



*Address to the Assembly of States Parties*

*17 November 2008*

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Registrar of the International Criminal Court*

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Excellencies,

Ladies and Gentlemen,

It is my great pleasure and privilege to address the Assembly of States Parties today in my capacity as Registrar of the International Criminal Court. I am proud to be part of this institution and to contribute to accomplishing its mandate while continuing a close dialogue with the States Parties and other actors in the international justice arena including, but not limited to, civil society organizations many of which are present here today and which contribute meaningfully to the Court and its mission.

At the outset, I would like to underline that 2008 represents a historic moment for international criminal justice. It marks a decade since the Court's "birth certificate", the Rome Statute, was adopted by you, its founders, in Rome, on 17 July 1998; but, most importantly, it has so far witnessed a great deal of achievements by the first ever permanent international criminal court.

In fact, there are currently 4 situations involving 6 cases before the Court. The Prosecutor applied for a warrant of arrest for Sudanese President Al-Bashir in July 2008. The Court has now issued 12 arrest warrants in these 4 situations. 4 persons are currently detained at the ICC's detention facility in Scheveningen. The Court

has issued hundreds of decisions and orders (518 in 2008 so far). It has received 1136 applications for participation in the proceedings in the current 4 situations and 6 cases. 168 victims have been authorised to participate in the situation in the Democratic Republic of the Congo, 9 in the situation in Uganda and 11 in the situation in Darfur. 4 victims have been authorised to participate in the *Lubanga* case, 57 in the *Katanga and Ngudjolo Chui* case, and 14 in the *Kony et al.* case. 300 persons are under the Court's Protection Programme. 261 lawyers – 209 men and 52 women – from 49 countries are on the Court's List of Counsel, including 69 from Africa, 5 from Asia, 7 from Eastern Europe, 176 from the Group of Western European and Other States, and 4 from Latin America and the Caribbean. These lawyers are qualified to represent both victims and suspects or accused before the Court. The Court has 5 field offices located in the Democratic Republic of the Congo, Uganda, Chad and the Central African Republic, with approximately 100 staff members, one liaison office in New York, three interim premises and one ongoing project for the construction of the Court's permanent premises. I would like to seize this opportunity to express my real satisfaction with the substantial progress achieved in 2008 through close cooperation between the Court and the Oversight Committee for the Permanent Premises, the ASP Project Director and the host State. As you know, the three winning designs for the new seat of the

International Criminal Court have been selected following an international architectural competition. This is a further step towards the realization of the Court's permanent premises: symbolizing a universal notion of justice, providing functionality and the necessary safety and security. Large volumes of documents are translated and used on a daily basis. Millions of people are targeted by our outreach activities aimed at reaching the affected populations in the countries where the Court intervenes. Today, 108 countries are States Parties to the Rome Statute of the International Criminal Court. The Court has 578 staff members on established posts from 85 different countries as well as General Temporary Assistance staff, consultants and interns. The Trust Fund for Victims is already operational and is in the process of implementing projects to assist victims in Uganda and in the Democratic Republic of the Congo.

These high quality results could not have been achieved without the commitment, determination and strong motivation of the Court's staff members who have brought their competence, creativity and tireless efforts to the service of international justice. These achievements are also the result of your unwavering support and the confidence you have placed in the Court over the years. As regards future achievements in 2009, the Court has already defined its work plan and submitted its proposed budget

to the States Parties and the Committee on Budget and Finance in July 2008.

Before addressing the specifics of the 2009 budget submission, I would like to recall that the document you have before you is, first and foremost, the product of in-house discussions within and amongst all organs of the Court. It is also the result of valuable exchanges that have been taking place throughout the year with the members of the Committee on Budget and Finance at its 9<sup>th</sup> and 10<sup>th</sup> sessions held here in The Hague. Discussions on the proposed budget were held with you, States Parties, in the framework of The Hague Working Group. I would like to express my appreciation for the work undertaken by Mr Masud Husain of Canada in his capacity as The Hague Working Group's facilitator on budget matters. Fruitful discussions on the proposed budget have also taken place with other natural partners, namely civil society organizations.

