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23 November to 1 December 2006

**Report on the activities of the Court**

**I. Executive summary**

1. The present report provides a general overview of developments at the International Criminal Court (the “Court”) since the fourth session of the Assembly of States Parties (the “Assembly”) in 2005. It outlines the activities of the Court as a whole as well as those of its individual organs.

2. One hundred and two States have ratified or acceded to the Rome Statute of the International Criminal Court. Forty States have ratified or acceded to the Agreement on the Privileges and Immunities of the Court. As of 29 September 2006, the Court’s staff consisted of 444 persons from 74 States.

3. During the reporting period, the Court continued to be seized of situations in Uganda, the Democratic Republic of the Congo and the Central African Republic – which were referred to the Court by the States Parties themselves – and of the situation in Darfur, Sudan – which was referred to the Court by the United Nations Security Council.

4. Pre-trial proceedings continued in all three situations under investigation. The persons subject to the warrants of arrest that were unsealed in the situation in Uganda in October 2005 have not been surrendered to the Court. In the situation in the Democratic Republic of the Congo, the first person arrested pursuant to a warrant of arrest issued by the Court was surrendered in March 2006. The surrender was made possible by the cooperation received from States Parties and from the United Nations. In the case of *the Prosecutor v. Thomas Lubanga Dyilo*, pre-trial proceedings took place on issues related to, *inter alia*, preparation for the confirmation of charges, disclosure of evidence, and the participation of victims.

5. The focus of the Court’s activities was in the field. The Office of the Prosecutor conducted investigative activities into the situations in Uganda, the Democratic Republic of the Congo and Darfur, Sudan. The Court conducted outreach to local populations and carried out its statutory responsibilities with respect to victims and witnesses in the field.

6. Significant developments at the Court since the fourth session of the Assembly include the following:

- Continuation of investigations and pre-trial proceedings in the situations in the Democratic Republic of the Congo, Uganda and Darfur, Sudan;
- Arrest and surrender of Mr. Thomas Lubanga Dyilo;
- Pre-trial proceedings in the case of *the Prosecutor v. Thomas Lubanga Dyilo*;
- Lack of arrest and surrender of the persons subject to arrest warrants in the situation in Uganda;
- Increased outreach activities in Uganda and the Democratic Republic of the Congo;
- Further refinement of field office needs;
- Conclusion of international cooperation agreements with States on the relocation of witnesses;
- Conclusion of a cooperation agreement with the European Union and negotiation of a cooperation agreement with the African Union; and
- Adoption of the Court's first Strategic Plan and completion of the Court Capacity Model planning tool.

7. More than a year after the Court issued its first warrants of arrest in the situation in Uganda, the five warrants remain outstanding. The Court does not have its own police force to arrest these persons. It depends on the cooperation of States and international organizations to do so. Without sufficient cooperation in the arrest and surrender, there can be no trials.

## **II. Judicial activities**

### *Proceedings*

8. The Court adheres to the principle of public proceedings. Decisions of the Chambers are published on the Court's web site ([www.icc-cpi.int](http://www.icc-cpi.int)). In certain circumstances, however, proceedings may need to be kept confidential, for example to protect the security of victims and witnesses. As such, not all proceedings are necessarily publicly available.

### **A. Pre-Trial Chamber I**

#### *1. Situation in the Democratic Republic of the Congo*

9. During the period from January – August 2006, Pre-Trial Chamber I received 68 filings by participants and handed down 18 decisions in the situation in the Democratic Republic of the Congo generally. Issues subject to decision included the right of victims to participate in pre-trial proceedings and the grounds for leave to appeal decisions of the Pre-Trial Chambers. In addition, the Chamber received 393 filings, comprising 9,931 pages, and issued 92 decisions in the case of *the Prosecutor v. Thomas Lubanga Dyilo*. In the *Lubanga* case, 14 hearings were held and 19 oral decisions handed down during this period.

10. On 10 February 2006, Pre-Trial Chamber I issued a sealed warrant of arrest against Thomas Lubanga Dyilo, who is charged with war crimes, namely, enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities. The Court transmitted a request for arrest and surrender to the Democratic Republic of the Congo, and on 17 March 2006 Mr. Lubanga was surrendered to the Court. The Chamber unsealed the warrant of arrest on the same day.

11. A significant element of the judicial proceedings in the *Lubanga* case dealt with the disclosure of evidence by the Office of the Prosecutor in anticipation of the hearing to confirm the charges. Over 400 documents and more than 5,000 pages of information were either disclosed to or inspected by the Defence. The Chamber issued decisions pertaining to the system for disclosure and redactions of material to be disclosed. Other issues decided on by the Chamber included the right of victims to participate in the case and the protection of victims and witnesses.

12. On 24 May 2006, the hearing to confirm the charges, originally scheduled for June, was postponed to ensure sufficient time to implement measures necessary for the protection of witnesses in the Democratic Republic of the Congo. On 21 September 2006, the hearing was postponed a second time in order to ensure sufficient time for the preparation of the Defence. At the confirmation hearing, the Prosecutor will be required to support the charges against Mr. Lubanga with sufficient evidence to establish substantial grounds to believe he committed the crimes attributed to him. If the charges are confirmed, the trial will take place thereafter.

