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**International
Criminal
Court**

*Fifth Diplomatic Briefing of the International Criminal Court
The Hague, 26 October 2005*

*Information Package
(As distributed on 20 October 2005)*

*Summary of activities since the fourth Diplomatic Briefing of the
International Criminal Court on 8 June 2005, Brussels*

The International Criminal Court

In advance of the 26 October 2005 diplomatic briefing, the following information package provides an overview of main activities and developments of the Presidency and Chambers, Office of the Prosecutor, Registry and Secretariat of the Assembly of States Parties since the last diplomatic briefing held in Brussels on 8 June 2005.

The International Criminal Court has released its first warrants of arrest. On 14 October, Pre-Trial Chamber II unsealed five warrants of arrest against senior leaders of the Lord's Resistance Army (LRA) issued on 8 July 2005 for crimes against humanity and war crimes committed in Uganda since July 2002. The allegations included in the warrants underscore the seriousness of the crimes which fall under the jurisdiction of the ICC. The warrants include, *inter alia*, allegations of murder, abduction, sexual enslavement, mutilation, rape and forced enlisting of children.

Fulfilment of the Court's mandate depends upon the level of cooperation it receives from external actors in such areas as preserving and providing evidence, sharing information and securing the arrest and surrender of persons to the Court. In light of the recent unsealing of the Court's first warrants of arrest, this cooperation is of increasing importance. Without arrest and surrender, there can be no trials.

The main activities of the Court continue to be carried out in the field. The joint field offices established by the Office of the Prosecutor and Registry in Kinshasa, Democratic Republic of the Congo, and Kampala, Uganda are now fully operational. The recent recruitment of field coordinators for the Office of the Prosecutor and the Registry will further strengthen coordination between the organs on planning, preparation and implementation of mission and field-related activities. The field offices support the work of investigators as well as the Court's activities in relation to defence, witnesses, victims and outreach. The Court is currently evaluating its needs in connection with the investigation in Sudan and has established an operational presence in Chad.

Meeting the challenges of field operations requires substantial preparation and support arrangements to ensure, *inter alia*, adequate logistics, security and communications. Arranging transportation into, out of and within affected areas is a complex process. The security of staff, victims and witnesses is of constant concern. The Court must maintain secure, reliable communications in the field, and between the field and headquarters, to support the activities of the Office of the Prosecutor, the Registry and the Judiciary. The Court must also be able to communicate effectively with persons in the relevant regions which requires sufficient translation and interpretation capacity in the field and at headquarters.

These operational challenges are described in the Court's proposed programme budget for 2006 which is separated into basic and situation-related costs. The proposed programme budget was presented to the Committee on Budget and Finance (CBF) at its fifth session in October 2005. In preparation of the budget, the Court acted upon the advice received from the CBF last year. The Coordination Council established a Budget Steering Committee, composed of high-level representatives of each organ, to oversee the preparation process in an attempt to ensure improved efficiency.

Comprehensive information regarding the Court's activities may be found in two recent reports: the first report of the ICC to the United Nations General Assembly submitted in consideration of United Nations Resolution 59/43 of 2 December 2004; and the ICC report to the Assembly of States Parties in advance of its fourth session in November 2005. Both reports may be found on the Court's website: <http://www.icc-cpi.int>.

Chambers and Presidency

I. Chambers

- Held hearings and issued decisions at the pre-trial level, including decisions relating to the issuance of arrest warrants (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)
- Considered standard application form pertaining to victims reparations for future approval by the Presidency
- Re-elected the President of the Pre-Trial Division

II. Presidency

- Exercised managerial oversight over the Registry
- Convened meetings of the Coordination Council to discuss and coordinate administrative activities of all organs
- Contributed to the development of the strategic plan of the Court in cooperation with all organs, including the completion of an external relations, public information and outreach strategy of the Court
- Contacted States in view of concluding agreements on enforcement of sentences (together with Registry)
- Contacted States and international organisations regarding the negotiation of agreements for cooperation (together with Registry)
- Submitted the report of the Court on its activities to the United Nations (in consultation with all organs)
- Made presentations to explain the role of the Court both at the seat of the court and elsewhere
- Met with representatives of States, international organisations, and NGOs both at the Court and elsewhere

