

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Eighth Diplomatic Briefing of the International Criminal Court

**Information Package
(As of 13 October 2006)**

**Summary of activities since the seventh Diplomatic Briefing
29 June 2006, Brussels**

The Hague, 26 October 2006

Since the surrender of Mr. Thomas Lubanga Dyilo in March this year for crimes allegedly committed in the Democratic Republic of the Congo, proceedings have been conducted before the Pre-Trial Chamber on a wide range of issues, including the disclosure of evidence to the defence, the participation of victims in the proceedings and the protection of victims and witnesses. Before the case can proceed to trial, the Pre-Trial Chamber must confirm the charges. An initial hearing to confirm the charges was postponed in order to ensure measures were in place to protect the security of witnesses. The hearing was subsequently postponed a second time out of concern for the rights of the accused and the need for the defence to be adequately prepared for the hearing. The hearing is now scheduled for 9 November 2006. The Prosecutor has stated that he is also investigating other possible cases in the Democratic Republic of the Congo.

Pre-trial proceedings continue in the situation in Northern Uganda on issues such as monitoring the status of execution of the five outstanding warrants of arrest issued by the Court in 2005. The first pre-trial proceedings have been conducted in the situation in Darfur, Sudan on issues such as the security of victims and witnesses. Local conditions have made it impossible to work in Darfur and the investigation is taking place in other countries. The Appeals Chamber has also issued its first judgments and taken other procedural decisions.

There are indications that the Court is having an impact on situations where it is active. As proceedings progress, the deterrent effect of the ICC should increase over time, as envisioned in the preamble to the Rome Statute.

The emphasis of the Court's operational activities continues to be in the field. In addition to investigations, the Court is carrying out other critical functions through its field operations including facilitating victims' applications for participation and reparations, protecting and relocating witnesses, supporting defence counsel, and conducting outreach to local populations. Carrying out field activities in situations of ongoing conflict poses significant challenges. Security of witnesses, Court staff and others affected by the Court's activities remains an omnipresent concern. In meeting the challenge of conducting investigations in situations of on-going violence, the Office of the Prosecutor has endeavoured to reduce the length and scope of investigations through focusing its efforts on the most serious crimes and those who bear the greatest responsibility for those crimes.

The Court's experience continues to emphasise an increasing need for cooperation and support if the Court is to fulfil its mission. In addition to arresting and surrendering accused persons, the Court requires other forms of practical support and cooperation, including providing evidence or other information in relation to investigations; logistical support; enforcement of sentences; and concluding agreements on relocation of witnesses. In addition to pragmatic support, there is also an increasing need for assistance in ensuring accurate understanding about the Court, its role, and its relationship to other actors or initiatives related to the rule of law, peace or justice. Misperceptions or a lack of understanding can undermine the support needed by the Court or diminish its acceptance.

The outstanding arrest warrants in the situation in Uganda highlight just how essential cooperation is to the Court's activity. The Court does not have the power to arrest these persons. That is the responsibility of States and other actors. Without arrests, there can be no trials.

Presidency and Chambers

I. Presidency

- Submitted the second report of the Court on its activities to the United Nations and presented report to the General Assembly on 9 October
- Recruited Head of New York Liaison Office
- Met with African Union Peace and Security Council and with Chairperson of African Union Commission
- Convened meetings of the Coordination Council to discuss and coordinate administrative activities of all organs, including adoption of proposed budget for 2007
- Contacted States in view of concluding agreements on enforcement of sentences (together with Registry)
- Met with representatives of States, international organisations, and NGOs both at the Court and elsewhere

Other Major Activities Planned

- Continued preparation for Assembly of States Parties
- Physical establishment and beginning of operations of New York Liaison Office

