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Twelfth Diplomatic Briefing of the International Criminal Court

Compilation of Statements

The Hague, 18 March 2008

Philippe Kirsch, President

Excellencies, Ladies and Gentlemen,

Welcome to the twelth diplomatic briefing organised by the International Criminal Court. I should also mention that His Excellency Ambassador Christian Wenaweser, President elect of the Assembly of States Parties, is with us today. It is an honour to welcome you to the Seat of the Court, Your Excellency.

The Court is always delighted to be able enter into direct dialogue with State representatives. We greatly appreciate these meetings.

As you are undoubtedly already know, very recently, last Friday, 14 March, the Government of Madagascar deposited its instrument of ratification of the Rome Statute, which will enter into force for that country on 1 June, bringing the total number of States Parties to 106.

I will begin with an overview of recent achievements in judicial activities and will briefly address the organisational changes which recently came into effect. I will then give the floor to the Prosecutor and the Registrar who will explain the latest developments in the organs for which they are responsible. Lastly, the Director of the Secretariat of the Assembly of States Parties will inform you about the Assembly's recent activities. Following these presentations, we will be happy to take questions. As always, we will have the opportunity to meet in a less formal setting at the end of this meeting.

In recent months, considerable progress was made in the Court's judicial activities. In the situation in the Democratic Republic of the Congo, Mathieu Ngudjolo Chui was arrested on 6 February and transferred to The Hague the following day. He faces charges of crimes against humanity and war crimes, in particular murder, inhumane acts, sexual slavery, pillage, wilful killing and the enlistment of children under the age of 15 to use them to participate actively in hostilities. Pre-Trial Chamber I recently decided to join the Mathieu Ngudjolo case to that of Germain Katanga who was transferred to the Court last October and who faces almost identical charges for alleged crimes committed during the same attack. The joint confirmation hearing has been scheduled for 21 May.

In the Thomas Lubanga Dyilo case, Trial Chamber I announced last week that the trial would start on 23 June. In recent months, the Court continued its preparations for the commencement of the trial. It considered issues such as the procedures to be adopted for instructing expert witnesses and other issues relating to disclosure of evidence and arrangements for victim participation in Court proceedings. The Trial Chamber also discussed the status of evidence heard by the Pre-Trial Chambers and of decisions taken by the latter. Moreover, the Chamber and the Registry evaluated the feasibility of an in situ trial in the Democratic Republic of the Congo. The Registrar will address this matter in greater detail.

In the situation in Uganda, the four arrest warrants issued by the Court are yet to be executed, as are the requests for arrest and surrender. In December 2007, Pre-Trial Chamber II held a status conference to assess the status of cooperation with the Court by the relevant States and the UN for the execution of the warrants of arrest and of the requests for arrest and surrender. Proceedings pertaining to victims' applications for participation are also ongoing. In late February, Pre-Trial Chamber II requested information from the Republic of Uganda on the possible effects on the arrest warrants of the Agreement on Accountability and Reconciliation and the annexure thereto concluded by the Government of Uganda and the Lord's Resistance Army (LRA) on 29 June 2007 and 19 February 2008, respectively. As you are aware, the ICC is a court and

was not involved at all in in the peace negotiations. The Court can only be seized of issues which require judicial determination and this has not occurred to date.

In the situation in Darfur, the two arrest warrants issued in late April for Ahmad Harun and Ali Kushayb for crimes against humanity and war crimes have yet to be executed. They demonstrate that progress in the Court's activities is indeed contingent on continuous cooperation. Despite this, proceedings pertaining to this situation continued with victim participation.

In the Central African Republic, the Prosecutor's investigations are ongoing and outreach activities have been launched. The Prosecutor will inform you in greater detail of his latest activities in that country.

While the proceedings in each of the situations and cases are at different stages in the evolution of the judicial process - from investigations in CAR, through to preparations for trial in the case of Thomas Lubanga - there are certain issues which recur across most of the different situations and which have had early implications on our work.

First, the question of victim participation creates several challenges . Some are practical challenges related to the fact that the Court operates in situations of ongoing conflicts. Given this instability, it is difficult to reach large numbers of victims, and to ensure that they know how to participate in proceedings before the Court. Victims require support and assistance at all levels, and protection and security are main concerns. Many of these issues fall within the responsibility of the Registry which provides assistance to victims and witnesses.

Victim participation also involves legal challenges. The Statute and the instruments of the Court provide basic rules, but the Chambers have had to supplement these provisions in their rulings. Several legal questions have come before the Chambers which are related to victim participation. For example, they have considered the stage at which victims can participate in proceedings before the Court; whether victims who have been granted the right to participate at one stage of proceedings can automatically participate in subsequent phases as well; and how the Court can safeguard the safety and well-being of victims who have been granted the right to particpate in proceedings.

