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Report of the Bureau on the Strategic planning process of the International Criminal Court

Note by the Secretariat

Pursuant to paragraphs 44 to 49 of resolution ICC-ASP/12/Res.8 of 27 November 2013, the Bureau of the Assembly of States Parties hereby submits for consideration by the Assembly the report on the strategic planning process of the International Criminal Court. The present report reflects the outcome of the informal consultations held by The Hague Working Group of the Bureau with the Court.

I. Introduction

1. The Assembly of States Parties (“the Assembly”), recalling its previous resolutions in this context,¹ early on expressed a strong interest in encouraging strategic planning as an integral part of setting-up and managing the Court’s multiple activities in implementing the Rome Statute.

2. At its twelfth session, the Assembly took note of the revised Court’s Strategic Plan for 2013-2017 and of the revised Strategic Plan of the Office of the Prosecutor for the year 2012-2015, as well as reiterated the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process.² The Assembly requested the Bureau to engage with the Court on the emerging issues of risk management and development of a strategy on field operations.

II. Follow up to the twelfth session of the Assembly and strategic planning in 2014

3. On 18 February 2014, the Bureau appointed Ambassador Vesela Mr en Kora (Croatia) to serve as facilitator for the issue of Strategic Planning. The facilitator held consultations with States Parties and the Court in the framework of The Hague Working Group of the Bureau (“the working group”) on 10 April, 15 May and 27 October 2014; these included the participation of representatives of the NGO community.

4. The following issues were discussed during the working group on the basis of presentations, documents and working papers submitted by the Court:

- (a) Prosecutorial and judicial activities, including an overview of 2013 and assumptions for 2015;
- (b) Strategic Plan 2013-2017;
- (c) Revised Strategic Plan of the Office of the Prosecutor;
- (d) Thematic strategic plans of the Court;
- (e) Communication strategy of the Court.

A. Presentation of prosecutorial and judicial activities, including an overview of 2013 and assumptions for 2015

1. Judicial activities

5. At the 10 April meeting, the Presidency of the Court indicated that the proposed programme budget was developed on the basis of prosecutorial/judicial assumptions, as well as on the requirements of the Court’s Strategic Plan.³ However, it was stressed that the assumptions may need to change in the course of the budget preparation due to the following factors: a) in case a new situation is opened; b) confirmation of charges by a Pre-Trial Chamber; c) conviction or acquittal; d) any other unforeseen case developments.

2. Assessment of the judicial activities of the Court during 2013

6. As regards its 2013 judicial and prosecutorial activities the Court indicated that, although many judicial assumptions for 2013 had proved correct, various unforeseen case developments had resulted in delays in the confirmation of charges in the Gbagbo case, the commencement of trial hearings in the Kenyatta case, the concluding stages of the Katanga trial and the hearing of witnesses in the Bemba case.

¹ Resolutions ICC-ASP/4/Res.4, ICC-ASP/5/Res.2, ICC-ASP/6/Res.2, ICC-ASP/7/Res.3, ICC-ASP/8/Res.3, ICC-ASP/9/Res.3, ICC-ASP/10/Res.5, ICC-ASP/11/Res.8 and ICC-ASP/12/Res.8.

² Resolution ICC-ASP/12/Res.8.

³ <http://www.icc-cpi.int/iccdocs/registry/ICC-Strategic-Plan-2013-2017-190413.pdf>. The Court recalled that the preparation of the 2014 proposed programme budget had been based on the Strategic Plan.

3. Main assumptions for 2015

7. With regard to the assumptions for 2015, the Court recalled that some cases were in the final appeal stage, that several others were in the trial stage and that depending on confirmation of charges decisions expected in 2014, four new potential trials could be expected in 2015.⁴

8. Subsequently, States Parties were informed about the updated assumptions for 2015 via the Court's proposed programme budget and the supplementary budget.

