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## Report of the Bureau on cooperation

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\*Re-issued for technical reasons.

## I. Background

1. The resolution ICC-ASP/18/Res.3 entitled “Cooperation”, adopted by the Assembly of States Parties (“the Assembly”) on 6 December 2019 (Operative paragraph 29, 30, 31), requested the Bureau to maintain a facilitation of the Assembly for cooperation to consult with States Parties, the Court and non-governmental organizations as well as other interested States and relevant organizations in order to further strengthen cooperation with the Court.
2. It also requested the Bureau through its Working Groups to speed up its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate; and bearing in mind the process launched for the review and the strengthening of the Court, to examine the issues and challenges related to cooperation, with a view to identify concrete measures and follow-up action in order to address those challenges and to report thereon to the Assembly at its nineteenth session (operative paragraphs 30 and 31).
3. On 24 January 2020 the Bureau re-appointed Ambassador Momar Guèye (Senegal) and Ambassador Luis Vassy (France) as co-facilitators on cooperation.

## II. Organization of work and main issues considered

4. In 2020, The Hague Working Group (“the working group”) held a total of four meetings or informal consultations on the issues of cooperation.
5. The unprecedented situation due to the COVID pandemic impacted the work of the facilitation and limited the scope and interactiveness of its meetings and consultations. Nevertheless, meetings and consultations have been held virtually with a number of stakeholders, including States, Court officials and representatives of civil society.
6. A panel-discussion, organized jointly with the focal points on non-cooperation in New York and entitled “Strengthening cooperation with the ICC”, was held virtually on 5 October. The objective was to examine specific issues related to cooperation and non-cooperation through the ASP’s respective facilitations, with a view to identifying concrete measures to be taken to strengthen support for the work of the Court.
7. The facilitators held two informal consultations with representative of the civil society on 17 June and on 3 November in order to gather their views on challenges and possible actions to strengthen cooperation with the court. The co-facilitators invited civil society to send written submissions to contribute to the reflection of the ASP on this matter, and received two written submissions.
8. Informal consultations were held throughout the year with representatives of the Court on the elaboration of the interactive platform on cooperation (see below) and on the future priorities of the facilitation on cooperation.
9. Finally, one meeting of the facilitation was held with all states parties and other stakeholders on 19 November 2020, in order for the Court to present its annual report on cooperation and recommendations contained therein, and for the facilitation to present the initial version of the interactive platform on cooperation, and areas for reflexion in 2021.
10. The co-facilitators continued to work on the priorities identified in the previous years and pursuant to the mandate outlined in the resolution on cooperation (ICC-ASP/18/Res.3),<sup>1</sup> as well as in the omnibus resolution (ICC-ASP/18/Res.5, including annex I).<sup>2</sup> They particularly focused their efforts on the following subjects :
  - follow up to the Paris Declaration on financial investigations and asset recovery and development of an initial version of the interactive platform on cooperation;
  - Court’s relationship with the United Nations, inter-state cooperation and capacity building; and

<sup>1</sup> ICC-ASP /18/Res.3, adopted at the 9th plenary meeting, on 6 December 2019, by consensus.

<sup>2</sup> ICC-ASP/18/Res.5, adopted at the 9th plenary meeting, on 6 December 2019, by consensus.

– Follow-up action regarding cooperation issues identified in the framework of the review and strengthening process of the Court and the Rome Statute System and defining priority focus for next year in light of this year’s consultations.

11. Even if this year’s particular context did not permit the facilitation to organize thematic events, such as experts meeting on the issues of voluntary agreements or implementation of arrest warrants, the co-facilitators are of the views that those issues remain of great importance and should continue to be on the cooperation agenda of the Assembly for the next years.

