

Assembly of States Parties

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New York

30 November to 14 December 2007

Annotated list of items included in the provisional agenda

Note by the Secretariat

The following annotated list of the items contained in the provisional agenda for the sixth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/6/1/Rev.1) has been prepared to assist the Assembly in its consideration of issues before it at its sixth session, which will be convened in New York, on Friday, 30 November 2007, at 10 a.m. The status of the documentation reflected herein is current as of 27 November 2007.

Annotated list of items included in the provisional agenda

1. Opening of the session by the President

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly of States Parties (“the Assembly”) meets once a year in regular session. In accordance with rule 5 of the Rules of Procedure of the Assembly of States Parties (“Rules of Procedure”),¹ the Assembly, at the 4th meeting of its fourth session, on 3 December 2005, decided to convene its sixth session in New York, for not less than 11 days, including not less than three days exclusively for the Special Working Group on the Crime of Aggression. At meetings on 23 October 2006 and 6 July 2007, the Bureau decided to convene the sixth session from 30 November to 14 December 2007, and the resumed sixth session from 2 to 6 June 2008, respectively.

At the 5th meeting of its third session, on 9 September 2004, the Assembly elected Mr. Bruno Stagno Ugarte (Costa Rica) President of the Assembly for the fourth to sixth sessions.² Rule 30 of the Rules of Procedure provides that the President shall declare the opening of each plenary meeting of the session.

2. Silent prayer or meditation

Pursuant to rule 43 of the Rules of Procedure, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

3. Adoption of the agenda

Rules 10 to 13 and 18 to 22 of the Rules of Procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the sixth session (ICC-ASP/6/1 and ICC-ASP/6/1/Rev.1) was issued on 20 April and 8 October 2007. In accordance with rule 19 of the Rules of Procedure, the agenda has to be submitted to the Assembly for approval.

Documentation

Provisional agenda (ICC-ASP/6/1/Rev.1)

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 *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part I.B, para. 45. In accordance with rule 29 of the Rules of Procedure, the President is elected for a three-year term.

4. States in arrears

According to article 112, paragraph 8, of the Rome Statute, "A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years."

At its fourth session, the Assembly took note of the report of the Bureau on the arrears of States Parties³ and the recommendations therein and invited the Bureau to report back to the fifth session of the Assembly on the status of arrears, including on suggestions, if necessary, of measures to promote the timely, full and unconditional payment of assessed contributions and advances towards the costs of the Court. Furthermore, the Assembly decided that requests for exemption under article 112, paragraph 8, of the Rome Statute, should be submitted by States Parties to the Secretariat of the Assembly at least one month before the session of the Committee on Budget and Finance ("the Committee"), so as to facilitate the Committee's review of the requests and that the Committee should advise the Assembly of States Parties before the Assembly decided on any requests for exemption under article 112, paragraph 8, of the Rome Statute.⁴

At its fifth session, the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. In this connection, the Assembly adopted recommendations setting out a specific procedure for requesting exemptions from the loss of voting rights⁵ and decided that the Bureau should review on a regular basis the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by States Parties, as appropriate.⁶

Documentation

Report of the Committee on Budget and Finance on the work of its ninth session (ICC-ASP/6/12 and Corr.1 (English only) and Add.1)

Report of the Bureau on the arrears of States Parties (ICC-ASP/6/19)

5. Credentials of representatives of States at the sixth session

(a) Appointment of the Credentials Committee

(b) Report of the Credentials Committee

Representation and credentials are regulated by rules 23 to 28 of the Rules of Procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

³ ICC-ASP/4/14.

⁴ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.4, paras. 40, 43 and 44.

⁵ *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 III.

⁶ *Ibid.*, part III, resolution ICC-ASP/5/Res.3, para. 42.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

6. Organization of work

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

7. General debate

No documentation

8. Election of the President of the Assembly for the seventh to ninth sessions

In accordance with rule 29 of the Rules of Procedure of the Assembly of States Parties, unless the Assembly decides otherwise, the Assembly shall elect a President at the last regular session prior to the end of the term of office of the President. The President so elected shall assume his or her functions only at the beginning of the session for which he or she is elected and shall hold office until the end of his or her term.