9. The updated budget assumptions for investigative, judicial and prosecutorial activities developed by the Court, provide for the following:

- (a) Five active investigations, two article 70 investigations, and preservation of evidence in nine hibernated investigations;
- (b) Trial preparation in two cases (Ntaganda and Gbagbo, six months each);
- (c) Trial hearings in five cases (Ntaganda, six months; Kenyatta, twelve months; Ruto/Sang, twelve months; Banda, twelve months; and Gbagbo, six months);
- (d) Sentencing and reparation proceedings in Bemba, as appropriate, three months; and
- (e) Final appeal in one case (Bemba) and interlocutory appeals.

10. In accordance with the Court's practice, the 2015 budget assumptions have been developed and agreed upon by the organs of the Court based on judicial and prosecutorial work plans for the following year, insofar as these can be accurately estimated as of the end of June 2014. Due to the unpredictable nature of the Court's judicial work, it is the Court's policy to budget only for events which are certain to occur in the following year and which can be accurately estimated. Accordingly, *Blé Goudé* and *Bemba et al* (article 70 case), which are at confirmation of charges stage are not included in the budget.

4. Prosecutorial activities

11. The Office of the Prosecutor presented an overview of its activities, in light of the revised Strategic Plan of the Office for the years 2012-2015,⁵ which had generated shifts at the policy level, at the resources level, as well as the organizational level. The Office of the Prosecutor stressed in particular: a) the need to conduct open-ended investigations in some instances, the need to build upward strategy, as well as to ensure trial-readiness as early as possible; b) the ability of the Office of the Prosecutor to absorb all resources through a roster and a simplified procedure for recruitment; c) the important organizational shifts at the management, investigation and prosecution levels.

12. In 2013 there had been an increase in both preliminary examinations and investigations, and that the multitude of unforeseen events had required continuous readjustments of activities.

B. Strategic Plan 2013-2017

13. States Parties were informed that the Strategic Plan had been used in the preparation of the 2014 proposed programme budget, which included references thereto throughout the document, including connections between the strategic objectives and the yearly targets.⁶

⁴ The assumptions for 2015 may be found in the Introduction section of the proposed programme budget for 2015 (ICC-ASP/13/10), which the Court submitted on 22 August 2014. The supplementary budget (ICC-ASP/13/10/Add.1) was issued on 20 October 2014; paragraph 7 and annex I of the supplementary budget refer to the assumptions regarding the two separate active investigations in the Central African Republic by the Office of the Prosecutor.

⁵ Adopted in October 2013.

⁶ ICC-ASP/13/19, paras. 231 and 232. The 2015 proposed budget is contained in ICC-ASP/13/10; general remarks about the assumption for 2015 and the link between the Strategic Plan and the preparation of the proposed programme budget for 2015 are found in paras. 21 to 27 of the budget. Annex III contains the assumptions and parameters upon which the proposed programme budget for 2015 was prepared. Annexes V a) and V b) contain the strategic goals of the Court (2013-2017) and of the Office of the Prosecutor (2012-2015).

14. The working group was informed that the Court would proceed with its annual review of the Strategic Plan in order to align it with its year-specific strategic priorities and that this would also allow the Court to measure how far it had managed to attain its 2014 goals. The update to the Strategic Plan would be ready by February 2015 and would then be used as basis for the 2016 assumptions of the Court's activities; in turn these assumptions would be borne in mind in the preparation of the proposed programme budget for 2016.

15. Furthermore, in the second trimester of 2015, the Court would seek to align, where necessary, the updated Strategic Plan of the Office of the Prosecutor, which would be ready by May 2015, and any Registry efforts to have an organ-specific plan. It would thus be the expectation that by the second half of 2015 the Court would be in a position to provide a comprehensive update on both its revised Strategic Plan (which underlies the budget) and efforts to streamline organ-specific strategic documents.

16. In view of the Court, in 2014 it has achieved a fair amount of objectives outlined in the Court's Strategic Plan, in part due to the ongoing reform/revision projects conducted by all the organs. The alignment of the Court's budget with the Strategic Plan has shown positive effects in that there is an increased sense of direction. While the Court is always prepared for the unexpected in terms of activities, such as the arrest of fugitives, new situations and cases, etc., the Strategic Plan gives general guidance and direction, thus maintaining the Court's focus on the appropriate objectives.

