

# **Part I Proceedings**

## A. Introduction

1. In accordance with a decision of the Preparatory Commission at its 41st meeting, on 8 July 2002 (PCNICC/2002/2, para. 17), the first session of the Assembly of States Parties to the Rome Statute of the International Criminal Court was held at United Nations Headquarters from 3 to 10 September 2002.

2. Pursuant to General Assembly resolution 56/85 of 12 December 2001, the Secretary-General of the United Nations invited all States Parties to the Rome Statute to participate in the meeting. Other States which had signed the Statute or the Final Act were also invited to participate in the meeting as observers.

3. Also invited, pursuant to the same General Assembly resolution, as observers to the meeting of the Assembly, were representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly pursuant to its relevant resolutions<sup>1</sup> as well as interested regional intergovernmental organizations and other international bodies invited to attend the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998) or accredited to the Preparatory Commission for the International Criminal Court.

4. Further pursuant to resolution 56/85, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court or having consultative status with the Economic and Social Council of the United Nations whose activities were relevant to the activities of the Court were invited to participate in the work of the Assembly of States Parties in accordance with agreed rules.

5. In accordance with rule 94 of the Rules of Procedure of the Assembly of States Parties, the following States were invited to be present during the work of the Assembly: Bhutan, Cook Islands, Democratic People's Republic of Korea, Equatorial Guinea, Grenada, Kiribati, Lao People's Democratic Republic, Lebanon, Malaysia, Maldives, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Somalia, Suriname, Swaziland, Timor-Leste, Tonga, Turkmenistan, Tuvalu and Vanuatu. The list of delegations to the session is contained in document ICC-ASP/1/INF/1.

6. On behalf of the Secretary-General, the session was opened by the Under-Secretary-General for Legal Affairs, the Legal Counsel, Mr. Hans Corell.

7. At its 1st meeting, on 3 September 2002, the Assembly elected its Bureau, as follows:

*President:*

H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan)

*Vice-Presidents:*

Mr. Allieu Ibrahim Kanu (Sierra Leone)

Mr. Felipe Paolillo (Uruguay)

*Other members of the Bureau:*

Austria, Croatia, Cyprus, Democratic Republic of the Congo, Ecuador, Gabon, Germany, Mongolia, Namibia, Netherlands, New Zealand, Nigeria, Norway,

Peru, Romania, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Yugoslavia

8. At the same meeting, in accordance with the prior understanding on the composition of the Bureau (PCNICC/2002/2, para. 11), it was decided that Mr. Alexander Marschik (Austria) would act as Rapporteur.

9. Also at the 1st meeting, in accordance with rule 25 of the Rules of Procedure of the Assembly of States Parties, the following States were appointed to serve on the Credentials Committee: Benin, Fiji, France, Honduras, Ireland, Paraguay, Slovenia, Uganda and Yugoslavia.

10. The Director of the Codification Division of the Office of Legal Affairs of the United Nations Secretariat, Mr. Václav Mikulka, acted as Secretary of the Assembly. The Codification Division provided the substantive servicing for the Assembly.

11. At the 1st meeting, the Assembly adopted the following agenda (ICC-ASP/1/1):

1. Opening of the session by the Secretary-General.
2. Silent prayer or meditation.
3. Election of the President.
4. Adoption of the agenda.
5. Adoption of the Rules of Procedure of the Assembly of States Parties.
6. Election of two Vice-Presidents and 18 members of the Bureau.
7. Credentials of representatives of States Parties at the first session:
  - (a) Appointment of the Credentials Committee;
  - (b) Report of the Credentials Committee.
8. Organization of work.
9. Establishment of other subsidiary bodies.
10. Consideration of the report of the Preparatory Commission:
  - (a) Rules of Procedure and Evidence;
  - (b) Elements of Crimes;
  - (c) A relationship agreement between the Court and the United Nations;
  - (d) Basic principles governing a headquarters agreement to be negotiated between the Court and the host country;
  - (e) Financial regulations and rules;
  - (f) An agreement on the privileges and immunities of the Court;
  - (g) Any resolution, recommendation or other matters.
11. Adoption of the procedure for the nomination and election of judges, the Prosecutor and the Deputy Prosecutors.
12. Adoption of the budget for the first financial period.

