



**Preparatory Commission for the
International Criminal Court**

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**Preparatory Commission for the
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Working Group on the Assembly of States Parties
Preparatory Documents

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**Provisional agenda for the First Meeting of the Assembly of
States Parties**

Working paper by the Secretariat

1. Opening of the meeting 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 Meeting:
 - (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 on all matters within its mandate.
11. Consideration of documents recommended by the Preparatory Commission and decision thereon (Rules of Procedure and Evidence; Elements of Crimes; a relationship agreement between the Court and the United Nations; basic principles governing a headquarters agreement to be negotiated between the Court and the host country; financial regulations and rules; an agreement on the privileges and immunities of the Court).



12. Adoption of nomination and election procedures for the judges, the Prosecutor and the Registrar.
13. Adoption of the budget.
14. Decision concerning the next meeting.
15. Other matters.

Explanatory note

1. The provisional agenda for the First Meeting of the Assembly of States Parties to the Rome Statute is based on the provisions of the Statute (article 112), on resolution F of the Rome Conference, recommendations of the Preparatory Commission and the draft rules of procedure of the Assembly of States Parties (PCNICC/2001/1/Add.4).

2. The structure of the provisional agenda follows the traditional structure of such documents. Apart from the customary items (opening of the meeting by the Secretary-General, silent prayer or meditation), all the other items correspond to specific tasks that the First Meeting of the Assembly of States Parties should carry out.

3. Some of these functions pertain to the **structure** of the Assembly (election of the President and the other members of the Bureau, appointment of subsidiary bodies, organization of work) while others pertain to the **tasks** and **substantive role** of the Assembly of States Parties in accordance with the Rome Statute of the International Criminal Court.

4. With regard to the organizational items, the Assembly will have to elect its President (**item 3**) and then, after the adoption of its agenda (**item 4**) and of its Rules of Procedure (**item 5**), proceed with the election of the two Vice-Presidents and the 18 members of the Bureau (**item 6**). Article 112, paragraph 3, of the Statute provides for the establishment of the Bureau, while rule 29 of the draft rules of procedure of the Assembly of States Parties provides for the composition and functioning of the Bureau. As is customary, the Assembly will also have to consider the issue of credentials of representatives of States Parties at the meeting (**item 7**).

5. Rule 25 of the draft rules of procedure of the Assembly of States Parties provides for the appointment of a Credentials Committee at the beginning of each session; the Committee shall examine the credentials of representatives of States Parties and report to the Assembly. Although the Credentials Committee is a subsidiary body of the Assembly, due to the relevance of its work for the functioning of the Assembly, it has been listed separately. The Credentials Committee will submit a report to the Assembly on the credentials of representatives of States Parties.

6. Rule 24 of the draft rules of procedure of the Assembly of States Parties deals with the submission of credentials of representatives of States Parties. Only representatives of **States Parties** submit credentials, not representatives of Observer States or other Observers (see also rule 28 of the draft rules of procedure).

7. The manner in which credentials are dealt with by meetings of States parties to Conventions is not uniform. For example, neither the Conference of the Parties to the Convention on Biological Diversity, the Conference of the Parties to the United Nations Convention to Combat Desertification, nor the Conference of the Parties to

the United Nations Framework Convention on Climate Change establishes a Credentials Committee. Credentials are submitted to the Bureau accompanied by a report of the Secretariat. However, the Conference of the States Parties to the Chemical Weapons Convention and the Meeting of States Parties to the United Nations Convention on the Law of the Sea have established a Credentials Committee, which submits a report to the Conference or the Meeting.

8. Under **item 8** (Organization of work), the Assembly might wish to consider in what manner it will organize its work, the order of consideration of various items, the eventual establishment of other bodies and the frequency of their meetings, etc.

9. The Assembly might also wish to appoint other subsidiary bodies (**item 9**). Paragraph 4 of article 112 of the Statute provides that the Assembly may establish such subsidiary bodies as may be necessary. Examples might be an Advisory Committee on nominations (Statute, art. 36, para. 4 (c)) or a Committee on Budget and Finance (PCNICC/2001/WGFIRR/L.2). Again the practice of the conferences of States parties to other treaties varies in that respect. In some instances, the founding convention or treaty (for example, the Convention on Biological Diversity, the Convention to Combat Desertification or the Framework Convention on Climate Change) provides for the establishment of bodies, subsidiary to the Conference/ Assembly of the Parties and in charge of certain specific issues. The Conference of the Parties to the Convention on Biological Diversity has established a number of ad hoc working groups, which meet inter-sessionally. These working groups may also establish, as the case may be, “contact groups” which are subsidiary to the working groups and report to them. The contact groups are responsible for any drafting of specific documents or texts, which are then submitted first to the ad hoc working groups and then to the Conference itself.

10. The Conference of the States Parties to the Chemical Weapons Convention has also established an open-ended Committee of the Whole. No Observer States or Observers may participate in the work of the Committee of the Whole. The Committee of the Whole deals with various unresolved issues during the session and reports to the Conference.

11. With regard to the tasks of the Assembly of States Parties, their core is the adoption of texts already indicated in resolution F of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (**item 11**). Those draft texts have been prepared by the Preparatory Commission for the International Criminal Court and are found in documents PCNICC/2001/1 and Add.1-4.

12. The draft rules of procedure of the Assembly of States Parties are part of those texts, but for reasons of expediency have been placed as a separate item (**item 5**) on the agenda. Their timely adoption would allow for the orderly functioning of the meeting of the Assembly.

13. The Assembly will also have to consider the report of the Preparatory Commission on all matters within its mandate, which the Commission shall prepare in accordance with resolution F, paragraph 9 (**item 10**). It should be noted that the Preparatory Commission will remain in existence until the conclusion of the First Meeting of the Assembly of States Parties (resolution F, para. 8).

14. There will be other documents before the Assembly of States Parties for action. In accordance with the “road map” (PCNICC/2001/L.2), the Assembly at its

first meeting should adopt nomination and election procedures for the judges, the Prosecutor (also the Deputy Prosecutors) and the Registrar (**item 12**). Articles 36 (Qualifications, nomination and election of judges) and 42 (The Office of the Prosecutor) of the Statute provide the relevant principles for the nomination and election procedures for the judges and the Prosecutor. Rule 12 of the draft rules of procedure and evidence (PCNICC/2000/INF/3/Add.1) provides that the list of candidates for the posts of Registrar and Deputy Registrar shall be transmitted by the Presidency of the Court to the Assembly of States Parties with a request for any recommendations.

15. The Assembly will be called upon to approve a budget, comprising the expenses of the Court and its own expenses (Statute, art. 112, para. 2 (d); also rule 11, para. 2 (e), of the draft rules of procedure of the Assembly of States Parties) (**item 13**). The question of voluntary contributions (Statute, art. 116; and document PCNICC/2001/WGFIRR/L.3) would also have to be considered in this context.

16. Finally, there might be other issues before the Assembly, such as draft recommendations with regard to provisional internal rules and regulations of the Court (“road map”, para. 10), which are covered under “Other matters” (**item 15**).
