



*Thirteenth Diplomatic Briefing of the International Criminal Court
Treizième réunion d'information de la Cour pénale internationale à l'intention du
corps diplomatique*

*Compilation of Statements
Recueil de déclarations*

*Brussels, 24 June 2008
Bruxelles, 24 juin 2008*

Philippe Kirsch, President/Président

Excellences, Mesdames et Messieurs,

Bienvenue à la treizième séance d'information organisée par la Cour pénale internationale à l'intention du corps diplomatique. Il s'agit de la cinquième séance d'information organisée à Bruxelles. En effet, tous les États parties ne sont pas nécessairement représentés à La Haye, et c'est la raison pour laquelle nous estimons qu'il est important que nous continuions d'organiser ces séances d'information ici, à Bruxelles, pour la commodité des États parties qui y ont leur représentation.

Je remercie le Conseil de l'Union européenne qui nous a une nouvelle fois autorisés à utiliser ses locaux, et je souhaite la bienvenue aux participants représentant les institutions européennes.

Je souhaite également vous présenter le nouveau Greffier de la Cour Pénale Internationale, Mme Silvana Arbia, qui prend la suite de M. Bruno Cathala, le premier Greffier de la Cour qui a quitté ses fonctions le 9 avril. Mme Arbia a été élue par les juges de la Cour en février pour un mandat de 5 ans et a prêté serment le 17 avril. Nous sommes réjouis de la contribution qu'elle apporte à la Cour à la lumière de son expérience extrêmement précieuse et sa grande connaissance des systèmes de justice tant nationaux qu'internationaux.

Les séances d'information à l'intention du corps diplomatique ont pour objet de vous informer des activités les plus récentes de la Cour et de vous donner l'occasion de nous faire part de vos commentaires. La séance d'aujourd'hui, en particulier, nous permettra également de faire le point sur l'évolution récente de la Cour. Il y a dix ans, le 17 juillet 1998, le Statut de Rome créant la CPI était adopté, ouvrant une nouvelle ère dans la lutte contre l'impunité des crimes internationaux. Beaucoup de choses se sont passées depuis. Dans mes remarques :

- Je commencerai donc par vous communiquer les dernières informations sur les activités de la Cour depuis la dernière séance d'information à l'intention du corps diplomatique, qui s'est tenue à La Haye en mars ; et
- Je vous ferai ensuite part de quelques réflexions sur l'évolution de la Cour depuis l'adoption du Statut de Rome.

Le Procureur, le Greffier et le représentant du Secrétariat de l'Assemblée des États parties vous communiqueront les dernières informations concernant leurs domaines de compétence respectifs.

Au terme de cette séance d'information, vous aurez l'occasion de poser des questions.

I. Évolution depuis la dernière séance d'information à l'intention du corps diplomatique

Je commencerai par vous faire part rapidement des principaux faits nouveaux survenus depuis la dernière séance d'information. Vous avez reçu un résumé plus détaillé la semaine dernière.

Comme vous le savez, la Cour reste saisie de quatre situations, dans le cadre desquelles elle a jusqu'ici délivré 12 mandats d'arrêt.

En avril, la Chambre préliminaire I a levé les scellés sur le quatrième mandat d'arrêt délivré dans le cadre de la situation en République démocratique du Congo. Elle avait conclu qu'il existait des motifs raisonnables de

croire que Bosco Ntganda a commis des crimes de guerre consistant à procéder à l'enrôlement et à la conscription d'enfants de moins de 15 ans et à les faire participer activement à des hostilités.

En mai, la Chambre préliminaire III a délivré un mandat d'arrêt à l'encontre de Jean-Pierre Bemba Gombo pour des crimes qu'il aurait commis en République centrafricaine. Elle a estimé qu'il existait des motifs raisonnables de croire que Jean-Pierre Bemba devra répondre de trois chefs d'accusation pour crimes contre l'humanité (viol, torture et meurtre) et de cinq chefs d'accusation pour crimes de guerre (viol, torture, atteintes à la dignité de la personne, pillages et meurtre). Jean-Pierre Bemba a été arrêté par les autorités du Royaume de Belgique le 23 mai, et la Cour a demandé sa remise. Il devrait être transféré à La Haye le moment venu.

Dans l'affaire concernant Thomas Lubanga Dyilo, la Chambre de première instance a décidé le 13 juin de suspendre la procédure au motif que l'Accusation n'a pas communiqué à la Défense des pièces de nature à disculper l'accusé. Elle tiendra aujourd'hui une audience sur la mise en liberté de l'intéressé. Étant donné que les juges restent saisis de cette question, je ne suis pas en mesure de vous en dire davantage.

Dans l'affaire concernant Germain Katanga et Mathieu Ngudjolo Chui, la procédure préliminaire se poursuit. Les deux suspects doivent répondre de quatre chefs d'accusation pour crimes contre l'humanité et de neuf chefs d'accusation pour crimes de guerre. Une audience de confirmation des charges aura lieu vendredi.

S'agissant des deux autres situations, l'Ouganda et le Darfour (Soudan), six mandats d'arrêt n'ont toujours pas été exécutés. Étant donné qu'aucun des suspects n'a été arrêté, les procédures restent limitées à l'examen de demandes de participation émanant de victimes qui souhaitent participer à la procédure dans le cadre de la situation et de l'affaire.

