

**Cour
Pénale
Internationale**

**International
Criminal
Court**

*Fourth Diplomatic Briefing of the International Criminal Court
Brussels, 8 June 2005*

*Information Package
(As distributed on 31 May 2005)*

*Summary of Activities since the Third Session of the Assembly
of States Parties, September 2004*

The International Criminal Court

Two years after the inauguration of the judges and swearing in of the Prosecutor, the Court has completed its institution-building and is well into its operations, having now entered the judicial phase of its activities. The Office of the Prosecutor is currently conducting investigations in two situations: Uganda and the Democratic Republic of Congo. Pre-Trial Chamber I, with responsibility for the situation in the Democratic Republic of Congo, has held the Court's first hearings and issued several decisions. In addition, the Court's field offices in Uganda and Democratic Republic of Congo are operational and fully equipped. The Court is providing information on the work of the Court to affected communities and is establishing networks with local populations.

In total, four situations have been referred to the Prosecutor. Three States Parties have referred situations on their territory and, on 31 March 2005, the United Nations Security Council referred the situation in Darfur, Sudan. The Presidency has assigned a Pre-Trial Chamber to each situation.

The Court's senior management continues to endeavour to ensure that the Court meets the expectations of States Parties. Under the direction of the Coordination Council, comprised of the President, Prosecutor and Registrar, the Court has instituted a new process of budget preparation for the 2006 draft programme budget in order to ensure the preparation is sound, efficient, and transparent. The main imperative for the 2006 budget is to present a robust, Results Based Budget (RBB), where the resource requirements are fully justified by a set of defined objectives and linked to expected results which are measurable by way of a series of performance indicators. The Court is also developing a Strategic Plan that will set out its strategic goals and proposed development over the next five years. The Court's success in these areas, as well as in other main administrative activities, has been facilitated by the commitment of all organs to the 'one Court' principle. While giving due respect to the independence of the organs under the Statute, the President, Prosecutor and Registrar continue to make coordination on administrative matters a priority.

Maintaining regular dialogue with States is a priority for the Court, as is keeping States informed of judicial developments, administrative activities and Court-wide management and budget issues. The Court is thus committed to regular diplomatic briefings, including an annual briefing in Brussels to reach out in particular to those who cannot attend briefings at the seat of the Court. In advance of the 8 June diplomatic briefing, the following information package also provides information on main activities and developments of the Presidency and Chambers, Office of the Prosecutor, Registry and the Secretariat of the Assembly of States Parties since the 3rd Session of the Assembly of States Parties in September 2004.

Presidency and Chambers

I. Developments in Relation to Judicial Activities

- Election of Presiding Judges of all three Pre-Trial Chambers
- Assignment by the Presidency of the situations in Central African Republic and Darfur, Sudan to Pre-Trial Chambers III and I respectively
- Hearings and decisions by Pre-Trial Chamber I on the situation in the Democratic Republic of Congo
- Sixth Plenary Session of Judges in March 2005 which, *inter alia*:
 - Discussed comments received on the Regulations of the Court and, on that basis, made revisions to the French version, since circulated to States Parties (soon to be placed on the Court's website)
 - Adopted the Code of Judicial Ethics on 9 March 2005
(http://www.icc-cpi.int/library/about/officialjournal/ICC-BD02-01-05_En.pdf)
- Approval by the Presidency on 24 January 2005 of the standard application form for participation of victims in proceedings in accordance with Regulation 23(2) of the Regulations of the Court

Ongoing Activities

- Provision of comments by judges on the 8 April draft of the Regulations of the Registry
- Standard application form pertaining to victim reparation currently being considered by judges for future approval by the Presidency
- Continued preparation by judges for practical aspects of proceedings

- Contacts of the Presidency and the Registry with States in view of concluding agreements on enforcement of sentences

II. Other Activities

- Conclusion of the Relationship Agreement with the United Nations
- Numerous presentations by the President, the Vice-Presidents and judges to explain the role of the Court both at the seat of the court and abroad
- Meetings between the President and representatives of States, international organisations, and NGOs both at the Court and elsewhere
- Regular meetings with the Registrar to strengthen managerial oversight over the Registry
- Convening of meetings of the Coordination Council to discuss and coordinate administrative activities of all organs
- Participation of judges in briefings of visitors to the Court