1. Performance indicators

17. The working group welcomed the continued improvements made by the Court to the performance indicators included in the annual proposed programme budget under each major programme,⁷ as well as the related achievements thereon included in the annual Court report on programme performance.⁸

2. Relationship between the Strategic Plan and risk management

18. While recalling the Court's indication in 2013 that the development of the comprehensive risk management strategy was limited due to the budgetary situation and that it would focus on the major strategic risks with a view to manage at least the major ones,⁹ the working group took note of the efforts undertaken thereon, as explained by the Court in the annual report on the activities and programme performance for 2013, which sought to have a fully operational risk identification and management system in the course of 2014.¹⁰ The Trust Fund for Victims had also considered in 2013 the development of a comprehensive risk management framework.¹¹

19. States Parties were informed about the two-tier approach on risk management which the Court had agreed to in 2014 and which would allow for the requisite follow-up in 2015, which may include a request for appropriate risk-management resource requirements in the proposed programme budget for 2016.¹²

20. During the second semester of 2014, the Court was involved in the process of implementing the general strategy adopted by the Court's Coordination Council in April/May of 2014 by:

- (a) Continuing to work on the high-level risk register and risk management process with yearly iterations; this comprises identifying risk owners for the completed risk register; defining action plans for critical risk remediation; implementing action plans, and monitoring other risks. In 2015, it is envisaged that the risk register will be reviewed and new risks/risk owners identified, where appropriate. This will be followed by the preparation and implementation of action plans where required; and

⁷ICC-ASP/13/10.

⁸ICC-ASP/13/19, annexes I to XI.

⁹ICC-ASP/12/48, para.10.

¹⁰ICC-ASP/13/19, para.6 and para. 234.

¹¹Trust Fund for Victims Strategic plan 2014-2017, page. 5 and annex II.

¹²ICC-ASP/13/10, paras. 30 to 32.

- (b) Developing a full-scale risk management framework through, in particular, the choice of an applicable standard risk management framework. In order to do so, the Court's general risk governance structure will be reviewed towards the end of 2014/beginning of 2015 with a view to proposing a roadmap on a risk management maturity scale outlining a five-year development plan.

C. Revised Strategic Plan of the Office of the Prosecutor

21. In addition to having heard a presentation by the Office of the Prosecutor on its Strategic Plan, the working group could take note of the performance indicators contained in the proposed programme budget for 2015.

22. The working group was reported that the implementation of the new Strategic Plan of the Office of the Prosecutor is progressing well and shaping its new cases, and that in 2015 the Office plans to produce a new strategic plan for the period 2016-2018 which would be linked to the proposed programme budget for 2016.

23. Recalling the comments made by the Committee on Budget and Finance on the work of its twenty-second session regarding the Strategic plan of the Office of the Prosecutor,¹³ the working group would await further information from the Committee's report on the work of its twenty-third session.¹⁴ However the working group took note of the presentation made by the Chair of the Committee to The Hague Working Group¹⁵ wherein she referred to the significant implications that the Office of the Prosecutor's Strategic Plan can have on budget planning. Although the Strategic Plan 2013-2015 does not provide the type of information that would be needed for States Parties to decide the actual level of resources required from year to year, it does establish a policy direction that may be anticipated to have financial implications, including implications for the other organs of the Court, particularly the Registry. Moreover, the Committee noted that the presentation of the next Office of the Prosecutor Strategic Plan will come shortly before completion of the Court's permanent premises, and would thus provide an important opportunity for States Parties to define the Court's workload.

