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Report on the activities of the Court

I. Introduction

1. The present report provides an overview of the activities of the International Criminal Court (the “Court”) during the period 1 October 2011 to 15 September 2012.

II. Judicial Proceedings

A. Situation in the Democratic Republic of Congo (ICC-01/04)

1. *The Prosecutor v. Thomas Lubanga Dyilo* (ICC-01/04-01/06)

2. On 14 March 2012, Trial Chamber I delivered its judgment pursuant to article 74 of the Rome Statute. The Chamber found that Mr. Thomas Lubanga Dyilo, as the President and Commander-in-Chief of the *Union des patriotes congolais*, was criminally responsible as a co-perpetrator for the crimes of enlistment, conscription and use of children under the age of 15 to participate actively in hostilities in the context of an armed conflict not of an international character in Ituri between September 2002 and August 2003. A total of 114 persons have been granted the status of victim and authorised to participate in the proceedings.

3. In accordance with an order issued on 14 March 2012, submissions from the parties and legal representatives of victims on sentencing were filed between 18 April and 7 June. Two defence witnesses were heard by the Chamber during a hearing held on 13 June. On 10 July 2012, Trial Chamber I sentenced Mr Thomas Lubanga Dyilo to 14 years of imprisonment.

4. Submissions on reparations were filed between 18 April and 25 May 2012 by the parties, victims’ legal representatives, the Registry, the Office of Public Counsel for Victims (OPCV), the Trust Fund for Victims, and five organisations. The decision on the reparations principles and proceedings was issued on 7 August 2012.

5. On 29 August, the Trial Chamber granted the defence leave to appeal four issues arising out of the decision on the reparations principles and proceedings. Concurrently, the legal representatives of the victims, including the OPCV, filed direct appeals under article 82(4) of the Statute. The defence also filed a direct appeal on 6 September 2012.

6. The French translations of the judgment and sentencing decision were officially notified to the parties and participants on 31 August 2012. In accordance with an earlier decision of the Trial Chamber, the 30-day deadline to appeal from these decisions runs from 31 August 2012.

2. *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (ICC-01/04-01/07)

7. The presentation of oral evidence in the case was completed in November 2011 with the testimony of both accused.

8. Together with the parties and participants to the proceedings, the Chamber conducted a site visit to Bogoro and its surroundings, in the Ituri region of the DRC, on 18 and 19 January 2012. The visit, supported by the Registry, was the first of its kind ever undertaken by a Chamber of the Court.

9. The presentation of the evidence was formally declared closed on 7 February 2012. In total, 54 witnesses testified before the Trial Chamber, 643 items of evidence were admitted and the Chamber sat for 265 days. A total of 366 persons have been granted the status of victim authorised to participate in the proceedings.

10. Following the filing of written closing briefs, the Trial Chamber heard the closing oral statements of the Prosecution, the defence and the legal representatives of victims in public between 15 and 23 May 2012. The judgment pursuant to article 74 of the Statute is expected to be delivered by the end of the year 2012.

3. *The Prosecutor v. Callixte Mbarushimana* (ICC-01/04-01/10)

11. On 16 December 2011, Pre-Trial Chamber I, by majority, declined to confirm the charges against Callixte Mbarushimana. It found that the Prosecution had not provided sufficient evidence to establish substantial grounds to believe that the suspect was individually responsible for the crimes he was charged for. The Majority accordingly decided to release Mr. Mbarushimana from custody. On 20 December 2011, the Appeals Chamber rejected the Prosecution's appeal against the release. Mr. Mbarushimana was subsequently released.

12. After being granted leave by the Pre-Trial Chamber, the Prosecution appealed the decision declining to confirm the charges on 12 March 2012. The Prosecution's appeal was rejected by the Appeals Chamber on 30 May 2012. The Prosecution may submit a new request for the confirmation of charges against Callixte Mbarushimana if supported by additional evidence.

4. *The Prosecutor v. Bosco Ntaganda* (ICC-01/04-02/06)

13. On 13 July 2012, Pre-Trial Chamber II issued a second arrest warrant against Mr. Ntaganda, pursuant to the Prosecutor's application of 14 May 2012 for three counts of crimes against humanity (murder, rape and sexual slavery, and persecution) and four counts of war crimes (murder, attack against the civilian population, rape and sexual slavery, and pillaging) allegedly committed in the Ituri district, between 1 September 2002 and the end of September 2003.

5. *The Prosecutor v. Sylvestre Mudacumura* (ICC-01/04-01/12)

14. On 13 June 2012, the Prosecutor filed an application for an arrest warrant against Sylvestre Mudacumura. On 13 July 2012, Pre-Trial Chamber II issued a warrant for nine counts of war crimes (murder, mutilation, cruel treatment, torture, outrage upon personal dignity, attack against the civilian population, pillaging, rape and destruction of property) allegedly committed in the Kivu Provinces between 20 January 2009 and the end of September 2010.

B. *The situation in Central African Republic* (ICC-02/04)

***The Prosecutor v. Jean-Pierre Bemba Gombo* (ICC-01/05-01/08)**

15. The presentation of Prosecution evidence, which started on 23 November 2010, continued until 20 March 2012. In total, the Prosecution called 40 witnesses, including four expert witnesses.

16. The Trial Chamber issued two decisions rejecting requests for interim release on 19 December 2011 and 6 January 2012. The defence's appeal against the 6 January 2012 decision was dismissed by the Appeals Chamber.

17. In May 2012, the Trial Chamber authorised the legal representatives of the victims to call two victims and they testified before the Chamber in person. Three further victims presented their views and concerns via video-link in June 2012.

18. The defence started the presentation of its evidence on 14 August 2012. An approximate total of 60 witnesses is planned to be called by the defence. The defence is expected to complete the presentation of its evidence by April 2013.

19. So far, a total of 4450 victims' applications for participation in the proceedings have been accepted. As of 10 September 2012, 799 victims' applications are pending a decision by the Chamber.