II. Developments since the adoption of the Rome Statute

I would like to take a step back now from recent proceedings to focus on broader developments since the adoption of the Rome Statute. I will limit myself to a few general observations on how the Court has developed in comparison to expectations.

A. Faster than expected development

To start with the positive side, the Court has developed faster than anyone expected in at least three areas.

First, the pace of ratifications has greatly exceeded expectations. After the Rome Conference, even the most optimistic observers thought it would take at least ten years for sixty States to ratify the Statute and for the Statute to enter into force. In fact, it took only four years for the Statute to enter into force. Today, 106 States have already ratified or acceded to the Statute. This is a remarkable pace for any treaty, let alone one creating an international institution and creating significant obligations for States Parties. This fast pace has derived in part from the need for the Court. It also reflects the confidence of States in the Court as a non-political institution. Since the Statute entered into force and the Court began to demonstrate its credibility in practice, approximately 40 States have ratified the Statute.

Second, the core functions of the Court became active quicker than expected. The Court only became operational five years ago with the election of the first judges, Prosecutor and Registrar. An entire institution had then to be developed from scratch. Within the first year, two States Parties referred

situations on their respective territories to the Prosecutor. A year later, another State Party and the Security Council referred situations. The referral of the Security Council was an early confirmation also that confidence in the Court extended beyond the States Parties. As a result of the four referrals, the Court had to begin exercising its investigative, prosecutorial and judicial activities even as it was setting up its infrastructure. The Court's progress in these four diverse situations is reflected by the twelve warrants of arrest issued. I will come back in a moment to some of the challenges in effecting these arrests and in the subsequent judicial proceedings.

Third, the Court has been credited with having real, tangible impacts sooner than anticipated. These impacts have been of two kinds. First, following the adoption of the Rome Statute, many States reviewed and updated their domestic legislation governing international crimes. These States are now better placed to try these crimes. This is important because the primary responsibility for prosecuting and punishing international crimes belongs to national courts. Second, the ICC has been credited with contributing directly to the prevention of crimes in situations where it operates. The ICC operates in situations of conflict where crimes may be ongoing. The risk of arrest and prosecution before the ICC is now a real and immediate prospect for potential perpetrators of serious crimes.

B. Challenges that have arisen

At the same time, activities of the Court have not always progressed as fast as some would have liked. This is due primarily to three factors.

First, the Court faces significant operational challenges in the environments where it is active. As I mentioned earlier, the ICC is operating in situations of ongoing conflict. This has hampered the work of investigators and other Court staff. Security concerns have limited their access to evidence and witnesses, caused the cancellation of missions or required emergency evacuations. Operating in such circumstances has also increased the burden on the Court to protect the safety of victims, witnesses and other individuals.

Second, many basic, but complex provisions of the Rome Statute and other legal texts have required interpretation by the judges. This is particularly true where the Statute contains innovations from previous tribunals. To take one example, a major advancement in the Rome Statute is that victims have the right to participate in proceedings. However, the Statute is unclear on many of the details of their participation. Judges are currently seized with fundamental, but complex questions such as "Who may participate in proceedings?", "At what stage may they participate?" and "In what manner may they participate?"

Third, States have arrested less than half of the persons subject to arrest warrants. As I said earlier, the Court has now issued 12 warrants of arrest. States have only arrested four of these persons. Of the remainder, four warrants have been outstanding since 2005, one since 2006 and two others for over a year. The Court does not have the power to arrest these persons. That role belongs to States.

III. Lessons for the future

In light of these developments, I would like to offer three lessons that we can take for the future development of the Court. And by "we", I mean both the Court and States.

First, the likelihood of further ratifications of the Rome Statute will depend on sustaining the confidence of States in the non-political nature of the Court. The Court will continue to adhere strictly to its judicial mandate in the Rome Statute. As it does so, support for the Court will likely grow. States Parties can

contribute to the credibility of the Court by ensuring respect for its non-political nature and enforcing its decisions in accordance with the Rome Statute and the international rule of law.

Second, the Court is still emerging and will continue to develop in the years to come, often in changing circumstances. This development will have operational and judicial dimensions for the Court, as well as for States. Operationally, the Court will have to continuously review and adapt its planning, structure and activities in light of experiences. Judicially, fundamental questions of interpretation of the Rome Statute will have to be decided by judges. In addition to pending questions on victim participation and disclosure, one can expect substantial questions related to reparations. However, with each issue the Court settles, proceedings will increase in efficiency. States Parties will face changing circumstances too. It is important for them to continue their dialogue with the Court on operational and judicial developments. Such developments are likely to impact on the role of the States Parties in their capacity as governing body and provider of the Court's executive pillar.

Third, the preventive effect of the Court will continue to depend on the combined contributions of the two pillars of the Rome Statute. Each arrest warrant that is executed and each trial that is conducted will strengthen the fear of potential perpetrators that they too may face justice. The Court will continue to do its part as the judicial pillar to carry out fair and impartial trials. States Parties must ensure that the enforcement pillar is equally operational. Without arrests, the early preventive effect of the ICC will be diminished. Without consistent public statements by States Parties, some may doubt the international community's strong support for international criminal justice and the Court.