D. Thematic strategic plans of the Court

24. The working group was informed about the links between the Court's Strategic Plan and that of the Office of the Prosecutor, as well as other plans developed by different parts of the Court, such as the Revised strategy in relation to victims,¹⁶ the Strategic Plan for outreach,¹⁷ and the Strategic plan of the Information and Communications Technologies Section (ITC) 2013-2017.¹⁸ There is also a Strategic plan for the Defence which the Assembly had requested the Court to prepare.¹⁹ Furthermore, the working group took note that the Strategic plan of the Trust Fund for Victims 2014-2017 had been approved by its Board of Directors.²⁰

25. In this connection, given the intertwining nature of the overall Strategic Plan and the various thematic ones, changes to the former could have an ensuing impact on the rest of the plans and thus an annual update on the thematic strategic plans would be envisioned for States Parties to have a better understanding of the inter-linkages and their cohesive nature.

E. Court's communication strategy

26. On 15 May 2014 a roundtable entitled ICC communication in situation countries: comprehensive strategic approach" co-hosted by the facilitator, Ambassador Vesela Mr en Kora (Croatia) and the Registrar, Mr. Herman von Hebel, took place with the participation

¹³ICC-ASP/13/5, paras. 43 to 47.

¹⁴Forthcoming document ICC-ASP/13/15.

¹⁵17 October 2014.

¹⁶ICC-ASP/12/41 and ICC-ASP/13/19, para. 233.

¹⁷ICC-ASP/5/12.

¹⁸ICC-ASP/13/19, para. 201.

¹⁹ ICC-ASP/12/8, annex I, para. 6(e).

²⁰The Board of Directors of the Trust Fund approved its Strategic plan at the end of August 2014. The plan would be subject to mid-term review in the beginning of 2016.

of senior officials of the Court's organs, States Parties and civil society, as well as representatives of other international tribunals, and stakeholders from the field.

27. The purpose of the roundtable was to be apprised of the Court's work on its communications strategy, the lessons learned, challenges and needs envisioned for the near future as well as new strategies to address them, including hearing from the experience of other international tribunals. A brief summary of some of the key comments and recommendations included in annex II.

28. The roundtable once more highlighted the close linkages between the communication and outreach objectives of the Court, as well as with the field operations strategy.

29. The working group took note that the issue of communication strategy was to a large extent carried out by the Registry, in coordination with the other organs of the Court²¹ and that the Office of The Prosecutor's distinct mandate required it to conduct some public information activities. Given the on-going reform process of the Registry via the ReVision project, which would be extended until mid-2015, it was premature to assess the impact that the outcome of the ReVision project may have on the consolidation and cohesiveness of the Strategic Plan and the others, as regards communication, outreach and field operations strategies, as well as efficiency gains which may be attained there from.

30. The working group was also informed of the progress in re-vamping the Court's website and looked forward to the improvements thereon.

III. Day of International Criminal Justice

31. In the context of the Court's information and communication strategy, the celebration of the Day of International Criminal Justice event²² was organized on 10 July 2014. Participants in the event included the President of the Court, the Vice-President of the Assembly of States Parties, as well as the President of the International Criminal Tribunal for the former Yugoslavia and a representative of the Special Tribunal for Lebanon. The event was organized with the view to encourage all relevant stakeholders to engage in activities that reinforce the international fight against impunity.²³

32. The Court and the President of the Assembly of States Parties jointly launched the Justice Matters social media campaign around 17 July 2014, which garnered large support worldwide. States representatives, civil society organizations, legal professionals and scholars, children, youth and elders all over the world sent the strong message that justice matters. Hundreds of participants held up #JusticeMatters signs and submitted their photographs on the temporary #17July Facebook page, which featured infographics, GIFs, and posters illustrating the crimes under the Court's jurisdiction.²⁴

33. On 17 July 2014, the event entitled "the United Nations and the International Criminal Court: Partners of Shared Values" was held in New York (Mission of Italy) on the occasion of the Day of International Criminal Justice, also to mark the tenth anniversary of the Relationship Agreement between the International Criminal Court and the United Nations. The President of the Assembly of States Parties and of the International Criminal Court, together with the United Nations Secretary General, commemorated the strategic partnership of the Court and the United Nations and called for stronger cooperation, political support and universal ratification.

IV. Recommendations

34. On the basis of the work conducted on strategic planning, The Hague Working Group recommends to the Assembly of States Parties the inclusion in the omnibus resolution of the language contained in annex I.

