



Fifteenth session

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**Report of the Bureau on the strategic planning process of
the International Criminal Court**

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I. Introduction

1. The Assembly of States Parties (“the Assembly”), recalling its previous resolutions on the matter¹, 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 fourteenth session, the Assembly, *inter alia*, took note of the Court’s and the Office of the Prosecutor’s Strategic Plans which are reviewed and updated on a regular basis and welcomed that a new system of a Court-wide Strategic Plan alongside organ-specific plans would be elaborated by the Court. The Assembly also reiterated 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.²

II. Follow-up to the fourteenth session of the Assembly and strategic planning in 2016

3. On 24 February 2016, the Bureau appointed Ambassador Eduardo Rodríguez Veltzé (Bolivia) 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 9, 16 and 21 September 2016; representatives of the NGO community were included as participants.

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

- (a) Update on the Reorganization of the Registry;
- (b) Update by the Court on its Strategic Plan; and
- (c) Presentation of the Case Selection and Prioritisation Policy Paper by the Office of the Prosecutor.

A. Update on the Reorganization of the Registry

5. Further to the mandate of the Assembly set out in resolution ICC-ASP/14/Res.4, paragraph 73,³ the Registrar presented a 184-page paper entitled “Comprehensive report on the Reorganisation of the Registry of the International Criminal Court”,⁴ which had been disseminated by the facilitator at the request of the Registrar. Delegations, noting the length of the document, stressed that they would need more time to address the paper in depth and that their comments would be of a preliminary nature.

6. Some States welcomed the report as showing transparency and accountability on the *ReVision* process and stressed the need to improve efficiency continuously, highlighting the Registry’s commitment to find increased synergies between the organs of the Court. Other States felt that the report contained general language, and it would be necessary to wait for concrete results to assess the impact of the Registry’s new structure on the Court’s operation.

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, ICC-ASP/12/Res.8, ICC-ASP/13/Res.5. and ICC-ASP/14/Res.4.

² Resolution ICC-ASP/14/Res.4.

³ *Notes* the conclusion of the *ReVision* process which has led to a significant reorganization of the Registry’s structure, processes and working methods, and looks forward to being duly informed about the impact ensuing from the new structure, both in terms of its capacity to absorb increases in the workload and tangible efficiencies attained;

⁴ <https://www.icc-cpi.int/itemsDocuments/ICC-Registry-CR.pdf>.

7. The Registrar explained that *ReVision* had created a structure that would in turn pave the way for the implementation of more improvements, such as those produced in the Registry Legal Services Section and the division of work between headquarters and field offices. The Registrar emphasized that the *ReVision* exercise focused on better working methods, rather than only finding ways to cut costs.

8. The working group noted that some of the points on which concern were expressed by some delegations on the *ReVision* process are subject to an audit being undertaken by the External Auditor whose report will be delivered to the Assembly in early November and considered under another facilitation.

B. Update by the Court on its Strategic Plan

9. The working group received an update on the Court's updated Strategic Plan for 2013-2017. The working group was informed that the Strategic Goals are deliberately expressed in high-level terms and aim to provide a broad policy framework for all aspects of the Court's operations. More detailed Priority Objectives are established looking two years ahead, together with a list of Expected Results for each of them. These are updated annually.

10. As 2017 is the last year of the present cycle, the Court intends to review the structure and content of its Strategic Plan in order to develop a new high-level court-wide plan that is complemented by Organ-specific plans for the Office of the Prosecutor and the Registry. The Court-wide Strategic Plan would set medium-term goals and shorter-term priority objectives for the whole institution, showing how all organ-specific activities come together under the One-Court principle. A key tool in accomplishing these objectives will be the introduction of performance indicators linked to the Strategic Plan.