IV. Conclusion

These are only a few general observations on how the Court has developed and some of the lessons we have learned for the future. It is too early to draw comprehensive conclusions. We will continue to learn much more about the ICC and the Rome Statute system in the coming years.

One thing, however, is clear. The 17th of July 1998 was a historic turning point in the development of international law. The international community resolved that the most serious crimes of international concern can no longer go unpunished. Impunity can not be allowed to reign free. Short-term political compromises cannot be allowed to trump justice and respect for the rule of law. The challenge now is to realize these fundamental yet high expectations.

Thank you.

Mrs. Fatou Bensouda, Deputy Prosecutor/Procureur Adjoint

Excellencies, Ladies and Gentlemen,

Thank you for being here. Since our last meeting in March 2008, the interaction between the Office of the Prosecutor and you has been sustained at all levels.

On 5th June 2008, as the Prosecutor presented his Report to the UN Security Council on Darfur, States parties to the Rome Statute, participating to the ASP, attended and it is symbolic that the move to secure a Presidential statement of support to the Court's work on Darfur was led to fruition by the President of the ASP, a member of the UNSC, Costa Rica.

The adoption by the UNSC of a unanimous presidential statement on 16 June calling on Sudan to comply with its obligation to cooperate with the Court under 1593 was a strong message of commitment to the Court, to the work of the Office, and to the victims. It was also a strong message to perpetrators and potential perpetrators of crimes, showing the strength of international consensus on Justice beyond any regional boundaries.

In recent weeks, we have also received the marked support of the European Union through its Presidency, Slovenia, its Parliament and through the adoption of the General Affairs and External Relations Council Conclusions on Darfur on 16 June, following the Prosecutor's briefing to that Council.

The Prosecutor travelled to Indonesia and Saudi Arabia. He is going shortly to Libya.

I personally had an occasion to brief here in Brussels the countries of the ACP and it was a fruitful exchange. I will be travelling next week to Sharm El Sheikh to attend the African Union Summit.

Each of such contacts is the occasion to secure both concrete judicial cooperation and political support for our justice efforts. It is this kind of constant building up of a network of cooperation which allowed the Office and the Court to secure the assistance of Belgium, Portugal and others for the arrest of Jean-Pierre Bemba on 24 May here in Brussels in a short timeframe and in smooth conditions of confidentiality and efficiency. We hope to maintain this level of support and cooperation throughout our situations and activities.

As the President said, key and innovative provisions of the Rome Statute, regarding victims' participation and witness protection, the rights of the accused are being clarified by the judges of the Court.

In the weeks to come, there will be defining moments for this Court: as Prosecutors, we trust that a new date will be set for the Lubanga trial; the Confirmation of charges hearing in the case against Germain Katanga and Mathieu Ngudjolo Chui on 27 June; the start of the Lubanga trial; and the Office will present a new application to the judges under article 58, in our second case in Darfur, in July.

I will focus my brief on the Office's investigative activities, which are expanding, with the prospect of our third case and possibly fourth cases in the DRC, as well as work on our second and third cases in the Darfur situation. I will also brief you on our investigative activities in the case of Northern Uganda.

1. - Let me update you on the cases.

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

Concerning the case against Thomas Lubanga Dyilo, let me just repeat the words of the Prosecutor. This is a permanent Court. We are building an institution for the world and for the coming years. The Court is defining its legal standards for the next years and for all its upcoming cases. This Court must insist on the highest legal standards, and fair trial is the most important of all.

The Prosecution has of course appealed the Decision to stay the proceedings in the strongest terms. But if the Court decides that it is not the moment to start a trial because there are issues that need to be considered, it is the law. And it is full respect for the law that will ensure the enduring authority and legitimacy of this Court. I am confident that the legal problems will be solved and a new beginning of the trial will be scheduled very soon, but it will be the decision of the judges.

We need to understand the logic behind this decision. As a legal institution the Court must continue to insist on defining and clarifying the legal standards as the basis of the Court's activities. Fair trials are fundamentally important.

The Court has also pursued its efforts to promote enforcement of the arrest warrant against Mr. Bosco Ntaganda, a former subordinate of Mr. Lubanga, who is also charged with the war crimes of enlisting, conscripting and using children under 15 to participate actively in hostilities. The arrest warrant, initially issued under seal in 2006, was unsealed in April 2008 upon request of the Prosecution. Mr Ntaganda is allegedly the current Chief of Staff of the *Congrès national pour la défense du peuple* (CNDP) an armed group, active in North Kivu in the DRC.

The Confirmation of Charges hearing in the case of Mr Katanga and Mr Ngudjolo will begin in a few days, on 27 June. With this case, the OTP completed a first phase of the DRC investigation, focusing on the horrific crimes committed by leaders of armed groups active in Ituri since July 2002.

The Office is now moving on to a third case in the DRC. In the selection process, the OTP is paying particular attention to the numerous reports of crimes committed by a multiplicity of perpetrators and groups in the North and South Kivu provinces, including numerous reports on horrific sexual crimes. The OTP received the views and concerns of victims and associations in this regard at the seat of the Court on 13 March 2008.

Given the particular characteristics of those attacks, the Office will also consider ways to facilitate investigations by the DRC judiciary and contributions to "dossiers d'instruction" against perpetrators. This will require enhanced protection for witnesses and the judiciary.

