



# Retreat on Strengthening the Proceedings at the International Criminal Court

Glion, Switzerland, 3-5 September 2014

## *Chair's Summary*

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### 1. Purpose and Goals of the Retreat

Building on the work of the Study Group on Governance (SGG) of the Assembly of States Parties (ASP), the Working Group on Lessons Learnt of the Court (WGLL) and other actors, and bringing the various stakeholders together, the Retreat presented a unique opportunity for an intense and constructive exchange of views on **how to further enhance the effectiveness at the International Criminal Court (ICC)**. The effectiveness of proceedings is essential to safeguarding the rights of victims and those of the accused, the credibility and authority of the institution and also the targeted use of financial resources. At the same time, the fairness of proceedings and the judicial independence have to be safeguarded.

The main goals of the retreat were:

- to reinforce the shared commitment and responsibility to fight impunity for the most serious crimes by means of the ICC;
- to create greater awareness and a better understanding of the main challenges in terms of effectiveness at the ICC as well as to identify possible solutions and priorities;
- to learn about existing formal and informal processes put in place to enhance the effectiveness at the ICC;
- to identify synergies between these different processes and the involved actors; and
- to stimulate future discussions in the context of the Assembly of States Parties to the Rome Statute (ASP) and at the ICC itself.

The Retreat was held in Glion, Switzerland, from 3-5 September 2014. It brought together around **60 senior policy makers and practitioners**, including representatives of the ICC, States Parties, and NGOs as well as independent experts. It was held in an informal and interactive setting, and under the Chatham House Rule. The list of participants (Annex II) and the agenda (Annex III) are attached.

Discussions were based on a **Background Document** prepared by the Federal Department of Foreign Affairs of Switzerland (FDFA).<sup>1</sup> It provides a concise

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<sup>1</sup> The Background Document is attached to the e-mail.

overview of the issues that were considered in Glion.

The Background Document also summarizes the main recommendations of the **Independent Expert Report on Promoting Effectiveness at the ICC**<sup>2</sup> that provided further input for the Retreat. The 250-page document contains numerous recommendations on how to improve on the effectiveness at the ICC. It is primarily intended for the Court itself, but also States Parties, NGOs and other interested stakeholders. The Expert Report seeks to avoid, to the extent possible, recommending changes to the statutory or regulatory framework of the Court and focuses instead on changes of practice within and towards the Court.

This **Chair's Summary** is the sole responsibility of the FDFA and does not intend to represent the agreed views of the participants. It is limited to conclusions (below) and some of the most important points not already reflected in the Background Document and raised during the discussion in Glion (Annex I).

## 2. Conclusions

### ***A more structured dialogue between the ICC and States Parties:***

- **Oversight based on mutual trust:** The perceived lack of trust in the relationship has led to a situation which is neither satisfactory for the Court nor for States Parties. It was highlighted that mutual trust had increased recently, but that the tension between effective oversight by States Parties and micro-management continues to be of concern. The ASP should focus on political and strategic issues and support to the ICC. To provide the space for these discussions, ideas like holding an ASP exclusively for the adoption of the budget or elections or the adoption of a bi-annual budget could be (re-) considered.
- **Manage by objectives:** There was support for the proposal of making use of benchmarks/indicators as recommended in the Independent Expert Report. This would allow for a more structured dialogue in which the Court could better demonstrate its needs, including in terms of resources, and States could formulate their expectations. At the same time, the definition of indicators would also make the Court more accountable *vis-à-vis* States Parties. While it was acknowledged that it would be a challenge to develop meaningful indicators, it was also said that relevant data exists within the Court and experiences at other international courts could serve as inspiration.

