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Report of the International Criminal Court

Report of the International Criminal Court**

Note by the Secretary-General

The annual report of the International Criminal Court is submitted herewith to the General Assembly, in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (see A/58/874 and Add.1, annex) and paragraph 16 of Assembly resolution 62/12.

* A/63/150 and Corr.1.

** The present document has been submitted late due to technical reasons.



Report of the International Criminal Court to the United Nations for 2007/08

Summary

The present report, covering the period from 1 August 2007 to 31 July 2008, is the fourth annual report of the International Criminal Court (“the Court”) submitted to the United Nations. It covers the main developments in the Court’s activities and other developments of relevance to the relationship between the Court and the United Nations.

Four situations were before the Court during the reporting period. The Prosecutor continued to investigate the situations in the Democratic Republic of the Congo; Uganda; Darfur, the Sudan; and the Central African Republic.

In the case of *The Prosecutor v. Thomas Lubanga Dyilo*, Trial Chamber I stayed proceedings and ordered the unconditional release of the accused in light of the non-disclosure by the prosecution to the defence of potentially exculpatory evidence obtained on condition of confidentiality. The prosecution has since appealed the decisions staying proceedings and ordering Mr. Lubanga’s release and has requested that the Trial Chamber lift the stay of proceedings. Mr. Lubanga remains in custody pending the outcome of the appeals proceedings.

The Court issued or unsealed four new warrants of arrest — three in the situation in the Democratic Republic of the Congo and one in the situation in the Central African Republic.

Germain Katanga and Mathieu Ngudjolo Chui were surrendered to the Court on 17 October 2007 and 7 February 2008 respectively. They are each charged with nine counts of war crimes and four counts of crimes against humanity in the situation in the Democratic Republic of the Congo. A hearing to confirm the charges against them was held from 27 June to 16 July 2008. A decision on the confirmation of charges is expected to be rendered by 26 September 2008.

In the situation in the Central African Republic, Mr. Jean-Pierre Bemba Gombo was arrested in Belgium and surrendered to the Court on 3 July 2008. He is suspected of having committed three counts of crimes against humanity and five counts of war crimes. A hearing on the confirmation of charges against Mr. Bemba is currently scheduled to take place on 4 November 2008.

On 14 July, the Prosecutor submitted an application for a warrant of arrest against Mr. Omar Hassan Ahmad Al-Bashir, President of the Sudan, on counts of genocide, crimes against humanity and war crimes. The application is being considered by the judges of Pre-Trial Chamber I.

Seven warrants of arrest are outstanding: four in the situation in Uganda, two in the situation in Darfur, the Sudan, and one in the situation in the Democratic Republic of the Congo. All of the warrants have been outstanding for over a year; four have been outstanding for over three years. The Court does not have the power

to arrest persons. This responsibility belongs to States and, by extension, international organizations. The Court continued to strengthen its cooperation with States, the United Nations and other actors with a view to ensuring the necessary support in all areas.

The Court has developed more than three years of experience with its field operations and continues to adapt its activities in the field to reflect its judicial developments.

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I. Introduction

1. The present report, covering the period from 1 August 2007 to 31 July 2008, is the fourth annual report of the International Criminal Court (“the Court”) submitted to the United Nations. It covers the main developments in the Court’s activities and other developments of relevance to the relationship between the Court and the United Nations since the third report of the Court to the United Nations (A/62/314).

2. The Court was created by an international treaty, the Rome Statute, which was adopted on 17 July 1998 and entered into force on 1 July 2002. In the 10 years since its adoption, 108 States have ratified or acceded to the Rome Statute.

3. The Court is an independent judicial institution, charged with carrying out investigations into and trials of individuals for the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The Rome Statute guarantees that proceedings before the Court are carried out fairly, impartially and publicly, with full respect for the rights of the accused and consistent with internationally recognized human rights. Victims may participate as deemed appropriate by the judges of the Court in accordance with the constituent instruments of the Court.

4. In carrying out its functions, the Court relies critically on the cooperation of States, international organizations and civil society in accordance with the Rome Statute and international agreements concluded by the Court. Areas where the Court requires cooperation include facilitating investigations, arresting and surrendering persons, protecting witnesses and enforcing sentences.

