

**Cour
Pénale
Internationale**



**International
Criminal
Court**

*Fourteenth Diplomatic Briefing of the International Criminal Court
Quatorzième réunion d'information de la Cour pénale internationale
à l'intention du corps diplomatique*

*Compilation of Statements
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Philippe Kirsch, President/Président

Excellences, Mesdames et Messieurs,

Je vous souhaite la bienvenue à cette quatorzième réunion d'information organisée par la Cour pénale internationale à l'intention du corps diplomatique.

Ces réunions ont pour objet de tenir les États informés des activités Menees récemment par la Cour et de vous permettre de nous faire part de vos observations et de vos questions.

Nous attachons une grande importance à nos relations avec les États. Pour que la Cour puisse atteindre ses objectifs, il est crucial que les États et ses autres partenaires comprennent le travail que nous effectuons et les défis que nous devons relever. Inversement la cour doit s'attacher a comprendre et a repondre aux attentes des Etats dans la mesure du possible, tout en respectant strictement le caractere purement judiciaire de son mandat.

Comme à l'accoutumée, je commencerai par vous communiquer les informations les plus récentes sur les activités menées par la Cour depuis la dernière réunion d'information qui s'est tenue en juin à Bruxelles. Je me concentrerai principalement aux procédures judiciaires, et j'évoquerai également quelques-unes des défis qui se présentent dans le cadre de nos activités judiciaires.

Je laisserai ensuite la parole au Procureur, au Greffier et au Directeur de l'Assemblée des États parties, qui vous communiqueront les dernières informations concernant leurs domaines de responsabilité et d'activité.

À l'issue de la réunion, nous vous inviterons à poser des questions afin de poursuivre le dialogue.

I. [Activités judiciaires]

Je commencerai par faire la synthèse des progrès les plus significatifs réalisés dans le cadre des procédures judiciaires depuis la dernière réunion. Dans la mesure où nous vous avons fait parvenir des documents d'information exposant en détail les derniers événements survenus dans les diverses situations et affaires, je me limiterai aux faits les plus marquants.

Comme vous le savez, depuis la dernière réunion d'information, les procédures judiciaires se sont poursuivies dans quatre situations : en République démocratique du Congo, en Ouganda, au Darfour (Soudan) et en République centrafricaine. Quatre

personnes sont actuellement détenues par la Cour et font l'objet de procédures à différents stades.

Jean-Pierre Bemba Gombo a été remis à la Cour par les autorités belges le 3 juillet, en exécution d'un mandat d'arrêt délivré par la Chambre préliminaire III dans le cadre de la situation en République centrafricaine. Une audience de confirmation des charges portées contre lui doit débiter devant cette chambre le 4 novembre 2008.

L'audience de confirmation des charges a eu lieu dans l'affaire Le Procureur c. Germain Katanga et Mathieu Ngudjolo Chui, et la Chambre préliminaire a rendu sa décision à cet égard le 26 septembre, confirmant partiellement les charges portées par le Procureur. Sept chefs d'accusation de crimes de guerre et trois chefs d'accusation de crimes contre l'humanité ont été confirmés. La Chambre a décidé de renvoyer Germain Katanga et Mathieu Ngudjolo Chui en jugement, mais a déclaré qu'elle restait saisie de l'affaire jusqu'à ce que la décision relative à la confirmation des charges soit définitive.

Dans l'affaire Le Procureur c. Thomas Lubanga Dyilo, la procédure a été suspendue pour une durée indéterminée en exécution de la décision rendue le 13 juin par la Chambre de première instance I. Le 24 septembre, la Chambre de première instance a rejeté les arguments du Procureur selon lesquels il déclarait s'être conformé aux conditions requises pour lever la suspension. Thomas Lubanga Dyilo reste en détention en exécution d'une décision de la Chambre d'appel accordant l'effet suspensif de l'appel interjeté par le Procureur contre la décision de mise en liberté de l'accusé. Les recours relatifs à la suspension de la procédure, à la mise en liberté de l'accusé et à la dernière décision rendue par la Chambre de première instance demeurent pendants devant la Chambre d'appel.

