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Hello my name is Eleni Chaitidou, and I will comment today, in my personal capacity, on article 2 of the Rome Statute. The International Criminal Court ('the ICC') is an independent judicial institution established on the basis of a multilateral treaty, the Rome Statute, to which, to date, 124 States have consented. The ICC is not an integral part of the United Nations, as is the case for the International Court of Justice, the principal judicial organ of the United Nations. Rather, it remains outside of the United Nations family.

Two major considerations may be said to have militated in favour of bringing the ICC closer to the United Nations ('the UN'). First, the Court's mandate overlaps to some degree with the functions of the United Nations, namely the observance of and respect for human rights and fundamental freedoms for all. Second, the founding fathers of the ICC opined that bringing the ICC closer to the UN would safeguard the Court's legitimacy and increase its acceptance. Article 2 instructs that this be achieved through an agreement that must be approved by the Assembly of States Parties to the Rome Statute ('the ASP') and concluded by the President of the ICC on its behalf.

The Rome Statute already contains several provisions that establish or presuppose a relationship between the Court and the UN. Allow me to mention, for example, the Security Council's prerogative to refer a situation to the Court, acting under Chapter VII of the UN Charter, pursuant to article 13 (b), to request the deferral of an investigation or prosecution under article 16, and its entitlement to be informed by a competent Chamber of any failure of cooperation of States where the Security Council referred the situation to the ICC, pursuant to article 87, paragraph 5 (b) or article 87, paragraph 7. There is also article 115 (b), according to which funds for the expenses of the Court incurred due to referrals by the Security Council may be provided by the UN, subject to the approval of the General Assembly. Following article 87, paragraph 6, the Court may ask any intergovernmental organization, hence, also the UN, to provide information or documents or "other forms of cooperation and assistance which may be agreed upon with such an organization". And finally, according to article 119, the ASP may seek to settle any dispute between two or more States relating to the interpretation or application of the Statute and refer the matter to the International Court of Justice.

How can those functions be executed on a very practical, technical level? To this end, the Relationship Agreement would provide guidance.

After the Rome Conference, the Preparatory Commission prepared and adopted the Draft Relationship Agreement on 5 October 2001. After the entry into force of the Rome Statute, on 1 July 2002, the ASP approved the Draft Relationship Agreement at its first session on the 9 September 2002. Following consultations with the UN, including some further amendments to the text, the Negotiated Relationship Agreement was finally approved by the ASP. On 4 October 2004, the Secretary-General of the UN, back then, Kofi Annan, and then President of the Court, Judge Philippe Kirsch, signed the Negotiated Agreement, thus bringing into relationship the two institutions.

The Negotiated Relationship Agreement is divided into four parts:

1. The First Part consists of general provisions relating to the purpose of the agreement and the principles underpinning the relationship. Most importantly, both institutions agree that they shall cooperate closely whenever appropriate on matters of mutual interest.
2. The Second Part contains several provisions establishing the institutional relations. It addresses issues such as the reciprocal representation at sessions or hearings; the exchange of information and documents of mutual interest, also with a view to avoiding duplication; personnel and human resources arrangements; administrative cooperation regarding the efficient use of facilities, staff, and services; the provision of services and facilities on a reimbursable basis; the provision of UN *laissez-passer* as travel document; and access to the UN headquarters in New York. Allow me to draw your attention to article 6 of the Agreement, which provides the basis for the Court's practice to submit annually a report on its activities to the General Assembly of the United Nations. The UN and the Court also consult and cooperate on issues regarding employment and staffing issues, pursuant to article 8 of the Agreement. As a consequence, many of the ICC Staff Rules and Regulations, including the salary system, mirror to some extent the employment conditions for UN staff.
3. The Third Part encompasses provisions regarding the cooperation and judicial assistance between the UN and the ICC. This part addresses some very important aspects of cooperation that are vital for the Court's operation, such as the provision of information and documents, if need be with appropriate measures of protection, such as redactions; the appearance of UN officials as witnesses in ICC proceedings, as was the case, for example, at the confirmation hearing in the *Lubanga* case; the communication channel between the Security Council of the UN and the ICC; arrangements between the UN and the ICC Prosecutor in order for the latter to conduct the investigation; and the waiver of privileges and immunities for UN staff or others working for the UN suspected of having committed any of the crimes listed under article 5 of the Rome Statute.
4. The Fourth Part contains the final provisions of the Negotiated Relationship Agreement dealing with the supplementary arrangements for the implementation of the Agreement, amendments to it, and its entry into force.

As we have seen, the Negotiated Relationship Agreement is vital in ensuring the smooth, efficient, and effective day-to-day cooperation and communication between the two institutions. Considering that the Statute contains the substantive provisions that establish rights, entitlements or duties of the respective institutions, the Negotiated Relationship Agreement provides the practical and technical framework which the two institutions interact.