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**Informal Summary of the retreat:
ICC - the challenges and opportunities in light of the
upcoming November Assembly of States Parties****Seminar**

On 16 October 2013, the Netherlands and Switzerland, together with the International Criminal Court (ICC), hosted a seminar entitled, *ICC - the challenges and opportunities in light of the upcoming November Assembly of States Parties (ASP)*. All Ambassadors representing countries that are States Parties to the Rome Statute based in The Hague or Brussels were invited. In total 50 States Parties were represented during the retreat representing all regional groups of the Assembly. The session was moderated by Professor David Donat Cattin, who was then senior director of the International Law and Human Rights Programme of Parliamentarians for Global Action (PGA). The retreat was held under the Chatham House rule. Apart from representatives of the Corps Diplomatique, the three heads of organs of the ICC participated in the discussions.

Three questions were posed to the participants of the retreat:

1. How to maintain and generate support in the African region?
2. How should the ICC be in five years?
3. How could the ICC communicate more effectively?

In total there were 25 interventions during the day. Most of the interventions focused on the first question.

Report

All participants expressed firm support for the International Criminal Court. There was broad consensus that there is a need for a constructive dialogue on the ICC and the relationship with Member States of the African Union during the upcoming Assembly. Many countries expressed the view that the concerns by the African Union should be taken seriously. Some countries supported this view but also noted that the upcoming Assembly could not take a decision on amending the Rome Statute.

Many countries argued that the ICC is in need of political support by its States Parties. Some speakers remarked that the ICC is an independent judicial institution that should follow the rules of the Rome Statute. According to these speakers it is up to States Parties to engage in political discussions about the ICC. Several countries expressed the view that the ICC acts and should act on the basis of evidence of international crimes that is available, regardless of

regional or political considerations. In addition, several speakers noted that the dialogue between the ICC and the African Union or Member States of the African Union should be held in the Assembly and not with the ICC.

One State stated that the judges of the ICC should take societal developments in Africa into account in their decisions. According to this view public support for the ICC was dwindling in Africa. This speaker also expressed the view that the Security Council and the Assembly should urgently address the questions and remarks by the African Union-leaders. Another speaker reacted to this intervention saying that societal support remained largely intact but that African leaders recently were less supportive of the ICC. Another State expressed the view that the ICC is exclusively focused on Africa. Yet another participant stated that the position of his / her State is largely determined by economic motives.

Several representatives argued in favor of opening the ICC-AU liaison office in Addis Ababa on a short notice. A number of countries spoke out in favor of promoting universality of the Rome Statute. This would be the best way to counter an alleged regional bias by the ICC. Several representatives argued against opening a discussion on head of State immunity.

One participant expressed support for the Rome Statute but emphasized that every State was entitled to hold national discussion on withdrawing from the Rome Statute. This participant suggested several options to strengthen the ICC: 1) there should be a dialogue on the Rome Statute which should also be about article 26; 2) communication of the ICC to African countries should be improved; 3) and the use of intermediaries by OTP should be critically considered. Another participant reacted to this intervention. The judges of the ICC confirm the charges against all suspects, therefore, the ICC does not engage in frivolous proceedings. This person emphasized that there was no bias of the ICC against Africa; many of the situations were referred by African countries themselves.

One State expressed the view that in order to strengthen support for the ICC in the African region States Parties should invest more in capacity building in countries in the African region. In this way complementarity of the ICC could be strengthened. One State expressed support for the ICC but criticized the level of bureaucracy by the Working Groups of the Assembly. Several participants stated in their interventions that the ICC should focus more on outreach to generate support for its work and to clear up misunderstandings.

Several speakers argued that the ICC should be provided with sufficient financial means, to be able to fully carry out its mandate, during the upcoming Assembly. Some speakers expressed the view that justice at the ICC is currently rather expensive and that the Court should function more efficiently.

Some participants expressed the view that all States Parties ratified the Rome Statute knowing in advance the consequences of this action, and that all States should, therefore, now express support for the ICC. Another representative added that the ICC is an instrument that seeks redress for victims of alleged international crimes and that its actions should not be seen as directed against any individual country.