Le 14 juillet, le Procureur a demandé la délivrance d'un mandat d'arrêt à l'encontre du Président soudanais, Omar al-Bashir. Le Procureur soutient que celui-ci est pénalement responsable de génocide, de crimes contre l'humanité et de crimes de guerre. La requête du Procureur est pendante devant la Chambre préliminaire I.

Sept mandats d'arrêt restent en attente d'exécution dans le cadre des situations au Darfour, en République démocratique du Congo et en Ouganda. Quatre de ces mandats concernent la situation en Ouganda, dans laquelle les progrès judiciaires restent très limités puisqu'aucun des suspects n'a encore été arrêté.

II. [Complexity of proceedings]

As this brief overview of the Court's latest judicial activities illustrates, the Court has been confronted with various challenges in the advancement of its proceedings.

The proceedings in the case of Mr. Lubanga and others demonstrate that the Chambers are currently addressing important and complex interpretations of the constituent instruments of the Court. As I have mentioned before, many of these determinations relate to innovations in international criminal justice, including the modalities of victim participation. Others are difficult due to the Circumstances in which the Court operates; for instance the system of disclosure among participants. It is well known that the disclosure regime is an important issue in the Lubanga case. Other Chambers have likewise been confronted with similar challenges involving how to implement a system of disclosure which ensures that the Court meets the full range of its obligations to the parties and participants of proceedings.

At this stage of the Court's life well-reasoned decisions are particularly important because they will have considerable impact on how our proceedings advance in the future.

Already, the judicial proceedings, in particular those before the Appeals Chamber, shed light on the interpretation of a number of provisions of the Rome Statute and other instruments and they provided guidance to parties and participants on procedures before the Court. Such judicial determinations take time; sometimes more time than anticipated as a result of the complexity of both the constituent instruments and the issues to be resolved. Completing a full cycle of proceedings from arrest to trial will help us to provide some consistency on essential issues, build a body of jurisprudence, and Cut the length the of proceedings. In the meantime, the Court is already taking measures to improve its effectiveness and efficiency. The judges are reviewing the judicial procedures and consulting on issues such as the length of proceedings. A large part of this year's Judicial Capacity Strengthening Program will actually be devoted to these questions.

III. [Need for support/renewed commitment to objectives]

I am sure that none of you need to be reminded that this year we celebrate the tenth anniversary of the adoption of the Rome Statute. The occasion was marked by a series of events in various cities, including The Hague, New York, and Johannesburg. The tenth anniversary was an opportunity to celebrate the achievements that the Court has marked thus far in its development and evolution. It was also an occasion to recognise the support of the ICC's many partners in cooperation for their contributions in making the Court a reality and in working toward the objectives set by States.

At the Rome Conference, which created this Court, the international community resolved that the most serious crimes of international concern can no longer go unpunished. Impunity can not be allowed to reign free. Now the challenge is to continue our collective commitment to the objectives that States set in Rome, and to do so even when circumstances are complex and difficult. Your presence here today is a

reflection of your continued commitment, and I thank you for your interest and your support.

I will now turn the floor over to the Prosecutor of the Court who will update you on his Office's most recent activities.

Thank you.

Luis Moreno-Ocampo, Prosecutor/Le Procureur

Excellencies, Ladies and Gentlemen,

Let me report on the last developments of the Office of the Prosecutor's ("OTP") activities.

a. *Uganda*

The Office confirmed that Vincent Otti was killed by the Lord's Resistance Army ("LRA"), following orders by Joseph Kony. The Prosecution provided the information to the Pre-Trial Chamber. Joseph Kony and the other two LRA commanders charged with crimes against humanity and war crimes committed in Northern Uganda remain at large. They continue to commit crimes and to threaten the entire region. Arrest is long overdue.

It is confirmed that Kony used the Juba peace talks to gain time and support, to rearm and attack again. We have collected information indicating that at the end of 2007, Joseph Kony issued orders to abduct 1,000 persons to expand the ranks of the LRA. The price paid today by civilians is high. The LRA is attacking civilians in Southern Sudan and in the Central African Republic ("CAR"), and is now also committing atrocities in the Democratic Republic of the Congo ("DRC").

