International Criminal Court ICC-ASP/12/28

Assembly of States Parties

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Report on the activities of the Court

I. Introduction

1. The present report provides an overview of the activities of the International Criminal Court (the "Court") during the period 16 September 2012 to 15 September 2013.

II. Judicial Proceedings

2. Proceedings before the Court continued in the seven existing situations: Uganda, the Democratic Republic of the Congo ("DRC"), Darfur (Sudan), the Central African Republic ("CAR"), Kenya, Libya and Côte d'Ivoire ("CDI"). On 16 January 2013, the Prosecutor opened an investigation in the Republic of Mali following a referral by the country in July 2012.

3. During the reporting period the Court received 716 applications for participation of victims in proceedings and 722 applications for reparation. The Registry filed 70 transmissions, observations and reports in relation to victim issues.

A. Situation in the DRC

1. *The Prosecutor v. Thomas Lubanga Dyilo*

4. On 3 October 2012, Mr. Lubanga filed appeals against the Trial Chamber I's judgment of 14 March 2012, convicting him, as well as the Trial Chamber's decision of 10 July 2012, sentencing him to 14 years of imprisonment. On the same day, the Prosecutor filed an appeal against the sentencing decision. The Appeals Chamber has rendered numerous related interlocutory decisions, including on the participation of victims in the proceedings.

5. On 28 September and 1 October 2012, the legal representatives of two victims' groups, the Office of Public Counsel for victims, the Prosecutor, Mr. Lubanga, and the Trust Fund for Victims submitted their respective observations. The Appeals Chamber determined, on 14 December 2012, that the appeals brought under article 82(4) of the Statute were admissible, whereas the appeal brought under article 82(1)(d) was not, because the Trial Chamber's decision of 7 August 2012 was deemed to be a reparations order.

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

6. On 21 November 2012, Trial Chamber II decided to sever the cases of Mr. Katanga and Mr. Ngudjolo. The Chamber acquitted Mr. Ngudjolo of all charges on 18 December 2012. The Prosecutor's appeal against this decision is pending. Upon his release, Mr. Ngudjolo applied for asylum in The Netherlands, where he currently remains. In this regard, the Appeals Chamber has issued several mainly confidential decisions.

7. In the case against Mr. Katanga, the Chamber decided to activate Regulation 55 of the Regulations of the Court and gave notice to the accused that it was considering re-characterising charges in terms of criminal responsibility. In particular, the Chamber decided to consider the possibility that Mr. Katanga could be responsible under article 25(3)(d)(ii) of the Statute instead of article 25(3)(a). Mr. Katanga challenged this decision, but his appeal was rejected by the Appeals Chamber on 24 March 2013. Subsequently, the Chamber decided Mr. Katanga should be given an opportunity to re-examine previous or new witnesses, or to present other evidence admissible under the Statute, in accordance with Regulation 55(3) of the Regulations of the Court.

3. *The Prosecutor v. Bosco Ntaganda*

8. On 26 March 2013, Bosco Ntaganda appeared before Pre-Trial Chamber II after his voluntary surrender to the Court. During the initial appearance, it was decided that the confirmation of charges hearing would start on 23 September 2013. On 17 June 2013, the Chamber postponed the confirmation of charges hearing to 10 February 2014 upon request of the Prosecutor to allow sufficient time to comply with her statutory investigation and prosecution obligations.

9. On 28 May 2013, Pre-Trial Chamber II established principles on the victims' application process, deciding, *inter alia*, that the Court should conduct a comprehensive and timely outreach mission for potential victim applicants and design a one-page simplified victim participation application form. On 26 June 2013, the Chamber rejected a request by the legal representative of nine victims participating in Mr. Lubanga Dyilo's case in order for them to be automatically admitted in the case against Mr. Ntaganda, stating it was imperative for victims already participating in a case to express their specific desire to participate in other cases.

10. On 20 August 2013, the Defence filed a request for the interim release of Mr. Ntaganda to the Kingdom of the Netherlands.

B. Situation in the CAR

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

11. On 21 September 2012, Trial Chamber III issued a decision giving notice to parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court. The potential change entails considering, under the same mode of responsibility, the alternate form of knowledge contained in article 28(a)(i) of the Statute.

12. On 13 December 2012, the Chamber issued a decision on the temporary suspension of proceedings, suspending hearings until 4 March 2013 to give the accused sufficient time for the effective preparation of his defence. On 6 February 2013, the Chamber granted the defence's request to lift the temporary suspension of proceedings.

13. The defence's presentation of evidence resumed on 25 February 2013 and 18 witnesses testified up to 13 September 2013. One witness was heard in person at the seat of the Court and 17 witnesses testified via video-link. The defence was initially instructed to complete its presentation of evidence within eight months, by April 2013. However, during a

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status conference on 3 May 2013, the Chamber noted that - taking into account interruptions not attributable to the unavailability of defence witnesses - the defence should be in a position to conclude its presentation of evidence by 19 July 2013, unless, due to compelling reasons, the Chamber decided otherwise.

14. On 27 June 2013, the Chamber held a status conference to discuss (i) the timeline for the completion of the defence's presentation of evidence; (ii) difficulties in securing the attendance of witnesses; and (iii) issues related to the closing of the case. On 16 July 2013, the Chamber, *inter alia*, ordered that the presentation of evidence by the defence be concluded by 25 October 2013 at the latest, and set a schedule for the submission of closing briefs.

C. Situation in Darfur

1. *The Prosecutor v. Omar Hassan Ahmad Al Bashir*

15. On 15 February 2013, Pre-Trial Chamber II issued an order regarding the alleged upcoming visit by Omar Al-Bashir to Ndjamena requesting the Republic of Chad to arrest Omar Al-Bashir and surrender him to the Court in line with its obligations under the Rome Statute. On 22 February 2013, the Chamber issued a decision requesting observations from the Republic of Chad on its alleged failure to execute the request and the alleged failure to consult with the Court on problems which might have impeded the execution of such requests. On 26 March 2013 the Chamber issued its decision on the non-compliance of the Republic of Chad with the Court's cooperation requests regarding the arrest and surrender of Omar Al-Bashir. The Court referred the matter to the Security Council and the Assembly of States Parties.

