

**Assembly of States Parties to
the Rome Statute of the
International Criminal Court**

**Eighth session
The Hague, 18 – 26 November 2009**

**Official Records
Volume I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Decision”.

Pursuant to resolution ICC-ASP/7/Res.6 volume I of the Official Records is available in all languages of the Assembly, while volume II is available in Arabic, English, French and Spanish.

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Part I
Proceedings

A. Introduction

1. In accordance with the decision of the Assembly of States Parties to the Rome Statute of the International Criminal Court (hereinafter “the Assembly”), taken at the 7th meeting of its seventh session, on 21 November 2008, the Assembly held its eighth session from 18 to 26 November 2009 in The Hague.
2. In accordance with the Rules of Procedure of the Assembly,¹ the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure of the Assembly (hereinafter “the Rules of Procedure”), invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.
5. In addition, in accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People’s Republic of Korea, Equatorial Guinea, Grenada, Kiribati, Lao People’s Democratic Republic, Lebanon, Maldives, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, Swaziland, Tonga, Turkmenistan, Tuvalu and Vanuatu.
6. The list of delegations to the session is contained in document ICC-ASP/8/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Mr. Christian Wenaweser (Liechtenstein), who had been elected, by acclamation, as President of the Assembly for the seventh to ninth sessions during the sixth session of the Assembly.³
8. The Bureau of the Assembly, having been elected at the seventh session for a term of three years, continued in office during the eighth session, being composed as follows:

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 61/43, 61/259, 63/131, 63/132 and decision 56/475.

³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November - 14 December 2007* (International Criminal Court publication, ICC-ASP/6/20), vol. I, part I.B, para. 22.

President:

Mr. Christian Wenaweser (Liechtenstein)

Vice-Presidents:

Mr. Zachary D. Muburi-Muita (Kenya)

Mr. Jorge Lomónaco (Mexico)

Rapporteur:

Ms. Simona Drenik (Slovenia)

Other members of the Bureau:

Australia, Brazil, Burkina Faso, Estonia, Gabon, Georgia, Japan, Jordan, Nigeria, Norway, Romania, Samoa, South Africa, Spain, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Venezuela (Bolivarian Republic of).

9. At its 1st meeting, on 18 November 2009, in accordance with rule 25 of the Rules of Procedure, the following States were appointed to serve on the Credentials Committee:

Costa Rica, Estonia, Ireland, Lesotho, Netherlands, Republic of Korea, Serbia, Suriname and Uganda.

10. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

11. At its 1st meeting, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure of the Assembly.

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/8/1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Adoption of the agenda.
4. States in arrears.
5. Credentials of representatives of States at the eighth session:
 - a) Appointment of the Credentials Committee
 - b) Report of the Credentials Committee.
6. Organization of work.
7. General debate.
8. Report on the activities of the Bureau.
9. Report on the activities of the Court.
10. Election to fill judicial vacancies.
11. Election of the members of the Board of Directors of the Trust Fund for Victims.
12. Consideration and adoption of the budget for the eighth financial year.
13. Consideration of the audit reports.
14. Report of the Board of Directors of the Trust Fund for Victims.

15. Review Conference.
 16. Premises of the Court.
 17. Decisions concerning dates of the next session of the Assembly of States Parties.
 18. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance.
 19. Other matters.
13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/8/1/Add.1).
14. Also at its 1st meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Assembly established a Working Group on the Programme Budget for 2010 and a Working Group on the Review Conference.
15. Mr. Francisco José Aguilar Urbina (Costa Rica) was appointed to chair the Working Group on the Programme Budget for 2010, while Mr. Marcelo Böhlke (Brazil) and Ms. Stella Orina (Kenya) were appointed to chair the Working Group on the Review Conference.

B. Consideration of issues on the agenda of the Assembly at its eighth session

1. States in arrears

16. At the 1st meeting, on 18 November 2009, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to four States Parties.
17. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2010 in a timely manner.