The system of disclosure of evidence and the need to both safeguard the rights of the defence and to consider issues of protection is yet another complex issue under review. It is true that disclosure and confidentiality concerns are common to all legal systems. Yet because the ICC operates in situations where conflicts are ongoing, the need to consider how disclosure of information can impact on communities in the affected areas becomes all the more important. On the one hand, the Court must safeguard the right of the accused to make full answer and defence. On the other hand, it must ensure that the safety and security of victims, witnesses and other affected parties are not compromised. These safety considerations often require protective measures such as redactions and increased confidentiality levels. Our ongoing judicial interpretations will help to clarify how this balance can be achieved in practice.

Many aspects of these complex questions are currently pending before the Appeals Chamber and for that reason I cannot elaborate in detail. Resolution of these issues requires careful, reasoned determinations by the Chamber. This process necessarily takes some time, particularly at this early stage in the life of the Court's jurisprudence. Yet over time, as the Court's caselaw continues to develop, clarification of provisions through these rulings will lead to increased consolidation of practice and resulting efficiency.

Before turning the floor over to the Prosecutor, I would like to briefly recall some of the institutional changes that have occurred over the past few months.

At its last session in December, the Assembly of States Parties elected three new judges . Judge Daniel David Ntanda Nsereko of Uganda, Judge Fumiko Saiga from Japan and Judge Bruno Cotte from France were sworn in at the seat of the Court on the 17th of January. They have been assigned to judicial divisions and are appointed to start serving on a full-time basis by 1 June 2008.

During their last plenary meeting from 25 to 28 February, all 18 judges of the Court elected a new Registrar. The judges held interviews with all nine candidates for the post, and at the end of the process elected Ms. Silvana Arbia of Italy as Registrar for a five-year term. The election was by secret ballot. Ms. Arbia is currently Chief of Prosecutions at the International Criminal Tribunal for Rwanda. Ms Arbia succeeds our current Registrar, Mr Bruno Cathala, who resigned effective 9 April 2008. As this is Mr. Cathala's last diplomatic briefing, I would like to recognise his hard work and thank him for his many efforts and dedication to building the ICC. It has been a privilege and a great pleasure to work with Mr. Cathala over the past five years during this historic time in the Court's growth and development.

As for the position of Deputy Registrar, judges of the Court will proceed with the election of the Deputy Registrar at a future plenary meeting. The date of this meeting has yet to be determined.

I would now like to hand the floor over to the Prosecutor.

Luis Moreno-Ocampo, Prosecutor/Le Procureur

Excellencies, Ladies and Gentlemen,

Since our last meeting in October 2007, our interaction has been sustained at all levels: in the field, here in The Hague, and also in New York. I would like to highlight the support you generated for the work of the Court on Darfur by attending the Security Council meeting of 5 December in New York, as it coincided with the meeting of the Assembly of States Parties (ASP).

It has been a key moment. It demonstrated how strong we are when we work together while respecting our different identities. It was only a moment in time; it is clear that more efforts will be needed by all of us to transform such a moment into concrete and continued support to the Court. But we had a glimpse of the potential strength of international justice. It was a message that the ASP, the NGOs and the Court gave to the Security Council. It was also a strong message to perpetrators and potential perpetrators of crimes, showing that the Court enjoys wide support. It was a strong message of commitment to the victims.

Since October 2007, I visited Colombia to meet with victims, judges, prosecutors and national authorities. We announced the beginning of the second and third investigations in Darfur during our meeting at the Security Council. We secured the arrest of Mathieu Ngudjolo in the DRC. I travelled to the Central African Republic to meet with victims. We are preparing the beginning of the Lubanga trial and the confirmation hearing of our second DRC case.

Today, I will present an update of our cases and analysis activities. I will also, in response to requests by States to be very specific on the types of cooperation we look for, describe in each case the support we need and how the support you give is making a difference. A recurring concern in most situations under investigation or analysis is the need for States Parties to consistently maintain the commitment taken in Rome to end impunity. I feel that such commitment needs to be particularly borne in mind in the context of any conflict management initiative.

1. - Let me update you on the cases.

The Situation in the Democratic Republic of the Congo (DRC)

For the last four years we have been conducting investigations in the DRC as a conflict was ongoing. With the support of VWU we managed to minimize the risk for our witnesses. To-date no OTP witnesses have been wounded or killed. The Court fulfilled its duty of protection established in art 68 (1) of the Statute.

No we are facing a new challenge. We are conducting trials and confirmation hearings. Although conflict is still ongoing and protection needed, confidentiality is no more an option. We have the duty to disclose the identity of each witness to the accused. The defence has to check and challenge the credibility of our witnesses.

All the witnesses living in the Ituri region are at risk. Members of the armed groups such as UPC and FNI are still active and influential in this region and pose both a general and very tangible threat to our witnesses and their families and dependants as soon as their identities or their testimonies are disclosed.

