



The Office of the Prosecutor

Prosecutorial Strategy

2009 - 2012

DRAFT

SUBJECT TO CHANGE AFTER CONSULTATIONS

**18 August 2009
The Hague**

Executive Summary

1. In accordance with the Prosecutorial Strategy presented for 2006-2009, over the last three years the Office of the Prosecutor monitored situations on four continents, carried out investigative activities in four situations and eight cases, and started the first trial, the *Prosecutor v. Thomas Lubanga Dyilo*. At the same time, the Regulations of the Office of the Prosecutor, defining the structure and functioning of the Office, were issued; the main policies on the selection of cases, positive complementarity, gravity, interests of justice, focused investigations and prosecutions, victims, human resources and management were consolidated; and the recruitment rate has been stabilised at 97 %.

2. The Prosecutorial Strategy for 2009-2012 remains based on the three principles defined in the previous Prosecutorial Strategy for 2006-2009, – positive complementarity, focussed investigations and prosecutions, and maximizing the impact of its work. The Prosecutorial Strategy for 2009-2012 establishes five interrelated objectives:

- a) **Further improve the quality of prosecutions, completing three trials, starting at least one new trial and efficiently litigating in appellate proceedings;**
- b) **Continue seven ongoing investigations and conduct up to four new investigations in current or new situations and to be ready to start another investigation at all times;**
- c) **Conduct up to ten preliminary examinations in current or new situations;**
- d) **Continue to improve cooperation with States and relevant actors, in particular to execute the arrest warrants issued by the Court;**
- e) **Maximize the Office of the Prosecutor’s contribution to the fight against impunity and the prevention of future crimes.**

3. The objectives of the Office of the Prosecutor align with the ICC strategic goals, contributing to the Court-wide strategic planning. The Court has adopted a “One-Court” approach in its Strategic Plan, encouraging the interdependence between individual organs of the Court while respecting the independence of the Office of the Prosecutor.

4. The Office of the Prosecutor will continue to move forward towards greater cooperation and communication with our diversified partners. The aim is to jointly enhance the goals of international justice, while respecting each other’s mandate and independence. The involvement and support of our partners can

maximize the impact of the Office of the Prosecutor's work at the local, national, regional and international levels and thus contribute to the prevention of future crimes. Specifically, the Office of the Prosecutor aims to work with a variety of actors, including:

a) **States**, in:

- i. Ensuring that the Court's mandate and activities are "streamlined", taken into consideration in the policies and practices of different Ministries and Departments;
- ii. Promoting national proceedings through, *inter alia*, interaction with law enforcement agencies;
- iii. Promoting efforts to arrest individuals subject to an arrest warrant issued by the Court;
- iv. Supporting activities related to victims, witnesses and communities affected by the crimes under the Statute.

b) **International, regional, thematic and judicial organizations** such as the United Nations ("UN"), the European Union ("EU"), the African Union ("AU"), the League of Arab States ("LAS"), the Association of Southeast Asian Nations ("ASEAN"), the Organization of American States ("OAS"), the Organization of the Islamic Conference ("OIC"), INTERPOL, other courts and tribunals, the International Development Law Organization ("IDLO"), the *Organisation Internationale de la Francophonie* ("OIF") and many others.

c) **NGOs**, in:

- i. Contributing to the preliminary examinations, investigations and prosecutions;
- ii. Promoting national activities to end impunity and prevent future crimes;
- iii. Securing the cooperation of States and international organizations with the Court;
- iv. Helping to communicate the work of the Office of the Prosecutor to different audiences.

d) **Victims and victims' representatives**, in further developing Court-wide policies on participation and protection of victims and learning from the practices of the Court.

e) **External experts**, such as academics and policy institutes, in developing

the legal and administrative framework for the full implementation of the Rome Statute and providing advice on specific projects.

- f) **Actors involved in educational projects**, such as States, academics, policy institutes, teachers and students in integrating the issues related to the Court as part of education at all levels.
- g) **Foundations**, which can support international criminal justice activities.
- h) **Media**, in promoting understanding of the Court.