## 2. *Situation in Darfur, Sudan*

13. Initial pre-trial proceedings took place in the situation in Darfur, Sudan, addressing issues such as the security of victims and witnesses. Nine filings were received and three decisions handed down during the period from January to August 2006.

### **B. Pre-Trial Chamber II**

#### *Situation in Uganda*

14. During the period from January to August 2006, a total of 43 documents were filed in the Uganda situation, 34 of which were in the case of *the Prosecutor v. Kony et al.* The five warrants of arrest issued by the Court in 2005 remained outstanding. The Court must rely entirely on States and international organizations to execute the warrants of arrest and to surrender the persons to the Court. Without arrest and surrender, there will be no trials.

### **C. Pre-Trial Chamber III**

#### *Situation in the Central African Republic*

15. During the period from January to August 2006, one decision was issued on 28 March 2006 in the situation in the Central African Republic. The decision as to whether to open an investigation belongs to the Prosecutor. The Prosecutor has not decided whether to begin an investigation in this situation.

### **D. Appeals Chamber**

16. During the reporting period, the Appeals Chamber was seized of the first interlocutory appeals. Issues on appeal included the scope of possible appellate review and decisions of the Pre-Trial Chamber on jurisdiction and admissibility.

17. On 13 July 2006, the Appeals Chamber, sitting in open Court, issued its first decision on the merits, dismissing the Prosecutor's application for extraordinary review of a decision by Pre-Trial Chamber I. In the underlying decision which the Prosecutor sought to have reviewed, Pre-Trial Chamber I had denied the Prosecutor's leave to appeal its decision granting the applications of six victims to participate in proceedings.

**E. Presidency**

18. The Presidency's functions comprise judicial and legal functions, administrative functions, including inter-organ coordination, and external relations functions.

19. Following the election of six judges by the Assembly, the outgoing Presidency convened the seventh plenary session of judges for the purpose of assigning the judges to Divisions and electing a new Presidency. The judges re-elected Judge Philippe Kirsch and Judge Akua Kuenyehia as President and First Vice-President, respectively, and elected Judge René Blattmann as Second Vice-President.

20. The Presidency continued to provide support to the work of Chambers and periodically informed the judges of developments at the Court through meetings and newsletters.

21. The Presidency approved the Regulations of the Registry on 6 March 2006, pursuant to rule 14, sub-rule 1, of the Rules of Procedure and Evidence. Following consultations with the Registry, the Presidency approved revised standard application forms for the participation of victims in proceedings and for reparations to victims.

22. The Presidency convened, as needed, meetings of the Coordination Council on issues including adoption of the Court's Strategic Plan and preparation of the 2007 budget. In 2006, the Coordination Council also jointly communicated with staff in relation to the Strategic Plan and other matters of concern to all staff.

23. In the fulfilment of its external relations activities, the Presidency's primary objective remained the enhancement of public awareness and understanding of the Court. The President met with Government officials, representatives of States, parliamentarians and representatives of international and regional organizations. He also addressed numerous non-governmental organizations, academics, the media and the public at large.

24. In June 2006, the President visited the African Union in Addis Ababa, where he spoke to the Peace and Security Council of the African Union and met with the Chairperson of the African Union Commission. The President travelled by invitation to a number of other countries around the world to provide information about the Court

25. The Presidency oversaw the negotiation of international agreements by the Legal Advisory Services Section of the Registry. The Presidency continued discussions with States in relation to the enforcement of sentences. The first agreement on the enforcement of sentences was concluded in October 2005. No further agreements have been concluded since.

**F. Divisions and Chambers**

26. On 26 January 2006, six judges were elected by the Assembly to nine-year terms. Five of those elected - Judges Akua Kuenyehia, Sang-hyun Song, Hans Peter Kaul, Erkki Kourula and Anita Usacka - were serving judges. Judge Ekaterina Trendafilova was elected for the first time by the Assembly. On 10 March 2006, the six judges elected to the Court gave a solemn undertaking at the seat of the Court in The Hague.

27. On 11 March 2006, a plenary session was held to assign judges to the judicial Divisions, as follows:

- Appeals Division: Erkki Kourula, President of the Division; Philippe Kirsch; Georghios Pikis; Navanethem Pillay; and Sang-Hyun Song;

- Trial Division: René Blattmann; Karl T. Hudson-Phillips; Elizabeth Odio Benito; Maureen Harding Clark; Anita Ušacka; and Adrian Fulford;
- Pre-Trial Division: Hans-Peter Kaul, President of the Division; Akua Kuenyehia, Claude Jorda; Mauro Politi; Fatoumata Dembele Diarra; Sylvia Steiner; and Ekaterina Trendafilova.

28. Following its election in March, the Presidency reconstituted Pre-Trial Chambers. The current Pre-Trial Chambers are as follows:

- Pre-Trial Chamber I: Judges Jorda (presiding), Kuenyehia and Steiner;
- Pre-Trial Chamber II: Judges Politi (presiding), Diarra and Trendafilova; and
- Pre-Trial Chamber III: Judges Steiner (presiding), Kaul and Trendafilova.

29. On 27 February 2006, the Advisory Committee on Legal Texts elected Judge Erkki Kourula, representative of the Appeals Chamber, as Chairperson of the Committee for three years, pursuant to regulation 4, sub-regulation 2, of the Regulations of the Court. The Advisory Committee met three times in 2006.