No documentation

9. Election of members of the Committee on Budget and Finance

By its resolution ICC-ASP/1/Res.4, the Assembly decided to establish a Committee on Budget and Finance. The Committee is composed of 12 members of different nationalities who shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall be elected by the Assembly for a term of office of three years on the basis of equitable geographical distribution.

The term of office of six members of the Committee expires on 20 April 2008.

Documentation

Note by the Secretariat on the election of members of the Committee on Budget and Finance (ICC-ASP/6/9 and Add.1 and Add.2)

10. Election to fill judicial vacancies

In accordance with article 37, paragraph 1, of the Rome Statute, in the event of a vacancy, an election shall be held in accordance with article 36. Furthermore, other relevant provisions are included in resolution ICC-ASP/3/Res.6, as amended by resolution ICC-ASP/5/Res.5.

The Assembly of States Parties and the Bureau of the Assembly, decided on 1 February, 27 March and 15 May 2007, respectively, to open the nomination period for the election to fill three judicial vacancies. These vacancies result from the 10 December 2006 resignation of judge Maureen Harding Clark (Ireland), the resignation of judge Karl T. Hudson-Phillips (Trinidad and Tobago), effective as of 30 September 2007, and the resignation of judge Claude Jorda (France), effective as of 12 August 2007.

Documentation

Note by the Secretariat on the election of judges to fill three judicial vacancies of the International Criminal Court (ICC-ASP/6/15 and Add.1 and Corr.1 (English only))

Note by the Secretariat on the election of judges to fill three judicial vacancies of the International Criminal Court: guide for the election (ICC-ASP/6/24)

Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004, (International Criminal Court publication, ICC-ASP/3/25), part III, resolution ICC-ASP/3/Res.6

Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Resumed fifth session, New York, 29 January-1 February 2007, (International Criminal Court publication, ICC-ASP/5/35), part II, resolution ICC-ASP/5/Res.5

11. Report on the activities of the Bureau

In accordance with article 112, paragraph 2(c), of the Rome Statute, the Assembly shall consider the reports and activities of the Bureau and take appropriate action in regard thereto.

Documentation

Report of the Bureau on the Review Conference (ICC-ASP/6/17)

Report of the Bureau on cooperation (ICC-ASP/6/21)

Report of the Bureau on geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/6/22 and Add.1 and Corr.1 (English only))

Report of the Bureau on the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/6/23)

Report of the Bureau on the Strategic Plan of the International Criminal Court (ICC-ASP/6/26)

12. Report on the activities of the Court

Under article 112, paragraph 2(b), of the Rome Statute, the Assembly shall provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. In accordance with article 112, paragraph 5, of the Rome Statute, the President of the Court, the Prosecutor and the Registrar or their representatives may participate in meetings of the Assembly. As provided in rule 34 of the Rules of Procedure, they may make oral or written statements and provide information on any question under consideration. Accordingly, the President of the Court will present a report on the activities of the Court since the previous session of the Assembly.

Documentation

Report on the activities of the Court (ICC-ASP/6/18)

13. Consideration and adoption of the budget for the sixth financial year

In accordance with article 112, paragraph 2(d), of the Rome Statute, the Assembly shall consider and decide on the budget of the Court.

Regulation 3 of the Financial Regulations and Rules of the Court provides that the Registrar shall prepare the proposed programme budget for each financial period and submit it to the States Parties as well as to the Committee on Budget and Finance for consideration. The Committee on Budget and Finance shall make the relevant recommendations to the Assembly.

At its third session, the Assembly endorsed the recommendation of the Committee on Budget and Finance that the Court should include in future performance reports data on financial performance and results achieved rather than outputs. This information should be submitted annually to the Assembly through the Committee either in the draft programme budget or in a separate performance report.⁷

Documentation

Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2)

Report on programme performance of the International Criminal Court for the year 2006 (ICC-ASP/6/3)

Report on the operation of the Court's legal aid system and proposals for its amendments (ICC-ASP/6/4)

Proposed Programme Budget for 2008 of the International Criminal Court (ICC-ASP/6/8 and Corr.1* and Corr.2)

Report on budget performance of the International Criminal Court as at 31 July 2007 (ICC-ASP/6/10)

Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2006 to 30 June 2007 (ICC-ASP/6/11 and Corr.1 (French only) and Corr. 2)

Report of the Committee on Budget and Finance on the work of its ninth session (ICC-ASP/6/12 and Corr.1 (English only) and Add.1)

Report on detention costs (ICC-ASP/6/13)

Report on the principles and criteria for the determination of indigence for the purposes of legal aid (pursuant to paragraph 116 of the Report of the Committee on Budget and Finance of 13 August 2004) (ICC-ASP/6/INF.1)

14. Consideration of the audit reports

(a) External Auditor

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the Financial Regulations and Rules.