5. The Office of the Prosecutor will also continue to participate in the **Court's work on performance indicators**.

Part II: The Objectives for the Coming Three Years

Objective I: Prosecutions

6. The first objective is to **further improve the quality of prosecutions, completing three trials** (*The Prosecutor v. Thomas Lubanga Dyilo*, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, and *The Prosecutor v. Jean-Pierre Bemba*), **starting at least one new trial and efficiently litigating in appellate proceedings**.

7. The length of trials remains subject to the judges' decisions, as well as the defence and legal representatives' strategies and considerations for the security of witnesses.

8. The Office of the Prosecutor seeks to further improve the quality of its prosecutorial work by:

- a) Refining the quality of its evidence and reducing the time needed to present it. The Office will ensure that the processes of analysis, filing and disclosure of evidence are optimized and conducted in a standardized fashion. The goal of the Office of the Prosecutor is to present its evidence at trial in a period of 100 court working days;
- b) Improving legal submissions on the increasingly complex substantive and procedural issues arising in cases; promoting the development of jurisprudence that fully respects the Rome Statute and the legitimate interest of all parties and participants;
- c) Continuing to refine the performance of the Prosecution's teams at trial and appeal through review of practices and training related to

questioning witnesses, presenting evidence, and making opening statements and closing arguments.

9. The Office of the Prosecutor is completing an operations manual and a series of policy papers that together will reflect the Office of the Prosecutor's positions on procedural and legal questions and promote consistency in all its cases.

10. The Office of the Prosecutor foresees that the main legal issues during the coming three years will include:

- a) The specific mandates and responsibilities of the organs of the Court, such as the role of VWU and its relation with the OTP or the ability of the Trial Chamber to add or modify charges;
- b) The duty to protect witnesses, victims and third parties/intermediaries at risk on account of the Court's activities;
- c) The Court's jurisdictional regime, including the elements and scope of the principle of complementarity;
- d) Outstanding procedural matters that still require clarification, including issues related to the conduct of trial;
- e) The elements of different crimes included in the Office's charging documents, including gender crimes and crimes against children;
- f) Modes of liability.

Objective II: Investigations

11. The second objective is **to continue seven ongoing investigations, conduct up to four new investigations in current or new situations and to be ready to start another investigation at all times.**

12. The Office of the Prosecutor will continue to conduct investigative activities regarding the four ongoing situations. It foresees:

- a) Opening up to four new investigations;
- b) Completing six ongoing or residual investigations in cases where arrest warrants or summonses to appear have already been issued, namely, Joseph Kony *et al*, Katanga/Ngudjolo Chui, Harun/Kushayb, Jean-Pierre Bemba, Omar Al-Bashir, Abu Garda *et al*; and
- c) Completing the investigation in the Kivus in the DRC.

13. Should the Office of the Prosecutor decide to open an additional investigation, it will be able to do so at any time by relying on the contingency fund

for the first year of investigation.

14. The Rome Statute limits the Court's jurisdiction to the most serious crimes of concern to the international community as a whole and requires the Office of the Prosecutor to take into account the gravity of the crime when making a decision on the initiation of investigations. In accordance with this statutory scheme, the Office of the Prosecutor adopted and consolidated a policy to investigate and prosecute those who bear the greatest responsibility for the most serious crimes, based on the evidence that emerges in the course of an investigation. First and foremost, the Office of the Prosecutor will select for prosecution those situated at the highest echelons of responsibility, including those who ordered, financed, or organised the alleged crimes.

15. If the Office of the Prosecutor does not deal with a particular individual, it does not mean that immunity is thereby granted. National measures against other offenders continue to be encouraged. Accordingly, the Office of the Prosecutor makes particular efforts to support national authorities' initiatives to investigate allegations of crimes that would not meet the criteria for opening an ICC investigation.

16. The policy of focused investigations also means that cases inside a situation are selected according to gravity, taking into account factors such as the scale, the nature, the manner of commission, as well as the impact of the alleged crimes. In accordance with its policy, the Office of the Prosecutor selects a limited number of incidents and as few witnesses as possible are called to testify. This allows the Office to carry out short investigations and propose expeditious trials while aiming to represent the entire range of criminality. In principle, incidents will be selected to provide a sample that is reflective of the gravest incidents and the main types of victimization. The approach used in the selection of incidents and charges is one of the measures taken to address the security challenge. Finally, it is part of this policy to request arrest warrants or summons to appear only when a case is nearly trial-ready in order to facilitate the expeditiousness of the judicial proceedings.