### ***Changes to practices and the normative framework:***

- **Focus on changes to practices:** It was recognized that changes to practices had a lot of potential to improve effectiveness and could be implemented relatively quickly. Participants said that the ICC itself should assume the leadership in that process. In contrast, as regards normative amendments, a comprehensive reform of the Rules of Procedure and Evidence was not seen to be appropriate at this stage as the majority of the Rules were considered to be adequate.
- **Implement existing proposals on changes to practices:** Participants welcomed the great effort and the many concrete recommendations by the independent group of experts. It was mentioned that some of the

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<sup>2</sup> The Expert Report is attached to the e-mail.

recommendations had already been implemented and others needed further discussion and clarification. In the light of the fact that the Court, the independent experts and authors of other expert studies have identified similar problems and suggested similar solutions, there was a sense that there is a solid basis and that the question is now how to implement the many substantial proposals to improve effectiveness at the ICC.

- **Simplify normative amendments:** The process to adopt legislative amendments was described as cumbersome and too complex especially when proposals emanate from extensive deliberations at the Court itself. In such cases, more restraint by States Party was seen to be necessary and it was suggested that for that purpose, proposals could be separated in "A-proposals" that warrant in-depth discussion by States Parties and "B-proposals" which would not be discussed in any detail by organs of the ASP. In the future, the adoption of amendments of the Rules of Procedure and Evidence by the Judges alone (as at the ICTY and ICTR) or in the absence of a "veto" by a certain majority of States Parties could be considered.

### ***Synergies between existing initiatives to address the effectiveness of proceedings***

- **Assume the shared responsibility to improve effectiveness:** It was clearly expressed that the ICC, States Parties and the civil society have a shared responsibility to work on improving the effectiveness of proceedings with greater vigor. It was suggested that a degree of coordination is essential as the various issues are interlinked and require a holistic perspective. The wish was expressed that the Court assesses the many concrete recommendations on the table, that the Study Group on Governance makes an attempt to be more effective in the deliberation of proposals (including through seminars) and that additional efforts by the civil society supports these processes.
- **Next steps – join forces to improve effectiveness:** Actors, in particular States Parties and civil society organizations, with a particular expertise or interest in an area affecting effectiveness of ICC proceedings were encouraged to come forward and make concrete proposals and launch initiatives relating to effectiveness, formal or informal. It was highlighted that the Retreat in Glion was merely the beginning of a process that seeks to promote effectiveness of ICC proceedings more actively. It was emphasized that the future process shall be fully transparent, inclusive and rest on as many shoulders as possible. Only the joint effort of the ICC and its stakeholders can insure the legitimacy, continuity and effectiveness of the process.

FDFA, 15 October 2014

#### Annexes:

- Annex I – Brief Summary of Discussions
- Annex II – List of Participants
- Annex III – Agenda

## **ANNEX I – Brief Summary of Discussions**

### **1. Existing Initiatives to Enhance the Effectiveness of Proceedings**

→ *This session gave participants an overview of the existing initiatives to enhance the effectiveness of proceedings. The information on this issue contained in Chapter 3 of the Background Document is reproduced below for ease of reference.*

#### **1.1. INSTITUTIONAL DIALOGUE BETWEEN THE COURT AND STATES PARTIES**

States Parties to the Rome Statute are currently addressing the issue of ICC efficiency and effectiveness through the **Study Group on Governance (SGG)**, an Assembly of States Parties (ASP) subsidiary body within the Bureau's The Hague Working Group. Its original mandate is to "conduct a structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence."<sup>3</sup>

The Court produced its first Report on Lessons Learnt in 2012.<sup>4</sup> In that report it identified nine "clusters", which it viewed as needing consideration following 10 years of practice at the ICC and the completion of the first trial: Pre-trial; Pre-trial and trial relationship and common issues; Trial; Victims participation and reparations; Appeals; Interim release; Seat of the Court; Language Issues; and Organizational Matters. That same year, States established the Roadmap which set out a process under which the Judges' **Working Group on Lessons Learnt (WGLL)** submits proposals for amendments to the Rules of Procedure and Evidence (RPE) to States, drawing on those clusters identified in the Lessons Learnt Report.<sup>5</sup> It is composed of Judges from each division, representatives from the Registry, the Office of the Prosecutor and counsel from both defence and victims. These proposals are also discussed by the Advisory Committee on legal texts (ACLT) where representatives for the Prosecutor and Defence are also represented. The SGG, accessible to all States Parties representatives from The Hague and Brussels, tries to reach a consolidated assessment on the proposal, which is submitted to the **Working Group on Amendments (WGA)** in New York. The WGA is composed of States Parties representatives. It deliberates amendment proposals to the ICC regulatory framework and transmits its recommendations to the ASP.