### **A. Follow-up to the Paris Declaration on financial investigations and asset recovery and development of an initial version of the interactive platform on cooperation**

12. Following the adoption in New York on 14 December 2017 of the Paris Declaration, financial investigations and asset recovery were held as a priority in 2018, 2019 and 2020. The possibility to establishing a secure digital portal for States Parties to exchange relevant information in this area was presented by the facilitators in 2018. In 2019, Two main issues were identified with regard to financial investigations:

(a) Most national laws require a link between the crime and the assets identified in order to implement the Court’s request for seizing and freezing the assets though, according to a decision of the Court's Appeals Chamber of 15 February 2016 (ICC-ACRed-01/16), no such link is required;

(b) Most States do not have legislation in place to deal with the implementation of an order of contribution issued by the Court, in cases where the suspect or accused is found indigent and subsequently it is found out that the person is not indigent.

13. In 2019, the co-facilitators presented more in details the project of establishing a secured digital platform, dedicated to cooperation issues, and which has several objectives:

(a) Be the forum for an enhanced exchange of relevant information between States Parties to create a spillover effect, or even to encourage inter-State cooperation with a view to strengthening States' capacity to cooperate with the Court;

(b) Identify in a precise and concrete way the difficulties and challenges from the point of view of States to the effective execution of the Court's requests for cooperation;

(c) Continue work to explain and raise awareness of the Court's mandate and requirements for financial investigations and asset recovery, including the nature and scope of cooperation obligations. This objective may in particular take the form of a specific tab of the platform devoted to an explanation of the Court's case-law, for example on the execution of requests for freezing assets.

13. At its eighteen session, the Assembly of States Parties welcomed the proposal to create a secure digital platform, and decided to continue to work with the Court and the Secretariat of the Assembly in order to make the platform operational in 2020.

14. A questionnaire has been prepared and distributed to States Parties in February 2020, to collect information from States Parties on the procedures applied by States to respond to the Court's requests for cooperation in general, and on the issues involved in the Court's financial investigations and on the identification, freezing and seizure of property and financial assets. The co-facilitators received responses from 25 States.

15. During 2020, the co-facilitators worked with the organs of the Court on the content of the platform, with the assistance of the Secretariat of the Assembly of States Parties and the Registry on the technicalities. At the meeting held on 19 November 2020, they presented the platform to the States Parties and other stakeholders in order to gather their reactions and suggestions on the content of the platform.

16. At the Panel discussion held on 5 October 2020, the Registrar of the Court, Mr. Peter Lewis, insisted on the importance of raising awareness on the mandate of the Court in relation to financial investigations and asset recovery and of informal exchanges with domestic

authorities. He called for the appointment of national contact points with expertise in the area of freezing and recovery of assets and highlighted the good outcomes from developing informal assistance from focal points on freezing of assets, without prejudice to the formal channels of communication identified by each State. He recalled that this informal assistance, complementing the formal cooperation venues, had demonstrated that it could be key for success in this area.

## **B. Court's relationship with the United Nations, inter-state cooperation and capacity building**

17. During these last years, the Court's relationship with the United Nations and the Security Council was a priority of the co-facilitation. This year, the co-facilitators decided to focus on the relationship with the United Nations, apart from the situations referred by the Security Council.

18. At the panel held on 5 October, a representative of the Office of Legal Affairs of the United Nations provided an overview of the cooperation framework in place between the UN and the Court, and the steps that have been taken to enhance the cooperation between the two institutions over the years. She noted that the Relationship Agreement between the UN and the Court provides the general framework for cooperation between the UN, including its offices, funds and programmes, and the Court. It permitted notably the logistical assistance cooperation, which led to the successful surrender and transfer of Mr. Ali Muhammad Ali Abd-Al-Rahman from the Central African Republic to the Court, to which the Multidimensional Integrated Stabilization Mission in the Central African Republic contributed. She explained that ensuring that the requests for information by the Court are responded to in a timely manner is one of the more persistent challenges in the cooperation, but nonetheless the United Nations remains committed to its longstanding cooperation with the Court.

19. During this meeting, the co-facilitators proposed some lines of thought such as deepen the links with the United Nations by further integrate the issues of capacity building and development of national legislation related to cooperation with the ICC into the work of UN agencies or peacekeeping operations.

