

## Cooperation Panel Discussion – 16 November 2012

### CANZ Statement

Madam Chair

It is my honour to speak today on behalf of the CANZ group – Canada, Australia and New Zealand. At the outset, let me express our gratitude to you and the panellists for convening today's event. We would like to record our particular thanks to Mr Brammertz for his key note address, which represents a valuable contribution to this important area from a highly experienced practitioner.

Madam Chair

It is timely for us all, in the Court's tenth anniversary year, to reflect upon both the substantial achievements of the International Criminal Court and the serious challenges it faces. As the panellists have confirmed, one of the most critical challenges facing the Court is how to secure reliable, timely and effective cooperation from States and from international and regional organisations.

It is worth recalling that, for States Parties, cooperation with the Court is a treaty obligation under the Rome Statute. It is neither optional nor voluntary. Where a State Party receives a request for cooperation from the Court, it is under an obligation to handle that request in strict accordance with the Statute. Continued non-compliance with cooperation requests cannot be condoned. Such behaviour undermines the Court and helps those allegedly responsible for the most serious crimes to avoid being held to account.

CANZ therefore welcomes the work of the President and Bureau of the Assembly over the past year in dealing with instances of non-cooperation. Their work with the Government of Malawi demonstrates that targeted and sustained advocacy can be effective. Less positively, the Bureau's report of 22 October concerning their work with the Government of Chad, demonstrates that other tools may be necessary to deal with instances of non-cooperation. CANZ supports further work being undertaken on these important issues.

Madam Chair

We are pleased to see this session focus on two topics – arrests, and the identification, tracing, freezing and seizure of assets. We believe that this focus is long overdue. It is all too easy for States and civil society to indulge in generalised rhetoric about the importance of cooperation, without dealing adequately with the practicalities.

Dealing with arrest warrants first, CANZ notes that it is essential that:

- Such warrants continue to be requested sparingly, and
- The greatest care be taken in their preparation and execution.

This will maximise the likelihood of the individual in question being arrested and surrendered to the Court. Public failures to execute arrest warrants must continue to be avoided so far as possible.

Further, we believe that the issue of an arrest warrant should have a chilling effect on the individual named in the request. While respecting their right to a fair trial, and the presumption of innocence, such an individual should be under no illusion about the seriousness of their situation. It should not be business as usual for that person after an arrest warrant is issued.

Madam Chair

Similarly, we welcome this session's focus on requests concerning the identification, tracing, freezing and seizure of assets. Freezing orders are a potent tool in fighting impunity. The longstanding experience on our domestic jurisdictions is that such 'proceeds of crimes' orders can be highly disruptive of criminal activities. Our domestic experience also indicates that such requests must be prepared with considerable care. We would therefore encourage the Office of the Prosecutor to continue with efforts to ensure that requests are specific, fully substantiated, complete and timely.

Madam Chair

This session has served to remind us all that it is incumbent on States and international and regional organisations to provide the necessary political, moral and practical support to enable the Court to fulfil its mandate. At times this will require States Parties cooperating closely with the Court in order to secure the arrest and surrender of accused persons, and the identification and sequestration of evidence and other property.

Canada, Australia, and my own country of New Zealand, are committed to working for the Court's success. We therefore reiterate our appreciation to you, Madam Chair, and to the panellists, for underscoring the continued importance of cooperation to the future work of the Court.

\*\*\*