

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Ninth Diplomatic Briefing of the International Criminal Court*

*The Hague, 29 March 2007*

*Information Package  
(As of 15 March 2007)*

*Summary of activities since the Fifth Session of the Assembly of States Parties  
23 November - 1 December 2006, The Hague*

At the end of January, a Pre-Trial Chamber confirmed charges of war crimes against Mr. Thomas Lubanga Dyilo in relation to the situation in the Democratic Republic of the Congo. Should the Appeals Chamber uphold the confirmation of charges, the Court's first trial is expected to start this year. In February, the Prosecutor requested the judges to issue a summons for two persons, Mr. Ahmad Muhammad Harun and Mr. Ali Muhammad Ali Abd-Al-Rahman, to appear before the Court in connection with alleged war crimes and crimes against humanity in relation to the situation in Sudan. The arrest warrants issued by the Court in the situation in Northern Uganda for five members of the Lord's Resistance Army (LRA), including its leader Joseph Kony, remain outstanding. One of the five individuals has been killed. The other four are at large.

With the support and cooperation of States, the Court will continue to make progress in its judicial activities. The Court has entered into agreements on relocation of witnesses and, in one case, enforcement of sentences. The Court has also made specific requests for cooperation in connection with the current situations on a number of instances. States have taken their own steps to cooperate with the Court, including adopting implementing legislation to comply with their obligation to cooperate under Part 9 of the Rome Statute, and ratifying the Agreement on the Privileges and Immunities of the Court in order for the Court to be able to carry out its functions unimpeded on their territories and to allow the travel of victims and witnesses through their territories to the Court.

The focus of the presentations in the ninth diplomatic briefing will be on elaborating the types of cooperation needed by the Court. The President, Prosecutor and Registrar will provide additional indications of specific forms of cooperation required and current efforts underway to articulate the Court's needs most effectively.

## Presidency and Chambers

### I. Presidency

- Issued a Decision on 6 March constituting Trial Chamber I, which will be composed of judges Elizabeth Odio Benito, René Blattmann, and Adrian Fulford. The case of *The Prosecutor v Thomas Lubanga Dyilo* has been referred to the new Trial Chamber.
- Travelled to a number of countries not party to the Statute including Chile, Guatemala, Japan, Turkey and Ukraine.
- Together with the Prosecutor and Registrar, briefed the Permanent Representatives Committee of the African Union in Addis Ababa on 1 March 2007.
- Met with representatives of States, international organisations, and nongovernmental organisations at the Court.

#### *Other Major Activities Planned*

- Continued coordination on implementation of the strategic plan.

### II. Chambers

Held hearings and issued decisions at the Pre-Trial and Appeals level on such matters as:

#### *Democratic Republic of the Congo*

##### ➤ **Pre-Trial Chamber**

- **29 January 2007** – Confirmed three charges against Thomas Lubanga Dyilo of the war crimes of enlisting and conscripting children under the age of fifteen and using them to participate actively in hostilities. The Chamber committed him for trial.
- **14 February 2007** – Conducted a periodic review of the decision not to grant Mr. Lubanga interim release and decided that the Court should continue to detain him, pending trial.
- Decisions on a number of procedural issues including confidentiality of material and disclosure of documents.

##### ➤ **Appeals Chamber**

- **14 December 2006** – Dismissed appeal brought by Mr. Lubanga challenging the jurisdiction of the Court.
- **14 December 2006** – Reversed a decision and partially reversed another decision of a Pre-Trial Chamber, relating to restrictions on the disclosure of evidence and the identities of witnesses to the defence prior to the confirmation of charges hearing.
- **13 February 2007** – Dismissed appeal brought by Mr. Lubanga against the decision to deny him interim release.
- Decisions on a number of procedural issues including the participation of victims in proceedings.

### *Uganda*

#### ➤ **Pre-Trial Chamber**

- Decisions on a number of procedural issues including the participation of victims in proceedings and disclosure of documents and holding hearings *in camera* and *ex parte*.

### *Central African Republic*

#### ➤ **Pre-Trial Chamber**

- **30 November 2006** – Requested that the Prosecutor provide a report on the preliminary examination of the Central African Republic situation to both the Chamber and the Government of the Central African Republic, including an estimate of when the preliminary examination will be concluded.