Each one of them has to be protected. The Prosecution foresaw this problem early on. Our policy of focussed investigations was established to reduce the number of witnesses to a minimum. We have 34 witnesses for the entire Lubanga case. The standards of protection were approved in the Strategic Plan of the Court. All foreseeable risks should be eliminated. This is my duty pursuant to the Statute.

But the Statute developed a system of protection which relies for the implementation of protective measures on an independent unit within the Registry. How to harmonize positions when there is a different appreciation between the OTP and the Registry? In such case who is responsible for the implementation of measures required to protect witnesses? Those are essential issues.

If the Prosecution's witnesses are not protected, the Prosecution can not fulfil its role. My position is clear: the OTP will help to establish provisional measures of protection, but can not replace or duplicate VWU. This is why the discussions in both Chambers on how the protection system of the Court works are so important.

- In the Thomas Lubanga Dyilo case, the Prosecution is confident that we have all the evidence required. Proving the case is of course my responsibility. But maximizing the impact of the case can be a common task of the Court and States Parties. Any ruling in the case will be important for the prevention of child recruitment in the DRC, Colombia and other countries. Any ruling will be a message that transforming children in soldiers is a crime, a crime that will be prosecuted. The Amicus curiae by Radika Coomaraswamy, Special representative of the Secretary General on children in armed conflicts, that was just submitted is already an important document in this regard.

This first trial is also an opportunity to demonstrate to all perpetrators and potential perpetrators of crimes within the jurisdiction of the Court that the ICC is operational, not a vague threat any longer, but a very direct one. Your suggestions on how to maximize the impact of the first trial of the ICC would be very helpful.

- With the arrest and transfer of Mathieu Ngudjolo, my Office has completed a first phase of its DRC investigation, focusing in two cases on crimes committed by leaders of armed groups in Ituri since July 2002. We are now moving on to another investigation, with other applications for arrest warrants to follow in the coming months and years.

Different options are being analyzed about our third and possibly fourth case. Among others, there are reports of sexual violence of shocking brutality, of forced displacements, of killings in the Kivus, committed by the regular soldiers of the DRC, by the FDLR and by Laurent Nkunda's forces. We held a meeting at the seat of the Court on the 13th of March with international and local NGOs to consider the available information; I also met with the High Commissioner for Human rights Louise Arbour last week. The extent of the violence but also its dispersion, which makes it difficult to define the most responsible, was commented upon by all. Other options for investigation include the case of high officials in the region who have financed and organized militias.

<u>Cooperation needed</u>

- First, political support: I wish to emphasize as the President did the particular significance of the arrest of Mathieu Ngudjolo. While Thomas Lubanga Dyilo and Germain Katanga were already in detention in the DRC before their surrender to the Court, Mathieu Ngudjolo was a free man; a man who was part of the demobilization process and a man who had benefited from an amnesty in the

past. He was a Colonel in the Congolese army. This was basically the first real arrest for the Court, and it was performed with the cooperation of the DRC authorities, the UN and Belgium.

- I was disturbed however to receive information that some members of the diplomatic community in Kinshasa , including State Parties and the UN, were expressing the view that this arrest would break down the DDR process or rekindle conflict in Ituri. This, coming from States Parties, is a confusing message sent to the territorial State; there might be requests for cooperation in the future which may be even more complex. There must be a more consistent approach by diplomatic representations that requests for assistance and decisions of the Court have to be executed.

- It is also important that we fight this perception that ICC intervention is doomed to prolong conflict and create more violence. It is not true in the DRC, it is not true in Uganda, and it is not true in Darfur.

- Finally, I draw your attention to the fact that, given the developments in Uganda and the sense that the international community seems willing to negotiate away international justice, Nkunda and others are now questioning the Goma agreement which excludes any amnesty for crimes within the jurisdiction of the Court. We ask that your authorities take any occasion to reaffirm in relation to the DRC situation that the commitment to end impunity is not negotiable. It is the law. Please inform my Office of any such statement.

The Situation in Northern Uganda

The Court has issued its first arrest warrants against Joseph Kony and other LRA commanders in 2005. Those arrest warrants remain in effect and have to be executed. Joseph Kony and his fellow commanders committed unspeakable crimes. Evidence shows their criminal responsibility for thousands of killings and abductions since July 2002. Joseph Kony transformed children into killers and sex slaves. Joseph Kony forced them to kill their parents and brothers. Joseph Kony attacked boarding schools, abducting not one or ten but all the schoolgirls to offer them as rewards to LRA officers. Joseph Kony slaughtered and terrorized the population of Northern Uganda forcing 1.6 millions into camps for displaced persons.