16. On 15 July 2013, the Chamber received a notification from the Prosecutor in which she informed the Chamber that Omar Al-Bashir had arrived in the Nigerian capital, Abuja, to participate in a special summit of the African Union. The same day, the Chamber issued a decision requesting the Federal Republic of Nigeria to immediately arrest Omar Al-Bashir and surrender him to the Court. On 5 September 2013, Pre-Trial Chamber II issued a decision on the cooperation of the Federal Republic of Nigeria regarding Omar Al-Bashir's arrest and surrender to the Court, whereby, taking into consideration the observations provided by Nigeria and its discretionary power under article 87(7) of the Statute, it decided not to refer the matter to the ASP and/or the Security Council.

2. *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*

17. On 26 October 2012, Trial Chamber IV rejected a defence request for a temporary stay of the proceedings, holding that, if necessary, the difficulties the defence had faced in its investigations in Darfur would be taken into account during the trial. On 6 March 2013, the Chamber announced that the trial would commence on 5 May 2014. The Chamber decided that the accused persons' attendance at the trial shall continue to be on the basis of the summonses to appear. On 23 April 2013, the defence notified the Chamber that it had received information that Mr. Jerbo had died in North Darfur.

3. *The Prosecutor v. Abdel Raheem Muhammad Hussein*

18. On 25 April 2013, the Prosecutor notified Pre-Trial Chamber II that Mr. Hussein was planning to participate in a conference in the Republic of Chad. On 26 April 2013, the Chamber issued an order reminding the Republic of Chad of its obligations under the Rome Statute to arrest Mr. Hussein and surrender him to the Court. On 10 September 2013, the Pre-Trial Chamber II requested observations from the Central African Republic concerning their alleged failure to arrest the suspect when on their territory.

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D. Situation in Kenya

1. *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*

19. On 3 October 2012, Trial Chamber V issued a decision establishing a simplified system for victims' participation applications. The decision introduced a two-track system for victims who either choose to participate via the representation of the common legal representative or wish to present their views and concerns individually. The decision also set out the modalities of victims' participation through the common legal representative.

20. On 18 June 2013, the Chamber issued a decision exempting Mr. Ruto from continuous presence during the trial due to his duties as Deputy President of Kenya. The decision directed Mr. Ruto to sign a waiver in respect of his right to be present during trial and set out a list of stages during which his presence would be required. On 18 July 2013, the Chamber granted the Prosecution's request for leave to appeal the decision. The Prosecutor filed a document in support of the appeal on 29 July 2013. The response thereto was filed on 9 August 2013. On 13 September 2013, the Appeals Chamber granted the requests of five States to make observations.

21. On 3 June 2013, the Chamber issued a recommendation where the Court shall sit for trial, notifying the Presidency that it may be desirable to hold the commencement of the trial and other portions in Kenya or Tanzania. On 11 July 2013, the Court's Judges held a plenary session, deciding not to change the place of the proceeding at that moment in time.

22. On 16 August 2013, Pre-Trial Chamber II denied the Prosecutor's request under article 61(9) of the Statute to amend the temporal scope of the charges. The Prosecutor applied for leave to appeal this decision on 26 August 2013. This was granted on 6 September 2013.

23. On 10 September 2013, the trial commenced with the opening statements of the parties and participants.

2. *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*

24. On 22 January 2013, the Prosecutor requested permission from Pre-Trial Chamber II to amend charges in accordance with article 61(9) of the Statute to re-insert a factual allegation which the Chamber had denied at the time of the confirmation of the charges because of insufficient evidentiary support. On 21 March 2013, the Chamber granted the request, finding that the Prosecutor had provided a reasonable justification in relation to the continuation of her investigation subsequent to the confirmation hearing.

25. On 3 October 2012, Trial Chamber V established the same system of victims' participation as in the Ruto and Sang case (see para 19).

26. The Prosecutor terminated proceedings against Mr. Muthaura after the Chamber authorised her to do so on 18 March 2013.

27. On 26 April 2013, the Chamber denied a defence request to stay the proceedings due to the invalidity of the confirmation decision.

28. In a status conference of 6 September 2013 the Chamber indicated that, given that none of the parties and participants had requested an *in situ* hearing, it did not intend to pursue such a hearing at that stage.

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E. Situation in Libya

1. *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*

Saif Al-Islam Gaddafi

29. On 9 and 10 October 2012, the Chamber held a hearing on Libya's admissibility challenge in the Saif Al-Islam Gaddafi case in the presence of representatives of Libya, the Prosecutor, the Defence and the Office of Public Counsel for Victims. On 31 May 2013, Pre-Trial Chamber I rejected the admissibility challenge presented by Libya. The Chamber concluded that Libya had not presented sufficient evidence to demonstrate that it was investigating the same case as that before the Court. The Court rejected Libya's request presented on 4 March, and reiterated on 28 March 2013, to adduce further evidence. The Chamber also concluded that Libya's national system was unable to secure the transfer of the accused into their custody or to carry out the proceedings in the case against Mr. Gaddafi. On 7 June 2013, Libya filed an appeal against the 31 May 2013 decision. Subsequently, the parties and participants filed their submissions on the appeal, including on the request made by Libya for suspensive effect.

30. On 18 July 2013, the Appeals Chamber rejected the request for suspensive effect recalling Libya's obligation to surrender Mr. Gaddafi. On 1 August 2013, Pre-Trial Chamber I granted a request presented by Mr. Gaddafi's Defence to order the Prosecutor to disclose material to the Defence for the proper exercise of the rights of the Defence at this stage of the proceedings.

31. On 10 September 2013, Pre-Trial Chamber I rejected a request presented by the Defence for the commencement of the "pre-confirmation phase" of the proceedings pending the surrender of Mr. Gaddafi by the Libyan authorities.