13. Adoption of the scale of assessments.
  14. Decisions regarding practical arrangements for the transitional period.
  15. Appointment of an external auditor.
  16. Decisions concerning the next meeting, including dates and venue.
  17. Other matters.
12. At the same meeting, the Assembly adopted by consensus the Rules of Procedure of the Assembly of States Parties (part II.C of the present report). Bearing in mind that the Rules of Procedure are silent on the extent of the right of observer States referred to in paragraph 1 of article 112 of the Rome Statute to participate in the Assembly, the Assembly decided that such observer States should be allowed to participate in its deliberations but could not participate in the taking of decisions.
13. Also at the 1st meeting, the Assembly adopted the draft recommendation of the Assembly of States Parties concerning seating arrangements for States Parties (ICC-ASP/1/Decision 4).
14. At the same meeting, the Assembly decided to meet in plenary sessions and as a Working Group of the Whole and agreed on a programme of work. In particular, the following items were assigned for the consideration of the Working Group of the Whole: Rules of Procedure and Evidence, Elements of Crimes, an agreement on the privileges and immunities of the Court, a relationship agreement between the Court and the United Nations, financial regulations and rules, basic principles governing a headquarters agreement to be negotiated between the Court and the host country, consideration of remaining draft resolutions or decisions in the report of the Preparatory Commission, decisions concerning the next meeting, including the dates and venue, as well as other matters. At its 2nd meeting, on 3 September 2002, the Assembly also assigned to the Working Group the consideration of the procedure for the nomination and election of judges to the Court.
15. The Assembly also reserved time for general statements after the adoption of its report.

## **B. Consideration of the report of the Preparatory Commission**

16. At the 1st meeting of the Assembly, the report of the Preparatory Commission for the International Criminal Court, as contained in documents PCNICC/2000/1 and Add.1 and 2, PCNICC/2001/1 and Add.1-4, PCNICC/2002/1 and Add.1 and 2 and PCNICC/2002/2 and Add.1-3, was introduced by the Chairman of the Preparatory Committee, Mr. Philippe Kirsch (Canada). The Chairman also briefed the Assembly on the progress made by the advance team of experts working to ensure the early and effective establishment of the Court.
17. Also at the 1st meeting, the Assembly adopted by consensus the draft resolution on the establishment of the Committee on Budget and Finance (ICC-ASP/1/Res.4).
18. At the same meeting, the Assembly adopted by consensus the draft resolution relating to the procedure for the nomination and election of members of the Committee on Budget and Finance (ICC-ASP/1/Res.5). At its 3rd meeting, on 9 September 2002, the Assembly, on the basis of a recommendation of the Bureau,

decided that the period for the nomination of the candidates for membership of the Committee on Budget and Finance should run from 1 December 2002 to 15 February 2003. In that connection, the Secretariat was entrusted with the task of circulating an official note regarding the nomination period. It also decided that the elections of the members of the Committee on Budget and Finance would take place at the second resumed session of the Assembly in April 2003.

19. At its 2nd meeting, on 3 September 2002, the Assembly adopted by consensus the draft budget for the first financial period of the Court (part III of the present report).

20. At the same meeting, the Assembly also adopted by consensus the following resolutions and decisions related to the budget:

(a) Budget appropriations for the first financial period and financing of appropriations for the first financial period (ICC-ASP/1/Res.12);

(b) Scales of assessments for the apportionment of the expenses of the International Criminal Court (ICC-ASP/1/Res.14);

(c) Crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court (ICC-ASP/1/Res.15);

(d) Working Capital Fund for the first financial period (ICC-ASP/1/Res.13);

(e) Provision of funds for the Court (ICC-ASP/1/Decision 1);

(f) Relevant criteria for voluntary contributions to the International Criminal Court (ICC-ASP/1/Res.11);

(g) Interim arrangements for the exercise of authority pending the assumption of office by the Registrar (ICC-ASP/1/Decision 2).