The OTP is also monitoring the situation of those individuals who may have played a role in supporting and backing armed groups which committed crimes under the jurisdiction of the Court.

DRC is a situation where the political support of states is concretely needed.

The Situation in Northern Uganda

The arrest warrants against Joseph Kony and other LRA commanders, the first issued by the Court, have been outstanding since 2005. They have committed unspeakable atrocities and we believe that they are criminally responsible for thousands of killings and abductions since July 2002. They are charged with

crimes against humanity and war crimes, including rape, murder, sexual enslavement, enlisting of children, attacking civilian populations, and pillaging. Those arrest warrants remain in effect and have to be executed.

Joseph Kony, the first indictee of the ICC, has received money and food, resources that he has used to enlarge and strengthen his group. He has committed new crimes in DRC, Southern Sudan and CAR.

Joseph Kony and two remaining commanders of the Lord Resistance's Army are fugitives from the ICC. They continue to plan and commit crimes. They abduct civilians, including children, for the purposes of forced recruitment and sexual enslavement. My Office has confirmed that 200 to 300 civilians have recently been abducted by the LRA in these three countries. These are the same crimes which the LRA leaders are charged with in Northern Uganda. They are now inflicting the same violence on a new generation of victims.

Let me be transparent. As the Deputy Prosecutor of a Court which has issued arrest warrants against the LRA leaders 3 years ago, I regret the halting of any effort to promote arrests of those indicted criminals during the Juba process, the absence of any EU statement calling for the arrest of those criminals, and the absence of clear efforts to avoid the diversion of international aid in favour of the LRA. This has allowed Joseph Kony to divert money from the Juba talks, in order to re-arm, and commit new crimes. We are aware of the difficulties of an arrest operation. This is why the Office has consistently requested that such an operation be prepared by cutting off the supply networks of Joseph Kony, encouraging defections and stepping up planning of the arrest. The choice was never between an arrest operation or nothing.

The international community has to conduct conflict management initiatives. We have to respect the facts and the law.

Joseph Kony might be proved innocent in a Court of law. But it is not the role of a peace mediator, or of the Security Council, to decide whether Mr Kony will end up in a jail in Scheveningen, in jail in Kampala, or in golden exile. It is not for politicians to decide who is a criminal deserving arrest and who does not. It is not for politicians to decide when a State is conducting genuine proceedings or not. It is the Court's responsibility.

The Situation in the Central African Republic (CAR)

On 22 May 2007 we announced the opening of an investigation in the Central African Republic.

The OTP's investigation is focusing on the most serious crimes, which were mainly committed during a peak of violence in 2002-2003 and with a particularly high number of allegations of rapes and other acts of sexual violence, perpetrated against hundreds of reported victims.

On 24 May 2008, Mr. Jean-Pierre Bemba, Chairman of the *Mouvement de Libération du Congo* (MLC), an armed group which intervened in the 2002-2003 armed conflict in Central African Republic (CAR), was arrested in the suburbs of Brussels. We expect him to be transferred to The Hague shortly.

Mr. Bemba was charged by the ICC for crimes against humanity and war crimes committed in Central African Republic. The MLC pursued a plan of terrorizing and brutalizing innocent civilians, in particular during a campaign of massive rapes and looting. Mr Bemba had already used the same tactics in the past, in CAR and in the DRC, always leaving a trail of death and destruction behind him.

In CAR, our investigation into the 2002-03 crimes continues.

We are also monitoring recent crimes. The Prosecutor has written to CAR authorities inquiring about national proceedings against the main perpetrators of crimes committed since 2005.

We welcome the efficient approach taken in the context of the national dialogue in CAR, where transparency has been given to all participants that no immunity can be granted for crimes within the jurisdiction of the Court. This is helping the Court, and the CAR.

The Situation in Darfur, the Sudan

On 27 April 2007, more than one year ago, the ICC Judges issued arrest warrants for Ahmad Harun former Minister of State for the Interior and current State Minister of Humanitarian Affairs, and Ali Kushayb, a Militia/Janjaweed leader, for war crimes and crimes against humanity.

Just three weeks ago, on 5 June, the Prosecutor informed the Security Council that the Government of Sudan continues not to cooperate with the Court. The Government of Sudan is not complying with Security Council Resolution 1593, referring the Darfur situation to the ICC. The territorial State, Sudan, has the legal obligation and the ability to arrest Mr. Harun and Mr. Kushyab and surrender them to the Court. The Sudanese authorities can – and they must – surrender the two indicted criminals to the Court, and break the system of violence and impunity in Darfur.

The Prosecutor also reported on the Office's ongoing second and third investigations in Darfur. The mobilization of the state apparatus to plan, commit and cover up crimes against civilians, in particular the Fur, Massalit and Zaghawa, in such a systematic way, over such a region, over such a period of time, is the focus of the Office's second investigation.

Furthermore, the investigation into allegations of rebel crimes, focusing amongst others on the Haskanita attack against peacekeepers, continues.

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

Based on Article 15, the Office proactively collects information about alleged crimes falling under the Court's jurisdiction. The Office continues its analysis of various situations in the preliminary examination phase. As part of its ongoing analysis of the situation in Colombia, the Office has written to the Government of Colombia seeking further information. We also had fruitful exchanges in Washington with the Secretary General of the OAS on how our justice efforts and other initiatives are reinforcing not undermining each other.