Abdullah Al-Senussi

32. On 17 September 2012, the Registrar presented Pre-Trial Chamber I with her second report on the status of the execution of the request for arrest and surrender of Abdullah Al-Senussi. She informed the Chamber that a note verbale had been transmitted to the competent Libyan authorities on 10 September 2012 requesting that they confirm the extradition of Mr. Al-Senussi from Mauritania to Libya and provide the name of the detention centre in which he was being held as well as information regarding his state of health. On 10 December 2012, after the Registrar advised that no such official confirmation or information had been received from Libyan authorities, Pre-Trial Chamber I issued an order instructing the Registrar to remind the Libyan authorities of their obligation to arrest Mr. Al-Senussi and to surrender him. In addition, the Chamber requested Libya to provide the previously requested information no later than 15 January 2013. On 9 January 2013, the Defence of Abdullah Al-Senussi filed an application in which it requested the Chamber to refer Libya and Mauritania to the Security Council for their non-compliance with their obligations to cooperate with the Court.

33. On 15 and 16 January 2013, Libya confirmed that Abdullah Al-Senussi was in their custody and that national judicial proceedings were on-going. Libya also provided the requested information regarding the detention centre in which he was being held and his state of health.

34. On 6 February 2013, Pre-Trial Chamber I ordered the Libyan authorities to proceed with the immediate surrender of Abdullah Al-Senussi to the Court and to refrain from taking any action which would frustrate, hinder or delay Libya's compliance with its obligation to surrender him to the Court. In addition, the Chamber ordered the Registrar to make the necessary arrangements with the Libyan authorities for a privileged visit to Abdullah Al-Senussi by his Defence. On 12 February 2013, Libya filed a request for leave to appeal this decision, an application which was rejected on 25 February 2013.

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35. On 2 April 2013, Libya filed an application challenging the admissibility of the case before Pre-Trial Chamber I. On 26 April 2013, Pre-Trial Chamber I issued its decision on the conduct of the proceedings following the admissibility challenge filed by Libya. The Chamber invited the Defence for Abdullah Al-Senussi, the OPCV as legal representative of victims in this case, and the Security Council to submit observations on the admissibility challenge filed by Libya no later than 14 June 2013. On 14 June 2013, Pre-Trial Chamber I decided that Libya could postpone the execution of the surrender request in relation to Abdullah Al-Senussi pending determination of its admissibility challenge filed before the Court. In the same decision the Chamber also rejected a renewed request made on 19 March 2013 by the Defence for Abdullah Al-Senussi to make a finding of non-cooperation by Libya and refer the matter to the Security Council.

36. On 28 August 2013, Pre-Trial Chamber I rejected a request by the Defence to make a finding of non-cooperation by the Islamic Republic of Mauritania with regard to the arrest and surrender of Mr. Al-Senussi and refer the matter to the Security Council. The Chamber granted partially the Defence's application for leave to appeal the decision issued on 14 June 2013 with regard to Libya's right under article 95 of the Statute to postpone the execution of the surrender request in relation to Abdullah Al-Senussi pending determination of Libya's admissibility challenge.

37. On 11 September 2013, Pre-Trial Chamber I, at the request of Libya, extended the time limit for Libya's final submissions on the admissibility of the case against Mr. Al-Senussi to 26 September 2013.

F. Situation in CDI

1. *The Prosecutor v. Laurent Gbagbo*

38. On 24 and 25 September 2012, the Chamber held a hearing in the presence of Laurent Gbagbo, his Defence, the Prosecutor, representatives of the Registry and the experts appointed by the Chamber to discuss issues related to Laurent Gbagbo's fitness to take part in the proceedings against him. On 2 November 2012, the Chamber found that Laurent Gabgbo was fit to take part in the proceedings.

39. On 6 February 2013, the Chamber issued its second decision on victims' participation at the confirmation of charges hearing and in related proceedings in which it admitted 60 further victims to participate and appointed the OPCV as the common legal representative for all victims admitted to participate.

40. The hearing on the confirmation of charges was held from 19 to 28 February 2013.

41. On 3 June 2013, the Chamber decided to adjourn the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Statute and requested the Prosecutor to consider providing further evidence or conducting further investigation with respect to all charges. The Chamber established a calendar for subsequent proceedings requesting that, *inter alia*, the Prosecutor submit, by 15 November 2013, an amended document containing the charges and an amended list of evidence. The Defence was given until 16 December 2013 to submit observations on the Prosecutor's evidence and to file its amended list of evidence. Thereafter, the Prosecutor and the OPCV were given until 24 January 2014 to submit their final written observations. The Defence was given until 7 February 2014 to submit its final written submissions. On 31 July 2013 the Chamber partly granted the Prosecutor leave to appeal following her request on 10 June 2013 regarding the decision to adjourn the hearing on the confirmation of charges.

42. On 11 June 2013, Pre-Trial Chamber I rejected the challenge against the admissibility of the case filed on 15 February 2013 by the Defence.

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43. On 12 November 2012, 12 March 2013, and 11 July 2013, Pre-Trial Chamber I issued decisions on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Statute and in each case, decided to keep him in detention.

2. *The Prosecutor v. Simone Gbagbo*

44. On 22 November 2012, Pre-Trial Chamber I reclassified as public a warrant of arrest issued under seal against Simone Gbagbo on 29 February 2012. The warrant was issued for the crimes against humanity of murder, rape and other forms of sexual violence, persecution and other inhumane acts committed in CDI between 16 December 2010 and 12 April 2011.

III. Investigations and preliminary examinations

A. Investigations

1. Situation in the DRC

45. During the reporting period, the Office of the Prosecutor conducted 1 mission to the DRC to collect information necessary in support of trials and to address the arguments raised by the Defence in the cases against Mr. Lubanga Dyilo, Mr. Katanga and Mr. Ngudjolo Chui.

46. The OTP also conducted four missions to three countries for its third investigation, focusing on crimes committed by the Forces Démocratiques pour la Liberation du Rwanda ("FDLR") in the Kivu provinces, in particular in relation to its case against Mr. Mudacumura. The investigation into alleged crimes committed in the Kivus continues, including in relation to other leaders of the FDLR and other groups.

47. Following the voluntary surrender of Mr. Ntaganda, the Office conducted 25 missions to four countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners in relation with the continued investigation concerning the alleged crimes committed by Mr. Ntaganda.