20. During the plenary session on cooperation of the eighteenth session of the Assembly of States Parties, a segment was devoted to the topic of inter-state cooperation, which offered an opportunity to share best practices of inter-state and inter-institutional cooperation among States Parties, the Court and other stakeholders. Panelists from the European Genocide Network and from the French Ecole nationale de la Magistrature insisted on the importance of strengthening national capacities through the exchange of good practices and experiences in order to support States in fulfilling their primary responsibility in the fight against impunity. This national capacities building involved the establishment of points of contact between the States jurisdictions, as well as the exchange of operational information, but also helping to professionalize judicial actors abroad. They explained that the consolidation of cooperation between States and the ICC makes it possible to mutually strengthen the general system of international criminal justice by ensuring good cooperation between States and the Office of the Prosecutor of the Court. This segment highlighted the need for a greater engagement of States Parties on this matter.

## **C. Follow-up action regarding cooperation issues identified in the framework of the review and strengthening process of the Court and the Rome Statute System and priorities for 2021**

17. At its 30 of October 2019 meeting, the facilitators raised the issue of the follow-up discussions on the issues related to cooperation in the process to review and strengthen the International Criminal Court. They recalled that cooperation is identified in the "Matrix over possible areas of strengthening the Court and the Rome Statute System", dated 11 October 2019, prepared by the Presidency of the Assembly (point 3.1 Strengthening cooperation in

general; 3.2 Implementation of arrest warrants; 3.4 Cooperation with the UN and UNSC) as an area where actions were needed to improve the performance of the Rome Statute system and they proposed that the facilitation on cooperation is the framework for those substantive discussions and further work in 2020.

18. At its eighteen session, in the resolution on the Review of the International Criminal Court and the Rome Statute system, the Assembly of States Parties requested “the Bureau to address the following issues as a matter of priority in 2020 through its working groups and facilitations, in a fully inclusive manner, in line with their mandates [...]: (a) Strengthening cooperation”.<sup>3</sup>

19. On 30 September 2020, the group of independent experts of the Review of the Court submitted its report containing 384 recommendations intended for the organs of the Court and the Assembly. During the meeting held on 19 November, the co-facilitators recalled that the mandate of the experts excluded cooperation, but some recommendations nevertheless touch upon this issue, as it is a topic of importance for the functioning of the Office of the Prosecutor. The OTP indicated that it was undertaking a careful and holistic study of these recommendations and that it stood ready to engage in a discussion with States parties on the topics identified in the experts' report.

20. Furthermore, at the Panel held on 5 October 2020, the co-facilitators identified some ideas to strengthen cooperation:

- Making better known the existing tools to strengthen cooperation, such as voluntary cooperation agreements or inter-state cooperation and others, especially in capitals;
- Developing further links and joint work between the facilitation for cooperation and the focal points for non-cooperation on new themes, notably financial investigations;
- Developing focal points for cooperation within the regional groups.

21. At the meeting held on 19 November, the annual report of the Court on cooperation activities was presented by the Registry and the OTP. This report,<sup>4</sup> which covers the period from September 2019 to September 2020, presents the Court's activities according to the seven main priorities of cooperation identified by the Court and States, and disaggregated data over the responses provided by States Parties, including highlighting the main challenges, in response of the request of the Assembly at its eighteen session. This report also identifies 45 recommendations, which can be a useful tool to an enhanced dialogue with the Court on its needs and priorities, and obstacles to cooperation.

22. Finally, during this same meeting, the co-facilitators proposed the following lines of work for 2021 :

- 1- Continue the consultations on the recommendations of the independent experts on the review of the Court relating to the strengthening of cooperation; and
- 2- Continue to address a number of issues that have been priorities in recent years:
  - Deepening the content of the Secure Platform on Cooperation, if the States Parties consider it a useful and promising tool;
  - Hold consultations on the advisability of developing regional thematic focal points on cooperation;
  - Hold consultations on the advisability of creating a permanent structure for a network of national practitioners and focal points on cooperation;
  - Hold consultations on how best to deepen the relationship between the UN and its agencies and entities, including for capacity building, the ICC and States Parties, to foster cooperation with the Court.