As the principal administrative officer of the Court, I am conscious of the fact that resources allocated by the States Parties need to be used efficiently and cost-effectively, especially in critical situations as presented by the States Parties. The Court will spare no effort in ensuring optimum administrative and management actions in

order to secure the best results with minimum costs without in any way jeopardizing the quality and efficiency of justice.

Let me now introduce the proposed budget for 2009 recalling the objectives as described in the Strategic Plan. These objectives are: trials and investigations, cooperation, witness and victim protection, safety and security, human resources, risk management and non-bureaucratic organization.

The budget document before you was prepared consistent with the main components that drove previous budget submissions, namely the Court's forecast of judicial activities and work in the field for 2009. A few years ago, the Court started the process of directly linking its yearly objectives with its Strategic Plan. The present budget proposal makes a further improvement in linking the objectives for 2009 with the priority strategic objectives as set out in the Court's Strategic Plan. At its last session, the Committee on Budget and Finance took note of this further improvement in the Court's budget presentation. Further refinement is needed and the Court is determined to continue working on it.

## *Assumptions*

As regards the assumptions for 2009, I would like to stress that these are not mere guesses. They are Court-wide crossed-checked estimates. In establishing them, the Court has built upon its five years of experience and lessons learnt in the course of implementing its budgets in all these years.

In this exercise, the Court has continued to uphold the same principle as in previous years. Consequently, the ICC only proposes necessary resources when a suspect is in the Court's custody at the time of the budget submission to the States Parties. Furthermore, the Court had to take into account developments which were not assumed in the 2008 budget, namely the arrest and surrender of three new persons to the ICC.

Before outlining the assumptions, I would like to clarify one important aspect for budgetary purposes: the distinction between the pre-trial phase and the trial phase. The pre-trial phase may or may not involve a defendant. The trial phase always involves a defendant and it starts after the charges have been confirmed. It encompasses the preparation of the trial and the trial *per se*, meaning daily hearings. It is essential to make this distinction as some costs kick in at the pre-trial phase, for example legal

assistance costs, while others, such as costs for Court services will occur on a daily basis only after the trial starts. Therefore, when I refer in the assumptions to two consecutive trials, I mean two trials with hearings held on a daily basis with the presentation of the prosecution and defence cases.

The assumptions for 2009, which were determined in early 2008 and are set forth in paragraphs 7 and 8 of the introduction to the budget document, are as follows:

- two consecutive trials involving three accused, the second trial is the first joinder before the ICC. At the time of the budget submission, it was assumed that the possibility of conducting parallel trials might arise for a short period of time only;
- the Prosecutor will conduct five investigations in three of the four situations currently before the Court. At the time of the budget submission, it was assumed that the Prosecutor will not initiate investigations in a new situation;
- in addition, pre-trial and possibly trial activities will continue for full year 2009 in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.



It should be noted that costs related to activities beyond the assumptions of the 2009 budget such as parallel trials and new arrest(s) and transfer(s) of suspects to the Court and other unforeseen events will be covered by accessing the Contingency Fund. With respect to costs related to the *Bemba* case, the Court prepared a supplemental budget amounting to 2.5 million euros, but the Committee on Budget and Finance recommended that this item be included in the proposed budget for 2009. I would like to recall that Jean-Pierre Bemba Gombo was transferred to the Court on 3 July 2008, as the Court was finalising its budget submission and therefore his case was not included in the proposed programme budget for 2009.

As regards the Contingency Fund, I would like to stress that its existence is closely linked to the Court's independence. It ensures that the Court can face its multifaceted challenges effectively. I would like to commend the Committee on Budget and Finance for its long-standing support for the Contingency Fund and welcome its recommendation that the Fund be **continued indefinitely**.

