

## **IER Presentation – 7 October 2020**

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*Notes drafted in preparation for the meeting. Content might slightly differ from oral presentation.*

### **Introductory Remarks**

#### **Mr. Richard Goldstone**

President Kwon, Vice-President Horslund, Vice-President Mlynár, Your Excellencies, distinguished representatives of States Parties, of the Court and of Civil Society Organizations,

It is my pleasure to address you as chair of the Group of Independent Experts at the end of their review of the ICC and of the Rome Statute System. I am joined by all eight of my fellow Experts: Cluster 1 on Governance: Nicolas Guillou (France), Monica Pinto (Argentina) and Mike Smith (Australia); Cluster 2 on the Judiciary: Anna Bednarek (Poland), Iain Bonomy (United Kingdom), and Mohamed Chande Othman (Tanzania); and Cluster 3 on the Prosecution and Investigation (Hassan Jallow (The Gambia), Cristina Schwansee Romano (Brazil) and myself (South Africa).

As you well know, the Assembly of States Parties established the Independent Expert Review in December 2019 with the overall mandate to “identify ways to strengthen the ICC and the Rome Statute System in order to promote universal recognition of their central role in the global fight against impunity and enhance their overall functioning”. To this end, the Experts were tasked with making “concrete, achievable and actionable recommendations aimed at enhancing the performance, efficiency and effectiveness of the Court and the Rome Statute System as a whole”. The Experts were further mandated to make their recommendations to the ASP and the Court “on specific complex technical issues” under the three clusters to which I have referred.

As requested by the terms of our appointment, we issued our final report on 30<sup>th</sup> of September. Our recommendations were developed after extensive consultations – the clusters held a total of 278 interviews and meetings with 246 current and former officials of

the Court, members of staff and external defence representatives, alongside meetings with the Heads of Organs, the Staff Union Council, States Parties, ASP representatives, 54 NGOs and 6 academics. We also received over 100 written submissions, and consulted many internal documents. We would have preferred a wider geographical representation of stakeholders to have engaged with us. In the context, we appreciate the efforts of some CSOs who went to considerable lengths to mitigate this limitation. Having said that, we do not believe that the findings and recommendations have been diminished by this deficiency.

We are grateful for the efficient cooperation we received from the ASP Presidency and the Court leadership.

While the Experts' remarks and conclusions on the process, as well as on the substance of their work are available in the Report, we would like to emphasise a few points at this stage. In doing so, we also address some of the general questions put to us in the context of our meeting today.

1. Firstly, the report includes 384 recommendations, both short and long term, with varying degrees of complexity and urgency of implementation. We acknowledge that full implementation of recommendations will require time, as well as joint effort and determination from the Court, the ASP and States Parties. To assist in this regard, we have identified a number of recommendations that we advise should be implemented as a matter of priority, and that have been included, in a summarised version, in Annex I to the Report, which is also available in French
2. The recommendations were prioritised having regard to their urgency and the shorter time frame within which they might be considered and, if adopted, implemented. In the view of the Experts, it must be left to the ASP to determine which of the recommendations should be considered in the coming meeting of the ASP.
3. While the report is now fully in the hands of the Court and the ASP, the Experts suggest it would be important and helpful to establish a standing coordination or working group to follow up on the implementation of the recommendations, and work on the development of concrete plans for such purpose. It is for the ASP, no doubt in consultation with all relevant parties, to determine the membership and

procedure of the Group. It should consult with all appropriate bodies, governmental and non-governmental, both within and outside the Court. The Group should determine a timeline for consideration of the recommendations.

4. Going back to the process of the review, in terms of methodology, we were guided by the objective of identifying actionable proposals focused on systemic issues. We were conscious that the review took place in the context of a wider State Party-driven review process with the Court. We endeavoured to avoid any duplication and maximise potential synergies in this regard.
5. Finally, we would like to draw attention to the fact that our mandate was to identify ways to strengthen the Court and the Rome Statute System. Consequently, the findings in the report are focused on areas in need of improvement and do not present an exhaustive overview of all the positive aspects within the Court or of the Rome Statute System. Nothing stated in the report should in any way call into question the necessity for, and value of, the Court.

We are grateful for the opportunity to bring further clarifications and answer some of your questions on this occasion. We have received over 120 questions from States Parties and other stakeholders. Many of them relate to issues that will have to be considered by the ASP and relevant organs of the Court. It would not be helpful to respond to every question that has been raised and especially those aiming to express differing views, rather than seek clarifications. Our views are set out fully in the Report and we must leave it at that. We would also not wish to become engaged in an ongoing debate on the contents of the Report. It is now in the hands of the ASP and the Court.

If, as is anticipated in the Resolution appointing the IER, the ASP wishes to consult the Experts further, that will be considered having regard to the issues and the availability of each of the Experts.

In concluding I would like to thank our three outstanding assistants for their invaluable support, meticulous attention to detail and extremely long hours. They are Maria Manolescu, Gabriele Chlevickaite and Kritika Sharma. Maria is also responsible for the translation into French of Annex I to the Report. Our colleague Nicolas Guillou rendered valuable assistance to her in that regard.

We are happy now to respond to the questions that seek clarification of findings and recommendations. We will do so by Cluster. I request the members of Cluster 1 to respond to the questions relating to Governance.