<sup>3</sup>Resolution ICC-ASP/18/Res.7, adopted at the 9th plenary meeting, on 6 December 2019.

<sup>4</sup>ICC-ASP/19/16 and Corr.

### III. Recommendations

27. The working group recommended that the Assembly continue to monitor cooperation with a view to facilitating States Parties in sharing their experiences and considering other initiatives to enhance cooperation with the Court, bearing in mind the decision of the Assembly on [the implementation of the Report of the Independent Expert Review in 2021], and, even if due to the modalities of the ASP session this year it is not possible, to continue to include cooperation as a standing agenda item for future sessions of the Assembly, pursuant to operative paragraph 30 of resolution ICC-ASP/17/Res.3. The working group further recommended that the draft resolution in annex I be adopted by the Assembly.

## Annex I

### Proposed Resolution on cooperation

*The Assembly of States Parties,*

*Recalling* the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, ICC-ASP/11/Res.5, ICC-ASP/12/Res.3, ICC-ASP/13/Res.3, ICC-ASP/14/Res.3, ICC-ASP/15/Res.3, ICC-ASP/16/Res.2, ICC-ASP/17/Res.3, **ICC-ASP-18/Res.3** and the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2,

*Determined* to put an end to impunity by holding to account the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective and expeditious prosecution of such crimes must be strengthened, inter alia, by enhancing international cooperation,

*Stressing* the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute and that States Parties have a general obligation to cooperate fully with the Court in its investigation and prosecution of crimes within its jurisdiction, including with regard to the execution of arrest warrants and surrender requests, as well as other forms of cooperation set out in article 93 of the Rome Statute,

*Welcoming* the report of the Court on cooperation<sup>5</sup>, submitted pursuant to paragraph 364 of resolution ICC-ASP/187/Res.3,

*Noting* that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

*Further noting* the arrest guidelines issued by the Office of the Prosecutor for the consideration of States, including inter alia, the elimination of non-essential contacts with individuals subject to an arrest warrant issued by the Court and that, when contacts are necessary, an attempt is first made to interact with individuals not subject to an arrest warrant,

*Noting* the guidelines setting out the policy of the United Nations Secretariat on contacts between United Nations officials and persons who are the subject of arrest warrants or summonses issued by the Court, as annexed to a letter dated 3 April 2013 by the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,

~~*Welcoming* the publication released by the Court at the seventeenth session of the Assembly “Arresting ICC suspects at large: Why it matters; What the Court does; What States can do” and the social media campaign of the Court in order to raise awareness on the fifteen unimplemented arrest warrants issued by the Court;~~

*Recognizing* that requests for cooperation and the implementation thereof should take into account the rights of the accused,

*Commending* international and regional organizations’ support for strengthening cooperation in the area of voluntary agreements,

*Recalling* the pledges relating to cooperation made by States Parties at the Review Conference in Kampala and *noting* the importance of ensuring adequate follow-up with regard to the implementation of pledges,

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<sup>5</sup> ICC-ASP/19/25.

*Taking note of **the resolution on Review of the International Criminal Court and the Rome Statute system**<sup>6</sup> adopted by the ASP at its eighteen session requesting “**the Bureau to address the following issues as a matter of priority in 2020 through its working groups and facilitations, in a fully inclusive manner, in line with their mandates [...] (a) Strengthening cooperation**”; the “Matrix over possible areas of strengthening the Court and the Rome Statute System”, dated 11 October 2019, prepared by the Presidency of the Assembly, which identifies as a priority issue to be addressed by the Bureau and its working groups, the strengthening of cooperation,*

***Taking note also of the “Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report”, dated 30 September 2020, prepared by the Independent Experts,***

1. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate fully with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court and *stresses* that the non-execution of cooperation requests has a negative impact on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;