Today, the budgetary challenge facing the Court is to ensure that the necessary financial resources are available to enable the Court to conduct its judicial work in 2009 effectively. Allow me to

remind you of the considerable difference in the Court's judicial proceedings if we compare 2008 and 2009. For 2008, the Court's assumption was that there would be one trial involving one accused. By comparison, in 2009, it is anticipated that the Court will be conducting two trials involving three accused and pre-trial proceedings possibly followed by the commencement of the trial itself in the *Bemba* case. In short, the 2009 increase is due largely to the forecast of two trials and the adjustment of the vacancy rate back to 10%.

The 2009 budget submission was built around objectives, assumptions and the 2008 implementation rate. It amounts to 102.6 million euros, which represents a 13.5% increase over the 2008 budget. Including the supplemental budget for the *Bemba* case, the proposed budget for 2009 amounts to 105.1 million euros, which represents an increase of 16.5%.

The Committee on Budget and Finance found the Court's proposed budget reasonable. As the President mentioned in his opening address, the Court acknowledges the important role of the Committee on Budget and Finance. So long as the Court retains sufficient flexibility to adjust its allocation of resources where necessary, the Court believes that it will be able to meet its needs within the limits of the Committee's recommendations. I would

like to remind you that the Committee on Budget and Finance recommended a budget of 101.2 million euros, meaning 3.9 million (3.7%) less than the total proposed budget. The total increase after the CBF cuts amount to 11.9%.

In an effort to achieve its objectives for 2009, the Court has allocated its resources accordingly. I would now like to further develop this statement.

**Trials and investigations, cooperation, witness and victim protection, safety and security**

As mentioned earlier, judicial proceedings, which will attain a new level in 2009, will remain the core of the Court's activities. It will mark an unprecedented judicial experience in the Court's history: two trials in the *Lubanga* and *Katanga and Ngudjolo Chui* cases and pre-trial proceedings in the *Bemba* case for which a confirmation hearing is scheduled to commence on 8 December 2008. Other judicial proceedings will continue in the situations in Uganda, Darfur/Sudan and the Central African Republic. The four defence teams will continue their work and appear before the Chambers; through their 14 legal representatives, the victims will make their voices heard; witnesses will continue to be protected and will testify before the judges, and the affected communities in the

situation countries will continue to be targeted by the Court's outreach activities.

*a) Defence*

The Court will continue to work towards ensuring a quality defence which entails, *inter alia*, providing defence teams with the necessary resources to fulfil their mission.

Building a defence of quality also entails the organization of consultations and training sessions for legal professions. The Registry regularly organizes such activities. I look forward to developing these consultations and to receiving the input and advice of legal professions.

I would like to take this opportunity to thank national and international bar associations for their contributions.

4 defence teams are currently working before the Court in the *Lubanga, Katanga and Ngudjolo Chui* and *Bemba* cases. Like Mr Lubanga, Mr Katanga and Mr Ngudjolo Chui have been provisionally declared indigent; accordingly, the cost of their defence is borne by the Court's legal assistance scheme. This is not the case for Mr Bemba, who has been provisionally declared not

indigent. The resources proposed by the Court in the proposed budget for 2009 derive from the Court's legal assistance scheme as approved by the Committee on Budget and Finance at its ninth session. The resources allocated in the proposed budget were determined with a view to ensuring that the defence teams can work in an environment in which the principle of equality of arms is fully respected. Thus, it includes funds allocated to them in 2008 that they can still use in 2009. I am referring here to the 219,000 euros allocated for investigations and monthly expenses for defence teams.

The Court continued to discuss legal assistance matters with The Hague Working Group during the year. I would like to extend my appreciation and thanks to the facilitator, Mr Akbar Khan of the United Kingdom, for the work done in this important area. Discussions on the legal assistance scheme will continue in 2009, particularly with respect to the determination of the criteria for establishing indigence.

