

## **Resolution ICC-ASP/6/Res.2**

*Adopted at the 7<sup>th</sup> plenary meeting, on 14 December 2007, by consensus*

### **ICC-ASP/6/Res.2**

#### **Strengthening the International Criminal Court and the Assembly of States Parties**

*The Assembly of States Parties,*

*Mindful* that each individual State has the responsibility to protect its population from genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent the most serious crimes of concern to the international community, and to put an end to the impunity of the perpetrators of such crimes, is now widely acknowledged,

*Convinced* that the International Criminal Court is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

*Convinced also* that there can be no lasting peace without justice and that peace and justice are thus complementary requirements,

*Convinced further* that justice and the fight against impunity are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

*Welcoming* the Court's central role as the only permanent international criminal court within an evolving system of international criminal justice,

*Taking note with appreciation* of United Nations General Assembly resolution 62/12 of 26 November 2007, concerning the International Criminal Court, and previous relevant United Nations General Assembly resolutions,

*Stressing* the importance of effective and comprehensive cooperation and assistance by States, international and regional organizations so that the Court can properly fulfil its mandate,

*Appreciating* the invaluable assistance that has been provided by civil society to the Court,

*Conscious* of the importance of equitable geographical representation and gender balance in the organs of the Court,

*Mindful* of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly of States Parties and to ensure the broadest visibility of the Court and the Assembly,

*Conscious* of the risks faced by personnel of the Court in the field,

*Desirous* of assisting the Court and its organs, notably through management oversight and other appropriate action, in performing the duties assigned to them,

**A. Rome Statute of the International Criminal Court and other agreements**

1. *Welcomes* the States that have become a party to the Rome Statute of the International Criminal Court since the fifth regular session of the Assembly and *invites* States that are not yet parties to the Rome Statute to become so as soon as possible;

2. *Decides* to keep the status of ratifications under review, and to monitor developments in the field of implementing legislation, inter alia, with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;

3. *Welcomes* the report of the Bureau regarding the implementation of the plan of action for achieving universality and full implementation of the Rome Statute,<sup>1</sup> *endorses* the recommendations therein,<sup>2</sup> and *requests* the Bureau to continue to monitor its implementation and to report thereon to the Assembly during its seventh session;

4. *Stresses* that the integrity of the Rome Statute must be preserved and that treaty obligations emanating therefrom must be fully adhered to, *encourages* States Parties to the Rome Statute to exchange information and to support and assist each other to that end, particularly in situations where its integrity is being challenged, *reminds* States of the importance of upholding the spirit of the Statute, and *also urges* those States under an obligation to do so to cooperate with the Court in the fulfilment of its mandate;

5. *Welcomes* the States Parties as well as a non-State Party that have become a party to the Agreement on the Privileges and Immunities of the International Criminal Court, and *calls upon* those States that have not yet done so to become parties to this Agreement as a matter of priority and to incorporate it in their national legislation as appropriate;

6. *Recalls* that the Agreement on the Privileges and Immunities of the International Criminal Court and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation and *calls upon* States that have not yet become parties to this Agreement to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

7. *Welcomes* the conclusion on 7 June 2007 of the Headquarters Agreement between the International Criminal Court and the host State,<sup>3</sup> and *welcomes also* the prospects of expeditious ratification by the host State;

**B. Institution-building**

8. *Takes note* of the statements presented to the Assembly of States Parties by the senior representatives of the Court, including the President, the Prosecutor and the Registrar, as well as by the Executive Director on behalf of the Chair of the Board of Directors of the Trust Fund for Victims and the representative of the Committee on Budget and Finance;

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<sup>1</sup> ICC-ASP/6/23.

<sup>2</sup> Annex I.

<sup>3</sup> ICC-ASP/5/Res.3, annex II.

9. *Welcomes* the participation of the United Nations Secretary-General at the sixth regular session of the Assembly;
10. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court's analyses, investigations and judicial proceedings in various situations which were referred to the Court by States Parties and the United Nations Security Council;<sup>4</sup>
11. *Takes note also* of the continued operation and further enhancement of the Court's field presence;
12. *Continues to encourage* applications to the list of counsel established as required under rule 21(2) of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance;
13. *Invites* the Court, taking into account the comments of the Committee on Budget and Finance,<sup>5</sup> to present to the Assembly at its next session an updated report on the different mechanisms for legal aid existing before international criminal jurisdictions in order to assess, inter alia, the different budgetary impact of the various mechanisms;
14. *Also invites* the Court, taking into account the comments of the Committee on Budget and Finance,<sup>6</sup> to present to the Assembly at its next session an updated report on family visits, in consultation with relevant organizations, including the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Human Rights, to assess, inter alia, the legal and policy aspects, as well as the human rights dimension and budgetary impact of family visits;
15. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;
16. *Commends* the important work of the New York Liaison Office of the Court which enables regular and efficient cooperation and exchange of information between the Court and the United Nations and the effective conduct of the Bureau as well as the New York Working Group, and *expresses* its full support for the work of the Office;
17. *Welcomes* the presentation of the third report of the Court to the General Assembly of the United Nations;<sup>7</sup>
18. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties, *reiterates* that the relations between the Secretariat and other sections of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat of the Assembly of States Parties participates in the meetings of the Coordination Council when matters of mutual concern are considered;
19. *Welcomes* the steps undertaken by the Court to implement the One Court principle, including by coordinating the activities of the Court among its organs at all levels, while respecting their necessary independence under the Statute;

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<sup>4</sup> United Nations Security Council resolution 1593 (2005).

<sup>5</sup> ICC-ASP/6/12, paragraphs 72-74.

<sup>6</sup> ICC-ASP/6/12, paragraph 67, *in fine*.

<sup>7</sup> United Nations document A/62/314.