In the course of our investigation, we also collected information on its strategy to use crimes to get international attention: he attacked camps and killed what he considered a sufficient number of people to get attention. Incredibly he succeeded. Joseph Kony, the first indictee of the ICC, has managed to be portrayed as a man looking for peace. Joseph Kony has received money and food, resources that he has used to enlarge and strengthen his group. In exchange for his crimes and his refusal to surrender and free the abductees, Joseph Kony receives an offer to sign an agreement that does not mention the arrest warrants and contains a promise of a deferral of investigations under article 16.

Joseph Kony is covering up his crimes. And he is winning. My Office has been approached by top international negotiators in Juba to actually discuss how to withdraw the arrest warrant with a LRA delegation. I confirm that I will only meet Joseph Kony's lawyers in Court. I have a strong case, an admissible case.

In accordance with the Statute I have to investigate and prosecute crimes in order to contribute to the prevention of future crimes. I am concerned at deliberate efforts to deny the reality of past, present and future crimes committed by Joseph Kony. The LRA is continuing to commit crimes: no children have been released; no sexual slaves have been freed as noted by UNICEF and the UN Special Representative of the Secretary General on children in armed conflicts.

Denial of past and present crimes is a major concern. My Office has been told informally by international authorities that now was not the moment to probe further into allegations of crimes committed by the LRA in DRC, Southern Sudan and CAR, that 'at this sensitive juncture of the Juba talks it was better not to publicize such information". I cannot be part of this. The international community has to conduct conflict management initiatives, but none of us should deny reality. We have to respect the facts and the law.

In terms of investigations, we are in the process of confirming judicially, through interviews with defectors, that Joseph Kony killed Vincent Otti ; that money and goods delivered for humanitarian purposes reached him and allowed him to plan further crimes ; that the LRA is moving to Central Africa Republic.

There is a lot to do to end violence in Northern Uganda. Offering Joseph Kony an exit strategy, or immunity under one form or another is not the way.

Cooperation needed:

- Joseph Kony and the other indicted commanders have re-gained credibility in the past weeks. We ask all States Parties to contribute to their re-marginalization and to use all public occasions to recall that those individuals are responsible for horrific crimes.
- Joseph Kony and the three other indicted commanders still have access to financials means from the diasporas or from diversion of assistance. We ask States Parties to monitor with utmost vigilance supply networks, possible diversion of aid and funds to the benefit of the sought individuals. It must be recalled that any assistance that can help the sought individuals abscond from the Court would be illegal.
- We ask all States Parties to support collaborative efforts between the DRC, Uganda and others to address the issue of arrests; we hope that the support of MONUC will remain forthcoming.

The Situation in the Central African Republic (CAR)

My Office's investigation is continuing to focus on the most serious crimes, which were mainly committed during a peak of violence in 2002-2003. As the President indicated, I travelled to Bangui on 7 February 2008. During my visit, I was able to speak with victims, representatives of civil society and local population to answer questions.

We hope to submit an application to the Judges during the current year. However our investigation is delayed at the moment by the absence of answers to requests for cooperation made in June of 2007.

In terms of present crimes, it seems that no proceedings have been initiated; I insisted with President Bozizé during my recent visit that such proceedings had to be initiated. Philip Alston, the UN special rapporteur on summary executions who travelled to Bangui at the same time as myself, did the same. It is important that all States Parties with an Embassy in CAR (Chad, Congo, the DRC, France, Japan, and Nigeria) seize the opportunity of any meeting with President Bozizé or his Ministers of Justice and Defence to stress this imperative.

The Situation in Darfur, the Sudan

As I informed the UN Security Council and the ASP in December, the Sudan is not cooperating with the Court. We also announced two new investigations. The first investigation looks into who is bearing the greatest responsibility for ongoing attacks against civilians; who is maintaining Harun in a position to

commit crimes; and who is instructing him. The second investigation concerns allegations of rebel attacks against peacekeepers. We will issue our first application to the Judges this year.

We will report again to the UNSC in the first week of June. I understand there might be another coincidence of dates with the resumed ASP and hope to see again a number of delegations in the room.

We are conducting a number of activities in Chad and other countries of the region. In the case of Chad, the main challenges faced by our operations are related to security both for our witnesses and our staff. The Court has engaged with the EU and the UN to request assistance from the UN Mission MINURCAT and the European Union Operation EUFOR.

In order to explain our activities, prepare for the presentation of the next report to the UNSC and foster support for the arrest of A. Harun, I have travelled to a number of the Sudan' neighboring countries or partners : Qatar, Egypt including a meeting with the Arab League, Jordan. I will be visiting Indonesia, a member of the UNSC and Saudi Arabia shortly. It is part of my mandate to improve efficiency and show our impartiality. I emphasize the efforts by all the countries concerned to follow up on the visits, to inform me of conversations with envoys sent by Khartum on this issue, or other high level conversations. Though Harun is still in the Sudan, the attitude of those States, mostly non States Parties, is a mark of respect for the Court as an institution. We have also ensured that no negative message on the ICC would be adopted in forthcoming regional meetings.