III. Main Activities Planned

- Continued implementation of the 'one Court' principle and coordination between the organs on matters of joint interest
- Strengthen network of cooperation agreements with States and international organisations

I. Activities Since Third Session of the ASP

Democratic Republic of Congo Investigation

- Carried out analysis of all serious crimes in Democratic Republic of Congo since July 2002, and based on this analysis, made determination to focus at this time on crimes committed in Ituri by two main militias.
- Interviewed crime base witnesses, overview witnesses, insiders and suspects; collected documents, videos, photos and other materials; and obtained cooperation from various partners.
- Over 50 visits to region to carry out investigative activities in the field.
- Collection of 11,000 documents (37,000 pages) and interviews of over 60 persons.
- Opening and developing of the field office together with Registry.
- Informal briefing to Pre-Trial Chamber I on 9 November 2004, and participation in status conference on 15 March 2005.
- Submitted Prosecutor's Request for Measures under Article 56 ("Unique Investigative Opportunity") on 19 April 2005, with respect to forensic examinations to be performed by the Netherlands Forensic Institute (NFI), and participated in closed hearings.

Uganda Investigation

- Over 50 trips to the field to carry out investigative work in Uganda.
- Interviewed crime base witnesses, overview witnesses, insiders and suspects; collected documents, videos, photos and other materials; and obtained cooperation from various partners.
- Seven field missions to Uganda for the purposes of establishing relationships necessary to conduct investigations and assess the interests of victims.
- Invited community leaders to The Hague, to build support for investigative activities and to discuss how to coordinate the respective efforts of the OTP and the community leaders.
- Opening and developing of the field office together with Registry.
- Informal briefing to Pre-Trial Chamber II.

Analysis

- Received referral from Central African Republic (third referral from State Party) concerning situation in Central African Republic since 1 July 2002.
- Received referral from Security Council (first referral from Security Council) concerning situation in Darfur, Sudan since 1 July 2002.
- Received 272 communications since last session of Assembly of States Parties, and carried out analysis under Article 15.
- Conducting detailed analysis of 8 situations of concern, including Central African Republic and Darfur, pursuant to Articles 15 and 53 of the Rome Statute. Seven of these situations are in Phase II and one is in Phase III (Advanced Analysis and Planning).
- With respect to the Darfur situation referred by the Security Council, the Office has:
 - created a joint analysis team;

- analyzed five thousand documents from the Cassese Commission, as well as a comparable volume of open source documents;
- sought additional information from numerous independent sources, including through six meetings at the seat of the Court;
- explored cooperation prospects to advance the analysis.

Cooperation

- Concluded cooperation agreement with Interpol.
- Concluded five arrangements with entities of the United Nations system, building on the UN-ICC Relationship Agreement.
- Concluded agreements with States to facilitate investigations.
- Participation in the discussion of cooperation agreements or arrangements to be concluded by the Court (UN security arrangements, United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), African Union, European Union).
- Contacts with existing networks of national authorities concerned with investigating crimes of relevance under the Rome Statute.
- Developed a centralized system for coordinating and tracking requests for assistance, including a database on contacts, channels, and legislation; a database tracking tool; templates for requests, and other relevant tools.

Other Activities

- Recruited 21 professional staff (bringing to a total of 62 as of 23 May) and 11 general services staff (bringing to a total of 27 as of 23 May).
- Further developed the Legal Tools Project, including the case management application “Case Matrix” and commentaries on procedural and substantive aspects of the Rome Statute.
- Completed more than 70 legal memoranda.
- Engaging in a consultation process that will include nongovernmental organisations (NGOs), the UN and with States Parties, to develop a methodology for assessing the interests of justice.
- Office of the Prosecutor-NGO meeting in December 2004.