5. The Court is independent from but has close historical, legal and operational ties to the United Nations. The relationship between the Court and the United Nations is governed by the relevant provisions of the Rome Statute and by the Relationship Agreement between the International Criminal Court and the United Nations (A/58/874, annex). During the reporting period, the Court continued to develop its cooperation with the United Nations.

6. Four situations were before the Court during the reporting period. The Prosecutor continued to investigate the situations in the Democratic Republic of the Congo; Uganda; Darfur, the Sudan; and the Central African Republic. Judicial proceedings took place in each situation. The Prosecutor also carried out analysis activities on three continents. Developments in these situations and of an institutional nature are set out below.

II. Situation in the Democratic Republic of the Congo

7. The situation in the Democratic Republic of the Congo was referred to the Court by that State Party to the Rome Statute on 19 April 2004. The Prosecutor opened an investigation into the situation on 23 June 2004.

A. *The Prosecutor v. Thomas Lubanga Dyilo*

8. During the reporting period, Trial Chamber I engaged in preparations for the trial of Mr. Thomas Lubanga Dyilo, alleged leader of the Union des Patriotes

Congolais pour la Reconciliation et la Paix and Commander-in-Chief of its military wing, the Forces Patriotiques pour la Libération du Congo. Mr. Lubanga is charged with war crimes, specifically enlisting, conscripting and using children under the age of fifteen years to participate actively in hostilities. To date, four victims have participated in the proceedings in relation to the case against Mr. Lubanga.

9. On 13 June 2008, Trial Chamber I issued a stay of proceedings, finding that a fair trial was not possible at the time due to the failure of the prosecution to disclose a significant body of potentially exculpatory evidence to the defence or to make the evidence available to the judges. The materials at issue had been obtained by the prosecution on conditions of confidentiality from several sources, including the United Nations, under article 54.3 (e) of the Rome Statute.

10. In light of the stay of proceedings, the Chamber ordered the unconditional release of Mr. Lubanga, subject to appellate proceedings. On 2 July, the Chamber granted the prosecution leave to appeal the decision staying proceedings. On the same day, the prosecution appealed the release of Mr. Lubanga. On 7 July, the Appeals Chamber suspended the effect of the decision on release while it considered the appeal. At the time of submission of this report, both appeals were pending and Mr. Lubanga remained in custody. On 11 July, the Office of the Prosecutor applied to the Trial Chamber to lift the stay of proceedings. This application was pending at the time of submission of the present report.

11. On 11 July 2008, the Appeals Chamber issued two decisions, addressing issues related to the participation of victims in proceedings and the disclosure of evidence by the defence and by the prosecution.

B. *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*

12. Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui were surrendered by the Democratic Republic of the Congo to the Court on 18 October 2007 and 7 February 2008, respectively. They are each charged with nine counts of war crimes (including murder or wilful killing; cruel or inhuman treatment; using, conscripting and enlisting children; sexual slavery; attacking civilians; pillaging; rape; outrages upon personal dignity and destroying or seizing the enemy's property) and four counts of crimes against humanity (including murder, inhumane acts, sexual slavery and rape), allegedly committed during an attack on the village of Bogoro on 24 February 2003.

13. On 10 March 2008, Pre-Trial Chamber I joined the two cases. On 9 June, the Appeals Chamber denied an appeal of the decision on joinder, confirming that the two cases could proceed together as one.

14. A hearing to confirm the charges against the two suspects began on 27 June 2008 and concluded on 16 July 2008. The victims' legal representatives made opening and closing statements and participated in the course of the proceedings. In the context of the case, 59 victims have participated in proceedings through their legal representatives. A decision on whether or not to confirm the charges should be rendered by 26 September.

15. Throughout the pre-trial phase, the Appeals Chamber issued decisions on a number of interlocutory appeals, including, inter alia, the permissibility of

redactions of information from documents, the participation of victims, the joinder of the cases and requirements of interpretation and translation for the accused.

C. *The Prosecutor v. Bosco Ntaganda*

16. On 29 April 2008, Pre-Trial Chamber I unsealed a warrant of arrest issued on 22 August 2006 against Bosco Ntaganda, alleged Deputy Chief of General Staff for Military Operations of the Forces Patriotiques pour la Libération du Congo (FPLC). The Chamber found there are reasonable grounds to believe Mr. Ntaganda committed the war crimes of enlisting and conscripting children under fifteen and using them to participate actively in hostilities. As of the submission of this report, the warrant had not been executed.

