

## **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**

## **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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