II. Chambers

Pre-Trial Division

- Held hearings and issued decisions at the Pre-Trial level on such matters as:
 - **Democratic Republic of the Congo:** further postponement of the hearing to confirm charges against Thomas Lubanga Dyilo to ensure preparation of the defence; defence challenge to the jurisdiction of the Court; applications for participation of victims in proceedings; modalities of participation of victims in proceedings; E-Court protocol for the provision of evidence, material and witness information in electronic version for presentation during the confirmation hearing; and disclosure of documents
 - **Uganda:** requesting Registrar and Prosecutor to submit information on the status of execution of warrants of arrest
 - **Sudan:** inviting observations on issues concerning the protection of victims and the preservation of evidence in Darfur in application of Rule 103 of the Rules of Procedure and Evidence

Appeals Division

- Since the last diplomatic briefing, the Appeals Chamber has delivered judgments relating to its powers to review a decision of the Pre-Trial Chamber denying leave to appeal and concerning restrictions on disclosure prior to the confirmation hearing. It also deemed abandoned and dismissed an appeal initiated by Mr. Thomas Lubanga Dyilo. It is currently seized of three further appeals - two relating to disclosure and one concerning jurisdiction. The Appeals Chamber has also issued a number of procedural decisions in the course of the appeal proceedings, including decisions on the extension of time and page limits and deciding on an application for leave to file a reply.

See the web site of the Court, <http://www.icc-cpi.int/>, for decisions, orders, and more information on hearings, including a forthcoming schedule of hearings.

Democratic Republic of the Congo Investigation

- Preparation for the confirmation hearing of Thomas Lubanga Dyilo
- Litigated issues regarding a challenge to the jurisdiction of the Court, an application for interim release and on the modalities and scope of OTP obligations of disclosure to the defence
- Responded to several Court applications for victim participation
- Conducted periodic witness security assessments in conjunction with Registry
- Developed witness protection and tracking database
- Conducted six investigation missions to three countries for the purpose of assessing the security situation, gathering evidence and witness testimony
- Allocation of additional personnel to assist in the second DRC investigation and the preparation of the another case
- Continued to develop outreach activities in the DRC including radio broadcast and meetings with civil society and journalists
- Conducted mission to U.S. to brief states and other interested parties on developments in the three situations, particularly on the DRC investigation as part of a broader communication approach regarding the Lubanga case

Uganda Investigation

- Assisted the Government of Uganda to certify the identity of the body of Raska Lukwiya who was killed on 12 August 2006
- Responded to request of Pre-Trial Chamber on measures taken to further the arrest of the outstanding suspects
- Conducted investigation missions to interview witnesses and collect documents to ensure that warrants are trial ready
- Conducted a mission to Khartoum in August to discuss issue of the LRA

Darfur Investigation

- Conducted a total of 21 missions in 9 countries to collect evidence and witness statements including a mission in August 2006 to Khartoum.
- Continued missions to Chad to collect evidence and testimony, took measures to manage security concerns of ICC field presence
- Gave update report to the Security Council on the Darfur Situation in June
- Continual assessment of witness security in coordination with Registry
- Responded to observations submitted on issues concerning the protection of victims and the preservation of evidence submitted by Antonio Cassese
- Continued to develop outreach strategy for Darfur in collaboration with Registry

Analysis

- Continued analysis of five situations including the Central African Republic and Côte d'Ivoire
- Continued consultation on the development of OTP policy papers on case and situation selection and gravity and interests of justice
- Received and analysed 455 Article 15 communications between 29 June and 9 October

Cooperation

- Submitted numerous requests for cooperation to states and international organizations and concluded several arrangements developing the modalities to facilitate requests for assistance
- Ongoing negotiations with several international organizations with a view of concluding new cooperation agreements
- Provided legal advice and assistance in regards to judicial assistance related to disclosure, particularly information received under Article 54(3)(e)

Strategic Planning

- Finalised the draft OTP 3-Year Report and Prosecutorial Strategy identifying the core objectives and policies of this office and gave preliminary presentation of the documents to representatives of interested states and civil society in The Hague and prepared for similar meetings in New York

Registry

Budget as of 1st of October 2006

- Contributions received: 80.50% of the total 2006 (€80,417,200)
- Contributions received: 93.28% of the total 2005 budget (€ 66,891,200)
- Outstanding contributions for 2002-2003 and 2004 amount respectively to 0.01% and 2.76%

