



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Ninth meeting

New York

24 October 2019

10:00 – 11:30

Agenda and decisions

The President of the Assembly, Mr O-Gon Kwon (Republic of Korea), chaired the meeting. Vice President Michal Mlynár (Slovakia) attended.

1. Update on the work of the Committee on the Election of the Prosecutor

The Bureau had before it a message from the Chair of the Committee on the Election of the Prosecutor, Ambassador Sabine Nölke (Canada), dated 22 October. The President recalled that the vacancy announcement for the position of Prosecutor had been published on 2 August 2019, with a deadline of 31 October 2019. The message from the Chair included an overview of the 55 applications for the position received as of 18 October, broken down by regional group, gender and legal system. The message also included a recommendation from the Committee that the deadline for applications be extended to 25 November, and that the Presidency re-circulate a reminder to all States Parties to disseminate the vacancy announcement to relevant agencies in their jurisdictions and to encourage qualified candidates to apply. The President noted that the proposed extension would not affect the overall timeline for the process, as the Committee still intended to submit its final report in May 2020 – one month before the deadline set out in the Terms of Reference.¹

Bureau members expressed their appreciation for the work of the Committee. It was noted that, while additional applications would likely come in the final days before the deadline, some regions were significantly under-represented amongst the applicants and there was an imbalance in relation to gender and legal systems. The Bureau therefore decided to extend the deadline for applications until 25 November, as recommended by the Committee, in order to ensure that a wide range of qualified candidates had the opportunity to apply for the position.

The President noted that, once the initial deadline had passed, a message would be circulated to all States Parties and other stakeholders, advising them of the extended deadline and requesting them to disseminate the vacancy announcement and encourage qualified candidates to apply. Bureau members encouraged extra effort in promulgating the vacancy announcement as widely as possible, particularly in regions where fewer applications had been received.

The Bureau requested an update from the Committee regarding the status of applicants at 31 October. The importance of the timeline set out in the Terms of Reference was emphasized. Some

¹ ICC-ASP/18/INF.2.

Bureau members welcomed the close oversight of the process by the Bureau, and noted that if the Committee had any queries regarding the interpretation of the Terms of Reference, the Bureau would be able to provide guidance through the President.

2. Follow up to the review of the Court

The President provided an update on the status of discussions concerning the review of the Court. He recalled that the Presidency had circulated the “Matrix over possible areas of strengthening the Court and Rome Statute System” (the Matrix), dated 11 October 2019, which had been revised in light of the comments submitted by States, the Court and civil society. The Presidency had also circulated the draft Terms of Reference for the Independent Expert Review of the International Criminal Court (ToR), dated 11 October 2019, which had also been revised in light of the comments received, including those made during the discussions at the working group meetings held in both New York and The Hague on 2 October 2019. In addition, the President recalled that the Presidency had prepared draft text for an Assembly resolution, contained in a paper entitled “Possible elements for Assembly resolution language”, dated 10 October 2019, which had been circulated to all stakeholders.

The President advised that the Hague Working Group had discussed the three documents at its eighth meeting on 15 October. As regards the Matrix, Vice President Ambassador Jens-Otto Horslund (Denmark) had reminded the working group that the Matrix was a living document, and had therefore invited States and other stakeholders having comments on the Matrix to contact the Presidency. Regarding the draft Terms of Reference, States Parties, the Court and civil society had made comments and some drafting suggestions at the meeting. The discussions showed consensus forming on most issues. On the issues that still needed to be clarified, Ambassador Horslund had undertaken to consult with interested delegations with a view to finding consensus. Comments had also been made on the draft resolution text. Given the nature of the text, some States had proposed that it be developed in a stand-alone resolution on the topic of the review of the Court. The President noted that this could of course be combined with general language in the omnibus resolution if so desired.

The President emphasized that time was of the essence, and accordingly the Presidency would do its best to conclude the preliminary work in advance of the Bureau meeting on 12 November. The Presidency also intended to present its nominations for the independent experts to the Bureau at that meeting.

The President noted that the Presidency was aware of the importance of ensuring that New York-based delegations were involved in the process. Accordingly the drafts had been circulated to all States for written comments at each stage. Going forward, the Presidency would continue its efforts to maintain an inclusive and transparent process. In this regard, the President noted that a more developed version of the resolution language, taking into account the comments received, would be circulated shortly for consultations with all stakeholders and, notably, the Court.