### **III. Office of the Prosecutor (proceedings and investigations)**

30. The Office of the Prosecutor is conducting investigations into situations of ongoing violence, where even travelling to the areas in question may be impossible, or where the territory suffers from a collapse of functioning institutions. This has presented challenges in terms of the security, health and welfare of staff and of logistics and language requirements. In light of these challenges, the Office, based on the Rome Statute, focused its efforts on the most serious crimes and on those who bear the greatest responsibility for these crimes.

#### **A. Proceedings**

##### *Democratic Republic of the Congo*

31. On 12 January 2006, after 18 months of investigation, the Office of the Prosecutor submitted a sealed application for an arrest warrant against Thomas Lubanga Dyilo, as described above.

32. Mr. Lubanga is a Congolese national and the alleged founder and leader of the Union des Patriotes Congolais (UPC) and its military wing, the Forces Patriotiques pour la Libération du Congo (FPLC). According to the unsealed arrest warrant, as President of the UPC and Commander-in-Chief of the FPLC, Mr. Lubanga allegedly had ultimate control over the adoption and implementation by the UPC and FLPC of policies and practices which included conscription and enlistment of children under the age of 15 into the FPLC and of using children under the age of 15 to participate actively in hostilities.<sup>1</sup> With regard to additional charges, the Office stated that it would defer investigation of other crimes until the completion of his first trial.

33. The decision on the timing and content of the arrest warrant was triggered by the possibility of the imminent release of Mr. Lubanga. He (along with other militia leaders) had been held in the Democratic Republic of the Congo since March 2005, reportedly in reaction to the killing of United Nations peacekeepers on 25 February 2005. It was possible that he would have been released when his detention was reviewed by the competent military judge in March 2006. After consideration of the evidence gathered during the

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<sup>1</sup> [http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-2\\_tEnglish.pdf](http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-2_tEnglish.pdf)

investigation, including linkage of the accused to the crimes, the Office decided to file an application for an arrest warrant.

34. Since the initial appearance of Mr. Lubanga, the Office has been involved in extensive proceedings as described above. The Office has disclosed or permitted the inspection of nearly 400 documents and more than 5,000 pages of information, including incriminatory and potentially exculpatory evidence.

35. On 28 August 2006, the Office of the Prosecutor filed the formal document containing the charges against Mr. Lubanga, charging him with enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities.

## **B. Investigation**

36. While the UPC investigation team continues preparations for trial, a second investigation team is pursuing crimes allegedly committed by another armed group in Ituri. The Office is taking a sequenced approach, as is its policy, and has stated that Mr. Lubanga's case will be the first and not the last one in this situation. There are different possibilities for subsequent cases. In addition to the situation in Ituri, the Office is continuing to assess the situation in the other provinces of the Democratic Republic of the Congo.

### *1. Uganda*

37. The Office continued to collect evidence in relation to the crimes allegedly committed by the five individuals identified in the arrest warrants which were issued in 2005. The Office continued to look at the situation in northern Uganda as a whole and to collect information relating to alleged crimes committed by other groups, including the Uganda People's Defence Force.

38. In August 2006, the Office received reports of the death of Raska Lukwiya, one of the five persons subject to an arrest warrant. Mr. Lukwiya is alleged to have served in the inner circle of Joseph Kony's most senior commanders. At the request of the Government of Uganda, the Office provided assistance in the identification process. The results of this process are not yet known, but will be publicly communicated upon completion.

39. In May 2006, new efforts to mediate an end to the conflict gained momentum, resulting in a cessation of hostilities in August 2006. Channels of communication have been established with the Government of Uganda and other relevant actors in this initiative, and the Office continues to stay apprised of developments.

40. In July 2006 the Ugandan Minister for Security, Mr. Amama Mbabazi, visited the Court as part of a regular exchange between the Office of the Prosecutor and the Government of Uganda. The Office was updated on the peace negotiations. The Government of Uganda highlighted the positive contribution of the warrants in driving the Lord's Resistance Army to the negotiations, comments which have been echoed by others, including Jan Egeland, the United Nations Under-Secretary-General for Humanitarian Affairs.<sup>2</sup> At no point has the Government of Uganda sought a withdrawal of the warrants of arrest.

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<sup>2</sup> Briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator on the situation in Africa (United Nations document, S/PV.5525, 15 September 2006).

2. *Darfur, Sudan*

41. The ongoing conflict prevented the Office from conducting investigations on the ground in Darfur. The Office is under a legal duty to protect victims and witnesses under the Rome Statute. Therefore, the absence of a functioning and sustainable system for their protection has prevented an effective investigation from being conducted inside Darfur.

42. The Office has nevertheless continued to make substantial progress in the investigation. It undertook approximately 50 missions to over 15 countries (including countries in the region), contacted and interviewed hundreds of witnesses, gathered numerous expert reports, and collected and analysed thousands of documents.

43. The Office sought various forms of cooperation from the parties to the conflict. The assistance of the African Union and the United Nations will also be a vital component of any future operations. To this end, the Office has concluded a number of arrangements with international organizations and bodies, while multiple requests for assistance have been, or are in the process of being, fulfilled.