17. The Office of the Prosecutor pays particular attention to crimes committed against children, as well as crimes involving sexual or gender violence and takes extra steps to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses when investigating these crimes.

18. The Office of the Prosecutor will continue to improve the quality of its work

by:

- a) Increasing reliance on new types of evidence, in particular financial information to prove the responsibility of those most responsible and to assist in the victims' reparations scheme;
- b) Reducing reliance on confidential information, developing an approach whereby the Office initially screens the documents for relevance. The goal is to be highly efficient in the collection of information;
- c) Developing a network of national law enforcement agencies conducting national investigations on individuals committing Rome Statute crimes; and
- d) Ensuring a consistent approach to investigations and training its personnel.

Objective III: Preliminary Examinations

19. The third objective is **to conduct up to 10 preliminary examinations in current or new situations.**

20. According to the Statute, States Parties have the primary responsibility for preventing and punishing crimes under the Statute in their own territories or by their nationals. In this design, intervention by the Office of the Prosecutor must be exceptional – it will only step in when States fail to conduct genuine investigations and prosecutions.

21. Under Article 15 of the Statute, the Office of the Prosecutor proactively monitors and analyses information on alleged crimes under the Statute committed by State Party nationals or on the territory of States Parties. The purpose of preliminary examinations is to determine whether or not to open an investigation in accordance with statutory requirements. The same criteria and standards are applied to all situations in making such determinations.

22. The Office of the Prosecutor will continue to monitor ten situations, including six which have been made public (Afghanistan, Colombia, Côte d'Ivoire, Kenya, Georgia and Palestine). The Office has not made a decision as to whether or not to open an investigation into these situations currently under preliminary examination.

23. A Court based on the principle of complementarity ensures respect for the international rule of law by creating an inter-dependent, mutually reinforcing

international system of justice. With this in mind, the Office of the Prosecutor has adopted and consolidated a positive approach to complementarity, meaning that it encourages genuine national proceedings where possible in particular during the preliminary examination phase.

24. The Office of the Prosecutor will continue its policy of disseminating crucial information – such as the decision to monitor crimes committed in a specific State Party or by nationals thereof – so that they can be factored in by all States and their relevant departments within national public administrations, thus allowing those actors to also encourage national proceedings during this preliminary phase.

25. The Office of the Prosecutor will continue to improve the quality of its work at the preliminary examination phase by:

a) Increasing its interaction with States, international organisations and NGOs to collect information concerning alleged crimes under the jurisdiction of the Court and encourage national proceedings; and

b) Increasing its reactivity to upsurges of violence potentially falling within the jurisdiction of the Court in order to promote timely accountability efforts at the national level and to maximize the preventative impact of its work.

Objective IV: Cooperation

26. The fourth objective is **to continue to improve cooperation with States and relevant actors, in particular to execute the arrest warrants issued by the Court.**

27. In order to fulfil its mandate to galvanize national efforts to arrest individuals subject to an arrest warrant issued by the Court, the Office of the Prosecutor will, bilaterally or publicly as appropriate, highlight the kinds of cooperation that are needed and expected: it will do so through diplomatic briefings, *ad hoc* briefings to the UN or regional organisations, and daily interaction of its Jurisdiction, Complementarity and Cooperation Division (“JCCD”) with external stakeholders.

28. In the [Report of the Bureau on Cooperation](#) adopted by the Assembly of States Parties (“ASP”) on 19 October 2007, States Parties have drawn up their plan of action to respond to requests for cooperation by the Court, including the Office of the Prosecutor. The Office of the Prosecutor will seek to facilitate the effective implementation of commitments and recommendations contained in the Bureau’s Report. In particular, it will seek to ensure that States include

support for the Court as a policy to be implemented throughout their Ministries and Departments (legal departments, but also UN departments, regional departments, development departments, etc.), consistent with Cluster 2 of the Bureau's Report. For this purpose, the Office of the Prosecutor will enhance its interaction with focal points within diverse departments.