D. Participation of victims and activities of the Trust Fund for Victims in the situation

17. Since the opening of the investigation, 569 victims have applied to participate in proceedings in relation to the situation as a whole (as distinct from particular cases). Of these, 136 have been authorized by Pre-Trial Chamber I to participate in the situation. Seventeen of these victims have been declared indigent and granted legal aid by the Registrar. The Office of Public Counsel for Defence was appointed as ad hoc counsel and filed legal observations in relation to 28 victims' applications to participate in the situation.

18. On 24 January 2008, the Board of Directors of the Trust Fund for Victims, an independent body set up under the Rome Statute for the benefit of victims and their families, notified Pre-Trial Chamber I of its intention to carry out activities in the Democratic Republic of the Congo. In accordance with regulation 50 (a) (ii) of the Regulations of the Trust Fund for Victims, the Chamber assessed whether the proposed activities would pre-determine any issue to be determined by the Court, including jurisdiction and admissibility, or violate the presumption of innocence, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Finding this not to be the case, the Chamber approved the proposed activities.

E. Investigation

19. With the proceedings in the case against Thomas Lubanga, the confirmation of charges hearing of Germain Katanga and Mathieu Ngudjolo and the unsealing of the arrest warrant against Bosco Ntaganda, the Office of the Prosecutor completed a first phase of the investigations in the Democratic Republic of the Congo, focusing on the crimes allegedly committed by leaders of armed groups active in Ituri since July 2002.

20. The Office is now moving on to new cases in the Democratic Republic of the Congo. In the selection process for its next cases, the Office is paying particular attention to the numerous reports of crimes committed by a multiplicity of perpetrators and groups in the North and South Kivu provinces, including reports of horrendous sexual crimes, taking into consideration the views and concerns of

victims and associations. The Office will aim to prosecute those most responsible. Given the particular characteristics of those attacks, the Office will also consider ways to facilitate investigations by the Democratic Republic of the Congo judiciary and contributions to “dossiers d’instruction” against perpetrators. This will require enhanced protection for witnesses and the judiciary. Additional information on allegations of crimes committed in the Kivus continues to be welcomed by the Office.

21. As part of this selection process, the Office is also considering the role of all those who organized, backed or supported the armed groups active in the eastern provinces of the country after 1 July 2002.

F. Outreach

22. The Court adapted its outreach activities in the Democratic Republic of the Congo to reflect the advancements in judicial proceedings. The Court intensified its efforts to raise awareness and increase understanding of the judicial proceedings among the communities most affected by alleged crimes in connection with the cases of *The Prosecutor v. Thomas Lubanga Dyilo*, at a trial stage, and *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* at a pre-trial phase. Outreach activities were conducted mainly in villages where victims of the alleged crimes are settled. The Court also addressed concerns related to the situation of the Court’s warrant of arrest issued against Jean-Pierre Bemba Gombo, a Congolese national, in connection with a case in the situation in the Central African Republic (see paras. 44 to 54 below).

III. Situation in Uganda

23. The situation in Uganda was referred to the Court by that State Party on 29 January 2004. The Prosecutor opened an investigation into the situation on 29 July 2004.

A. *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, and Dominic Ongwen*

24. Warrants of arrest were issued and later unsealed against five alleged members of the Lord’s Resistance Army (LRA) for crimes against humanity and war crimes in 2005. One warrant was rendered without effect in 2007 due to the death of the individual in question.

25. During the reporting period, judicial developments continued to be limited due to the lack of arrest of any suspects. The Court has submitted requests for arrest and surrender to Uganda, the Democratic Republic of the Congo and the Sudan. Pre-Trial Chamber II continued to monitor the status of execution of the arrest warrants. The Chamber requested and received information from the Government of Uganda concerning the status of execution of the warrants. The Chamber also received assessments from the Prosecutor and the Registrar on the status of cooperation with the Court by relevant States and the United Nations for the execution of the warrants of arrest and of the requests for arrest and surrender.