*b) Family visits*

It is the right of a detained person to have access to quality defence as it is his or her right to receive family visits. As you know, extensive discussions have been held in the course of the year with

you during 3 meetings of The Hague Working Group and other informal meetings with the invaluable assistance of the facilitator, Ms Irina Nita of Romania. The Court facilitated these discussions through the preparation of a comprehensive report and by actively engaging in exchanges with your delegations. It is hoped that all these fruitful discussions will have a positive outcome. It is our common aim to contribute to the efficient operation of the Court and to minimize any potential adverse impact on its judicial proceedings. I would like to emphasise that the Court differs significantly from national judicial systems and that the future rehabilitation of the detainees could be seriously affected by long-term separation from their families. The Court will continue its dialogue with States Parties on this important subject.

*c) Protection of witnesses and victims*

According to the Rome Statute, witness and victims protection is the responsibility of the Registry. A Victims and Witnesses Unit has been established within the Registry and has functioned successfully during all these years. The Unit has invaluable expertise and experience which it currently shares with other organizations.

I would like to point out that, in cooperation with local authorities, the Court has created novel witness protection concepts never before used in international criminal court settings. I am referring here to the Court's immediate response system. To date, the Court has succeeded in preserving the integrity of its witnesses as **no witness** has suffered any harm as a result of his or her interaction with the Court. These results are remarkable, bearing in mind the constraints imposed by the environment in which the Court operates and the fact that 300 individuals are already benefiting from various protection measures.

Witness and victims protection issues will continue to be of vital importance in 2009. The Court will continue to develop its programme to handle increasing requests for protection efficiently. It is noteworthy that sex-based crimes are included in the charges against a number of suspects or accused currently before the Court. To this end, one support action in the proposed budget for 2009 is the recruitment of an additional expert on psychological traumas for witnesses and victims of serious sex-based crimes. The Court welcomes the recommendation of the Committee on Budget and Finance to allocate additional resources in this area, albeit on GTA.

With regard to the protection of victims and witnesses, effective support and assistance from States Parties is essential. Increasing the number of witness relocation agreements is one example. Out of 108 States Parties, only **ten have signed relocation** agreements while **two** have entered into ad-hoc relocation arrangements with the Court. I thank the States Parties which have demonstrated particular attention to this important area and have concluded agreements with the Court. With respect to relocation, I would like to stress the importance of timely response by States Parties to the Court's requests. A swift response ensures that the relocation costs are kept low. Channelling technical and financial assistance to countries which have an interest in developing national witness protection programmes, but lack the financial resources to do so is another example. It is therefore high time to strengthen the capacities of States with a view to ensuring that the Court's actions in this area are matched by States Parties' initiatives thereby ensuring the optimal use of available resources.

Please note that the Court is organizing an informal meeting on witness protection issues on Tuesday, 18 November 2008, at lunch time. The Registry will also organize a Seminar on witness and victim protection issues.



#### *d) Victims' participation*

In this area, the Registry has instituted appropriate procedures to ensure that support and assistance is provided to individuals who intend to participate as victims in the judicial proceedings. This falls under the responsibility of a dedicated and specialized section within the Registry.

A brief look at the 137 decisions issued by the Pre-Trial, Trial and Appeal Chambers in this area as well as at current statistics reveals that the Court is making progress in the implementation of the crucial provisions of the Rome Statute governing victim participation. We can say with confidence that victims are participating in the proceedings efficiently. Legal representatives of victims represented the views and interests of victims at the confirmation hearings in the *Lubanga* and *Katanga and Ngudjolo Chui* cases. The Court is getting more judicial guidance from all Chambers on the scope of the participation of victims in the proceedings. Principles on victim participation have been laid down in the situations in the Democratic Republic of the Congo and Uganda, in the *Lubanga* case by the Trial Chamber, and in the *Katanga and Ngudjolo Chui* and *Kony et al.* cases. With its experience to date in this area, the Court will be able to further refine its strategy on victims. The Court will continue to exchange views

with States Parties on this matter using as a basis the project on the Court's Strategy on Victims.