48. 21 further missions were conducted in relation to the Office's activities in the DRC.

2. Situation in Uganda

49. During the reporting period, the Office did not conduct any mission in relation to the situation in Uganda. Nevertheless, the Office continued to gather information on crimes allegedly committed by the Lord's Resistance Army ("LRA") and to promote action to implement warrants against the LRA leadership. The OTP also continued gathering and analyzing information related to alleged crimes committed by the Uganda People's Defence Forces.

3. Situation in the CAR

50. The OTP continued its investigation into the situation in the CAR and conducted a total of 16 missions to six countries for the purposes of, inter alia, meetings with witnesses and following up on information received, and securing the continued cooperation of partners.

4. Situation in Darfur

51. During the reporting period, the Office conducted seven missions to six countries in relation to investigations into the situation in Darfur.

52. In accordance with UN Security Council resolution 1593 (2005), the Office presented the 16th and 17th reports on the situation in Darfur to the Council. In the briefings of 13 December 2012 and 5 June 2013, the Office *inter alia* highlighted the lack of cooperation by

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the Government of Sudan and the lack of national proceedings against those responsible for the crimes committed. The OTP highlighted its concern, shared by the Council in its resolution 2091 of 14 February 2013, regarding the on-going aerial bombardments in Darfur, the use of sexual violence as a weapon of war; the deliberate imposition of restrictions on delivery of humanitarian aid; and the on-going impunity for these crimes.

53. The OTP continued to monitor and gather information regarding the situation in Darfur. The information collected indicates that crimes against humanity, war crimes and genocide continue to be committed. The OTP noted in particular reports of on-going involvement of Court's suspect Ali Kushayb with the Sudanese Central Reserve Forces in the alleged commission of crimes in Central Darfur in April 2013, as well as on-going involvement of Court's suspects Ahmad Harun and Abdel Raheem Hussein in alleged crimes elsewhere in Sudan.

54. The OTP took note of the 20-23 May visit of the Head of UNOCHA to Khartoum, including a meeting with Court's suspects Omar Al Bashir, Abdel Raheem Hussein, and Ahmad Harun. The OTP expressed its appreciation for the UN's prior notification of the meeting, as well as the UN's assessment that the meeting was considered to be strictly required for carrying out essential UN-mandated duties.

5. Situation in Kenya

55. During the reporting period, the Office undertook 115 missions to 17 countries in relation to investigations into the situation in Kenya.

56. The OTP continued to gather information on the crimes against humanity of murder, deportation or forcible transfer and persecution which were allegedly committed in Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills, from on or about 30 December 2007 until the end of January 2008.

57. Similarly, the Office continued to gather information on the crimes against humanity of murder, deportation or forcible transfer, rape, other inhumane acts and persecution, allegedly committed between 24 and 28 January 2008, against the civilian residents of Nakuru and Naivasha, perceived as supporters of the Orange Democratic Movement.

58. The OTP is also monitoring and investigating persistent attempts to interfere with Prosecution witnesses through exposing their identities, intimidating, threatening, harassing, bribing or using other means to corruptly influence witnesses to withdraw their cooperation with the Office.

6. Situation in Libya

59. During the reporting period, the Office conducted 24 missions to 10 countries in relation to investigations into the situation in Libya.

60. The OTP presented its fourth and fifth reports to the Security Council on the situation in Libya. In its briefings of 7 November 2012 and 8 May 2013, the Office, *inter alia*, noted the formation of a new Government under Prime Minister Ali Zeidan on 14 November 2012 and a new Prosecutor-General on 17 March 2013, respectively, and the on-going dialogue about cooperation between the Office and the Government of Libya.

61. The OTP also indicated its awareness of allegations of serious crimes committed by former Gaddafi regime officials, some of whom are outside of Libya. The OTP is engaged in the process of documenting the most serious of those crimes and the current activities of those officials who were most responsible for them. The OTP plans to take a decision regarding a second case in the near future, and will consider additional cases after that, depending on the Government of Libya's progress in implementing its comprehensive strategy.

62. The OTP continues to be concerned about allegations of crimes committed by rebel forces, including the expulsion of residents of Tawergha, on-going alleged persecution of ethnic groups perceived to have been affiliated with the Gaddafi regime, and specific

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incidents as yet unaccounted for, including the alleged execution of fifty persons on the grounds of the Mahari Hotel in Sirte in October 2011, and alleged arbitrary detention, torture, killings and destruction of property that arose during Libyan Government and militia operations in Bani Walid in September 2012.

7. Situation in CDI

63. During the reporting period, the Office continued its investigation into the situation and conducted 57 missions to eight countries for the purpose of, *inter alia*, collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners. The OTP is focusing on allegations of crimes against humanity committed in violation of articles 7(1)(a), 7(1)(g), 7(1)(h) and 7(1)(k) of the Rome Statute.

8. Situation in Mali

64. On 16 January 2013, the Prosecutor formally opened an investigation into alleged crimes committed on the territory of Mali since January 2012. This decision was the result of the preliminary examination of the Situation in Mali that the Office had been conducting since July 2012, and during which the Office had identified potential cases of sufficient gravity to warrant further action.

65. Since opening the investigation, the team has conducted 14 investigative missions to five countries. The OTP continues to collect information and evidence about alleged crimes on the entire territory of Mali. However, based on the results of the preliminary examination, initial geographical emphasis has been given the three northern regions.

66. The OTP is, *inter alia,* giving particular attention to allegations concerning the intentional directing of attacks against buildings dedicated to religion and historic monuments, pursuant to article 8(2)(e)(iv) of the Rome Statute, including those that have received World Heritage status, and has accordingly cooperated with UNESCO. The OTP has also sought cooperation with a number of other UN agencies present in Mali, including from the Multidimensional Integrated Stabilization Mission in Mali ("MINUSMA").

