



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Sixth meeting**

**The Hague**

18 October 2017

Agenda and decisions

*The meeting was chaired by the President of the Assembly, H.E. Mr. Sidiki Kaba (Senegal)*

**1. Preparations for the sixteenth session of the Assembly**

*a) Incoming Bureau*

*Regional consultations on the composition of the future Bureau*

As regards the Eastern European group, the representative of the Czech Republic indicated that the group had nominated Estonia, Serbia, Slovakia and Slovenia as its members on the future Bureau. Romania indicated that it had withdrawn its candidature in order to facilitate consensus in the Eastern European group and would present its candidature for the 2021-2023 term.

Representatives of the African, Asia-Pacific, Latin American and Caribbean, and Western European and other States groups indicated that consultations in their respective groups were on-going.

The President encouraged the regional groups that had not yet agreed a clean slate of candidates to continue the consultations, so that the Bureau may be in a position to recommend the election of the future Bureau members by acclamation.

*b) Judicial elections*

*i) Advisory Committee on Nominations of Judges*

The President referred to the report of the sixth meeting of the Advisory Committee on Nominations of Judges,<sup>1</sup> document ICC-ASP/16/7 and thanked the members of the Advisory Committee for their work. He encouraged Bureau members to bring this report to the attention of their respective regional groups.

The Bureau decided to propose the text for inclusion in the omnibus resolution (annex I).

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<sup>1</sup> ICC-ASP/16/7.

ii) *Mock ballot*

The President reminded all States Parties that the Secretariat had scheduled a mock ballot on Friday, 1 December 2017, at United Nations Headquarters, New York, during the lunch break, and encouraged all States Parties to attend as this exercise had, in the past, proved useful in assisting delegations with the election procedure and in providing clarifications where necessary.

c) *Elections to the Committee on Budget and Finance*

The President took note that, at the close of the nomination period on 8 October 2017 after three extensions, the Secretariat had received eight nominations for the six available seats on the Committee on Budget and Finance. The nominations, contained in document ICC-ASP/16/6,<sup>2</sup> reflected that the number of candidates nominated in the Asia-Pacific and the Western European and other States groups exceeded the number of vacant seats for those groups. In the Asia-Pacific group, three candidates had been nominated for election to two seats, and in the Western European and other States group, two candidates had been nominated for one vacant seat.

In light of the provisions of resolution ICC-ASP/1/Res.5, paragraph 9<sup>3</sup> and, taking into account the past practice of the Bureau, the President, as a first step, requested the States Parties concerned to consult with a view to agreeing on consensus candidates, and to inform him of the outcome no later than 5 November. Should those consultations not prove fruitful, he would then request a Bureau member from each of the two regional groups to conduct consultations within the group in order to arrive at consensus candidates.

d) *Nomination of national tellers*

The President recalled his 5 June and 22 September 2017 requests that all regional groups communicate to the Secretariat the names of the national tellers they had selected. As no regional group had identified its national teller, he encouraged them to continue to consult in order to identify one national teller each, before 1 December.

The President stated that the tellers appointed by the Assembly would serve for all the elections to be held during the sixteenth session. Further, he recalled that the Secretariat would hold an information session for national tellers on 1 December 2017 at United Nations Headquarters.

e) *Credentials Committee*

The President recalled his 22 September 2017 request that representatives of regional groups ascertain whether the members of the Credentials Committee that had served for the fifteenth session<sup>4</sup> would be available to sit on the Committee for the sixteenth session.

In this connection, a member from the Western European and other States group indicated that Sweden and the United Kingdom of Great Britain and Northern Ireland would not seek re-appointment to the Committee. Since no States had been nominated, the President

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<sup>2</sup> Election of members of the Committee on Budget and Finance.

<sup>3</sup> “9. Every effort shall be made to elect the members of the Committee by consensus, on the basis of a recommendation by the Bureau. In making its recommendation, the Bureau shall consult the regional groups. In the absence of agreement within the concerned regional group, the Bureau shall abstain from making a recommendation regarding that group.”

<sup>4</sup> Czech Republic, Kenya, Panama, Peru, Republic of Korea, Senegal, Slovakia, Sweden and the United Kingdom of Great Britain and Northern Ireland.

encouraged Bureau members to continue consultations within their respective regional groups in order to identify the members of the Committee for the sixteenth session.