Reports indicate that just a few days ago, on 17 September 2008, the LRA attacked Congolese villages in the Haut Uelé District of the DRC (Dungu Territory). These attacks all follow a similar method, with markets surrounded and looted, students abducted from school, properties burned and dozens of civilians killed, including several local chiefs. Tens of thousands have now been displaced.

We appreciated the efforts of States to monitor assistance and resources provided to the LRA in the context of the Juba talks. We are also working well with national authorities to control the LRA supply network in Europe and elsewhere. The Prosecution urges all actors, including regional and international organizations, to support and work together with the DRC, CAR, Southern Sudan, Uganda and the United Nations Mission in the Democratic Republic of the Congo ("MONUC") in the planning and execution of the arrests.

b. *Central African Republic*

The Prosecution presented the document containing the charges in the case of Mr. Jean-Pierre Bemba on 1st of October. The same day, the Prosecution disclosed incriminatory and exculpatory evidence to the defence. In the CAR collection, there is just one document containing information with some exculpatory value received under the

confidential regime established by Article 54(3)(e). The Office is working to disclose the information to the defence. The Office, in close consultation with the Victims and Witnesses Unit (“VWU”) and the Pre-Trial Chamber III, is working on witness protection issues. The Prosecution is ready for the start of the Confirmation of Charges Hearing on 4 November.

c. *The Democratic Republic of the Congo - 1*

As you know, on 13 June 2008, the Trial Chamber imposed a stay of the proceedings in the case of the *Prosecutor against Mr. Thomas Lubanga Dyilo*. The Chamber took that step because the Prosecution was not able to put all relevant material received under conditions of confidentiality but with eventual exculpatory value before the Trial Chamber, in order for it to assess the impact of any non-disclosure on the fairness of the proceedings.

The Office appealed this decision based on a different interpretation of the law, but at the same time the Office is dedicating its utmost efforts to reach an agreement with the information providers in order to comply with the Judges’ request.

The OTP has addressed the concerns that led to the original stay. The Prosecution has provided to the Trial Chamber all undisclosed evidence from Non Governmental Organizations (“NGOs”) in an unredacted form, and has informed the Chamber that it was in a position to immediately provide all the United Nations (“UN”) documents that form part of the undisclosed evidence to the Trial Chamber, thanks to a new agreement it has reached with the UN. Accordingly, the Prosecution asked the Chamber to lift the stay and review the documents.

On 3 September 2008, the Trial Chamber refused to review the documents and lift the stay of the proceedings. It accepted that the Prosecution is now in compliance with the original requirement, but added new conditions.

The Office also appealed this new decision. The Appeals Chamber has to rule on these legal aspects.

In the meantime, the Prosecution went back to the UN, and we reached last week a new agreement with the Office of Legal Adviser of the UN in order to meet the new requirements established by the Trial Chamber. The UN has been consistently supporting the Court and we found a solution that preserves its legitimate concerns for the security of its personnel and still meets the requirements of the Trial Chamber.

The Prosecution is focusing on starting the Lubanga trial. We are litigating the issues, but we are also finding operational solutions that will be presented to the Judges in a few days.

Let me also highlight that the arrest warrant against Mr. Bosco Ntaganda is still outstanding. We are seeking the support of all actors in the Kivus, the DRC and the region to secure his arrest.

d. *The Democratic Republic of the Congo - 2*

As the President said, the Pre-Trial Chamber I confirmed the charges, and we are preparing for trial. The work of the Office is of course affected by the security situation on the ground. Today, the *Forces de Résistance Patriotique d'Ituri* ("FRPI") forces are attacking Bogoro again, and MONUC is trying to stop them. All actors involved must find ways to support MONUC in this regard.

e. *The Democratic Republic of the Congo - 3*

The Office is now moving on to a third case in the DRC, in the North and South Kivu provinces, where we have received numerous reports of crimes committed by a multiplicity of perpetrators and groups, including numerous reports on sexual crimes. We are currently engaging all actors to secure their support.