B. Participation of victims and activities of the Trust Fund for Victims in the situation

26. Notwithstanding the lack of substantial activity in the case of *Kony et al.*, Pre-Trial Chamber II continued to receive and dispose of applications of victims to participate in the situation. Since the opening of the investigation, 157 victims have applied to participate in proceedings in the situation in Uganda. On 14 March 2008, the Single Judge of Pre-Trial Chamber II granted seven victims the right to participate in the situation and eight victims the right to participate in the case. On 2 June, the Single Judge granted in part a request from the ad hoc counsel for the defence for leave to appeal this decision. This appeal was pending at the time of submission of the present report. To date, 14 victims have been authorized by Pre-Trial Chamber II to participate in proceedings in the context of the case.

27. On 28 January 2008, the Board of Directors of the Trust Fund for Victims notified Pre-Trial Chamber II of its intention to carry out activities in Uganda. In accordance with regulation 50 (a) (ii) of the Regulations of the Trust Fund for Victims, the Chamber assessed whether the proposed activities would pre-determine any issue to be determined by the Court, including jurisdiction and admissibility, or violate the presumption of innocence, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Finding this not to be the case, the Chamber approved the proposed activities.

C. Investigation

28. The Office of the Prosecutor is conducting important investigative activities and continued to receive reports of more defections and attempted defections within the Lord's Resistance Army. The Office continues to stress the importance of enhancing regional cooperation to increase the ability of members of the Lord's Resistance Army to defect safely as this will further isolate its top leadership.

29. In order to cut off the supply and support network of the suspects, the Office sent requests for information to a number of States to request information on those providing the LRA with supplies, and encouraged States to take action to deter this support from continuing. In May and June 2008, the Office sent an investigation mission to Uganda to collect additional evidence of supply and support with the purpose of identifying the ringleaders of this network.

30. The Office has also collected a range of information on the crimes allegedly being committed by the Lord's Resistance Army in the Democratic Republic of the Congo, the Sudan and the Central African Republic. These alleged crimes increased in the beginning of 2008 as the Lord's Resistance Army made its way from its base in Garamba National Park to the Central African Republic. They primarily include abduction of civilians, including children, for the purpose of recruitment, forced labour, and sexual enslavement. Information indicates that the Lord's Resistance Army is currently attempting to expand its forces by several hundred new "recruits" and so far has brought 200-300 new abductees back to its base in Garamba National Park. The Lord's Resistance Army is also reportedly amassing weapons primarily from weapons caches in Eastern Equatoria in the Sudan but also by attacks on the Sudan People's Liberation Army barracks.

31. The remaining outstanding warrants have yet to be executed and the Office considers that the spate of new attacks by the Lord's Resistance Army increases the urgent need to arrest its leadership. Representatives of the Office, in their contacts with relevant interlocutors, stressed the importance of increasing regional cooperation to execute the arrest warrants. The Office views the current meetings between force commanders from the affected territorial States and the United Nations Organization Mission in the Democratic Republic of the Congo, including the meeting on 3 June 2008 in Kampala, where regional governments are agreeing to joint operations against the Lord's Resistance Army, as encouraging. The Office would encourage States to support this process and to provide additional support for the arrest of the leaders of the Lord's Resistance Army.

D. Outreach

32. The outreach activities conducted by the Court in Uganda at the Pre-Trial stage addressed the concerns of the affected communities, and particularly with respect to the nature of the crimes, the participation of victims, and questions related to peace and justice. Outreach activities mainly targeted the grass-roots populations most affected by the conflict, as well as internally displaced communities mainly in the north and north-eastern parts of Uganda. In addition, new target groups such as youth and teachers were identified for future outreach activities.

IV. Situation in Darfur, the Sudan

33. The situation in Darfur, the Sudan, was referred to the Court by the Security Council in its resolution 1593 (2005) of 31 March 2005. The Prosecutor opened an investigation into the situation on 6 June 2005.

A. *The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")*

34. On 25 April 2007, Pre-Trial Chamber I issued warrants of arrest against Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"). Due to the lack of arrest and surrender of suspects, there were no new developments during the reporting period in the case of *The Prosecutor v. Ahmad Muhammad Harun and Ali Muhammad Ali Abd-Al-Rahman*.