### **Darfur, Sudan**

#### ➤ **Pre-Trial Chamber**

- **22 November 2006** – Dismissed a Defence challenge to admissibility and jurisdiction
- Decisions on a number of procedural issues including requests for leave to appeal, requests for leave to file documents and holding hearings *ex parte*.

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.

### *Uganda Investigation*

- Responded on 8 December to a request of Pre-Trial Chamber II for additional information on the status of the execution of the warrants of arrest.
- Prepared evidence to ensure its continued readiness for a confirmation hearing.
- Participated in two outreach missions prepared by Registry and with the assistance of partner organisations.
- Met with Mr. Chissano, former President of Mozambique and current Special Envoy of the UN for LRA Affected Areas.
- Continued to galvanize efforts to support the territorial State in arresting the remaining LRA commanders.

### *Darfur Investigation*

- Reported on 14 December 2006 to the Security Council on the status of the Darfur Situation in accordance with Resolution 1593.
- Continued investigation into the situation in Darfur, Sudan, conducting during the course of the investigation over 70 missions in 17 countries, taking statements from more than 100 witnesses, many of them from victims, and collecting thousands of documents.
- Conducted the Office's 5<sup>th</sup> mission to Sudan in January-February 2007.
- Submitted a filing to Pre-Trial Chamber I on 27 February 2007 requesting summonses to appear against Ahmad Muhammad Harun and Ali Kushayb in relation to 51 counts of war crimes and crimes against humanity.
- Briefed countries of the region, the African Union and the Arab League, including meeting with the Foreign Minister of Ghana, as the Presidency of the AU, and the Secretary General of the Arab League.
- Took measures to manage security concerns of ICC field presence.
- Continued to assess witness security in coordination with Registry.
- Continued to develop outreach strategy for Darfur in collaboration with the Registry.

### *Democratic Republic of the Congo Investigation*

- Completed the investigation of the first case against Thomas Lubanga Dyilo, on charges of enlisting, conscripting and using children under the age of 15 years to participate actively in hostilities.
- Participated in first ever confirmation hearing before the ICC, from 9 November 2006 to 28 November 2006, which led to the confirmation of charges by Pre-Trial Chamber I on 29 January 2007.
- Requested on 5 February 2007 Pre-Trial Chamber I to grant leave to appeal one aspect of its Decision on the Confirmation of the Charges.
- Continued preparation for the trial of Thomas Lubanga Dyilo.
- Continued to investigate a second case concerning crimes allegedly committed by another Ituri armed group.
- Continued the process of selecting a third case to investigate in the DRC.

### *Analysis*

- Continued analysis of five situations including the Central African Republic and Côte d'Ivoire.
- The Office has renewed its request for an assessment mission in Côte d'Ivoire but the Ivorian authorities have not yet responded.
- Refinement of OTP policy papers on case and situation selection and gravity and interests of justice.
- Received and analysed 120 Article 15 communications between 1 December and 15 March.

### *Cooperation*

- Submitted approximately 20 requests for cooperation to States and international organizations.
- Conducted ongoing negotiations with a number of information providers with a view to concluding cooperation arrangements.
- Continued to process all disclosure matters related to article 54(3)(e) and associated interaction with information providers.

### *Other Activities*

- Briefed the Friends of the ICC in New York on 15 December 2006 and 5 March 2007 and in The Hague on 9 March 2007.
- Briefed the Permanent Representatives Committee of the African Union in Addis Ababa on 1 March 2007.
- Briefed the Cojur in Brussels on 1 March 2007.
- Met with representatives of States, international organisations, and nongovernmental organisations at the Court.
- Prepared the NGO-OTP Roundtable to be held 28-29 March.