Given the particular characteristics of those attacks, the Office will also consider ways to facilitate investigations by the DRC judiciary and contributions to "*dossiers d'instruction*" against perpetrators. This will require enhanced protection for witnesses and the judiciary.

f. *Darfur, the Sudan*

The two individuals sought by the Court, Mr. Ahmed Harun and Mr. Ali Kushayb, remain at large. The Government of the Sudan continues to refuse to cooperate with the Court and to comply with UN Security Council ("UNSC") Resolution 1593 (2005). Following my presentation of the 5 June report to the Council, on 16 June, the UN Security Council unanimously adopted Presidential Statement 21, which states that the Security Council takes note of the OTP's efforts to bring to justice the perpetrators of war crimes and crimes against humanity in Darfur, in particular the arrest warrants for Ahmad Harun and Ali Kushayb and urges the Government of the Sudan and all other parties to the conflict in Darfur to cooperate fully with the Court, consistent with Resolution 1593 (2005), in order to put an end to impunity for the crimes committed in Darfur.

On 14 July, The Prosecution requested to the Pre Trial Chamber I an arrest warrant against Mr. Al Bashir for genocide, crimes against humanity and war crimes. The evidence shows that Al Bashir's forces attacked the civilian population in Darfur since March 2003. First they were attacked in their villages, and now they are attacked in the camps for displaced persons.

Additionally, my Office requested information from the Sudanese government regarding the Kalma Camp attack committed on 25 August, where Sudanese forces allegedly killed at least 31 civilians. We are assessing if this was an isolated act or a new strategy: open attacks against civilians in camps for displaced persons in Darfur.

Finally, we have proceeded with the investigation into allegations of rebel crimes, focusing on the Haskanita attack against AU peacekeepers. We are now ready to proceed to the Judges with an application in the third investigation before the end of 2008.

Instead of addressing this issue judicially, Mr. Al Bashir is using the Sudanese state apparatus to challenge the case through political, diplomatic, and communication channels. They have organized a campaign with four main points: i. the Court is attacking Africa; ii. the Court is affecting the peace process; iii. the Court is affecting the security of victims and of the international personnel, because if indicted, Mr. Al Bashir would retaliate against them; iv. there is no evidence, and the case is a personal issue of the Prosecutor against Mr. Al Bashir.

On the first point, we cannot accept this attempt to divert our attention from the crimes. As UN Secretary-General Ban Ki-Moon said: this is not about Africa, this is about Darfur. The victims of the crimes committed in Darfur are almost 3 millions of African citizens. The evidence shows that Mr. Al Bashir used some tribes, that he labelled "Arabs", to attack other tribes, that he called "Zurgas" or "Africans". During the attacks, Al Bashir's forces consistently claimed that they were going to kill the "Africans". Who is attacking Africans in Darfur is very clear. The public campaign that has been launched is part of an attempt to cover-up those crimes and to divert our attention. All of us have a responsibility to set the record straight, and I count on your support.

On the second point, the idea that justice will promote peace in Darfur is both a cornerstone of the Rome Statute and a decision taken by the Security Council in March 2005. The support of all the members of the UNSC to this approach has been confirmed by the Presidential Statement of the Council in June 2008. The situation has not changed, and again all of us have a responsibility to clarify this. The Court has been given a judicial mandate, and must implement it.

On the third point, the mere fact that Mr. Al Bashir is threatening the victims, African Union ("AU") and UN personnel, should be seen for what it is: the confirmation of his criminal intent. The Court and the States Parties cannot be blackmailed. Again, I need your very strong voices to make clear that such threats will not be rewarded with promises of impunity.

On the fourth point, I will deal with this in Court. I will present my evidence and the judges will assess. As you know, the judges held a first hearing on 1st of October.

Ladies and Gentlemen,

We have a judicial mandate. We are doing our part, but we also need your voices to confirm the legitimacy of the Court you have created in the state of political attacks that this Court, alone, cannot confront.

Let me now turn to our analysis activities.

On 18 June 2008 my Office wrote to the Government of Colombia seeking further information on the decision to extradite senior former paramilitary leaders to the United States of America. We also sent a number of requests to neighbouring states and European states to gather more information on possible support to the commission of crimes by the FARC; we want to identify the existence of national proceedings in this regard in different countries.