20. *Reiterates* the importance for the Court to engage communities in situations under investigation in a process of constructive interaction with the Court, designed to promote understanding and support for its mandate, to manage expectations and to enable those communities to follow and understand the international criminal justice process and, to that end, *encourages* the Court to continue such outreach activities, including through the implementation of the Strategic Plan for Outreach of the Court,<sup>8</sup> *encourages also* the Court to continuously update, as appropriate, the Strategic Plan for Outreach in consultation with relevant actors and to strengthen dialogue with States Parties with regard to that matter, and *requests* the Bureau to continue the dialogue with the Court on Outreach through The Hague Working Group;

21. *Welcomes* the efforts of the Court to further develop the Strategic Plan on the basis of the document entitled "Strategic Plan of the International Criminal Court",<sup>9</sup> *recommends* that the Court continue to engage with the Bureau on the strategic planning process and its concrete implementation, including on the priority issues identified in resolution ICC-ASP/5/Res.2, adopted on 1 December 2006, and *requests* the Court to submit to the next session of the Assembly of States Parties an update of the Strategic Plan;

22. *Reminds* the Court of its obligation under the Statute, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma and violence against women or children;

23. *Stresses* the importance of the dialogue between the Court and the Bureau of the Assembly of States Parties with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, *welcomes* the detailed report submitted by the Bureau to the Assembly of States Parties,<sup>10</sup> and *recommends* the Bureau to continue to engage with the Court to identify ways to improve equitable geographical representation within the existing model, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance;<sup>11</sup>

24. *Renews* its invitation to the Court, in consultation with the Bureau, to continue to consider concrete proposals for the establishment of an independent oversight mechanism to the next regular session of the Assembly of States Parties;

25. *Urges* States to take the necessary measures to provide for the protection of the name, abbreviations and emblems of the Court in accordance with their national laws and *recommends* that such measures be similarly undertaken in respect of any emblem, logo, seal, flag or insignia adopted by the Assembly or the Court;

26. *Notes* that the Court invited the United Nations General Assembly to consider amending the Pension Scheme Regulations for judges of the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in order to ensure that no former judge of any of these courts receives a pension while also serving as a judge of the International Criminal Court;

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<sup>8</sup> ICC-ASP/5/12.

<sup>9</sup> ICC-ASP/5/6.

<sup>10</sup> ICC-ASP/6/22.

<sup>11</sup> ICC-ASP/6/22, recommendations 15 and 16.

### C. Cooperation and implementation

27. *Welcomes* the efforts undertaken by the Court to foster cooperation with States, international and regional organizations and civil society and *stresses* that effective cooperation remains essential for the Court to carry out its activities;

28. *Calls upon* the Court to continue to promote the full implementation of the Relationship Agreement between the International Criminal Court and the United Nations;

29. *Expresses its gratitude* for the Secretary-General's efforts to strengthen cooperation between the United Nations and the Court;

30. *Expresses its appreciation* to the Secretary-General and the Secretariat of the United Nations for their support in facilitating the sixth regular session of the Assembly held at the United Nations Headquarters and *looks forward* to continuing such cooperation regarding future sessions of the Assembly;

31. *Acknowledges with appreciation* the expanding cooperation between the Court and the United Nations system, as evidenced by the hosting of a trial by the Special Court for Sierra Leone, and by several supplementary arrangements established within the framework provided by the Relationship Agreement between the Court and the United Nations;

32. *Welcomes* the implementation of the Cooperation Agreement between the Court and the European Union, as well as of the other agreements of the Court and the Office of the Prosecutor, *looks forward* to the early conclusion of a cooperation agreement with the African Union, and *invites* other relevant regional organizations to consider concluding such agreements with the Court;

33. *Appeals* to all States in which personnel of the Court are deployed and to all others on which such personnel may rely to ensure the safety of, and to prevent attacks against, personnel of the Court and to provide cooperation and judicial assistance aimed at facilitating the conduct and fulfilling of their mandate;

34. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law and judicial cooperation with the Court, and in this regard *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority;

35. *Takes note* of the ongoing activities of international organizations and agencies, as well as other organizations, in the promotion of international criminal justice;

36. *Encourages* States, particularly in view of the fundamental principle of complementarity, to include the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws and to ensure effective enforcement of those laws;

37. *Emphasizes* the need for States Parties and those States under an obligation to do so to cooperate with the Court in such areas as preserving and providing evidence, sharing information, securing the arrest and surrender to the Court of persons for whom arrest warrants have been issued and protecting victims and witnesses, and *strongly encourages* States, international and regional organizations as well as civil society to intensify their support to the Court in its efforts to that end, as appropriate;

38. *Encourages* States Parties to continue to express diplomatic and political support for the Court and for cooperation with the Court;

39. *Calls upon* States to enter into arrangements with the Court concerning, inter alia, witness relocation and sentence enforcement;

40. *Takes note* of the report of the Bureau on Cooperation<sup>12</sup>; *endorses* the recommendations of the report as annexed to this resolution;<sup>13</sup> *requests* the Bureau to appoint a focal point to continue the work on cooperation in close coordination and dialogue with the Court; *invites* the Bureau to report to the Assembly of States Parties at its seventh regular session on any significant developments with regard to cooperation, as it deems appropriate; and *decides* to revisit the issue of cooperation in full in two to three years, depending, inter alia, on the needs of the Court;

#### **D. Assembly of States Parties**

41. *Takes note* of the latest report on the activities of the Court to the Assembly of States Parties;<sup>14</sup>

42. *Takes note* of the report of the Special Working Group on the Crime of Aggression,<sup>15</sup> *expresses its appreciation* to the Liechtenstein Institute on Self-Determination at Princeton University for hosting an informal intersessional meeting of the Special Working Group, *recognizes* that the Special Working Group needs to conclude its work at least 12 months prior to the Review Conference to be held according to article 123, paragraph 1, of the Rome Statute in order to be in a position to submit proposals for a provision on aggression, in accordance with article 5, paragraph 2, of the Statute and with resolution ICC-ASP/1/Res.1, to the Assembly for its consideration at the Review Conference;

43. *Recalls* its decision to hold a resumed session of the Assembly specifically to discuss proposals as regards the venue of the Review Conference, as well as for meetings of the Special Working Group on the Crime of Aggression from 2 to 6 June 2008 in New York, *decides* to devote at least two days of the seventh session to be held in The Hague for the work of the Special Working Group, and *decides* to hold a resumed seventh session of five days, as necessary, in 2009 in New York to conclude the work of the Special Working Group, at a date to be determined by the Bureau and approximately 12 months before the Review Conference;

44. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily and in good time to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly of States Parties, and *expresses its appreciation* to those that have done so;

45. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims, and *expresses its appreciation* to those that have done so;

46. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions, or, in the event of pre-existing

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<sup>12</sup> ICC-ASP/6/21.