B. *The Prosecutor v. Omar Hassan Ahmad Al-Bashir*

35. On 13 July 2008, the Prosecutor submitted an application for a warrant of arrest against the President of the Sudan, Mr. Omar Hassan Ahmad Al-Bashir. In the application, the Prosecutor alleged that Mr. Al-Bashir was responsible for genocide, crimes against humanity and war crimes. The application is being considered by the judges of Pre-Trial Chamber I.

C. Participation of victims in proceedings

36. Since the opening of the investigation, 22 victims have applied to participate in proceedings in relation to the situation as a whole (as distinct from particular cases). Of these, 11 have been authorized by Pre-Trial Chamber I to participate in the situation. Pre-Trial Chamber I has continued to consider applications from victims to participate in proceedings in the situation. At the time of submission of this report, one appeal was pending before the Appeals Chamber related to whether individuals could be granted a “procedural status of victims” independent of any specific case.

D. Investigation

37. During the reporting period, the Office of the Prosecutor conducted 15 missions. In accordance with Security Council resolution 1593 (2005), the Prosecutor presented his sixth and seventh reports to the Council on 5 December 2007 and 5 June 2008 on the status of the investigation into the situation in Darfur. The Prosecutor reported to the Security Council that the Sudanese Government continues not to comply with its legal obligations under resolution 1593 (2005).

38. In his briefing to the Security Council on 5 December 2007, the Prosecutor urged the international community, the Council and all United Nations Members to send a strong and unanimous message to the Sudanese Government on the execution of the warrants and highlighted the June 2008 trip of the Council to the Sudan as a crucial opportunity in this regard.

39. The Prosecutor informed the Security Council that the Office was proceeding with its second and third Darfur investigations. The mobilization of the state apparatus to plan, commit and cover up crimes against civilians, in particular the Fur, Massaleit and Zaghawa tribes, is the focus of the second investigation by the Office. He reported that the failure to punish Ahmad Harun, a Minister who commits crimes under guise of humanitarian affairs, is one telling indices of the involvement of high officials.

40. In his report to the Council on 5 June 2008, the Prosecutor specified that present crimes in Darfur include: targeting of civilians in villages, including recent aerial bombardments; looting and destruction of means of livelihood leading to displacement; protracted presence of the Sudanese Government forces and Janjaweed militias in areas attacked, preventing returns; resettlements resulting in the usurpation of internally displaced persons’ land; organized insecurity and destitution within and around internally displaced persons camps; rapes; attacks against local leadership including detention, torture and killing; lack of Government assistance, hindering of humanitarian assistance and imposing harsh conditions of life within the camps; impunity of the perpetrators and official denial of crimes adding to the mental anguish of victims. The Prosecutor explained that all of these acts taken together lead to the actual destruction of entire groups.

41. The Prosecutor reported that the third investigation by the Office concerns allegations of rebel crimes, focusing among others on the Haskanita attack against peacekeepers. Preliminary contacts have been made with, and requests for information and assistance have been sent to, the African Union, the United Nations, and to five individual States and other organizations. Preliminary interviews have

been conducted. The Office received information that requires corroboration on the possible responsibility of members of two rebel factions.

E. Outreach

42. Due to the security conditions in the Sudan, outreach activities were conducted in African and European countries in closed meetings with representatives of the relevant social groups in Darfur and Khartoum as well as members of the diaspora. The content of warrants of arrest, the reports by the Office of the Prosecutor to the Security Council and the rights of victims to participate in the proceedings were among the subjects discussed during these interactive sessions.

43. The Court also targeted outreach towards refugees in the camps situated in eastern Chad. Missions to four camps to assess opportunities to implement an action plan were conducted. However, precarious security conditions prevented the launching of planned outreach activities.

V. Situation in the Central African Republic

44. The situation in the Central African Republic was referred to the Court by that State Party on 22 December 2004. The Prosecutor opened an investigation on 22 May 2007.

45. To date one application for participation by a victim has been received in the situation in the Central African Republic.