29. The Office of the Prosecutor will also work towards ensuring that Court-related issues be mainstreamed within regional and international organizations.

30. The present Prosecutorial Strategy aims to clarify the Office of the Prosecutor's needs in order to assist stakeholders in drawing up their own plans for cooperation with the Court and the Office.

a. States

31. The Office of the Prosecutor will continue to develop channels of communication with States Parties and non-States Parties, in order to increase awareness of its work and to enhance all forms of international cooperation and judicial assistance, as established in Part IX of the Rome Statute. As a priority, efforts will be made to secure better responses when the Office of the Prosecutor requests emergency visas for witnesses or third parties for the purpose of conducting screenings and interviews.

32. A Request for Assistance database allows the Office of the Prosecutor to follow up on requests, aiming at ensuring a timely response.

33. It is important that States Parties ensure the enforcement of the Court's decisions, including the arrest and surrender of individuals subject to an arrest warrant issued by the Court in all situations. The Office of the Prosecutor will seek to further disseminate its guidelines in this regard:

a) States Parties should eliminate non-essential contacts with individuals subject to an arrest warrant issued by the Court. When contacts are necessary, attempts should be made first to interact with individuals not subject to an arrest warrant issued by the Court;

b) In bilateral and multilateral meetings, States Parties should proactively express their support to the enforcement of the Court's decisions, request cooperation with the Court, and demand that crimes, if ongoing, cease immediately;

c) States Parties should contribute to the marginalization of fugitives and take steps to prevent the diversion of aid and funds meant for humanitarian

purposes or peace talks for the benefit of persons subject to an arrest warrant issued by the Court; and

d) States Parties should make collaborative efforts to plan and execute arrests of individuals subject to an arrest warrant issued by the Court, including by providing operational or financial support to countries willing to conduct such operations but lacking the capacity to do so.

34. The Office of the Prosecutor will contribute to the stocktaking exercise at the Review Conference, focusing on the Rome Statute system as a whole, including the role of the Court, the role of national courts in accordance with the principle of complementarity, and cooperation of States and international organizations with the Court.

b. International, regional and thematic organizations

35. The Office of the Prosecutor will build upon the relevant recommendations contained in the aforementioned Bureau's Report. To that end, it has designated focal points within the Office for international, regional and thematic organizations (such as the UN, the EU, the AU, the LAS, the ASEAN, the OAS, the OIC and INTERPOL, amongst others), and has encouraged these organizations to do the same within their structures, so as to formalize channels of communication and enhance cooperation with the Court and the Office.

36. Where necessary, the Office of the Prosecutor will continue to encourage international organizations to enter into specific cooperation agreements and arrangements with the Office.

37. The Office of the Prosecutor will continue to arrange and encourage regular high-level and working-level meetings with, and visits to, international organizations in order to maximize the understanding of its work and to ensure its predictability and transparency, building upon the important work of the UN and [AU] Liaison Offices in New York [and Addis Ababa].

Objective V: Maximizing the impact of the work of the Office of the Prosecutor

38. The fifth objective is **to maximize the Office of the Prosecutor's contribution to the fight against impunity and the prevention of future crimes**, by:

- a) Further completing and disseminating policies of the Office internally and externally in order to increase efficiency, quality and transparency in the Office; and

- b) Increasing interaction with a variety of external actors: governmental, such as States and international and regional organizations; judicial, such as other Courts; and non-governmental, such as affected communities, victims' associations, NGOs, experts, academics, policy institutes, student networks, foundations and media, in order to establish a comprehensive network of external actors in support of international justice.

39. Since 2003, the Office of the Prosecutor has developed internal policies and practices in a range of areas, including the selection of cases, gravity, interests of justice, focused investigations and prosecutions, positive complementarity, victims and management.