In the meantime, the SGG managed to establish an on-going, constructive dialogue with the Court in order to increase the Court's efficiency and expedite its proceedings. To date, States have adopted amendments to the Rules of Procedure and Evidence (RPE), by adding Rule 4*bis* (the presidency), Rule 132*bis* (Designation of a judge for the preparation of the trial), Rule 134*bis* (Presence through the use of video technology), Rule 134*ter* (Excusal from presence at trial), Rule 134*quater* (Excusal from presence at trial due to extraordinary public duties); as well as amending Rule 100 (place of the proceedings) and Rule 68 (prior recorded testimony). This year, the Court has submitted proposals relating to language and interpretation, and organizational clusters. These proposals are currently being discussed.

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<sup>3</sup> Resolution ICC - ASP/9/Res.2 (10 December 2010).

<sup>4</sup> ICC-ASP/11/31/Add.1.

<sup>5</sup> ICC-ASP/11/Res.8. The Roadmap was annexed to the Report of the Bureau on the Study Group on Governance, ICC/ASP/11/31. The "Revised Roadmap" was endorsed by the ASP on 27 November 2013. ICC-ASP/12/Res.8

On 9 July 2014, a one day **SGG - seminar** has been organized in order to broaden the work of the SGG without creating a parallel track to it, focusing on the “pre-trial and trial relationship” cluster. A Court paper identifying *bottlenecks* has been presented by the Court. After the summer break, the group will be discussing concrete measures in this area on the basis of further proposals made by the Court.

## 1.2. GERMAN NON-PAPER

A non-paper circulated in July 2014 by Germany focuses on a reform discussion around the confirmation of charges proceeding.<sup>6</sup> It indicated that, amongst others, one of the reasons for the choice of that topic was that the rules governing the procedure were often ambiguous and failed to determine to what extent the confirmation proceedings should prepare and streamline the trial stage.

It identified the duplication of procedural steps taken during the confirmation proceedings at the trial stage and the divergent approaches by the Pre-trial Chambers to the scope of pre-confirmation disclosure to be among the main challenges relating to emerging practice before the Court in that field. In order to address these challenges, it was decided to open a discussion on how to reduce the length of the confirmation proceedings and to better determine to what extent these proceedings substantially contribute to the preparation and thus the expeditiousness of the trial.

As to the way forward, it has been indicated that the process and outcome of the initiative were open and that anyone was welcome to join the discussion.

## 1.3. FCO SEMINAR 2012

The United Kingdom Foreign and Commonwealth Office held a seminar, under the Chatham House rule, on ICC procedures on 26 October 2012. The seminar, chaired by former ICC Judge, Sir Adrian Fulford, and attended by representatives from academia, the ICC, the bar and *ad hoc* international criminal tribunals, discussed in detail issues related to pre-trial, trial and appellate procedures, as well as victims' participation. The result was a comprehensive summary of discussion which has been published recently.<sup>7</sup>

## 1.4. INITIATIVE OF THE COALITION FOR THE INTERNATIONAL CRIMINAL COURT

Since 2011, the Coalition for the ICC (CICC) has been developing and encouraging initiatives parallel to the Lessons Learnt and Study Group on Governance processes advocating a constructive and inclusive approach to discussing those issues. These efforts resulted in a project that seeks to promote processes similar to the 1999 UN Expert Group study on the Yugoslavia and Rwanda tribunals (see below 3.6.), the 2012 FCO seminar on ICC procedures (see above 3.3.), the work of the Open Society Justice Initiative (see below 3.5.), the efforts by Switzerland, etc. The CICC project envisions the continued need for a series of efforts in coordination with States Parties, the ICC, experts of the *ad hoc* as well as other specialised tribunals, and CICC members. The project concretely focuses on the Rome Statute system and the ICC, and specifically attempts to reduce the 8-12 years that international criminal cases have often taken to complete without impairing the fairness of the proceedings, including the rights of victims. The CICC's immediate effort will be on

<sup>6</sup> As laid down in Art. 61 of the Rome Statute.