Human Resources as at 1 October 2006

Number of staff on established posts: 444 (female 46.85%, male 53.15%)

Staff subject to geographical representation:

- 18.50% from the African Group of States (target: 12.73%)
- 4.50% from the Asian Group of States (target: 7.58%)
- 6.50% from the Group of Eastern Europe (target: 6.95%)
- 11.00% from the Latin American and Caribbean Group of States (target: 15.34%)
- 59.50% from the Western European and others Group of States (target: 57.40%)

Applications received in 2006 (as at 1 October): 11,989

I. Headquarters

1. *Division of Court Services*

- Implementation of the ICRC's recommendations following its visit to the ICC's detention centre (28 and 29 June 2006) is in progress
- Glossary of legal terms in Acholi is being finalised and its publication planned before the end of the year
- Translation: Major judicial cooperation projects successfully finalised
- Pre-Trial Chamber I issued Decisions ICC-01/04-01/06-376 and ICC-01/06-360 enabling parties to the proceedings in the case *Prosecutor v. Thomas Lubanga Dyilo* to submit at the confirmation of charges hearing evidence in electronic format in accordance with a detailed e-protocol. Court Management Section is currently implementing the decisions
- Training modules for paraprofessional interpreters in Acholi and Swahili was completed

2. *Division of Victims and Counsels*

- List of counsel eligible for appointment to accused and victims contains 169 counsel to date
- Implemented the decision of the Pre-trial Chamber I in relation to additional support needed for the Defence team of Mr. Lubanga funded under the Legal aid programme
- Received and processed over 100 applications for victims' participation in the proceedings in relation to the situations in the DRC, Darfur, Uganda
- Information booklet on participation of victims in ICC proceedings was published in English and French
- Provided support, assistance and information to the legal representatives of victims in the case *Prosecutor v. Thomas Lubanga Dyilo*

3. *Public Information and Documentation Section*

- 9th ICC Newsletter was published and disseminated
- A compilation of selected basic legal texts (Rome Statute, Rules of Procedure and Evidence, Elements of crimes, Regulations of the Court and Regulations of the Registry) in English and French for working purposes has been published

4. *Immediate Office of the Registrar*

- 6th Strategic Meeting Registry-NGOs took place at the seat of the Court from 04 to 05 July 2006
- Expert meeting on permanent premises took place from 21 to 22 September 2006
- Registrar's mission in Brussels on cooperation matters with the European Commission (5 October 2006)
- Registrar's missions in Europe and Africa on various matters pertaining to States cooperation and defence matters
- **Future activities include:**
 - Registrar's mission to New York (01– 06 November 2006)
 - Further elaboration of the ICC Strategic Plan related to the mandate and mission of the Registry including organising workshops involving all Registry staff from 16 to 27 October 2006

5. *Office of Public Counsel for Victims*

- Provided support and assistance to legal representatives of victims in the DRC and Darfur, Sudan situations as well as in the case *Prosecutor v. Thomas Lubanga Dyilo*

6. *Office of Public Counsel for Defence*

- The Office became operational as of April 2006

II. Field Operations

Democratic Republic of Congo

- The Outreach coordinator, two outreach assistants and one administrative assistant took up office in August 2006
- As of mid September, due to security reasons and in order to minimise risks, the Court has reduced its presence in the field. Outreach activities have been adapted to these new circumstances
- Necessary arrangements to enable witnesses in the case *Prosecutor v. Thomas Lubanga Dyilo* to appear before the Court at the confirmation of charges hearing (9 November 2006) are in progress

Uganda

- The Outreach coordinator, two outreach assistants and one administrative assistant took up office in August 2006
- Workshop with local leaders in Amunia district took place 28 August 2006 involving 70 participants
- Meeting with representatives of Iteso traditional Leaders was held in Soroti on 24 August 2006
- Nine informational meetings were held with representatives of NGO's, universities, media, international organisations and legal organisations in September 2006
- Approximately 1300 documents were distributed (fact sheets, legal texts, booklet "Understanding the ICC")

Recent ratifications of the Rome Statute: Comoros and Saint Kitts and Nevis deposited their instruments of ratification and accession to the Rome Statute on 18 and 22 August 2006, respectively. On 1 November, when the Statute enters into force for these two States, there would be a total of 102 States Parties.