<sup>13</sup> Annex II.

<sup>14</sup> ICC-ASP/6/18.

<sup>15</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November to 14 December 2007* (International Criminal Court publication, ICC-ASP/6/20), annex II.

arrears, immediately, in accordance with article 115 of the Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly of States Parties;

47. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court, and *expresses its appreciation* to those that have done so;

48. *Takes note* of the report of the Bureau on the arrears of States Parties,<sup>16</sup> *endorses* the recommendations of the report as annexed to this resolution,<sup>17</sup> and *decides* 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;

49. *Requests* the Secretariat of the Assembly of States Parties to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

50. *Requests* the Secretariat to prepare a consolidated digital version of the Financial Regulations and Rules, in all six official languages of the Assembly, to make it available on the website and to update it as appropriate;

51. *Welcomes* the work by the Bureau and its two informal Working Groups and *invites* the Bureau to create such mechanisms as it considers appropriate and to report back to the Assembly of States Parties on the result of their work;

52. *Also welcomes* the efforts of the Bureau to ensure communication and cooperation between its subsidiary bodies and *invites* the Bureau to continue such efforts;

53. *Decides* that a Review Conference shall be held in the first semester of 2010, on the basis of invitations to be issued by the Secretary-General of the United Nations in July 2009, with a duration of between five and ten working days and that proposals for amendments to be considered at the Review Conference should be discussed at the eighth session of the Assembly of States Parties in 2009, with a view to promoting consensus and a well prepared Review Conference;

54. *Recommends* that, in addition to a focus on amendments that may command very broad, preferably consensual support, the Review Conference should be an occasion for a “stocktaking” of international criminal justice in 2010, *notes* the desirability for the Review Conference to focus on a limited number of key topics, and *notes* in this regard the progress report of the focal point distributed at the sixth session of the Assembly of States Parties;<sup>18</sup>

55. *Emphasizes* that civil society should be ensured possibilities of participation in the Review Conference in order to provide input;

56. *Requests* the Bureau and the focal point to carry out consultations, on the basis of the discussions that have taken place at the sixth session of the Assembly, also taking into account the non-exhaustive list of objective criteria contained in the annex to the report of the Working Group of the Assembly of States Parties on the Review Conference, with a view to submitting proposals as regards the venue of the Review Conference to the resumed sixth session of the Assembly in June 2008;

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<sup>16</sup> ICC-ASP/6/19.

<sup>17</sup> Annex III.

<sup>18</sup> ICC-ASP/6/INF.3.

57. *Further requests* the Bureau to continue the preparations of the Review Conference including financial and legal implications, as well as practical and organizational issues;
58. *Welcomes* the report of the Bureau on the Review Conference,<sup>19</sup> and *endorses* the draft rules of procedure of the Review Conference contained therein.<sup>20</sup>
59. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;
60. *Recalls* that, according to its Rules of Procedure,<sup>21</sup> the Committee on Budget and Finance shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications, *emphasizes* the importance of ensuring that the Committee on Budget and Finance is represented at all stages of the deliberations of the Assembly of States Parties at which such documents are considered, and *requests* the Secretariat, together with the Committee on Budget and Finance, to make the necessary arrangements;
61. *Decides* that the Committee on Budget and Finance shall hold its next session in The Hague, from 21 to 25 April 2008 and a further eight-day session to be determined by the Committee;
62. *Recalls* that according to article 112, paragraph 6, of the Rome Statute, the Assembly of States Parties shall meet at the seat of the Court or at the Headquarters of the United Nations;
63. *Decides* to hold its eighth, ninth and tenth sessions in The Hague, New York and The Hague, respectively, and *decides also* to continue the consideration of venues of future sessions of the Assembly;
64. *Recalls* its decision to hold its seventh session from 14 to 22 November 2008 in The Hague and not less than two days in 2009 in New York for a resumed session for elections;
65. *Requests* the Bureau to fix specific dates for a further resumed seventh session and to inform all States Parties accordingly.

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<sup>19</sup> ICC-ASP/6/17.

<sup>20</sup> Annex IV.

<sup>21</sup> *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, ICC-ASP/2/10), annex III.



## **Annex I**

### **Recommendations on the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court**

#### ***To States Parties***

1. To continue their engagement and efforts, through dialogue and activities, in promoting the universality of the Rome Statute and its full implementation.
2. To continue to share successful ratification experiences and decisions of national courts and/or constitutional tribunals with States that have similar concerns or legal obstacles.
3. To report to the Secretariat of the Assembly on developments on the implementation of the Plan of Action.
4. To consider, as a matter of priority, the designation of the national contact point.
5. To continue the initiatives carried out both in regional and sub-regional organizations to promote the International Criminal Court through discussion meetings and resolutions, considering the inclusion of new items and action-oriented approaches related to the Plan of Action.

#### ***To the Secretariat of the Assembly***

6. To continue to make use of all its capacity to support the States Parties' efforts in the implementation of the Plan of Action.
7. To improve the website on a continual basis to make useful documents more accessible for the purposes of universality and full implementation.

#### ***To the Assembly***

8. To continue monitoring closely the implementation of the Plan of Action.

## **Annex II**

### **Recommendations on cooperation**

#### **Recommendation 1**

All States Parties should secure enactment of implementing legislation, legislation relevant to the investigation and prosecution of crimes under the Statute and ratify the Agreement on Privileges and Immunities of the Court.<sup>1</sup>

#### **Recommendation 2**

The Assembly of States Parties should consider establishing a mechanism for sharing information between States Parties on drafting and executing implementing legislation. Such a function could be undertaken or supported by the Secretariat. Alternatively, the Court could designate a focal point for implementing legislation and communicate the details of this person to States Parties, subject to statutory requirements.

#### **Recommendation 3**

All States Parties should, where appropriate, review their implementing legislation, with a view to improving its functioning. The national focal point could be tasked with this, in cooperation with relevant authorities.

#### **Recommendation 4**

States Parties and/or the Assembly, through its subsidiary bodies, could organise regional or global workshops and seminars for national experts and focal points involved in drafting and executing implementing legislation, possibly with the assistance of the Secretariat of the Assembly.