II. Planned Activities

- Continued investigative activities in the Democratic Republic of Congo and Uganda situations
- Initiation of a third investigation is foreseen in 2005
- Recruitment of third investigation team is underway
- Meeting with States Parties to discuss strategies and activities of the Office (20 June)
- Report to Security Council on activities related to Darfur (end of June)
- Dialogue with interested partners in developing methodology on interests of justice
- Complete the first version of the Legal Tools Project by the end of 2005, including a version of the “Case Matrix” which can be implemented in jurisdictions outside the Court.

Registry

Budget as of 10.05.2005

- Contributions received: 62.13% of the total 2005 budget (68,040,500 euros)
- Outstanding contributions for 2002-2003 and 2004 amount respectively to 3.50% and 8.30%

Human Resources: Number of Court staff: 304 (female 48%, male 52%)

- 69.5% from the Western European and others Group of States (target: 59.56%)
 - 12.06 % from the African Group of States (target: 13.03%)
 - 2.13% from the Asian Group of States (target: 7.79%)
 - 4.96% from the Group of Eastern Europe (target: 7.15%)
 - 11.35% from the Latin American and Caribbean Group of States (target: 12.47%)
- Applications received in 2005: 11 939

I. Headquarters

1. *Common Administrative Services Division*

- **2006 Budget:** Based on predefined objectives which, where possible, are derived from the Court Strategic Plan for the coming five years. The Court is now in the early stages of linking the Strategic Plan and the 2006 budget.
 - Shows a clear cut between the basic resources required setting up and sustaining an organisation with a capacity to be ready to react to situations and situation related resources (generated by the opening of an investigation). The latter are conceived bearing in mind that each situation finds itself in different phases each requiring different resources, e.g., it is not assumed that a pre-trial phase requires resources for daily court activities.
 - Defines the requirements for generic modules such as outreach, court in session, field presence. The prerequisite for creating such modules is developing a common understanding of the needs and how these can be blended together in order maximize the use of resources.
 - Timeline for finalization: end of June 2005
 - **Information and Technology:** Phase I of the Enterprise Resource Planning (ERP) comprising finance, budget and procurement modules has been completed in January 2005. Phase II (human resources and payroll) will be finalised in July-August 2005 and travel module by end 2005. ERP will allow States Parties an efficient way to monitor the Court's expenditure and management.
 - Court Management system: Phase I - implementation is ongoing; Phase II - completion by the end of the year. TRIM system is already used by 1/3 of the Court.
 - An extranet to allow on-line communication with the Committee on Budget and Finance (CBF) will be ready by June 1, 2005.
 - **Procurement:** A procurement plan has been developed and is being implemented.
 - **Human Resources:** Staff Rules have been promulgated. Submission to Assembly of States Parties – November 2005.
 - The classification of all Court posts has been finalised.
 - **General Services:** Courtroom I is almost finalised. Court Room II – finalization by end 2006.
- Permanent premises:** Court has formulated its requirements with respect to permanent premises. These requirements are constantly reviewed in line with the Court strategic planning exercise.
- CBF has been provided with a comparison of three options (stay in the current premises, move to the ICTY and construct tailor made premises). With regard to financing, the host State presented commercial figures to the CBF. The Assembly of States Parties will be seized with this matter in November.

2. ***Division of Court Services*** - Draft Regulations of the Registry- on-line consultation and a seminar (25-27 May) have been carried out. 232 regulations address issues such as proceedings before the Court, responsibilities of the registrar relating to victims and witnesses, counsel issues and legal assistance and detention matters.
 - The design of the permanent detention centre is about to be finalized. A solution for the detention facilities has been found.
 - A protection program for witnesses and victims has been set up.
 - Three relocation agreements have been signed and a minimum of three other is expected to be signed in the next six months. The Registry is appealing to States to sign such agreements or to fund relocations in other States.
 3. ***Division of Victims and Counsels*** - An Expert Consultation on the development of Standard Application Forms - Reparation for Victims was held from 25 to 26 April.
 - Informational materials on the rights of victims have been developed.
 - A Seminar on Counsel was held from 23 to 24 May.
 4. ***Security and Safety Section*** - Policy on information security has been adopted by the Coordination Council. The Court joined the UN Security management system.
 5. ***Public Information and Documentation Section*** - A simplified version of the Statute is under preparation.
 - Basic documents of the Court have been printed in various languages spoken in the countries of situation.
 - Future actions will focus on the preparation of outreach tools adapted to the high rate of illiteracy and the diversity of languages of the target audiences.
 6. ***Legal Advisory Section*** - Negotiations with the host State on the Headquarters Agreement are in progress.
 - 25 States have sent their legislations implementing the Rome Statute. An Implementing Legislation Data Base will encompass all these texts.
 - Negotiations are ongoing with the European Union and African Union with a view to concluding formal agreements of cooperation. In process of being negotiated are agreements with ICRC and the African Asian Legal Consultative Organization. All these are under the authority of the President.
- Fourth Registry-NGOs Meeting** to be held at the Seat of the Court (23 to 24 June)