11. With regards to judicial activities, the Court considered that a distinct Strategic Plan was not advisable as the main strategic objectives in this regard are already covered in the overarching, Court-wide goals such as fair, transparent and expeditious proceedings. In addition, with regard to more specific technical objectives, it was noted that each case before the Court provides unique challenges and each judge acts independently in the interest of a fair and expeditious trial. Also, the Presidency's specific strategic objectives, e.g. efficient and effective management and advancing the ICC Lessons Learnt process, will be covered in both the Court's and the Registry's plans.

C. Presentation of the Case Selection and Prioritisation Policy Paper by the Office of the Prosecutor

12. The Prosecutor introduced the paper entitled "Policy Paper on Case Selection and Prioritisation"⁵ to the working group. The document explains the policies that the Prosecutor's office follows when selecting incidents, persons, or conduct to be investigated and prosecuted; pointing out that the OTP exercises its discretion when discharging its mandate. The OTP conducts its case selection and prioritisation on the basis of independence, impartiality and objectivity.

13. A central component of the policy paper is the idea that a dynamic Case Selection Document will be created when situations are opened for investigation. This will aid the OTP when selecting and prioritising cases, as well as managing the overall workload of the office.

14. The case selection criteria include the gravity of the crimes involved, the degree of the responsibility of the alleged perpetrators and the potential charges. In addition, the OTP applies a number of strategic and operational case prioritisation criteria. Each criterion will be given its own weight depending on the facts of each case and situation.

⁵ https://www.icc-cpi.int/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf.

15. States welcomed the decision of the Prosecutor to issue this paper as well as her willingness to consult with States Parties and other stakeholders before its issuance. The OTP indicated that it had received 27 comments, which had helped to define the focus of the task.

16. A concern was voiced that some positive aspects of the draft Policy Paper were excluded from the final document, in particular transitional justice and the concept of “the interests of justice” as a countervailing criterion to decide whether or not to investigate or prosecute, as these two topics could have been examined more fully in the policy paper. Additionally, the document would have been more effective if the OTP would have identified the particular national experiences relied upon when drafting the paper, and that its cooperation with States regarding other forms of criminality is applicable only to the extent that they are linked to international crimes competence of the ICC.

17. The OTP clarified in response that the reference to transitional justice in the final document had been moved into a different paragraph in comparison to the draft document. Also, the paper makes explicit reference to additional document produced by the Office in the past where, for instance, the matter of interests of justice is more fully developed, such as policy paper on Preliminary Examination and Policy Paper on the Interests of Justice. In particular, the text in the Policy Paper states: “Finally, the Office also fully endorses the role that can be played by truth seeking mechanisms, reparations programs, institutional reform and traditional justice mechanisms as part of a broader comprehensive strategy”. In addition, under section on Legal Requirements, there is a whole section on the interests of justice. As to the cooperation with States regarding other forms of criminality, the OTP confirmed that its efforts to develop coordinated strategies to investigate and prosecute are directed towards closing the impunity gap in accordance with the Rome Statute.

III. Day of International Criminal Justice

18. On the occasion of the Day of International Criminal Justice, the facilitator organized on 7 July 2016 a seminar entitled “Global Justice from a Regional Perspective” at The Hague Institute for Global Justice.⁶ The seminar featured a keynote address by the President of the Court, followed by a panel discussion moderated by the facilitator. Other participants included judges of the Court and senior officials, as well as the Diplomatic Corps, non-governmental organizations and the general public.

19. The event sought to highlight the diverse ways in which States have addressed the challenge of impunity for perpetrators of the most serious crimes of international concern. The panel discussion focused on the manner and extent to which regional institutions have become involved in international criminal law, and explored the relationship between such institutions and the International Criminal Court.

IV. Consideration of the future of the facilitation

20. The working group noted that some aspects of the topic are closely linked with other facilitations, which has lead on occasion to overlaps. Furthermore, the timelines which the Court has as a whole for its Court-wide strategic plan and those of the Office of the Prosecutor and of other offices may vary, and thus it proved difficult for the facilitation to have a clear, stable idea at any given point in time, since the developments were rather dynamic.