The Office has also written to various parties in Kenya seeking further information in relation to alleged crimes committed on that territory, including to the two parties which now constitute the Government. The Office has received a reply from the Kenyan National Commission on Human Rights but still awaits a reply from either of the two political parties concerned.

The Office has also recently written to the Government of Afghanistan seeking further information in relation to alleged crimes committed on that territory.

In relation to Côte d'Ivoire, the Prosecutor met with the Ambassador after the last diplomatic briefing and the Office's outstanding request to carry out a mission to that territory was discussed. We regret that no

progress has been made in this regard. We call upon the government of Côte d'Ivoire to facilitate this mission as a matter of urgency.

Conclusion

As a Prosecutor, I am confident that the judicial activities of the Court will proceed efficiently ; as demonstrated recently, the defendants will be treated fairly, the Prosecutor's action scrutinized energetically, the victims will have their own, dignified, autonomous voice.

The most difficult challenge might well be outside the courtroom. The arrests of Ngudjolo and even more Bemba have demonstrated the potentiality of the system. The UNSC PRST was also an important moment.

By virtue of the Rome Statute, each State Party must support the Court wherever and whenever it decides to intervene or not to intervene, to support the Court whether it decides to indict, convict or acquit.

It is time for States to transform their expression of support to the idea of international justice into concrete cooperation. Impunity is not an abstract notion. Impunity fuels violence. Continuation of violence and crimes is what happens in situation, like that of Joseph Kony and other LRA leaders, where States Parties of the ICC are not facing their responsibilities, and still continue to refuse to call publicly for arrests.

It is not enough to call generally and theoretically for compliance with the Rome Statute. Efforts to arrest must be ongoing and unrelenting. In Uganda, in the DRC, in CAR. It is not true only for the territorial states. The whole international community should mobilize themselves to support the effort of territorial states.

Your Excellencies, Ladies and Gentlemen,

You cannot remain silent on Kony and hope that what you say on Harun can carry weight. I ask you for consistency.

Thank you.

Excellences,

C'est pour moi un privilège de prendre la parole devant vous dans le cadre du dialogue instauré entre la Cour, les États Parties et les États non Parties. Permettez-moi, à mon tour, de vous souhaiter chaleureusement la bienvenue, ainsi qu'aux représentants des institutions européennes.

Avant tout, je souhaite également vous assurer de mon engagement à poursuivre un échange fructueux avec vous tous sur les questions d'intérêt commun tout au long de mon mandat.

Comme le Président et le Procureur l'ont déjà indiqué, des progrès ont été accomplis dans les procédures judiciaires menées par la Cour dans le cadre des quatre situations dont elle est saisie, et du travail reste à faire. Dans ma brève présentation d'aujourd'hui, je souhaite vous donner une vue d'ensemble de la mesure dont le Greffe y contribue en s'acquittant des responsabilités spécifiques qui lui sont confiées. Je pense ici à la protection des témoins et des victimes, à la participation des victimes, aux activités de sensibilisation, à la défense et aux opérations hors siège. Enfin, je voudrais également aborder brièvement certaines questions relatives à la gestion des ressources humaines.

a) Participation des victimes

Comme nous le savons tous, le Statut de Rome a accordé une place plus importante au sort des victimes en consacrant leur droit à participer à la procédure et à demander réparation pour les crimes qu'elles ont subis. Pour traduire efficacement dans la pratique les dispositions innovantes du Statut de Rome relatives à ce droit, la Cour s'est lancée dans un périple difficile, semé d'embûches dont certaines étaient prévisibles, tandis que d'autres ont exigé de notre part de faire preuve de créativité et d'innovation afin d'être surmontées. Laissez-moi vous en révéler quelques unes.

Un défi majeur consiste à combler le fossé qui sépare la Cour et les communautés de victimes souvent marginalisées, dispersées dans des lieux inaccessibles et peu sûrs, et pour la plupart analphabètes, et de les informer efficacement des droits que leur confère le Statut sans créer des attentes irréalistes. Pour mettre en œuvre la stratégie de sensibilisation de la CPI, sur laquelle je reviendrai plus tard, des moyens et des outils créatifs pour aller au devant des victimes ont été mis en œuvre ; tels que l'organisation de sessions de formation à l'intention de réseaux locaux d'intermédiaires dignes de confiance qui peuvent contribuer à leur tour à aider les victimes.

Assister efficacement les victimes dans leur choix d'un avocat et les informer, dans un langage facile à comprendre, des décisions judiciaires qui revêtent un caractère tout à fait nouveau dans ce domaine est un devoir de tous les instants pour la Cour. Dans le cas des victimes qui ne disposent pas d'un conseil ou de celles dont le conseil désigné n'a que peu de connaissances ou d'expérience des pratiques et du droit applicables devant la CPI, le Bureau du conseil public pour les victimes intervient pour leur fournir une assistance dans le domaine juridique et en effectuant des recherches.