*f) Programme of work*

The Bureau agreed on a programme of work for the sixteenth session, dated 18 October 2017.

Regarding agenda items 3 and 4<sup>5</sup> of the provisional agenda,<sup>6</sup> the Bureau agreed as follows:

a) If there was consensus on Bureau members in advance of the opening of the session, the Bureau would recommend that the future Bureau be elected by acclamation on the first day of the session.

b) If there was no consensus, the Assembly would proceed to elect the Bureau at a later date, once the election of judges had concluded.

*g) General debate*

The Bureau requested the President to inform States that the general debate would be held on Wednesday, 6 December 2017 at the beginning of the afternoon for ministerial-level representatives. The general debate would continue on 7 December 2017 during the morning. Depending on the number of speakers, it could continue during the lunch break and an evening session might also be required.

The President requested the Secretariat to inform States of the opening of the list of speakers on 30 October 2017 (Central European Time).

*i) Time limits*

The Bureau recommended, on the basis of rule 50 of the Rules of Procedure of the Assembly and of previous Assembly decisions regarding the time limit for statements in the debate, that the Assembly request speakers to observe a time limit of five minutes.

*ii) Participation of observers and non-governmental organizations*

On the basis of previous Assembly decisions, the Bureau recommended that the Assembly allocate 45 minutes for the participation in the general debate of observers and the International Criminal Court Bar Association, pursuant to rule 92 of the Rules of Procedure of the Assembly.

The Bureau also recommended that 45 minutes be allocated to non-governmental organizations for the delivery of statements at the end of the general debate.

*h) Side events*

In order to facilitate proper planning, the Bureau requested States, observers and non-governmental organizations wishing to hold side-events during the sixteenth session to so

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<sup>5</sup> “3. Election of the President for the seventeenth to nineteenth sessions.

“4. Election of two Vice-Presidents and eighteen members of the Bureau for the seventeenth to nineteenth sessions.”

<sup>6</sup> ICC-ASP/16/1.

indicate to the Secretariat in the week of 30 October, with a view to the preparation of a draft advance Journal for dissemination in the week of 6 November 2017. Given the limited availability of conference rooms, the President encouraged States Parties to consider limiting the number of requests for side events and to spread them out over the duration of the session.

*i) Trust Fund for the participation of least developed countries and other developing States*

The President indicated that the trust fund could currently support the participation of three delegates. Additional contributions should be made before the end of October.

The President thanked the States that had contributed to the trust fund and encouraged States in a position to do so to consider contributing soon as possible, as but no later than the end of October.

## **2. Participation of Observer States in the deliberations of the Assembly**

The President referred to the 20 July 2017 letter by which the Vice Presidents of the Assembly, Ambassador Sebastiano Cardi (Italy) and Ambassador Sergio Ugalde (Costa Rica), had jointly informed him of a) the approval by the New York Working Group on 18 May 2017 of a draft decision of the Bureau and an annex entitled “Understanding on the participation of Observer States in meetings of the ASP”; and b) The Hague Working Group’s approval on 20 June 2017 of this draft decision and annex.

The Bureau adopted the “Draft decision by the Bureau”, together with the annex entitled “Understanding on the participation of Observer States in the meetings of the Assembly of States Parties”, with some editorial modifications (annex II).

The Bureau thanked Colombia for its initiative in introducing the discussion of the topic, which was important for the Assembly and would clarify its Rules of Procedure regarding the participation of Observer States in the work of the Assembly. This was described as a major milestone forward regarding Observer States that was relevant for consistency of the Assembly’s proceedings and for encouraging universality of the Rome Statute.

## **3. Recommendations concerning the election of the Registrar**

The President recalled the 16 February 2017 decision of the Bureau to entrust The Hague Working Group with the preparation of recommendations on the election of the Registrar.<sup>7</sup> He indicated that the President of the Court had, on 28 September 2017, conveyed to him the shortlist of candidates<sup>8</sup> together with statistics illustrating the geographical and gender balance of candidates received by the Court.<sup>9</sup>

The Coordinator of The Hague Working Group, Ambassador Sergio Ugalde (Costa Rica), informed the Bureau that The Hague Working Group had initiated the consultation process regarding the recommendations that it would convey to the Bureau for consideration. He had circulated an initial draft recommendation on 9 October, inviting comments from States Parties, and the revised 17 October version reflected the comments received. He aimed to finalise discussions at a meeting scheduled for 24 October. The draft recommendation would then be conveyed to the Bureau.

