

## ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE

### TENTH SESSION

#### **Bureau of the Assembly of States Parties Oral report of the President on the activities of the Bureau**

1. I have the honour to report to the Assembly of States Parties on the activities carried out by its Bureau. As you are aware, the term of the Bureau for the seventh to ninth sessions has come to an end. My statement will therefore cover both the work done during this year, as well as a brief overview of the developments during the three years.

2. During the past year, the Bureau held [19] meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute. Pursuant to the mandates given to the Bureau by the ninth session of the Assembly in December 2010, the Bureau adopted, at its second meeting, on 1 February 2011, the terms of reference of its Working Groups in The Hague and New York.

3. The Working Groups were assigned responsibility as follows:

(i) New York Working Group

- Arrears
- Advisory Committee on nominations
- Geographical representation and gender balance in the recruitment of staff of the Court
- Peace and justice
- Plan of action

The Working Group on Amendments continued to meet in New York, under the chairmanship of Ambassador Paul Seger (Switzerland).

(ii) The Hague Working Group

- Budget
- Complementarity
- Cooperation (pursuant to the mandate of resolution ICC-ASP/8/Res.2)
- Independent Oversight Mechanism
- Strategic planning
- Victims and affected communities and Trust Fund for Victims

4. The representatives of both the Permanent Missions to the United Nations in New York, where Court-related matters arise frequently in the context of the United Nations, as well as of Embassies in The Hague and Brussels, were actively involved in areas where their respective expertise benefitted the interests of the Court.

5. The Bureau is pleased with the work conducted by its Working Groups during 2011, as they successfully carried out the mandates of the Assembly on some complex and challenging issues, on which discussions were sometimes difficult. The Working Groups managed to achieve

consensus among States Parties on very many of these mandates, and have made recommendations to the Assembly regarding the future work.

6. The Study Group on Governance, established within The Hague Working Group pursuant to resolution ICC-ASP/9/Res.2, to conduct a structured dialogue between States and the Court has had a fruitful dialogue on the specific issues of the relationship between the Court and the Assembly; strengthening the institutional framework within the Court; and on increasing the efficiency of the criminal process. The Bureau is likewise pleased with the outcome of its work and would favour the continuation of its work.

7. I wish to express my appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Jorge Lomónaco (Mexico) and Ambassador Simona Mirela Miculescu (Romania). Throughout their tenure, the Vice-Presidents served as Coordinators of the respective Working Groups of the Bureau and their support has been instrumental in advancing the consideration of the issues in these forums. I also wish to express my appreciation to the Chairman of the Study Group on Governance, Ambassador Pieter de Savornin Lohman (Netherlands), under whose leadership the Study Group made significant progress.

8. The Hague Working Group has, under the leadership of its Coordinator, Vice-President Ambassador Jorge Lomónaco (Mexico), and the respective facilitators, Ambassador Jean-Marc Hoscheit (Luxembourg), Ambassador Klaus Korhonen (Finland), Ambassador Mary Whelan (Ireland), Ms. Miia Aro-Sánchez (Finland), Mr. Cyril Borlé (Canada), Ms. Yolande Dwarika (South Africa), Mr. Christian Nygård Nissen (Denmark), and, until October 2011, Ms. Nataša Šebenik (Slovenia), made substantial progress on the issues within its mandate. The Working Group has enabled the Bureau to submit for the Assembly's consideration the reports and recommendations on the respective issues on its agenda.

9. The Study Group on Governance considered the issues which it identified as being priorities under the guidance of the Chair, Ambassador de Savornin Lohman, and the three focal points, Mr. Kanbar Hossein Bor (United Kingdom), Mr. Guillaume Michel (Mexico) and Mr. Yoshiki Ogawa (Japan), respectively, and made recommendations which the Assembly will consider at this session, including on the amendment of the Rules of Procedure and Evidence.

10. As regards the New York Working Group, the Coordinator, Ambassador Simona Miculescu, has provided valuable guidance on the issues on the agenda of the Working Group. With the assistance of the very able facilitators, Ms. Glenna Cabello de Daboin (Venezuela (Bolivarian Republic of)), Ms. Oana Florescu (Romania), Ms. Fernanda Millicay (Argentina), Mr. Zénon Mukongo Ngay (Democratic Republic of the Congo), Ms. Francisca M. Pedrós-Carretero (Spain), and Mr. Yukihiro Wada (Japan), the Working Group conducted its deliberations on the issues assigned to it. This has enabled the Bureau to submit for the Assembly's consideration the respective reports and recommendations on the issues within its mandate.