B. Preliminary examinations

67. During the reporting period, the Office of the Prosecutor opened a preliminary examination of the situation on registered vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia; continued preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, the Republic of Korea, and Nigeria; and concluded its preliminary examination of the situation in Mali. The OTP published a report on its preliminary examination activities on 22 November 2012.[1]

68. The OTP continued to analyze information received from various sources alleging the commission of crimes potentially falling within the Court's jurisdiction. From 16 September 2012 until 31 August 2013, the OTP received 553 communications relating to article 15 of the Rome Statute, of which 460 were manifestly outside the Court's jurisdiction; 21 were unrelated to current situations and warranted further analysis; 41 were linked to a situation already under analysis; and 31 were linked to an investigation or prosecution.

1. Afghanistan

69. The OTP is gathering and corroborating additional information to support its analysis of whether there is a reasonable basis to believe that war crimes and crimes against humanity

[1] OTP 2012 Report on Preliminary Examination Activities, 22 November 2012, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/comm%20and%20ref/Pages/Report-on-Preliminary-Examination-Activities-2012.aspx.

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within the Court's jurisdiction have been committed by parties to the conflict in Afghanistan. The OTP continues to maintain contact with experts, civil society organizations, Afghan Government officials, UN officials, and concerned States, and expects to reach a determination on subject-matter issues in the near future.

70. The preliminary examination has been hampered by a number of constraints, including security concerns and limited or reluctant cooperation from many partners. Several requests for information sent by the OTP in the past two years to various States, including the Government of Afghanistan and States with troops in Afghanistan, have been dismissed or remain pending. Ultimately, six States have replied to a formal request for information from the OTP. The OTP has accordingly taken steps to improve cooperation with relevant stakeholders, including the Afghan Government and international and local NGOs.

2. Colombia

71. The OTP published an interim report on its preliminary examination of the situation in Colombia on 14 November 2012[2] which summarizes the analysis undertaken to date, including the OTP's findings regarding jurisdiction and admissibility. Pursuant to those findings, the preliminary examination will focus on: (i) follow-up on the Legal Framework for Peace and other relevant legislative developments, including jurisdictional aspects relating to the emergence of 'new illegal armed groups;' (ii) proceedings relating to the promotion and expansion of paramilitary groups; (iii) proceedings relating to forced displacement; (iv) proceedings relating to sexual crimes; and, (v) false positive cases.

72. The OTP conducted two missions to Colombia in order to obtain additional information on measures taken by Colombian authorities to address the areas of focus identified above. The OTP continued its exchange of communications with the Government of Colombia as well as Colombian NGOs in regard to these issues, and closely followed developments related to the Legal Framework for Peace as well as the implementation of the reform of military courts' jurisdiction, in particular its impact on the investigation and prosecution of false positive cases.

3. Georgia

73. The OTP continued to follow up on investigations into alleged crimes committed during the armed conflict and to engage with relevant stakeholders at regional and national levels. The OTP sought updates on: the status of national proceedings; whether any additional information remains to be provided to the OTP; and whether the lack of cooperation identified as an obstacle both by the Russian and Georgian authorities may be overcome through enhanced mutual legal assistance between the two States. For this purpose, and to establish contacts with the new Georgian government, the OTP conducted two missions to Georgia during which the OTP delegation also interacted with Georgian NGOs.

4. Guinea

74. In accordance with its policy on positive complementarity, the OTP has sought to encourage national proceedings in order to bring to account those bearing the greatest responsibility for the alleged crimes committed on 28 September 2009 in Conakry. During the reporting period, judicial authorities in Guinea indicted three additional officials for crimes allegedly committed on 28 September 2009, including. the former Minister of Health and the current head of presidential security, bringing the total number of persons indicted in relation to the incident to eight. The OTP conducted two missions to Guinea to examine progress made in the national investigation, to gauge the prospects of a trial in the near future, and to facilitate domestic and international support for the judicial proceedings.

[2] OTP 2012 Interim Report on the Situation in Colombia, 14 November 2012: http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/comm%20and%20ref/pe-ongoing/colombia/Pages/Situation-in-Colombia-Interim-Report.aspx.

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5. Honduras

75. The OTP continued its engagement with NGOs, regional stakeholders and senders of article 15 communications in order to gather additional information on the situation in Honduras. The OTP updated its analysis on the basis, *inter alia*, of the report of the alternative Truth Commission (*Comision de Verdad*, published on 3 October 2012). The OTP continued to evaluate, including on the basis of additional information received, whether the alleged crimes committed in Honduras since June 2009 amount to crimes against humanity.

6. Registered vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia

76. On 14 May 2013, the OTP received a referral by the authorities of the Union of the Comoros "with respect to the 31 May 2010 Israeli raid on the Humanitarian Aid Flotilla bound for Gaza Strip." A copy of the referral has been made available on the Court's website. The referral makes reference to seven allegedly attacked vessels, and requests that the Prosecutor investigate the incident. According to the referral, three of the vessels comprising the flotilla were registered within the Comoros, Greece and Cambodia, respectively. In accordance with the requirements of the Rome Statute, the OTP initiated a preliminary examination to establish whether the criteria for opening an investigation are met.

7. Nigeria

77. During the reporting period, the OTP reached the determination that there is a reasonable basis to believe that crimes against humanity have been committed in Nigeria, namely acts of murder and persecution attributed to Boko Haram. Therefore, the Prosecutor decided that the preliminary examination of the situation in Nigeria should advance to phase three (admissibility) with a view to assessing whether the national authorities are conducting genuine proceedings with respect to those who appear to bear the greatest responsibility for such crimes, and the gravity of such crimes. To this end, the OTP has requested from the Nigerian Government information on relevant proceedings in Nigeria and has carried out a mission to Abuja.

8. Republic of Korea

78. The preliminary examination is focused on two incidents: (a) the shelling of Yeonpyeong Island on 23 November 2010; and (b) the sinking of the Republic of Korea warship Cheonan on 26 March 2010. The OTP is analyzing the contextual elements under article 8 and the underlying acts, in order to determine whether the information available provides a reasonable basis to believe that war crimes were committed in the course of either incident. In addition, the OTP is analyzing whether either incident was committed as part of a plan or policy, in accordance with article 8(1) of the Rome Statute. In July 2013, the OTP received additional information on both incidents from the Republic of Korea which will be further examined.

9. Mali

79. A report summarizing the results of the preliminary examination (the OTP's assessment of the article 53(1) criteria for initiation of an investigation) was published concurrently with investigation's opening.