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<sup>7</sup> The relevant provisions are: article 43, paragraph 4, of the Rome Statute and rule 12, paragraph 2 of the Rules of Procedure and Evidence.

<sup>8</sup> Election of the Registrar of the International Criminal Court (ICC-ASP/16/28/Rev.1, annex I).

<sup>9</sup> Ibid., appendix.

#### **4. Independent Oversight Mechanism**

##### *Quarterly report*

The Bureau took note of the “Quarterly Activity Report to the Bureau: July to September 2017”, dated 12 October 2017, which the Head of the Independent Oversight Mechanism (IOM) had submitted to the Bureau in accordance with resolution ICC-ASP/12/Res.6.

##### *Annual report*

The Bureau took note of the Annual report of the Head of the IOM, submitted in accordance with resolution ICC-ASP/12/Res.6.<sup>10</sup>

As regards the amendment proposed by the IOM Head, entitled “Proposed amendments to rule 26 of the Rules of Procedure and Evidence”,<sup>11</sup> concerning the procedural steps in relation to the investigation of claims of misconduct against elected officials, the Bureau requested the Study Group on Governance to consider the proposals and convey its recommendations to the Working Group on Amendments. The latter would make a recommendation thereon to the seventeenth session of the Assembly.

The IOM Head provided clarification on the procedures observed in the implementation of the IOM’s mandate, noting that some procedures allowed Heads of organs to conduct their own investigations. In response to a query regarding a mapping of the normative regime applicable to the work and activities of elected officials and staff, the IOM Head indicated that he would share a paper thereon with the Bureau.

The Bureau requested the IOM to submit in the coming weeks a report on the normative regime relating to the work/activities/statements by elected officials and staff, including former elected officials and former staff, of the Court, identify any inconsistencies or gaps in the code or codes of conduct in the different organs and how these might be addressed, bearing in mind the best practices of other international organizations/tribunals, and to suggest specific options for the Bureau and the Assembly to take in that regard.

Views were expressed that the work of the IOM was important in terms of integrity and the public image of the Court.

#### **5. Activities of the President**

The President recalled that, each year during his presidency, an event had been held in Senegal to mark the Day of International Criminal Justice on 17 July. The theme this year was “Challenges and opportunities of the ICC on the eve of the 20<sup>th</sup> anniversary of the Rome Statute”. Participants included Ministers of Justice of African States Parties and non-States Parties, Vice-President Sergio Ugalde, representatives of the Court, the Trust Fund for Victims, and members of civil society. The Conference had discussed the need to strengthen relations between Africa and the Court, strengthen cooperation with the Court and promote complementarity and universality.

He had also participated in the 72<sup>nd</sup> session of the United Nations General Assembly and held bilateral meetings with Foreign Ministers of States Parties and non-States Parties, including France, in order to promote universality of the Rome Statute and strengthen diplomatic and political support to the Court.

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<sup>10</sup> ICC-ASP/16/8.

<sup>11</sup> Ibid., annex I.

On 20 October, the President would participate in the Paris seminar organized by the co-facilitators for cooperation, Ambassador Philippe André Lalliot (France) and Ambassador Momar Diop (Senegal), on the topic “The International Criminal Court and international cooperation: the challenges of asset recovery”.

## **6. Other matters**

### *a) Agenda and decisions of the fifth meeting of the Bureau*

The Bureau adopted the Agenda and decisions of its fifth meeting, dated 17 October 2017.

### *b) Effective date of instrument of withdrawal from the Rome Statute*

In response to a query on the effective date of the instrument of withdrawal from the Rome Statute by a State Party on 27 October 2017, the President indicated that no further information had been received.

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Bureau members thanked and commended the President for his leadership and accomplishments during his term of office, which would end in December. As it was likely his last meeting of the Bureau in The Hague, the President expressed his appreciation to Vice-President Sergio Ugalde, the other Bureau members, facilitators and focal points and delegations based in The Hague for their untiring support during his term.