11. The appointment of the Assembly's Vice-Presidents based in New York and The Hague as the Coordinators of the respective Working Groups of the Bureau proved a very valuable tool for ensuring continuity in providing effective guidance to the Groups, thus contributing to the successful outcome of their work during the year.

12. For my own part, in my capacity as President, I visited a number of States, where I met with high-level officials and participated in meetings, seminars and briefings.

13. I visited Addis Ababa, Ethiopia, on 24 to 26 January, as part of the efforts to enhance dialogue and facilitate the exchange of views with the African Union Commission, with African and other States Parties to the Rome Statute, as well as the United Nations in Addis Abeba. I met with a number of interlocutors including the African Union Commission Chairperson, H.E. Mr. Jean Ping, the Head of the United Nations Office to the African Union; Assistant-Secretary-General Zachary Muburi-Muita, and the Head of the European Delegation to the African Union, Ambassador Koen Vervaeke, as well as representatives of several African and European States Parties representatives based in Addis Ababa.

14. On 27 to 28 January 2011, I visited Nairobi, Kenya, where I held consultations with ministers and other Government officials, members of Parliament and had meetings with civil society and the media on Court-related issues.

15. On 10 and 11 February 2011 I visited London for meeting with officials from the Foreign and Commonwealth Office, as well as Chatham House .

16. I also met with H.E. Mr. José Miguel Insulza, Secretary-General of the Organization of American States on 10 March 2011 in Washington D.C. and discussed the universality of the Court as a means to combat impunity for the most serious crimes of concern to the international community. On 8 April I took part in a meeting in Washington D.C. of the International Bar Association.

17. Furthermore, I participated in the CARICOM regional seminar on the Rome Statute of the ICC, held on 16 and 17 May 2011 in Port of Spain, organized by the Government of Trinidad and Tobago, with the support of the Commonwealth Secretariat and the assistance of the Secretariat of the Assembly of States Parties to the Rome Statute (“Assembly”). This regional seminar was part of its Review Conference pledge to promote the universality of the Rome Statute.

18. On 24 and 25 May, I participated in the first regional conference on the International Criminal Court, held in Doha, Qatar, which was sponsored by the League of Arab States and the State of Qatar.

19. I visited Botswana from 6 to 8 July 2011 and met with, inter alia, the President of Botswana, H.E. Mr. Ian Khama, as well as the Attorney-General, Ms. Athalia Molokomme. I also participated in the International Media Conference entitled “The battle against impunity: chinks in the armor?”

20. My work also took me to The Hague on three occasions, during which I held productive retreats with the heads of organs of the Court, other Court officials, the Vice-President, Ambassador Jorge Lomonaco, met informally with some of the judges of the Court, as well as held meetings with the the diplomatic community, including The Hague-based Friends of the Court, and met with civil society representatives. During my October 2011 visit, I also held a meeting with the staff of the Court, organized by the Staff Council. These visits provided the opportunity to discuss key issues including the current and future relationship between the Court and the United Nations, in particular in light of the latest referrals by the Security Council; aspects of the work of the Court with relevance to its budget, including the budget cycle; possibilities to expedite judicial proceedings; the Assembly’s Study Group on Governance; other topics concerning the relationship between the Assembly and the Court. I participated in a seminar organized by the University of Leiden, Grotius Centre, on the implications of the 2010 Review Conference, as well as in a one-day meeting of the Study Group on Governance,

organized by the Embassy of the United Kingdom, entitled “A dialogue on the institutional review of the governance framework of the Assembly of States Parties”. These seminars and meetings were a vehicle for closer interaction with The Hague-based delegations and experts in the field of international criminal law, and enabled us to share strategic views on the way forward on some key issues facing the Assembly. I would encourage future discussions in such informal settings, as they help clarify positions on the different challenges for the Assembly and the Court and provide a forum for the informal discussion of possible solutions.

21. During my June and October visits I convened Bureau meetings in The Hague, to discuss issues that included interim premises and the Independent Oversight Mechanism, as well provided an update on the work of the Search Committee for the position of Prosecutor. This was an excellent opportunity to strengthen the link between New York and The Hague, as Bureau meetings have traditionally been held in New York, except when the Assembly sessions are held in The Hague. I would certainly recommend that this practice be continued, as it allows Bureau delegations based in both capitals to have the opportunity to participate directly in the decision-making of the Bureau, and could foster a greater sense of ownership.

