

Plenary Session on Cooperation – 16th ASP New York, 11 December 2017

Segment 1 – Financial investigations

) Mr Vice-President,

) As the host state of the International Criminal Court, we have quite a lot of cooperation with the Court when it comes to financial investigations. Therefore, I am very happy to be able to give some insight in this cooperation, and share some of our experiences with you.

) The financial component is not the first thing that springs to mind in relation to crimes such as war crimes and genocide. Yet the financial element of these offences is often vital for the execution of these crimes.

) For this reason, tackling the financial flows that fuel these crimes can seriously limit the ability of offenders to commit these crimes. It is not unusual for these financial flows to still be intact whilst suspects are being detained and prosecuted before the Court. It is for this reason that the Netherlands, as the host state of the Court and therefore also of its detainees, is firmly involved in these investigations.

) But not only do the investigation and prosecution of these financial cases prevent offenders from committing crimes, they also provide important information when it comes to the collection of evidence. Financial traces often show a clear link between suspects and the crimes committed, thus constituting crucial pieces of evidence in court.

) What has proved to be very useful in our cooperation with the Court are the coordination meetings organized between the Court, the Netherlands and other countries involved in investigations. These meetings enable a swift and thorough exchange of vital information in these investigations. Furthermore, they offer an insight into the differences between relevant legal systems, whilst at the same time offer an opportunity to overcome certain complications arising out of these differences.

) Other forms of support we provide to the Court in this regard are *ex officio* checks on persons who are subject to an investigation of the Court. These checks are conducted by the Dutch Financial Investigative Unit.

-) I also would like to mention the possibility for the Court to request State Parties to open up their own investigations concerning offences that fall within the jurisdiction of this State Party, but relate to situations under investigation by the Court. Examples of these offences are money laundering or the financing of terrorist activities.
-) This is something that could provide for a much easier and quicker way to tackle these issues. However, for State Parties to be able to open up these investigations, a request from the Court providing sufficient information to start such an investigations is a prerequisite.
-) What remains a challenge is the swift execution of investigative measures, which is ever so important when it comes to these crimes. Traces of financial flows can be erased very easily and very quickly. To be able to act swiftly in these cases, immediate access to necessary information is essential.
-) We understand that the Court often lacks the capacity to provide for this. This brings me back to a point I raised during the General Debate, namely that for the Court to function properly in this regard, it should be entrusted with adequate budgetary means.

) Mr President, I am thankful for this opportunity to share our experience with you and I am looking forward to hearing the views of other States Parties on this important subject.

Segment II: 20 years later: the future of cooperation with the ICC

) Mr Vice-president,

) I am aware of the fact that I am taking the floor again, after having shared with you this morning our thoughts on cooperation with the Court in the field of financial investigations . However, the subject of cooperation with the Court is a subject which is very dear to our hart. For this reason, I hope you will allow me to share some more thoughts with you concerning the broader question of cooperation.

) We all are very much aware of the crucial importance of cooperation for the functioning of the Court. Indeed, cooperation between the Court and the States Parties is one of the cornerstones of the Rome Statute.

) However, I regret to state that when it comes to practical realities of cooperation, the Court encounters huge difficulties in executing its mandate due to an actual lack of cooperation by the States Parties. It is clear that this situation is not only at odds with the intentions of the founding fathers of the Rome Statute but also undermines the effectiveness of the Court.

-)] Moreover, the lack of willingness by some States Parties to shoulder their part of the burden, means that the Court is compelled to rely even more on other States Parties.

-)] One important area where these difficulties are encountered in particular, is the voluntary cooperation with the Court. This cooperation entails important tasks such as providing a safe haven for witnesses who have risked their lives by providing a statement before the Court, or the execution of a sentence.

-)] Without these elements, prosecution of these grave crimes becomes impossible and meaningless. If this lack of cooperation is not reversed this may well threaten the mission of the ICC in the fair and effective prosecution of perpetrators of the gravest crimes of concern to the international community.

-)] It is for this reason that I call upon all States Parties to the Rome Statute to support the Court in this regard. Not only through the conclusion of agreements on voluntary cooperation, but also by following through on their intentions by providing actual support when the Court issues a request in a relevant situation.

) Another important issue I should raise here is the execution of arrest warrants issued by the Court. The Netherlands is deeply concerned about recent visits of President Al Bashir of Sudan to States Parties. Mr Al Bashir has been indicted by the ICC for genocide, crimes against humanity and war crimes allegedly committed in Darfur.

) This court was created to ensure that the most serious crimes of concern to the international community as a whole will not go unpunished. Their prosecution must therefore be ensured by measures taken at both domestic and international level.

) Thank you