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Report of the Bureau on the scheduling of Assembly sessions

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I. Introduction

1. The present report is submitted pursuant to the mandate given to the Bureau for the topic “Scheduling of Assembly sessions” based on paragraph 108 of resolution ICC-ASP/21/Res.2, in which the Assembly of States Parties (“Assembly”) “[r]equest[ed] the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency”.¹ In paragraph 107 of the resolution, the Assembly “[r]equest[ed] also the Bureau to address in its report under paragraph 108 the proposal to hold the Assembly sessions as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled”.²

2. In its second meeting held on 14 February 2023, the Bureau appointed Mr. Pedro Muniz Pinto Sloboda (Brazil) as the Bureau focal point for the scheduling of Assembly Sessions.³

II. Consultations with States Parties

3. During the intersessional period, the focal point convened three meetings to consult with relevant stakeholders on three main issues: i) the schedule of Assembly sessions; ii) the length of each session; and iii) the location of each session. During these meetings, the focal point reiterated the need for delegations both in New York and The Hague to engage amongst themselves and with their capitals to present a concerted position on the topic. At the outset, the facilitator recalled that in 2022 delegations had generally agreed on Assembly sessions having a maximum of six days, unless there are prosecutorial or judicial elections; and to continue alternating Assembly sessions two years in The Hague and one year in New York, when judicial elections were held.

4. During the first meeting, held on 8 May 2023, discussions focused on the issue of the scheduling of Assembly sessions, specifically on the questions of what were the main benefits and challenges of holding Assembly sessions during the first semester of each year, and a resumed session during the second semester of each year to adopt the budget of the Court; how to ensure effective, efficient, concise and productive meetings of the Assembly, with broadest participation of States Parties and effective use of resources; and what would be the main concerns to be addressed in an assessment on a transition period in order to avoid an impact on the Court’s budget and work.

5. Delegations raised questions concerning the impact on the work of the Court if Assembly sessions were moved to a different cycle; the cost implications of moving Assembly sessions to the first half of the year; the duration of a possible resumed session if States Parties decided to decouple the budget discussions from the other Assembly discussions, to ensure that the budget cycle remained the same, and its cost; and the issues of State Party engagement in preparation for the Assembly sessions and State Party representation at the sessions. Concerns were also raised on the cost implications of shifting the timing of Assembly sessions and on the impact of the shift in the timing of Assembly sessions on the work of the Court. Concerning the question of shifting the dates of Assembly sessions, while several states expressed flexibility, with preference towards shifting the sessions to the first semester of the year, others indicated their preference for maintaining the current timing during the second semester of the year.

6. The focal point also briefed the Hague Working Group on 22 May 2023 on the mandate of the facilitation and the discussions held in New York in connection with schedule, length and location of the Assembly sessions. Delegations expressed their preference for

¹ ICC-ASP/21/Res.2, para. 108.

² ICC-ASP/21/Res.2, para. 109.

³ Decisions of the Bureau of the Assembly of States Parties, 14 February 2023, available at https://asp.icc-cpi.int/sites/default/files/asp_docs/2023-Bureau2-Agenda-Decisions.pdf.

maintaining the current schedule of Assembly sessions as well as maintaining the current budget cycle. While acknowledging the difficulties faced by delegations in New York during the second semester due to overlapping legal meetings, delegations expressed their concern on the impact the change in Assembly sessions would have on the adoption and implementation of the budget of the Court, the impact of decoupling the budget from the substantive discussions of the Assembly and the budgetary consequences this may have, as well as the financial implications of the shift of the time of the Assembly sessions and the increased cost of a resumed session. A view was expressed that the additional costs that could be incurred by a resumed session could be used for other areas, such as capacity-building, and the possibility of hybrid sessions could be explored. Another view was put forth that there was a need to consider the impact of the shift of the timing of Assembly sessions on the work of the Committee on Budget and Finance. Questions were raised on the flexibility of the Court to tap into its reserve funding to implement decisions of the Assembly in the period between a regular session and a resumed session.