Cooperation needed:

- Our principal objective is to make sure that the issue of enforcement of the arrest warrants is not put off the agenda of relevant international meetings. In particular, I will travel to NY this week and insist that the arrest warrants should be on the agenda of the UNSC trip to Khartoum in May or June. Those of you members of the UNSC can help in this regard.

- We also still need more States to raise the issue of the arrest warrants with Khartum. Only one State Party has informed us of such bilateral exchange since December. I am grateful for the effort but others must join as the Sudanese authorities must get a sense of a strong and consistent message from the international community. We are also looking forward to close cooperation with the Slovenian presidency of the EU.

- Finally, RFAs on the tracing of Harun and on his activities within the Sudan have been and will be sent. I urge States Parties to give them their utmost attention and to contact my Office should they have questions.

2. – Let me now turn to our analysis activities.

Based on Article 15, my Office proactively collects information about alleged crimes falling under the Court jurisdiction. Currently we are analysing situations on three continents. Let me mention those that were or that we have decided to make public.

Regarding Cote D'Ivoire, the authorities have not taken appropriate steps to facilitate an OTP mission despite repeated requests. We urge all States Parties to put this issue on the agenda of any bilateral meeting with CDI. No State party has ever informed us that it had done so

In Colombia, the purpose of the October mission was to receive information to assist the evaluation of ongoing national proceedings against those most responsible for crimes – whether members of the FARC, the paramilitary or others - that fall within the jurisdiction of the ICC. The Office but also a number of non governmental actors and UNICRI are following up on our visit.

Regarding Kenya, following allegations of killings and displacements,I have sought further information under article 15 (2) from a range of institutions in the country. I have also met with former Secretary General Kofi Annan

Finally, the Office has decided to make public its analysis activities in Afghanistan. Letters under article 15 (2) will be sent to the Government and other actors.

All these steps are taken in the course of our examination of situations under Article 15. We are trying to be as informative as possible. But no decision to open an investigation has been taken and there should be no presumption that such an investigation will be opened.

Conclusion

In conclusion, let me join the President in recognizing the work of the Registrar Bruno Cathala. After 5 years Bruno is going back to France to be the President of the Evry tribunal. He will be a judge again. We are losing a man with a passion for this Court, with a vision for this Court. What will remain however is a strong legacy.

His legacy include the system of legal aid, the structure for victims participation, an electronic court, the project for permanent premises and a building that will be a symbol of justice for different communities. Without Bruno Cathala, we would not have a detention centre that is quoted as a model. He contributed to building the identity of the Court as an independent, impartial and participatory ICC. I will miss him. But his departure will also show the strength of his legacy; it will show that the institution he built is bigger than its members, even its founding members. Bruno's efforts will endure.

I want to thank him on behalf of the OTP and its staff. Thank you.

Bruno Cathala, Registrar

Mr President,
Excellencies,

It is now my turn to extend, if I may, a warm welcome to members of the diplomatic corps to this first briefing session of the year. As it will be the last one in which I will participate, I would like to share a few of my thoughts with you on the quality of justice rendered by the International Criminal Court.

My seventh year of service to international justice also marks the end of an almost five and a half year journey at the ICC. I feel very honoured and privileged to have been asked to bring to fruition a long-standing, powerful idea: the creation of an international criminal court.

The challenge was two-fold. It consisted of not only creating an institution which would end the most heinous crimes of concern to the entire international community but also setting up an international organisation, that is an administration, capable of supporting an international court to render quality justice.

We are, I believe, on the right track.

Given its position among the various organs of the Court, one of the Registry's priorities has always been to ensure the quality of justice within the confines of the remit conferred upon it by the Rome Statute. May I remind you that quality of justice is the first of the objectives set by the Strategic Plan of the Court and remains our guiding principle in our daily work.

Today, I would like to dwell in some detail on one of the milestones set by the Registry in this area. To understand such a perspective, it must be borne in mind that the ICC is a young organisation, a unique piece of the international justice regime.

From the Registry's perspective, the concept of quality of justice can be viewed from three different perspectives:

a) that of an organisation delivering a public service;
b) that of an organisation serving to ensure a "fair trial"; and
c) that of an organisation able to support a complex symbolic institution.

a) An organisation delivering a public service

Public access to justice is vital to the proper functioning of a court. What should we do to ensure that criminal justice "produced" in The Hague can be understood by people thousands of kilometres from the Court? How can we incorporate this type of justice into a court which can be readily understood? What should we do to ensure that that people view as an integral part of their own legal system?

One of the answers has been to give a new dimension to the Court's communication with the various populations. To this end, an outreach strategy was developed and its ambitions set out in a document approved by the Assembly in 2006. This report remains relevant today.

