 seats;
- (b) Group of Asia-Pacific States: 3 seats.
- (c) Group of Eastern European States: 4 seats;
- (d) Group of Latin American and Caribbean States: 4 seats; and
- (e) Group of Western European and other States: 5 seats;

At its twenty-second session, the Assembly, pursuant to rule 29 of its Rules of Procedure, will elect the Bureau for the twenty-third to twenty-fifth sessions of the Assembly. It will also elect two Vice-Presidents from among the Bureau members for the same term.

5. Adoption of the agenda

Rules 10 to 13 and 18 to 22 of the Rules of Procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the twenty-second session was issued on 17 February 2023. In accordance with rule 19

¹ As amended by resolution ICC-ASP/12/Res.8, annex III.

of the Rules of Procedure, the agenda shall be submitted to the Assembly for approval as soon as possible after the opening of the session.

Documentation

Provisional agenda (ICC-ASP/22/1)

6. States in arrears

According to article 112, paragraph 8, of the Rome Statute, “A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.”

At its twenty-first session, the Assembly decided that the Bureau, through the President of the Assembly, the Coordinator of the working group and the facilitator, should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and via the annual facilitation on the topic of arrears, report thereon to the Assembly at its twenty-second session.²

Documentation

Report of the Bureau on the arrears of States Parties (ICC-ASP/22/16)

7. Credentials of representatives of States at the twenty-second session

a) Appointment of the Credentials Committee

Rule 25 of the Rules of Procedure of the Assembly of States Parties, provides that a Credentials Committee shall be appointed at the beginning of each session. It shall consist of representatives of nine States Parties, which shall be appointed by the Assembly on the proposal of the President.

b) Report of the Credentials Committee

Representation and credentials are regulated by rules 23 to 28 of the Rules of Procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

8. Organization of work

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

² *Official Records...Twenty-first session... 2022* (ICC-ASP/22/20), vol. I, part III, ICC-ASP/21/Res.5, annex I, para. 16(b).

9. General debate

Each State Party, Observer State, Invited State, international organizations and a limited number of representatives of non-governmental organizations shall be invited to participate in the general debate. The modalities of holding the general debate will be by in-person statements. Other statements may be submitted as a written statement or as a pre-recorded video, which will be posted on the Assembly webpage.

No documentation

10. Report on the activities of the Bureau

In accordance with article 112, paragraph 2(c), of the Rome Statute, the Assembly shall consider the reports and activities of the Bureau and take appropriate action in that regard.

Documentation

Report of the Bureau on the Study Group on Governance (ICC-ASP/22/7)

Report of the Bureau on Legal aid (ICC-ASP/22/8)

Revised Legal aid policy of the International Criminal Court (ICC-ASP/22/9)

Report of the Bureau on the arrears of States Parties (ICC-ASP/22/16)

Annual report of the Head of the Independent Oversight Mechanism (ICC-ASP/22/21)

Report on the Constitution and Activities of the International Criminal Court Bar Association (“ICCBA”) (ICC-ASP/22/23)

Report of the Court on cooperation (ICC-ASP/22/24)

Report of the Bureau on the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/22/26)

Report of the Bureau on cooperation (ICC-ASP/22/27)

Report of the Bureau on complementarity (ICC-ASP/22/28)

Report of the Working Group on Amendments (ICC-ASP/22/29)

Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism (ICC-ASP/22/30)

Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/22/31)

Report of the Bureau on the scheduling of Assembly sessions (ICC-ASP/22/32)

Report of the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/22/33)

Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises (ICC-ASP/22/34)

Report of the Bureau on non-cooperation (ICC-ASP/22/35)

Report of the Bureau on the establishment of a permanent due diligence process (ICC-ASP/22/36)

Report of the Bureau on the composition of the Committee on Budget and Finance (ICC-ASP/22/37)

11. Report on the activities of the Court

Under article 112, paragraph 2(b), of the Rome Statute, the Assembly shall provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. In accordance with article 112, paragraph 5, of the Rome Statute, the President of the Court, the Prosecutor and the Registrar or their representatives may participate in meetings of the Assembly. As provided in rule 34 of the Rules of Procedure, they may make oral or written statements and provide information on any question under consideration. Accordingly, the President of the Court will present a report on the activities of the Court since the twenty-first session of the Assembly.