<sup>7</sup> Foreign & Commonwealth Office, FCO Seminar on ICC Procedures - Executive Summary, (14 July 2014), available at: <https://www.gov.uk/government/publications/fco-seminar-on-icc-procedures-executive-summary>.

what is perceived to be an unsustainable status of the appeal practices and processes at the ICC. The initiatives would include both informal and formal expert studies on strengthening the efficiency and effectiveness of ICC proceedings, but also look at ASP structures and processes. The results could then lead to an ASP special session or a second review conference of States Parties. The CICC project addresses several levels:

- reforms of practices of the ICC that do not require ASP decisions;
- reforms that require changes of the legislative framework by the ASP, including strengthening ASP structures;
- reforms that require Rome Statute amendments;
- reforms that emerge from a systematic review of UN procedures and rules imported *in toto* by the ASP in 2002 and 2003 that have never since been reviewed by the ASP.

#### 1.5. ACTIVITIES OF THE OPEN SOCIETY JUSTICE INITIATIVE

The Open Society Justice Initiative (OSJI) has been actively supporting the ICC in various fields in order to improve its efficiency and effectiveness and is currently working on the development of further projects in that regard. As an example, the OSJI has been working with NGOs on how they can better support Prosecution investigations by the Office of the Prosecutor (OTP) in a way that enhances the credibility and effectiveness of ICC proceedings. This includes using new forms of gathering of evidence that the OTP is developing. The OSJI has also assisted the Registry in reviewing the policies and practices of the Victims and Witness Unit (VWU) in order to ensure the Unit's effectiveness so as to meet current challenges.

#### 1.6. PREVIOUS REVIEW PROCESSES AND EXPERT REPORTS

In 1998, the UN General Assembly requested the Secretary-General to conduct a review of the *ad hoc* criminal tribunals. The "Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda" undertook an extensive review of the processes and proceedings of the two tribunals, including through extensive interviews.<sup>8</sup> Many experts believe that this single undertaking had a profound impact on the tribunals' functioning and operations. Mention should also be made of two important reports, one by Judge and Professor Antonio Cassese on the SCSL<sup>9</sup> and David Tolbert's report regarding the State Court of Bosnia and Herzegovina.<sup>10</sup>

With respect to the ICC, the International Bar Association (IBA)<sup>11</sup> and the

<sup>8</sup> To carry out this review, the Secretary-General appointed an expert body of five eminent persons with experience in international organizations, international tribunals and national courts. The expert body issued a comprehensive report identifying obstacles to the tribunals' effective functioning and proposing concrete measures for their improvement. See Report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, UN Document A/54/634 (11 November 1999), available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/54/634](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/54/634).

<sup>9</sup> <http://www.rscsl.org/Documents/Cassese%20Report.pdf>.

<sup>10</sup> <http://www.iclsfoundation.org/wp-content/uploads/2009/05/icls-bih-finalreportwebsitecorrected.pdf>.

<sup>11</sup> International Bar Association Human Rights Institute, Enhancing efficiency and effectiveness of ICC proceedings: a work in progress (January 2011), available at [http://www.ibanet.org/Human\\_Rights\\_Institute/ICC\\_Outreach\\_Monitoring/ICC\\_IBA\\_Publications.aspx](http://www.ibanet.org/Human_Rights_Institute/ICC_Outreach_Monitoring/ICC_IBA_Publications.aspx); see the fifth report, dated 11 January 2011, entitled Enhancing efficiency and effectiveness of ICC proceedings: a work in progress January 2011.

Washington College of Law War Crimes Research Office (WCRO)<sup>12</sup> have both issued expert reports on efficiency, both appearing to be free-standing exercises. Both reports are extensive compilations of analysis and recommendations on how to expedite the criminal process at the ICC.