IV. Cooperation with and assistance from States, international and regional organizations

80. Given the limited number of pages for this report, the Courts makes reference to its annual report to the United Nations dated 13 August 2013, its report on cooperation

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submitted to the Assembly of States Parties dated 19 September 2013 and its report on the status of the on-going cooperation between the Court and the United Nations, including in the field, submitted on 14 October 2013.[3] No major developments occurred beyond the reporting period of these reports.

A. Other activities of the Court

1. Support to judicial proceedings

81. The Registry's Court Management Section (CMS) prepared, registered and notified 6,614 court records amounting to a total of 100,642 pages, and 590 transcripts, amounting to a total of 28,926 pages. Furthermore, the CMS supported 147 court hearings at the seat of the Court during the said reporting period where the CMS supported the appearance of 19 witnesses as well as the appearance of Mr. Ruto and Mr. Kenyatta in one status conference by means of video technology.

82. The Court Interpretation and Translation Section (STIC) provided simultaneous interpretation at hearings including status conferences in six cases in Arabic, English, French, Lingala, Sango, Swahili (Congo), Swahili (Standard) and Zaghawa. Interpretation services were also provided in Arabic, English, French and Spanish for non-judicial activities such as seminar of counsel or press conferences.

83. Translation services were carried out into English in the following cases: Lubanga, Katanga, Ngudjolo and Gbagbo and into French in all cases. In addition, as requested by Pre-Trial Chamber II, STIC has launched the Kinyarwanda translation project in the Ntaganda case which will be finalised by the end of the year.

84. In Terminology services files were uploaded in the text repositories totalling 148 million of words in up to 30 official/case languages as of September 2013. Terminology records available in ICC Term increased, totalling more than 16,000 terms in up to 15 official/case languages as of September 2013.

85. Field interpretation services were provided to 22 field missions of the Registry during the reporting period. A roster of trained and accredited freelance field interpreters was created for language combinations pertinent to the situation in Cote d'Ivoire.

86. The Victims and Witnesses Unit (VWU) ensured the appearance of 32 witnesses and victims before the Court either at the seat of the Court or by means of video technology during the reporting period. These witnesses and victims were under the Unit's care for approximately 880 days - on average for 27 days per individual - and were provided with targeted support and protective measures based on individual assessments and needs outcomes.

87. The VWU also ensured the operational protection of around 730 individuals (witnesses, victims or other persons at risk) who were included into the Court's protection programme or benefiting from other indicated protective measures after risk and threat assessments. The VWU received 65 new applications for protection within the reporting period, which led to threat and risk assessments of more than 60 individuals taking also into consideration more than 300 dependants. In addition, the VWU conducted assessments for in-court protective measures, as well as post testimony assessments for all witnesses who appeared before the Court.

88. Witnesses who appeared before the Court as well as persons at risk within the protection programme, benefited from a close and highly individualized case management and psychosocial support network integrating both best practices from psychological as well as social care models. The provision of these services included psychosocial assessments for the purpose of the Protection Programme, psychosocial vulnerability assessments, and recommendations to the Judges on in-court special measures as well as management of

[3] http://www.un.org/en/ga/search/view_doc.asp?symbol=a/68/314.

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support referrals submitted by parties or participants. In this context, the VWU has provided psychosocial assessments and care approaches to 57 individuals. The provided services usually required repeated contacts.

89. The VWU filed around 75 reports or observations for the attention of the Chambers related to involvement/protection of witnesses and victims in different situations and cases including security analysis reports for more than 1700 victims.

90. The Victims Participation and Reparations Section (VPRS) conducted a total of 571 targeted activities in the field in situation related countries aimed at assisting victims to participate in the different phases of proceedings, and a total of 56 missions. The VPRS received 1,615 applications for participation and 1,566 applications for reparation in relation to the proceedings pending before the Court. In addition to processing applications, preparing memoranda for the transmission of applications and sending communications, the Section prepared 86 filings with the Chambers. The largest numbers relate to the cases arising from the situations in the Democratic Republic of the Congo (1253 requests for participation and 1173 requests for reparations) and Kenya (277 requests for participation and 305 requests for reparations), while smaller numbers relate to the situations in Côte d'Ivoire, Darfur, and Uganda.

91. The VPRS has continued its efforts to improve the efficiency of its procedures and to adapt to the various victim application systems that have been introduced by different Chambers. When invited to do so, it has made recommendations to Chambers as regards matters such as the development of simplified application forms and reporting procedures.

2. Detention matters

92. As of 15 September 2013 nine persons are detained in the Court's Detention Centre: one convict awaiting the Judgements on several appeals (Mr. Thomas Lubanga Dyilo), three accused persons (Mr. Germain Katanga, Mr. Jean-Pierre Bemba Gombo and Mr. Laurent Gbagbo), one suspect (Mr. Bosco Ntaganda who arrived on 23 March 2013) and three detained witnesses (in the Katanga and Ngudjolo case). On 18 October 2012 detained witness D-0019 (in the Lubanga case) was transferred back to the Democratic Republic of the Congo. On 21 December 2012 Mr. Mathieu Ngudjolo Chui, following his acquittal, was released from the Court's Detention Centre.

3. Support to counsel

93. The Registry's Counsel Support Section (CSS) continued to provide administrative and logistical support to all counsels and their team members actively intervening in proceedings before the Court, currently standing at 22 legal representatives for victims and 21 defence counsels. The Section also continued to devise, manage and implement all work related to the Court's legal aid system, including the management of the legal aid for defence counsels and victims legal representatives. In this context, the CSS produced a single policy document on the Court's legal aid system,[4] as mandated by the ASP,[5] as well as quarterly reports on the savings made due to the application of the changes introduced in the system in 2012.[6]

94. The Court currently provides legal aid to nine defence teams (excluding the Bemba Defence Team) and 12 teams of legal representatives for victims in nine different cases and continues to advance, pursuant to an order of the Chamber, the cost of legal assistance to an accused found not indigent by the Registrar.

