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**Report on the Constitution and Activities of the
International Criminal Court Bar Association (“ICCBA”)**

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Executive Summary

The quality of justice before the ICC depends on the ability of Counsel for Victims and the Defence to perform their respective roles effectively and independently. The overriding goal of the ICCBA is to strengthen the capacity of independent Counsel to perform this role and ensure that the views and concerns of Victims' and Defence Counsel and Support Staff are represented at the Court. The ICCBA continues to have an open dialogue with the Registrar and relevant Registry officials to discuss the views and concerns of Victims and Defence Counsel and Support Staff and seek improvements in their general conditions of work before the Court. The ICCBA has organized a variety of substantive and skills-based trainings for Counsel and Support Staff, and has made these trainings available through its website (www.iccba-abcpi.org), to provide easier access to expert training to its globally-based membership. Externally, the ICCBA is building a worldwide network of Counsel interested in the ICC, reaching out beyond the limits of current membership to the Rome Statute, raising awareness of the ICC system in non-States Parties and supporting the Court's goal of reaching universality. Important components of this initiative include the newly appointed regional and thematic focal points who can explain the role and work of the ICC and the ICCBA and expand the affiliation agreements which the ICCBA has signed with various national and regional bar associations and other relevant entities. The ICCBA is an indispensable and reliable partner of the Assembly and the Court in achieving transparent criminal justice by enhancing the quality of representation of Victims, Defendants and other persons before the Court. The ICCBA remains the only independent representative body of counsel recognized by the Assembly pursuant to the ICC Rules of Procedure and Evidence¹ and welcomes this recognition. The ICCBA will continue to work with the Assembly to strengthen the Court and the Rome Statute system.

¹ Operative paragraph 80 of resolution ICC-ASP/18/Res.6 entitled "Strengthening the International Criminal Court and the Assembly of States Parties", adopted by the Assembly of States Parties on 6 December 2019.

I. Background

1. Operative paragraph 89 of resolution ICC-ASP/21/Res.2 entitled “Strengthening the International Criminal Court and the Assembly of States Parties”, adopted by the Assembly of States Parties (“the Assembly”) on 9 December 2022, invited the International Criminal Court Bar Association (“ICCBA”) to report to the Assembly, through the Bureau, on its constitution and activities in advance of the nineteenth Session. The present “Report on the Activities of the ICCBA” aims at providing the Assembly with information in response to this invitation.

II. ICCBA Constitution and Objectives

2. The ICCBA operates in accordance with its Constitution.

3. The ICCBA Constitution was adopted on 30 June 2016 in The Hague by Counsel registered on the List established by the International Criminal Court (“ICC”, “the Court”) pursuant to rule 22 of the ICC Rules of Procedure and Evidence (“RPE”) (“List of Counsel”). The ICCBA Constitution establishes the ICCBA as an independent representative body of Counsel pursuant to rule 20(3) of the RPE. Its establishment in 2016 and its recognition by the Assembly in 2019, marked the fulfillment of a long-standing goal to establish a much-needed representative association of legal practitioners focused on matters relevant to the work of List Counsel and Support Staff before the ICC.

4. The objectives of the ICCBA are set out in Article 2 of its Constitution. These include supporting the functions, efficiency and independence of Counsel practicing before the ICC (para. 1); the promotion of the highest professional standards and ethics of Counsel (para. 2) as well as their proficiency and competence in the field of advocacy, procedural and substantive criminal law and information technology systems relevant to their functions before the ICC (para. 3); the independent representation of the interests of Counsel and Support Staff (para. 7); the promotion of the rights of victims, defendants and other clients and Counsel before the Court (para. 8); the promotion of equality of arms (para. 11); and representation of interests and concerns of its members before the Assembly (para. 12).

