

2016 Report of the Advisory Committee on Legal Texts
Issued Pursuant to Rule 16 of the Rules of Procedure of the ACLT

1. In view of the requirement in rule 16 of the Rules of Procedure of the Advisory Committee on Legal Texts (hereinafter “ACLT Rules”) that the Advisory Committee on Legal Texts (“ACLT”) shall produce an annual report summarising its activities for the previous year, which shall be made publicly available, this present report summarises the activities of the ACLT in 2016.

A. Composition of the ACLT

2. During 2016, the ACLT was composed of:
 - **Judge Chile Eboe-Osuji**, a judge in the Trial Division (Chairperson);
 - **Judge Christine Van den Wyngaert**, a judge in the Appeals Division;
 - **Judge Marc Perrin de Brichambaut**, a judge in the Pre-Trial Division;
 - **Thomas Henquet**, representative from the Registry;
 - **Fabricio Guariglia**, representative from the Office of the Prosecutor;
 - **Yaré Fall**, representative of counsel included in the list of counsel.

B. ACLT Meetings and Activities

3. Pursuant to regulation 4(2) of the Regulations of the Court (hereinafter all references to regulations are to the Regulations of the Court), the ACLT is required to “meet at least twice a year and at any time at the request of the Presidency”. In 2016, the ACLT held meetings on 6 June 2016 and 25 August 2016. At these meetings, the ACLT discussed a number of amendment proposals, as well as various procedural matters which arose on an *ad hoc* basis. As the representative of counsel from the list of counsel was not based in The Hague, he participated in ACLT meetings in 2016 by way of telephone conference call.



4. At its meeting on 6 June 2016, the ACLT discussed a number of proposals for amendment to the Regulations which concerned a range of technical matters, such as page and time limits, as well as various other procedural issues. The ACLT carried out its work on these amendment proposals both by way of exchanges of views in the meeting referred to above and through written correspondence and proposed redrafts of the provisions.
5. On 24 October 2016, the ACLT transmitted its recommendations to amend seven regulations, regulations 20, 24, 33, 34, 36, 38 and 44 to the judges of the Court, pursuant to regulation 4(4) and rule 14 of ACLT Rules. On 6 December 2016, a plenary session of judges adopted the following amendments to the Regulations, in line with the recommendations of the ACLT.

| <u>Regulation 20(2)</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| 2. When a Chamber orders that certain hearings be held in closed session, the Chamber shall make public the reasons for such an order. | 2. When a Chamber orders that certain hearings be held in closed or private session, the Chamber shall make public the reasons for such an order. |

| <u>Regulation 24(5)</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| 5. Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. | 5. Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated. |



| <u>Regulation 33(1)(d)</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| (d) Documents shall be filed with the Registry, at the latest, on the first working day of the Court following expiry of the time limit | (d) Documents shall be filed with the Registry, at the latest, by 4pm on the first working day of the Court following expiry of the time limit |

| <u>Regulation 34(b)-(c)</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| (b) A response referred to in regulation 24 shall be filed within 21 days of notification in accordance with regulation 31 of the document to which the participant is responding; (c) Subject to leave being granted by a Chamber in accordance with regulation 24, sub-regulation 5, a reply shall be filed within ten days of notification in accordance with regulation 31 of the response. | (b) A response referred to in regulation 24 shall be filed within 2110 days of notification in accordance with regulation 31 of the document to which the participant is responding; (c) Subject to leave being granted by a Chamber in accordance with regulation 24, sub-regulation 5, a A request for leave to reply shall be filed within ten three days of notification in accordance with regulation 31 of the response. The participants may respond to the request for leave to reply within two days. A Chamber may grant the request to file a reply within such time as it may specify in its order. |



| <u>Regulation 36</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| <p>Format of documents and calculation of page limits</p> <p>1. Headings, footnotes and quotations shall be counted in calculating the page limits.</p> <p>2. The following shall not be counted in calculating the page limits:</p> <p>(a) Any addendum containing verbatim quotations of the Statute, Rules or these Regulations;</p> <p>(b) Any appendix containing references, authorities, copies from the record, exhibits and other relevant, non-argumentative material. An appendix shall not contain submissions.</p> <p>3. All documents shall be submitted on A4 format. Margins shall be at least 2.5 centimetres on all four sides. All documents that are filed shall be paginated, including the cover sheet. The typeface of all documents shall be 12 point with 1.5 line spacing for the text and 10 point with single spacing for footnotes. An average page shall not exceed 300 words.</p> | <p>Format of documents and calculation of page limits</p> <p>1. Headings, footnotes and quotations shall be counted in calculating the page limits.</p> <p>2. The following shall not be counted in calculating the page limits:</p> <p>(a) Any addendum containing verbatim quotations of the Statute, Rules or these Regulations;</p> <p>(b) Any appendix containing references, authorities, copies from the record, exhibits and other relevant, non-argumentative material. An appendix shall not contain submissions;</p> <p>(c) The cover page and the notification page.</p> <p>3. All documents shall be submitted on A4 format. Margins shall be at least 2.5 centimetres on all four sides. All documents that are filed shall be paginated, including the cover sheet. The font shall be any of the following: Palatino Linotype, Times New Roman, Century Schoolbook, Bookman Old Style, Cambria, Georgia or Courier. The typeface of all documents shall be 12 point with 1.5 line spacing for the text and 10 point with single spacing for footnotes. An average page shall not exceed 300 words. No substantial submissions may be placed in the footnotes of a document.</p> |