21. Also at the same meeting, the Assembly reached an understanding in connection with the decision relating to the provision of funds for the Court for the first financial period (ICC-ASP/1/Decision 1), that the assessments would be determined based on the membership of the Assembly of States Parties at the date of the adoption of the decision, namely 3 September 2002, and that the assessments of States for which the Rome Statute would enter into force after 3 September 2002 would be treated as miscellaneous income.

22. At its 3rd meeting, on 9 September 2002, the Assembly adopted by consensus the report of the Working Group of the Whole (annex I to the present report). In that connection, the Assembly, on the recommendation of the Working Group of the Whole, adopted by consensus:

(a) Rules of Procedure and Evidence (part II.A of the present report);

(b) Elements of Crimes (part II.B);

(c) Financial Regulations and Rules (part II.D);

(d) Agreement on the Privileges and Immunities of the International Criminal Court (part II.E);

(e) Basic principles governing a headquarters agreement to be negotiated between the Court and the host country (part II.F);

(f) A draft Relationship Agreement between the Court and the United Nations (part II.G).

23. At the same meeting, the Assembly, on the recommendation of the Working Group of the Whole, also adopted by consensus the following resolutions and decisions:

(a) Continuity of work in respect of the crime of aggression (ICC-ASP/1/Res.1);

(b) Procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court (ICC-ASP/1/Res.2);

(c) Procedure for the election of the judges for the International Criminal Court (ICC-ASP/1/Res.3);

(d) Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims (ICC-ASP/1/Res.6);

(e) Procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims (ICC-ASP/1/Res.7);

(f) Provisional arrangements for the secretariat of the Assembly of States Parties (ICC-ASP/1/Res.8);

(g) Permanent secretariat of the Assembly of States Parties (ICC-ASP/1/Res.9);

(h) Selection of the staff of the International Criminal Court (ICC-ASP/1/Res.10);

(i) Participation of the International Criminal Court in the United Nations Joint Staff Pension Fund (ICC-ASP/1/Decision 3).

24. In addition, the Assembly, on the recommendation of the Working Group of the Whole, decided to transmit to the International Criminal Court the report of the intersessional meeting of experts held at The Hague from 11 to 15 March 2002 (PCNICC/2002/INF/2), containing summaries of staff regulations and rules relevant for provisional application by the Court at the initial stages of its establishment. Also on the recommendation of the Working Group of the Whole, the Assembly decided to await further developments on the question of the establishment of an international criminal bar (PCNICC/2002/2, para. 14) before taking further action and to consider the matter at a future session.

25. Also at the 3rd meeting, the Assembly approved the appointment of Mr. Bruno Cathala (France) as Director of Common Services for the Court.

26. At the same meeting, the Assembly extended until 31 October 2002 the mandate of the advance team of experts working to ensure the early and effective establishment of the Court.

27. Also at the same meeting, the Assembly fixed 9 September 2002 as the date for opening the nominations for the judges and the Prosecutor of the Court. The Secretariat was also entrusted with the task of circulating an official note regarding the nomination period, which would run from 9 September to 30 November 2002. Drawing attention to paragraph 28 of its resolution ICC-ASP/1/Res.2 on the nomination and election of judges, the Prosecutor and Deputy Prosecutors, which

states that “every effort shall be made to elect the Prosecutor by consensus”, the Bureau encouraged States Parties to consult informally first, before processing their official nominations for the post of Prosecutor with the Secretariat. In order to ensure the integrity of the electoral process, the Bureau also appealed to States Parties to refrain from entering into reciprocal agreements of exchange of support in respect of the election of judges of the Court.

28. At the same meeting, the Assembly postponed taking a decision concerning opening the nomination period for the members of the Board of Directors of the Trust Fund for the benefit of victims until the second resumption of its first session in April 2003.

29. At the same meeting, the Assembly delegated to the Bureau the task of appointing an External Auditor for the Court and requested it to report accordingly to the Assembly at its resumed first session in February 2003.