5. The ICCBA serves as a collective voice for independent Counsel and Support Staff who represent victims, defendants and other actors (e.g. witnesses, States) before the ICC, provides a range of support and services to its membership, and acts as a forum for discussion on all matters pertaining to the ICC. As an independent body deeply and directly involved in ICC activities, it also aims to contribute to raising awareness on issues which may affect the functioning of the Court, in order to enhance the quality of justice at the ICC required under the provisions of the Rome Statute and other recognized texts pursuant to Article 2(5) of its Constitution. As the ICCBA’s constituency extends to members of the legal profession in all countries, be they States Parties or not, the ICCBA seeks to develop and solidify its relationships with international, regional and national bars and other relevant organizations in order to promote and strengthen the Rome Statute system as well as discuss issues of mutual concern, including in countries and regions where the Court itself may have difficulties accessing.

6. The ICCBA is independent of the Court and is registered as a non-profit foundation (“*Vereniging*”) under the laws of The Netherlands.

7. The ICCBA is funded primarily by membership fees. Its activities and outreach are the product of its members’ voluntary contribution of their time and energy.

III. Summary of ICCBA Activities and Achievements 2023

8. The issue of legal aid reform, including social benefits for Support Staff on Defence and Victims' teams, has been a key priority for the ICCBA during the last year. The ICCBA was grateful for the efforts of States Parties during the 21st Session of the ASP which resulted in an amendment in the Omnibus Resolution allowing the Registry to implement interim measures for legal team members. These measures were implemented by the Registry in January 2023. Since then, the ICCBA has continued to engage with the various stakeholders involved, including States Parties, the Registry and the legal profession on a new legal aid policy. The ICCBA strongly believes that an improved legal aid system is required urgently to ensure that external team members are remunerated fairly in comparison to their counterparts at the Court. The ICCBA encourages States Parties to adopt a new legal aid policy at the 22nd Session of the ASP. The ICCBA also encourages States Parties to continue the discussions regarding taxation which heavily affects legal aid remuneration and finding a solution to this issue remains a high priority for the ICCBA.

9. Throughout the year, the ICCBA provided training to its members. In September 2023, the ICCBA organized, in cooperation with the Registry, a three-day training for list counsel which was very well received by participants. In June 2023, the Training Committee held a webinar on Investigations in Situation Countries before the ICC and in August, the ICCBA Focal Point for Sexual and Gender Based Violence organized a hybrid panel discussion on a Trauma Based Approach to Sexual and Gender Based Crimes at the ICC which included speakers from the Office of the Prosecutor and the Registry. The ICCBA will continue to provide expert trainings for its membership and the wider legal community.

10. Throughout 2023, the ICCBA continued to engage with the States Parties regarding the implementation of the recommendations made by the Independent Expert Review and participated in meetings. The ICCBA remains a key stakeholder to represent the interests of the legal profession and looks forward to continued cooperation with States on the implementation of the recommendations.

11. Another issue of concern for the ICCBA is the fact that the Trust Fund for Family Visits, set up by the ICC's President in 2010, had seen its resources depleted and that as a consequence, the detainees' right to family visits could not be fulfilled to the extent that is satisfactory under international human rights instruments as well as with regard to the Court's obligations in its own legal framework. Throughout 2023, the ICCBA President and Executive Council have been engaging with States to raise awareness of the Trust Fund for Family Visits and welcomed the contributions which were made by some States Parties. It is hoped that the concerted efforts of the actors involved lead to a renewed commitment by the States to fulfil their obligations with regard to the Fund and a resolution by the Assembly of States Parties to subsidise family visits for indigent detainees.

12. Meetings between the ICCBA Presidency and the Principals of the Court took place throughout the year to discuss various ongoing issues. The ICCBA welcomes the openness of the Principals to engage in such discussions, which are proving invaluable in working towards resolving issues which are faced by Counsel and Support Staff. These issues included: services for legal representatives for victims, the aforementioned legal aid and taxation issues, the Trust Fund for Family Visits and training activities. The ICCBA is also in discussions with the Registrar to conclude an official relationship agreement with the purpose of strengthening the role of the ICCBA *via-a-vis* the Registry. It is hoped that the agreement will be finalized in the coming months. The ICCBA will continue to work with the Court on the other outstanding issues and it is hoped that these can be resolved with the Registry in the near future.