Recent ratifications of the Agreement on the Privileges and Immunities of the Court

Albania, Bulgaria and the Central African Republic became parties to the Agreement on Privileges and Immunities of the International Criminal Court, which has a total of 41 States Parties.

I. Fifth session of the Assembly

- Several reports to the Assembly, including the proposed programme budget for 2007, as well as information regarding the provisional agenda, credentials and registration for the fifth session of the Assembly of States Parties, to be held in The Hague from 23 November to 1 December 2006, and the resumed fifth session, scheduled in New York from 29 to 31 January 2007, are available on the Internet website of the Court.¹

II. The Bureau

- The Bureau met on 13 July, 31 August and 25 September 2006. At its 31 August meeting the Bureau decided to include an item entitled “General debate” in the provisional agenda of the fifth session of the Assembly of States Parties.
- The Coordinator of The Hague Working Group, Ambassador Colleen Swords (Canada), left the Netherlands in August, to assume her new duties with the Foreign Affairs and International Trade Ministry in Ottawa. On 25 September, Ambassador Sandra Fuentes-Berain (Mexico) was designated as the new Coordinator.
- The Hague Working Group held its eleventh meeting on 18 October. With regard to the issue of permanent premises, the Working Group organized a meeting with experts from capitals that was held in The Hague on 21 and 22 September. States had been invited to provide a list of questions or issues for the experts to address at the meeting. An interim report on the issue of permanent premises and a report on the Strategic Plan of the Court were submitted to the Bureau.
- A subgroup on the Strategic Plan, chaired by the Facilitator, Ms. Michèle Dubrocard (France), held its fourth and fifth meetings on 12 September and 18 October to consider its report.
- Ambassador Kalimi Mugambi Mworia (Kenya) was designated as the Facilitator for the issues of proposals to improve equitable geographical representation and gender balance in the recruitment of staff members.
- Ambassador Gilberto Vergne Saboia (Brazil), the Facilitator on permanent premises, indicated that he would no longer be available to continue in that capacity. Mr. Masud Husain (Canada) was designated as the new Facilitator on permanent premises.

¹ All the official documents of the Assembly of States Parties can be found at <http://www.icc-cpi.int>, Assembly of States Parties, Documentation. The invitation to the fifth session was sent to all States on 6 February 2006 (note ICC-ASP/S/5/04).

- The New York Working Group of the Bureau has held three meetings on the issue of promoting increased ratification and full implementation of the Rome Statute. Furthermore, it held two meetings on the issue of arrears of States Parties.

III. Committee on Budget and Finance

- At its meeting on 31 August, the Bureau designated Mr. Juhani Lemmik (Estonia) to fill the vacancy which resulted from the resignation of Ms. Inna Šteinbuka.
- On 11 August, Mr. John F.S. Muwanga (Uganda) tendered his resignation from the Committee on Budget and Finance. At its meeting on 25 September, the Bureau decided to open a nomination period to fill that vacancy. The Group of African States endorsed the nomination of Ms. Rosette Nyirinkindi (Uganda) who was thus designated as a new member.
- The Committee held its seventh session from 9-13 October 2006 in The Hague and discussed, inter alia, the programme performance of the 2006 budget, proposed programme budget for 2007, permanent and interim premises of the Court, pension scheme for judges, conditions of service and compensation of the Prosecutor and Deputy Prosecutors, the Strategic Plan of the Court and issues regarding States in arrears.

IV. The Board of Directors of the Trust Fund for Victims

- The Bureau decided to fix a 12 week nomination period, starting on 5 June 2006, for the second election of members of the Board of Directors of the Trust Fund for Victims, scheduled to take place during the fifth session of the Assembly. As the minimum requirements for the nomination of members of the Board have not been met, the President of the Assembly extended the nomination period twice, to Sunday, 15 October 2006.
- On 21 August, Her Majesty, Queen Rania Al-Abdullah (Jordan) resigned from the Board.