



**Cour
Pénale
Internationale**
**International
Criminal
Court**

Le Bureau du Procureur
The Office of the Prosecutor

Mrs Fatou Bensouda
Prosecutor, International Criminal Court

Sixth Plenary Meeting: Cooperation

**Cooperation: challenges and opportunities for the effective cooperation
on the eve of the 20th anniversary of the Rome Statute**

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Date: 11 December 2017 | *Time:* 9:30 a.m.

Monsieur le [*Vice-*] Président de l'Assemblée,

[Madame la Présidente de la Cour Pénale Internationale,]

Monsieur le Greffier de la Cour,

Ambassadeur S.E. M Philippe André Lalliot,

Ambassadeur S.E. M Momar Diop,

Excellences, Mesdames et Messieurs,

) Tout d'abord permettez-moi de remercier leurs excellences Messieurs les Ambassadeurs Philippe André Lalliot et Momar Diop pour leurs aimables présentations et pour m'avoir donné la parole et cette opportunité.

) Aujourd'hui, je reviens, notamment, sur le sujet qui nous a rassemblé à Paris le 20 octobre dernier et qui revêt une importance cruciale pour la Cour dans son ensemble : la coopération avec la Cour dans les domaines des enquêtes financières et du recouvrement des avoirs.

) En réitérant toute ma gratitude aux co-facilitateurs, qui ont organisé le séminaire de Paris, je tiens à féliciter les états pour la Déclaration de Paris à travers laquelle ils expriment leur volonté de continuer à s'investir dans cet important domaine, investissement dont il me semble qu'il ne peut être

que profitable à la Cour et, plus largement, à la cause de la justice.

) Allow me to continue in English.

) My Office strives to conduct financial investigations and analysis to identify financial flows as part of our investigative and prosecutorial activities in each of our situations and from the very beginning of our investigations.

) This is crucial from a purely prosecutorial perspective as such information can contribute to demonstrating the existence of crimes, the linkage elements of the crimes, or the criminal responsibility and relevant modes of liability of individuals for crimes under the jurisdiction of the Court, especially in the types of situations we are investigating where paper trails might not be readily available or within immediate reach.

) Beyond our prosecutorial strategies and needs, the identification of assets and money flows is of course crucial to potential reparation awards at the end of a trial if there is a conviction.

-) These efforts can also facilitate the necessary evaluation of the indigence of ICC suspects by the Registry in instances where legal aid is being sought.

-) To be sure, the conduct of effective financial investigations and recovery of assets by the ICC, are, by their very nature, extremely complex.

-) Let us recall that, typically, for the Court, all information necessary to conduct a financial investigation is located in a foreign jurisdiction. Locating assets of suspects or accused persons from regions affected by armed conflict, with lacking or rudimentary legal and financial structures, may be particularly difficult. At the same time, the development of banking technology makes it increasingly easy for suspects to transfer, hide and move funds as they please.

-) A particularly challenging aspect, for the Court and my Office, is that the assets sought must be linked to any activity, be it legal or illegal, of the suspect or accused. Even when the assets have been located, linking them to the suspects and to their respective activities remains a challenge. Often, the legal threshold at the national level to

prove this link is very high, which makes the task of obtaining said link, an even greater challenge. The crucial role of States cooperation and readiness to move a step further in identifying cooperation avenues to help us in that regard cannot be underestimated.

) I'm particularly pleased, therefore, that, building on the early efforts initiated at the Workshop on Financial Investigations organised at the seat of the ICC in 2015, the Paris Declaration reaffirms the role of enhanced cooperation and highlights the importance of taking measures at the national level, therewith providing a solid basis to advance collaboration in this domain.

) Additional steps to implement the Declaration to attain concrete results must be taken by the States Parties, thus turning ideas and commitment into positive action, in particular insofar as it concerns the effective and timely execution of cooperation requests from the Court.

) Adequate implementing legislation has been a major hurdle in the execution of cooperation requests from the Court. The Declaration rightly recalls the importance of ensuring effective procedures and mechanisms that enable

cooperation with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible. This is in line with Article 88 of the Statute.

) I encourage the reviewing or strengthening of implementation of domestic cooperation laws, procedures and policies.

) Raising awareness, maintaining dialogue with the Court, and mainstreaming the ICC specific mandate, legal framework and cooperation needs, are other important elements stipulated in the Declaration.

) My Office, in turn, will raise awareness where possible, and continue its efforts to conduct efficient and effective financial investigations within its mandate and means. This also implies instituting relevant trainings to better equip our investigators for this crucial work.

) We will continue to seek to expand our judicial cooperation networks including where possible national asset recovery offices or financial investigation units.

) We will also continue to push to enhance preliminary consultations and informal communication with such partners, as this too is crucial to enable an open dialogue where consultations may take place before a formal request for cooperation is sent, and within the relevant legal framework, in order to maximise its potential success.

Excellencies,

Ladies and Gentlemen,

) Victims and affected communities who suffered the scourge of war are those who ultimately bear the brunt of impunity. Effective financial investigations are not a panacea, but if they can contribute to the investigation and prosecution of atrocity crimes and to materialising a reparations order by a Chamber of the ICC, then that is an area that surely deserves greater attention and investment.

) The UN Secretary General said it right at the opening of this ASP when he stated: “the strength of the Court depends on the support it gets from you, the States Parties.” Indeed, without it, the entire judicial machinery of the Court is frustrated or held in abeyance.

) Let us therefore continue to work together and redouble our efforts to make that support meaningful, tangible and practical.

) As we approach the 20th anniversary of the Rome Statute, it is not only timely but a collective responsibility to revisit the cooperation landscape of the Court since its inception.

) The need for greater UN Security Council support for the work of the Court, to a stronger commitment by States Parties to arrest and surrender ICC suspects and a more holistic, coordinated and effective approach to financial investigations, are just a few areas where greater reflection on cooperation is required.

) I am confident that as we embark on the third decade since the adoption of the Rome Statute, we will do so building on what has been achieved thus far in terms of cooperation, looking for ways to fill identified gaps and further strengthen the cooperation needs of the Court so that it can continue to deliver on its mandate, ever more effectively and efficiently.

) Thank you for your attention. | отг