

ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE

ELEVENTH SESSION

Bureau of the Assembly of States Parties Oral report of the President on the activities of the Bureau

I have the honour to report to the Assembly of States Parties, for the first time since my assumption of duties as the President of the Assembly, on the activities carried out by its Bureau during this year.

During the past year, the Bureau held 18 meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute. Of these meetings two have been held in The Hague.

Pursuant to the mandates given to the Bureau by the tenth session of the Assembly in December 2011, the Bureau adopted, at its fifth meeting, on 17 January 2012, the terms of reference of its Working Groups in The Hague and New York.

The Working Groups were assigned responsibility as follows:

- i. New York Working Group
 - a) Arrears
 - b) Geographical representation and gender balance in the recruitment of staff of the Court
 - c) Peace and justice
 - d) Plan of action

The Working Group on Amendments continued to meet in New York, under the chairmanship of Ambassador Paul Seger (Switzerland).

- ii. The Hague Working Group
 - a) Budget
 - b) Complementarity, with Denmark and South Africa as *ad country* focal points
 - c) Cooperation
 - d) Independent Oversight Mechanism
 - e) Reparations
 - f) Legal Aid
 - g) Strategic planning
 - h) Victims and affected communities and Trust Fund for Victims

The Hague Working Group has, under the leadership of its Coordinator, Vice-President Ambassador Markus Börlin (Switzerland), and the respective facilitators, Ambassador Anneke Krutnes (Norway), Ambassador Jean-Marc Hoscheit (Luxembourg), Ambassador Håkan Emsgård (Sweden), Ambassador Jorge Urbina (Costa Rica), Ambassador Mohamed Karim Ben Becher (Tunisia), Ambassador Eduardo Pizarro Leongómez (Colombia), Ambassador Leon Marc (Slovenia) and Mr. Irvin Hoyland (Norway), made progress on the issues within its mandate.

As regards the New York Working Group, the Coordinator, Ambassador Ken Kanda (Ghana), has provided valuable guidance on the issues on the agenda of the Working Group. With the assistance of the facilitators, Mr. Yukihiro Wada (Japan), Ms. Fernanda Millicay (Argentina), Mr. Zénon Mukongo Ngay (Democratic Republic of the Congo), Mr. Nicolas Stürchler (Switzerland), Ms. Gina Guillén Grillo (Costa Rica) and Ms. Anca Cristina Mezdrea (Romania), the Working Group conducted its deliberations on the issues assigned to it.

The Study Group on Governance continued to function within The Hague Working Group, pursuant to the mandate of the Assembly in resolution ICC-ASP/9/Res.2, paragraph 37, considering the issues designated to it by the Assembly. The Study Group, working under the guidance of the Chair, Ambassador Pieter de Savornin Lohman (Netherlands), and the two focal points, Mr. Kanbar Hossein Bor (United Kingdom) and Mr. Cary Scott-Kemmis (Australia), respectively, made recommendations which the Assembly will consider at this session.

I wish to express my appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Markus Börlin and Ambassador Ken Kanda. The Vice-Presidents have served as Coordinators of the respective Working Groups of the Bureau and their support has been instrumental in advancing the consideration of the issues in these forums. I also wish to express my appreciation to the Chairman of the Study Group on Governance, Ambassador Pieter de Savornin Lohman.

The Bureau is pleased with the work conducted by its Working Groups as well as the Study Group during 2012, as they successfully carried out the mandates of the Assembly. They managed to achieve consensus among States Parties on these mandates. This has enabled the Bureau to submit for the Assembly's consideration the respective reports and recommendations on the issues within its mandate.

For my own part, in my capacity as the President of the Assembly, I have been focusing especially on four high priority areas: universality, cooperation, complementarity as well as raising awareness about the functioning of the Rome Statute.

In New York, I have undertaken around 200 meetings, in addition to my duties in the Bureau of the Assembly. I met with United Nations officials, numerous members of diplomatic community, academia and civil society. As Estonia's ambassador-at-large I have participated in various meetings of the United Nations. As my predecessors, I have taken advantage of the presence of ministers and high-level officials in New York during the General Debate of the United Nations General Assembly to hold meetings with States Parties and others. In this context, I met with several Ministers of Foreign Affairs or Justice, from Egypt, Mozambique, Côte d'Ivoire, Somalia, Ukraine, the Bahamas, South Sudan, Jamaica, Togo, Papua New Guinea, Federated States of Micronesia and Botswana and others.

It is significant that the United Nations General Assembly chose to dedicate a High-Level Meeting to the Rule of Law. States are increasingly realizing the importance of the Rule of Law both at the national and international levels. The Court, which investigates and prosecutes individuals for the most serious international crimes, is part of the nexus between these two levels. In a letter dated 13 July, I encouraged all States Parties to participate actively in the High-Level Meeting and to highlight the role of the Court in the Rule of Law.

