

**COALITION FOR THE
INTERNATIONAL CRIMINAL COURT**



INTERVENTION BY

SUNIL PAL

HEAD OF LEGAL SECTION

THE COALITION FOR THE INTERNATIONAL CRIMINAL COURT

AT THE

5TH PLENARY MEETING – DISCUSSION ON

COOPERATION - 20 NOVEMBER 2012

**11TH SESSION OF THE ASSEMBLY OF STATES PARTIES
THE HAGUE, 15 - 21 NOVEMBER 2012**

Madame Facilitator, thank you for giving the opportunity to the NGO community to make formal interventions during this session – I am happy in this respect to be followed by my colleagues from the Redress Trust, Amnesty International and the Open Society Justice Initiative.

Let me also applaud your efforts throughout the year, particularly in convening the forum for dialogue on Friday

The Coalition has often lamented the absence of any adequate discussion at the ASP where states and other stakeholders can gather to take stock and discuss issues that are of significant importance.

As Mr. Dicker (Human Rights Watch) alluded to during the panel discussion, this is the first ASP where we've gathered to discuss cooperation beyond negotiating language contained in draft resolutions, which are no less important, but the forum on Friday was welcomed progress.

Let me also acknowledge the work of the Friends of the ICC in NY and TH, which act as important forums for mainstreaming RS issues and which has now been exported to Geneva, a welcome development that should be replicated elsewhere.

That being said – ten-years into the life of the ASP we need to assess whether there are ways in which to strengthen the mechanisms that it has put in place to ensure adequate focus on cooperation. I want to pick up on a couple of comments that were made on the panel and from the floor and in doing so make two-three specific and inter-related recommendations that the Coalition has consistently raised and which have gained some momentum at this session.

(1) Standing Agenda Item

Firstly and building on the discussions last week, the Assembly should be convening this type of dialogue on an annual basis – not to accuse or point fingers – but to offer

opportunities for states - for the ad hoc tribunals - special courts - and other experts to reflect on lessons learned and best practices – as we had done on Friday.

Holding these types of discussions during plenary sessions of the ASP, with the participation of high-level representatives - would provide a results-orientated framework for the ASP's inter-sessional discussions – enabling it to build on its efforts over the course of the year.

The Coalition welcomes in this respect the recommendation in the draft res on coop, that an agenda item on cooperation be scheduled for the 12th session and also the proposal of Sweden in the draft omnibus resolution to concretise ASP discussions in a standing agenda item.

(2) inter-sessional mechanism / standing committee on cooperation

Secondly and; building on the positive experience of the October workshop in The Hague on freezing and seizing financial assets, as recognised by several states during the session last Friday, but also with a view to complementing plenary discussions on cooperation, the ASP's cooperation facilitation would be bolstered by an inter-sessional mechanism or standing committee on cooperation – promoting best practices - identifying challenges to and recommended solutions for cooperation, including implementation of the ASP's under-utilised 66 recommendations on cooperation-and facilitate the provision of expert advice and guidance.

This suggestion is by no means an outlandish one, given that the ASP has already seen fit to establish expert or subsidiary bodies that assist it in its decision-making capacity, insofar as the budget (CBF) – elections (Advisory Committee on Nominations) – and amendments (Working Group on Amendments) are concerned.

It would also enable the participation of state representatives responsible for processing requests for legal assistance as well as ICC focal points in situation countries and beyond

Let me be clear this is not a suggestion to bureaucratise the ASP further, but to give this issue the attention and respect required and enable the ICC to establish working relationships with the right persons in government. It should also be seen as an efficiency measure – contributing to institutional knowledge and capacity within the Assembly.

3) 66 recommendations on cooperation

Finally – and I alluded to this earlier, it has been 6 years since the ASP adopted its 66 recommendations on cooperation – a valuable blueprint on cooperation for the ASP. The Assembly has passed resolution after resolution re-iterating the importance of principles already espoused in those recommendations - like the need for focal points and implementing legislation - which I am not taking issue with, but the time has come to address whether states have implemented those recommendations and the obstacles they've faced in attempting to do so, in addition whether they should be supplemented with new recommendations to reflect current realities.

Prioritising the implementation of particular recommendations could also be the focus of the coming facilitation and in this respect we welcome the corresponding provision in the omnibus resolution, which we hope can be used to this effect.

Madame Facilitator, thank you again for this opportunity.