Other Activities Planned

- Convening of and providing support to the Advisory Committee on Legal Texts
- Presenting of the report of the Court to the United Nations

Democratic Republic of the Congo Investigation

- Continued missions to carry out investigation and, with the Registry, to assess security situation and develop witness protection arrangements
- Interviewed witnesses, insiders, and suspects, and collected documents and materials, with respect to crime base, linkages and military structures
- Prepared numerous analytical reports
- Discussions with the United Nations Mission in the Democratic Republic of the Congo (MONUC) to maintain and clarify levels of logistical support for operations
- Discussions with third parties to obtain relevant classified information
- Participation in closed Pre Trial Chamber hearings and submission of written observations

Uganda Investigation

- Continued missions to the field to carry out investigative work in Uganda and re-assess witness security.
- Interviewed witnesses, insiders, and suspects, and collected documents and materials, with respect to crime base, linkages and military structures.
- Worked closely with the Victims and Witnesses Unit (VWU) to maintain and enhance witness protection system, including re-assessment of personal situations and identify any additional measures needed.
- Increased security and capacities in the field office together with Registry.
- Participated with Registry in outreach, ICC Training Workshop for 64 local government representatives from Northern Uganda.
- Participated in hearings before Pre-Trial Chamber II.
- Application to Pre Trial Chamber II for warrant of arrest against 5 individuals on 6 May 2005. Warrants issued on 8 July 2005 under seal.
- Application to Pre-Trial Chamber II on 9 September 2005 for unsealing of warrants. Warrants unsealed on 13 October 2005.
- Prosecutor statement on investigation and warrants available on website.

Darfur Investigation

- Prosecutor reported to the Security Council on 29 June 2005. Written report on activities available at <http://www.icc-cpi.int/press/pressreleases/108.html>
- Recruited first investigation team, including investigators, analysts and field officers, as well as interpreters in local languages.
- Completed training of the team including on legal aspects, investigation strategy, crimes of sexual violence and local culture and society.
- Continued to collect and analyse documents, including official documents, reports by organisations, video and photo records.
- Twelve missions have been conducted to third countries in order to interview witnesses, including victims.

- Three field missions to Chad were required for logistic preparations including the establishment of a field office.
- Secured cooperation of several key sources of evidence (including international organisations, NGOs, and individuals).

Analysis

- Prosecutor concluded preliminary examination of Darfur situation and initiated an investigation, announced on 6 June 2005.
- Received 181 communications since last Diplomatic Briefing of 8 June 2005.
- Conducting detailed analysis of 7 situations of concern, including Central African Republic, pursuant to Articles 15 and 53 of the Rome Statute.

Cooperation

- Requests for cooperation were sent to various States and international organisations.
- Concluded four new arrangements with entities of the United Nations system, building on the UN-ICC Relationship Agreement.
- Concluded agreements with two States to facilitate investigations.
- Concluded arrangements on specific forms of cooperation with two NGOs.
- Participated in the discussion of cooperation agreements or arrangements to be concluded by the Court, with progress achieved in discussion with the European Union, the African Union and MONUC.
- Continued contacts with networks of national authorities concerned with investigating crimes of relevance under the Rome Statute.

Other Activities

- Continued development of the *Legal Tools Project*.
- Participation in Court projects on strategic planning, Court capacity, and external communications.
- External consultation to develop a methodology for assessing the interests of justice.
- Developed and refined policies and operational procedures of the office.
- Conducted lessons learned exercises and training of staff.
- OTP-States Parties meeting on 20 June to discuss strategies and activities.
- OTP-NGO strategic meeting from 21-22 June.