30. Also at the 3rd meeting, the Assembly was informed that the Bureau had created, pursuant to Assembly resolution ICC-ASP/1/Res.1 on the continuity of work in respect of the crime of aggression, a subcommittee of the Bureau of the Assembly, under the chairmanship of Mr. Allieu Ibrahim Kanu (Sierra Leone). The subcommittee was expected to report and make proposals to the Assembly during its resumed first session in February 2003.

31. At the same meeting, the Assembly was informed, pursuant to its resolution ICC/ASP/1/Res.8 concerning the provisional arrangements for the secretariat of the Assembly of States Parties, that the President would communicate with the Secretary-General of the United Nations the Assembly’s wish that the Secretariat of the United Nations should continue to perform, on a provisional basis, secretariat functions for the Court, and would request his authorization.

32. Also at the same meeting, the Assembly was informed that the Bureau was still consulting on the question of the permanent secretariat of the Assembly of States Parties as contained in Assembly resolution ICC-ASP/1/Res.9, with a view to submitting the related proposals in time for the Assembly to take a decision on such proposals during its second session in September 2003.

### **C. Adoption of the report of the Credentials Committee**

33. At the 3rd meeting, the Assembly adopted the report of the Credentials Committee (annex II to the present report).

### **D. General statements and address by the Secretary-General of the United Nations**

34. Also at the 3rd meeting, the Assembly decided to accept the requests of a number of intergovernmental organizations and other entities and non-governmental organizations to make statements during the time allocated for general statements.

35. At its 3rd and 4th meetings, on 9 September 2002, and at its 5th meeting, on 10 September 2002, the Assembly heard statements by representatives of Denmark (on behalf of the European Union and associated countries), the Netherlands, Italy, Canada, Germany, Croatia, Namibia, Peru, Bulgaria, Norway, the Democratic

Republic of the Congo, Trinidad and Tobago, Nigeria, Uruguay, Portugal, Venezuela, Cyprus, Mongolia, Gabon, Fiji, Belgium, Uganda, South Africa, Argentina, Brazil, Lesotho, Ireland, Bolivia, Ecuador, New Zealand, Senegal, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Liechtenstein, Costa Rica (on behalf of the Rio Group), Spain, Finland, Cambodia, Sierra Leone, France, Sweden and Switzerland. It also heard statements by Mexico, the Russian Federation, Japan, Ukraine, Samoa and Timor-Leste. In addition, the Assembly heard statements by Palestine (on behalf of the Arab Group) and the International Humanitarian Fact-Finding Commission as well as the Coalition for the International Criminal Court, La Fédération Internationale des Ligues des Droits de l'Homme (FIDH), Parliamentarians for Global Action, No Peace Without Justice, Human Rights Watch, Amnesty International, the World Federalist Movement and Women's Caucus for Gender Justice. The list of speakers during general statements is contained in annex III to the present report.

36. Also at the 5th meeting, the Secretary-General of the United Nations addressed the Assembly.

#### **E. Opening for signature of the Agreement on the Privileges and Immunities of the International Criminal Court**

37. The Agreement on the Privileges and Immunities of the International Criminal Court was opened for signature by all States at United Nations Headquarters in New York on 10 September 2002. It will remain open for signature until 30 June 2004.

38. During the treaty event organized on the same day, the Agreement was signed by the following countries: Austria, Benin, Finland, France, Iceland, Italy, Luxembourg, Namibia, Norway, Peru, Switzerland, Trinidad and Tobago and United Kingdom of Great Britain and Northern Ireland. On the same day, Norway also deposited its instrument of ratification.

#### **F. Next meeting, including the dates and venue**

39. At the 3rd meeting, on 9 September 2002, the Assembly decided to convene its next sessions as follows:

- (a) Resumed first session, New York, 3 to 7 February 2003;
- (b) Second resumption of the first session, New York, 21 to 23 April 2003;
- (c) Second session, New York, 8 to 12 September 2003.

40. It also decided that the Committee on Budget and Finance would meet in New York from 4 to 8 August 2003.

#### *Notes*

<sup>1</sup> 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 and decision 56/475.