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## **Annex I**

### **Advisory Committee on Nominations of Judges - text for inclusion in the omnibus resolution**

The Assembly takes note of the report of the Advisory Committee on Nominations of Judges on the work of its sixth meeting<sup>1</sup> containing recommendations for the election of six judges during the sixteenth session of the Assembly.

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<sup>1</sup> ICC-ASP/16/7.



**ASSEMBLY OF STATES PARTIES TO  
THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

**DECISION BY THE BUREAU**

**18 October 2017**

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

*Mindful* that, under article 112 (3) (c), of the Rome Statute the Bureau shall assist the Assembly in the discharge of its responsibilities,

*Aware* that certain questions have arisen with regard to the participation of Observer States in the meetings of the Assembly,

*Bearing in mind* the call made by the Assembly of States Parties to intensify their efforts to promote universality,<sup>1</sup>

*Convinced* that participation in the various meetings of the Assembly of States Parties, in a spirit of openness, increases transparency and contributes to a better understanding of the Rome Statute system and that such participation should be conducive to promoting the universality of the Rome Statute, while recognizing the need for certain Assembly deliberations to be conducted only among States that are party to the Rome Statute,

*Recalling* rule 42 of the Rules of Procedure of the Assembly of States Parties concerning the general principles that apply in the case of public and private meetings of the Assembly of States Parties,

*Recalling* that at its first session the Assembly decided that Observer States should be allowed to participate in its deliberations but could not participate in the taking of decisions,<sup>2</sup>

*Recalling* that in accordance with rule 1 of the Rules of Procedure of the Assembly of States Parties, the term “Observer States” means States which have signed the Rome Statute or the Final Act of the Rome Conference and which, pursuant to article 112, paragraph 1, of the Rome Statute, may be observers in the Assembly;

1. *Decides* to adopt the enclosed “Understanding on the participation of Observer States in meetings of the Assembly of States Parties”;
2. *Decides* to request the Secretariat to distribute the text of the present decision and its enclosure among States Parties and Observer States.

<sup>1</sup> Resolution ICC-ASP/15/Res. 5, “Strengthening the International Criminal Court and the Assembly of States Parties”, para. 1.

<sup>2</sup> *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 (ICC-ASP/1/3)*, part I, para. 12.



## **Appendix**

### **BUREAU OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

#### **UNDERSTANDING ON THE PARTICIPATION OF OBSERVER STATES IN MEETINGS OF THE ASSEMBLY OF STATES PARTIES**

1. The Rules of Procedure of the Assembly of States Parties, concerning the participation of Observer States, observers and other participants in the meetings of the Assembly should be complied with in full.
  2. For the purposes of the present Understanding, the term “meeting” of the Assembly of States Parties includes, but is not limited to, plenary debates, formal meetings and informal consultations, including those held by working groups and other subsidiary bodies with general membership.
  3. Observer States’ participation means participation in the deliberations but not in the taking of decisions, as expressed in ICC-ASP/1/3, paragraph 12.
  4. Bearing in mind the provisions of rule 42 of the Rules of Procedure of the Assembly of States Parties, according to which it is up to States Parties of the concerned subsidiary body with general membership to decide whether the in-principle public meetings shall be held in private, and thus whether interested Observer States shall not be allowed to participate in such meetings:
    - (a) The chairpersons and facilitators of the Assembly are requested to communicate to the Bureau any decision made by States Parties within their respective processes to hold meetings in private, without prejudice to case-by-case deviations as may be decided by the States Parties of the respective processes; and
    - (b) The Bureau shall keep a list of such decisions.
- The above is without prejudice to any matter that the Assembly determines is restricted to only States Parties.
5. Observer States participating in a meeting may request to make statements or interventions following the statements and/or interventions of States Parties.
  6. Observer States will not be excluded when a meeting has been made public to observers and other participants as defined by rules 92 and 93 of the Rules of Procedure of the Assembly of States Parties.
  7. This Understanding does not apply to the participation of other observers, other participants and States not having observer status in the deliberations of the Assembly, as governed by rules 92, 93 and 94 respectively.
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