#### **Recommendation 5**

States Parties should further consider ways in which support can be given to States who are willing but lack the capacity to enter into witness relocation agreements and sentences enforcement agreements, inter alia through good governance, rule of law and judicial reform programmes, or other forms of cooperation.

#### **Recommendation 6**

The Assembly of States Parties should consider tasking the Secretariat with facilitating contact between States Parties interested in providing support and States Parties who would like to receive such support.

#### **Recommendation 7**

States Parties may consider designating a national focal point tasked with the coordination and mainstreaming of Court-issues within and across government institutions.

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<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, New York, 23 November - 1 December 2006* (International Criminal Court publication ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, paragraphs 31 to 33.

### **Recommendation 8**

States Parties may further consider, based on the activities of the focal point, to establish a more permanent coordinating mechanism either through the focal point or through a working group or task force. Such a mechanism could deal with all Court-related issues.

### **Recommendation 9**

States Parties could also designate a contact point at relevant Embassies as an interface for the Court with the national focal point.

### **Recommendation 10**

The Court should continue high-level and working visits to States Parties to contribute to mainstreaming and raising awareness of the International Criminal Court within national administrations of the Court.

### **Recommendation 11**

States Parties should whenever possible express support for the Court and promote its general and situation-specific activities in their bilateral contacts.

### **Recommendation 12**

States Parties should, where possible, in the context of preliminary examinations, provide the Court with relevant background information as requested.

### **Recommendation 13**

The Court should, at the earliest possible stage after opening an investigation, provide States Parties with an overview of what types of information would be useful in that specific case, in a way consistent with statutory and other requirements.

### **Recommendation 14**

States Parties should where relevant – possibly through focal and contact points – engage in an active dialogue with the Court and assess on a case-by-case basis whether they may have background information of value to the Court.

### **Recommendation 15**

States Parties should, at the earliest possible stage in an investigation identify relevant parts of their national administrative and judicial systems, and ensure that appropriate and agreed procedures are in place to process judicial requests in a timely manner. Where appropriate, this could be done by creating a procedural manual.

### **Recommendation 16**

States Parties should, where relevant, facilitate access to witnesses for Court officials, inter alia by issuing ‘emergency’ visas if required.

### **Recommendation 17**

All States Parties should contribute where appropriate to generating political support and momentum for the timely arrest and surrender of wanted persons both in their bilateral contacts and activities in regional and international organisations.

### **Recommendation 18**

States Parties should consider establishing guidelines or agreements and memoranda of understanding with regard to the provision of logistical support and make the Court aware of the terms and conditions applicable to such assistance.

### **Recommendation 19**

The Court should to the extent possible provide a general checklist of steps to be taken with regard to transfers, as well as a generic model transfer agreement.

### **Recommendation 20**

All States Parties should consider whether it would be possible, on request, to provide a State on whose territory suspects are located with technical assistance and support such as information-sharing and specialised training of law enforcement personnel.

### **Recommendation 21**

States Parties and the Assembly of States Parties should consider ways in which experiences can be shared on issues relating to arrest and transfer, possibly through a general focal point for cooperation appointed by the Assembly of States Parties.

### **Recommendation 22**

States Parties should consider tasking their national focal point/national authorities with ensuring that witness protection issues are dealt with adequately.

### **Recommendation 23**

The Court and the States Parties focal points/national authorities should engage in a dialogue to explore the possibilities for obtaining assistance for witness protection, including practical assistance in the field such as support for extraction.

### **Recommendation 24**

The Assembly of States Parties may wish to further monitor developments regarding witness protection and issues related to victims and defence teams, as an increasingly important part of the cooperation dossier.

### **Recommendation 25**

All States Parties should communicate to the Court the contact details for the relevant contact person at their Embassies and diplomatic missions in The Hague, Brussels and/or New York.

### **Recommendation 26**

States Parties should examine ways in which national procedures and the interface with the Court could be improved with regard to the exchange of confidential information.

### **Recommendation 27**

In requests for operational assistance the Court should be mindful of possible burden-sharing.

### **Recommendation 28**

All States Parties should, to the extent possible, accommodate requests from the defence teams for operational support – the Court should facilitate this, inter alia, by exploring ways in which the defence teams can benefit from existing agreements between the Court and States Parties.

### **Recommendation 29**

All States Parties should contribute to the extent possible to rosters of experts as well as provide expert assistance on favourable financial terms.

### **Recommendation 30**

All States Parties should re-examine possibilities for allowing government officials to take up short-term positions at the Court as well consider ways in which leave-of-absence can be granted to officials enabling them to take up longer-term positions.

### **Recommendation 31**

The Assembly of States Parties and its appropriate subsidiary bodies should – together with the Court - further examine ways in which cooperation could be established between the Court and the Justice Rapid Response Mechanism, in accordance with the Rome Statute.

### **Recommendation 32**

To ensure mutually sufficient knowledge of and understanding for the mandates and activities of the two organizations, regular contacts between Court officials and United Nations staff should be ensured. Apart from contacts by email and phone, direct contacts, for example in the form of a yearly meeting or workshop, or in the margins of visits, could be envisaged.

### **Recommendation 33**

The practice of regular high-level visits as well as working visits to the United Nations should be continued.

### **Recommendation 34**

In addition to the regular meetings with the Office of Legal Affairs, the Court should jointly with the United Nations assess periodically the status of cooperation, with a view to improve it if necessary and possible.

### **Recommendation 35**

The Court should make better use of the existing possibilities for exchange of personnel with the United Nations.

### **Recommendation 36**

To the extent possible and as far as statutory requirements allow, the Court should keep the relevant entities of the United Nations informed of progress in specific cases and situations.

### **Recommendation 37**

Without prejudice to operational and statutory requirements, requests for cooperation should be consolidated whenever possible, and be as specific as possible.

### **Recommendation 38**

The Court should continue and, if possible, extend its current practice of making use of specific knowledge within the United Nations system, such as the involvement of children in judicial processes.

### **Recommendation 39**

The Court could in conformity with statutory requirements, also offer its capacity, knowledge and information to the United Nations system, so as to ensure a more mutually beneficial relationship.

### **Recommendation 40**

The Court should continue its practice of sending a yearly report on the work of the Court to the United Nations, as well as the annual address of the President of the Court to the General Assembly.