Documentation

Report on the activities of the International Criminal Court (ICC-ASP/22/22)

12. Report of the Board of Directors of the Trust Fund for Victims

By its resolution ICC-ASP/1/Res.6,³ the Assembly established a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

In accordance with paragraph 11 of resolution ICC-ASP/1/Res.6, the Board shall report annually to the Assembly on the activities and projects of the Fund and on all offered voluntary contributions, regardless of whether they were accepted or refused.

Documentation

Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2022 to 30 June 2023 (ICC-ASP/22/14)

13. Review of the International Criminal Court and the Rome Statute system

Further to the decision of the Assembly at the nineteenth session to establish a Review Mechanism under the auspices of the Assembly, led by two State Party Representatives and supported by three ad country focal points,⁴ and its decision at the twentieth session to extend the mandate of the Review Mechanism,⁵ the Assembly will consider the report and recommendations of the Review Mechanism and take decisions thereon.

On 13 December 2023, the Assembly will hold a plenary session on the Review of the International Criminal Court, which will address as main topics the implementation of the recommendations of the Group of Independent Experts⁶ and the future of the Review Mechanism. The Review Mechanism was established following the report of the Group of Independent Experts, who had been appointed by the Assembly by resolution ICC-ASP/18/Res.7.

Documentation

Report of the Review Mechanism submitted pursuant to ICC-ASP/21/Res.4 (ICC-ASP/22/11)

14. Election of six judges

On 8 December 2022, the Bureau took note that, following the adoption of the omnibus resolution at the twenty-first session, the Secretariat would circulate the note verbale informing States Parties of the opening of the nomination period for the election of judges,

³ *Official Records ... First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part IV.

⁴ ICC-ASP/19/Res.7, para. 4.

⁵ ICC-ASP/20/Res.3, para. 5.

⁶ ICC-ASP/19/16.

which would include any text approved by the Assembly. The nomination period would run from 2 January to 26 March 2023.

Under the terms of article 36 of the Rome Statute, six judges will be elected to serve for a term of nine years. According to paragraphs 3 and 5, the judges are to be nominated from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective State for appointment to the highest judicial offices. Every candidate for election to the Court should also have an excellent knowledge of and be fluent in at least one of the working languages of the Court. In addition, two lists of candidates have been established:

(a) *List A*: Candidates having established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings;

(b) *List B*: Candidates having established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court.

For purposes of this election to the Court, States Parties will vote for at least one candidate from List A and at least one candidate from List B. In addition, States Parties will vote for at least two candidates from the Asia-Pacific group and at least two candidates from the Eastern European group. Furthermore, they shall vote for at least three male candidates.

In accordance with resolution ICC-ASP/21/Res.2, the nomination period opened on 2 January 2023 and ran until 26 March 2023. At the close of the nomination period, not all minimum nomination requirements had been met. In accordance with paragraph 11 of resolution ICC-ASP/3/Res.6, the President of the Assembly extended the nomination period three times, for two weeks each, until 9 April, 23 April and 7 May 2023.

Documentation

Eighth election of judges of the International Criminal Court (ICC-ASP/22/2)

Eighth election of judges of the International Criminal Court: Note by the Secretariat (ICC-ASP/22/2/Add.1 and Add.2)

Election of the judges of the International Criminal Court: Guide for the eighth election (ICC-ASP/22/3)

Report of the Advisory Committee on Nominations of Judges on the work of its seventh session (ICC-ASP/22/4)

Informal guide and commentary to the procedure for the nomination and election of judges of the International Criminal Court (ICC-ASP/16/INF.2)

15. Election of members of the Committee on Budget and Finance

By resolution ICC-ASP/1/Res.4, the Assembly established a Committee on Budget and Finance. The Committee is composed of 12 members of different nationalities who shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall be elected by the Assembly for a term of office of three years on the basis of equitable geographical distribution.