A. *The Prosecutor v. Jean-Pierre Bemba Gombo*

46. On 23 May 2008, Pre-Trial Chamber III issued a warrant of arrest against Jean-Pierre Bemba Gombo and requested Belgian authorities to provisionally arrest Mr. Bemba. The warrant contained two counts of crimes against humanity (including rape and torture) and four counts of war crimes (including rape, torture, outrages upon personal dignity, and pillaging). On 10 June 2008, the Chamber issued a new warrant of arrest, supplementing the initial counts with two counts of murder as a crime against humanity or war crime.

47. In issuing the warrants, the Chamber concluded that there were reasonable grounds to believe that, in the context of a protracted armed conflict in the Central African Republic from about 25 October 2002 to 15 March 2003, Mouvement de libération du Congo (MLC) forces led by Jean-Pierre Bemba Gombo carried out a widespread or systematic attack against a civilian population which involved rape, torture, outrages upon personal dignity and pillaging. The Chamber further concluded that there were reasonable grounds to believe that Mr. Bemba was responsible for these crimes by virtue of being vested with de facto and de jure authority by the members of the MLC to take all political and military decisions.

48. Mr. Bemba was arrested by Belgian authorities on 24 May 2008 pursuant to the request for provisional arrest. On 10 June 2008, following the issuance of the new warrant of arrest, Pre-Trial Chamber III issued a request for arrest and surrender to the Kingdom of Belgium.

49. Mr. Bemba was surrendered to the Court on 3 July 2008 and made an initial appearance before the judges of Pre-Trial Chamber III. A hearing on the confirmation of the charges against Mr. Bemba is currently scheduled to take place on 4 November 2008.

B. Investigation

50. The Office of the Prosecutor alleges that crimes against the civilian population, namely rape, torture, outrages upon personal dignity and pillaging, were committed in the Central African Republic between the end of October 2002 and 15 March 2003. In particular, the Office alleges that hundreds of rapes were committed and that sexual crimes will be a characteristic feature of the case against Mr. Bemba.

51. The investigation of the Office in the Central African Republic is ongoing and the Office will continue to gather evidence and establish responsibility for the crimes committed in 2002/03.

52. In parallel, the Office continues to closely monitor allegations of crimes committed since the end of 2005 and whether any investigation and prosecution has been or is being conducted with respect to crimes potentially falling under the International Criminal Court's jurisdiction. A letter has been sent to President François Bozizé for the purpose of receiving information concerning possible relevant national proceedings.

53. The Office is pleased that all members of the preparatory committee of the inclusive political dialogue launched by the Central African Republic have acknowledged the principle — enshrined in the Rome Statute — that there can be no amnesty for war crimes and crimes against humanity. Signatories to the comprehensive peace agreement recently signed in Libreville also unanimously and clearly recognized that in accordance with the Rome Statute, there will be no amnesty in the Central African Republic for crimes under International Criminal Court jurisdiction.

C. Outreach

54. Outreach in the Central African Republic was less advanced than in other situations given the relative newness of the situation. There is no permanent and systematic outreach at present in the country. However, recruitment of the outreach team will soon be finalized. The Court has already conducted outreach activities in the country, in particular in connection with the issuance of the warrant of arrest against Jean-Pierre Bemba Gombo. In addition, after the initial appearance of Mr. Bemba, the Registrar of the Court travelled to the Central African Republic and informed representatives of government, non-governmental organizations and civil society about the proceedings in relation to Mr. Bemba and in order to increase awareness about the Court's activities in the Central African Republic. She also participated in media activities while in the country.

VI. Analysis activities

55. The Office of the Prosecutor analyses all information on crimes within its jurisdiction.

56. The Office continued the proactive examination of open sources.

57. As of 21 July 2008, the Office had received 475 new communications under article 15 of the Rome Statute relating to alleged crimes committed during the reporting period. The vast majority of these were dismissed as manifestly outside the jurisdiction of the Court.

VII. International cooperation

58. The Rome Statute obliges its States parties to cooperate fully with the Court in its investigations and prosecutions and provides the basis for the further cooperation of States, international organizations and civil society with the Court. The Court has concluded supplementary cooperation agreements with a number of actors and has continued to take steps to ensure the cooperation needed to ensure respect for and enforcement of its decisions.

A. Cooperation with the United Nations

59. Cooperation with the United Nations continued to be essential to the Court institutionally and in the different situations and cases.