13. In March 2023, the ICCBA issued a questionnaire to candidates for the position of Registrar and sent a report to the ICC judges who were responsible for electing the new Registrar and also published the report on the website. In June 2023, the ICCBA sent an extensive questionnaire, covering specific aspects relevant to defence and victims, to the 14 candidates for judges at the ICC. The report with the responses received was published in September 2023 and the ICCBA received positive feedback for undertaking this initiative. The ICCBA hopes that the responses to the questionnaire will be useful for States Parties when electing the new judges at the 22nd Session of the ASP.

14. The ICCBA continued its outreach activities with different stakeholders and a variety of audiences. The ICCBA appointed five new regional focal points and two new thematic focal points, one for Sexual and Gender Based Violence and one for Diversity and Gender. The main role of the focal points is to extend the global reach of the ICCBA and disseminate information about the ICCBA and ICC. There have been various online webinars in the Asia-Pacific region, Eastern Europe and South America which were organised by the focal points. The President participated in outreach activities with representatives of affected communities or with representatives of the legal profession. These included an International Women's Day Panel Discussion, organised by the ICC; the IBA War Crimes Conference; Panel Discussion on 'International Courts and Tribunals: From Defence's Perspective' organised by the University of Berkley; ICC Annual Seminar for Focal Points on Cooperation; European Criminal Bar Association Spring Conference in Warsaw; Opening Ceremony of Common Bonds, opened to commemorate the Rome Statute's 25th anniversary; Grotius Centre/Leiden University Summer School on International Criminal Law and Training of the Universities Network for Children in Armed Conflict.

15. The ICCBA has also been invited to several official events to represent Counsel and their support staff including the ICCBA President addressing the Opening of the Judicial Year and also attending the swearing-in of the new ICC Registrar. An ICCBA representative was also invited by the ASP President to participate in a panel discussion in New York for the 25th Anniversary of the signing of the Rome Statute.

16. The ICCBA continues to expand its affiliation agreements with organizations for lawyers and bar association around the world and throughout 2023 has signed new agreements with the Perugia Bar Association, Colegio de Abogados de Valparaíso, Universidad Austral Argentina, Universidad Católica de Valparaíso, the Bar Council of the Maldives and the Bar Council of Florence. These are in addition to the existing agreements which have been signed with the Ordine Avvocati di Roma, the Conseil national des barreaux (CNB), the African Bar Association, the Federation of European Bars, the International Association of Lawyers (UIA), the Order of Francophone and Germanophone Bars of Belgium and the Kuwait Bar Association and is also a member of the International Legal Assistance Consortium. These agreements provide for cooperation, knowledge sharing and mutual assistance in areas of common interest, as well as disseminating information regarding the Court and the Rome Statute.

17. The ICCBA Constitution allows for the creation of *ad hoc* Working Groups to assist the Executive Council. These Working Groups are comprised of members with a particular expertise in specific areas. The ICCBA currently has the following Working Groups: Working Group on the Code of Conduct; Working Group on Early Stages of Proceedings for Victims; Working Group on Ecocide; Working Group on Focal Points; Working Group on Gender Parity, Equality and Welfare; Working Group on Legal Aid and Taxation; and Working Group on the Legal Status of Support Staff.

18. The ICCBA would like to take this opportunity to thank all ICCBA elected officials, the members of the Working Groups, the focal points, and the entire membership of the ICCBA, for their hard work and dedication. The ICCBA is a unique global organization comprised of highly skilled and experienced members and their continued involvement and support are essential to the lasting success of the Association.

19. The ICCBA would also like to express its gratitude to States Parties for their positive engagement and cooperation with the ICCBA and looks forward to continuing this constructive relationship in the future.