| <u>Regulation 38</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| <p>1. Unless otherwise ordered by the Chamber, the page limit shall not exceed 100 pages for the following documents and responses thereto, if any:</p> <p>(a) A request under article 57, paragraph 3(d), and rule 115, sub-rule 1, and the views submitted by the State Party as referred to in those provisions;</p> <p>(b) The application of the Prosecutor for authorisation of the investigation under article 18, paragraph 2;</p> <p>(c) Challenges to the admissibility or jurisdiction</p> | <p>1. Unless otherwise ordered by the Chamber, the page limit shall not exceed 120 pages for the following documents and responses thereto, if any:</p> <p>(a) A pre-trial brief;</p> <p>(b) A trial brief;</p> <p>(c) A closing brief.</p> <p>2. Unless otherwise ordered by the Chamber, the page limit shall not exceed 100 60 pages for the following documents and responses thereto,</p> |



of the Court under article 19, paragraph 2;

(d) Requests by the State Party or the Security Council under article 53, paragraph 3 (a), to the Pre-Trial Chamber to reconsider a decision of the Prosecutor under article 53, paragraphs 1 and 2;

(e) The request for authorisation of an investigation under article 15, paragraph 3, and rule 50, sub-rule 2;

(f) Representations under article 75.

2. Unless otherwise ordered by the Chamber, the page limit shall not exceed 50 pages for the following documents and responses thereto, if any:

(a) Representations made by victims to the Pre-Trial Chamber under article 15, paragraph 3, and rule 50, sub-rule 3;

(b) Requests by the Prosecutor for a ruling regarding questions of jurisdiction or admissibility under article 19, paragraph 3;

(c) Requests by the Prosecutor to the Pre-Trial Chamber under article 18, paragraph 6, or article 19, paragraph 8;

(d) A document of the Prosecutor under article 56, paragraph 1 (a), containing the information that a unique investigative opportunity has arisen;

(e) A request by any participant to the Pre-Trial Chamber to take specific measures or to issue orders and warrants or to seek State cooperation;

(f) A request under rule 173 for compensation.

if any:

(a) A request under article 57, paragraph 3(d), and rule 115, sub-rule 1, and the views submitted by the State Party as referred to in those provisions;

(b) The application of the Prosecutor for authorisation of the investigation under article 18, paragraph 2;

(c) Challenges to the admissibility or jurisdiction of the Court under article 19, paragraph 2;

(d) Requests by the State Party or the Security Council under article 53, paragraph 3 (a), to the Pre-Trial Chamber to reconsider a decision of the Prosecutor under article 53, paragraphs 1 and 2;

(e) The request for authorisation of an investigation under article 15, paragraph 3, and rule 50, sub-rule 2;

(f) Representations under article 75

(g) Applications by the Prosecutor to the Pre-Trial Chamber under article 58;

(h) A pre-confirmation list of evidence under rule 121, sub-rule 3 or as ordered by the Chamber;

(i) A pre-trial list of evidence.

23. Unless otherwise ordered by the Chamber, the page limit shall not exceed 50 30 pages for the following documents and responses thereto, if any:

(a) Representations made by victims to the Pre-Trial Chamber under article 15, paragraph 3, and rule 50, sub-rule 3;

(b) Requests by the Prosecutor for a ruling regarding questions of jurisdiction or admissibility under article 19, paragraph 3;

(c) Requests by the Prosecutor to the Pre-Trial Chamber under article 18, paragraph 6, or article 19, paragraph 8;

(d) A document of the Prosecutor under article 56, paragraph 1 (a), containing the information that a unique investigative opportunity has arisen;

(e) A request by any participant to the Pre-Trial Chamber to take specific measures or to issue orders and warrants or to seek State



cooperation;
(f) A request under rule 173 for compensation;
(g) A description of the charges by the
Prosecutor under rule 121, sub-rule 3.

| <u>Regulation 44(1)</u> | |
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| <u>Current</u> | <u>Amendment Proposal</u> |
| <p>1. The Registrar shall create and maintain a list of experts accessible at all times to all organs of the Court and to all participants. Experts shall be included on such a list following an appropriate indication of expertise in the relevant field. A person may seek review by the Presidency of a negative decision of the Registrar.</p> | <p>1. The Registrar shall create and maintain a list of experts accessible at all times to all organs of the Court and to all participants. Experts shall be included on such a list following an appropriate indication of expertise in the relevant field. A person may seek review by the Presidency of a negative decision of the Registrar. The Chamber has discretion to allow the introduction of expert evidence from persons who are not on the list of experts.</p> |

6. At its meeting of 25 August 2016, the ACLT discussed a separate proposal received in April 2016. This proposal currently remains under discussion before the ACLT. Accordingly, pursuant to rule 8 of the ACLT Rules, it remains confidential at this stage.

7. Apart from the foregoing, the ACLT neither received nor considered further amendment proposals in 2016.