Another response has been to set up field offices which provide a window onto the Court in the field. They constitute the tool *par excellence* for bringing the ICC closer to the populations affected by the crimes within its jurisdiction. We have set up and made operational five field offices in four different countries. Not only do these offices provide support to the Court staff in the field involved in various investigation, witness and victim protection, logistics and outreach activities but also liaise on a daily basis with national authorities and the ICC's partners such as the UN, NGOs, and of course, the local population.

Access to justice can also be understood in terms of the ability to consult and use documents and archives and therefore depends on the quality of the institution's facilities and organisational entities.

As far as document handling and processing is concerned, the Court, which emerged after the information revolution, decided from the outset to be an e-Court which relies predominantly on information technology. As a result, the Court has been able to provide digitized evidence at hearings, to store it electronically, to provide the various defence teams with secure on-line access to various documents, to enable its officials to access the information they need to improve and streamline resource management and lastly, to provide States Parties with accurate information on resource management.

The quality of an organisation such as the Court, which is called on to provide public services, also depends considerably on the quality of its facilities. With the Host State's assistance, temporary premises, originally designed for a private telephone company, were adapted to respond to the needs of a court, primarily by building two courtrooms in which hearings are taking place as we speak. I would like to express my gratitude to the Host State for its assistance in this regard. Our courtrooms are very well designed. The public galleries seat 150 persons and were full during the first appearances of Thomas Lubanga, Germain Katanga and Mathieu Ngudjolo, as well as Thomas Lubanga's confirmation hearing. A fully-equipped press room enables journalists to send their reports throughout the world making the hearings accessible to a wider audience. Moreover, since the Court came into existence, 16,000 people have had the opportunity to visit the ICC, to know more about the Court and see it "in action".

Public access to the Court can also be measured by the quality and reliability of the information provided. The Court's website is a virtual environment where it engages in dialogue with the public, informs people of the developments in cases and situations and on its daily activities in general. The site receives about 5,000 hits a day. 2007 saw a 233% increase in the number of visits to our site compared to 2004. It is also worth noting that public hearings are broadcast on the Court's site and have a wide audience on the internet.

We should soon be launching a new, more interactive and user-friendly version of the site.

Lastly, the Court's Detention Unit, an integral part of its facilities, is currently accommodating three detainees: Messrs Lubanga, Katanga and Ngudjolo. The ICRC regularly holds it up as an example to emulate.

b) An organisation serving a "fair trial"

As I mentioned in my introduction, quality of justice requires fair trials.

The fairness of a trial first depends on its stakeholders, particularly on the quality of the defence. We cannot define such a concept in isolation. This is why, since the inception of the Court, we have initiated a regular dialogue with the legal profession. We took inspiration from the views of representatives of the profession to

put in place operational working conditions for the Defence. With these experts we discussed issues as important as legal aid, counsel's access to the Court and to the field offices, the possibility for them to consult documents of interest from their offices via a secure internet connection and to take part in hearings via a video link where necessary, as well as creating a commissioner responsible for investigating counsel misconduct. In my opinion, the main, concrete components of equality of arms between the prosecution and the defence are in place. They remain to be refined in the development of a strategy for counsel. The Court is proud of its list of counsel authorised to practice before it. It is 235 strong (188 men and 47 women) and representative of various legal systems and 48 countries.

For the accused, as for the other participants in the proceedings, a fair trial further involves being able to use a language they understand. The Registry regularly translates documents for hearings into languages such as Acholi, Swahili, Lingala, etc. The complexity of such work should not be underestimated. For example, the translation into Acholi of the arrest warrants issued for the five leading commanders of the Lord's Resistance Army, involved coining new words and phrases with expert help since some of the legal terms in these documents had no equivalent in Acholi.

Another vital part of a fair trial is the opportunity for the defence and the prosecution to produce witnesses at hearings in support of their arguments. In this respect, witness protection is of fundamental importance. Once again, from the outset the Registry had to put together a "tool box" of various protective measures ranging from witness anonymity or facial distortion of the image of witnesses giving testimony, to their resettlement in the same country or abroad. The latter measure applies only to those witnesses most at risk. The Registry attempts to strike a delicate balance between protection and the burden of such protection with respect to the witnesses themselves, with respect to a fair trial and with respect to Court's budget. To date the Registry has succeeded in striking that balance. As the Prosecutor stated, until now we have succeeded in guaranteeing the safety of witnesses. This necessitates dialogue between the Registry and the Prosecutor and in the future, with the Defence, subject to supervision by the judges. I can tell you that this is an enormous responsibility for the Registry. The figures speak for themselves. In 2005, 7 persons were under the Court's protection programme, compared to 224 today (March 2008). There are currently more witnesses under protection at the Court than there have ever been at the ICTY since that tribunal was set up.