## 2. Discussion on Effectiveness in Three Areas

### 2.1. INVESTIGATION AND PROSECUTION

Participants recognized that the quality of the investigation and prosecution is decisive for the entire criminal process. It was mentioned that many of the very useful recommendations of the group of experts have been implemented or are currently being implemented by the Office of the Prosecutor on the basis of its **Strategic plan June 2012-2015**<sup>13</sup>. In relation to several recommendations, such as to adopt a vertical prosecution model<sup>14</sup> or to proceed to confidential outside reviews of cases, it was said that their implementation would require additional financial resources. At the same time, it was noted that those resources could be spared later due to efficiency gains. Many emphasized **the need to have the best possible staff and, if necessary, to be supplement it with short-term personnel**, for instance through Justice Rapid Response. In that respect, bureaucratic hurdles and problems relating to the budget-cycle should be addressed. Participants also said that **the “reasonable grounds to believe” standard must be met and the charges be clear before the beginning of a trial**. However, it was also mentioned that, in exceptional circumstances, it was not excluded that investigative tasks continue after the confirmation of charges. With respect to the key task of disclosure, participants learned that a dedicated position within the OTP was to be created in due course.

### 2.2. CHAMBERS

There was considerable discussion as to what the precise goal of the **confirmation process** is. While some advocated for a minimalistic approach where this phase exclusively serves as a filter for the trial, others said that a certain amount of evidence needs to be looked at during the pre-trial in order to avoid evidentiary problems at trial stage. It was also suggested that Judges could rotate between pre-trial and trial stage in order to improve the awareness about each phase of the process. In any case, more routine was seen to help to flesh out the most effective approach and to harmonize practices between Pre-Trial Chambers. In relation to **interlocutory appeals**, it was recognized that they should be treated more quickly and that decisions should be shortened for that purpose. However, the available number of Judges and support staff was said to represent a challenge. The idea of a separate chamber to deal with requests for leave to appeal provoked little enthusiasm, as did the recommendation for fixed deadlines for the treatment of requests. Administrative difficulties such as the availability of courtrooms or

<sup>12</sup> American University Washington College of Law War Crimes Research Office, Expediting Proceedings at the International Criminal Court (June 2011), available at <http://www.wcl.american.edu/warcrimes/icc/documents/1106report.pdf>.

<sup>13</sup> OTP, Strategic plan, June 2012-2015, 11 October 2013 available at [http://www.icc-cpi.int/en\\_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/policies%20and%20strategies/Documents/OTP-Strategic-Plan-2012-2015.pdf](http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/policies%20and%20strategies/Documents/OTP-Strategic-Plan-2012-2015.pdf).

<sup>14</sup> A core group of investigators and prosecutors stays with a particular case during all phases of the process.

translation requirements were seen as an obstacle to the increased promotion of a **culture of orality** at the ICC. However, training, video technology or the new ICC building could, for instance, contribute to greater orality. It was seen as possible to promote taking more decisions from the bench, with reasons to follow, as well as shorter written decisions.

### 2.3. INSTITUTIONAL ISSUES

**Cooperation** of States Parties was considered to be a key factor for effectiveness at the ICC. The need to conclude more witness relocation agreements, better enforcement of Court decisions and development arrest strategies was underscored in this respect. In relation to **victims**, it was recognized that more should be done to improve the protection of victims by the ICC and States Parties alike. In addition, it was said that, having due regard to their rights, the process for victim's applications should be streamlined and victims should have a legal representative in the field. According to participants, the **ICC staff** must correspond to the needs of the Court and equitable geographical representation, the quality of the people, as well as a good mix of experienced and fresh personnel are important. As for Judges, the idea was put forward that the Court inform States Parties of its needs before an election in order to identify candidates with the required profiles. The quality of Judges, in particular their experience with managing complex criminal cases, was seen as essential to effectiveness of proceedings. The idea to develop **benchmarks/indicators** to measure the performance of the Court provoked a lot of interest because it could provide a framework for a more structured dialogue between States Parties and the ICC as to the respective expectations. An objective standard could also help justifying financial needs, in particular in capitals of States Parties. At the same time, participants pointed to the difficulty to identify (quantitative and qualitative) indicators that would reflect the performance of the Court in a meaningful way given the limited number of cases. As for **defence**, reference was made to plans to merging the two offices at the ICC. The ongoing **reform process at the Registry** was referred to as an important step to enhance effectiveness.