60. The Court received excellent support from the United Nations missions in the field in the exercise of its operations. The United Nations Peacebuilding Support Office in the Central African Republic was instrumental in the early days of the establishment of the Court's activities in Bangui (October 2007). In the Democratic Republic of the Congo, assistance was provided to the Court on the basis of a Memorandum of Understanding between the International Criminal Court and the United Nations Organization Mission in the Democratic Republic of the Congo.

61. In addition to operational cooperation, the public and diplomatic support of the United Nations continued to be important to the Court. Such support increased the likelihood of international cooperation being received from States and other actors. It also strengthened the Court by reaffirming its judicial, non-political mandate and the importance of upholding the rule of law.

62. The Court's Liaison Office to the United Nations in New York continued to facilitate and enhance contacts and information exchange between the Court and the United Nations and its funds, programmes or other bodies, as well as between the Court and permanent and observer missions to the United Nations. These sustained contacts have promoted a better understanding of the work and mandate of the Court, thus contributing to enhanced support for and cooperation with the Court.

63. Pursuant to article 10 of the Relationship Agreement, the United Nations provided facilities and services for the sixth session and the resumed sixth session of the Assembly of States Parties to the Rome Statute, which were held at United Nations Headquarters from 30 November to 14 December 2007 and 2 to 6 June 2008, respectively. The first and second resumptions of the seventh session have

been tentatively scheduled to be held at United Nations Headquarters from 19 to 23 January 2009 and 6 to 13 April 2009, respectively.

64. Another instance of cooperation between the Court and the United Nations is the conclusion of the first phase of the digitization of the entire legislative history of the Rome process, a project which is funded by the Court and has been undertaken by the Secretariat of the Assembly of States Parties and the Codification Division of the Office of Legal Affairs. This data would greatly benefit the Court, practitioners, academics and the public.

B. Cooperation with States, international organizations and civil society

65. The Headquarters Agreement between the International Criminal Court and the host State¹ entered into force on 3 March 2008. This has further enhanced cooperation and facilitated the Court's smooth operations in The Hague. The Headquarters Agreement has provided much needed clarity and certainty on issues which were not adequately covered by the interim arrangements.

66. In executing decisions of the Court, the Democratic Republic of Congo surrendered two individuals to the Court and Belgium surrendered another individual. Other States provided additional cooperation in carrying out the decisions of the Court. Pursuant to article 87 of the Rome Statute, often such cooperation was provided on a confidential basis.

67. The Court saw a significant increase in its work relating to the protection of witnesses. The Court is able to protect witnesses only with effective assistance by the States parties. The Court maintained local protection and response measures in its areas of cooperation in the Democratic Republic of the Congo, Uganda and Chad in collaboration with national and local authorities and other partners, and provided protective measures and security arrangements and other appropriate assistance for witnesses and others at risk on account of testimony when required. The Court's witness protection programme has also created new witness protection concepts in cooperation with local authorities of the situation countries. The Court's staff who work with witness protection issues form part of an international witness protection network and their expertise is consulted by international and national bodies on a regular basis.

68. As of the submission of this report, the Court had concluded 10 agreements with States on the protection and relocation of witnesses, and 2 ad hoc arrangements. The details of these agreements are kept confidential for security reasons. More agreements are necessary as the number of protected persons continues to increase without a commensurate increase in the number of States concluding such agreements. One agreement on the enforcement of sentences was concluded during the reporting period although negotiations continued with several States. As of the submission of this report only two agreements had been concluded between the Court and a State on the enforcement of sentences.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth Session, The Hague, 23 November to 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, annex II.

69. The Court met regularly with representatives of States, international organizations and civil society to update them on the work of the Court and to discuss items of mutual interest. The Court held two diplomatic briefings in The Hague and one briefing in Brussels. Officials and staff of the Court also met often with representatives of States in New York and provided them with updates on the work of the Court.

70. Cooperation with regional organizations is also important to the Court. Efforts to finalize a memorandum of understanding between the African Union and the Court continued. The Court aims to finalize and sign this agreement as soon as possible in order to strengthen cooperation with the African Union and African States. In May 2008, the first Vice-President of the Court, Judge Akua Kuenyehia, briefed the plenary of the Pan-African Parliament on the Court's activities and had a fruitful exchange of views with the joint sitting of the Committee on Justice and Human Rights and the Committee on Cooperation, International Relations and Conflict Resolution. The Court has also exchanged letters with the European Union with a view to concluding some form of cooperation with the European Union-led peacekeeping force (European Union military operations in Eastern Chad and North Eastern Central African Republic).