[4] ICC-ASP/12/3.
[5] ICC-ASP/11/Res.1.
[6] ICC-ASP/12/2, CBF/21/2 and CBF/21/19.

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4. The Offices of Public Counsels

95. The Office of Public Counsel for Victims (OPCV) has been appointed as legal representative of around 3,000 victims in the different situations and cases before the Court. Moreover, the OTP has been appointed to represent victims in specific proceedings such as article 19 proceedings (latterly in the Gaddafi and in the Al-Senussi case), and in reparations proceedings to represent the interests of victims who have not submitted applications but who may fall within the scope of an order for collective reparations, as well as for applicants in the Lubanga appeal on reparations. In these latter cases, the number of victims to be represented is particularly high, since, in the first case, not only victims already authorised to participate in the proceedings can submit observations, but more generally "victims having communicated with the Court"; while, in the second case, victims may include a community of individuals. In the framework of the common legal representation, the OTP has been appointed as common legal representative in the Gbagbo case, and a member of the OPCV attends daily the trial in the Ruto case.

96. The OTP has provided support and assistance to 42 external legal representatives in all situations and cases before the Court through the provision of legal advice and research. In the period covered by this Report, the OPCV provided 500 such services.

97. The OPCD provided on-going and specialised legal research to 13 Defence teams: Lubanga, Bemba, Banda and Jerbo, Al Senussi, Ruto and Sang, Kenyatta, Gbagbo, Ngudjolo and Katanga, Ntaganda and Gaddafi. The OPCD also assisted the Bemba Defence team by following its trial via real transcripts.

98. The OPCD represented the rights of defence of Mr. Saif Gaddafi until 17 April 2013. After this period and the handover of the case to the new Counsel, the OTP provided legal assistance to this new team.

99. The OTP has provided intensive assistance to Kenya teams in connection with their trial preparation; the case manager of the OPCD was mandated by these teams to assist with the process of disclosure.

5. Public information and outreach

100. Aside the specific public information activities carried out by the OTP, the Court focused the public information and outreach efforts to make judicial proceedings public and accessible to audiences in the situation-related countries and global audiences.

101. The Outreach Programme continued its efforts in reaching out to those communities most affected by the cases before the Court. This is done during face-to-face meetings and through interactive radio and television programmes broadcasted in vernacular languages and via traditional means of communications such us town-hall style meetings. Operations with regard to the situations of Darfur, Libya and Central African Republic were drastically reduced due to security constraints, lack of key judicial developments or the relocation of resources to other situation countries. Priority has been given to countries with cases at trial stage such as Kenya and the Democratic Republic of the Congo.

102. In Kenya displaced population, women and men, that suffered during the post-election violence, were the main target groups, while continuing engaging with journalists, civil society organizations and legal communities. In DRC, with the purpose of managing communities expectations in connection with reparations of cases that are under appeal after judgment, outreach has been engaging mostly with child soldiers, women, members of armed forces and NGOs. Also, in compliance with a Court order, outreach launched a campaign to inform concerned populations of new modalities of collective participation for victims of new cases at the pre-trial stage. In Côte d'Ivoire, outreach sessions continued to be conducted by Hague-based staff, paying particular attention to promoting public understanding about the nature of the confirmation of charges hearing and the following steps in the process.

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103. In order to ensure that the general public in areas concerned had access to public hearings and to effectively bridge the Court with them, 100 videos were published receiving 244,000 views on the Court's YouTube Channel. Another 49 videos and 157 audio programmes were produced and distributed directly to the media reaching estimated audiences of 30 million in Kenya, 25 million in the DRC, 19 million in Uganda and 800,000 in the Central African Republic. These programmes were downloaded by media 343,145 times over the period January-September 2013.

104. While continuing conventional media activities to address international audiences, efforts focused on the opportunities of the internet and new media platforms. The Court's website (www.icc-cpi.int) that also serves as the platform for streaming all public hearings remains the most important public information tool, with 1,500,000 visitors during the reporting period, compared to 985,000 in the previous period. The Court's Twitter audience tripled during the reporting period, growing from 25,000 to almost 75,000 followers.

105. During the reporting period, the visibility of the Court also increased in national and international media. 138 press releases and other information materials were distributed to a mailing list of more than 5,500 journalists as well as other relevant stakeholders and 1034 interviews were conducted with Court's officials in the headquarters and in the field.

106. Besides the 5575 individuals that attended a public hearing, the Court was visited by an increased number of high-level visitors (59) and stakeholder groups (126). Contributing to further improve the understanding of the Court's work among the academia as well as the general public, information visits of 221 groups (4438 persons) were also organized.

107. The efforts of the Office of the Prosecutor, through its Public Information Unit (PIU), maintained focus on contributing to OTP strategic and operational goals, notably concerning public perception and understanding of OTP activities, positions and policy priorities. Attention to preventive impact (especially of preliminary examinations) also remains a priority. The OTP facilitated the filming of a documentary project with OTP focus, which is a work-in-progress. In addition to production of 36 OTP statements/releases, the Prosecutor's missions to situation countries included public information activities to maximise impacts, such as press conferences, town hall meetings, and major feature interviews. While the OTP plays a supporting role in outreach, communication to affected populations in situation countries is both an objective and inevitable concomitant of such missions and many of OTP's media interactions. The OTP conducted 178 selected media interventions - 'one-on-one' media interviews - through PIU. Of these, 60% were by the Prosecutor. 32% addressed global audiences through international media, and 34% focused on African media. Increased use of the PIDS audio-visual studio services has enhanced the distribution of OTP statements and information. As an example, the Prosecutor addressed questions through an international network of radio and TV outlets serving an audience of 15-20 million, throughout the Great Lakes Region of Africa. Within the agreed court-wide public information strategies, PIU looks at expanding its efforts aimed at achieving broader public understanding.

6. Field operations

108. During the reporting period, the Section coordinated the Court's field operations and advanced the field operational and strategic Standing Operating Procedures. Efficiency gains enabled an 18% increase in workload compared to the last reporting period. Further to the 2013 field review, six field presences were maintained. Efforts to ensure cost-effective management of field operations resulted in the redeployment of staff and non-staff resources to situation countries with greater operational needs, such as Côte d'Ivoire and DRC. A small field presence in Bamako was opened on 19 September 2013 further to a cost-effective feasibility study. Due to the volatile security situation in CAR, international staff was evacuated. Since December 2012, operations in the country are limited and subject to periodic review of security recommendations. Likewise, in preparation of elections in Kenya, pre-emptive movement of field staff was undertaken.