#### **Execution of arrest warrants**

2. *Expresses* serious concerns that arrest warrants or surrender requests against ~~1315~~ individuals remain outstanding despite the arrest and surrender to the Court of two suspects in ~~June 2020~~ ~~November 2019~~ and ~~November 2020~~ ~~January 2019~~ and *urges* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

3. *Notes* the OTP and the Registry common efforts to devise and implement common strategies and missions to foster the arrest of suspects within the inter-organ working group on arrest strategies created in March 2016;

4. *Reaffirms* that concrete steps and measures to securing arrests need to be considered in a structured and systematic manner, based on the experience developed in national systems, the international ad hoc and mixed tribunals, as well as by the Court, regarding both tracking efforts and operational support;

5. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;

6. *Urges* States Parties to avoid contact with persons subject to a warrant of arrest issued by the Court, unless such contact is deemed essential by the State Party, *welcomes* the efforts of States and international and regional organizations in this regard, and *acknowledges* that States Parties may, on a voluntary basis, advise the ICC of their own contacts with persons subject to a warrant of arrest made as a result of such an assessment;

#### **Implementation legislation of the Rome Statute**

7. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and to set up effective procedures and structures so as to ensure that they can fully meet their obligations under the Rome Statute regarding cooperation and judicial assistance;

8. *Acknowledges* efforts by States, by civil society organizations and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing

<sup>6</sup> Resolution ICC-ASP/18/Res.7, adopted at the 9th plenary meeting, on 6 December 2019



legislation and underlines the need to further exchange experience and best practices between States Parties;

**Informal consultations and establishment of focal points**

9. *Encourages* States to establish a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court related issues, including requests for assistance, within and across government institutions, as part of efforts aimed at making national procedures for cooperation more efficient, where appropriate;

10. *Recalls* the report to the thirteenth session of the Assembly on the feasibility study of establishing a coordinating mechanism of national authorities, and *encourages* States Parties to continue the discussion;

11. *Emphasizes* the on-going efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance and *invites* the States to consider offering consultations and facilitating meetings between the Court organs formulating the requests and the competent national authorities ultimately in charge of executing them with a view to finding solutions together on ways to assist or transmit the information sought and when appropriate, to follow up on execution of requests and discuss on the most efficient way forward;

**Financial investigations and freezing of assets**

12. *Recognizes* that effective and expeditious cooperation with regard to the Court's requests for the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crime is crucial to the provision of reparations to victims and for potentially addressing the costs of legal aid;

13. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible; *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;

14. *Recalls* the importance of the non-legally binding Paris Declaration on asset recovery annexed to resolution ICC-ASP/16/Res.2

15. *Welcomes* **the launch of the** ~~proposal of the facilitation on cooperation to create a~~ secured digital platform to reinforce exchange of relevant information between States Parties to encourage inter-State cooperation and to strengthening States' capacity to cooperate with the Court; to identify the practical challenges to the effective execution of the Court's requests for cooperation and to further raise awareness of the Court's mandate and requirements for financial investigations and asset recovery, and *decides* to continue the work with the Court and the Secretariat of the Assembly in order to **enhance** ~~open~~ the platform in 2021;

**Cooperation with the defence**

16. *Urges* States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court;

**Agreement on Privileges and Immunities of the International Criminal Court**

17. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority, and to incorporate it in their national legislation, as appropriate;

**Voluntary cooperation**

18. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, *welcomes* the new relocation agreement concluded since the last resolution on cooperation, and *stresses* the need for more relocation agreements or arrangements with the Court for the expeditious relocation of witnesses;

19. *Calls upon* all States Parties and other States, to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court, or any other means concerning, inter alia, protective measures for victims and witnesses, their families and others who are at risk on account of testimony given by witnesses;

20. *Acknowledges* that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of linguistic and cultural environment and *urges* all States Parties to consider making voluntary contributions to the Special Fund for Relocations;

~~*Welcomes the conclusion of two agreements between the Court and the Republic of Slovenia, and the Republic of Georgia on the Enforcement of sentences;*~~