### **Recommendation 41**

The New York Liaison Office should continue to enable concrete cooperation *by* making sure that all necessary channels are open between the two institutions, including the Secretariat of the Assembly, *by* facilitating the exchange of information and *by* serving as an antenna for issues related to cooperation.

### **Recommendation 42**

In contacts with the Secretary General, other high-level United Nations officials as well as relevant United Nations staff, the interests and mandate of the Court should be explained and actively supported.

### **Recommendation 43**

States Parties should strive to ensure that all relevant staff members of permanent missions have adequate knowledge of the Court and the Rome Statute, including regional and military experts. For example, use could be made of a power point presentation distributed by the Group of Friends of the International Criminal Court.

**Recommendation 44**

States Parties should encourage the Group of Friends of the International Criminal Court to try to reach beyond the traditional audience of legal advisers in its activities, for example by organizing more specific activities aimed at a larger audience. Legal advisers should encourage their colleagues to participate in such activities.

**Recommendation 45**

Existing references to the Court should be maintained in General Assembly and other resolutions as much as possible, and when appropriate included in other resolutions.

**Recommendation 46**

The yearly International Criminal Court resolution should be continued and strengthened wherever possible.

**Recommendation 47**

States Parties should include the Court in statements they make in different relevant forums, for example during the general debate of the General Assembly, when appropriate.

**Recommendation 48**

States Parties should remind States of their duty to cooperate and request in their statements that States fulfil their obligations to cooperate, in particular when it concerns arrest and surrender.

**Recommendation 49**

States Parties should, when considering candidacies for membership in United Nations organs, where relevant take into account the preparedness and willingness of candidates to fully cooperate with the Court, and if they had not yet done so, to become a State Party to the Rome Statute.

**Recommendation 50**

Within regional groupings, States Parties should keep the Court's needs, mandate and interests in mind and put these on the table when relevant. The regional groupings could equally be used to share information.

**Recommendation 51**

States Parties that are members of the Security Council should ensure that the Court's interests, needs for assistance and mandate are taken into account when relevant matters, such as sanctions, peacekeeping mandates, Security Council missions and peace initiatives are being discussed and decided on, while respecting the independence of both.

**Recommendation 52**

States Parties could in their efforts to assist the Court in fulfilling its mandate, make use of the expertise and knowledge of non-governmental organizations.

**Recommendation 53**

The Court should strive to share information on concrete needs of the Court with relevant States Parties as early as possible.

**Recommendation 54**

As much as possible, the organs of the Court should schedule their high-level visits to New York in such a way as to ensure an equal spread throughout the year and coincide with the most significant and relevant United Nations events.

**Recommendation 55**

High-level Court visitors should continue to be available in the margins of such visits to brief the Group of Friends of the International Criminal Court as well as Court membership of regional groups, including on situations and cases.

**Recommendation 56**

The practice to schedule the President's annual address to the General Assembly to coincide with the address by the Presidents of other courts and tribunals, preferably during the International Law Week at the United Nations, should be continued.

**Recommendation 57**

Incoming members of the Security Council should be briefed on the Court and its relevance to their work in the Security Council well in advance of the beginning of their terms.

**Recommendation 58**

This briefing should not be limited to legal advisers, but could be extended to permanent representatives, sanctions experts, military advisers, regional experts as well as conflict prevention experts, among others.

**Recommendation 59**

Workshops on practical issues related to cooperation such as arrest and surrender, freezing of assets and financial investigations could be organized, with the participation of relevant United Nations actors.

**Recommendation 60**

Efforts should be continued to include the Court in relevant courses and seminars organized by the United Nations Institute for Training and Development, as well as the United Nations University.

**Recommendation 61**

States Parties should through their membership of international and regional organisations work to promote the mainstreaming of Court issues, horizontally and vertically within the organisations.



**Recommendation 62**

States Parties should, where appropriate, initiate and support joint statements, positions, declarations and resolutions to be issued through regional and international organisations promoting the Court and its general and situational activities.

**Recommendation 63**

States Parties should promote where appropriate cooperation agreements between relevant organisations and the Court.

**Recommendation 64**

States Parties should consider, where appropriate, to propose and support the establishment of working groups within regional organisations tasked with issues relating to the Court. Inspiration can be drawn from the working groups of the Organization of American States and the European Union.

**Recommendation 65**

States Parties should promote regional seminars and workshops within their respective organisations with a view to raise awareness of the Court and to share experiences on various aspects of cooperation.

**Recommendation 66**

States Parties should endeavour to generate political support for maximum cooperation from relevant actors in relation to specific investigations and trials as well as consider the scope for promoting and implementing further measures in this regard.

## **Annex III**

### **Recommendations on the arrears of States Parties**

#### **Recommendation 1**

*Calls upon* States Parties to fully and without further delay implement the nine recommendations adopted by the Assembly in annex III to its resolution ICC-ASP/5/Res.3.

#### **Recommendation 2**

*Calls upon* States Parties whose outstanding contributions exceed the amount of the contributions due for the preceding full year to address a letter to the Registry of the Court indicating when they plan to settle their outstanding obligations. Such letters would in no way affect the provisions of article 112, paragraph 8, of the Rome Statute.

## **Annex IV**

### **Draft rules of procedure of the Review Conferences**

#### **I. General**

##### **Rule 1**

##### **Use of terms**

For the purposes of these Rules:

“Conference” means any Review Conference convened in accordance with article 121, paragraph 2, and article 123 of the Statute;

“Assembly” means the Assembly of States Parties;

“Bureau” means the Bureau as defined in article 112, paragraph 3 (a), of the Statute, which shall be the Bureau of the Conference;

“the Court” means the International Criminal Court;

“Observer States” means States which have signed the Statute or the Final Act of the Rome Conference;

“Presidency” means the organ composed of the President and the First and Second Vice-Presidents of the Court;

“Prosecutor” means the Prosecutor of the Court;

“Registrar” means the Registrar of the Court;

“Rules” means the Rules of Procedure of the Review Conferences;

“Secretariat” means the Secretariat of the Assembly of States Parties;

“States Parties” means States Parties to the Statute;

“the Statute” means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court.

##### **Rule 2**

##### **Application**

These Rules shall be applicable to the work of the Conference, its Bureau and subsidiary bodies.