### 3. Discussion on Governance – The Role of States Parties and their Relationship with the ICC

While the Retreat focused on effectiveness of proceedings as such, participants recognized that the relationship between States Parties and the ICC was highly relevant in this respect. Reference was made to the growing number of meetings (87 in 2009, 175 in 2013), a total of over 13,000 pages of papers and reports prepared in 2013 and the associated cost of approximately 1 Mio Euros in order to demonstrate **the need for a more strategic oversight by States Parties**. It was pointed out that not only for the Court but also for smaller States Parties the workload was difficult to handle. Participants drew attention to the possibility to develop benchmarks/indicators that could serve as a tool to have a more structured dialogue and to further enhance transparency and mutual trust. This would also liberate resources of States Parties with a view to provide the much needed political support to the ICC. The **2013 report on "Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau"** and the **"Retreat on improving the Governance of the Assembly and preparing for its thirteenth session"** organized by President Intelmann on 3 June 2014 were referred to as a useful efforts to address the challenges mentioned above. There was an understanding that these efforts should continue.

## **ANNEX II – List of Participants**

Mr. Hiram Abtahi  
*Legal Adviser of the Presidency, International Criminal Court*

H.E. Ms. Joyce Aluoch  
*Judge, Trial Division, International Criminal Court*

Mr. Pieter de Baan  
*Executive Director, Trust Fund for Victims, International Criminal Court*

H.E. Ms. Fatou Bensouda  
*Prosecutor, International Criminal Court*

H.E. Ms. Mirjam Blaak Sow  
*Ambassador, Embassy of the Republic of Uganda to Belgium, the Netherlands and Luxembourg*

H.E. Mr. Markus Börlin  
*Ambassador, Vice-President, Assembly of States Parties*

Mr. Philipp Brandt  
*Minister, Deputy Head of Mission, Embassy of Switzerland, The Hague*

Mr. Shehzad Charania  
*Co-Focal Point Study Group on Governance Cluster I / Legal Adviser, Embassy of the United Kingdom, The Hague*

Mr. David Donat Cattin  
*Secretary-General, Parliamentarians for Global Action*

Mr. Richard Dicker  
*Director, International Justice Program, Human Rights Watch*

H.E. Mr. Håkan Emsgård  
*Chair of the Study Group on Governance / Ambassador, Embassy of Sweden, The Hague*

H.E. Ms. Silvia Fernández de Gurmendi  
*Judge, Pre-Trial Division, International Criminal Court*

H.E. Ms. Shireen Avis Fisher  
*Justice, Residual Special Court for Sierra Leone*

Mr. Håkan Friman  
*Deputy Director-General, Swedish Ministry of Justice*

Mr. James Goldston  
*Executive Director, Open Society Justice Initiative*

Mr. Dermot Groome  
*Distinguished Fellow in International Criminal Justice, Penn State Dickinson School of Law / Senior Trial Attorney, OTP, ICTY*

Ms. Gina Guillén-Grillo  
*Minister Counsellor, Legal Adviser, Mission of Costa Rica to the United Nations, New York*

H.E. Mr. Herman von Hebel  
*Registrar, International Criminal Court*

Mr. Thomas Henquet  
*Chief, Legal Advisory Services Section, International Criminal Court*

Ms. Danijela Horvat  
*Legal Adviser, International Law Department, Directorate for International Law and Protection of Interests, Ministry of Foreign Affairs of Slovenia*