## Registry

### Contributions as of 15<sup>th</sup> of March 2007

- Contributions received: 47.18% of the total 2007 (€88,871,800)
- Contributions received: 94.50% of the total 2006 (€80,417,200)
- Contributions received: 94.84% of the total 2005 budget (€ 66,891,200 )
- Outstanding contributions for 2002-2003 and 2004 amount respectively to 0.01% and 0.04%

### Human Resources as at 01 March 2007

Number of staff on established posts: 464 (female 46.34%, male 53.66%)

Staff subject to geographical representation:

- 17.59% from the African Group of States (target: 13.09%)
- 5.53% from the Asian Group of States (target: 7.69%)
- 8.04% from the Group of Eastern Europe (target: 7.32%)
- 11.06% from the Latin American and Caribbean Group of States (target: 14.15%)
- 57.79 % from the Western European and others Group of States (target: 57.74%)

Applications received in 2006: 13.656 - in 2007 as at 1 March: 2 555

#### 1. *Division of Common Administrative Services*

- Conducted the first fully electronically managed hearing - confirmation of charges.
- Provided remote access including the possibility for disclosure to Defense Counsel.
- By concluding the Memorandum of Understanding with the United Nations (DPKO), significant progress has been made in communication with field offices via satellite hub located at the UN Logistics Base in Brindisi (UNLB).
- Participated in a UN led SAP-International Public Sector Accounting Standards (IPAS) working group, to prepare the integration of new accounting standards for the Court.
- Coordinated minimization of ICC field presence in Chad (Abeche) and in the DRC (Kinshasa) as a consequence of high security risk situation.
- Implemented a system of emergency medical evacuation for staff operating in the field.
- Continued negotiations with host State on additional office space. The current forecast shows that the Court will run out of office space by April 2007. This forecast includes the occupancy of a third floor added in January to the current interim premises (i.e. the "Hoftoren" building)
- Set-up initial operational processes for cooperation with the Special Court for Sierra Leone.

#### 2. *Division of Court Services*

- Implementation of the ICRC's recommendations following its second visit to the ICC's detention centre (19 and 20 September 2006) is in progress.
- Organised family visits for detained persons at Scheveningen prison complex.
- First release of the Terminology Bulletin in 7 languages (Acholi, Arabic, English, French, Russian, Spanish, Swahili) on Names of Countries and Acronyms related to the Democratic Republic of the Congo.
- 729 filings registered (both originals and translations), 3498 pages of transcript (French and English together), 115 evidence presented in Court.
- 600% increase in the referrals to the Court related to witness protection.

### 3. *Division of Victims and Counsels*

- List of counsel eligible for appointment to accused and victims contains 198 counsel to date.
- Provided assistance to the defence team of Mr. Thomas Lubanga Dyilo, and to Mr. Lubanga in particular with respect to the appointment of a new defence counsel.
- Provided assistance to the ad hoc counsel appointed to represent and protect the general interests of the defence - situations in Darfur (Mr. Hadi Shalluf) and Uganda (Ms. Michelyne St-Laurent).
- First decision on legal assistance paid by the Court for a legal representative of a victim, to participate in the confirmation of charges hearing in the Lubanga case.
- Provided support, assistance and information to legal representatives of victims during the confirmation of charges hearing, including ensuring installation and training as regards in-court applications and other software provided for their use in relation to the proceedings.
- Received and processed 155 applications for victims' participation in the proceedings in relation to the situations (since November 2006).

### 3. *Public Information and Documentation Section*

- 12th and 13th ICC Newsletters were published and disseminated.
- During the reporting period 630.847 visitors accessed the ICC website (22.2% increase compared to the same period of last year) and 1,922 visitors attended briefing at the Court (4.4% increase).
- Reorganized Section - establishment of the Outreach Unit.

### 4. *Immediate Office of the Registrar*

- Conducted workshops on the Strategic Plan involving more than 300 staff members in 15 different sessions.
- Compiled the functional brief (user requirements of the Court in respect to permanent premises).
- Field missions of the Registrar to Uganda (26 – 28 February 2007) and the DRC (6-13 March 2007).
- *Future activities:* Expert meeting on permanent premises - 28 to 30 March 2007.

### 5. *Office of Public Counsel for Victims*

- Developed a legal database and library containing 300 materials for the use of staff and of legal representatives.
- Provided 30 legal advices and researches to legal representatives in the DRC situation, Lubanga case including the confirmation of charges hearing and the Darfur, Sudan situation.
- Following the decision of the Single Judge of the Pre-Trial Chamber II dated 1st February 2007, the Office is providing legal assistance to the 49 persons who applied to participate in the situation in Uganda and in the case against Kony and others.