On 31 January 2023, the Bureau of the Assembly of States Parties decided that the election of six members of the Committee on Budget and Finance would take place at the twenty-second session of the Assembly. Pursuant to the decision of the Bureau, the nomination period for the candidates for six seats on the Committee on Budget and Finance ran from 5 June to 27 August 2023 (Central European Time).

The distribution of seats among the regional groups for the purpose of the first election was established in paragraph 8 of resolution ICC-ASP/1/Res.5 as follows:

- (a) Two seats for the Group of African States;
- (b) Two seats for the Group of Asian States;

- (c) Two seats for the Group of Eastern European States;
- (d) Two seats for the Group of Latin American and Caribbean States; and
- (e) Four seats for the Group of Western European and Other States.

The six members whose terms of office will end on 31 December 2023 are from the following regional groups:

- (a) African States- one seat;
- (b) Asia-Pacific States- two seats
- (c) Eastern European States- one seat;
- (d) Latin American and Caribbean States- one seat; and
- (e) Western European and Other States- one seat.

At the close of the nomination period on 15 September, six nominations had been received. Of the six nominations, one was submitted by the Group of African States; two by the Group of Asia-Pacific States; one by the group of Eastern European States; one by the Group of Latin American and Caribbean States; and one by the Group of Western European and other States.

Since the number of candidates corresponded to the number of vacant seats, the Bureau, on 7 September 2023, pursuant to ICC-ASP/1/Res.5, decided to recommend that the Assembly elect the six candidates to the Committee on Budget and Finance at its twenty-second session by acclamation.

The members will be elected for three-year terms commencing on 1 January 2024 and ending on 31 December 2026, in accordance with the 12 November 2019 recommendation of the Bureau (https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/ICC-ASP-18-Bureau-10.pdf)

Documentation

Election of members of the Committee on Budget and Finance (ICC-ASP/22/6)

16. Consideration and adoption of the budget for the twenty-second financial year

In accordance with article 112, paragraph 2(d), of the Rome Statute, the Assembly shall consider and decide on the budget of the Court.

Regulation 3 of the Financial Regulations and Rules of the Court provides that the Registrar shall prepare the proposed programme budget for each financial period and submit it to the States Parties as well as to the Committee on Budget and Finance for consideration. The Committee shall make the relevant recommendations to the Assembly.

At its third session, the Assembly endorsed the recommendation of the Committee that the Court should include in future performance reports data on financial performance and results achieved rather than outputs. This information should be submitted annually to the Assembly through the Committee either in the draft programme budget or in a separate performance report.⁷

Documentation

Report of the Committee on Budget and Finance on the work of its fortieth session (ICC-ASP/22/5)⁸

Proposed Programme Budget for 2024 of the International Criminal Court (ICC-ASP/22/10)⁹

⁷ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part II.A.8 (b), para. 50, and part II.A.1, para. 4.

⁸ *Official Records... Twenty-second session.... 2023* (ICC-ASP/22/20), vol. II, part B.1.

⁹ *Ibid.*, part A.

Report of the Committee on Budget and Finance on the work of its forty-first session (ICC-ASP/22/15)¹⁰

Report on activities and programme performance of the International Criminal Court for the year 2022 (ICC-ASP/22/17)

Report of the Court on Human Resources Management (ICC-ASP/22/18)

Report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council (ICC-ASP/22/19)

Report of the Committee on Budget and Finance on the work of its forty-second session (ICC-ASP/22/25)¹¹

Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises (ICC-ASP/22/34)

Proposed Programme Budget for 2024 of the International Criminal Court – Executive Summary (ICC-ASP/22/INF.2)

17. Consideration of the audit reports

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the Financial Regulations and Rules.