40. In order to enhance performance and respond to concerns expressed by staff, the Office will focus on transforming the policies into clear operational guidelines ensuring clarity of responsibilities, reporting lines, and performance evaluation. The Office's Regulations were issued on 23 April 2009 and will be the foundation of such a process. As a next step, the Office is producing an Operational Manual, which consolidates the Office's best practices and policies developed and used by various teams, divisions and sections in a variety of areas. The first draft of the Manual is to be completed and disseminated to all staff by the end of 2009.

41. The Office of the Prosecutor will also complete and/or further publicize its policy papers to address key issues, including:

- a) The interests of justice;
- b) Selection of cases/gravity;
- c) Positive complementarity;
- d) Victims' participation;
- e) Victims'/witnesses' protection;
- f) Sexual/gender crimes; and
- g) Organizational issues, such as General Temporary Assistance, career development and training of staff.

42. The Office of the Prosecutor will also contribute to the efforts to develop the Court's corporate governance model, designed to provide clarity on the roles of the different organs of the Court. As the relationship with other organs plays an important role in the work of Office of the Prosecutor, the Office will continue to strive for maximum coordination with other organs, while ensuring respect for

the independence of the Office and the neutrality of the Registry. In particular, for those areas where the Office primarily relies on the Registry's services and other areas which fall within the mandate of the Registry, the Office shall seek to reach a common understanding of the services to be provided, in order to foster cost-efficient use of resources, timely planning of requests for services and effective implementation of such requests.

43. The Office of the Prosecutor also relies on logistical, security and other technical services provided by field offices for its investigations and expects similar support in accordance with agreed procedures as were provided during the past years.

44. The Office of the Prosecutor intends to identify in a more systematic manner the potential deterrent impact of its activities, starting as early as at the preliminary examination phase. This will require frequent consultations with an expanding set of interlocutors.

45. Different networks of support can come together and build a comprehensive framework to promote international justice and prevent future crimes:

a. Sharing the Office of the Prosecutor's work with national police authorities, prosecutors and other law enforcement experts

46. In addition to the existing networks referred to in Objective IV, the Office of the Prosecutor will develop its network of law enforcement agencies ("LEN"). After meetings to exchange experience with war crime units and chiefs of police from around the world, the Office of the Prosecutor has started a project with interested national law enforcement officials – including from situation countries – and INTERPOL to define concrete investigations and projects that could be undertaken to mutually support our efforts against crimes under the Statute.

47. The LEN network will allow the Office of the Prosecutor to form networks with different partners, while at the same time providing a platform for enhanced communication and collaboration among these partners.

48. The Office of the Prosecutor will also continue its engagement with specialized institutes, national authorities and existing cooperation networks in the field of financial investigations so as to enhance the Office's expertise and ability to respond promptly, which is necessary for such investigations.

b. Developing partnerships with international, regional, thematic and judicial organizations

49. The Office of the Prosecutor will continue to focus its collaboration with international, regional, thematic and judicial organizations on shared jurisprudence, common messages, crime prevention and the development of early warning systems.

50. The Office of the Prosecutor will continue to learn from the experiences of other courts and tribunals, both in terms of procedural and substantive issues, as well as in terms of issues related to logistics and cooperation.

51. The Office of the Prosecutor will cooperate with thematic organizations, such as IDLO, the Commonwealth Secretariat and OIF, which may want to include OTP-related issues in their trainings.

c. Enhancing cooperation with NGOs

52. Within civil society, NGOs working in the connected areas of human rights, justice, victims, children and gender-related issues are privileged and specific partners of the Office of the Prosecutor.

53. The Office of the Prosecutor will continue to interact both with local NGOs in situation countries under preliminary examination or investigation and in States Parties, as well as with international NGOs. The Office of the Prosecutor benefits from their insight and their advocacy. None of the Office of the Prosecutor's objectives could be met without this permanent interaction with NGOs at all stages of its activities: development of policies and practices, crime prevention, promotion of national proceedings, monitoring, preliminary examinations, investigations, prosecutions, cooperation, and efforts to maximize the impact of its work and promote its understanding by victims and affected communities.

54. The Office of the Prosecutor will continue to organize regular meetings with NGO representatives, including through the bi-annual roundtable which takes place at the Court's headquarters, with the assistance of the Coalition for the ICC ("CICC"), in order to exchange information and try to harmonize strategies.