I would like to thank Her Excellency Ambassador Mkhize of South Africa for her contribution in facilitating this important matter.

With respect to the legal representatives of victims, I would like to remind you that they are appointed by the judges. For example, in the *Katanga and Ngudjolo Chui* case, the judges have appointed 3 legal representatives for victims who were found provisionally indigent by the Registrar. If the judges so decide, the number could increase, in which case, financial resources would have to be made available.

### *e) Field operations*

The work of the Court in the field will continue under the same difficult and complex conditions characterised by ongoing conflicts and a volatile security situation. Reducing security risks for witnesses and for ICC staff both in the field and at the seat of the Court remains a vital concern. The Court's commitment towards ensuring effective field operations is illustrated by the fact that the Registry has launched a field operations review project. The purpose of this review is to adapt the Court's field operations to evolving judicial developments and to reinforce the security of staff operating on the ground. This review builds upon the experience accumulated during the first three years in this area. The Court welcomes the encouragement of the Committee on Budget and Finance with respect to the review of its field operations. The review, underpinned by expert advice and in cooperation with other organs of the Court, will include policy directions to enable the field operations to function in an efficient and streamlined manner. Analysis is expected to be completed in the near future. I would like to mention that this project has not been budgeted for 2009. The Court will continue to communicate with the States Parties on the progress of the project.

## *f) Outreach*

The Court's outreach activities have developed and adapted to the changing realities in the field. During my missions in the situation countries, undertaken immediately after taking up office, I had the opportunity to talk to various target groups of the Court's outreach activities such as NGOs, students, authorities, academics and journalists. These discussions reinforced my belief that justice must be explained to those expecting justice and that no effort should be spared in this regard.

As regards the impact of its outreach activities, the Court is witnessing both a quantitative and qualitative improvement. Quantitatively, there has been an increase in the number of critical outreach activities organized. Qualitatively, the Court's outreach efforts have improved by reaching a wider audience which includes various new target groups, and through the use of new cost-effective tools and materials, and the improved ability to provide information and address concerns timely even when unforeseen judicial developments occur. This enhanced coverage was made possible, *inter alia*, by the fact that the Court has developed an audio-visual toolkit. Our experience to date demonstrates that the consistent use of audio-visual materials

ensures that information about the Court's work reaches a wider audience in a cost-effective manner.

On Thursday, 20 November, during the lunch break, in the main hall, there will be a detailed presentation of the Court's outreach activities per situation country. On this occasion, the Court's second progress report on outreach activities will be distributed. You are all warmly invited to the presentation.

*g) Cooperation*

I have referred above to concrete ways in which the States Parties can continue to assist the Court. The President and the Prosecutor have underlined the importance of the execution of the 7 outstanding arrest warrants. It is indeed essential that decisions of the Court are enforced. Moreover, it should not be forgotten that non-enforcement of the Court's decisions has a direct impact on the Court's budget, resulting in its increase, for example in the area of witness protection. In turn, improved cooperation from States Parties will result in cost savings for the Court.

I would also like to congratulate the States Parties for the excellent cooperation extended to the Court so far, particularly in relation to

the arrest and transfer of Thomas Lubanga Dyilo, Germain Katanga, Mathieu Ngudjolo Chui and Jean-Pierre Bemba Gombo to the Court. I look forward to working closely with you in this important area for the Court.

I will now turn to the other two objectives set out in the proposed programme budget for 2009, namely human resources and non-bureaucratic organization.