Pendant ce temps, des centaines de demandes de participation sont reçues par le Greffe, et les juges doivent prendre des décisions sur ces demandes. Mais comment la Chambre va-t-elle prendre une décision si elle reçoit des centaines de demandes en un laps de temps très court ? Cette situation s'est produite récemment lors de la préparation de l'audience de confirmation des charges dans l'affaire Katanga et Ngudjolo. Pour surmonter ce problème, un système de traitement des demandes a été mis en place. Ce système produit des

rapports qui donnent aux Chambres les informations nécessaires. Il répond également aux différents rapports demandés par la Chambre préliminaire et les Chambres de première instance.

Un système d'aide judiciaire répondant aux conditions particulières dans lesquelles se trouvent les victimes et qui donne un sens réel au concept de représentation juridique est en cours d'élaboration et sera amélioré au fur et à mesure que nos activités s'accélèrent.

Néanmoins, cette odyssée de cinq ans nous a amenés jusqu'à la réalité d'aujourd'hui : des victimes participent aux procédures. Les statistiques au 1^{er} juin parlent d'elles-mêmes : 721 demandes de participation émanant de victimes ont été présentées à la Cour, dans le cadre des différentes situations dont elle est saisie. Les Chambres ont accordé à 228 victimes le droit de participer à la procédure dans les différentes situations (135 en RDC, 9 en Ouganda, 11 au Darfour/Soudan).

En ce qui concerne la participation des victimes à la procédure au stade des affaires, 4 victimes se sont vu accorder le droit de participer à la procédure dans l'affaire Thomas Lubanga, 55 dans l'affaire Germain Katanga et Mathieu Ngudjolo Chui et 14 dans l'affaire Joseph Kony, Vincent Otti, Okot Odhiambo et Dominic Ongwen.

b) Protection des témoins

Je voudrais maintenant me tourner vers les questions relatives à la protection des témoins.

Ce domaine relève de la responsabilité spécifique du Greffe et est étroitement lié aux travaux du Greffe et du Bureau du Procureur. En gardant à l'esprit les caractéristiques propres à la CPI et les différents contextes des quatre pays dans lesquels elle opère, le programme de protection de la Cour tel qu'il fonctionne actuellement est le résultat d'une démarche faisant preuve de créativité et d'innovation. Il prévoit notamment diverses mesures de protection allant de l'anonymat des témoins et de la distorsion de l'image pendant l'interrogatoire à la réinstallation des témoins dans leur pays ou dans un autre pays, cette dernière mesure étant prise uniquement pour les témoins courant un risque important.

De plus, pendant les procédures judiciaires, le Greffe est prêt à répondre aux besoins spécifiques des témoins traumatisés. L'Unité d'aide aux victimes et aux témoins, outre qu'elle peut apporter 24 heures sur 24 une aide et un soutien psychologique au témoin traumatisé, a mis au point un protocole détaillé de familiarisation des témoins avec la salle d'audience pour les aider à s'adapter à un tel environnement, qui peut leur sembler étranger ou intimidant. Un assistant est également présent dans la salle d'audience pour apporter son soutien au témoin tout au long de sa déposition.

Laissez-moi vous rappeler que nous protégeons les témoins dans les pays des situations. La Cour dispose des connaissances spécialisées nécessaires et a investi des ressources considérables dans le domaine de la protection des témoins ; toutefois l'absence de mécanismes et de mesures relatives à la protection des témoins au niveau des pays, ainsi que de soutien opérationnel ciblé, pourrait avoir des effets négatifs sur l'aptitude de la Cour à protéger les témoins efficacement. D'autre part, il convient de trouver un équilibre entre le fait d'assurer la protection des témoins, les conséquences de cette protection pour les témoins eux-mêmes et les conséquences financières pour les budgets de la Cour.

À ce jour, nous avons réussi à conserver cet équilibre tout en maintenant l'intégrité de nos témoins. Cependant, le nombre de personnes bénéficiaires du programme de protection des témoins de la Cour est

passé de 7 en 2005 à 283 au 1^{er} juin 2008. Un bref coup d'œil sur les prévisions établies par l'Unité d'aide aux victimes et aux témoins en fonction du développement des activités judiciaires de la Cour montre que ce nombre augmentera, ce qui aura des conséquences sur le budget à venir de la Cour. À cet égard, votre soutien est essentiel.

À la lumière de notre expérience, et en vue de faciliter la mise en œuvre des programmes nationaux viables de protection des témoins, une direction pourrait être utilement suivie. Grâce à un effort collectif des États, nous pourrions envisager la mise en place d'une initiative dans le cadre de laquelle des États bénéficieraient d'un soutien financier lorsqu'ils autoriseraient la réinstallation de témoins sur leur territoire. Une telle approche contribuerait à l'intégration des questions liées à la protection des témoins dans le contexte culturel local et à leur adaptation en fonction des réalités sur le terrain. Au surplus, les pays concernés pourraient par ce biais acquérir un nouveau savoir faire qui demeurerait à la disposition de l'État au terme de l'intervention de la Cour.

D'autre part, le soutien des États contribue pour une très large part à accélérer la conclusion d'accords de réinstallation de témoins. Je souhaite, à cet égard, exprimer une nouvelle fois ma gratitude aux États qui ont déjà conclu de tels accords. Toutefois, alors que 106 États ont ratifié le Statut de Rome à ce jour, la Cour a seulement signé 8 accords, dont un accord ad hoc. Un autre accord est en voie de finalisation.

c) Défense

In this area, the Registry has deployed efforts in order to give true meaning to the principle of equality of arms. Many concrete steps have been taken towards ensuring a high quality of defence at the ICC. Few non-exhaustive examples relate to the regular dialogue ICC-legal professions, the Court's legal aid system, the logistic and security support for defence teams when traveling to the field, remote secure access to their files and to the Court's legal research tools, etc.

