



**International Criminal Court Bar Association
Association du Barreau près la Cour pénale internationale**

ANNUAL REPORT OF THE LEGAL ADVISORY COMMITTEE OF THE ICCBA-ABCPI, JUNE 2017

I am pleased to provide the following report of the activities of the Legal Advisory Committee of the ICCBA-ABCPI

1. How often the committee met and whether the meetings were face to face meetings

The Legal Advisory Committee, whose members reside in different continents, met regularly by Skype video conference. The committee met on 18 July, 3 August, 20 September, 4 October, 24 October, 4 November, 15 February 2017, 14 March 2017, 11 April, 2 June 2017.

2. The extent to which your committees had contact with members

We sought comment on our memorandum regarding Article 108 from the Defence Committee. No comments were received.

3. A summary of decisions taken and work done

The Legal Advisory Committee has been very active and proactive. The activities of the Legal Advisory Committee over the past year have included the following:

- The Chair of the Legal Advisory Committee contacted the Advisory Committee on Legal Texts on 3 August 2016 to request that a representative of the Legal Advisory Committee be permitted to attend ACLT meetings alongside the representative of Counsel. This was refused on 17 August – the response read “In light of the views received and having reflected on your request, I much regret to inform you that I decline your request at this time. The reason for my decision is that your stated need to attend ACLT proceedings has already been addressed by the provisions of regulation 4(1)(d) of the Court’s Regulations, which provides for the participation of a representative of counsel on the Court’s roll. That being the case, your participation would be made redundant by the pre-existing participation of Mr Fall who is the representative of listed counsel.”
- On 5 August, 2016 and at the invitation of the representative of listed counsel on the ACLT, Yare Fall, the Legal Advisory Committee provided observations on a 28 June 2016 ACLT document titled “Proposals for Amendments to the Regulations”. The Legal Advisory Committee provided a detailed response to the 28 June 2016 Proposals.
- On 23 November, 2016 the Chair of the Legal Advisory Committee attended the ICCBA-ABCPI side event at the Assembly of States Parties on in The Hague

- On 7 February, 2017 the Legal Advisory Committee provided observations on certain draft proposals which, according to the 2016 ACLT annual report, remain confidential because they are still under discussion. However, it would appear from an ACLT email dated 9 February that it is proposed that certain of the Legal Advisory Committee's proposals be adopted.
- Following certain comments made by the Appeals Chamber in the Katanga case noting that it may be appropriate to amend the Rome Statute to introduce a right of appeal against decisions under Art. 108 (see ICC-01/04-01/07-3697), the Legal Advisory Committee prepared a draft paper outlining proposed amendments to Article 108. This was sent to the Defence Committee for comment on 26 January. No comments have been received as of yet. The proposal was sent to the Executive Council on 16 February with the suggestion it be discussed at the next EC meeting on 23 Feb. To our knowledge it has yet to be discussed. We are following up with both Committees.
- We are currently working on proposed amendments to Rule 165 as to who may initiate investigations into offences against the administration of justice. Currently, only the Prosecutor may take this step. It is proposed that an *amicus* prosecutor appointed by the Chamber also be accorded this right in addition to the Prosecutor.
- The Legal Advisory Committee conducted a review of the ICCBA constitution in March 2017. Some of the proposed amendments have been submitted to the General Assembly for discussion at the upcoming AGM on 30 June 2017.

Trusting that this Annual Report meets with approval,

I remain,

David P. Jacobs, Chair,
On behalf of the
Legal Advisory Committee, ICCBA-ABCPI
June 2017