44. In response to requests from the Office, the Government of Sudan facilitated three visits by delegations to Sudan during the reporting period. In February 2006, the delegation benefited from an extensive programme of meetings with local, judicial and law enforcement authorities. The Sudanese Government cooperated with the Office, “allowing unfettered access to the requested officials in meetings that were formally video recorded.”<sup>3</sup> The delegation met extensively with judges, prosecutors and representatives of the police force and other Government departments. During this mission, the Office gathered significant amounts of information to determine whether the Government of Sudan has dealt with, or is dealing with, the types of cases that the Office is likely to select for prosecution.

45. In May 2006, the Government of Sudan submitted a written report responding to questions submitted by the Office, providing information on various phases of the conflict from the Government’s perspective on matters ranging from military and security structures operating in Darfur to the legal system governing the conduct of military operations and the activities of other parties to the conflict.<sup>4</sup>

46. In June 2006, another mission to Sudan was conducted. This involved further fact-finding activities, including meetings with military officers to further clarify the written report.

47. In August 2006, a delegation from the Office conducted its third mission of the year to Khartoum. The Office formally interviewed two high officials from among a number it had requested to interview. The individuals requested for interviews were persons who, due to their positions, could provide information relating to the activities of the Government of Sudan and other parties to the conflict in Darfur.

48. During the period since the last report to the Assembly, the Prosecutor twice updated the United Nations Security Council on the progress of the investigation, as required by Security Council resolution 1593 (2005), once on 13 December 2005 and again on 14 June 2006.

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<sup>3</sup> [http://www.icc-cpi.int/library/cases/OTP\\_ReportUNSC\\_3-Darfur\\_English.pdf](http://www.icc-cpi.int/library/cases/OTP_ReportUNSC_3-Darfur_English.pdf) (p.9).

<sup>4</sup> [http://www.icc-cpi.int/library/cases/OTP\\_ReportUNSC\\_3-Darfur\\_English.pdf](http://www.icc-cpi.int/library/cases/OTP_ReportUNSC_3-Darfur_English.pdf) (p.9).

### **C. Proceedings**

49. On 31 August 2006, Antonio Cassese, in his capacity as Chairperson of the International Commission of Inquiry on Darfur, submitted written observations concerning the protection of witnesses and the preservation of evidence in Darfur, pursuant to Pre-Trial Chamber I's Decision Inviting Observations in Application of Rule 103 of the Rules of Procedure and Evidence. On 11 September, the Prosecutor filed a written response to Professor Cassese's observations. In this response, the Prosecutor noted the continuing lack of security in Darfur and the absence of any effective infrastructure for the protection of victims and witnesses – a key responsibility of the Office and the Court. He went on to note that to date the investigation was continuing without let-up outside Darfur.

### **D. Outreach**

50. In 2006, the Office of the Prosecutor continued to strengthen its outreach activities in situations under investigation. Outreach activities are targeted and designed to obtain support and cooperation from local partners for its investigations. The Office also cooperated with the Registry in conducting larger and more general outreach activities.

#### *1. Democratic Republic of the Congo*

51. The Office strengthened and developed outreach activities in the Democratic Republic of the Congo, in coordination with the Registry, as appropriate, particularly in Kinshasa and in the Ituri district. For example, the Office maintained its involvement in the "Interactive Radio for Justice" initiative, a private programme on Radio Canal Revelation in Bunia which promotes dialogue between Ituri communities, local and national authorities and the International Criminal Court and local courts. In addition, the Office has conducted regular information sessions for local non-governmental organizations in Kinshasa.

52. Following the arrest of Mr. Lubanga, the Office conducted a series of press conferences and arranged for television and radio coverage of the arrest and of the work of the Court. The Prosecutor visited Kinshasa from 3 to 4 April 2006, at which time a press release was issued, a number of press conferences and interviews held and a conference involving non-governmental organizations organized. Finally, in preparation for the confirmation of charges hearing in the *Lubanga* case, press briefings, radio programmes and public debates were organized to raise awareness of the proceedings and work of the Court.

#### *2. Uganda*

53. In 2006, the Office continued to strengthen its outreach activities in northern Uganda disseminating information through radio broadcasts, newspapers and other media outlets.

54. In March and June 2006, the Office and the Registry co-organized workshops in northern and eastern Uganda with over 150 traditional leaders, 50 religious leaders, over 120 representatives of non-governmental organizations, and over 60 local government representatives. The purpose of the workshops was to share and receive information concerning the activities of the Court and to further develop sustainable networks and mechanisms to disseminate information more broadly within the local community.

#### *3. Darfur, Sudan*

55. The Office and the Registry conducted assessments of the best practices to reach the population in Darfur. In the initial outreach phase, a communications strategy was outlined, challenges and opportunities to conduct outreach defined, and target groups and

potential partners identified. The preliminary public information and outreach assessment done by the Court confirmed that outreach in Sudan should be carefully conducted. The Court adopted a single coordinated strategy which, in consideration of the security of potential partners, will remain at least partially confidential. The inherent limitations of the process also necessitate a realistic view to be taken of the number of people who can actually be reached in the short term. Communication activities are being focused on disseminating basic information through the international media and other available means.