Three defence teams are currently acting before the Court in the *Lubanga* and *Katanga and Ngudjolo Chui* cases. As these detainees have been provisionally declared indigent, their defence costs are covered by the legal assistance scheme paid by the Court. Additionally, their defence teams benefit from legal advice provided by the Office of Public Counsel for the Defence. Registry also provides logistical support for their field missions.

The Court also maintains a list of counsel for both victims and defence consisting of 235 counsels from 48 countries, 188 male and 47 female representing different legal systems.

With your support, by encouraging qualified lawyers, nationals of your countries, we can achieve a greater universality of the ICC list of counsel. Training of the lawyers is essential element in building a high quality of defence. Your assistance in the area is welcome, particularly with respect to the organisation of national or regional seminars and conferences targeting lawyers from around the world.

d) Outreach

Rendering justice that is both public and transparent represents one of the essential conditions of a fair trial. It is in this spirit that the Court has designed and is implementing its Strategy on Outreach which was submitted to the Assembly of States Parties in 2006. The Court is pursuing the implementation of the Strategy with visible and tangible results.

I would like to briefly update you about the status of our outreach activities in the four countries with situations. In the information kit provided by the Court, you will find detailed information on the number and type of activities currently conducted. These activities are continuously adapted to the status of the proceedings before the Court. And now, I would like to outline the main characteristics of the Court's outreach activities per situation.

With regard to the Democratic Republic of the Congo, in preparation for the upcoming confirmation of charges hearing in the *Katanga and Ngudjolo Chui* case, outreach activities are focused on targeting people at the grassroots level in the Ituri District, where they are reaching the villages directly concerned by the investigation. Radio broadcasts, listener clubs and town hall style meetings are amongst the tools used to provide information to the Congolese people with a view to enhancing their understating of the Court and the judicial developments in the *Lubanga* and *Katanga and Ngudjolo Chui* cases. I have personally contributed to this dialogue during my trip to Kinshasa last week.

In Uganda, which I also visited recently, outreach activities will use mass outreach campaigns and drama performances to reach the internally displaced communities in North-Eastern Uganda and the youth.

The Court's outreach activities in relation to the Darfur situation continue to be limited due to the prevailing security situation. However, radio broadcasts continue to target the Darfurian refugees in the camps in Eastern Chad and drama performances in local languages will be launched in these camps as soon as the security situation permits.

With the arrest of Jean-Pierre Bemba, who is charged with war crimes and crimes against humanity in relation to events in the Central African Republic, the Court has been extensively using the media and national newspapers to maximize the impact of the information provided. A new phase in the public information effort will commence with the transfer of Jean-Pierre Bemba to the seat of the Court.

The Court has further refined its monitoring and evaluation system. A database is currently being tested. This tool will further assist the Court's outreach teams in assessing the communication trends in each country of situation and regularly evaluate the impact of its Outreach Strategy.

The outreach activities I am referring to are supported by the Court's existing 5 fully operational field offices located in Kinshasa and Bunia (DRC), Kampala (Uganda), Abéché (Chad) and Bangui (Central African Republic). Over the years, these field offices have become the linchpin of the Court's work on the ground, representing its public face. It is time to build upon the experience accumulated and reflect on how best these operations can be remodelled with a view to responding adequately to this new phase in the Court's development.

f) Human resources

Bearing in mind the particular features of the International Criminal Court, it is my firm conviction that the Court's staff represents its most valuable resource. In this respect, continuing the efforts undertaken in previous years to implement the human resources component of the ICC Strategic Plan, the Court presented a comprehensive Human Resources Strategy to the Committee on Budget and Finance at its April session.

We are proud to have at the Court young and dedicated staff members who, through their tireless efforts and steady commitment, make an important contribution to the Court's operation. These efforts must be acknowledged and rewarded.

The Court will continue to dedicate a particular attention to further improving the staff well-being and identifying career development opportunities for well performing staff. One dimension of career developing is the lateral move of staff. In this respect, it is key to equip our staff with the necessary skills and capacities. One fundamental aspect in managing staff including their career development is intimately linked with their performance appraisal.

The Court is also accelerating the recruitment process of vacant posts. Good progress has been accomplished to date; 100 positions have been filled with both external and internal candidates.

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In conclusion, although the Court is a new institution, it has already accomplished important work both in the field and at its seat in The Hague.

In the years to come, while strictly adhering to its mandate: delivering public and fair justice, the Court's operational and judicial work will continue to further develop and gain greater visibility.

This development should be underpinned, at all times, by tangible support and assistance of States and other international players who are part and parcel of international justice.

Ms. Gaile Ramoutar, Legal Officer, Secretariat of the Assembly of States Parties

Excellencies, Ladies and Gentlemen,

It is an honour for me to be with you in order to convey some of the most important developments regarding States and the Court since our last diplomatic briefing. I will limit myself to some important highlights since most of the information is reproduced in the information package you have received. The Director of the Secretariat, Mr. Renan Villacis, regrets that he is unable to be with us this afternoon.