2. Credentials of representatives of States Parties at the eighth session

18. At its 8th meeting, on 26 November 2009, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

3. General debate

19. At the 3rd, 4th and 5th meetings, on 19 and 20 November 2009, statements were made by the representatives of Argentina, Austria, Barbados, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Burkina Faso, Canada (on behalf of Australia, Canada and New Zealand), Chile, China, Colombia, Croatia, Democratic Republic of the Congo, Denmark, Ecuador, El Salvador, Finland, France, Germany, Guyana, Hungary, Iran (Islamic Republic of), Italy, Japan, Jordan, Kenya, Kuwait, Lesotho, Luxemburg, Mexico, Netherlands, Nigeria, Norway, Peru, Poland, Portugal, Republic of Korea, South Africa, Spain, Suriname, Sweden (on behalf of the European Union), Switzerland, Trinidad and Tobago, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, and Venezuela (Bolivarian Republic of). Statements were also made by representatives of the International Humanitarian Fact-Finding Commission and the International Committee of the Red Cross and by representatives of the following non-governmental organizations: Amnesty International, Bahrain Coalition for the International Criminal Court, Coalition for the International Criminal Court, Colectivo de Víctimas del Terrorismo en el País Vasco (COVITE), Fédération internationale des ligues des droits de l'Homme, Georgian Coalition for War Crimes Documentation, Humanas, Human Rights Watch,

Human Rights Network-Uganda (HURINET-U), No Peace Without Justice, Palestinian Centre for Human Rights, Parliamentarians for Global Action and REDRESS.

4. Report on the activities of the Bureau

20. At its 1st meeting, on 18 November 2009, the Assembly took note of the oral report on the activities of the Bureau, delivered by the President, Mr. Christian Wenaweser (Liechtenstein). In his report, the President noted that, since the seventh session held in November 2008, the Bureau had held 15 meetings in order to assist the Assembly in carrying out its activities under the Rome Statute.

21. The President noted that representatives, both of the Permanent Missions to the United Nations in New York, where Court-related matters arise frequently in the context of the United Nations, as well as of Embassies in The Hague and Brussels, were actively involved in areas where their respective expertise could benefit the interests of the Court.

22. The Working Group in The Hague had continued to work on the issues of cooperation and the strategic planning process, in close coordination with the Court. In addition, the Working Group had considered the proposed programme budget for 2010 and options for the replenishment of the Contingency Fund and the Working Capital Fund.

23. The Working Group had further considered the legal and financial aspects for funding victims' legal representation before the Court and alternatives to the formula currently used by the Court for calculating indigence. The Working Group had also engaged in further discussions to facilitate a policy decision on the issue of financial assistance for family visits to detainees. Furthermore, the Working Group had continued its consideration of the issue of the establishment of an independent oversight mechanism, as well as of issues related to the Secretariat of the Trust Fund for Victims.

24. The Working Group in New York had been particularly engaged with the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute, as well as with the issue of arrears, including measures to promote payments by States, and the issue of equitable geographical representation and gender balance in the recruitment of staff. In addition, the Working Group had continued the preparations for the Review Conference, including with regard to scope, financial and legal implications, as well as practical and organizational issues.

25. The Secretariat of the Assembly had provided the Committee on Budget and Finance, The Hague Working Group and the Oversight Committee on the permanent premises with independent substantive servicing, as well as administrative and technical assistance in the discharge of their responsibilities. The Secretariat had assisted in coordinating the work of the Bureau and of the New York Working Group and had facilitated the dissemination of information and communications. In addition, the Secretariat had organized the first and second resumptions of the seventh session of the Assembly at United Nations Headquarters in January and February 2009, as well as had serviced the informal inter-sessional meeting on the Crime of Aggression, held in New York from 8 to 10 June 2009.

26. Furthermore, in accordance with paragraphs 6 (h) and 7 of the Plan of action for achieving universality and full implementation of the Rome Statute,⁴ the Secretariat had requested all States to convey information relevant to the promotion of the ratification and implementation of the Rome Statute.

⁴ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November to 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, annex I.

5. Report on the activities of the Court

27. At its 1st meeting, on 18 November 2009, the Assembly heard statements by Judge Sang-Hyun Song, President of the Court, by Mr. Luis Moreno-Ocampo, Prosecutor of the Court and by Ms. Silvana Arbia, Registrar of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court (ICC-ASP/8/40).

6. Election to fill judicial vacancies

28. At its 2nd meeting, on 18 November 2009, the Assembly, on the recommendation of the Bureau, decided that for the purposes of electing judges of the International Criminal Court, any meeting of the Assembly should continue until as many candidates as were required for all seats to be filled had obtained, in one or more ballots, the highest number of votes and a two-thirds majority of the States Parties present and voting. Consequently, all candidates elected as judges should be considered as having been elected at the same meeting, irrespective of whether or not the ballot continued for one or more days.