II. *Planned Activities*

- Continued investigative activities in the Democratic Republic of the Congo, Uganda and Darfur.
- Updated policy papers dealing with methodology of analysis and conduct of investigation, by the end of November 2005.
- Complete the first version of the Legal Tools Project by the end of 2005, which will be made available for other jurisdictions.
- Draft paper on interests of justice for discussion by the end of 2005.
- Two senior-level recruitments (P5 Chef de Cabinet, P5 Senior Legal Adviser); as is the case with all positions open for recruitment at the ICC, we encourage efforts to alert qualified applicants, especially women and those from under-represented regions.

Registry

Budget as of 01.10.2005

- Contributions received: 80.19% of the total 2005 budget (€ 66,891,200)
- Outstanding contributions for 2002-2003 and 2004 amount respectively to 2.72% and 6.69%

Human Resources: Number of staff on established posts: 337 (female 47%, male 53%)

Staff subject to geographical representation:

- 14, 84 from the African States (target: 13.03%)
- 3, 23% from the Asian States (target: 7.79%)
- 7, 10% from the Eastern European States (target: 7.15%)
- 9, 68% from the Group of Latin American and Caribbean States (target: 12.47%)
- 65, 16% from the Western European and Others States (target: 59.56%)

Applications received in 2005 (up to 1 October 2005): 10.359

I. Headquarters

1. *Common Administrative Services Division*

➤ **Information and Technology:**

- CBF Extranet – delivered on 1 July 2005. ASP Extranet – completed
- ERP System - Phase 2 - Human Resources, Payroll implemented in July 2005. Asset Management, E-Recruitment and Travel Management modules expected implementation in 4th quarter 2005 / 1st quarter 2006
- Court Management System - modules for Document Registration, Translation and Situations/ Casework are near completion. 5 other modules are still under development.
- E-Court system (Court presentation and Case Management) to be delivered in November/December 2005
- **Human Resources:** The ICC specific performance management and appraisal system has been implemented.
- **General Services:** Courtrooms 1 and 2 are expected to be ready by end 2005. TRIM implementation for Registry units is to be completed by end 2005.
- **Finance:** The External Auditor (National Audit Office of the United Kingdom) has finalised its audit of the Court's financial statements and the financial statements of the Trust Fund for Victims and issued its reports in July 2005.
- The SAP module for Human Resources/Payroll was launched in July 2005.

2. *Division of Court Services*

- Final draft of Regulations of the Registry submitted to the Registrar. Submission to the President – mid October.
- Technical and operational completion of Courtrooms 1 and 2 as well as of the Hot-desk area (D-Wing) and of the Press Briefing Room (D-Wing);
- Installation of the Court's own real-time distribution transcript completed.
- Pilot interpretation training in Acholi and Swahili started.

3. *Division of Victims and Counsels* - Participation of victims in the proceedings: first applications received from victims (from DRC) and still pending before Pre-Trial Chamber I

- 2nd meeting of the Board of Directors of the Trust Fund for Victims will take place on 22-23 November 2005

4. *Public Information and Documentation Section*

- Additional public information materials (e.g. brochure “Understanding the International Criminal Court”, ICC Handbook for journalists”, etc.) have been prepared to explain the Court.
- The ICC logo has been implemented.
- 5. *Legal Advisory Section*** – Headquarters Agreement: The Court and the host State are continuing efforts to finalise negotiations on outstanding issues.
 - Negotiations are ongoing with the European Union.
 - Technical discussions between the Court and the African Union on the AU-ICC agreement have been finalised. The agreement is awaiting final approval from the AU.
 - Negotiations between the Court and the UN concerning the cooperation between the UN mission in the DRC (MONUC) and the ICC are in advanced stage. All these agreements are under the authority of the President.
 - 85% of the legislations implementing the Rome Statute have been transposed onto the ICC Implementing Legislation Data Base.
- 6. *The fourth Strategic Meeting Registry-NGOs*** took place at the Seat of the Court from 23 to 24 June.

II. Field Operations

- A Field Operations Section has been created. The Section in close cooperation with OTP provides support to the Court’s field activities.