Mr. Klaus Keller  
*Legal Advisor, Embassy of Germany, The Hague*

H.E. Ms. Vesela Mrden Korać  
*Ambassador, Embassy of Croatia to The Hague*

Mr. Claus Kreß  
*Professor, University of Cologne*

H.E. Jürg Lindenmann  
*Deputy Director, Directorate of International Law, Federal Department of Foreign Affairs of Switzerland*

Ms. Victoria Martinez  
*Adviser to the President of the ASP of the ICC / Permanent Mission of Estonia to the United Nations, New York*

Ms. Anne-Sophie Massa  
*Legal Counsel, International Law Division, Netherlands Ministry of Foreign Affairs*

Ms. Gabrielle McIntyre  
*Chef de Cabinet, Presidency, ICTY*

Mr. Guénaél Mettraux  
*Defence Counsel before the STL, ICTY, ICTR & ICC / Professor, University of Amsterdam*

H.E. Ms. Sanji Mmasenono Monageng  
*First Vice-President, International Criminal Court*

Ms. Amélie Moretti  
*Deputy Legal Adviser, Embassy of France, The Hague*

Mr. Nobuyuki Murai  
*Co-Focal Point Study Group on Governance Cluster I / First Secretary, Embassy of Japan, The Hague*

Ms. Thanisa Naidu  
*Legal Counsellor, South African Embassy, The Hague*

Mr. Kiat Wei Ng  
*Legal Assistant, ICTY*

Mr. William R. Pace  
*Convenor, Coalition for the International Criminal Court*

H.E. Mr. Mothusi Palai  
*Ambassador, Permanent Representative of Botswana to the United Nations, Geneva*

Mr. Lyn Parker  
*Chef de Cabinet to the President, International Criminal Court*

Mr. Rod Rastan  
*Legal Advisor, OTP, International Criminal Court*

Mr. Fabio Rossi  
*International Cooperation Adviser, OTP, International Criminal Court*

Ms. Nicole Diane Samson  
*Trial Lawyer, OTP, International Criminal Court*

H.E. Mr. Paul Seger  
*Chair Working Group on Amendments / Permanent Representative of Switzerland to the United Nations, New York*

Mr. Sam Shoamanesh  
*Senior Special Assistant to the Prosecutor*

H.E. Mr. Sang-Hyun Song  
*President, International Criminal Court*

Ms. Bettina Spilker  
*Associate Legal Officer, STL / Legal Assistant, ICTY*

Mr. Petr Válek  
*Director of the International Law Department, Ministry of Foreign Affairs of the Czech Republic*

Ms. Paula Vilas  
*Legal Counsellor, Ministry of Foreign Affairs of Argentina*

Mr. Renan Villacis  
*Director, Secretariat of the Assembly of States Parties*

H.E. Mr. Christian Wenaweser  
*Ambassador, Permanent Representative of Liechtenstein to the United Nations, New York*

Mr. Alex Whiting  
*Professor of Practice, Harvard Law School*

H.E. Ms. Christine van den Wyngaert  
*President Pre-Trial Division, International Criminal Court*

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## **ANNEX III – Agenda**

### **Wednesday, 3 September 2014**

**Afternoon    Arrival of participants**

**17.00-17.20    Welcome**

*Opening remarks:*

- *H.E. Mr. Markus Börlin, Vice-President, Assembly of States Parties to the Rome Statute*
- *H.E. Mr. Sang-Hyun Song, President, International Criminal Court*
- *H.E. Ms. Fatou Bensouda, Prosecutor, International Criminal Court*
- *Mr. William R. Pace, Convenor, Coalition for the International Criminal Court*

**17.20-17.30    Break in order to reconvene in three groups**

**17.30-19.00    Opening session - Taking Stock**

*Discussion in three groups with identical topic:*

- *Group A (convene in „La Grande Salle“, first floor of hotel)*
  - *Moderator: Mr. Petr Válek, Director of International Law Department, Ministry of Foreign Affairs, Czech Republic*
- *Group B (convene in "Le Salon Télé", first floor of hotel)*
  - *Moderator: H.E. Ms. Mirjam Blaak Sow, Ambassador, Embassy of Uganda in Brussels*
- *Group C (convene in "La Grange", building adjacent to hotel)*
  - *Moderator: H.E. Ms. Vesela Mrden Korac, Ambassador, Embassy of Croatia in The Hague*