C. The situation in Darfur, Sudan (ICC-02/05)

1. *The Prosecutor v. Omar Hassan Ahmad Al Bashir* (ICC-02/05-01/09)

20. On 12 and 13 December 2011, Pre-Trial Chamber I issued two decisions, concerning Malawi and Chad respectively, in which it found that the two States Parties had failed to cooperate with the Court by failing to arrest and surrender Omar Al Bashir to the Court while on their territory. Finding that "customary international law creates an exception to Head of State immunity when international courts seek a Head of State's arrest for the commission of international crimes", the Chamber reiterated that States Parties were under the obligation to arrest and surrender Mr. Al Bashir to the Court in case he was on their territory. Both decisions were notified to the United Nations (UN) Security Council (UNSC) and to the Assembly of States Parties ("Assembly").

2. *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus* (ICC-02/05-03/09)

21. As of the end of 2011, a trial date had not yet been set given the existing issues concerning disclosure, translation and interpretation in Zaghawa, and cooperation. The defence filed a request for a temporary stay of the proceedings on 6 January 2012.

22. The Chamber, recomposed on 16 March 2012, issued a decision on common legal representation of victims on 25 May 2012, confirming the Registrar's choice of common legal representatives in the case. So far, 89 victims have been authorised to participate in the case.

23. The Chamber held a public hearing and status conference on 11 July to hear submissions on the request for a stay of the proceedings, as well as *inter alia* on disclosure, translation and cooperation issues. The Chamber also held a confidential and two *ex parte* status conferences on 11-12 July 2012.

24. The Chamber expects to issue a decision on the stay of proceedings request in due course, after which the Chamber will consider the appropriate steps forward in relation to the case.

3. *The Prosecutor v. Abdel Raheem Muhammad Hussein*

25. On 2 December 2011, the Prosecutor presented an application for an arrest warrant against Abdel Raheem Muhammad Hussein, currently Minister of national defense of the Republic of the Sudan. On 1 March 2012, Pre-Trial Chamber I issued a warrant against him for war crimes and crimes against humanity allegedly committed in 2003-2004 in Darfur.

D. The situation in Kenya (ICC-01/09)**1. *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang***

26. On 23 January 2012, Pre-Trial Chamber II issued its decision confirming the charges against William Samoei Ruto and Joshua Arap Sang for the crimes against humanity of murder, forcible transfer of population and persecution allegedly committed in Kenya between December 2007 and January 2008, and declining to confirm the charges against Henry Kiprono Kosgey. The Chamber rejected the defense requests for leave to appeal the decision on the confirmation of the charges against Mr. Ruto and Mr. Sang. On 29 March 2012, the Presidency constituted Trial Chamber V and referred to it the Ruto and Sang case.

27. On 24 May 2012, the Appeals Chamber rejected the appeal of Mr Ruto and Mr Sang against Pre-Trial Chamber II's finding in the confirmation decision that the Court has jurisdiction to hear the case.

28. On 11 June 2012, Trial Chamber V held the initial status conference in order to set the date for trial. On 9 July the Chamber issued a decision on the schedule leading up to trial, setting a number of interim deadlines for filings required from the parties before trial and scheduling the commencement of trial for 10 April 2013. The Chamber has received submissions from the parties on a number of issues, including the law of indirect co-perpetration under Article 25(3)(a), Regulation 55, witness preparation ("proofing"), whether an amended Document Containing the Charges should be prepared, and Protocols on redactions. The Trial Chamber has also issued decisions dealing *inter alia* with the protocol on contacts with opposing party witnesses.

29. 327 victims have been authorised to participate through their legal representatives in the proceedings.

2. *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*

30. The confirmation of charges hearing was held from 21 September 2011 till 5 October 2011. On 23 January 2012, Pre-Trial Chamber II issued its decisions confirming the charges against Francis Kirimi Muthaura and Uhuru Muigai Kenyatta for the crimes against humanity of murder, forcible transfer of population, rape, persecution and other inhumane acts committed in Kenya in January 2008, and declining to confirm the charges against Mohammed Hussein Ali. The Chamber rejected the defense requests for leave to appeal the decision on the confirmation of the charges against Mr. Muthaura and Mr. Kenyatta.

31. On 24 May 2012, the Appeals Chamber rejected the appeal of Mr Muthaura and Mr Kenyatta against Pre-Trial Chamber II's finding in the confirmation decision that the Court has jurisdiction to hear the case.

32. On 12 June 2012, Trial Chamber V held the initial status conference in order to set the date for trial. On 9 July 2012 the Chamber issued a decision on the schedule leading up to trial, setting a number of interim deadlines for filings required from the parties before trial and scheduling the commencement of trial for 11 April 2013. The Chamber has received submissions from the parties on a number of issues, including the law of indirect co-perpetration under Article 25(3)(a), Regulation 55, witness preparation ("proofing"), whether an amended Document Containing the Charges should be prepared, and Protocols on redactions. The Trial Chamber has also issued decisions dealing *inter alia* with contacts with opposing party witnesses, redactions and disclosure requests.

33. 233 victims have been authorised to participate through their legal representatives in the proceedings.

E. Situation in Libya (ICC-01/11)

The Prosecutor v. Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi

34. On 22 November 2011, Pre-Trial Chamber I decided to terminate the proceedings against Muammar Mohammed Abu Minyar Gaddafi upon receipt of a death certificate by the Libyan authorities.

35. On 23 November 2011, Pre-Trial Chamber I was informed of the arrest of Saif Al-Islam Gaddafi in Libya. On 6 December, Pre-Trial Chamber I decided to seek from the Libyan authorities, on an urgent basis, information on a number of issues, including the arrest and surrender of Saif Al-Islam Gaddafi, his legal representation and his state of health.

36. The Libyan authorities indicated on 23 January 2012 that they were willing to facilitate a visit between Saif Al-Islam Gaddafi and the Registry. On 3 February, the Chamber ordered the Registry to make arrangements as soon as possible for a visit between Court personnel and Saif Al-Islam Gaddafi, including a privileged visit between a counsel from the Office of Public Counsel for the Defence (OPCD) and Saif Al-Islam Gaddafi. The visit took place on 3 March 2012.