Democratic Republic of the Congo (DRC)

- Public information products developed in local languages and radio spots produced.
- Consultations held with representatives of local governments, NGOs, legal community and media on ICC public information products
- An outreach coordinator in the DRC began work in August 2005.
- Missions to DRC carried out that included training of potential intermediaries in relation to standard application forms and assisting victims, as well as more general outreach and information
- A witness protection system has been developed in the DRC in close co-operation with OTP.

Uganda

- Public information products developed in local languages. Radio spots have been produced
- Consultations held with representatives of local governments, NGOs, legal community and media on ICC public information products
- Workshop on the ICC for local government representatives from Northern Uganda was held in August 2005
- Meeting held with Uganda media in September 2005 to discuss and consult upon ICC information materials for the media
- Final arrangements regarding the overall witness protection system for the Uganda investigation have been implemented. In addition, efforts have been pursued to maintain and test protection systems and to further develop the witness support network.

Darfur

- Activities of the Court in relation to the situation in Darfur are supported by a field office.

Secretariat, Assembly of States Parties

Recent Ratifications of the Agreement on the Privileges and Immunities of the ICC: Belize, Burkina Faso, Cyprus, Lesotho, Liberia and Paraguay

I. *Fourth session of the Assembly*

- Invitations to the fourth session of the Assembly, to be held in The Hague, from 28 November to 3 December 2005 and to the resumed session, scheduled in New York on 26 and 27 January, were sent to all States on 18 March 2005. A note on credentials and registration was sent to all States Parties on 23 September 2005 and one on registration was sent to Observer States and invited States on 29 September 2005; a Handbook for participants is available on the Internet website of the Court, in English and French.¹
- Hardcopies of a first set of documents, including the provisional agenda for the fourth session and the resumed fourth session, were sent to States Parties on 28 September 2005. The proposed programme budget for 2006 was mailed to States Parties on 26 August and is also available on the website of the Court in all official languages.
- The main issues to be considered by the Assembly include, inter alia: the proposed programme budget for 2006; the arrears of States Parties; the New York Office; the draft Code of Professional Conduct for counsel; the draft Regulations of the Trust Fund for Victims; permanent premises; guidelines on gratis personnel; and the crime of aggression.
- As regards the incumbent Bureau, its term of office ends at the beginning of the fourth session of the Assembly. The composition of the incoming Bureau would be the result of consultations among States Parties prior to the opening of the fourth session.
- At the resumed session, the Assembly would proceed with the election of six judges and of six members of the Committee on Budget and Finance (CBF). Letters regarding the nomination period for candidates for judges and CBF members were sent to all States on 12 April (reference ICC-ASP/4/S/4) and 18 March (reference ICC-ASP/4/S/2), respectively. The nomination period for both judges and members of the CBF ran from 18 July to 9 October 2005. In accordance with the relevant resolutions, the nomination period for judges was extended to 23 October. The nomination period for members of the CBF closed on 9 October. Nominations received before or after the nomination period will not be considered.² Once the nomination period closes, the Secretariat will send a note to States Parties that includes all the relevant information regarding the nominations.
- The six judges whose term of office expires on 10 March 2006 come from the following regional groups: 1 from the African States; 2 from the Asian States; 1 from the Eastern European States; and 2 from the Western European and Other States.³
- The six members of the CBF whose term of office expires on 20 April 2006 come from the following regional groups: 1 from the African States; 2 from the Asian States; 1 from the Eastern European States; 1 from the Group of Latin American and Caribbean States; and 1 from the Western European and Other States.
- As regards the distribution of seats for the Committee on Budget and Finance, the Bureau decided, on 11 August 2004, to recommend to the Assembly that the existing distribution of seats among the regional groups be retained until the Assembly adopts a resolution amending operative paragraph 8 of resolution ICC-ASP/1/Res.5. Accordingly, the distribution of seats is as follows: African States, two seats; Asian States, two

¹ <http://www.icc-cpi.int>, Assembly of States Parties.