II. **Field Operations**

1. ***Democratic Republic of Congo*** - The field office in Kinshasa is ready to be occupied by 1 June. The organisation of the field presence in Bunia is currently ongoing.
 - Training for media, defence lawyers, magistrates has been organised in December 2004 and first trimester 2005. The Registrar pursued a mission in April. He met government officials, media, NGOs. This mission also included Kampala/Uganda.
 - Negotiations with a view to concluding a formal agreement with MONUC are ongoing.
 - Information products have been developed, a directory of key partners/target groups has been completed and the channels of communication have been established.
2. ***Uganda*** - The field office in Kampala is operational.
 - Training missions similar to those carried in Democratic Republic of Congo (December 2004; first trimester 2005)
 - Outreach - See last point under Democratic Republic of Congo.
3. ***Darfur*** - Following the referral of the situation in Darfur by the Security Council, a working group on Darfur has been set up at the Registry's level. It is tasked to assist the Office of the Prosecutor, assess the operational needs and make concrete proposals.

Secretariat, Assembly of States Parties

Recent Ratifications of Rome Statute: The 99th State Party is the Dominican Republic.

Agreement on the Privileges and Immunities of the ICC: Andorra, Belgium, and Sweden

I. Fourth Session of the Assembly

- Invitations to the fourth session of the Assembly, to be held in The Hague, from 28 November to 3 December 2005 and to the resumed session, scheduled in New York on 26 and 27 January, were sent to all States on 18 March 2005.
- A provisional agenda for the fourth session would be sent to all States in early September; in accordance with rule 11, paragraph 2 (j) of the Rules of Procedure of the Assembly, States Parties may submit items for inclusion in the provisional agenda.
- At the resumed session, the Assembly would proceed with the election of six judges and of six members of the Committee on Budget and Finance (CBF). Letters regarding the nomination period for candidates for judges and CBF members were sent to all States on 12 April (reference ICC-ASP/4/S/4) and 18 March (reference ICC-ASP/4/S/2), respectively. The nomination period for both judges and members of the CBF shall run from 18 July to 9 October 2005. Nominations received before or after the nomination period will not be considered.
- The six judges whose term of office expires on 10 March 2006 come from the following regional groups: 1 from the African States; 2 from the Asian States; 1 from the Eastern European States; and 2 from the Western European and Other States.
- The six members of the CBF whose term of office expires on 20 April 2006 come from the following regional groups: 1 from the African States; 2 from the Asian States; 1 from the Eastern European States; 1 from the Group of Latin American and Caribbean States; and 1 from the Western European and Other States.
- As regards the distribution of seats for the Committee on Budget and Finance, the Bureau decided, on 11 August 2004, to recommend to the Assembly that the existing distribution of seats among the regional groups be retained until the Assembly adopts a resolution amending operative paragraph 8 of resolution ICC-ASP/1/Res.5. Accordingly, the distribution of seats is as follows: African States, two seats; Asian States, two seats; Eastern European States, two seats; Group of Latin American and Caribbean States, two seats; Western European and Other States, four seats.
- In relation to the term of office of the members of the Board of Directors for the Victims Trust Fund, the Bureau decided that, since the terms of office expire on 11 September 2006, which is two months before the fourth session of the Assembly, the Bureau would make a recommendation at the fourth session of the Assembly that these elections be held in 2006 and that the Assembly be requested to extend the term of office of the present members to the date of the next session of the Assembly.
- As regards the incumbent Bureau, its term of office ends at the beginning of the fourth session of the Assembly. The composition of the incoming Bureau would be the result of consultations among States Parties prior to the opening of the fourth session.