22. Furthermore, from 16 to 18 October 2011, a group of three dozen senior policy-makers participated in a retreat on the future of the International Criminal Court organized in Triesenberg, by the Government of Liechtenstein with the support of the Liechtenstein Institute on Self-Determination at Princeton University. H.S.H. Hereditary Prince Alois von und zu Liechtenstein and Foreign Minister of Liechtenstein, H.E. Aurelia Frick, addressed the participants.

23. As in previous years, I have also taken advantage of the presence of ministers and high-level officials in New York during the General Debate of the United Nations General Assembly to hold meetings with States Parties and others. This year, I met with the Minister of Foreign Affairs of Botswana, H.E. Mr. Phandu T. C. Skelemani, the delegation of Palestine as well as officials from the Netherlands.

24. Returning to the work of the Assembly, the Bureau discussed and made decisions and recommendations on organizational aspects of the tenth session of the Assembly, including agreeing to, *inter alia*, hold a general debate to promote an exchange of views on issues of relevance to the Court. Furthermore, the Bureau took a number of procedural and substantive decisions, including on the election of the Prosecutor, of six judges of the Court and of six members of the Committee on Budget and Finance.

25. The Search Committee for the position of Prosecutor, established by the Bureau during the ninth session of the Assembly in December 2010, composed of five members representing each regional group, and mandated to facilitate the nomination and election, by consensus, of the next Prosecutor, submitted its report to the 25 October meeting of the Bureau. It is heartening that all the interviewees and States Parties have expressed their appreciation for the work of the Committee and the process followed. On behalf of the Assembly, I thank all members of the Committee for their valuable contribution.

26. In the context of the Assembly’s responsibility under article 112, paragraph 2, of the Rome Statute to consider, pursuant to article 87 of the Statute, any question relating to non-cooperation, and given the decisions of the Pre-Trial Chamber in this regard, the Bureau considered, under the leadership of Mr. Stefan Barriga (Liechtenstein), possible procedures to address instances of non-cooperation. As the work of the Court expands, it becomes increasingly urgent for States to carry out their statutory obligations of cooperation with the Court.

27. The Bureau has made recommendations on possible procedures to address non-cooperation. Together with the Bureau, I have had the occasion to address instances where the Pre-Trial Chamber has taken decisions informing the Assembly and the Security Council of the presence on the territory of States Parties of persons subject to arrest warrants.

28. The Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the work of the Assembly and its subsidiary bodies, in accordance with resolution ICC-ASP/2/Res.3. In addition, the Secretariat has endeavoured to coordinate, as appropriate, with the different organs of the Court on the issues on the agenda of the Assembly, and on other matters which are of relevance to the work of the Assembly.

29. Throughout the year, the Secretariat continued to provide The Hague Working Group, the Study Group on Governance, the Committee on Budget and Finance, as well as the Oversight Committee, with independent substantive servicing, as well as administrative and technical assistance in the discharge of their responsibilities. The Secretariat assisted in coordinating the work of the Bureau and of the New York Working Group and facilitated the travel of the President of the Assembly and the dissemination of information and communications.

30. Following the mandate of resolution RC/1 of the Review Conference entitled "Complementarity", the Secretariat also took measures to facilitate the exchange of information between the Court, States Parties, and other stakeholders. This included the designation of a focal point on complementarity, the establishment of contacts with key complementarity-actors, as well as the establishment of an Extranet on complementarity.

31. Furthermore, in accordance with the relevant resolutions on the Plan of action, the Secretariat requested all States to convey information relevant to the promotion of the ratification and implementation of the Rome Statute, which it has made available on its website.

32. The New York Liaison Office has provided technical servicing to the Bureau and the New York Working Group.

33. Throughout its term, the Bureau has enjoyed the support of the Assembly. The Assembly, through its Bureau, has engaged in dialogue with the Court on an increasing number of issues, some of them very complex, which has led to a greater appreciation of the respective responsibilities. At the end of its term, I wish, on behalf of the Bureau, to express my appreciation to all States Parties, the Court, and civil society, for their valuable input, support and spirit of cooperation, which have contributed to making the work of the Assembly a success. I also wish to express my appreciation to the United Nations for facilitating the sessions of the Assembly held at United Nations Headquarters during the past three years, and in particular to the United Nations Secretary-General, the interpreters and the Conference Officers.

34. I wish my successor, Ambassador Tiina Intelmann (Estonia) every success as she takes the mantle of leadership at a key time for the Assembly and the Court, when there are changes at all levels, including the election of a new Prosecutor and of six new judges. I am sure that she will be able to count on the support of the Bureau and the Secretariat as she embarks upon her mission.

Thank you.

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