37. On 27 April 2012, Pre-Trial Chamber I, taking note of the submission made by the Libyan authorities that they would facilitate access to Saif Al-Islam Gaddafi by his lawyers, requested the Libyan authorities to enable counsel from the OPCD for Saif Al-Islam Gaddafi to have a privileged visit with him. In addition, Pre-Trial Chamber I found it necessary for representatives of the Registry to also visit Saif Al-Islam Gaddafi in order to further discuss with him the option of appointing counsel of his own choosing. After the necessary arrangements were made by the Registry, this visit took place on 7 June 2012. Four Court personnel, including a counsel from the OPCD, were detained from 7 June to 2 July at this occasion by the Libyan authorities.

38. On 1 May 2012, Libya filed a challenge concerning the admissibility of the case of Saif Al-Islam Gaddafi. The challenge is pending before Pre-Trial Chamber I. Libya furthermore requested postponement of the execution of the surrender request concerning Saif Al-Islam Gaddafi, which was granted on 1 June 2012.

39. On 7 September 2012, at the request of the Chamber Libya filed a provisional report on the status of the domestic developments. On 14 September 2012, Pre-Trial Chamber I decided to convene a hearing to be held on 8 and 9 October 2012 in the presence of representatives of Libya, the Prosecution, the OPCD and the OPCV in order to discuss issues in relation to the Libyan admissibility challenge.

40. Concerning Abdullah Al-Senussi, further to information regarding his arrest in Mauritania, a surrender request was sent by the Court to this State on 17 March 2012. On 5 September 2012, the Court received information about the extradition of Abdullah Al-Senussi by Mauritania to Libya. The Registry sent a reminder to the Libyan authorities concerning the existing request for arrest and surrender concerning Abdullah Al-Senussi. The Court has also sought information from the Libyan authorities concerning his state of health and place of detention. At the closing of this report, the Libyan authorities had not responded to this reminder.

F. Situation in Côte d'Ivoire (ICC-02/11)

The Prosecutor v. Laurent Gbagbo (ICC-02/11-01/11)

41. On 25 October 2011, the Prosecutor presented an application for an arrest warrant against Laurent Gbagbo. On 23 November 2011, Pre-Trial Chamber III issued a warrant against him for the crimes against humanity of murder, rape and other forms of sexual violence, persecution and other inhumane acts allegedly committed in Côte d'Ivoire between 16 December 2010 and 12 April 2011.

42. Laurent Gbagbo was surrendered to the Court on 30 November 2011 and his first court appearance took place on 5 December 2011.

43. On 5 April 2012, Pre-Trial Chamber I decided to encourage a system of collective applications for victims to participate in the proceedings in order to expedite the management of applications and enhance the system of participation. On 16 May 2012, the Registry transmitted to the Chamber 63 applications presented by victims to participate in the proceedings, including 6 collective application forms and 57 individual applications.

44. On 12 June 2012, Pre-Trial Chamber I decided to postpone the opening of the confirmation of charges hearing to 13 August to preserve the rights of the Defence in fair proceedings. On 2 August 2012, the Chamber again postponed the confirmation of charges hearing until the issue of Mr. Gbagbo's fitness to take part in the proceedings is resolved. On 12 September 2012, Pre-Trial Chamber I decided to convene a hearing in closed session to be held on 24 and 25 September 2012, in the presence of Mr Gbagbo, his defence, the Prosecutor, representatives of the Registry and experts appointed by the Chamber to discuss issues related to Mr Gbagbo's fitness to take part in the proceedings against him.

III. Investigations and Preliminary examination

A. Investigations

1. Situation in the Democratic Republic of the Congo

45. During the reporting period, the OTP conducted two missions to the DRC for the support of trials, to address the arguments raised by the Defence in *The Prosecutor v. Thomas Lubanga Dyilo* and in *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*.

46. During the reporting period the OTP conducted 11 missions to 3 countries for its third investigation in the DRC, focusing on crimes committed by the *Forces Démocratiques pour la Libération du Rwanda* (FDLR) militia in the Kivu provinces in support to the preparation of the confirmation of charges in the Callixte Mbarushimana case. While the charges brought by the Prosecution against Callixte Mbarushimana were not confirmed, the Prosecution continues its investigation in the region in relation to FDLR, as demonstrated by the arrest warrant issued against Sylvestre Mudacumura on 13 July 2012. This investigation continues to be conducted in cooperation with several States including the DRC, Rwanda, Germany and France, in a spirit of positive complementarity.

47. The OTP investigation also continued in relation to alleged crimes committed by Bosco Ntaganda, leading to a new arrest warrant issued by the Judges on 13 July 2012.

2. Situation in Uganda

48. During the reporting period, the OTP conducted one mission in relation to investigations into the situation in Uganda.

49. The OTP continued to gather information on crimes allegedly committed by the Lord's Resistance Army (LRA) and to promote action to implement warrants against the LRA leadership. The OTP also continued gathering and analyzing information related to alleged crimes committed by the Uganda People's Defence Forces. The OTP continues to encourage proceedings in relation to both parties to the conflict.

3. Situation in the Central African Republic

50. During the reporting period, the OTP continued its investigation into the situation in the CAR and conducted a total of 14 missions to 3 countries for the purposes of inter alia, meetings with witnesses and following up on information received.

4. Situation in Sudan, Darfur

51. During the reporting period, the OTP conducted 5 missions to 5 countries in relation to investigations into the situation in Darfur.

52. In accordance with Security Council resolution 1593 (2005), the Prosecutor presented his fourteenth and fifteenth reports on the situation in Darfur to the UNSC. In his briefings of 15 December 2011 and 5 June 2012, the Prosecutor *inter alia* highlighted the lack of cooperation by the Government of the Sudan and the lack of national proceedings against those responsible for the crimes committed, and recalled the 26 May 2010 Pre-Trial Chamber I Decision that Sudan, in violation of Resolution 1593, was not cooperating with the Court.

53. The OTP continues to monitor and gather information regarding the Darfur situation. The information collected indicates that crimes against humanity, war crimes and genocide continue to be committed.

5. Situation in Kenya

54. During the reporting period, the OTP undertook 67 missions to 11 countries in relation to investigations into the situation in Kenya.