II. Committee on Budget and Finance

- The Committee on Budget and Finance held its fourth session from 4 -6 April 2005 in The Hague. The Committee received reports on a number of issues including the permanent premises of the Court, a preliminary performance report on the 2004 budget, revised assumptions of the Prosecutor for 2005, preparatory discussions for the 2006 budget; it also considered reports on procurement issues, human

resources, legal aid and the Court's Strategic Plan. The report of the Committee (ICC-ASP/4/2) was sent to States Parties on 22 April 2005.

- At its fifth session, which shall take place from 10 to 14 October 2005, the Committee would consider, inter alia: budgetary matters, including the proposed programme budget for 2006 and performance reports data on financial performance and results; audit reports; permanent premises of the Court; and the Strategic Plan of the Court.
- In accordance with the Financial Regulations, the proposed programme budget for 2006 should be submitted by the Registrar to the Committee and to States Parties at least 45 days before the fifth session of the Committee. Accordingly, the Court has agreed to submit the proposed programme budget for 2006 to the Secretariat by beginning of July 2005, thus allowing sufficient time for subsequent editing, translation and printing in the six official languages of the Assembly. On the basis of this commitment, the proposed budget would be sent to the Committee and to States by the end of August.

III. Bureau Working Groups

- Pursuant to Assembly resolution ICC-ASP/3/Res.8, on 1 December 2004 the Bureau of the Assembly established two Working Groups, based in The Hague and New York, to be coordinated by Ambassadors Gilberto Vergne Saboia (Brazil) and Allieu Ibrahim Kanu (Sierra Leone), respectively. The facilitators of the Working Group in New York have held meetings to consider: 1) the relationship with the United Nations, particularly the matter of an ICC liaison office at the United Nations; 2) the arrears of States Parties and, 3) the draft Regulations of the Trust Fund for Victims.
- For its part, the Working Group in The Hague has held two meetings and considered: 1) the permanent premises of the Court and 2) the oral report of the Convenor of the Task Force on the draft Code of Professional Conduct for counsel.
- The Task Force has held five meetings during 2005 on the draft Code of Professional Conduct for counsel. The two forthcoming meetings shall be held on 9 and 24 June. Representatives of the three organs of the Court have also been invited to attend these meetings. The third meeting of the Task Force was specifically designated to listen to submissions from bar associations and non-governmental organisations. A review of the entire Code is expected to be finalized by the Task Force by the end of June.
- As regards the issue of permanent premises of the Court, at the second meeting of The Hague Working Group, held on 28 April, the Working Group heard presentations by the Court of two reports: a report on Housing Options (ICC-ASP/4/1) and a report containing a Project Presentation (ICC-ASP/4/CBF.1/3). Furthermore, the Working Group received a presentation on financing models by Mr. Edmond Wellenstein, Director-General, ICC Task Force, and Ministry of Foreign Affairs of the Netherlands. A similar presentation shall be made on 16 June to the New York Group of Friends of the Court and to the Bureau.

IV. Inter-sessional meeting on the crime of aggression

- The second inter-sessional meeting of the Special Working Group on the Crime of Aggression will take place from 13-15 June 2005 and will be hosted by the Liechtenstein Institute on Self Determination at the Woodrow Wilson School, University of Princeton, USA. Participation in the meeting is by invitation only. For further information: <https://www.princeton.edu/~lisd/ISSmeeting05> or contact Ms. Dorothy Hannigan at Princeton University via e-mail at doth@princeton.edu, by phone at 609-258-6200 or fax at 609-258-5196.

V. Documents of the Assembly of States Parties

- Documents of the Assembly, in all six official languages, may be found on the website of the Court at <http://www.icc-cpi.int/asp>.