## **II. Commencement and adjournment of the Conference**

### **Rule 3**

#### **Date of commencement and duration**

The provisional agenda and the date of commencement and duration of the Conference shall be decided by the Assembly and communicated by the Secretariat to the Secretary-General of the United Nations for the purposes of article 123 of the Statute.

### **Rule 4**

#### **Notification of the Conference**

The Secretariat shall, in liaison with the Secretary General of the United Nations, ensure that the States Parties, the Observer States and the Court are informed at least 120 days in advance of the opening of the Conference.

### **Rule 5**

#### **Temporary adjournment of the Conference**

The Conference may decide at any meeting to adjourn temporarily and resume its meetings at a later date.

## **III. Agenda**

### **Rule 6**

#### **Communication of the provisional agenda**

The provisional agenda for the Conference shall be communicated by the Secretariat to the States Parties, the Observer States, the Court and the United Nations at least 90 days before the opening of the Conference together with any supplementary documentation if necessary.

### **Rule 7**

#### **Drawing up of the provisional agenda**

1. The provisional agenda shall be drawn up by the Secretariat.
2. The provisional agenda shall include, inter alia:
  - (a) Items the inclusion of which has been decided at a previous session of the Assembly;
  - (b) Items relating to the organization of the Conference;
  - (c) Items relating to the adoption of normative texts;
  - (d) Reports from the Bureau;
  - (e) Any report by any organ of the Court on its work;<sup>1</sup>
  - (f) Any item proposed by any State Party;
  - (g) Any item proposed by the Court.

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<sup>1</sup> Depends on the scope of the Review Conference and the items under consideration.

3. The United Nations may propose items for consideration by the Conference. In such cases, the Secretary-General shall notify the President of the Bureau accordingly, providing any relevant information with a view to the possible inclusion of such item in the provisional agenda of the Conference.

**Rule 8**  
**Explanatory memorandum**

Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft decision.

**Rule 9**  
**Adoption of the agenda**

The provisional agenda shall be adopted by the Conference as soon as possible after its opening.

**Rule 10**  
**Amendment and deletion of items**

Items on the agenda may be amended or deleted by the Conference by a simple majority of States Parties present and voting.

**Rule 11**  
**Debate on the inclusion of items**

Debate on the inclusion of an item in the agenda shall be limited to three speakers in favour of, and three against, the inclusion. The President may limit the time to be allowed to speakers under this rule.

## **IV. Representation and credentials**

**Rule 12**  
**Representation**

1. Each State Party shall be represented by one representative, who may be accompanied by alternates and advisers.
2. Each Observer State may be represented in the Conference by one designated representative, who may be accompanied by alternates and advisers.
3. The representative may designate an alternate or an adviser to act in his/her capacity.

**Rule 13**  
**Submission of credentials**

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 twenty-four hours after the opening of the Conference. 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.

**Rule 14**  
**Credentials Committee**

A Credentials Committee shall be appointed at the beginning of the Conference. It shall consist of representatives of nine States Parties, which shall be appointed by the Conference on the proposal of the President. The Committee shall elect its own officers. It shall examine the credentials of representatives of States Parties and report to the Conference without delay.

**Rule 15**  
**Provisional admission to the Conference**

Pending a decision of the Conference upon their credentials, representatives of States Parties shall be entitled to participate provisionally in the Conference.

**Rule 16**  
**Objection to the representation**

If an objection is raised against a representation of a State Party, such objection shall be considered by the Credentials Committee forthwith. The report thereon shall be submitted to the Conference without delay. Any representative of a State Party to whose admission a State Party has made objection shall be seated provisionally with the same rights as other representatives pending the decision of the Conference.

**Rule 17**  
**Notification regarding participation of representatives of Observer States**

The names of designated representatives of Observer States and of alternates and advisers who accompany them shall be submitted to the Secretariat.

**V. Bureau**

**Rule 18**  
**Composition and function**

The Bureau shall assist the Conference in the discharge of its responsibilities.

**VI. President and Vice-Presidents**

**Rule 19**  
**General powers of the President**

1. In addition to exercising the powers conferred upon him/her elsewhere by these Rules, the President shall declare the opening and closing of each plenary meeting of the Conference, direct the discussions in plenary meetings, ensure observance of these Rules, accord the right to speak, put questions and announce decisions. The President shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat. The President may, in the course of the discussion of an item, propose to the Conference the limitation of the time to be allowed to speakers, the limitation of the number of times each representative may speak, the closure of the list of speakers or the closure of the debate and the suspension or the adjournment of the meeting or the adjournment of the debate on the item under discussion.

2. The President, in the exercise of his/her functions, remains under the authority of the Conference.

**Rule 20**  
**Voting rights of the President**

The President, or a Vice-President acting as President, shall not vote but shall designate another member of his/her delegation to vote in his/her place.

**Rule 21**  
**Acting President**

1. If the President finds it necessary to be absent during a meeting or any part thereof, he/she shall designate one of the Vice-Presidents to take his/her place.

2. A Vice-President acting as President shall have the same powers and duties as the President.

**Rule 22**  
**Replacement of the President**

If the President is unable to perform his/her functions, a new President shall be elected for the rest of the Conference.

**VII. Participation of the President of the Court, the Prosecutor and the Registrar**

**Rule 23**  
**Participation**

The President of the Court, the Prosecutor and the Registrar or their representatives may participate, as appropriate, in meetings of the Conference and the Bureau in accordance with the provisions of these Rules and may make oral or written statements and provide information on any question under consideration.

**VIII. Participation of the United Nations**

**Rule 24**  
**Participation of the United Nations**

1. The United Nations shall have a standing invitation to participate, without the right to vote, in the work and deliberations of the Conference.

2. When issues of interest to the United Nations are taken up by subsidiary bodies, the Secretary-General, if he/she so desires, or his/her representative, may participate in the work and deliberations of such subsidiary bodies. The Secretary-General or his/her representative may make statements, in oral or written form, in the deliberations.

**Rule 25**  
**Participation of the Secretary-General**

The Secretary-General of the United Nations may participate in meetings of the Conference and the Bureau. He/She may also designate a member of the United Nations Secretariat to participate on his/her behalf. He/She may make oral or written statements concerning any question under consideration by the Conference which pertains to United Nations activities and provide information as appropriate.