The open debate of the United Nations Security Council on Peace and Justice with a special focus on the ICC, held on 17 October, was an important opportunity for States Parties and non-States Parties alike to exchange views on the relationship between the Security Council and

the Court. I commend Guatemala, the Rome Statute's newest State Party, for taking the initiative in organizing this first thematic Security Council debate on the Court. On 8 October, I also addressed a letter to all States Parties, encouraging active participation in this important debate.

Throughout the year, I have engaged with the members of the Security Council, particularly those that are States Parties to the Rome Statute on a variety of topics. These included Security Council follow-up of referrals, privileges and immunities of Court staff, financing of Security Council referrals and, most importantly, non-cooperation.

In the framework of the commemoration of the 10th anniversary of the Rome Statute, I have organized a number of events aimed at raising awareness of the Rome Statute and understanding of its implications to the work of the United Nations in the New York diplomatic community. My office partnered with the Permanent Mission of Germany to the United Nations to organize a commemorative event entitled "Celebrating the International Criminal Court's first 10 years: in honour of the ICC'S first Prosecutor", which was held on 4 June. With the cooperation of Azerbaijan, Estonia, Finland and the United Nations Institute for Training and Research (UNITAR), I organized a workshop on International Criminal Law for diplomats accredited to the United Nations, which was held on 8 June. In cooperation with the Office of the Prosecutor and the International Peace Institute, a panel discussion on "The challenges facing the ICC in the next 10 years: the need to enforce outstanding arrest warrants" was organized, which was held with the participation of the Prosecutor on 17 May. In this context, I should also like to mention a panel discussion on "Putting Complementarity into practice: reflecting on the experience in the Democratic Republic of the Congo, Argentina and Chile and looking forward to the High-Level Meeting on the Rule of Law", which my office organized in cooperation with the Open Society Justice Initiative on 21 May 2012.

I have visited the seat of the Court in The Hague on five occasions during which I participated in the solemn undertaking of the new Prosecutor of the Court, Ms. Fatou Bensouda as well as the new judges, held productive meetings with the heads of organs of the Court, other Court officials, the Vice-President, Ambassador Markus Börlin, met informally with the judges of the Court, as well as with the diplomatic community.

On two such occasions, I also held a Bureau meeting in The Hague, which has been very well received by States Parties in The Hague and indeed requested by members of diplomatic community in The Hague. It is an excellent opportunity to strengthen the link between New York and The Hague, also allowing Bureau delegations based in both capitals to have the opportunity to participate directly in the decision-making of the Bureau. While the practise of holding the vast majority of meetings in New York will certainly continue, the Bureau will need to keep the issue of the meeting location under review. I have proposed several options for Bureau members not represented in The Hague to contribute to any Bureau decision-making taking place in The Hague, including participation via video link.

Throughout the year, according to the information posted in the Court's Tenth Anniversary website,¹ States Parties have organized nearly 70 commemorative events. On this occasion, I hosted a seminar on victims and reparations in Tallinn, Estonia. The event, which was held from 10 to 11 September, was being co-sponsored by the governments of Estonia and Finland, in presence of both countries' foreign ministers and the Chairperson of the Board of Directors of the Trust Fund for Victims, Ms. Elisabeth Rehn. It provided extremely valuable

¹ <http://www.10a.icc-cpi.info/index.php/en/>.

lessons learned, which hopefully will benefit the Court's work in maintaining its relevance for the victims and affected communities.

Engagement and constant dialogue with regional organizations remains high on my agenda. Thus, I undertook two visits to Addis Ababa as part of the efforts to enhance dialogue and facilitate the exchange of views with the African Union Commission, with African and other States Parties to the Rome Statute, as well as the United Nations. During the past year I also met with representatives of other organisations such as the European Union, the Arab League, la Francophonie, Commonwealth and several others to explore ways of cooperation in key areas such as universality and capacity-building.

During my 29-31 March visit to Geneva, I suggested States Parties take the opportunity of the upcoming second cycle of the Universal Periodic Review in order to systematically recommend joining the Rome Statute to non-States Parties and complete implementation to those States Parties that had not yet done so. States Parties reacted positively, and decided to establish a local chapter of the Friends of the ICC, in part to consider how to go about making such recommendations. Such a Group of Friends of ICC is now officially convened in Geneva by Core Group of States, and I would like to encourage all States to participate in their work in Geneva.

My visit to Geneva also gave me an opportunity to engage in an open and frank dialogue with counsel's associations. I also used that opportunity to explain the Bureau decision on legal aid of 23 March.