55. The OTP continued to gather information on the crimes against humanity of murder, deportation or forcible transfer and persecution which were allegedly committed in Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills from on or about 30 December 2007 until end of January 2008.

56. Similarly, the OTP continued to gather information on the crimes against humanity of murder, deportation or forcible transfer, rape, other inhumane acts and persecution, allegedly committed between 24 and 28 January 2008, against the civilian residents of Nakuru and Naivasha, perceived as supporters of the Orange Democratic Movement, in particular those belonging to the Luo, Luhya and Kalenjin ethnic groups.

57. The OTP, in cooperation with a wide range of partners, is monitoring and investigating attempts to expose, intimidate or otherwise tamper with perceived Court witnesses.

6. Situation in Libya

58. During the reporting period, the OTP conducted 33 missions to 15 countries in relation to investigations into the situation in Libya.

59. During the reporting period, the OTP reported twice to the Security Council on the situation in Libya. In the 2 November 2011 briefing, the Prosecutor reported that Muammar Gaddafi died on 20 October, but that the Office was galvanizing efforts to ensure that the other two suspects would face justice. The Prosecutor reiterated his appreciation of the Libyan authorities' ongoing cooperation in the investigation, noted that the Office was continuing its investigations into gender crimes in Libya, and that its analysis would benefit from the work of the UN Commission of Inquiry.

60. In the 16 May 2012 briefing, the Prosecutor indicated that the UN Commission of Inquiry's findings confirmed the commission of gender crimes, on which the OTP was continuing to collect evidence on. He also noted that the 2 March 2012 report of the Commission indicated there were thousands of individuals allegedly involved in crimes committed by Gaddafi forces who were in detention, many of them still not under the jurisdiction of the national authorities and allegedly subjected to mistreatment or torture by rebel forces.

61. On allegations against NATO, the Prosecutor noted the Commission's finding that NATO did not deliberately target civilians in Libya. The Prosecutor further noted that the Office has no jurisdiction to evaluate the proper scope of the NATO mandate in relation with UNSC Resolution 1973, but the Office is requesting further information about the five incidents identified by the Commission of Inquiry in which civilians were reportedly killed.

62. The Prosecutor noted the Government of Libya's commitment to a comprehensive strategy to address all crimes and end impunity in Libya and emphasized that it must remain a priority.

7. Situation in Côte d'Ivoire

63. During the reporting period, the OTP conducted 52 missions to 6 countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners. The OTP has been focusing on allegations of crimes against humanity committed in violation of articles 7(1)(a), 7(1)(g), 7(1)(h) and 7(1)(k) of the Rome Statute.

64. The OTP is currently focusing its investigative activities on the preparation of the confirmation of charges hearing in the case *The Prosecutor v. Laurent Gbagbo*. The OTP also continued investigation in relation to alleged crimes committed in Côte d'Ivoire by other leaders, covering both sides of the conflict, irrespective of political affiliation.

B. Preliminary examination activities

65. The OTP continued to analyze information received from various sources alleging the commission of crimes potentially falling within the Court's jurisdiction. From 1 October 2011 until 31 July 2012, the OTP received 328 communications relating to article 15 of the Rome Statute, of which 214 were manifestly outside the Court's jurisdiction; 27 warranted further analysis; 38 were linked to a situation already under analysis; and 48 were linked to an investigation or prosecution.

66. During the reporting period, the OTP opened a preliminary examination of the situation in Mali, continued preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, the Republic of Korea, and Nigeria, and concluded its preliminary examination of the situation in Palestine. The OTP published a report on its preliminary examination activities on 13 December 2011.

1. Afghanistan

67. The OTP continued to gather and analyze information from multiple sources relating to alleged crimes committed in Afghanistan since 1 May 2003. The OTP sought to verify the seriousness of information received relating to a large number of alleged crimes, including killings, torture, attacks on humanitarian targets and the UN, attacks on protected objects, and recruitment of child soldiers. The OTP has encountered challenges in obtaining the detailed information required to conduct a proper legal assessment of each reported incident and to attribute responsibility to specific perpetrators.

68. The OTP maintains contact with experts, civil society organisations, Afghan Government officials, UN officials, and contributing States to International Security Assistance Force (ISAF).

2. Colombia

69. The OTP continued to gather and analyze information on national investigations and prosecutions in Colombia, in particular against leaders of illegal armed groups, senior paramilitary leaders, police and army officials, and politicians with alleged links to armed groups. In each case, the OTP seeks to determine whether the proceedings focus on or include persons bearing the greatest responsibility for the crimes committed, and whether the proceedings are genuine, in accordance with article 17 of the Rome Statute. The OTP also gathered and analyzed information related to the alleged commission of additional crimes in Colombia, in particular whether various groups may be responsible for committing war crimes since 1 November 2009, the date of entry into force of the Court's jurisdiction over war crimes committed on the territory of Colombia or by its nationals.

70. The OTP has been in close contact with the Colombian authorities, who have provided a significant volume of information on national proceedings. The OTP has also been in contact with various international non-governmental organizations (NGOs) working on the situation in Colombia. The OTP continues to engage the Colombian authorities in accordance with the OTP's positive approach to complementarity, and to encourage other states, international organisations and civil society to do so as well.

3. Georgia

71. The OTP continued to gather and analyze information regarding progress made in national proceedings related to alleged crimes committed during the August 2008 conflict in Georgia. The Investigative Committee of the Russian Federation and the Chief Prosecutor of Georgia have been conducting separate investigations into incidents that could constitute crimes under the jurisdiction of the Court. The proceedings have been the subject of regular consultations between the OTP and the competent national authorities, with a view to assessing whether they are actually willing and able to bring the perpetrators of crimes to justice. Both authorities have sent to the OTP a significant amount of information and evidence about the progress made in these investigations, the methodology followed, as well as their preliminary findings.