At its nineteenth session, the Assembly decided to appoint the Board of Audit and Inspection of the Republic of Korea as the new External Auditor of the Court and the Trust Fund for Victims for four years starting with the financial year 2021.¹²

In accordance with regulation 12.7, the External Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period. In accordance with regulations 12.8 and 12.9, audit reports, before their submission to the Assembly, are subject to examination by the Registrar and the Committee on Budget and Finance. The Assembly considers and approves the financial statements and audit reports forwarded to it by the Committee.

The Assembly will also consider the reports of the Audit Committee on the work of its seventeenth and eighteenth sessions.¹³

Documentation

Financial statements of the International Criminal Court for the year ended 31 December 2022 (ICC-ASP/22/12)¹⁴

Financial statements of the Trust Fund for Victims for the year ended 31 December 2022 (ICC-ASP/22/13)¹⁵

External auditor: Performance audit report on legal aid 2023 (ICC-ASP/22/38)

18. Cooperation

By resolutions ICC-ASP/15/Res.3¹⁶ and ICC-ASP/15/Res.5,¹⁷ the Assembly requested the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation

¹⁰ Ibid, part B.2.

¹¹ Ibid., part B.3.

¹² *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. I, part III, ICC-ASP/19/Res.1, para I.2.

¹³ Available on the website of the Assembly at http://asp.icc-cpi.int/en_menus/asp/AuditCommittee.

¹⁴ *Official Records... Twenty-second session.... 2023* (ICC-ASP/22/12), vol. II, part C.1.

¹⁵ Ibid., part C.2.

¹⁶ Para. 31.

¹⁷ Annex I, para. 3 (h).

with the Court. This mandate was reiterated on 9 December 2022 by resolutions ICC-ASP/21/Res.3¹⁸ and ICC-ASP/21/Res.2¹⁹ respectively.

On 8 December 2023, the Assembly will hold a plenary session on cooperation.

Documentation

Report of the Court on cooperation (ICC-ASP/22/24)

Report of the Bureau on cooperation (ICC-ASP/22/27)

19. Amendments to the Rome Statute and the Rules of Procedure and Evidence

By resolution ICC-ASP/8/Res.6, the Assembly established a Working Group of the Assembly of States Parties for the purpose of considering, as from its ninth session, amendments to the Rome Statute proposed in accordance with article 122, paragraph 1, of the Statute at its eighth session,²⁰ as well as any other possible amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be adopted in accordance with the Rome Statute and the Rules of Procedure of the Assembly of States Parties.

The Assembly will consider the report of the Working Group on Amendments.

Documentation

Report of the Working Group on Amendments (ICC-ASP/22/29)

20. Twenty-fifth anniversary of the adoption of the Rome Statute

By resolution ICC-ASP/21/Res.2, the Assembly invited the Presidency and the Bureau to continue the preparations for the commemoration of the twenty-fifth anniversary of the adoption of the Rome Statute on the basis of the concept note prepared by the Presidency dated 30 November 2022.

The Assembly will consider the outcome of the commemoration process of the twenty-fifth anniversary of the adoption of the Rome Statute.

No documentation

21. Decision concerning the date of the next session of the Assembly of States Parties

In accordance with rule 5 of the Rules of Procedure of the Assembly of States Parties, the date of commencement and the duration of each session of the Assembly shall be decided by the Assembly at its previous session. The Assembly will take a decision on the dates and venue of its twenty-third session and the venue of its twenty-fourth session.

22. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee on Budget and Finance shall meet when required and at least once per year. At its forty-second session, the Committee decided tentatively to hold its forty-third session virtually on 29 January 2024, its forty-fourth session from 15 to 19 April 2024 in The Hague and its forty-fifth session from 2 to 13 September 2024 in The Hague.²¹ The Assembly will take a decision on the dates and venue of the forty-third, forty-fourth and forty-fifth sessions of the Committee.

¹⁸ Para 31.

¹⁹ Annex I, para. 3 (g).

²⁰ *Official Records ... Eighth session ...* 2009 (ICC-ASP/8/20), vol. I, annex II.

²¹ ICC-ASP/22/25/AV, para. 317.

23. Other matters
