



**Seventh ICC-ASP Bureau Meeting**

**7 June 2011**

**Agenda and Decisions**

*The President of the Assembly, H.E. Mr. Christian Wenaweser (Liechtenstein), chaired the meeting.*

**1. Search Committee for the position of Prosecutor**

The Coordinator of the Search Committee, H.R.H. Prince Zeid Ra'ad Zeid Al-Husseini (Jordan), informed the Bureau that the Search Committee had held its third meeting on 2 June 2011, in the presence of the President. The Search Committee had reviewed 15 CVs. The Coordinator had briefed the members on contacts made with some of the persons under consideration and it had been agreed that the Committee would make further contact with persons under consideration, as well as to obtain the CVs of four persons under discussion. Of the 21 persons under consideration at the meeting, six were considered for the first time, and 15 had previously been considered. Of those under consideration, 10 came from the Western European and Other States group, 10 from Africa and one from Asia. Only one person had been judged not to meet the criteria set out in the Rome Statute. The Committee had also discussed broader issues, particularly the methodology to be applied in interviews to be held at a later stage. The Committee will meet again on 18 July.

The Coordinator indicated that he would brief all States Parties on 10 June, and would attend the World Summit of Prosecutors General (29 June –2 July) and a meeting of the International Association of Prosecutors (26 – 29 June) in Seoul.

The President recalled his letter to States Parties, encouraging them to attend the 10 June briefing at the ambassadorial level and underscored the importance of ownership of this process by all States Parties.

**2. Consultations to identify a President for the tenth to twelfth sessions**

The focal point, Ambassador Simona Miculescu (Romania), had continued her consultations and had elicited some expressions of interest from the Eastern European group. She would inform the Bureau once additional facts became available.

The matter of opening discussion beyond the Eastern European and African groups, in the event of a stalemate within the Eastern European group, was raised. In that regard, it was recalled that upon the Court's establishment in 2002, there was a feeling that it should not fall into strict patterns of regional rotation.

The importance of first giving an opportunity to those regional groups that have not yet held the Presidency was also raised. It was suggested that the fact that there was already agreement on the five African members of the Bureau be taken into account. It was recalled that the Assembly is a political body, and therefore did not need to operate differently from the political bodies of the United Nations.

The view was also expressed that the regional affinity of the next President should be secondary to her or his ability.

It was suggested that if no clear candidate had emerged by the next meeting of the Bureau, the Bureau should consider new approaches. It was noted that it may be desirable to consider at which point the issue would become critical, and to agree to consider alternative methods to resolve it at such a time.

The President recalled that he had wished to have his successor in place by June. In practical terms, he expressed his wish to conduct at least one joint visit to The Hague in advance of the next session of the Assembly and preferably in October. Given the complexity of many negotiations that will be conducted at the next session of the Assembly, particularly on the budget, it would be desirable to have a candidate in place as soon as possible. He also recalled his view that the President should not simply be endorsed by a regional group, but rather emerge as a consensus candidate benefitting from the support of all States Parties from all regions.

The focal point stated her intention to find a solution by the end of June or the beginning of July.

### **3. Consultations to identify a Bureau for the tenth to twelfth sessions**

The following focal points updated the Bureau on their consultations within their respective regional groups:

- a) Asian group: Japan indicated that five States had expressed an interest for three available seats, and that further consultations would be held.
- b) Eastern European group: Romania informed the Bureau that, as this issue was closely linked with the selection of the next President, there was no clear picture yet.
- c) Group of Latin American and Caribbean States: Venezuela (Bolivarian Republic of) indicated that consultations were still on-going and more concrete information would be forthcoming at the next Bureau meeting.
- d) Western Europe and Other States group: United Kingdom informed the Bureau that consultations had been held with current members of the Bureau and other interested States with a view to arriving at a solution forthwith.

The Bureau recalled that the agreement in the African group had been communicated at its sixth meeting.

### **4. Appointment of the Head of the Independent Oversight Mechanism**

The Bureau took note that the Court's Human Resources Section has indicated that recruitment formalities had been initiated for the candidate selected for the post of Head of the Independent Oversight Mechanism (IOM).

In view of the expiration of the mandate of the Temporary Head of the IOM, Ms. Beverly Mulley, on 18 July 2011 prior to the likely assumption of duty by the new Head of the IOM in the fourth week of August, noting the desirability of a two-week overlap in employment, further noting the statement by the Temporary Head of the IOM that there would be no additional financial implications for major programme VII-5: Independent Oversight Mechanism, resulting from such overlap and taking into account the role of the Bureau in any possible extension of the mandate of the Temporary Head, as set out in resolution ICC-ASP/9/Res.5, the Bureau decided to initiate the necessary consultations with the United Nations Office of Internal Oversight Services (OIOS) for the extension of the secondment of the Temporary Head until the latter half of September 2011.