29. At the same meeting, the Assembly recommended that the candidates should not be present in the conference room at times when the Assembly was engaged in the process of voting.

30. At its 2nd meeting, on 18 November 2009, the Assembly proceeded to elect two judges of the International Criminal Court to fill judicial vacancies in accordance with the relevant provisions of the Rome Statute and with resolution ICC-ASP/3/Res.6, as amended by resolution ICC-ASP/5/Res.5.

31. The following candidates were elected judges of the International Criminal Court:

- Ms. Silvia Fernández de Gurmendi (Argentina) (Latin American and Caribbean States, list A, female); and
- Ms. Kuniko Ozaki (Japan) (Asian States, list B, female)

32. The Assembly conducted six ballots. In the first round, 92 ballots were cast, of which none were invalid and 92 were valid; the number of States Parties voting was 92; and the required two-thirds majority was 62. Ms. Kuniko Ozaki (Japan) obtained the highest number of votes (79) and a two-thirds majority of the States Parties present and voting.

33. In the sixth round, 88 ballots were cast, of which none were invalid and 88 were valid; the number of States Parties voting was 88; and the required two-thirds majority was 59. Ms. Silvia Fernández de Gurmendi (Argentina) obtained the highest number of votes (62) and a two-thirds majority of the States Parties present and voting.

Commencement of terms of office of judges

34. In accordance with the provisions of article 37 of the Rome Statute, the term of office of the judges elected to fill judicial vacancies will run from the date of the election for the remainder of the term of their predecessors, that is, until 10 March 2018.

7. Election of the members of the Board of Directors of the Trust Fund for Victims

35. At its 1st meeting, on 18 November 2009, the Assembly proceeded to elect five members of the Board of Directors of the Trust Fund for Victims, in accordance with its resolution ICC-ASP/1/Res.7 of 9 September 2002.

36. In accordance with paragraph 10 of resolution ICC-ASP/1/Res.7, the Assembly dispensed with the secret ballot and elected by acclamation one member from the Group of African States, one member from the Group of Asian States, one member from the Group of Eastern European States, one member from the Group of Latin American and Caribbean States, and one member from the Group of Western European and Other States as follows:

- Mr. Bulgaa Altangerel (Mongolia)
- Ms. Betty Kaari Murungi (Kenya)
- Mr. Eduardo Pizarro Leongómez (Colombia)
- Ms. Elisabeth Rehn (Finland)
- Ms. Vaira Vīķe-Freiberga (Latvia).

37. The term of office of three years will begin to run for each member of the Board on 1 December 2009.

8. Consideration and adoption of the budget for the eighth financial year and of the audit reports

38. At its 8th meeting, on 26 November 2009, the Assembly took note of the oral report of the Coordinator of the Working Group on the programme budget, Ambassador Francisco José Aguilar Urbina (Costa Rica), wherein he, inter alia, conveyed the recommendation of the Working Group (see annex V to this report), that the Assembly endorse the recommendations of the Committee on Budget and Finance at its thirteenth session⁵ as a whole, with the adjustments reflected in sections F, G and H of resolution ICC-ASP/8/Res.7.

39. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2010.

40. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/8/Res.7, concerning the programme budget in relation to the following:

- a) Programme budget for the year 2010, including appropriations totalling €103,623,300 for the major programmes and staffing tables for each of the major programmes;
- b) Working Capital Fund for 2010;
- c) Scale of assessments for the apportionment of the expenses of the International Criminal Court;
- d) Financing of appropriations for the year 2010;
- e) Contingency Fund;
- f) Conversion of a P-3 GTA psychologist post to an established one;
- g) Legal aid (defence); and
- h) Addis Ababa Liaison Office.

41. Also at its 8th meeting, the Assembly took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2008 (ICC-ASP/8/14) and of the Trust Fund for Victims for the same period (ICC-ASP/8/16).

⁵ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eighth session, The Hague, 18-26 November 2009* (International Criminal Court publication, ICC-ASP/8/20), vol. II, part B.2.

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

42. At its 1st meeting, on 18 November 2009, the Assembly heard a statement by Mr. Bulgaa Altangerel, on behalf of the Board of Directors of the Trust Fund for Victims. The Assembly considered and took note of the report on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2008 to 30 June 2009 (ICC-ASP/8/18 and Add.1).

10. Review Conference

43. At its 8th meeting, on 26 November 2009, the Assembly took note of the report of the Working Group on the Review Conference (see annex II to this report) and adopted resolution ICC-ASP/8/Res.6 on the Review Conference.