Resumed sixth session of the Assembly of States Parties

The resumed sixth session of the Assembly, held at United Nations Headquarters, New York, from 2 to 6 June 2008, was presided over by the President of the Assembly of States Parties, H.E. Bruno Stagno Ugarte, Foreign Minister of Costa Rica.

The issues before the Assembly were the Crime of Aggression, the Review Conference, and the transfer of funds between major programmes. The Official Records for the resumed session are currently under preparation.

Crime of Aggression

The Special Working Group on the Crime of Aggression continued its work under the chairmanship of Ambassador Christian Wenaweser (Liechtenstein), on the basis of a discussion paper on the crime of aggression, proposed by the Chairman. States discussed, *inter alia*, the procedure for entry into force of amendments on aggression, the proposal for the deletion of article 5, paragraph 2, of the Rome Statute, the definition of the State "act" of aggression, the conditions for the exercise of jurisdiction, and the Elements of Crimes.

Review Conference

The Assembly considered the report of the site-visit group to Uganda, conducted in May, whose mandate was limited to assessing issues of a practical nature, such as the capability/capacity to host the conference, without prejudice to other aspects of the objective criteria, which will be decided upon by States at a later stage. The Assembly was also informed by the Government of Argentina of its offer to host the Review Conference.

By resolution ICC-ASP/6/Res.8, the Assembly requested the Bureau to continue the preparations for the Review Conference and to further refine the practical and organisational issues related to the venue for the Conference, prior to the seventh session in November 2008, at which the Assembly would take a final decision on the venue.

Transfer of funds between major programmes

By resolution ICC-ASP/6/Res.7, the Assembly approved the transfer of €236,722 from major programme IV (Secretariat of the Assembly of States Parties) to major programme I (Judiciary), in accordance with regulation 4.8 of the Financial Regulations and Rules. The transfer had become necessary as a result of the shortfall of funds in major programme I in relation to the payment of the premium for the disability pension payable to a former judge of the Court.

Seventh session of the Assembly of States Parties

Invitations to the seventh session of the Assembly,¹ to be held in The Hague from 14 to 22 November 2008, as well as to the first and second resumptions of the seventh session, both to be held in New York, have been sent to all States. The first resumption, which would be dedicated to elections, is scheduled for 19 to 23 January 2009, while the second resumption, dedicated to the Special Working Group on the Crime of Aggression, is tentatively scheduled for 6 to 10 April 2009.

Elections

As regards the election of six judges of the Court and six members of the Committee on Budget and Finance, scheduled to take place during the first resumption, the Bureau decided to fix the nomination period to run from 21 July to 13 October 2008 (Central European time) for both these elections. The relevant notes by the Secretariat, both dated 15 April 2008, have been sent to States.²

The Hague Working Group of the Bureau

The Hague Working Group has held seven meetings thus far, to consider the issues within the mandate assigned to it by the Bureau. The Working Group has made progress on its discussions on cooperation, as well as the Strategic Plan of the Court, including the aspects thereof related to victims and outreach. Once the proposed programme budget of the Court for 2009 has been presented by the Court in July, the Working Group would begin consideration of this issue.

The New York Working Group of the Bureau

The New York Working Group has held consultations on the issues of the Review Conference, the Oversight mechanism of the International Criminal Court and the Plan of Action for achieving Universality and full implementation of the Rome Statute. The facilitators for the issues of arrears and geographical representation and gender balance in the recruitment of staff of the Court would conduct informal consultations on these issues.

On 5 June 2008, Ambassador Ali'ioaiga Feturi Elisaia (Samoa) resigned as Coordinator of that Working Group.

Permanent premises of the Court

The Oversight Committee of States Parties for the permanent premises of the Court has held ten meetings so far to consider, in particular, the issues of the recruitment of the Project Director, the architectural design competition and the financing of the project.

At its tenth meeting, on 17 June 2008, the Committee agreed to invite six candidates for interviews for the position of Project Director. They will be held on 30 June and 1 July 2008. The selection panel would consist of three experts (from the Court, the host State and a State Party) and five members of the Oversight Committee.

Regarding the financing of the project, the Oversight Committee submitted to the Committee on Budget and Finance at its tenth session (21-25 April) some questions related to this issue. The Oversight Committee is continuing its consideration of this matter, taking into account the advice of the Committee on Budget and Finance.

¹ ICC-ASP/7/S/09, dated 9 April 2008.

² Notes verbales ICC-ASP/7/S/19 and ICC-ASP/7/S/20, dated 15 April 2008, are available on the website of the Court under the link 'Assembly of States Parties.'

As regards the architectural design competition, the host State had, on the closing date, (1 April 2008), received 170 applications from 33 States, representing the five regional groups. The pre-selection meeting of the jury, held on 15 and 16 May 2008, selected 20 applicants who will be invited to submit detailed designs.

Committee on Budget and Finance

The Committee on Budget and Finance held its tenth session from 21 to 25 April 2008 in The Hague. It considered, inter alia, audit matters, budgetary matters, human resources, and the premises of the Court. The Committee decided to hold its eleventh session from 8 to 16 September 2008, in The Hague. At that session, it would continue consideration of some matters discussed during its tenth session and take up the proposed programme budget of the Court for 2009.

I thank you for your attention.

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