4. Guinea

72. In accordance with its policy on positive complementarity, the OTP has sought to encourage national proceedings in order to bring to account those bearing the greatest responsibility for the alleged crimes committed on 28 September 2009 in Conakry. On 1 February 2012, judicial authorities in Guinea indicted Lt-Col Tiegboro Camara, Minister for the Special Services, Drug Control and Organized Crime units, for the crimes committed on 28 September 2009. The indictment came after four other indictments issued against other suspected perpetrators.

73. The OTP conducted two missions to Guinea, in October 2011 and April 2012, to examine progress made in the national investigation being carried out by Guinean judges. The former Deputy Prosecutor, as well as senior officials of the OTP, met with Government officials, representatives of the judiciary and civil society, as well as victims and victims' associations.

5. Honduras

74. The OTP continued to gather and analyze information in order to determine whether the alleged human rights violations following the 28 June 2009 coup d'état constitute crimes under the jurisdiction of the Court. The OTP has gathered information on the situation in Honduras from multiple sources, including the Truth and Reconciliation Commission, the Inter-American Commission of Human Rights, the OTP of the High Commissioner for Human Rights as well as international and national NGOs. In October 2011 in Tegucigalpa, the OTP met with the Attorney General, the Human Rights Attorney, the General Prosecutor, the Sub-Secretary of Justice and the Sub-Secretary of Human Rights.

6. Republic of Korea

75. The preliminary examination is focused on two incidents: (a) the shelling of Yeonpyeong Island on 23 November 2010; and (b) the sinking of the Republic of Korea warship Cheonan on 26 March 2010. The OTP has continued to seek additional information from relevant sources, focusing its activities on ascertaining factual issues that are necessary to determine whether the two incidents could amount to war crimes under the Rome Statute, and whether they derive from a policy. The OTP has considered in particular the findings of international investigations into the two incidents, including two reports by the UN Command.

7. Nigeria

76. The OTP has been focusing on alleged crimes committed in the Delta region, in central Nigeria (in particular Plateau State and Kaduna State) and more recently in northern Nigeria and Abuja (in relation to attacks attributed to the Islamist militant group, Boko Haram). The OTP is analysing whether the alleged crimes fall within the Court's subject-matter jurisdiction. The OTP has engaged constructively with the Nigerian authorities, as well as with local and international NGOs. The Prosecutor and senior officials from the OTP visited Nigeria in July 2012 and met with the President, the Federal Justice Minister and Attorney General, the Inspector General of Police, officials from Plateau and Kaduna States as well as the various panels of investigations on sectarian violence in Nigeria.

8. Palestine

77. On 3 April 2012 the OTP made public its determination on whether the declaration lodged by the Palestinian National Authority under article 12(3) of the Rome Statute on 22 January 2009 accepting jurisdiction of the Court meets statutory requirements. In interpreting and applying article 12 of the Rome Statute, the OTP assessed that it is for the relevant bodies at the UN or the Assembly to make the legal determination whether Palestine qualifies as a State for the purpose of acceding to the Rome Statute and thereby enabling the exercise of jurisdiction by the Court. In the view of the OTP, the Rome Statute gives it no authority to adopt a method to define the term "State" under article 12(3) which would be at variance with that established for the purpose of article 12(1).

78. The OTP could in the future consider allegations of crimes committed in Palestine, should competent organs of the UN, or possibly the Assembly, resolve the legal issue relevant to an assessment of article 12 or should the Security Council make a referral providing jurisdiction.

9. Mali

79. On 18 July 2012, the Government of Mali transmitted a letter referring "the situation in Mali since January 2012" to the OTP and requesting an investigation to determine whether one or more persons should be charged for crimes committed. The Government of Mali also provided documentation in support of the referral. Accordingly, the OTP initiated a preliminary examination to assess whether the Rome Statute criteria for the opening of an investigation are fulfilled. The OTP conducted a mission to Mali in August 2012 in order to evaluate information and sources in accordance with article 15, and to evaluate and enhance cooperation prospects with Malian stakeholders. A public decision will be made in due course.

IV. Cooperation with and Assistance from States, International and Regional Organizations

80. The Court's cooperation with States Parties has been generally forthcoming. The Court made numerous requests to States for cooperation pursuant to Parts 9 and 10 and article 15(2) of the Statute.

A. Cooperation with States

1. Arrest and surrender

81. The Registry transmitted 147 requests for arrest and surrender in the reporting period. At the time of submission of this report, requests for the arrests and surrender for 12 persons remain outstanding.

2. Other requests for Cooperation

82. During the reporting period, the Registry sent 489 requests for assistance to States Parties and non-States Parties, concerning *inter alia* the provision of information, the protection of witnesses, one *in situ* visit, support to investigations conducted by the defence, access to detention centres, interim release, the identification and freezing of assets and the security of staff. The Registry also sent 438 requests regarding the issuance of travel documents for staff members and counsels.

83. The OTP sent 298 requests addressed to States and intergovernmental organizations regarding its investigative and prosecutorial activities during the reporting period. While some of these requests are still pending, in particular the recent ones, the execution rate is already at 73%.

3. Voluntary agreements and other arrangements

84. During the reporting period, Mali concluded an agreement on the enforcement of sentences with the Court. This is the first African State to conclude such an agreement. The Registry also seeks to conclude arrangements on interim release of suspects or accused persons.

85. No relocation agreement has been signed this year despite intense efforts allocated to this by the Registry. The Registry is increasingly concerned about the impact of such shortfall on the ability of the Court to protect victims and witnesses.

B. International and Regional Organizations

1. Cooperation with the UN

86. Cooperation with the UN, based on the Relationship Agreement, continues to be essential to the Court institutionally and in the different situations and cases. A comprehensive overview of cooperation between the Court and UN can be found in the Court's eighth annual report to the UN General Assembly (A/67/308, 14 August 2012).

2. Cooperation with regional organisations and other intergovernmental institutions

87. The Court continued to communicate closely with the European Union, the Arab League and other regional organisations. A cooperation agreement was negotiated with La Francophonie for signature in late September 2012. On 25 April 2012, the OTP concluded a memorandum of understanding with the Inter-American Commission on Human Rights aiming at strengthening mutual cooperation and assistance. Finally, to reinforce their mutual cooperation, the African Union and the Court agreed on a joint technical seminar to take place in Addis Ababa on 18-19 October 2012 with the support of OIF.