Bureau members expressed their gratitude to the Presidency for the comprehensive work done on this important topic. Some Bureau members sought clarification regarding the next steps and the role of the Bureau, as well as the process foreseen after the eighteenth session of the Assembly. It was noted that quite a number of delegations were not represented in The Hague, and the point was made that some States Parties may not have been able to participate fully in the process. A query was raised as to whether the Presidency could consider additional opportunities for discussions in New York. At the same time, some Bureau members emphasized the need to move quickly in order to enable the Assembly to take decisions at its eighteenth session. The point was also made that it would be difficult for New York-based delegations to make time for extensive negotiations at this time of the year.

In response, the President noted that it would be impractical to have a full drafting exercise in two locations. However, there had been close coordination between the two Vice-Presidents throughout, and written comments had always been sought to ensure inclusivity. All States not present in The Hague were encouraged to use the written procedures to actively participate. On sequencing and procedure, he noted that if the Assembly endorsed the review and the ToR, as recommended by the Presidency and the Bureau, at its eighteenth session, then the review process would start immediately. Some areas would be for the Assembly and the Bureau to take forward, as well as for specific facilitations. It would then be for the nineteenth session of the Assembly in 2020 to decide the way forward in light of the recommendations of the experts.

Vice-President Mlynàr added that no effort had been spared regarding coordination between New York and The Hague. The Presidency was conscious that not all delegations were represented in both locations. This was one of the reasons it had relied on rounds of written comments, which enabled equal involvement by all. At the same time, Vice-President Mlynàr recalled that there were two New York Working Group meetings tentatively scheduled before the Assembly session, and it was possible that the discussion on the review could be continued in one of those meetings.

The President noted that all efforts would be made to conclude discussions in advance of the next Bureau meeting on 12 November, so that the Bureau could take decisions at that time.

3. Current schedule of the Assembly – benefits and challenges

The President recalled the mandate, contained in resolution ICC-ASP/17/Res.5,² whereby the Assembly had “request[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 assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first semester 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”.

The Bureau had before it the “Report of the Secretariat on assessing benefits and challenges with regard to current schedule of Assembly sessions”, dated 17 October 2019, which set out information regarding the challenges and benefits as requested by the Assembly. The President noted that the input of the Court had been requested and would be conveyed as soon as it was received.

Bureau members expressed their appreciation for the information provided. It was acknowledged that any rescheduling would have important implications and could be difficult to achieve. At the same time, the point was made that the current schedule of Assembly sessions did cause difficulties, particularly for New York-based delegates. There was therefore merit in studying the topic carefully, and it was good to be aware of the different issues that would need to be taken into account. Bureau members looked forward to receiving the views of the Court in this regard.

The point was made that any change in the Assembly schedule should not lead to an increase in expenditure. The point was also made that the location of Assembly sessions as set out in the Rome Statute was not necessarily considered a challenge. A request was made for the tentative dates for the Assembly sessions for the next five years to be provided to the Bureau by the Secretariat.

The Bureau decided to continue its discussion of this agenda item at future meetings. It was noted that it would be important for the Bureau to come to an understanding on how to proceed, including in relation to the report requested by the Assembly. If necessary, the Bureau might wish to consider deferring that report to a subsequent year.

² Paragraph 103 and annex I, paragraph 11(i).

4. Preparations for the eighteenth session of the Assembly

The President highlighted the decisions taken by the Bureau, at its 17 September meeting, on a number of administrative matters concerning the eighteenth session, as well as the recommendations made regarding the elections to be held during the session. The President noted that the decisions were summarized in the agenda and decisions of that meeting of the Bureau.

5. Other matters

a) United Nations General Assembly resolution on the International Criminal Court

A representative of the Netherlands provided an update on the United Nations General Assembly resolution on the International Criminal Court, the draft of which was now available for delegates online. States were encouraged to consider co-sponsorship in order to reinforce the strong and wide-ranging support for the Court.

b) Bureau documentation

A request was made for the relevant documentation to be re-circulated to Bureau members the day before each meeting, in a single email, along with the details for that meeting (location and time).

c) Visits to United Nations Headquarters

The Head of the New York Liaison Office informed the Bureau that the President of the Court, Chile Eboe-Osuji, would be visiting New York from 4 to 6 November to present the report of the International Criminal Court to the General Assembly. The Prosecutor of the Court, Fatou Bensouda, would also be visiting New York on 4 and 5 November to brief the Security Council on the situation in Libya.

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