## **E. Referrals and communications**

56. The Office of the Prosecutor continues to fulfil its statutory obligation to review all of the communications it receives. During the reporting period, 665 communications were sent to the Office. Of these, 569 were deemed manifestly outside the Court's jurisdiction, while the remainder, assessed as warranting further analysis, are at varying stages of review.

57. Five situations are currently under intensive analysis by the Office. Only those situations under analysis which have been made public by the senders of communications are made public by the Office. Among these, one is pursuant to a referral from a State Party (Central African Republic) and another pursuant to a declaration of acceptance by a non-State Party (Côte d'Ivoire) lodged with the Court, accepting the Court's jurisdiction for crimes committed on its territory since 19 September 2002. A mission to the Central African Republic took place and a mission to Côte d'Ivoire is planned for the purpose of developing an analysis of jurisdiction, admissibility and interests of justice issues.

58. On 10 February 2006, the Office posted on the Court's web site an update on communications received by the Office of the Prosecutor. The update included statistics on the communications received and information on the analysis process. On the same day, the Office made public its reasons for dismissing two situations that had been subjected to intense analysis: the situation in Iraq and the situation in Venezuela. With regard to the situation in Venezuela, the information available did not provide a reasonable basis to believe that the alleged crimes fell within the jurisdiction of the Court.<sup>5</sup> In the case of Iraq, where the Court has jurisdiction only with respect to the actions of nationals of States Parties, the information available constituted a reasonable basis to believe that a limited number of instances of wilful killing and/or inhuman treatment had occurred. However, the crimes allegedly committed by nationals of States Parties in Iraq did not appear to meet the required gravity threshold. Additionally, the Prosecutor noted that, although it was not necessary to reach a conclusion on complementarity in light of the conclusion on gravity, national proceedings had been initiated with respect to each of the relevant incidents.<sup>6</sup>

## **F. Building international cooperation**

### *1. States Parties*

59. The Office issued numerous notifications and requests with regard to each of the three situations under investigation. In relation to the Democratic Republic of the Congo, multiple requests and notifications have been made and given. In the Darfur investigation, the Office made numerous requests for assistance. With regard to Uganda, the Office continued to facilitate constructive cooperation based on the cooperation mechanisms established during the two-year investigation. Since the unsealing of the arrest warrants, the

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<sup>5</sup> [http://www.icc-cpi.int/library/organs/otp/OTP\\_letter\\_to\\_senders\\_re\\_Venezuela\\_9\\_February\\_2006.pdf](http://www.icc-cpi.int/library/organs/otp/OTP_letter_to_senders_re_Venezuela_9_February_2006.pdf).

<sup>6</sup> [http://www.icc-cpi.int/library/organs/otp/OTP\\_letter\\_to\\_senders\\_re\\_Iraq\\_9\\_February\\_2006.pdf](http://www.icc-cpi.int/library/organs/otp/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf).

Office has conducted numerous activities to galvanise regional and international cooperation in effecting the arrest warrants.

60. In addition, the Office has also concluded general cooperation agreements with two States Parties.

## 2. *International organizations*

61. During the past year, the Office of the Prosecutor entered into numerous arrangements with programmes, funds and offices of the United Nations system, pursuant to article 18 of the Negotiated Relationship Agreement between the Court and the United Nations. These arrangements typically relate to the interviewing of staff members and the provision of documentation in relation to ongoing investigations by the Office.

62. The Office also issued multiple requests to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), pursuant to the Memorandum of Understanding between MONUC and the Office of the Prosecutor.

## 3. *The United Nations International Independent Investigation Commission*

63. On 21 December 2005, the Secretary-General of the United Nations wrote to the Prosecutor of the Court expressing his intention to appoint Mr. Serge Brammertz, Deputy Prosecutor for Investigations, as Commissioner of the United Nations International Independent Investigation Commission (UNIIC) into the assassination of former Lebanese Prime Minister Rafiq Hariri, and requesting the Prosecutor to “release him for a period of six months to take up this important responsibility.” On 22 December 2005, following consultations with States Parties, the Prosecutor agreed to grant Mr. Brammertz a six-month leave of absence, until 15 July 2006. The decision was based on the conviction that it would be an important contribution of the Court towards efforts by other institutions to promote international justice.

64. On 2 June 2006, the Secretary-General requested that the Prosecutor grant Mr. Brammertz an additional leave of absence of approximately five months, until 31 December 2006, to continue his work with UNIIC. Following consultations with the States Parties, the Prosecutor informed the Secretary-General that he approved the extension of Mr. Brammertz’s leave until 31 December 2006. On 19 July 2006, the Secretary-General informed the Security Council of his intention to extend the mandate of Mr. Brammertz until 31 December 2006.

## **G. Strategic planning**

65. In early 2006, the Office conducted 10 staff sessions, 1 plenary meeting and several senior management meetings relating to strategic planning. These sessions led to the formulation of the 2007-2009 Prosecutorial Strategy, which was harmonized with the Court-wide Strategic Plan. The Prosecutorial Strategy is comprised of five objectives that will drive all the activities of the Office’s divisions and set out how the Office’s units will achieve their goals by the end of 2009. The five objectives are to:

1. Conduct four to six focused and impartial investigations of those who bear the greatest responsibility in current or new situations;
2. Further improve the quality of the prosecution, with the aim of completing two expeditious trials;
3. In all situations, secure the necessary forms of cooperation to facilitate effective investigations and successful arrest operations;

4. Continuously improve the way in which the Office interacts with victims and address their interests;
5. Establish forms of cooperation with States and organizations to maximise the Office's contribution to the fight against impunity and the prevention of crimes.

