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SPEECH OF THE VICE-PRESIDENT

H.E. Mr. Sergio Ugalde

Presentation during Panel I: Financial Investigations – Challenges of Asset Recovery

Excellencies, distinguished delegates, distinguished panellists,

It is a pleasure to present to you today a few words about the **Paris Conference on "The International Criminal Court and International Cooperation: The Challenges of Asset Recovery"**, which was held in Paris on 20 October 2017. The ambassadors of France and Senegal to The Netherlands, H.E. Phillippe Lalliot and H.E. Momar Diop, co-facilitators for the topic of cooperation, together with the International Criminal Court, organised the conference to discuss the topic of cooperation in the area of financial investigations.

The topic of financial investigations has been a central focus of the work of the facilitation on cooperation. As you know, this conference was a continuation of previous efforts, including a successful workshop organised by Liechtenstein in collaboration with the Court in 2015 to discuss operational measures and find solutions for cooperation challenges in this field.

The Paris Conference gathered together senior state officials, officials of the International Criminal Court, national and international experts in financial investigations and asset recovery, representatives of regional and international organisations, as well as members of civil society. The purpose of the conference was to continue the discussion on the state of cooperation in the area of financial investigations, particularly with regard to identifying, locating, freezing or seizing the proceeds of crime as well as goods and assets linked to crime. This is a broad topic, and is not limited to the mandate of the International Criminal Court but rather part of wider global efforts to fight illegal financial flows, money laundering and organized crime. However the ICC's financial investigations and asset recovery activities are increasingly important in this framework. In this regard, the Paris event provided a unique opportunity for participants to share their experience and best practices, and to discuss concrete ways to reinforce the effectiveness of cooperation between the Court and various actors, notably in the area of identification, seizure and recovery of assets.

Cooperation, as you well know, is a complex and time-consuming enterprise, particularly in financial matters because of the difficulties involved in tracing financial transactions and proving their illegal nature. For these reasons, the identification, tracing, and freezing or seizure of assets has been identified as a substantive priority area for the Court. Therefore the gathering in Paris was very fitting and timely. The Conference comprised three main segments. The **First Panel/Round table** dealt with the current state of affairs of financial cooperation in general, presenting views from the Court as well as national experts dealing with these types of investigations and cooperating with the Court. During the **Second Panel/Round table** representatives from Specialized Agencies such as, INTERPOL,

EUROPOL, UNICRI, and OAS (which is represented here today), as well as NGOs and think tanks, shared their knowledge and best practices in the field.

This exercise helped to highlight the conceptual and practical challenges faced by both States and the Court when cooperating in this field, but it also helped to clarify and pinpoint practical solutions. In this respect, I would like to briefly outline some of the main findings from the Conference:

The findings from financial investigations can be very beneficial as reliable evidence in Court, and can also be useful for victims' reparations. Besides being reliable evidence, the findings from financial investigations can potentially serve as an alternative to witness testimony, or an addition to it, in order to establish the criminal responsibility of individuals for the commission of crimes under the Rome Statute. Additionally, the success of these types of investigations is crucial for the victims, since the freezing of assets is likely to guarantee reparations. Asset recovery is also important to make sure that assets are not used in a corrupt or other criminal way again. These issues are important particularly at a time when the Court is entering the phase of victim's reparations in several cases.

The role and mandate of the Court is still not well understood – more needs to be done to address this knowledge gap. One of the main challenges can be characterised as an intellectual one. There is a certain compartmentalization of expertise; on the one hand there is the expertise associated with the fight against war crimes and crimes against humanity, and on the other hand there is the expertise in the financial aspects related to the fight against organized crime. There is more work required for the experts in these respective fields to increasingly cooperate and consult each other in a more coordinated manner. Therefore, it is

crucial for the ICC to continue explaining to States Parties the specificities of its mandate in relation to financial investigations, and for the ICC and States Parties to develop regular bilateral contacts with the aim of finding ways to improve cooperation in the field of financial investigations. The importance of streamlining support to the ICC was highlighted, as was the importance of including other actors in the private sector in the process.

Requests for assistance are time consuming, while money moves fast – this requires innovative ways of cooperation. For this purpose, using existing networks and establishing informal contacts and networks can lead to increased and more effective cooperation in this field. The common way to request assistance remains the formal request for information which is time consuming; by the time information is received the asset has often moved away. In addition, we must differentiate between mutual legal assistance among States and cooperation with the ICC. And to make things more complex, there is an wide array of diverse organisations with different mandates which make it challenging to share and exchange relevant information. It is therefore important to properly use the existing networks to avoid duplication of efforts. We were pleased to learn during the conference that a mapping exercise is currently underway which will enable us to better understand what already exists in this field, and to reinforce synergies and coordinate efforts. It was reiterated that establishing informal contacts and networks is a good means of facilitating cooperation, and that the human factor and good will to cooperate should not be underestimated.

In the end, the conference saw many positive gestures from participants, and opened doors for cooperation through many invitations from organizations and states for the ICC to take advantage of their networks and to continue a dialogue. I hope that the Court will make the best use of it.

Finally, as has been mentioned, the Paris Conference included a **political component** addressing the importance of the political aspect of cooperation relating to asset recovery. The co-facilitators (France and Senegal) proposed a **non-legally binding declaration** on cooperation reinforcing the means of cooperation for States Parties and the Court in the area of financial investigations. This declaration was approved in principle in Paris with a view to its adoption at the sixteenth Session of the Assembly of States Parties, in an annex to the cooperation resolution.

I welcome the efforts of both co-facilitators and I am looking forward to the adoption of the Cooperation Resolution on Cooperation [with the Paris declaration annexed to it]. I see this as a very positive and concrete step towards increased cooperation. I am certain that discussions on this very important topic will continue next year, particularly during events commemorating the 20th anniversary of the Rome Statute and within the framework of the Hague Working Group which I have been privileged to preside over.

Thank you very much for your attention.

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