7. Following the first meeting and the briefing to the Hague Working Group, the focal point circulated a non-paper reflecting the concrete impacts of the possible rescheduling of Assembly sessions and transition period.

8. At its second meeting on 5 October 2023, held jointly between delegations in New York and The Hague, some delegations reiterated their preference for maintaining the current schedule of Assembly sessions, recalling their concerns on the cost implications of shifting the Assembly sessions and the possible impact of the decoupling of budget negotiations from other Assembly discussions. Other delegations expressed flexibility in their position, and reiterated their concerns related to the workload during the second semester of the year, especially in New York. A proposal was made to recommend that facilitations begin their work as early as possible at the beginning of the intersessional period, to alleviate the workload during the second half of the year.

9. At its third meeting on 16 November 2023, delegations reiterated their positions on the length and location of Assembly sessions. Following a proposal from the focal point to consider the periodicity of the facilitation, several delegations noted that there was no consensus on shifting the date of Assembly sessions and expressed their preference to sunset the facilitation, allowing for the possibility of reopening the discussions in the future. However, other delegations underscored the difficulties faced by delegations, especially small delegations in New York, with the current schedule of Assembly sessions, and expressed their preference for returning to the conversation in the future.

III. Conclusions and recommendations

10. The Bureau recommends that considerations on the topic of the scheduling of Assembly sessions be considered preferably ahead of the twenty-fifth session of the Assembly.

11. The Bureau calls on all facilitations to begin their work during the intersessional period as early as possible during the first half of the year.

12. The Bureau recommends Assembly sessions to be held alternately two years at the seat of the Court and one year at the Headquarters of the United Nations, when elections are scheduled;

13. The Bureau also recommends Assembly sessions to be held as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled;

14. The Bureau concludes its intersessional work by recommending to the Assembly the inclusion of language in the omnibus resolution (annex).

Annex I

Draft text for the omnibus resolution

1. The following paragraphs of the 2022 omnibus resolution (ICC-ASP/21/Res.2) are to be amended as follows:

104.(a)*bis* Calls on facilitations of the Bureau to begin their work during the intersessional period as early as possible during the first half of the year, as appropriate;

~~108. Requests the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency~~ **Welcomes the report of the Bureau on the scheduling of Assembly sessions and the recommendations therein, and decides to revert to the question at an appropriate time, preferably ahead of the twenty-fifth session of the Assembly.**

~~109. Decides Requests also the Bureau to address in its report under paragraph 108 the proposal to hold the Assembly sessions alternately two years at the seat of the Court and one year at the Headquarters of the United Nations, when elections are held, as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled, and stresses the need of effective, efficient, concise and productive Assembly sessions, with broadest participation of States Parties and effective use of resources, as well as the need of avoiding duplication with a division of labour between New York and The Hague.~~

~~110. Requests that the Bureau consider as general objectives on the discussions on the scheduling of Assembly meetings that any future decision on the scheduling of Assembly sessions are aimed to ensure effective, efficient, concise and productive meetings of the Assembly, with broadest participation of States Parties and effective use of resources; to avoid duplication with a division of labour between New York and The Hague that furthers this objective; and to further study the possibility of a transition period in order to avoid an impact on the Court's budget and work;~~

2. Paragraph 11(a) of Annex I of the 2022 omnibus resolution is to be amended as follows:

decides that its annual session shall have a duration of up to ~~seven~~ **six** working days with a possible extension of up to ~~two~~ **three** additional days in election years, as required, and to focus, in such cases, the first ~~two~~ **three** days on the elections of judges;

3. Paragraph 11 (i) of annex I (Mandates) of the 2022 omnibus resolution (ICC-ASP/21/Res.2) is to be deleted:

~~requests the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau, and to make recommendations to improve efficiency; and~~