



First ICC-ASP Bureau Meeting

11 January 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 President noted that the names of members of the Search Committee submitted by four regional groups on 17 December 2010 had been adopted via the silence procedure, as no observations had been made by 23 December.

Pending the decision of the Group of Latin American and Caribbean States (GRULAC), the composition of the Search Committee is as follows:

- African group: H.E Mr. Baso Sangqu (South Africa)
- Asian group: H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan)
- Eastern European group: H.E. Mr. Miloš Koterec (Slovakia)
- Western European and Other States group: Sir Daniel Bethlehem, Q.C. (United Kingdom)

The delegation of the Bolivarian Republic of Venezuela informed the Bureau that GRULAC had not yet reached a decision but hoped to identify a candidate before the next Bureau meeting.

The President recalled the original intention of the Bureau to have the Search Committee operational at the end of 2010 and indicated his intention to convey a letter to all States Parties on the commencement of the work of the Search Committee and the timeline for its activities, as soon as it was fully constituted, taking into account the applicable rules and provisions. He noted that the next Bureau meeting should serve as a final deadline for the efforts of GRULAC. Should a consensus candidate be endorsed sooner by GRULAC, the name would be submitted to the Bureau for adoption via the silence procedure.

2. Terms of reference of the Working Groups of the Bureau

A view was expressed that, while the Bureau had, at its fourteenth meeting, on 5 October 2010, appointed facilitators for the topic "Peace and justice", the Assembly had not, at its ninth session, conferred a mandate on the Bureau to consider the topic. Another Bureau member expressed satisfaction in respect of the explanation given by the President in this regard on 17 December 2010.

The Bureau decided to assign the topic “Peace and justice” to the New York Working Group, pursuant to resolution ICC-ASP/9/Res.3.¹

3. Decisions of Pre-Trial Chamber I, dated 27 August 2010, informing the United Nations Security Council and the Assembly of the States Parties to the Rome Statute about Omar Al-Bashir's recent visit to Chad and Kenya

The President recalled his September 2010 meetings with the Foreign Ministers of Chad and Kenya, respectively, on the margins of the general debate of the sixty-fifth session of the United Nations General Assembly, as well as the correspondence on this topic, which was before the Bureau.

The delegation of Kenya reiterated its cooperation with the Court, expressed satisfaction that the referendum in Southern Sudan seemed to have been achieved with minimal civil strife, and reiterated Kenya’s commitment to multilateral and plurilateral diplomacy, as well as its commitment to ending impunity through its continued voluntary membership in the Rome Statute.

The discussion of such issues within the Bureau was welcomed by Bureau members and the hope was expressed that this would lead to a more generic discussion in the future. However, several members of the Bureau rejected the argument that a political decision of the African Union was on the same legal level as an obligation arising from the Rome Statute, and highlighted the Chapter VII powers of the Security Council in the case of Darfur. Furthermore, it was pointed out that, should States Parties have issues in cooperating with the Court, these could be addressed within the Rome Statute system.

The delegation of Kenya noted the importance of reading both articles 58 and 98 of the Rome Statute and suggested that perhaps an amendment to the Statute would be necessary in this case, to allow for the postponement of the execution of requests for cooperation, for example in cases where such requests might interfere with on-going peace processes. The ultimate solution might lie in realizing the universality of the Court. The delegation of Kenya agreed that it would be necessary to contemplate general procedures.

The President suggested sending a final invitation to Chad and noted that it had been established that such issues should be first discussed within the Bureau.

The Bureau decided, pending the decision of the Government of Chad to make a statement, to close its consideration of this part of its work.

4. Other matters

a) Visit by the Prosecutor

The President indicated that the Prosecutor had made a request to brief the New York Working Group on recent developments concerning his office during his visit to New York on 20 and 21 January. An invitation for States Parties to participate at the ambassadorial level would be sent, once the date and time were determined.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Ninth session, New York, 6 – 10 December 2010* (International Criminal Court publication, ICC-ASP/9/20), vol. I, part III, resolution ICC-ASP/9/Res.3, para. 59.

b) Interim premises

The delegation of the Netherlands expressed its surprise and disappointment that the Bureau had decided, on 17 December 2010, that the Court should conduct negotiations with the host State regarding the extension of the rent-free period for the interim premises. The delegation of the Netherlands emphasized that, at the ninth session of the Assembly, the Netherlands had made it abundantly clear that negotiations with the Court regarding a possible extension of the rent-free period for the interim premises had been concluded and that therefore the obligations of the host State regarding the rent of the interim premises would end in mid-2012. This position was final and non-negotiable. The Government of the host State would, however, assist the Court in its negotiations with the owner of the interim premises. The Netherlands also indicated that it considered that the Assembly's decision at the ninth session in its resolution on permanent premises,² as well as in paragraph 30 of Part II of the Official Records, constituted a decision by the Assembly not to discuss the matter further.

The President took note of the position of the Government of the host State but emphasized that this was not his understanding of the matter and noted that, at its last meeting, the Bureau had considered the modalities of talks between the Court and the host State, rather than their outcomes. A view was expressed that States were realistic about the prospects for success in the negotiations, but still wished that every avenue be explored. A suggestion was made in this regard that the negotiations be described as "consultations", should that be easier for the host State to accept.

c) Next Bureau meeting

The Bureau decided to hold its next meeting on 1 February 2011.

² *Official Records ...Ninth session... 2010* (ICC-ASP/9/20), vol. I, part II, para. 30 and part III, resolution ICC-ASP/9/Res.1, part VII.