⁷ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part II.A.8(b), para. 50, and part II.A.1, para. 4.

At the 11th meeting of its first session, on 22 April 2003, the Assembly was informed that the Bureau, acting under the delegated authority of the Assembly,⁸ had appointed the National Audit Office of the United Kingdom of Great Britain and Northern Ireland as Auditor for the Court for a period of four years.⁹

At its fifth session, the Assembly reappointed as External Auditor for a second quadrennium (2007 – 2010) the National Audit Office of the United Kingdom of Great Britain and Northern Ireland.¹⁰

In accordance with regulation 12.7, the Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period. In accordance with regulations 12.8 and 12.9, audit reports, before their submission to the Assembly, are subject to examination by the Registrar and the Committee on Budget and Finance. The Assembly considers and approves the financial statements and audit reports forwarded to it by the Committee on Budget and Finance.

Documentation

Financial statements for the period 1 January to 31 December 2006 (ICC-ASP/6/5)

Trust Fund for Victims financial statements for the period 1 January to 31 December 2006 (ICC-ASP/6/6)

Report of the Committee on Budget and Finance on the work of its ninth session (ICC-ASP/6/12 and Corr.1 (English only) and Add.1)

Report on monitoring the Court's implementation of external audit recommendations (ICC-ASP/6/14)

(b) Report of the Office of Internal Audit

At its second session, the Assembly endorsed the recommendation of the Committee on Budget and Finance that the Internal Auditor should be able to decide his or her annual work programme independently, including any issues raised by the Committee, and that the Internal Auditor should submit an annual report on the activities of the Office to the Assembly, through the Committee.¹¹

Documentation

Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2)

Report of the Office of Internal Audit (ICC-ASP/6/7)

Report of the Committee on Budget and Finance on the work of its ninth session (ICC-ASP/6/12 and Corr.1 (English only) and Add.1)

⁸ *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 I, para. 29.

⁹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session (first and second resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, ICC-ASP/1/3/Add.1), part I, para. 40.

¹⁰ *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 II, para. 43.

¹¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Second session, New York, 8-12 September 2003* (United Nations publication, Sales No. E.03.V.13), part II.A.1, para. 1 and part II.A.6, para. 29.

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

By its resolution ICC-ASP/1/Res.6, the Assembly established a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

At the 5th meeting of its second session, on 12 September 2003, the Assembly elected the five members of the Board of Directors, whose terms of office commenced on the same date. In accordance with paragraph 11 of the resolution establishing the Trust Fund, the Board should submit an annual report to the Assembly on the activities and projects of the Fund.

Documentation

Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2006 to 30 June 2007 (ICC-ASP/6/11 and Corr.1 (French only) and Corr.2)

Report of the Committee on Budget and Finance on the work of its ninth session (ICC-ASP/6/12 and Corr.1 (English only) and Add.1)

16. Report of the Special Working Group on the Crime of Aggression

By its resolution ICC-ASP/1/Res.1, the Assembly decided to establish a Special Working Group on the Crime of Aggression, open on an equal footing to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of elaborating proposals for a provision on aggression to be submitted to the Assembly for its consideration at a review conference, with a view to arriving at an acceptable provision on the crime of aggression for inclusion in the Statute in accordance with its relevant provisions. The Assembly decided further that the Special Working Group should meet during the regular sessions of the Assembly or at any other time that the Assembly deemed appropriate and feasible.

At the 8th meeting of its resumed first session, on 7 February 2003, the Assembly decided, *inter alia*, on the basis of a proposal of the Bureau, that the Special Working Group should meet during annual sessions of the Assembly, starting from its second session in 2003. It also decided that two to three meetings of the Assembly should be allocated to the Special Working Group and that that pattern should be repeated, as necessary, each year.