Lastly, I would like to express my gratitude to those governments which provided us with assistance in resettling particular witnesses and to those which have concluded witness resettlement agreements. There remains a lot to be done. We have already spoken today of the possibility of, for example, providing technical and financial assistance to countries, particularly African countries, that want to set up national witness protection schemes.

Nor can there be fair trials if they are not public. Considering the nature of the Court, one of our main and persistent concerns has been to close the gap between those who are not only waiting for justice to be done but also for it to be seen to be done. The appropriate response to this concern was the development of the outreach strategy of which I previously spoke. Since 2006, this plan has, for example, taken the form of 74 different activities in Uganda, such as workshops for informing the local population or the production of radio programmes or plays in which 15,365 people participated and which, according to our estimates, reached 4 million people via the media. In the Democratic Republic of the Congo, 75 activities of this type were carried out. The audience of the radio and television programmes was an estimated 20 million. I truly believe that outreach should be bolstered in future. The future of the Court and that of international justice as a whole are at stake.

Victim participation in the proceedings was a further innovation granted by the Statute. By giving the concept of legal representation real substance, we allowed 77 victims to participate in proceedings pertaining to the situation in the Democratic Republic of the Congo (4 in the Lubanga case), 2 in the situation in Uganda (6 in the Kony case) and 11 in the situation in Darfur, Sudan. We continue to develop victim-related strategies in light of the decisions rendered or to be rendered by the judges in this respect, whilst being aware of the remaining challenges.

I would now like to briefly address one of the most substantial projects recently undertaken by the Registry and which is intimately linked to the very concept of an open court: the desire to hold hearings in a State other than the Host State. As you may already know, the Registry was invited by the competent Chamber to carry out a feasibility study on holding hearings in the Democratic Republic of the Congo on the occasion of the commencement of Mr Lubanga's trial. This study meticulously examined each of the factors affecting the completion of such an undertaking such as the location of an appropriate site, security issues, proximity to the affected communities, the need to ensure broad media coverage of the trial, logistics and the daily implications of this operation on work at the seat of the Court. From the outset, it was obvious that this project had to be kept simple, primarily for financial reasons but also in view of the situation on the ground ("to blend into the local environment").

The feasibility study itself benefited from the constructive input of the UN, for which we are grateful. I would like to express my appreciation for the openness and receptiveness of various UN bodies (MONUC, the Department of Peacekeeping Operations and the Office of Legal Affairs).

It goes without saying that should the Court decide to sit in another country, the consent of the relevant Government would be required. In this respect, the Registry, consulting with the Presidency, took a number of steps to obtain the views of the DRC Government on this issue. As with other requests for cooperation from the Court, the Congolese Government responded quickly. Although the Government salutes the Court's work to bring justice closer to the Congolese people, it was unable to authorise the holding of such hearings at the location considered appropriate by the Court. Basically, the Government maintained that there was a risk of reawakening uncontrollable ethnic rivalries.

Even if this project has not come to fruition in the end, the planning of an *in situ* trial has enabled to Court to gain a greater understanding of the stakes of such a venture. We were able to prepare a document that will facilitate the organisation of similar hearings in future. The Court remains ready to follow up on its commitment to examine the feasibility of an *in situ* trial if this is consistent with the interests of justice.

c) An organisation able to sustain a complex symbolic institution

Rendering justice in a society is not merely a function like any other.

For example, it runs at its own pace, which is neither that of politics, nor the frantic pace of the media. Judges render decisions depending on the timing of judicial proceedings, which allows time for doubt.

It also has its own system of legitimacy, which is based on the people's trust in its decisions and requires justice to be understood, respected and independent.

As we have said before, the understanding of justice is achieved by the public information we have initiated using our outreach programme.

As the DRC has clearly understood, it is also crucial for the judgments and decisions of the court to be respected. The execution of a judicial decision is a democratic principle. If this were not so, we would live in a state of anarchy characterised by the survival of the fittest. The execution of a judicial decision strengthens the people's trust in justice.

I can still remember my meeting last year with the refugees of Darfur in the Farchana, Bredjing and Tredjing camps in eastern Chad. By chance, only the day before, Pre-Trial Chamber I had issued warrants of arrest against Ahmed Harun and Ali Kushayb. I have no words to describe the feelings aroused by this news, which suddenly rekindled the thirst for justice among these people. Then the inevitable question came: "When are you going to arrest them?" Sadly, the answer I gave them was not the one for which they had been hoping.

We should not allow the spark of hope that lit up their eyes to be smothered. With the passing of time, the failure to execute this decision, and others, slowly but surely erodes the hope and trust of those who want justice to be seen to be done. The legitimacy of the Court could suffer as a result, which is certainly not what the founders of this powerful, visionary project want.