VIII. Institutional developments

A. Ratifications and accessions

71. On 1 October 2007, the Rome Statute entered into force for Japan following the deposit of its instrument of accession on 17 July 2007. On 14 March 2008, Madagascar ratified the Rome Statute. On 15 July 2008, Suriname acceded to the Rome Statute. On 18 July, the Cook Islands acceded to the Rome Statute. With the entry into force of the Rome Statute for Suriname and the Cook Islands on 1 October 2008, there will be 108 States Parties to the Rome Statute.

72. In July 2008, the States Parties to the Rome Statute and civil society organizations celebrated the tenth anniversary of the adoption of the Rome Statute on 17 July 2008. To mark this event, celebrations were held in a number of locations including The Hague on 3 July 2008, and New York on 17 July 2008. The Secretary-General addressed the informal meeting of the Assembly of States Parties, held at Headquarters in New York, to commemorate the anniversary. A subregional conference was also held in Benin and was attended by the Registrar of the Court. Another celebration was held in South Africa, where Judge Navanethem Pillay participated on behalf of the Presidency.

73. During the reporting period, the following States became Parties or signatories to the Agreement on Privileges and Immunities of the Court: Mexico, Portugal, the United Kingdom of Great Britain and Northern Ireland and the Netherlands. As of the date of submission of the present report, 63 States had become signatories to the Agreement.

B. Elections

74. During the reporting period, the Assembly of States Parties to the Rome Statute elected three judges to fulfil the remainder of the terms of three judges who had resigned in 2006 or 2007. At its sixth session in December 2007, the Assembly elected Mr. Daniel David Ntanda Nsereko, Ms. Fumiko Saiga and Mr. Bruno Cotte as judges. On 17 January 2008, in accordance with article 45 of the Rome Statute, the three judges made a solemn undertaking to exercise their functions impartially and conscientiously. During the plenary session of judges held on 17 January 2008, Judges Nsereko and Cotte were assigned to the Trial Division and Judge Saiga was assigned to the Pre-Trial Division.

75. On 29 July 2008, Judge Navanethem Pillay submitted her resignation, effective 31 August 2008 following approval by the General Assembly of her appointment by the Secretary-General to the position of United Nations High Commissioner for Human Rights.

76. The terms of office of six judges will conclude on 11 March 2009. An election to fill these vacancies will take place during the first resumption of the seventh session of the Assembly of States Parties, to be held in January 2009.

77. On 13 February 2008, Mr. Bruno Cathala, the first Registrar of the Court, submitted his resignation from the Court in order to take up a position as President of the Tribunal de grande instance d'Evry in the French judicial system. On 28 February 2008, in accordance with article 43 of the Rome Statute and rule 12 of the Rules of Procedure and Evidence, the judges of the Court, meeting in plenary session, elected Ms. Silvana Arbia to succeed him. On 17 April 2008, in accordance with article 45 of the Statute, Ms. Arbia made a solemn undertaking to exercise her functions impartially and conscientiously.

C. Cooperation with the Special Court for Sierra Leone

78. In accordance with a memorandum of understanding concluded on 13 April 2006, the Court continued to provide courtroom services and facilities, detention services and facilities and other related assistance to the Special Court to enable the latter to conduct the trial of Mr. Charles Taylor in The Hague. A unique and unprecedented level of cooperation now exists between the Court and the Special Court. This has been made possible through continuous efforts on both sides to foster proper tools of communication, and to translate the terms of the memorandum of understanding into such practice that facilitates the work of both entities.

IX. Conclusion

79. The past year once again highlighted the importance of international cooperation to the activities of the Court. On the one hand, three individuals were surrendered to the Court, enabling it to begin judicial proceedings against each of them in The Hague. On the other hand, seven warrants of arrest remain outstanding. The credibility of the Court and its impacts depend on its decisions being enforced. While the surrender of three individuals further strengthened its credibility, the outstanding warrants highlight the fact that much more needs to be done.