### 6. *Office of Public Counsel for Defence*

- Mr Xavier-Jean Keïta took up office as Principal Counsel in January 2007.
- Provided assistance to defence counsel in three situations and two cases.

## Update on Outreach Activities

### *Democratic Republic of Congo*

Publicised the confirmation of charges hearing in the case *Prosecutor v. Thomas Lubanga Dyilo*:

- Published press releases, background information in the main newspapers in Kinshasa, 8 and 9 November 2006.
- 4 Congolese journalists sponsored by the Court reported from the HQ.
- Court officials interviewed by various radio stations from Bunia and Kinshasa.
- RTNC national television station broadcasted, using the Court's satellite transmission, relevant moments of the hearing including opening remarks, witness examination, and closing remarks



Outreach workshops and information meetings listed below benefited from the participation of experts from PIDS, VPRS, OTP and involved 958 participants.

- Training workshop for 30 representatives of the Office of the General Attorney, religious leaders, and NGOs organised by *Conférence mondiale des religions, Conseil interreligieux du Congo*, Kinshasa, 25 January 2007.
- ICC Outreach workshops for 57 human rights NGO representatives and 32 Chefs coutumiers, Bunia, Ituri, 26 January.
- ICC informational meeting for 40 NGO representatives and journalists following the confirmation of charges decision by Pre-Trial Chamber I in the case *Prosecutor v. Mr Thomas Lubanga Dyilo*.
- Informational meeting involving 55 demobilised children organised by ASAPI and CONADER, Bunia, Ituri, 30 January 2007.
- ICC informational meeting for 47 students and teachers, Bunia, Ituri, 31 January 2007.
- Participated in informative meetings with UNHCHR, Kinshasa on 6 and 16 February 2007.
- ICC Informational meeting involving 300 students and professors of *Université protestante du Congo*, Kinshasa, 8 February 2007.
- Informational meetings conducted by the Registrar involving religious leaders, NGOs, national and international humanitarian organisations, local judicial authorities, Bunia, Ituri, 8-9 March.
- Participation of the Registrar and Deputy Prosecutor to a public event by Interactive Radio for Justice involving over 300 participants, Bunia, Ituri, 9 March 2007.
- Participation of ICC officials in 4 radio programmes broadcasted by Radio Okapi on 29 January, 14, 19 February and 8 March 2007 and in 2 radio interactive programme (Lingala) on 16 and 26 February 2007.

### **Uganda**

ICC experts from PIDS, VPRS and OTP participated in the outreach events listed below. 231 participants attended.

- Training workshop for 38 District Human Rights Desk Officers organised by the United Nations Volunteers (UNV) in Mukono town, Mukono district, on 7 December 2006.
- Workshop for 72 Teso Clan leaders in Soroti on 6 February 2007.
- Workshop for 45 representatives of Community Based Organizations from Amuria, Katakwi and Soroti on 7 February 2007.
- Workshop for 29 representatives of Community Social Organizations (CSOs) from Amuru and Gulu on 21 February 2007.
- Workshop for 47 representatives of CSOs from Apac, Lira and Oyam districts on 23 February 2007.
- Training seminar organised by Balkan Investigative Report Network Experts for 38 journalists, Kampala, from 12 to 16 March 2007.

### **Darfur**

- Partially translated relevant information available on the ICC website into Arabic.
- Satellite transmission of the press conference by the Prosecutor, live video streaming and distribution of relevant materials were organised on 27 February in relation to the Prosecutor's filing – Darfur/Sudan.
- **Future activities:** recruitment of the outreach field staff assigned to the situation in Darfur will start in April 2007.