² Detailed information on the candidates, as well as on a possible additional extension of the nomination period beyond 23 October, can be found at <http://www.icc-cpi.int>, Assembly of States Parties.

³ Information regarding the requirements related to gender, regional groups and to competence in criminal law and procedure, or to competence in relevant areas of international law, which have to be met at the forthcoming election can be found in the note verbale of 18 April 2005, reproduced at <http://www.icc-cpi.int>, Assembly of States Parties.

seats; Eastern European States, two seats; Group of Latin American and Caribbean States, two seats; Western European and Other States, four seats.

- In relation to the term of office of the members of the Board of Directors for the Victims Trust Fund, the Bureau decided that, since the terms of office expire on 11 September 2006, which is two months before the fifth session of the Assembly, the Bureau would make a recommendation at the fourth session of the Assembly that these elections be held in 2006 and that the Assembly be requested to extend the term of office of the present members to the date of the next session of the Assembly.
- As regards States Parties with outstanding contributions who might lose their right to vote under article 112, paragraph 8, of the Rome Statute, the Secretariat sent note ICC-ASP/4/SC3 to 11 States on 8 July 2005.

II. Committee on Budget and Finance

- The Committee on Budget and Finance held its fifth session from 10-14 October 2005 in The Hague and made recommendations regarding, inter alia, the draft programme budget for 2006, including the proposed budget for the Secretariat of the Trust Fund for Victims; the transfer of funds between major programme III and V to cover costs related to investment in the Court's premises; and the approach regarding the long term budgetary consequences of the judges' pension scheme. Furthermore, the Committee endorsed the recommendations of the External Auditor and, as regards the issue of permanent premises, recommended that the Assembly consider the establishment of expert committees on buildings and finance to advise it. The issue of the permanent premises is under consideration bearing in mind that the Netherlands, as the host State, has made the interim premises available to the Court free of rent for a period of 10 years, which comes to an end on 1 July 2012. The report of the Committee (ICC-ASP/4/27) will be sent to States Parties in the course of the week of 24 October 2005.

III. The Bureau and its Working Groups

- Pursuant to Assembly resolution ICC-ASP/3/Res.8, on 1 December 2004 the Bureau of the Assembly established two Working Groups, based in The Hague and New York, to be coordinated by Ambassadors Gilberto Vergne Saboia (Brazil) and Allieu Ibrahim Kanu (Sierra Leone), respectively. The Bureau received the reports of the New York Working Group and has in turn submitted reports to the Assembly on 1) a New York liaison office and 2) the arrears of States Parties.
- As regards the outcome of The Hague Working Group meetings, the Bureau received the report on the draft Code of Professional Conduct for counsel and has submitted a report to the Assembly. Additional meetings of the Working Group are contingent upon a decision by the Bureau.
- **IV. Follow up to the inter-sessional meeting on the crime of aggression**
- The Special Working Group on the Crime of Aggression has established a "Virtual Working Group" to advance the discussions held at Princeton from 13-15 June 2005. The group is open to all interested States. Those who wish to be included on the mailing list should send an e-mail to stefan.barriga@nyc.rep.llv.li with the subject "subscribe". Some informal papers for discussion have already been sent to subscribers.

V. ASP Extranet

On 2 September 2005, an ASP Extranet was established at <https://extranet.icc-cpi.int/sites/States/default.aspx>. It is intended to provide States Parties expeditious access to documents, as well as to provide a forum for exchange of information between the Court and States Parties. This would enable States Parties to access important documentation in real time and over the long term will reduce the costs associated with printing, storing and mailing hardcopies of documents. Nonetheless, States Parties will still be able to receive hardcopies of all documents in the language of their choice. The user id and password for accessing the ASP Extranet were sent to States Parties on 20 September.

- VI. Documents of the Assembly of States Parties: Documents of the Assembly, in all six official languages, may be found on the website of the Court at <http://www.icc-cpi.int/asp>. States Parties may also access additional documents on the ASP Extranet at <https://extranet.icc-cpi.int/sites/States/default.aspx>.