Engagement with parliamentarians and other political actors is a centrepiece of my efforts on universality. I therefore took the opportunity, during my visit to Cairo, Egypt on 6 and 7 May to meet with leading parliamentarians, government officials and officials of the League of Arab States. The current time of transition in Egypt is an excellent opportunity for the country to re-examine ratifying the Rome Statute. There was also a wide interest towards the ICC amongst the academia and civil society, which I witnessed when giving a lecture at the Cairo University.

On 16-17 May, I visited Morocco, where I met with government officials, including the Minister of Foreign Affairs, parliamentarians and civil society. I also took part in parliamentary consultations organized by the Parliament of Morocco and Parliamentarians for Global Action, with participation of parliamentarians from the entire region.

In Sydney, Australia, I participated in a seminar organized by the Governments of Australia and New Zealand and the Commonwealth Secretariat to promote ratification and implementation of the Rome Statute in the Pacific Region, on February 2012. There are a large number of Pacific States who have not yet joined the Rome Statute. Similarly, many Pacific States Parties have not yet implemented the Statute fully into domestic legislation. I followed up this seminar with a series of meetings with the representatives of Pacific States in New York.

I would like express my gratitude to States Parties and organizations which have provided me with necessary logistical support to my visits in locations where Estonia does not have a diplomatic representation.

Returning to the work of the Assembly, the Bureau took a number of procedural and substantive decisions, including on Legal Aid, Non-cooperation, the Advisory Committee on Nominations, recommendations concerning the election of the Registrar, follow-up to the election of the Prosecutor and Contingency Fund. The Bureau discussed and took decisions and recommendations on organizational aspects of the eleventh session of the Assembly, including

agreeing to, inter alia, holding a thematic general debate on a topic: “Tenth Anniversary of the entry into force of the Rome statute: The challenges ahead”. Furthermore, the Bureau decided to focus the Assembly discussions on two specific topics: cooperation and complementarity.

As the work of the Court expands, it becomes increasingly urgent for States to carry out their statutory obligations of cooperation with the Court. It is the Assembly’s responsibility under article 112, paragraph 2, of the Rome Statute to consider, pursuant to article 87 of the Statute, any question relating to non-cooperation. Throughout the past year the Bureau and I have addressed instances where the Pre-Trial Chamber has taken decisions informing the Assembly and the Security Council of the presence on the territory of States Parties of persons subject to arrest warrants. The Assembly procedures on non-cooperation have been consistently implemented; instances of non-cooperation have been discussed on several Bureau meetings and the Bureau has presented a report to the Assembly, pursuant to the procedures adopted last year. The report also includes a number of recommendations for action. I further sent a letter to all States Parties encouraging them to raise the issue of non-cooperation bilaterally.

As regards the Advisory Committee on Nominations, pursuant to paragraph 19 of resolution ICC-ASP/10/Res.5, the Bureau established a Working Group which, under the able guidance of Mr. Dire Tladi (South Africa), submitted a report in which it recommended by consensus the designation by the Bureau of nine members of the Advisory Committee on Nominations. It is my hope that the Assembly would designate these members by consensus.

According to the mandate of the tenth session, the Bureau also designated Mr. Stefan Barriga (Liechtenstein) as facilitator for the topic of Review of procedure for the election of judges. Furthermore, the Bureau designated Mr. Duncan Laki Muhumuza (Uganda) to seek initial views from States Parties regarding the process for the election of the Prosecutor, as set out in paragraph 22 of resolution ICC-ASP/10/Res.5. Both processes are ongoing.

The regrettable event of the detention of ICC staff members for 24 days, from 7 June to 2 July, was closely followed by me, the Bureau and the States Parties. On the whole, the Court and States Parties emerged from the crisis situation stronger than before, having learned a lesson of how important is cooperation, coordination, appropriate flow of information and mutual assistance in instances of crisis.

The Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the work of the Assembly and its subsidiary bodies, in accordance with resolution ICC-ASP/2/Res.3. Throughout the year, the Secretariat continued to service The Hague Working Group, the Study Group on Governance, the Committee on Budget and Finance, as well as the Oversight Committee in the discharge of their responsibilities. The Secretariat assisted in coordinating the work of the Bureau and of the New York Working Group and facilitated the visits and meetings of the President of the Assembly and the dissemination of information and communications. The New York Liaison Office has provided technical servicing to the Bureau and the New York Working Group.

Throughout its term, the Bureau has enjoyed the support of the Assembly. The Assembly, through its Bureau, has engaged in dialogue with the Court on an increasing number of issues, some of them very complex, which has led to a greater appreciation of the respective responsibilities. I wish, on behalf of the Bureau, to express my appreciation to all States Parties, the Court, and civil society, for their valuable input, support and spirit of cooperation, which have contributed to making the work of the Assembly a success.

Thank you.

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