**Recent ratifications of the Agreement on the Privileges and Immunities of the Court:** Argentina and the Ukraine.

I. Sixth session of the Assembly

- Invitations to the sixth session and the resumed sixth session of the Assembly were sent to all States in March 2007.<sup>1</sup> The sixth session shall take place at United Nations Headquarters in New York from 30 November to 14 December 2007. The specific dates for the resumed sixth session, scheduled to take place in New York during the first semester of 2008, will be communicated at a later stage.
- On 9 March 2007, the Bureau of the Assembly agreed to include in the provisional agenda of the sixth session an item entitled 'General debate' and to invite Ministers of States to participate therein. The Bureau also agreed to consider at the sixth session the election of the President of the Assembly of States Parties for the seventh, eighth and ninth sessions of the Assembly.

II. Resumed fifth session of the Assembly

- At its resumed fifth session, held at United Nations Headquarters in New York from 29 January to 1 February 2007, the Assembly elected Mr. Bulgaa Altangerel (Mongolia) as the fifth member of the Board of Directors of the Trust Fund for Victims.
- The Assembly adopted resolution ICC-ASP/5/Res.5 which amends the procedure for the nomination and election of judges in the event of a judicial vacancy.

As regards the judicial vacancy arising from the resignation of judge Maureen Harding Clark (Ireland), the Assembly decided that the election would be held during the sixth session of the Assembly. The Assembly fixed the nomination period to run from 1 June to 24 August.<sup>2</sup>

- In addition, the Assembly adopted resolution ICC-ASP/5/Res.6, amending the pension scheme regulations for judges (ICC-ASP/5/Res.3).

The Special Working Group on the Crime of Aggression focused on the definition of the crime of aggression and the conditions for the exercise of jurisdiction by the Court.

- The fourth inter-sessional meeting of the Special Working Group on the Crime of Aggression will take place from 11 - 14 June 2007 at the Liechtenstein Institute on Self Determination at the Woodrow Wilson School, University of Princeton, New Jersey.<sup>34</sup>

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<sup>1</sup> Note verbale ICC-ASP/S/6/03, dated 6 March 2007.

<sup>2</sup> Note verbale ICC-ASP/S/6/05, dated 12 March 2007.

<sup>3</sup> Note verbale ICC-ASP/S/6/04, dated 6 March 2007.

<sup>4</sup> The official documents of the Assembly of States Parties and the decisions of the Bureau are available on the website of the Court ([www.icc-cpi.int](http://www.icc-cpi.int)), under the section 'Assembly of States Parties'.

### III. The Bureau of the Assembly

- The Bureau designated the following facilitators for its two Working Groups:

#### The Hague Working Group

- The strategic planning process – Ms. Michèle Dubrocard (France)
- Equitable geographical representation and gender balance in the recruitment of staff – Ambassador Mirjam Blaak (Uganda)
- Permanent Premises – Mr. Masud Husain (Canada)
- Proposed programme budget – Ambassador Hans Magnusson (Sweden)
- Cooperation (The Hague) – Ambassador Kirsten Biering (Denmark)

#### New York Working Group

- Cooperation (New York) – Ms. Brechje Schwachöfer (The Netherlands)
- Plan of action for the Assembly for achieving universality and full implementation of the Rome Statute – Mr. Alejandro Alday (Mexico)

- In addition, the Bureau appointed by consensus Mr. Renan Villacis (Ecuador) as Director of the Secretariat of the Assembly of States Parties.
- On 9 March 2007, the Bureau approved the appointment of Mr. Marko Rakovec (Slovenia) as facilitator for the issue of arrears.<sup>5</sup>

### IV. The Hague Working Group of the Bureau

- The Working Group will hold a meeting of experts on the issue of permanent premises from 28 to 30 March 2007. Documentation was sent to States Parties via e-mail on 9 March 2007.
- Immediately after the end of the ninth Diplomatic Briefing organized by the Court, on Thursday, 29 March 2007, from 16.30 - 18.00 hours, The Hague Working Group will hold a briefing for Embassies based in Brussels. The objective is to provide interested Embassies with information on the programme of work for 2007 and on issues under consideration by the Working Group.

### V. Committee on Budget and Finance

- The nomination period for the election of six members of the Committee, scheduled to take place during the sixth session of the Assembly, runs from 1 June to 24 August 2007.<sup>6</sup>

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<sup>5</sup> Ibid.

<sup>6</sup> Note verbale ICC-ASP/S/6/06, dated 12 March 2007.