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7. Human resources

109. As at 31 August 2013, the Court employed 683 staff on established posts. Of these, 348 were professional posts. In order to streamline and harmonize the recruitment procedures within the Court, a guide and a series of training sessions for panel members and staff members on 'competency-based interviewing' were developed and held respectively. In the spirit of the inter-tribunal cooperation, many staff loan arrangements were facilitated between the Court and other tribunals/organizations.

110. Efforts to implement the automation projects including the new HR/Payroll and annual leave system within the Court have continued. Developments of the e-PAS and enhancement of the E-recruitment system have also been given considerable attention.

111. The development of a comprehensive human resources policy framework has continued. In accordance with the recommendations of the Assembly of States Parties, the Court implemented a reviewed and revised performance appraisal system. Staff with supervisory responsibilities participated in a related two-day workshops. Briefing sessions on the new performance appraisal system were also organized for all staff.

112. Improvements and adjustments were also made to the administration of benefits and entitlements in conformity with the United Nations common system for which several administrative issuances were promulgated.

113. Court-wide implementation of the Managerial Leadership Programme continued during 2013 and is scheduled for completion in 2014. Continuing focus remained on the health and welfare of the Court's field staff which included workshops, individual consultations and stress, resilience and trauma training for staff at field duty stations. In several situations, psychological assistance and critical incident aftercare was provided to staff members in the field and at headquarters.

8. Security and Safety Section

114. The Security and Safety Section continued to manage and ensure the security and safety of Court personnel, assets and information, both at the Headquarters and in the field. The section provided security and safety for Court proceedings and further supported video link testimonies in various locations in the field. During the reporting period the personal security certification (vetting) process was expanded to include all Court personnel and external persons, such as contractors, consultants and experts.

115. Outside of the Headquarters, the section ensured that all relevant security and safety risks to Court personnel, assets, information and premises were managed appropriately following the Court's protocols and relevant security and safety frameworks. During this period, the security environment in a number of situation countries deteriorated, necessitating the Court to restrict its activities in those locations.

116. The section has been actively involved in the Court's Permanent Premises project in order to ensure that all perquisites for security, safety and information security are in place during the design and construction phase of the project.

117. The section published a state of affairs report with regards to the Court's control over digital information, which was followed up by a plan of approach to allow the Court to further improve on this matter. Assessment criteria were established for third parties that process Court information and a service was provided to analysts and investigators to reduce their digital footprints on the internet. Various investigations were conducted and the section continues its permanent education program and general assessments of information security infrastructure and practices.

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9. Information and communication technologies

118. The ICT Section completed its Strategic Plan for 2013-2017 with a view to the permanent premises and is focused on ensuring all major investments will be reusable at the new location. It also maintained its level of service despite the unplanned increase in field activities. The ICT Section supported the implementation of the new Court's Payroll, HR upgrade project and the International Public Sector Accounting Standards (IPSAS) project. The new high volume of video link testimony was supported on the ground by using existing field staff rather than HQ staff, thereby significantly reducing travel costs for video link testimony. Along with other Registry Sections, it conducted assessment missions in Mali and Cote d'Ivoire for the proposed opening of field offices.

10. Budget and finance

119. The Budget and Finance section is overseeing the implementation of IPSAS in the current accounting and financial reporting process of the Court, which will allow the Court to move to full accrual accounting system. The implementation will result in a more centralized accounting strategy, improve the Court's decision making, increase control and enhance its strategic planning. The project will involve changes to the Court's current accounting system and customization of SAP system to allow the Court to produce IPSAS compliant financial statement as at 31 December 2014.

120. In parallel to IPSAS project, this section is implementing an NPO project which will allow the Court to automate the calculation of all statutory and non-statutory allowances and deductions for its employees. Once it is implemented the solution will improve and streamline the Court's staff administration and reporting.

11. Strategic planning

121. The Court's new Strategic Plan was noted by the ASP at its 11th session.[7] The Plan has been designed specifically to enable the Court to further improve its working methods by more closely linking the strategic planning, risk management and budget cycles. The plan contains a statement of the Court's mission, its strategic goals for 2013-2017 and its priority objectives for 2013 and 2014. The inclusion of expected results for each objective is a major 2013 improvement which will enable the Court to engage annually in a review of the link between the Plan and the budget through planned performance measurement. Though firmly rooted in the previous Strategic Plan, the current plan is designed to better address the Court's operational reality. The Court's Strategic Plan is a living document which the Court is constantly reviewing and improving and this regular review and improvement process is embedded in the Plan. Meanwhile, the Office of the Prosecutor worked on the finalisation of its (revised) strategic plan for 2012-2015, which is complementary to the Court's strategic plan and focuses in more detail on OTP-specific strategies.

12. Interim and permanent premises

122. Since the start of 2013, the Court is paying for rent and maintenance at its interim premises. Fifty per cent of this new financial obligation is paid by the Ministry of Foreign Affairs of the Kingdom of the Netherlands. Construction work continues well on the new permanent premises site, with all of the foundations, basement floors and walls constructed and the ground floor currently under construction. The project remains within budget and in accordance with its overall timeline for completion by September 2015.

[7] ICC/ASP/11/Res.8, para. 54.

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V. Elections and appointments

123. Mr. Herman von Hebel (The Netherlands) was elected on 8 March 2013 as the new Registrar for a five-year term. He was sworn in on 18 April 2013 and succeeds Ms. Silvana Arbia. Mr. James Stewart (Canada) was elected on 16 November 2012 as Deputy Prosecutor by the Assembly of States Parties for a nine-year term. He was sworn in on 8 March 2013.

124. Judge Anthony T. Carmona (Trinidad & Tobago) resigned from the Court effective 18 March 2013. An election to fill the vacant seat will be held at the twelfth session of the Assembly of States Parties.

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