As part of our ongoing analysis of the situation in Colombia, I led a mission to Colombia, from 25 to 27 August 2008. The Prosecution delegation met with victims, participated in a Seminar supported by the Netherlands for Judges and Prosecutors that are applying the "Law on Peace and Justice". We had a meeting with a plenary of the Supreme Court of Justice. We met with the "Procurador General", who provided with useful information on the ongoing investigations. We visited a mass grave exhumation that is part of the national investigations against the paramilitary activities. We received explanations from all the levels of the Government. We met with the President, the Vice President and different ministers. We also met with representatives of civil society.

The Office awaits a reply to a request sent to the Government of Afghanistan seeking further information in relation to alleged crimes committed on that territory.

As I confirmed on 20 August 2008, my Office is analysing the situation in Georgia. The Office is currently analysing open sources documents as well as reports from Georgia and over 3,000 documents received from the Russian Government. We received the visit of officials of the Georgian government. My Office is continuing to gather more information in order to determine whether there is a reasonable basis to proceed with an investigation.

As the President said we are celebrating ten years of the Rome Treaty. The law is now operational. It is time to confirm in reality our commitment to put an end to impunity for the most serious crimes of concern to the international community.

Thank you.

Following a question on the AU statement on support of a delay in the investigation in Darfur, the Prosecutor answered:

The Prosecution cannot speculate on current or forthcoming peace efforts, as these efforts, pursued in parallel by other members of the international community, are outside the judicial remit of the Office of the Prosecutor. The interests of peace are the responsibility of other organs, *inter alia* the UNSC or regional organizations. The Council recognized through the adoption of 1593 that justice is an essential component to the solution for Darfur, and that lack of justice for Rome Statute crimes in Darfur poses a threat to international peace and security. The UN Security Council had full knowledge of the OTP's plans, and following on their referral of the situation in 2005 and the presentation of seven reports to the Council on the progress of the Prosecution's work, unanimously expressed their support for the OTP's work in June 2008.

My Office continues to update the Arab League, the African Union and institutions and leaders seeking for comprehensive solutions in Darfur on the Court's judicial developments. In New York, two weeks ago, I met with Sheikh Al Thani, Qatar's Prime Minister and Minister of Foreign Affairs, Mr. Jean Ping, Chairperson of the African Union Commission and Mr. Bernard Bembe, the Minister of Foreign Affairs of Tanzania. I was also invited to attend the first consultations of the Arab Ministerial Committee set-up by the Arab League to arrange peace talks between the Government of the Sudan and the armed movements in Darfur, chaired by Qatar's Prime Minister and Minister of Foreign Affairs, Sheikh Al Thani, and co-chaired by the Secretary General of the Arab League, Mr. Amr Mussa and Mr. Jean Ping. The Committee meeting was also attended by the Ministers of Foreign Affairs of Syria, Saudi Arabia, Egypt, Libya, Algeria and Morocco, as well as by the Tanzanian, Senegalese and Burkinabe Foreign ministers. The Prosecution respects the complementary role they are seeking to play in bringing a comprehensive solution to Darfur.

On 11 July, Deputy Prosecutor Fatou Bensouda briefed the AU Peace and Security Council in Addis Ababa, and met with the AU Commission Chairperson, Mr. Jean Ping.

On 9-10 August 2008, Deputy Prosecutor Fatou Bensouda met in Botswana with President Festus Mogae and Attorney General Athalia Molokomme as well as the Ministers responsible for Justice, Defence and Security. Deputy Prosecutor Bensouda also spoke with President Sirleaf Johnson of Liberia.

On 10-11 August 2008, I conducted an official visit to Dakar, where I met with President Wade and discussed in particular the case of Darfur. The support of President Wade and His Minister for Foreign Affairs Mr. Cheikh Gadjo has been valuable.

While in New York, I also met with the Ministers of Foreign Affairs of Sierra Leone, the Ministers of Justice of Rwanda and Kenya, and the outgoing and incoming Presidents of the Assembly of States Parties (“ASP”).