#### **IV. Registry**

66. The Registry provided judicial and administrative support to all organs of the Court and carried out its specific responsibilities in the areas of victims, witnesses, defence and outreach. In the field, the work of the Registry focused on providing administrative support to the teams of both the Registry and the Office of the Prosecutor as well as on conducting activities in relation to its specific responsibilities in the areas of outreach, defence, victims and witnesses. At headquarters, the Registry serviced the Court by providing the necessary support to ongoing judicial proceedings.

67. The Regulations of the Registry were finalized and approved by the Presidency on 6 March 2006. These Regulations address key issues, such as proceedings before the Court, responsibilities of the Registrar relating to victims and witnesses, counsel issues and legal assistance and detention matters.

##### **A. Field operations**

68. In order to ensure efficient oversight and coordination of the Court's field activities, the Registry established a Field Operations Section. In providing support for field operations, the Section works closely with the Office of the Prosecutor.

69. Specific recruitment activities were launched for field staff, appropriate contracts designed and administered, health and welfare protection ensured and tailor-made training offered. Travel and tropical medicine were priorities for the health-care activities of the Registry.

70. The Registry provided regular threat assessments, ensured compliance with field security standards, and established and consolidated cooperation with other actors on specific security support required. Mechanisms were put in place to ensure that information security extends to data collected and processed during field missions.

71. With respect to witness protection, the Registry maintained the existing witness protection systems and its operational support structures in the Democratic Republic of the Congo and Uganda. Where necessary, such systems and structures have been adapted as new needs have arisen. With regard to Darfur, Sudan, support and protection structures are currently being developed.

##### **B. Outreach**

72. The Registry is the organ primarily responsible for outreach activities. During the reporting period, 16 workshops and informational meetings involving 1,300 participants were held in the Democratic Republic of the Congo. Fourteen workshops and seminars involving 700 participants were organized in Uganda. The activities engaged experts from the Victims Participation and Reparations Section, the Public Information and Documentation Section, the Defence Support Section and, where possible and appropriate, members of the Office of the Prosecutor. The Registrar personally visited Chad from 26 to 29 March 2006, where he met with representatives of civil society, the media and United Nations agencies and programmes. During the period from 3 to 7 April 2006, he held

meetings in Uganda with local traditional and religious leaders, representatives of non-governmental organizations, journalists and United Nations officials.

73. The outreach activities included bilateral meetings, workshops, seminars and training activities all tailored to respond to the particular needs of the participants. Audiences consisted of the general public; representatives of non-governmental organizations; local, traditional and religious leaders; magistrates and other judicial officials; lawyers; United Nations staff; and students, among others. Various outreach products were disseminated, including basic legal texts and the publication "Understanding the ICC." Some 500 copies of the basic legal texts were distributed to representatives of legal communities and faculties of law in both the Democratic Republic of the Congo and Uganda. Additional informational materials and standard application forms for participation in proceedings or reparations were also disseminated.

74. The Court's outreach activities are supported through the presence on the ground of dedicated outreach personnel in both the Democratic Republic of the Congo and Uganda. Networks of reliable intermediaries were further developed in order to reach out to and inform local populations and victims. Through partnerships with local radio stations in remote areas, the Court increased its ability to reach out to local populations affected by the situations under investigation. Additionally, the Court disseminated information through local newspapers and publications.

#### **C. Defence**

75. The Office of Public Counsel for the Defence is operational and provides necessary assistance to defence teams in accordance with the Rome Statute and Rules of Procedure and Evidence. To date, 152 persons have been inscribed on the list of counsel established pursuant to the Rules of Procedure and Evidence. During the period from 31 May to 1 June 2006, 100 counsel from the list participated in consultations with the Court through a seminar for counsel held in The Hague. The Registry has initiated the process for appointing the Commissioner in charge of disciplinary investigations of counsel and is facilitating the election of members of the disciplinary boards.

#### **D. Victims**

76. The Registry developed a revised Standard Application Form for Participation of victims in proceedings and a Standard Application Form for Victims' Reparations, both of which were approved by the Presidency. The Registry tested these documents in the field and received and processed applications for participation in judicial proceedings from a number of victims.

77. In order to ensure effective participation of victims in proceedings before the Court, the Office of Public Counsel for Victims has been established. This Office is independent and provides support and assistance to victims and their legal representatives.

#### **E. Premises**

78. The Court has had a need for additional interim premises since the notification by the host State that Eurojust would not vacate the "B" wing of the Arc Building as expected. In July 2006, the Court relocated part of its staff to the Hoftoren building in the centre of The Hague as a temporary solution until prefabricated buildings could be constructed as a longer-term housing solution. The Court had planned on moving into prefabricated buildings in 2007, although just prior to the submission of the annual budget, the host State informed the Court that the construction of the prefabricated buildings may be postponed.

The host State has provided additional office space in the Hoftoren building, but the need for sufficient interim premises has continued to increase in urgency.