**19.00-19.30    Cocktail**

**19.30            Dinner at the hotel**

**Thursday, 4 September 2014****From 07.00 Individual breakfast at the hotel****09.00-10.30 First session: Existing initiatives to enhance the effectiveness of proceedings***Panel discussion followed by Q&As:*

- *Moderator: H.E. Mr. Håkan Emsgård, Chair SGG / Ambassador, Embassy of Sweden in The Hague*
- *Panel:*
  - *H.E. Ms. Sanji Monageng, Vice-President of the ICC / Chair, ICC Working Group on Lessons Learnt*
  - *Prof. Claus Kreß, University of Cologne*
  - *Mr. Shehzad Charania, Co-Focal Point SGG Cluster I / Legal Adviser, Embassy of the UK in The Hague*
  - *Mr. William R. Pace, Convenor, Coalition for the ICC*
  - *Mr. James A. Goldston, Executive Director, Open Society Justice Initiative*

**10.30-11.00 Coffee break****11.00-12.30 Second session: Effectiveness at the ICC - the main challenges from the point of view of independent experts***Presentation by members of the Group of Experts followed by Q&As***12.30-14.00 Lunch break****14.00-16.00 Third session: Exchange of views on how to enhance the effectiveness of proceedings***Discussion in three groups with different topics:*

- *Investigation and Prosecution (convene directly in „La Grande Salle“, first floor of hotel)*
  - *Moderator: Prof. Claus Kreß, University of Cologne*
  - *Rapporteur: Ms. Gina Guillén-Grillo, Minister Counsellor, Legal Adviser, Mission of Costa Rica to the UN, New York*
- *Chambers (convene directly in "Le Salon Télé", first floor of hotel)*
  - *Moderator: H.E. Justice Shireen Avis Fisher, Residual Special Court for Sierra Leone*
  - *Rapporteur: Mr. Håkan Friman, Deputy-Director-General, Swedish Ministry of Justice*
- *Institutional Issues (convene directly in "La Grange", building adjacent to hotel)*
  - *Moderator: Mr. David Donat Cattin, Secretary-General, Parliamentarians for Global Action*
  - *Rapporteur: Mr. Shehzad Charania, Co-Focal Point SGG Cluster I / Legal Adviser, Embassy of UK in The Hague*

**Thursday, 4 September 2014 (cont'd)**

**16.00-16.30**      **Coffee break**

**16.30-18.00**      **Fourth session: Exchange of views on how to enhance the effectiveness of proceedings**

*Interactive plenary discussion:*

- *Moderator: H.E. Mr. Christian Wenaweser, Permanent Representative of Liechtenstein to the United Nations in New York*
- *Rapporteurs of third session*

**19.30**              **Dinner at the hotel**

**Friday, 5 September 2014****From 07.00 Individual breakfast at the hotel****09.00-10.30 Fifth session: Governance - The Role of States Parties and their Relationship with the ICC***Interactive plenary discussion:*

- *Moderator: H.E. Mr. Jürg Lindenmann, Deputy Director, Directorate for International Law, Switzerland*

**10.30-11.00 Coffee break****11.00-13.00 Sixth session: Synergies between initiatives to enhance the effectiveness of proceedings and next steps***Panel discussion:*

- *Moderator: H.E. Mr. Valentin Zellweger, Legal Adviser / Director, Directorate for International Law, Switzerland*
- *Panel:*
  - *H.E. Ms. Sanji Monageng, Vice-President of the ICC / Chair, ICC Working Group on Lessons Learnt*
  - *H.E. Mr. Håkan Emsgård, Chair, Study Group on Governance (SGG) / Ambassador, Embassy of Sweden in The Hague*
  - *Mr. Richard Dicker, Director, International Justice Program, Human Rights Watch*

**13.00-14.30 Lunch****Afternoon Departure of participants**