**IX. Secretariat**

**Rule 26**  
**Duties of the Secretariat**

The Secretariat shall receive, translate, reproduce and distribute documents, reports and decisions of the Conference, the Bureau and any subsidiary bodies that may be established by the Conference; interpret speeches made at the meetings; prepare, print and circulate, if so decided by the Conference or the Bureau, the records of the session; have the custody and proper preservation of the documents in the archives; distribute all documents of the Conference and the Bureau; and, generally, perform all other work which the Conference or the Bureau may require.

**X. Languages**

**Rule 27**  
**Official and working languages**

Arabic, Chinese, English, French, Russian and Spanish, which are both the official and working languages of the General Assembly of the United Nations, shall be the official and working languages of the Conference (hereinafter “languages of the Conference”).

**Rule 28**  
**Interpretation**

1. Speeches made in an official and working language of the Conference shall be interpreted into the other languages of the Conference.
2. Any representative may make a speech in a language other than the languages of the Conference. In that case the representative shall provide for interpretation into one of the languages of the Conference. Interpretation into the other languages of the Conference by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

**Rule 29**  
**Languages of decisions and other documents**

All decisions and other official documents shall be published in all languages of the Conference.



## **XI. Records**

### **Rule 30**

#### **Sound recordings**

The Secretariat shall make and keep sound recordings of meetings of the Conference and the Bureau and, when so decided, of any subsidiary body.

## **XII. Public and private meetings**

### **Rule 31**

#### **General principles**

1. The meetings of the Conference shall be held in public unless the Conference decides that exceptional circumstances require that the meetings be held in private.
2. As a general rule, meetings of the Bureau and of subsidiary bodies with limited membership shall be held in private unless the body concerned decides otherwise.
3. Meetings of subsidiary bodies with general membership shall be held in public unless the body concerned decides otherwise.
4. Decisions of the Conference and the Bureau taken at a private meeting shall be announced at the following public meeting. At the close of a private meeting of the Bureau or of any subsidiary body, the President or the presiding officer may issue a communiqué through the Secretariat.

## **XIII. Minute of silent prayer or meditation**

### **Rule 32**

#### **Invitation to silent prayer or meditation**

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.

## **XIV. Conduct of business**

### **Rule 33**

#### **Quorum**

1. The President may declare a meeting open and permit the debate to proceed when at least one third of the States Parties participating in the Conference are present.
2. The presence of an absolute majority of the States Parties constitutes the quorum for voting on matters of substance.

**Rule 34**  
**Speeches**

No representative may address the Conference without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his/her remarks are not relevant to the question under consideration.

**Rule 35**  
**Precedence**

The Presiding Officer of a subsidiary body may be given precedence for the purpose of explaining the conclusions arrived at by that organ.

**Rule 36**  
**Statements by the President of the Court, the Prosecutor and the Registrar**

The President of the Court, the Prosecutor and the Registrar or their representatives may make either written or oral statements to the Conference or the Bureau on any question under their consideration.

**Rule 37**  
**Statements by the Secretariat**

The chief officer of the Secretariat, or a member of the Secretariat designated by him/her as his/her representative, may make either oral or written statements to the Conference concerning any question under consideration by it.

**Rule 38**  
**Points of order**

During the discussion of any matter, a representative of a State Party may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with these Rules. A representative of a State Party may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the States Parties present and voting. A representative rising to a point of order may not speak on the substance of the question under consideration.

**Rule 39**  
**Time limit on speeches**

The Conference may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. Before a decision is taken, two representatives of States Parties may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a representative exceeds his/her allotted time, the President shall call him/her to order without delay.

**Rule 40**  
**Closing of list of speakers and right of reply**

During the course of a debate, the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. The President may, however, accord the right of reply to a representative if a speech delivered after he/she has declared the list closed makes this desirable.

**Rule 41****Adjournment of debate**

During the discussion of any matter, a representative of a State Party may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two representatives of States Parties may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

**Rule 42****Closure of debate**

A representative of a State Party may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his/her wish to speak. Permission to speak on the motion shall be accorded only to two representatives of States Parties opposing the closure, after which the motion shall be immediately put to the vote. If the Conference is in favour of the closure, the President shall declare the closure of the debate. The President may limit the time to be allowed to speakers under this rule.

**Rule 43****Suspension or adjournment of the meeting**

During the discussion of any matter, a representative of a State Party may move the suspension or the adjournment of the meeting. Such motion shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speakers moving the suspension or adjournment of the meeting.

**Rule 44****Order of procedural motions**

Subject to rule 37, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the question under discussion;
- (d) To close the debate on the question under discussion.

**Rule 45****Proposals and amendments**

Proposals and amendments shall normally be submitted in writing to the Secretariat, which shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting unless copies of it have been circulated to all delegations in all languages of the Conference not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

**Rule 46**  
**Decisions on competence**

Subject to rule 44, any motion by a State Party calling for a decision on the competence of the Conference to adopt a proposal submitted to it shall be put to the vote before a decision is taken on the proposal in question.

**Rule 47**  
**Withdrawal of motions**

A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion thus withdrawn may be reintroduced by a representative of any State Party.

**Rule 48**  
**Reconsideration of proposals**

When a proposal has been adopted or rejected, it may not be reconsidered at the same Conference unless the Conference, by a two-thirds majority of the States Parties present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two representatives of States Parties opposing the motion, after which it shall be immediately put to the vote.

## **XV. Amendments to the Statute**

**Rule 49**  
**Consideration and adoption of amendments to the Statute**

1. The Conference may only consider amendments to the Statute presented in accordance with articles 121 and 122 of the Statute.
2. Amendments to the Statute, proposed pursuant to articles 121, paragraph 1 and article 122, paragraph 1, of the Statute on which consensus cannot be reached shall be adopted by the Conference, by a two-thirds majority of States Parties.

## **XVI. Decision-making**

**Rule 50**  
**Voting rights**

Subject to article 112, paragraph 8, of the Statute, each State Party shall have one vote.

**Rule 51**  
**Consensus**

Every effort shall be made to reach decisions in the Conference and in the Bureau by consensus. If consensus cannot be reached, decisions shall be taken by vote.

**Rule 52**  
**Consideration of financial implications**

Before the Conference takes a decision having financial implications, it shall receive and consider a report on such implications from the Secretariat or from the Registrar, as appropriate according to the subject matter, for decisions having financial or administrative implications relating to the Court.