C. Other Activities of the Court

1. Support to Judicial Proceedings

88. During the reporting period, the Registry's Court Management Section (CMS) prepared, registered and notified 12,052 court records (including filings, annexes, translations, redacted versions of documents, corrigenda), amounting to a total of 175,639 pages, and 1,014 transcripts (including edited, corrected and public versions and reclassifications of transcripts as ordered by the Chambers), amounting to a total of 62,068 pages. Furthermore, the CMS supported 127 days of court hearings at the seat of the Court.

89. The Court's Interpretation and Translation Section (STIC) translated judicial documents into French, English and/or Arabic, taking into account the tight deadlines as required by the proceedings. STIC also supported the translation of the numerous requests for assistance in accordance with the complexity of the language combinations chosen by the States Parties. Three major tasks finalised during the reporting period were the translation into French of the Decision on the Confirmation of Charges in the

Mbarushimana case, the translation of the Katanga final submissions into French and into English and the Lubanga Judgment (in total approximately 1840 pages).

90. In support of the two accused in the *Banda and Jerbo* case, STIC successfully trained two Zaghawa paraprofessional interpreters - out of four that would be eventually required. The challenges were as unprecedented as they were numerous: first training programme for interpreters in a non-written language; scarcity of Zaghawa speakers; lack of language experts; and lack of legal and judicial terminology in Zaghawa.

91. The Registry's Victims and Witnesses Unit (VWU) ensured the appearance of 29 witnesses and victims before the Court during the reporting period. For the purpose of their appearance before the Court, these persons were under the Unit's care for a total of 274 days and were provided with appropriate support and protective measures.

92. The VWU also ensured the operational protection of more than 360 individuals (witnesses, victims or persons at risk due to testimony and dependants) who were included into the Court's protection programme or benefiting from other protective measures in order for them not be exposed to any security issue due to their participation in proceedings before the Court.

93. The VWU also performed ca. 20 psychological and vulnerability assessments either in relation to the provision of operational protective measures (such as inclusion in the Court's protection programme) or recommendations to the Judges on in-court special measures (as per rule 88 of the Rules of Procedure and Evidence). The VWU received ca. 20 support referrals from the parties and participants requesting VWU psychosocial assistance for the benefit of witnesses and victims participating in the proceedings.

94. Upon requests from Chambers or in accordance with regulation 41 of the Regulations of the Court or 24bis of the regulation of the Registry, the VWU submitted 60 reports or observations for the attention of Chambers related to involvement/protection of witnesses and victims in different situations and cases, including security analysis reports for more than 1300 victims.

95. During the reporting period, the Victims Participation and Reparations Section (VPRS) conducted a total of 819 targeted activities in the field in situation related countries aimed at assisting victims to participate in the different phases of proceedings. The VPRS received a total of 1,989 applications for both participation and reparations (joint forms), 458 applications for participation only and 109 applications for reparations in pre-trial and trial proceedings, from all the situations and cases before the Court. The largest numbers relate to the cases arising from the situations in the Côte d'Ivoire and Kenya.

96. The VPRS prepared 74 filings, answered 133 requests from Chambers, OPCV and legal representatives of victims and transmitted 2,200 applications, in original and in redacted form, to the Chambers, parties and legal representatives of victims. In the Bemba case alone, the VPRS transmitted 1993 applications for participation in the proceedings. As indicated in the 2012 Efficiency Report (ICC-ASP/11/9), the VPRS has designed, used and improved, during the reporting period, a database which enables the Section to process the applications received in a significantly more efficient and accurate manner.

97. Two innovations took place during the reporting period. For the first time the VPRS implemented a partly collective victims' application process in the Gbagbo case, following the Decision of the Single Judge issued on 5 April 2012 which resulted in the collection, treatment and transmission of 6 collective applications for participation involving 101 victims. Following the Decision on the principles of reparations issued in August 2012 in the Lubanga case, the VPRS focused on preparing the reparations phase and assisting the Trust Fund for Victims in implementing the Chamber's Decision.

2. Detention matters

98. On 30 November 2011 Laurent Gbagbo was transferred to The Hague. On 23 December 2011 Callixte Mbarushimana was released from the Court Detention Centre after the charges against him were not confirmed. As of 15 September 2012, ten persons are detained in the Court Detention Centre: one convict (Thomas Lubanga Dyilo), four suspects (Germain Katanga, Mathieu Ngudjolo Chui, Jean-Pierre Bemba Gombo and Laurent

Gbagbo) and the four detained witnesses in two of the cases before the Court (one in the Lubanga case and three in the Katanga and Ngudjolo Chui case). In addition, Charles Taylor, who appeals his conviction, remains at the Court Detention Centre further to the agreement with the Court and the Special Court for Sierra Leone.

99. As per 1 February 2012, after the downsizing of the ICTY UNDU, the Court Detention Centre took over its part of shared functions. These shared functions include manning the 24-hour control centre and entrance to Building 4 and providing other joint services, every fourth day.

3. Support to Counsel

100. The Registry's Counsel Support Section (CSS) continued to provide administrative and logistical support to all counsels and their team members actively intervening in proceedings before the Court, currently standing at 24 legal representatives for victims and 12 defence counsels. The Section also continued to devise, manage and implement all work related to the Court's legal aid system including the management of the legal aid for defence counsels and victims legal representatives. In this context, CSS engaged in an extensive consultation on the review of the Court's legal aid system with all pertinent stakeholders. On 23 March 2012, the Bureau of the Assembly of States Parties adopted the decision on legal aid¹ to be implemented as of 1 April 2012, in accordance with resolution ICC-ASP/10/Res.4, and requested the Court to present a report concerning four aspects of the Court's legal aid scheme to the Committee on Budget and Finance, for consideration at its nineteenth session. The report has been submitted to the Committee for consideration².

101. The Court currently provides legal aid to 8 defence teams and 11 teams of legal representatives for victims in 7 different cases.