21. In addition, it was noted that some aspects of what over the years was considered under the topic of strategic planning, was also being discussed or would seem to fall under other facilitations such as the budget consultations and the Study Group on Governance. There may also be scope for other aspects of the topic under the existing mandates or future mandates of the External Auditor, the Office of Internal Audit, the Committee on Budget and Finance or the Independent Oversight Mechanism (with regards to the latter’s evaluation function). Taking this into account, the working group considered that the Bureau should act to optimize or subsume tasks.

⁶ <http://www.thehagueinstituteforglobaljustice.org/events/day-of-international-criminal-justice-global-criminal-justice-from-a-regional-perspective/>.

22. The commemoration of the Day of International Criminal Justice is an endeavour which could possibly be taken up by one or both of the Vice-Presidents of the Assembly, but in and of itself would not constitute the basis for retaining the facilitation.

V. Recommendations

23. 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 to this report.

24. In this connection, the working group recalled its prior recommendations on the strategic planning process⁷ and welcomed that the Court had committed itself to engage annually in a review of the link between the Plan and the budget through planned performance measurement.

25. Furthermore, the working group welcomed the events organized around the 17 July commemoration and encouraged that events be undertaken by all stakeholders annually, including via cooperation with other international courts and tribunals as appropriate.

⁷ ICC-ASP/14/37 at paras. 28 to 30, as well as ICC-ASP/14/Res.4 at paras. 67 to 74 and para. 10 of its annex I.

Annex I

Draft paragraphs for inclusion in the omnibus resolution

1. *Recommends* that the Bureau, given the existence of numerous topic overlaps amongst facilitation groups, take action in order to optimize or subsume tasks, including complementary assessments by installed audit capacities as well as those by the Independent Oversight Mechanism in accordance with its mandate¹;
2. *Notes* that the Court's and the Office of the Prosecutor's strategic plans are dynamic and updated on a regular basis;
3. *Welcomes* the initiatives undertaken to celebrate 17 July as Day of International Criminal Justice² and recommends that, on the basis of lessons learned, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities;
4. *Takes note* of the update of the Court's Strategic Plan for 2013-2017, and *welcomes* its intention to prepare a new one for 2018-2020, as appropriate, including budget assumptions on an annual basis, and to inform the Bureau thereon with a view to further strengthening the budgetary process;
5. *Welcomes* the initiatives undertaken during the Retreat held at Glion-Switzerland to support the work of the Court and discuss an updated version of performance indicators for the Court's activities;
6. *Recalls* its invitation to the Court 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;
7. *Welcomes* the presentation by the Office of the Prosecutor of its Case Selection and Prioritisation Policy Paper, and *Recalls* its invitation to the Office of the Prosecutor to inform the Bureau on the implementation of its Strategic Plan for 2016-2018;
8. *Takes note* of the presentation by the Office of the Registrar of the Comprehensive report on the Reorganization of the Registry of the International Criminal Court;³
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;
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 sixteenth session of the Assembly of States Parties.

¹ ICC-ASP/12/Res.6, Annex, para. 16. Evaluation: The IOM shall provide evaluations of any programme, project or policy as requested by the Assembly or the Bureau. Evaluation is defined as a judgement made of the relevance, appropriateness, effectiveness, efficiency, impact and sustainability of a project or programme, based on agreed criteria and benchmarks.

² Kampala Declaration at para. 12.

³ <https://www.icc-cpi.int/itemsDocuments/ICC-Registry-CR.pdf>.

Annex II

Mandates of the Assembly of States Parties for the inter-sessional period

With regard to **strategic planning**,

(a) *Recommends* that the Bureau, given the existence of numerous topic overlaps amongst facilitation groups, take action in order to optimize or subsume tasks, including complementary assessments by installed audit capacities as well as those by the Independent Oversight Mechanism in accordance with its mandate ;

(b) *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 sixteenth session of the Assembly of States Parties.