Furthermore, the Bureau requested the Registrar to conclude the necessary schedule to the Memorandum of Understanding with OIOS for the extension of the mandate, upon conclusion of the negotiations with OIOS.

## **5. Interim premises**

The facilitator, Australia, informed the Bureau that Nigeria had joined Australia in facilitating this matter in The Hague. Preliminary consultations had been held with all interested parties. The issue of rent was a concern to a number of States Parties. Consultations with States Parties indicated that while States appreciated the support given to the Court by the host State, they also noted that the host State benefited both monetarily and by reputation from the presence of the Court. The host State for its part had stated that it was facing a difficult budgetary situation and had pointed to its significant investment in the Court, through provision of the rent for the interim premises until July 2012, contributions to the permanent premises project, etc. The facilitator indicated that further consultations would be held.

The President noted the importance of an early resolution of this issue, in particular in light of the difficult negotiations on the budget this year.

The host State expressed a preference for option C in the Court's report. Should a new lease not be signed by 1 July 2011, the Rijksgebouwendienst (RGD) would terminate the contract with the landlord, ING Real Estate, as of 1 July 2012. There would thus be a risk that ING finds a new tenant or takes over the building itself. The RGD would thus like to hear the Bureau's reactions to its proposals. The host State would not sign a new contract on behalf of the Court. Option C, in the host State's view would mean that the Court would sign a new, provisional lease to be approved by the Assembly in December. As this would not postpone the decision regarding who will sign the lease, a Bureau decision would have to be taken before the end of June. The host State also noted that a similar problem would arise with regard to the other building occupied by the Court, the Haagse Veste building. The host State also enquired as to the exact role of the facilitator, and whether the President would be taking up this issue during his forthcoming visit to the seat of the Court in June.

The question of the possibility of an extension of the sort envisaged in option C was raised. A request to the host State was also made to give serious consideration to continuing to pay for the interim premises of the Court until its move to the permanent premises.

The President suggested holding of a meeting of the Bureau, as soon as convenient before the end of June, to consider this issue further.

## **6. Non-cooperation**

### *a) Non-paper on non-cooperation*

Mr. Stefan Barriga (Liechtenstein), appointed by the Bureau to lead discussions on non-cooperation, informed the Bureau that he had held a first round of consultations, and had subsequently revised the non-paper substantively. Another informal would be held on 10 June.

### *b) Letter from the President to the Foreign Minister of Djibouti*

The President recalled his 17 May 2011 letter to the Foreign Minister of Djibouti, H.E. Mr. Mahanoud Ali Youssouf, subsequent to the 12 May 2011 decision of Pre-Trial Chamber I informing the Security Council and the Assembly of States Parties of the presence of Omar Al-Bashir on the territory of Djibouti. He informed the Bureau of a meeting he had held with the Permanent Representative of Djibouti on 1 June and with the President of the Security Council for the month of May on 31 May, as the Security Council had also been notified by Pre-Trial Chamber I.

The Permanent Representative of Djibouti stated that Djibouti had no intention of leaving the Court or violating its obligations arising from the Statute. Djibouti was currently in the process of deploying two formed police units to Darfur. Djibouti had never been cavalier about its decision to invite Al-Bashir, nor dismissive of the Court. Al-Bashir's indictment had been a political decision, and there were issues in connection with the African Union and the League of Arab States to be considered.

Members of the Bureau expressed disappointment at the decision of Djibouti to invite and host Al-Bashir in defiance of arrest warrants issued by the Court. Members of the Bureau recalled the duty of States Parties not to invite indicted persons to their territory, and to arrest them should they enter their territory. The view was also expressed that the indictment was not a political decision, but rather a judicial one, especially since it had been confirmed by the judges.

Several delegations expressed regret at the position of the African Union and the League of Arab States, especially with regard to the allegation that the Sudan indictments were politically motivated. It was cautioned that one must differentiate between criticising the Prosecutor's prosecutorial strategy and criticising charges once they are confirmed.

The Permanent Representative of Djibouti noted the disappointment of Bureau members. He recalled that Djibouti had not made its decision in a cavalier manner and would not make a routine of breaching its obligations. Djibouti would continue to support the Court and cooperate with it, and would try to carry out its commitments in this connection.

The President noted the importance of cooperation, in particular with respect to the arrest of persons indicted by the Court, and recalled the declaration on cooperation adopted at the Review Conference<sup>1</sup> in Kampala Uganda.