21. *Emphasizes* that the need for cooperation with the Court on the enforcement of sentences, and on interim and final release is likely to increase in the coming years as more cases proceed toward conclusion, *recalls* the principle enshrined in the Rome Statute that States Parties should share the responsibility for enforcing sentences of imprisonment and for the interim and final release, in accordance with principles of equitable distribution, and *calls upon* States Parties to actively consider the conclusion of agreements with the Court to this end;

22. *Commends and further encourages* the work of the Court on framework agreements or arrangements, or any other means in areas such as interim release, final release - also in cases of acquittal - and sentence enforcement which may be essential to ensuring the rights of suspects and accused persons, in accordance with Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;

23. *Requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its ~~nineteenth~~ **twentieth** session;

#### **Cooperation with United Nations**

24. *Welcomes and further encourages* the increased cooperation between the Court and the United Nations, and other international and regional organizations, relevant mechanisms for collecting and preserving evidence, and other inter-governmental institutions with a view to foster prosecution of crimes falling within the jurisdiction of the Court;

25. *Urges* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations Member States and follow-up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;

#### **Diplomatic support**

26. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;

#### **Promoting dialogue with all stakeholders**

27. *Welcomes* the work undertaken on the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>7</sup> *recalls* the flyer prepared by the Court that can be used by all stakeholders to promote the 66 recommendations and increase their understanding and implementation by relevant national actors and the Court

<sup>7</sup> Resolution ICC-ASP/6/Res.2, annex II.

28. **Welcomes the joint panel discussion on strengthening cooperation with the Court organised by the co-facilitators on cooperation and the focal points on non-cooperation on 5 October 2020;**

29. **Takes note of the Bureau's Report on cooperation<sup>8</sup>, covering inter alia, the follow up to the Paris Declaration on financial investigations and asset recovery and the work on a secured digital platform on cooperation; considerations on the Court's relationship with the United Nations; and proposals concerning the follow-up action regarding co-operation issues identified in the framework of the review and strengthening process of the Court and the Rome Statute System, and priority areas for 2021;**

30. *Requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;

31. *Requests* the Bureau, through its Working Groups to speed up its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate;

32. *Requests* the Bureau, through the facilitation on cooperation, bearing in mind the **[mechanism] created to follow-up the assessment and the implementation of the independent experts' recommendations** process launched for the review and the strengthening of the Court, to examine the issues and challenges related to cooperation, with a view to identify concrete measures and follow-up action in order to address those challenges and to report thereon to the Assembly at its ~~nineteenth~~ **twentieth** session, **in line with the overall reporting framework set by the Assembly for the Mechanism;**

33. **Requests the Bureau, through the facilitation on cooperation, to continue to address a number of issues that have been priorities in recent years, and with a matter of priority : to continue the work to further develop the content of the Secured Platform on Cooperation; to hold consultations on the advisability of developing regional thematic focal points on cooperation, of creating a permanent structure for a network of national practitioners and focal points on cooperation, and on the deepening of the relationship between the UN and its agencies and entities, including for capacity building purpose in order to foster cooperation with the Court;**

34. *Encourages* the Bureau to identify issues for the Assembly to continue holding plenary discussions on specific topics related to cooperation, including on the issue of financial investigations and arrests;

35. *Recognizes* the importance of ensuring a safe environment for strengthening and fostering cooperation between civil society and the Court and of taking all necessary action to address threats and intimidation directed at civil society organizations;

36. **Takes note that due to the COVID-19 pandemic, the Court was not able to organize its 7th Focal Points Seminar on Cooperation during the reporting period, which is expected to take place in 2021** ~~Welcomes the organization by the Court, with the support of States Parties and international and regional organizations, of the 6<sup>th</sup> Focal points seminar on cooperation in January 2019 at the seat of the Court with attendance of 28 national focal points from situation countries and other countries of relevance for the judicial activities of the Court, and a one day technical seminars directly following the focal points seminar, focused on cooperation regarding financial investigations and recovering of assets, *underlines* that those seminars constitute important platforms to enhance dialogue and cooperation between the Court and States Parties including on new developments in technical areas of cooperation, and *encourages* all stakeholders, including civil society organizations, to continue organizing events that allow for exchange of information with the purpose of enhancing cooperation and constructively seeking solutions to identified challenges;~~