44. The Assembly decided that the Review Conference, to be held in Kampala, Uganda, shall run from 31 May to 11 June 2010, for a period of ten working days. The Assembly further decided that the Review Conference should consider the proposals on the crime of aggression and on elements of crimes; article 124 of the Rome Statute; the proposal of Belgium for amendment to article 8, paragraph (2) (e), of the Statute; and the stocktaking exercise. In view of the need for proper preparation for the Review Conference, the Assembly decided to hold a resumed session of three working days, between 22 and 25 March 2010, in New York. It also decided to establish a Working Group of the Assembly, as from the ninth session, for the purpose of considering other amendments to the Rome Statute.

11. Premises of the Court

45. At its 7th meeting, on 26 November 2009, the Assembly took note of the oral report⁶ of the Chairperson of the Oversight Committee, Mr. Lyn Parker (United Kingdom of Great Britain and Northern Ireland) and of the report on the activities of the Oversight Committee.⁷

46. At its 8th meeting, on 26 November 2009, the Assembly adopted, by consensus, resolution ICC-ASP/8/Res.5, whereby it, inter alia, took note of the decision of the Oversight Committee to request the Project Board to finalize the negotiations, including on the terms and conditions of the contract, with Schmidt Hammer Lassen Architects.

12. Decision concerning dates of the next session of the Assembly of States Parties

47. At its 8th meeting, on 26 November 2009, the Assembly decided to hold its ninth session in New York, for a period of five working days as early as possible in December 2010 with the specific dates to be fixed by the Bureau.

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

48. At its 8th meeting, on 26 November 2009, the Assembly decided that the Committee on Budget and Finance would hold its fourteenth session from 19 to 23 April 2010 and its fifteenth session from 23 to 31 August 2010 in The Hague.⁸

⁶ ICC-ASP/8/L.10.

⁷ ICC-ASP/8/11, ICC-ASP/8/34 and Add.1.

⁸ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eighth session, The Hague, 18-26 November 2009* (International Criminal Court publication, ICC-ASP/8/20), vol. I, part II, resolution ICC-ASP/8/Res.3, para. 55.

14. Other matters

a) Independent oversight mechanism

49. At its 7th meeting, on 26 November 2009, the Assembly adopted resolution ICC-ASP/8/Res.1 on the establishment of an independent oversight mechanism, in accordance with the Rome Statute and, in particular with article 112, paragraph 4. The initial mandate would provide an investigative capacity for the Court to address the alleged misconduct of staff and elected officials. The Assembly agreed that the Court shall enter into a memorandum of understanding with the United Nations Office of Internal Oversight Services to provide support services on a cost recovery basis for the operationalization of the oversight mechanism. The Assembly also established a major programme to cover the start-up and continuing maintenance costs of the mechanism.

b) Cooperation

50. At its 8th meeting, on 26 November 2009, the Assembly took note of the report of the Bureau on cooperation.⁹ Also at its 8th meeting, the Assembly adopted resolution ICC-ASP/8/Res.2, whereby it requested the Bureau to, inter alia, report on significant developments to the Assembly at its ninth session and further requested the Court to submit an updated report on cooperation to the Bureau in advance of the Review Conference and to the Assembly at its tenth session. The Assembly also requested the Bureau to appoint a new facilitator for cooperation for a period of two years.

c) Family visits

51. At its 8th meeting, on 26 November 2009, the Assembly adopted resolution ICC-ASP/8/Res.4 on family visits for indigent detainees.

52. The Assembly invited the Court to report to the Assembly on the feasibility and the conditions for the establishment of a voluntary system of funding family visits with a view to its establishment by the Assembly at its ninth session. Pending the establishment of such system, the Assembly decided that, while no legal obligation exists for the detaining authority or any other authority to fund family visits, the Court may, on a temporary basis, partly or fully subsidize family visits for indigent detainees up to an amount to be determined by the Assembly in the context of the approval of the programme budget.

53. It was further decided that the temporary budgetary funding would be subject to re-evaluation upon the establishment of a mechanism of voluntary funding, no later than at the tenth session of the Assembly.

d) Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

54. The Assembly expressed its appreciation to Australia, Austria, Croatia, Finland, Germany, the Netherlands and Poland for their contributions to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

55. The Assembly noted with satisfaction that 15 delegations had made use of the Trust Fund to attend the eighth session of the Assembly.

⁹ ICC-ASP/8/44.