79. The license for Courtroom 2 was issued to the Court in April 2006, giving the Court two full courtrooms and one pre-trial courtroom. The Court Media Centre adjoins the courtrooms and includes a Press Briefing Room and a “hot desk” area for writing and sending stories. The Media Centre was used for the first time during the initial appearance of Thomas Lubanga Dyilo.

80. In 2006, the Detention Centre took custody of its first detainee, Mr. Lubanga. The Detention Centre also took custody of Mr. Charles Taylor, pursuant to the Memorandum of Understanding between the Court and the Special Court for Sierra Leone.

81. The Court reviewed its internal governance arrangements regarding the permanent premises, pursuant to the request of the Committee on Budget and Finance.

#### **F. Administration**

82. During the reporting period, the Registry continued servicing the Court through, *inter alia*, implementation of its administration and document management systems. These systems have been used to ensure the digital recording of hearings and electronic management of transcripts, thereby contributing to greater efficiency and accuracy of information. In compliance with the decision of Pre-trial Chamber I, the Registry provided computer equipment, training, software and support to Mr. Lubanga and his defence team.

83. The Registry also extended the use of the Court Management System to defence, victims and witnesses. Currently, the TRIM software designed to stock data is used by half of the Court.

84. In its capacity as the organ responsible for non-judicial aspects of the administration, the Registry continued the implementation of a global Record and Documents Management system and of the administrative and judicial Enterprise Resource Planning (ERP) system. To date, the ERP system is operational for procurement, budget, payroll and travel management. Deployment of advanced functions, such as e-recruiting, business intelligence and management information systems, is under way.

85. Maintaining high ethical standards is essential. Specific training was developed for staff in ethics and integrity awareness and in cross-cultural competence. In accordance with the Staff Rules, the Disciplinary Advisory Board and the Appeals Board have been established and are fully operational.

#### **G. Building international cooperation**

86. The Registry concluded an agreement with the host State facilitating the operation of the Court with respect to the detention and transport of suspects. It also participated in the negotiation of other international agreements of the Court.

87. In order to strengthen cooperation with the other components of the emerging international justice system, the annual meeting of the Registrars of the ad hoc Tribunals, the Special Court for Sierra Leone and the Court took place on 2 and 3 March 2006 in Geneva. The Registry also maintained regular dialogue with non-governmental organizations and the United Nations.

## V. Activities involving the whole Court

### A. Strategic planning

88. In early 2006, the Court adopted the first version of its Strategic Plan. The Plan provides a common framework for the Court's activities over the next 10 years, with emphasis on objectives for the three years immediately ahead. Through the Plan, the Court aims to set a clear direction for its future, ensure continuous coordination of its activities, demonstrate its transparency and further strengthen its relationships with States Parties and other actors.

89. As stated in the Strategic Plan, the mission of the Court is: "As an independent judicial institution in the emerging international justice system, the International Criminal Court will:

- Fairly, effectively and impartially investigate, prosecute and conduct trials of the most serious crimes;
- Act transparently and efficiently; and
- Contribute to long-lasting respect for and the enforcement of international criminal justice, to the prevention of crime, and to the fight against impunity."

90. In order to fulfil this mission, the Strategic Plan identifies three strategic goals: to ensure the quality of justice, to become a well-recognized and adequately supported institution and to be a model for public administration. Thirty strategic objectives provide detailed elements of the steps to be taken in order to reach these goals.

91. The Court presented the Strategic Plan to the Committee on Budget and Finance at the Committee's sixth session in April 2006. The Committee observed that the Plan "responded effectively to the Committee's own recommendations in prior sessions" and "agreed that the plan should provide an excellent basis for guiding and disciplining the Court's activities."<sup>7</sup> The Committee "agreed with the Court that it was essential that ownership of the strategic plan should remain with the Court and that it enjoy the support of States Parties."<sup>8</sup> On this basis, the Court presented the Strategic Plan to States Parties, including through The Hague Working Group of the Bureau of the Assembly and the Friends of the Court group, and incorporated their feedback. The Court also engaged in similar dialogue with other key interlocutors, in particular civil society organizations. The Court submitted a separate report on the Strategic Plan to the Assembly.

92. The Court has begun implementing the Strategic Plan. Strategies contributing to achieving the Court's goals, including a Prosecutorial Strategy, were developed concurrently with the Plan. The Court has provided reports to the Assembly on its strategies for outreach and for information and communications technologies.

93. One of the primary means for implementing the Plan annually will be through the Court's budget. In the proposed budget for 2007, each programme and sub-programme identified the Court's strategic objectives to which it will contribute. Each objective was then linked to expected results and performance indicators for 2007.

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<sup>7</sup> Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 55.

<sup>8</sup> Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 56.

94. As part of the strategic planning process, the Court has also developed a Court Capacity Model. The Model is a planning tool to assist the Court in aligning the resources it will need with the accomplishments it can achieve, as well as in forecasting future needs. The Model can be used to run simulations identifying a range of staff resources needed to conduct a certain number of investigations, trials and appeals. The Model can also be used to spread the Court's activities over time, identifying any bottlenecks caused by under- or over-capacity of human resources. The Court will present the Model and simulations using the Model to the Committee at its seventh session in October 2006.