Silvana Arbia, Registrar/Le Greffier

Excellencies,

Ladies and Gentlemen,

It is a pleasure for me to address you here today in this privileged forum for dialogue.

Today's Diplomatic Briefing is the last in 2008 and is being held about one month before the 7th session of the Assembly of States Parties. You have heard from the President and the Prosecutor about the complexities of the Court's work and the challenges to be overcome. It is key that the Court's budget enables it to perform such complex work. This is why, as the tradition has been so far, I would like to use this time to share some thoughts with you about the Court's 2009 proposed programme budget and the supplemental budget for the case of *Jean-Pierre Bemba*, particularly in light of the recommendations of the Committee on Budget and Finance at its September session.

a) General remarks

The 2009 proposed budget submission was prepared along the same two components that drove previous budget submissions, namely the Court's forecast for judicial activities and the work in the field in 2009. The present budget proposal makes a further improvement in linking the objectives for 2009 with the priority strategic objectives as delineated in the Court's Strategic Plan. Further refinement is needed and the Court is committed to continue work on it. Allow me now to briefly recall the objectives for 2009 as stated in the introduction to the 2009 proposed programme budget: trials and investigations, cooperation, witness and victim protection, security and safety, human resources, risk management and non-bureaucratic organization.

b) Assumptions for 2009

Before discussing the main aspects of the 2009 proposed programme budget, permit me to explain how the assumptions for 2009 were conceived. Firstly, the Court took into account the implementation rate of the 2008 budget. The forecast of the implementation rate as at 31 December 2008 is 94.7%. Secondly, the Court had to take into account the developments which were not anticipated in 2008, namely the arrest and surrender of 3 new persons to the ICC.

Thus the assumptions for 2009 are:

The Prosecutor will conduct five investigations in the three of the four situations currently before the Court. At the time of the budget submission, it was assumed that the Prosecutor will not open investigations in a new situation. The budget submission was prepared on the assumption of two consecutive trials with three accused. The possibility of parallel trials might arise for a short period of time. In addition, pre-trial and possible trial activities will continue for full year 2009 in the case *The Prosecutor vs. Jean Pierre Bemba Gombo*. Thus, it is envisaged that 4 suspect/accused will be involved in judicial proceedings before the Court at different stages.

In making these assumptions, which are the driving elements of the budget, the Court has sought to adopt a cost-effective approach. Let me explain this.

In the case of consecutive trial the Court does not need to budget for a second courtroom team, including the interpreters, court management team, security, audio-visual support. However, the case of parallel trials all these resources would need to be budgeted for, thus creating an increase in the budget.

It is around the objectives and assumptions aforementioned that the 2009 budget submission was built. It amounted to 102.6 million euros which represents a 13.5% increase over the 2008 budget. This figure does not include the supplemental budget for *Jean Pierre Bemba* which amounts to 2.56.300 million.

This increase was due largely to the forecast of two trials and the adjustment of the vacancy rate back to 10%. As regards the two trials, in addition to what I explained before I would like to remind you that in 2008 the Court's assumption was 1 trial with 1 accused whereas in 2009 it is assumed that the Court will be dealing with 2 trials with 3 accused and judicial proceedings concerning *Bemba*, thus justifying the additional resources.

c) Recommendations of the Committee on Budget and Finance

At its eleventh session, the Committee on Budget and Finance agreed that the 2009 proposed budget by the Court was generally reasonable. The Court welcomes the Committee's appreciation.

Before looking at the CBF's recommendations with respect to the 2009 proposed budget, I would like to refer to the governance arrangements and emphasize the fact that the Court is committed to do its utmost and continue ensuring good governance.

In this respect, the Court welcomes the CBF remarks on the oversight mechanism and the fact that the existing governance structure already provided independent oversight of the management performance of the Court.

I would now turn to the CBF's recommendations concerning the 2009 proposed programme budget.

The Committee proposed 3.9 million euro cut which represents 3.7% of the total proposed programme budget. Major cuts were made to the legal aid resources, the Court's proposed reclassifications, the vacancy rate, travel and translation costs. The recommended cuts by the CBF brought the total proposed budget for 2009 to 101.2 million euros including the supplemental budget for Bemba which represents only 11.9% increase over the 2008 budget.