²¹Some more detailed information may be found in the proposed programme budget for 2015 (ICC-ASP/13/10), in particular under major programme III, Programme 3400, Public Information and Documentation Section.

²²17 July 2013.

²³Press release ICC-ASP-20140710-PR1026.

²⁴<https://storify.com/TIntelmann/17july-international-criminal-justice-day/>.

35. In this connection, the working group welcomed that the Court has committed itself to engage annually in a review of the link between the Plan and the budget through planned performance measurement;

36. Furthermore, the working group invited the Court to continue to review, based on a thorough and transparent objective assessment of results achieved through Court activities in reaching the priorities set, the set of performance indicators, including the horizontal parameters of efficiency and effectiveness, for the Court activities and on the retroaction of lessons learned into the strategic planning process;

37. The working group welcomed the two-tier approach on risk management agreed to by the Court in 2014 and invited the Court to report on the follow up which would take place in 2015;

38. The working group also welcomed the readiness of the Registry and the Office of the Prosecutor to strengthen the coordination of their activities and strategy on field operations and noted in particular that the ReVision project would address the need to strengthen the Court's representation in the field;

39. Furthermore, the working group welcomed the events organized around the 17 July commemoration and encouraged cooperation with other international courts and tribunals;

Annex I

Draft paragraphs for inclusion in the omnibus resolution

1. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach¹ in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;
2. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while acknowledging the significant contribution of other stakeholders;
3. *Notes* with appreciation the initiatives undertaken to celebrate, in the context of its information and communication strategy,² 17 July as Day of International Criminal Justice³ and *recommends* that, on the basis of lessons learned, all relevant stakeholders, together with the Court, continue to engage in preparation of the annual celebrations with a view to reinforcing the international fight against impunity;
4. *Requests* the Bureau to continue to engage with all relevant stakeholders, on the basis of lessons learned, in dialogue with a view to developing a coordinated and comprehensive approach vis-à-vis the communication strategy of the Court;
5. *Requests* the Court that its communication strategy be consistently implemented with a view to avoid misinterpretation and duplication of the resources and to identify clear responsibilities within the Court depending on the stage of proceedings and the content of the messages;
6. *Takes note of* the revised Court's Strategic Plan for 2013-2017, and *welcomes* the Court's intention to adapt its Plan, as appropriate, on an annual basis, including for the purpose of the formulation of the budget assumptions and to inform the Bureau thereon with a view to further strengthening the budgetary process;
7. *Invites the Court* to continue to hold annual consultations with the Bureau in the first trimester, on the implementation of its strategic plans during the previous calendar year, with a view to improving performance indicators updated on the basis of lessons learned;
8. *Takes note* that the implementation of the new Strategic Plan of the Office of the Prosecutor is reportedly progressing well and shaping its new cases, and that in 2015 the Office plans to produce a new strategic plan for the period 2016-2018 and *invites* the Office of the Prosecutor to adjust its Plan in accordance with its implementation experience and to inform the Bureau on a regular basis thereon;
9. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach and, in this regard, *requests* that the Court, in consultation with States Parties, continue to work towards setting a hierarchy of its priorities in order to facilitate strategic and budgetary choices;
10. *Requests* the Bureau to continue to engage in a dialogue with the Court on the development of a comprehensive risk management strategy and to report thereon to the fourteenth session of the Assembly of States Parties, and *further requests* the Bureau to continue to engage in dialogue with the Court on the implementation of the strategic approach to the Court's presence in the field with a view to the development of the Court strategy on field operations and to report thereon on a regular basis;
11. *Welcomes* the Registrar's strategic approach, in the context of the ReVision project, to analyze the Registry functions where overlap, fragmentation or gaps exist; *recognizes* the need to address those areas and notes, in particular, that the Court has established as a priority the strengthening of its presence in the field, with the strategic goal of increasing the Court's impact and effectiveness and efficiency of its operations; and *acknowledges* that the impact of the ReVision project also needs to be considered from the perspective of its budgetary implications;

¹ ICC Strategic Plan for outreach (ICC-ASP/5/12).