Similarly, the intent to safeguard the independence of the Court should continue to inform our relationship. I am not only referring to the independence of the Prosecutor, the judges and the lawyers who appear before the Court, but more fundamentally, to the independence of the Court from its founders. The relationship between States and the Court should culminate in synergies that contribute to increasing the credibility of this judicial institution in the eyes of the public. At the same time, it is essential for the Court's independence to be preserved, and this should influence the attitude that obtains in budgetary discussions with States Parties.

Lastly, justice has its own space, its sacred preserve, which is dominated by judicial timing and disconnected from the rhythm of daily life.

This space must be brought to public notice. The permanent premises of the first international criminal court ever created should, in my view, reflect this symbolism. Incorporating this symbolism into the project should not be considered an escalation of costs. I am convinced that we can construct a functional building, with due regard for the principles of sustainable development, that can provide the Court with all it needs to perform its functions while ensuring that the symbolism of justice is reflected in the environment and atmosphere of this building.

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To conclude, I would say that after the first steps of this institution, which involved dealing with the most urgent matters of the Court in order to ensure that it could begin to function, now is the time to perform our duty of consolidating this institution. Together, the Court, States and civil society should take the time to consider how to improve the quality of justice rendered by the court and increase its impact in a world where external regulation is necessary to preserve humanity, which, as events of the 20th Century have proven, is very vulnerable.

Renan Villacis, Director, Secretariat of the Assembly of States Parties

Excellencies, Ladies and Gentlemen,

It is a pleasure to be with you in order to convey some of the most important developments regarding States and the Court since our prior diplomatic briefing. I will limit myself to some important highlights.

Recent ratifications

A few weeks ago, the United Kingdom ratified the Agreement on the Privileges and Immunities of the Court by the United Kingdom, bringing the total number of parties to that instrument to 53.

Sixth session

The sixth session of the Assembly was held at United Nations Headquarters, New York from 30 November to 14 December 2007. The Secretary-General of the United Nations, Mr. Ban ki-Moon, addressed the Assembly before the general debate. A total of 149 States confirmed their participation at the sixth session: 105 States Parties, 41 Observer States and 3 Invited States.

Crime of Aggression

During the sixth session, the Special Working Group on the Crime of Aggression, chaired by the President-elect of the Assembly, H.E. Ambassador Christian Wenaweser, continued its discussions on the definition of the crime of aggression and the conditions for the exercise of jurisdiction by the Court.

Official Records

The Official Records of the sixth session, containing, inter alia, the report of the Special Working Group on the Crime of Aggression, as well as the resolutions adopted by the Assembly, are in the process of being printed and will be sent to States Parties in a few days.[1]

Resumed sixth session

Invitations to the resumed sixth session of the Assembly, to be held at United Nations Headquarters in New York from 2 to 6 June 2008, were sent to all States in March 2007,[2] while a follow-up note regarding credentials and registration is being mailed this week.

Oversight Committee on Permanent Premises

The Oversight Committee has held four meetings. The Committee elected Ambassador Jorge Lomonaco (Mexico) as its Chairperson and Ambassador Lyn Parker (United Kingdom) as its Vice-Chairperson. The Committee also established a sub-group on the recruitment of the Project Director, as well as sub-group on the financing of the project.

The Hague Working Group of the Bureau

The Hague Working Group has held three meetings, including one earlier today. It has discussed organisational matters regarding its work for 2008, and heard a presentation by the Chief Government Architect of the host State on the architectural design competition for the permanent premises of the Court.

The New York Working Group of the Bureau

[1] The official documents of the Assembly of States Parties and the decisions of the Bureau are available on the website of the Court (www.icc-cpi.int), under the section 'Assembly of States Parties'.

[2] Note verbale ICC-ASP/S/6/03, dated 6 March 2007.

The New York Working Group has, thus far, held an informal meeting on the issue of the Review Conference, and will hold a meeting in April to discuss this matter further.

Committee on Budget and Finance

The Committee on Budget and Finance will hold its tenth session from 21 to 25 April 2008 in The Hague. Its agenda includes: the performance of the 2007 budget, premises of the Court, human resources, as well as the legal aid scheme and the Contingency Fund.

Seventh session

The seventh session shall be held from 14 to 22 November 2008 in The Hague. The invitations shall be sent to States before the end of March, along with the provisional agenda, which was approved by the Bureau at its recent meeting.

The first resumption of the seventh session, to be held on 19 to 23 January 2009, will focus on the election of six judges of the Court and six members of the Committee on Budget and Finance. The Bureau fixed the nomination period for candidates for these elections from 21 July to 13 October 2008.

A second resumption of the seventh session, at which the Special Working Group on the Crime of Aggression would finalise its discussions on the crime of aggression, is expected to take place in mid-April 2009 at United Nations Headquarters, New York.

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