First of all, I would point out that the Court continued to uphold the principle of budgeting necessary resources once a suspect was in the Court's custody at the time of the budget submission. It will continue to rely on flexibility to cope with requirements or changes unforeseen at such time.

As has always been the case, the Court attaches great value to transparency, efficiency and effectiveness of its operations. Flexibility of financial management is essential for it to operate and assist in achieving productivity and efficiency. While relying on flexibility, the ICC will continue to pay meticulous attention to and strictly respect the rules, particularly the Financial Regulations and Rules. In its operations, the Court is committed to a continued demonstration of increased transparency, which in turn will require greater flexibility in the implementation of its budgets.

The Court has used a number of tools to guarantee an efficient operation of this organization. In this respect, the reclassification of posts remains an important tool managers can use with a view to responding to developments of the organization and improving efficiency of the Court's operation. Other actions are envisaged to ensure a proper functioning of a modern and non-bureaucratic organization.

With respect to the Contingency Fund, I would like to welcome the recommendation of the Committee which concurred with the Court's view that the existence of the Fund provides the ability for this organisation to respond to major, unexpected developments

in its work. Indeed, the existence of the Contingency Fund is closely linked to the Court's independence and, as such, should be preserved. Thanks to the very existence of such a Fund, the Court can face the multifaceted challenges ahead.

In this vein, I would like to refer to the resources allocated in the 2009 draft budget for legal aid. It should be noted that the Court's legal aid resources derive from the existing legal aid scheme approved by the CBF. These include 1 team per suspect/accused and 2 teams for groups of victims. With respect to latter, the appointment of legal representatives remains with the judges. For example in the case of Katanga and Ngdjolo-Chui 3 legal representatives of victims have been appointed by the judges and they were found provisionally indigent by the Registrar. If the judges so decide, the number could increase. It is thus essential that the necessary resources for the both the defence and the legal representatives of victims be available. Should they not be available in the Court's regular budget and judges decide to appoint more teams for victims than budgeted, the Court will have to make use of the Contingency Fund.

When preparing the forthcoming ASP, there will be several opportunities to further discuss with you the 2009 proposed programme budget, such as the meetings of The Hague Working Group, the New York Working Group and others.

A number of important matters like family visits, legal aid, and the Strategic Plan for Victims will continue to be addressed in The Hague Working Group.

The Court looks forward to continued constructive dialogue with the States Parties on these important matters, in order to enable, where required, successful finalization prior to the ASP session.

Thank you.

Renan Villacis, Director, Secretariat of the Assembly of States Parties

Excellencies, Ladies and Gentlemen,

It is an honour for me to be with you in order to convey some of the more important developments regarding States and the Court since our last diplomatic briefing. I will limit myself to some important highlights since most of the information is reproduced in the information package you have received.

Recent ratifications

Rome Statute: As regards recent accessions, the Statute entered into force for the Cook Islands and Suriname on 1 October, bringing the number of States Parties to 108.

Agreement on the Privileges and Immunities of the International Criminal Court: On 24 July 2008, the Netherlands accepted the Agreement on the Privileges and Immunities of the International Criminal Court, which entered into force for that State on 23 August, bringing the number of Parties to 55.

Seventh session of the Assembly of States Parties

The seventh session of the Assembly would be held in The Hague from 14 to 22 November 2008. Ambassador Christian Wenaweser (Liechtenstein), who was elected President for the seventh to ninth sessions, would preside over the session. A new Bureau would also be elected.

The main issues before the Assembly would be the following:

General debate

A general debate, at the ministerial level, would be held on 14 and 15 November. The list of speakers would open on 20 October 2008. A time limit of five minutes for speakers has been suggested by the Bureau.

Permanent premises of the Court

The draft resolution prepared by the Oversight Committee on permanent premises would set in motion the preparation for the construction of the permanent premises, in particular the financing thereof. The main element of the draft resolution consists of a flexible financing scheme whereby the Assembly would secure a line of credit of up to €200 million, through the acceptance of a loan by the Government of the Netherlands at 2.5 per cent interest; nonetheless the Assembly could still seek alternative sources of funding. The host State loan would become operational in 2009, when approximately €6 million would be used for the design phase of the project.