102. To date, 432 lawyers from 59 States have been admitted to the List of Counsel eligible to appear before the Court. The Lists of Assistants to counsel and Professional Investigators, equally maintained by the Registrar, consist of 132 and 31 professionals, respectively.

103. Finally, the Section is organising the tenth Seminar of Counsels to take place 15-16 October 2012 in The Hague.

4. The Offices of Public Counsels

104. During the period covered by this report, the OPCV represented more than 4,000 victims. As per September 2012, the OPCV represents 3,579 victims in the different situations and cases before the Court. The number of victims represented by the Office, at one stage or another of proceedings, has increased by 68.9 per cent in 2012. Representing the general interests of victims, the OPCV also appeared before the Chambers in the Gbagbo and Lubanga cases on several occasions on specific issues related to the participation of victims.

105. For the assistance to legal representatives, the OPCV provided 300 services to 42 external counsel.

106. With regard to the defence, the OPCD has managed an increased workload based on two new cases in the reporting period, one of which involves direct representation by the OPCD.

107. The OPCD provided legal research and/or real time legal assistance to 12 Defence teams through its access to real time transcripts: Lubanga, Katanga and Ngudjolo; Bemba; Banda and Jerbo; Mbarushimana (until 30 May 2012, when the Appeals Chamber confirmed the dismissal of charges); Ruto, Sang, Muthaura and Kenyatta; and Gbagbo. In addition, the OPCD provides all aspects of direct legal representation for Saif Al-Islam Gaddafi.

¹ Proposal for the review of the legal aid system of the Court in accordance resolution ICC-ASP/10/Res.4 of 21 December 2011", dated 15 February 2012.

² Supplementary Report of the Registry on four aspects for the Court's legal aid system", CBF/19/6, 17 August 2012.

108. The OPCD also provides ongoing assistance to any duty counsel or ad hoc counsel for the Defence appointed by the Registry. The Office has provided intensive assistance to teams newly involved in the Court's processes in connection with their preparation for the confirmation of charges hearings. The case manager of OPCD was also mandated by these teams to assist with the process of disclosure.

5. Public Information and Outreach

109. Aside the specific public information activities carried out by the OTP, the Court focused the public information and outreach efforts to make judicial proceedings public and accessible to audiences in 7 situation related countries and global audiences. In line with the Public Information Strategy, the Court engaged with key stakeholders such as legal and academic communities, NGOs, journalists and global audiences through specific programmes with the ultimate aim of increasing support for the Court.

110. The Outreach Programme continued its efforts in reaching out to the affected communities. Operations were expanded in new situation countries, i.e. Libya, Kenya and Côte d'Ivoire. Priority was given to countries with cases in trial stage. Judicial proceedings were made accessible to local audiences in face-to-face meetings, through radio and television broadcasts in vernacular languages and via traditional communication means. In DRC and CAR, groups of women, child soldiers and members of regular army and police were engaged. In Kenya activities focused mainly on training journalists and paving the way to engage displaced populations at the grass root level. In Côte d'Ivoire, a few outreach sessions were conducted by Hague-based staff, making initial contacts with local actors.

111. The OTP utilised travels by both the former and present Prosecutor and the former Deputy Prosecutor to inform about the Court's work, not just in situation countries but also in preliminary examinations countries. In situation countries, the Office used local media and vernacular languages to reach out to affected communities. The Office also further highlighted issues falling within its mandate by organising specific seminars gatherings of various stakeholders working on separate issues but connected to the work of the Court. For example, a seminar on child soldiers which assembled former child soldiers, the Secretary-General's Special Representative for Children and Armed Conflict, diplomats, celebrities and NGOs working to raise awareness of the same issue. The Office hopes to do the same for the closing of the Bemba trial to highlight sexual violence in conflict. As much as reaching out to affected communities, the OTP intends to connect key players working on issues which relate directly or indirectly to the mandate of the OTP.

112. The Court dealt with an increased publicity of judicial activity and disseminated 67 press releases and media advisories, through the Court website, which had 985,000 visitors, compared to 956,000 in the previous period. PIDS also produced and disseminated 32 radio programmes and 34 videos for international audiences through the Court's YouTube channel (with 452,581 views compared to 126,932 views last year). To absorb a higher workload and at the same time increase its impact, the Section has constantly reviewed its internal procedures and policies and is using the most advanced technologies when and where ever possible.

113. The Court continued to support the final rounds of existing moot courts organized by implementing partners in Chinese, English, Russian and Spanish. Due to budgetary constraints, the Court suspended several public information projects such as the campaigns "Calling African Female Lawyers" and "Calling Arab Lawyers".

114. PIDS supported an increased number of high-level visits (51) to Court headquarters by senior officials of states and international organisations, as well as an increased number of stakeholder visits (67), which are designed to provide a briefing from the different organs of the Court to key groups as part of training programs organized and funded by national governments, embassies, NGOs and other relevant third parties.

6. Field Operations

115. During the reporting period, the Field Operations Section consolidated for the third year its coordination mandate in line with the Court's field operations strategy³, through inter alia the drafting of Standard Operating Procedures and the implementation of the yearly review of the Court's field presences.

116. The Court's field presences were reduced from seven to six, the latest being established in Côte d'Ivoire and financed mainly from existing resources. Staff and non-staff resources were redeployed to situation countries with greater operational needs, such as Kenya, Côte d'Ivoire and the Central African Republic. The Section maximized cooperation with external partners, including with the UN.

7. Human Resources

117. As at 31 August 2012, the Court employed 696 staff on established posts. Of these, 358 were professional posts. Recruitment against vacant posts was carefully managed and at times slowed down in order to address budgetary constraints.

118. The development of a comprehensive human resources policy framework continued to receive priority attention. In accordance with the recommendations of the Assembly, the Court reviewed and revised its performance appraisal system; the new tool will be ready for implementation for the 2013/2014 performance management cycle. Improvements were also made to the administration of benefits and entitlements and emphasis will be placed on the issuance of administrative instructions in order to enhance staff awareness of benefits and entitlements.

119. The first part of a new Managerial Leadership training programme was implemented in late 2011. Further training is expected to take place in 2012 and/or 2013.