### **Human resources and non-bureaucratic organization**

I said at the beginning of my speech that the Court owes its success to its dedicated and committed staff. The Court's human resources are an essential component of its Strategic Plan. Fully aware of the need to further improve on human resources issues, the Court has developed a comprehensive strategy on human resources which was submitted to the Committee on Budget and Finance at its 10<sup>th</sup> session in April 2008. The human resources strategy focuses on:

- (a) career development for well-performing staff, retention of well-performing staff which includes measures to improve performance management, learning and development and career management services creating

conditions to improve gender balance and encourage female staff to develop capacities with a view to acceding to senior positions;

- (b) the establishment of a caring environment, which includes favourable conditions of service, staff well-being and internal justice mechanisms; and
- (c) the continued strengthening of staff recruitment and selection mechanisms and processes. The Court welcomes the recommendation of the CBF to improve recruitment of staff from Non-States Parties and will take appropriate action in this regard.

With respect to the first area in particular, the Court has put in place a number of new processes and systems in 2008. Performance appraisal is now conducted annually for all staff and training on performance management is offered to managers on a regular basis. Career transition support is offered to staff wishing to seek new employment opportunities within or outside the Court. The Court will continue to build in-house capacity, and to ensure staff mobility through adequate training while making efficient use of resources.

It is my firm belief that further policies and actions are needed in this area. Managers need to be provided with the necessary tools to ensure that this organization operates efficiently. In this respect, the reclassification of posts remains an important tool which managers can use with a view to responding to developments within the organization and improving the efficiency of the Court's operations. Other measures are envisaged to ensure the proper functioning of a modern, transparent and non-bureaucratic organization.

The utilization and optimization of human resources is vital. In this vein, I would like to refer to the use of General Temporary Assistance (GTA) funds. Measures have already been taken in this area to ensure rigorous control. The Court will prepare a report on the use of GTA funds for the forthcoming session of the Committee on Budget and Finance and welcomes the continued dialogue with the Committee in this respect.

An important aspect also identified in the Court's strategy relates to the continued strengthening of the recruitment process with a view to reducing its length and, consequently, the vacancy rate. The Court, in close dialogue with the Committee on Budget and Finance, has made progress in the recruitment of staff and has



taken a number of measures to address this matter. However, further efforts are needed.

The Court will ensure that it continues to develop as a modern and non-bureaucratic organization while adhering to rigorous control, good governance and full transparency.

With respect to good governance, I would like to inform you that the Director of the Internal Audit Office took up office in July 2008. The Charter of the Internal Audit has been already amended. The Internal Audit reports annually and on ad-hoc basis where appropriate through the Chair of Audit Committee to the CBF.

The Court is currently engaged in a Court-wide risk assessment that will be finalised next year. A number of risks will be evaluated in terms of likelihood and impact. Following this evaluation, the Court will select priority risks and envisage actions to address them accordingly.

The Court is committed to reviewing the role of financial functions within the Court and to looking into the efficient centralization of such functions as a prerequisite to the assignment of resources. In this respect, over the years, the Registrar has been responsible for managing, from an administrative point of view, a number of

independent bodies such as the Secretariat of the Assembly of States Parties, the Trust Fund for Victims and, more recently, the Office of Permanent Premises. It is a priority for me to further contribute to the centralisation of the financial overview and support to these offices.

Effective use of resources is clearly linked to the judicial process. With respect to the financial implications of the judges' decisions, it is essential to bear in mind that the role of the judges is to ensure that proceedings are conducted fairly and expeditiously. They are independent in the exercise of their judicial functions. The dialogue between the Registry and the Judiciary will continue in order to ensure that the Registry provides the necessary information on the financial implications of the matters under consideration by the judges. The Registry will prepare a checklist to be submitted to the Presidency.

I have noticed from the interventions of the delegations that States Parties are demanding more and more intervention and action by the Court, more and more presence on the ground, more and more visibility and closeness to the affected populations in the countries of situation. The Court welcomes these wishes and will take appropriate action within the limits of its resources.

Let me conclude by saying that, in achieving any of its objectives and implementing any of its action plans, the Court will be guided by the principle of effective financial administration and the exercise of economy, while counting on your continuous trust and support. Thank you.