The Committee on Budget and Finance commended the Oversight Committee on permanent premises for the financial scheme contained in the draft resolution. The project is foreseen to last until 2014.

Crime of Aggression

The Special Working Group on the Crime of Aggression would continue its work under the chairmanship of Ambassador Wenaweser. Two full days of meetings this November will be followed by another four days during the second resumption of the Assembly in February 2009 at United Nations Headquarters. Since the work on the crime of aggression should end one year in advance of the Review Conference, there would be approximately six days of discussion left to conclude the work on this topic.

Review Conference

The Assembly would consider further the issues relating to the Review Conference, including the scope, timing, duration and venue, taking into account the work done by the focal point for the review of the Rome Statute, Ambassador Rolf Fife (Norway), and the facilitator of the New York Working Group for the Review Conference, Mr. Sabelo Sivuyile Maqungo (South Africa).

At its resumed sixth session, the Assembly requested the Bureau to continue the preparations for the Review Conference and to further refine the practical and organisational issues related to the venue for the Conference, prior to the seventh session in November 2008, at which the Assembly would take a final decision on the venue. The Assembly would also take a decision on the date of the Conference.¹

Proposed programme budget for 2009 of the Court

The Assembly would consider the proposed programme budget of the Court for 2009, taking into account the recommendations contained in the Report of the Committee on Budget and Finance.²

First and second resumptions of the seventh session

The first resumption of the seventh session is scheduled for 19 to 23 January 2009, and would be dedicated to election of six judges and of six members of the Committee on Budget and Finance. The second resumption, tentatively scheduled for 9 to 13 February 2009, would be dedicated to the Special Working Group on the Crime of Aggression. Both sessions would be held in New York.

Elections

The nomination period for both these elections will end on 13 October 2008 (Central European time). As regards the election of judges, on 2 September 2008 the President of

¹ Resolution ICC-ASP/6/Res.8.

² Report of the Committee on Budget and Finance on the work of its eleventh session, (ICC-ASP/7/15 and Add.1).

the Assembly informed all States Parties of the number of candidates nominated with respect to each minimum voting requirement.³ As at 7 October, the Secretariat had received eleven nominations for the election of judges, and five for election to the Committee on Budget and Finance.

The Hague Working Group of the Bureau

The Hague Working Group has held thirteen meetings thus far. Progress has been made on the items of cooperation and the Strategic Plan of the Court, including the aspects thereof related to victims and outreach. On 3 October the focal point for cooperation, Ambassador Yves Haesendonck (Belgium), submitted a status report to the Bureau.

The Working Group has begun its consideration of the proposed programme budget, including the issues of legal aid and family visits, taking into account the recommendations of the Committee on Budget and Finance.⁴

The New York Working Group of the Bureau

As regards the informal consultations held by the New York Working Group, on 29 July the Bureau adopted the report of the facilitator on an independent oversight mechanism, Ambassador Andreas Mavroyiannis (Cyprus). On 3 October the Bureau adopted the report of the facilitators for the Plan of action, Mr. Marcelo Böhlke (Brazil), and for geographical representation and gender balance in the recruitment of staff of the Court, Mr. Eden Charles (Trinidad and Tobago).

Committee on Budget and Finance

The Committee on Budget and Finance held its eleventh session from 4 to 12 September. It considered, inter alia, audit matters, financial performance data of the 2007 and 2008 budgets, the proposed programme budget of the Court for 2009, the Contingency Fund and the premises of the Court. The Committee's recommendations would result in a proposed budget of approximately €101 million representing a reduction of 3.7 per cent vis-à-vis the approximately €105 million budget proposed by the Court.⁵

I thank you for your attention.

³ Note verbale ICC-ASP/7/S/35.

⁴ Report of the Committee on Budget and Finance on the work of its eleventh session, (ICC-ASP/7/15 and Add.1).

⁵Ibid.