At its fourth session, in 2005, the Assembly decided, *inter alia*, that the Special Working Group in the years 2006 to 2008 should be allocated at least 10 exclusive days of meetings in New York during resumed sessions and should hold inter-sessional meetings, as appropriate.¹²

At its fifth session in 2006, the Assembly also decided to hold a resumed session of four days for the Special Working Group on the Crime of Aggression in the first half of 2008 in New York.¹³ For its part, the Bureau at a meeting on 6 July 2007 decided on the specific dates and to convene the resumed sixth session at United Nations Headquarters in New York, from 2 to 6 June 2008.

¹² *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.4, para. 37.

¹³ *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, para. 38.

An informal inter-sessional meeting of the Working Group was held in Princeton, New Jersey, United States of America, from 11 to 14 June 2007.

Documentation

Note by the Secretariat (ICC-ASP/6/SWGCA/INF.1)

Turin Conference on International Criminal Justice (ICC-ASP/6/INF.2 and Add.1)

17. Premises of the Court

Permanent premises

At its fifth session, the Assembly adopted resolution ICC-ASP/5/Res.1, whereby it, inter alia, recalled resolution ICC-ASP/4/Res.2, which emphasized that the Court, as a permanent judicial institution, requires functional permanent premises, and requested the Court without prejudice to the prerogative of the Assembly to make a final decision in this matter, to focus only on purpose-built premises on the Alexanderkazerne site, with a view to allowing the Assembly to take an informed decision at its next session. In this connection, the Assembly requested the Bureau, the host State and the Court to take additional steps and to provide further information.¹⁴

Documentation

Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2)

Report of the Committee on Budget and Finance on the work of its ninth session (ICC-ASP/6/12 and Corr.1 (English only) and Add.1)

Report of the Bureau on the permanent premises of the Court (ICC-ASP/6/25)

18. Recommendations concerning the election of the Registrar

Under the terms of article 43, paragraph 2, of the Rome Statute of the International Criminal Court, the Registry of the Court is to be headed by the Registrar, who shall be the principal administrative officer of the Court. Pursuant to paragraph 3 of the same provision, the Registrar shall be a person of high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

Rule 12 of the Rules of Procedure and Evidence¹⁵ provides, in paragraph 1, that “the Presidency shall establish a list of candidates who satisfy the criteria laid down in article 43, paragraph 3, and shall transmit the list to the Assembly of States Parties with a request for any recommendations.”

Upon receipt of any such recommendations from the Assembly of States Parties, the judges, acting under the terms of article 43, paragraph 4, of the Rome Statute, and in accordance with the procedure laid down in paragraphs 2 and 3 of rule 12 of the Rules of Procedure and Evidence, shall, as soon as possible, elect the Registrar by an absolute majority by secret ballot, taking into account the above-mentioned recommendations of the Assembly of States Parties.

¹⁴ *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.1.

¹⁵ *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.A.

Documentation

Note by the Secretariat on the election of the Registrar of the International Criminal Court (ICC-ASP/6/16* and Add.1)

19. Review Conference

In accordance with article 123 of the Rome Statute, seven years after the entry into force of the Statute the Secretary-General of the United Nations shall convene a Review Conference to consider any amendments to the Statute. Such review may include, but is not limited to, the list of crimes contained in article 5. The Conference shall be open to those participating in the Assembly of States Parties and on the same conditions.

At its fifth session, the Assembly took note of the preliminary report by the focal point on the issue of the Review Conference,¹⁶ and requested the Bureau to start preparation of the Review Conference, in particular on the issues of the rules of procedure applicable to the Review Conference and on practical and organizational issues, especially as regards dates and venue of the Review Conference, and to report to the sixth session of the Assembly of States Parties on the status of such preparations.¹⁷

Documentation

Report of the Bureau on the Review Conference (ICC-ASP/6/17)

Turin Conference on International Criminal Justice (ICC-ASP/6/INF.2 and Add.1)

20. Decisions concerning dates and venues of the next sessions of the Assembly of States Parties

In accordance with rule 5 of the Rules of Procedure, the date of commencement and the duration of each session of the Assembly shall be decided by the Assembly at its previous session.

21. Decisions concerning dates and venue of the next session of the Committee on Budget and Finance

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee shall meet when required and at least once per year. At its ninth session, the Committee decided to recommend to the Assembly that its tenth session be held in The Hague from 21 to 25 April 2008 and that its eleventh session be held, tentatively, from 15 to 23 September 2008.

22. Other matters

No documentation

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¹⁶ ICC-ASP/5/INF.2.

¹⁷ *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.