120. On the health and welfare side, contributions were made to the development of a manual and protocol for the management of critical incidents, including the death of staff in service, and for the improved debriefing and care provided to staff members involved in critical incidents. A comprehensive policy for the management of certified sick leave and emergency leave was developed and promulgated and guidance on the management of alcohol and other substance abuse, as well as on domestic violence as a staff issue was provided. Training on stress management and on secondary trauma was delivered to staff across all organs of the Court.

8. Information and communication technologies

121. Since 2011, the Court's ICT Section has started major upgrades in all its operational systems, which affected the Court's e-Court systems, document management, desktop systems and the Court's ERP systems. This upgrade will allow the Court to maintain its investment and stabilize costs over time. It also started the implementation of its disaster recovery plan and phase one of a data archive system that will allow the Court to comply with the Regulations of the Registry relating to court records.

9. Strategic Planning

122. The Court finalized the review of its Strategic Plan during the reporting period and will continue consulting with States in the context of the eleventh session of the Assembly before adopting a new Strategic Plan for 2013-2017, which will replace the earlier one for 2009-2018. The new Strategic Plan, prepared through extensive inter-organ consultations as well as consultation with States, aims to provide a closer connection between the Court's mandate as defined by the Rome Statute as well as its strategic goals and objectives, the reality of the Court's operations and the Court's budget.

³ ICC-ASP/10/26

10. New York Liaison Office

123. The New York Liaison Office (NYLO) continued to facilitate and promote cooperation between the Court and the UN and its funds, programmes and agencies, as well as between the Court and Permanent and Observer Missions to the UN.

11. Permanent Premises

124. During 2012, the Permanent Premises project has been further developed into the Final Design and the Tender Documents. The Court has provided continuous guidance and feedback in the design process, coordinated by the Registry's Permanent Premises Office and supported by various Sections. After the successful tender process concluded with the signature of the contract with a general contractor on 1 October 2012, the next phase of Technical Design and works preparation has started, again with intense guidance and feedback from the Court.

12. Audit Committee

125. During the reporting period, the Audit Committee met three times and reviewed the Court's plans for the introduction of the International Public Sector Accounting Standards and the proposed amendments to the Financial Regulations and Rules. At the same time, the Audit Committee appraised the Court's risk management policy and processes to ensure full transparency to stakeholders of the risks perceived, including those arising from resource constraints. The Audit Committee also reviewed the Court's processes for providing assurance to the Registrar to underpin her signature of the overall Statement of Internal Control and welcomed the opinion of the External Auditor on the 2011 Financial Statements for the Court and the Trust Fund for Victims.

V. Elections and Appointments

126. Judges Miriam Defensor-Santiago, Howard Morrison, Anthony T. Carmona, Olga Herrera Carbuca, Robert Fremr and Chile Eboe-Osuji were elected by the Assembly for a term of nine years which commenced on 11 March 2012. The terms of office of Judges Nsereko, Odio Benito, Diarra, Fulford, Steiner and Cotte ended on 10 March 2012.⁴ Of the judges whose terms in office commenced on 11 March 2012, only Judge Eboe-Osuji was called to full-time duty during the reporting period, on 16 March 2012.

127. The Assembly elected Ms. Fatou Bensouda (Gambia) as Prosecutor by consensus, for a nine-year term. Ms. Bensouda assumed office on 15 June 2012.

128. On 11 March 2012, the new plenum of judges re-elected Judge Sang-Hyun Song as President of the Court. Judge Sanji Mmasenono Monageng and Judge Cuno Tarfusser were elected First and Second Vice-President respectively. The members of the Presidency will serve for a period of three years.

VI. New Accessions

129. During the reporting period, three States deposited their instrument of accession or ratification of the Rome Statute with the Secretary-General of the UN: Cape Verde on 10 October 2011, Vanuatu on 2 December 2011 and Guatemala on 2 April 2012, bringing the total number of States Parties to the Rome Statute to 121 as of 1 July 2012, when the Statute entered into force for Guatemala.

130. Two states acceded to or ratified the Agreement of Privileges and Immunities of the International Criminal Court (APIC) during the reporting period: Brazil on 12 December 2011 and Bosnia and Herzegovina 24 January 2012 bringing the total number of States Parties to APIC to 71. The Court urges all States to actively consider the ratification of APIC, which is foreseen in article 48 of the Rome Statute.

⁴ Judges Odio Benito, Diarra, Fulford, Steiner and Cotte as well as Judge Blattmann continued in office pursuant to article 36(10) of the Statute.

131. By way of high-level meetings and correspondence, the President of the Court engaged with tens of non-State parties and encouraged their active consideration of Rome Statute membership by raising awareness of the benefits and practical considerations of joining the Court and clarifying misconceptions. The President furthermore increased coordination of universality efforts with the President of the Assembly, regional organizations, civil society organizations and States Parties, promoting active exchange of information and referring queries and requests for assistance to actors best placed to respond. In this spirit, with the support of Australia, New Zealand and the Commonwealth Secretariat, the Court's principals participated in a roundtable meeting with Pacific Island States to discuss ratification and implementation of the Rome Statute in the region.⁵

VII. Conclusion

132. In its tenth anniversary year, the Court issued its first verdict and sentence, welcomed three new States Parties and saw the referral of a new situation in Mali. It also engaged in several lesson learnt exercises, finalised a new version of the Regulations of the Court and initiated a revision of the Regulations of the Registry. The President of the Court, Judge Sang-Hyun Song, was re-elected for a second mandate, and the new Prosecutor, Ms Fatou Bensouda, was sworn in.

133. Strong and consistent support of States and of intergovernmental organisations remains crucial for the Court's ability to carry out its independent mandate aimed at ending impunity for the gravest crimes of concern to the international community. This includes the implementation of the Court's requests for cooperation, in particular regarding the outstanding arrest warrants, the allocation of adequate resources, public and diplomatic support for the Court's activities, as well as other forms of assistance, notably regarding the protection of victims and witnesses.

⁵ A report of the meeting is available on the Court's tenth anniversary website (<http://www.10a.icc-cpi.info>).