**Rule 53**  
**Decisions on matters of substance**

Subject to rule 51, and except as otherwise provided in the Statute and as reflected in these Rules, decisions on matters of substance must be approved by a two-thirds majority of States Parties present and voting.

**Rule 54**  
**Decisions on matters of procedure**

1. Subject to rule 51 and except as otherwise provided in the Statute and as reflected in these Rules, decisions on matters of procedure shall be taken by a simple majority of States Parties present and voting.

2. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a simple majority of the States Parties present and voting.

**Rule 55**  
**Decisions on amendments to proposals relating to matters of substance**

Decisions on amendments to proposals relating to matters of substance, and on parts of such proposals put to the vote separately, shall be made by a two-thirds majority of the States Parties present and voting.

**Rule 56**  
**Meaning of the phrase "States Parties present and voting"**

For the purposes of these Rules, the phrase "States Parties present and voting" means States Parties present and casting an affirmative or negative vote. States Parties which abstain from the voting shall be considered as not voting.

**Rule 57**  
**Method of voting**

1. The Conference shall, in the absence of mechanical or electronic means for voting, vote by show of hands or by standing, but a representative of any State Party may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States Parties, beginning with the State Party whose name is drawn by lot by the President. The name of each State Party shall be called in any roll-call, and its representative shall reply "yes", "no" or "abstention". The result of the voting shall be inserted in the records in the English alphabetical order of the names of the States Parties.

2. When the Conference votes by mechanical or electronic means, a non-recorded vote shall replace a vote by show of hands or by standing and a recorded vote shall replace a roll-call vote. A representative of a State Party may request a recorded vote. In the case of a

recorded vote, the Conference shall, unless a representative of a State Party requests otherwise, dispense with the procedure of calling out the names of the States Parties; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

**Rule 58**  
**Conduct during voting**

After the President has announced the commencement of voting, no representative of a State Party may interrupt the voting, except that representatives of States Parties may interrupt on a point of order in connection with the actual conduct of the voting.

**Rule 59**  
**Explanation of vote**

Representatives of States Parties may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The representative of a State Party sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended. The President may limit the time to be allowed for such explanations.

**Rule 60**  
**Division of proposals and amendments**

A representative of a State Party may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of an amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

**Rule 61**  
**Order of voting on amendments**

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

**Rule 62**  
**Order of voting on proposals**

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

**Rule 63**  
**Equally divided votes**

If a vote is equally divided on matters other than elections, the proposal or motion shall be regarded as rejected.

**Rule 64**  
**Elections of officers of the Conference**

All elections of officers of the Conference shall be held by secret ballot unless, in the absence of any objection, the Conference decides to proceed without taking a ballot on an agreed candidate or slate.

**Rule 65**  
**Restricted balloting for one elective place**

When only one person or State Party is to be elected and no candidate obtains in the first ballot the majority required, a second ballot shall be taken, which shall be restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, and a majority is required, the President shall decide between the candidates by drawing lots. If a two-thirds majority is required, the balloting shall be continued until one candidate secures two thirds of the votes cast; provided that after the third inconclusive ballot, votes may be cast for any eligible person or State Party. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the two candidates who obtained the greatest number of votes in the third of the unrestricted ballots, and the following three ballots thereafter shall be unrestricted, and so on until a person or State Party is elected.

**Rule 66**  
**Restricted balloting for two or more elective places**

When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or States Parties to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled; provided that after the third inconclusive ballot, votes may be cast for any eligible person or State Party. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

**XVII. Subsidiary bodies**

**Rule 67**  
**Establishment of subsidiary bodies**

The Conference may establish such subsidiary bodies as may be necessary.

## **Rule 68**

### **Rules of procedure of subsidiary bodies**

Unless otherwise decided by the Conference, these rules shall apply, *mutatis mutandis*, to the proceedings of subsidiary bodies, except that:

- (a) The presiding officer of a subsidiary body may exercise the right of vote;
- (b) The presence of representatives of a majority of the members of a subsidiary body shall be required for any decision to be taken.

## **XVIII. Participation of observers and other participants**

### **Rule 69**

#### **Observers**

1. Representatives designated by entities, intergovernmental organizations and other entities that have received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions to participate, in the capacity of observers, in its sessions and work have the right to participate as observers, without the right to vote, in the deliberations of the Conference.

2. Representatives designated by regional intergovernmental organizations or other international bodies invited to the Rome Conference, accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly may participate as observers, without the right to vote, in the deliberations of the Conference.

3. The representatives referred to in paragraphs 1 and 2 above may also participate in the deliberations of subsidiary bodies under the conditions laid down in rule 31 of the present rules of procedure.

### **Rule 70**

#### **Other participants**

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 are relevant to the activities of the Court and other non-governmental organizations invited by the Assembly may, through their designated representatives:

- (a) Attend meetings of the Conference and meetings of its subsidiary bodies under the conditions laid down in rule 31 of the present Rules of Procedure;
- (b) Receive copies of official documents;
- (c) Upon the invitation of the President and subject to the approval of the Conference, make oral statements through a limited number of representatives on questions relating to their activities at the opening and closing meetings of the Conference;
- (d) Make oral statements through a limited number of representatives on questions relating to their activities at the opening and closing meetings of subsidiary bodies, when the subsidiary body concerned deems it appropriate.



**Rule 71**  
**States not having observer status**

At the beginning of the Conference, the President may, subject to the approval of the Conference, invite a given State which is not a party and does not have observer status to designate a representative to be present during the work of the Conference. A representative who is so designated may be authorized by the Conference to make a statement.

**Rule 72**  
**Written statements**

Written statements submitted by the designated representatives referred to in rules 69, 70 and 71 shall be made available by the Secretariat to representatives of the States Parties and Observer States in the quantities and in the language or languages in which the statements are made available to it, provided that a statement submitted on behalf of a non-governmental organization is related to the work of the Conference and is on a subject in which the organization has a special competence. Written statements shall not be made at the expense of the Conference and shall not be issued as official documents.

**XIX. Amendments**

**Rule 73**  
**Method of amendment**

These Rules may be amended by a decision of the Conference taken by a two-thirds majority of the States Parties present and voting after the Bureau has reported on the proposed amendment.

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