## **7. The Hague Working Group**

### *a) Budget facilitator*

Upon recommendation of The Hague Working Group, the Bureau designated Ambassador Klaus Korhonen (Finland) as facilitator for the budget.

### *b) Staff Pension Committee*

The Bureau appointed Mr. Rodrigo Waghorn (Chile) as a member of the Staff Pension Committee of the International Criminal Court, for a two-year term.

The Bureau delegated to The Hague Working Group the designation of one additional member and two alternate members of the Staff Pension Committee.

## **8. Other matters**

### *a) Appointment of a new Chair of the Oversight Committee on permanent premises*

The Bureau took note that the Chair of the Oversight Committee, Mr. Martin Strub (Switzerland), had stepped down from that position, in view of his impending departure from The Hague in July 2011, and that Mr. Roberto Bellelli (Italy) had been elected Chair of the

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<sup>1</sup> *Official Records of the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May – 11 June 2010, (RC/11), part II.B, RC/Decl.2.*

Committee by its members.

*b) Assurance Mapping Study*

The Bureau took note that the Assurance Mapping Study into the oversight mechanisms of the Court, commissioned by the Bureau in November 2010, had been submitted to the Coordinator of The Hague Working Group, Ambassador Jorge Lomónaco (Mexico), on 25 May 2011, in accordance with the terms of reference adopted by the Bureau. The Bureau decided to convey its appreciation to the United Nations Office of Internal Oversight Services for conducting this study.

The President encouraged all delegations wishing to submit substantive comments on the mapping study to direct these to the IOM facilitators in The Hague Working Group.

*c) Contingency Fund*

*(i) The situation in Libya*

The Bureau took note of the 27 April 2011 submission by the Registrar to the Committee on Budget and Finance (the Committee) of a detailed supplementary budget notification in the amount of €4,072,600 to meet unavoidable costs in the situation in Libya, as well as the 16 May 2011 response of the Committee.

*(ii) The Prosecutor v. Mbarushimana*

The Bureau took note of the letter from the Registrar, dated 18 May 2011, addressed to the Chair of the Committee, indicating that the 11 May 2011 decision of Pre-Trial Chamber I regarding legal aid to Mr. Mbarushimana would place an additional burden on the legal aid budget of the Court and on the 1 March notification of a supplementary budget of €400,263 submitted to the Committee.

*(iii) The situation in Kenya*

Furthermore, the Bureau took note of the 3 June 2011 letter from the Registrar addressed to the Chair of the Committee, by which she submitted, pursuant to regulation 6.7 of the Financial Regulations and Rules, a detailed supplementary budget notification in the amount of €2,616,000 to meet unavoidable expenses in the situation in Kenya related to the disclosure of evidence and other activities resulting from the Pre-Trial phase of the Kenyan cases, which were not foreseen at the time of the adoption of the 2011 budget.

*d) Accession by Grenada*

The Bureau took note of the 19 May 2011 accession to the Rome Statute by Grenada and welcomed the increase in the number of States Parties.

*e) United Nations Treaty Event 2011*

The Bureau welcomed the United Nations Treaty Event 2011: Towards universal participation and implementation, to be held on 20-22 and 26-27 September 2011 at United Nations Headquarters, and took note of the 20 May 2011 letter by the President, wherein he called on governments to consider becoming Parties to the Rome Statute and to consider ratifying the amendments to the Rome Statute adopted at the Review Conference.

*f) Letter regarding the election of six judges of the Court*

The Bureau took note of the letter, dated 30 May 2011, from the President of the Assembly addressed to States Parties, in which he referred to the forthcoming opening of the nomination period for the election of six judges of the Court.

*g) Letter from the Chargé d'affaires ad interim of the Netherlands Mission*

The Bureau considered a letter, dated 3 June 2011 from the Chargé d'affaires ad interim of the Netherlands Mission to the United Nations, which requested a standing invitation to the Netherlands, in its capacity as host State, to attend meetings of the Bureau once its term as Chair of the Credentials Committee expires.

The question of the effect on equitable regional representation was raised, and the President noted that the Netherlands was even now participating in Bureau meetings as an observer, in its capacity as Chair of the Credentials Committee.

It was decided to revert to this topic at a future meeting.

*h) Travel activity of the President of the Assembly*

The President informed the Bureau that on 24 - 25 May, he attended a seminar organized by the State of Qatar, the League of Arab States and the Court in Doha, Qatar. He would travel to the seat of the Court in The Hague from 27 to 30 June.

*i) Future Bureau meetings*

The Bureau will hold a meeting on Tuesday, 14 June. The next monthly meeting will be on Tuesday, 5 July.

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