² ICC/ASP/9/29.

³ Kampala Declaration, para. 12.

Annex II

General recommendations stemming from the roundtable on ICC Communication of 15 May 2014

- A. Recognizing the ICC's efforts in the field of public information and outreach, and being mindful of the Court's limited resources in this regard, the Court should continue to pay attention to, and, wherever possible, improve its operations in the following areas:**
- 1. Strategy**
 - (a) Develop a comprehensive communications strategy, which should be anticipatory or start as early as possible and should target not only situation countries but also go beyond them; it should also be flexible and country-specific; and
 - (b) Place more emphasis on the need for cooperation with the Court and criminalization of international crimes at the national level.
 - 2. Coordination and organization**
 - (a) Find additional synergies and strengthen a common approach on communication strategy and outreach by the Registry, the Office of the Prosecutor and States Parties;
 - (b) Clearly identify who should, at different stages of the proceedings, take the lead on communication efforts;
 - (c) Identify partners on the ground that may assist in key messaging;
 - (d) Strengthen field coordination and external relations in order to be more visible and have sufficient authority; and
 - (e) Establish an outreach centre in each situation country, if needed, taking advantage of possible synergies with relevant actors (e.g. United Nations); design, develop and implement outreach programmes for an efficient, comprehensive and effective strategy.
 - 3. Tools and channels**
 - (a) Enhance proven tools, such as radio communications in local communities, and continue using local languages;
 - (b) Make available user-friendly documentation to inform with key and visual messages (pictures) about the mission of the Court and its role in the situation country;
 - (c) Continue to use social media; and
 - (d) Strengthen the lines of communication with States and their diplomatic representatives in The Hague and New York for achieving different objectives of the Court.
 - 4. Budget and evaluation**
 - (a) Address budgetary difficulties, to the extent possible, via the *ReVision* project, with the view of maximising output within existing resources, both at the seat of the Court and in the field;
 - (b) Explore the funding of outreach activities partially through voluntary contributions and partnerships with other organizations; and

- (c) Continuously evaluate and adjust, when necessary, its communication strategy; the success of the Court should be reflected in the public perception of the Court and cooperation progress as well as in statistics.

B. Recognizing the important role for States in assisting the ICC's efforts in the field of public information and outreach, the States Parties should, whenever possible:

- (a) Pre-empt or rebut inaccurate information or growing public misperceptions about the Rome Statute, the Court's mandate or its activities, including by explaining relevant aspects of the Court's mandate and jurisdiction;
- (b) Promote awareness of the ICC's role and mandate through contacts with States not yet party to the Rome Statute, encouraging them thus to ratify or accede to the Rome Statute;
- (c) Express support for the enforcement of the Court's decisions, request cooperation by all States Parties with the Court, and demand that any relevant initiative from the international community specifically take into account the Rome Statute and Court decisions;
- (d) Contribute to the marginalization of persons subject to outstanding ICC arrest warrants;
- (e) Facilitate and encourage increased cooperation between national government public information officials and the Court's public information officials;
- (f) Support civil society initiatives aimed at promoting awareness of the Court and the Rome Statute system, as well as assist with capacity building programmes in this regard;
- (g) Consider using Embassies as an important tool in spreading information about the Court and its mandate;
- (h) Consider forming a Group of Friends of the Court among the Embassies in situation countries, comprising representatives of all regions;
- (i) Create platforms and networks, real and virtual (media, radio etc);
- (j) Consider creating a trust fund as an independent impartial body which could focus, inter alia, on inviting journalists from situation countries to cover Court proceedings and report impartially;
- (k) Engage with the concerns of other States Parties and address them in the appropriate forum, without compromising the Court's integrity and independence;
- (l) Create ownership at the local level regarding the message of what the Court is and what it can do;
- (m) Consider allocating sufficient resources to the Court's communications and outreach programmes, commensurate with the needs and contexts created by the different situations; and
- (n) Be more proactive in upholding the integrity of the Court.
