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Remarks of the Prosecutor on the IER Report

**The Hague Working Group and the New York Working Group of the
Bureau | Fourth joint meeting**

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Your Excellencies,
Ladies and Gentlemen,
Dear Colleagues,

Thank you, Mr President and Messrs Vice-Presidents of the Assembly of States Parties (“ASP”), for your opening remarks, and for affording us, as Principals of the International Criminal Court (“ICC” or the “Court”) and as major stakeholders on behalf of the institution, the opportunity to share a few preliminary observations in response to the recently submitted report of the Group of Independent Experts (“Independent Experts”) following this past year’s review process.

My comments today will focus on those aspects of the report produced by the Independent Expert Review that relate mainly to my Office.

I will not, of course, enter into detail, because this is not the appropriate forum for it, and we are still engaged in an internal process of very carefully studying the report and its recommendations, with a view to fully appreciating them, and indeed making use of them, as appropriate, to further strengthen our operations and increase the effectiveness of our work.

I should state at the outset that it is obvious to me that the experts made a genuine effort to engage with us at all levels, and to help us chart a way forward in the interests of strengthening the Court and the Rome Statute (“Statute”) system of international criminal justice. They did this under high expectations, extreme constraints of time and the restrictions due to the impact of the COVID-19 pandemic. That was certainly not an easy task.

I wanted to seize this occasion to thank the Chair of the Independent Experts, Justice Goldstone and all other experts for their efforts and contribution to this important milestone in the Court’s evolution, and for engaging openly and constructively throughout the review process.

As I have stated from the beginning of this process, I, along with my Office, viewed the independent review process as a necessary initiative in the life of this important institution, and one that we considered to be very much in line with our own philosophy and commitment to take the Office and the effective discharge of our mandate under the Statute to the next level.

This has been a guiding principle that has led my actions and those of my senior team since I assumed my role as chief Prosecutor in 2012, embracing change management as we embarked on a new phase of the Office. Now eight years later, with a number of important initiatives and changes already made, as reflected in our internal documents and strategic plans, we see the Independent Expert Review process as yet another chapter of the same thrust forward – our aim, is to ensure that as an Office, we are as effective and efficient as we possibly can be in the service of the Statute and its laudable goals – always striving for excellence.

We will be looking to the report of the Independent Experts for inspiration and fact-based actionable recommendations which we can then carry forward with this overall objective in mind.

From the perspective of the Office of the Prosecutor (“OTP”), most of the recommendations that the experts have made concerning the Office are in line with our own thinking, evolving practices and plans. We regard them as important support and encouragement to us to continue pursuing ideas and proposals that are already in the works or the topic of internal discussion, and to work towards making further improvements. I also welcome their recognition of the very difficult mandate placed upon my Office and the Court as a whole and the immense challenges we face matching up our needs with the available resources.

That said, we have more challenges with certain findings and recommendations, which can have broader strategic, operational and institutional implication. We are still busy digesting the report in its entirety. Some of such recommendations and observations, in particular those made under the Governance and OTP chapters of the report, could benefit from a process that facilitates further engagement and discussion with the Independent Experts, the States Parties, and other stakeholders of the Rome Statute system. This, I believe, could be mutually beneficial, and could help chart the way forward.

However, we will try to identify the underlying objectives of these recommendations and see how we can find the best way to achieve them, where appropriate, and always guided and in keeping with key duties and principles that are foundational, namely:

-) full respect for our statutory obligations;
-) change must strengthen prescribed mandates under the Statute, including support services provided to the Principals in the discharge of our respective multi-faceted mandates, and result in actual improvements;
-) institutional harmony;
-) fairness to our staff, and strict adherence to the applicable legal framework and ILOAT jurisprudence, and
-) efficiency and good governance.

I note the proposal of the Independent Experts for working groups to be established to assess and implement the recommendations of the report. We look forward to engaging with the ASP and the other organs of the Court on the modalities on how to take the process forward recognising that some of the recommendations by necessity involve further consultation. We are fully committed to enter into dialogue on the matter, and provide more specific views on the report, recommendations and the process in due course. In parallel, we have already started organising our internal work, following the reception of the report last week, and will be looking to implement those recommendations that are strictly within our sphere of competence, and that we accept as being actionable and pressing.

Of course, with 384 recommendations, naturally, additional time is required to fully process the report, discuss inter-organ, matters that require cross-organ discussion and consultation, and prioritise actionable recommendations.

In all of these matters, we will come back to you in detail, and with a committed approach to continuous improvement. What I hope is that already, under the remaining period of my own term, we can set out to implement as many recommendations as we can, in line with the principles I have outlined above.

As we are gathered here today to discuss how we can further strengthen the institution and ensure its longevity, we find ourselves at a juncture where the Court and Rome Statute system are under direct assault by those who, contrary to our aim here, intend to inflict pain and to box-in the institution, preventing it from delivering on its crucial mandate.

We agree with the experts that the ASP and States Parties should develop a coordinated strategy for responding to these attacks on the Court, its officials and personnel by non-States Parties in no uncertain terms, and should be prepared to speak up in the Court's defence. I have made similar pleas in different fora.

If you will indulge me, I hope that the next steps in this review process will also trigger a productive discussion amongst States Parties on how they can, in their own right, enhance their support for the work of my Office and the Court more broadly through reinforced cooperation and provision of adequate resources, as we work to do our part.

In conclusion, we very much agree with experts that the ICC and the Rome Statute system of international criminal justice are more important today than ever, and it is part of our collective mission, including at the OTP, to continue to improve our ability to deliver on the promise the Rome Statute offers the world.

I am grateful for this opportunity, and we look forward to the next steps in this important process. | OTP