~~Welcomes the plenary session on cooperation held during the eighteenth nineteenth session of the Assembly, which offered an opportunity to share best practices of inter-state and inter-~~

<sup>8</sup> ICC-ASP/19/33

~~institutional cooperation among States Parties, the Court and other stakeholders, and which highlighted the need for a greater engagement of States Parties on this matter;~~

37. *Recognizing* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation, *welcomes* the Court report on cooperation<sup>9</sup>, **which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges**, *requests* the Court to submit an updated report on cooperation to the Assembly at its ~~nineteenth~~ **twentieth** session. ~~[and to present in that report disaggregated data over the responses provided by States Parties, including highlighting the main challenges].~~

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<sup>9</sup> ICC-ASP/19/33.

## Annex II

### Proposed text for omnibus resolution

#### A. Cooperation

1. *Refers* to its resolution ICC-ASP/19/Res.[..] on cooperation;
2. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *also calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing constitutional and legislative framework, enforcement of Court decisions and execution of arrest warrants;
3. *Reaffirms* the importance of supporting all those cooperating with the Court, including States and relevant international bodies and entities, in order to secure the ability of the Court to fulfil its critical mandate of holding accountable perpetrators of the most serious crimes of concern to the international community and delivering justice to victims;
4. *Further calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;
5. **Welcomes the Court’s report and comprehensive presentation on cooperation<sup>10</sup>, which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges;**
6. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;
7. **Welcomes the joint panel discussion on strengthening cooperation with the Court organised by the co-facilitators on cooperation and the focal points on non-cooperation on 5 October 2020;**
8. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;
9. *Recalls* the importance of the non-legally binding Declaration of Paris on asset recovery annexed to resolution ICC-ASP/16/Res.2;
10. **Welcomes the creation of the secured digital platform for States Parties to exchange relevant information on cooperation and financial investigations and assets recovery;**
11. **Notes the recommendations on cooperation contained in the 30 September 2020 Independent Experts Report;**

#### B. Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **cooperation**,

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<sup>10</sup> ICC-ASP/19/33.

- (a) *urges* the Bureau, through The Hague Working Group, to continue the discussions on the proposals resulting from the seminar of the co-facilitation held in The Hague on 7 November 2018 entitled “Arrests: a key challenge in the fight against impunity”;
- (b) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its ~~nineteenth~~ **twentieth** session;
- (c) *invites* the Bureau, through its Working Groups, to discuss the feasibility of establishing a coordinating mechanism of national authorities;
- (d) **invites the Bureau, through its Working Groups, to continue to strengthen the relationship between the UN and its agencies and entities, including for capacity building, the ICC and States Parties, to foster cooperation with the Court;**
- (e) *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance, including by considering consultations with the State Party concerned when necessary;
- (f) *requests* the Bureau, through its Working Groups, to speed up its review of the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>11</sup> in close cooperation with the Court, where appropriate;
- (g) *requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
- (h) *Requests* the Bureau, through the facilitation on cooperation, ~~bearing in mind the process launched for the review and the strengthening of the Court,~~ **and in accordance with the resolution [on the Review of the International Criminal Court and the Rome Statute system]**, to examine the issues and challenges related to cooperation, with a view to identify concrete measures and follow-up action in order to address those challenges and to report thereon to the Assembly at its **twentieth** session;
- (i) *requests* the Court to continue to submit an updated report on cooperation to the Assembly at its annual session, ~~and to present in that report~~ **containing** disaggregated data over the responses provided by States Parties, including highlighting the main challenges;
- (j) *mandates* the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris, **including by continuing the work to further develop the secured digital platform.**

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<sup>11</sup> ICC-ASP/6/Res.2, annex II.