#### **B. Building international cooperation**

95. During the reporting period, developing necessary cooperation with States, international organizations and civil society was a priority for the Court.

96. With regard to cooperation from States Parties, Part 9 of the Rome Statute provides the legal framework for the rendering of various types of judicial assistance, including the arrest and surrender of persons and the provision of other forms of cooperation. Cooperation agreements also facilitate the provision of support to the Court. During the reporting period, the Court continued to conduct negotiations with States Parties regarding the enforcement of sentences and the relocation of witnesses. An agreement on the use of the diplomatic pouch was concluded with the host State. Negotiation of the Headquarters Agreement remains pending. In addition, the Office of the Prosecutor and the Registry concluded agreements, described above, on issues pertaining to the work of those organs.

97. The Court continued to build upon the Negotiated Relationship Agreement concluded with the United Nations in 2004. The Court and the United Nations cooperated routinely in the field and also discussed cooperation issues at their respective headquarters. A series of meetings between United Nations and Court officials was held on 23 and 24 January 2006, following up on previous meetings held in New York in July 2005. On 12 April 2006, the United Nations Secretary-General visited the seat of the Court. The second annual report of the Court to the United Nations was submitted in August 2006, and the President of the Court will present the report to the United Nations General Assembly in October.

98. Following the Assembly's approval of the establishment of a Court Liaison Office in New York, the Court initiated the process for the recruitment of the Head of Office. A recruitment panel was convened consisting of representatives of all of the organs of the Court and a representative of States Parties. After consideration of the candidates, the panel selected Ms. Socorro Flores Liera as Head of the Liaison Office. Ms. Flores Liera assumed her responsibilities at the beginning of September 2006.

99. While the Head of Office was being recruited, the Court began the search for premises in New York to house the Office. States Parties, through their Permanent Missions in New York, assisted the Court in this endeavour. The Court also initiated contacts with the United Nations to arrange for access of the Liaison Office to United Nations premises and meetings. The immediate objectives for the Office in 2007 will be the physical establishment of the Office, identifying and establishing relations with a network of operational contacts within the United Nations and defining and implementing clear lines of authority and decision-making procedures with headquarters.

100. On 10 April 2006, the Court concluded a cooperation agreement with the European Union. This agreement covers issues such as exchanges of information, security, testimony of staff of the European Union and cooperation between the European Union and the Office of the Prosecutor. In order to facilitate cooperation and assistance, the agreement provides for the establishment of regular contacts between the Court and the European Union and for the establishment of the European Union Focal Point for the Court.

101. The Court continued negotiations on a cooperation agreement with the African Union. Negotiations on the agreement are at an advanced stage, and the Court intends to conclude it soon. In June 2006, the President and Prosecutor of the Court participated in a meeting of the Peace and Security Council of the African Union in Addis Ababa, Ethiopia. While there, they both met with His Excellency Alpha Oumar Konaré, Chairperson of the African Union Commission.

102. The Court also entered the final stages of negotiations on a cooperation agreement with the Asian-African Legal Consultative Organization.

103. On 29 March 2006, the Court signed an agreement with the International Committee of the Red Cross (ICRC) governing visits by the ICRC, pursuant to the jurisdiction of the Court, to persons deprived of liberty. On 28 and 29 June 2006, the ICRC made its first visit to the Court's Detention Centre pursuant to the agreement.

104. As one part of the emerging system of international justice, the Court also provided assistance to other institutions within the system. On 29 March 2006, the then President of the Special Court for Sierra Leone (SCSL), Justice A. Raja N. Fernando, sent a letter to the President of the Court, Judge Philippe Kirsch, requesting the use of the Court's facilities in order to conduct the trial of Charles Taylor in The Hague. The Court sought the views of States Parties on this matter. The Assembly subsequently conveyed to the Court its acceptance of the request of the Special Court, on the condition that all costs be paid in advance by the SCSL and that the arrangements should not adversely affect the functioning of the Court. On 13 April 2006, the Court and the SCSL concluded a Memorandum of Understanding that included the conditions set by the Assembly. Mr. Taylor was transferred to the Detention Centre on 20 June 2006. His trial is currently anticipated to start in the spring of 2007.

105. Mindful of the importance of raising awareness and enhancing communication in order to sustain support, the Court continued to seek regular dialogue with States Parties. Jointly represented by the three organs and the Secretariat of the Assembly, the Court has held two diplomatic briefings for representatives of States in 2006 and will hold a third briefing in October. Upon invitation, the Court attended meetings of the working groups established by the Bureau of the Assembly, and other meetings on specific topics convened by States Parties.

## **VI. Conclusion**

106. The year 2006 marked the completion of the Court's first three years of operations with the conclusion of the first terms of office for its judges. Over these three years, an entirely new institution was built from scratch. At the same time, the Court launched three investigations into complex situations of ongoing violence. During the past year, many of the provisions of the Rome Statute were interpreted by the Court for the first time in the context of judicial proceedings.

107. The cooperation of States Parties and other actors has facilitated the work of the Court. The past year has shown that cooperation will be increasingly important to the success of the Court. Many forms of cooperation will be essential. Cooperation in arresting and surrendering persons is the most immediate need. Without arrest and surrender, there can be no trials.

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