55. The Office of the Prosecutor will continue to work with NGOs towards the prevention of crimes and promotion of national accountability, through:

i. Exchanging and using public information in relation to the analysis, investigations and prosecutions

56. The Office of the Prosecutor implements its mandate independently and with full respect for the mandate of NGOs, in particular humanitarian organizations active in conflict areas where the Office investigates.

57. The Office recognises that providing information or testimony to the Court may raise issues for NGOs, including confidentiality of information and security of their staff in the field. It can also create difficulties for the proceedings in Court, particularly in relation to the disclosure process. Accordingly, the Office of the Prosecutor does not seek information from humanitarian organizations and tries to avoid reliance on testimony by NGO experts at trial.

58. Where appropriate, the Office will rely in its analysis on public reports by NGOs which give general background information on alleged crimes committed and the groups involved, provided that the public referencing of such reports would not represent security problems for our partners.

59. The Office of the Prosecutor will continue to publicize its own monitoring activities so as to allow NGOs to maximize the impact of the Court as a deterrence tool, as a way to alert the international and regional bodies on the need for action, and as a catalyst for national proceedings. This includes making public the commencement of the preliminary examination of a situation at the earliest possible stage through press releases, high level visits and Office of the Prosecutor fact-sheets. Statistics on communications received under Article 15, while being only one indicator used by the Office of the Prosecutor, will also be disseminated as appropriate. Such information could be fed into impunity indexes developed by third parties.

60. Protection of victims and witnesses is a legal duty of the Office of the Prosecutor. It will work with NGOs bilaterally and in the context of Court-wide efforts to guarantee the safety of all those who are put at risk on account of their interaction with the Court.

ii. Promoting national activities

61. The preliminary examination phase offers the most promising, or at a minimum, the first opportunity for the Office to serve as a catalyst for the initiation of national proceedings. The Office of the Prosecutor cannot be the adviser to national jurisdictions, as it would risk tainting future proceedings. But

it can speak out, send missions, and request information from national governments. Such requests, as well as the responses or lack thereof, can be made public (for example in diplomatic briefings and in the Prosecutor's speeches to the ASP) where appropriate.

62. The Office will work more intensively with NGOs that could utilize such information for their advocacy work and explain that the ICC's intervention requires more, not less, national efforts to promote accountability and reduce the impunity culture. NGOs may also be influential with development and financial institutions, in order to intensify cooperation programmes. The UN Peace Building Commission could be one avenue to pursue such complementary efforts, ensuring that the international donor communities adopt a policy of engagement in favour of justice efforts, not disengagement, while ensuring at the same time that such efforts seek to complement the ICC, instead of promoting ambiguous "alternative solutions" or encouraging "Court shopping".

63. Based on exchanges with NGOs, the Office of the Prosecutor will further develop its positive approach to complementarity in practice through, *inter alia*: (1) calling situation country experts and lawyers to participate in investigative activities taking into account the need for their protection; (2) inviting situation country experts to participate in the Law Enforcement Network Project; (3) further disseminating the Office's policy of providing information to national judiciaries upon request, subject to victims and witnesses protection and other caveats; and (4) providing information about the judicial work of the Office to those involved in political mediations. The Kenya situation is illustrative in this regard, where the Office informed the Chair of the AU Panel of Eminent African Personalities, Kofi Annan, the Kenyan Government and civil society, of the Office's duties, practices and plans so as to ensure that there will be no impunity for any alleged crimes under the jurisdiction of the Court.

64. In the implementation of such practices, NGOs are well placed to help address the lack of security for the judiciary and the witnesses, as well as political interference, which are the obstacles to national proceedings in most cases.

iii. Securing cooperation from States and international organizations

65. The Office of the Prosecutor has made clear that in order to secure the cooperation of States and other stakeholders; it will use a variety of means: bilateral negotiations, public information activities, or referral of cases of non-cooperation to competent bodies.

66. NGOs have been helpful in assisting the Office of the Prosecutor to measure the extent of diplomatic support through compilations of the statements made by States' representatives in relation to the ICC, whether generally or situation-related, in the UN General Assembly ("UNGA"). This synthesis of public information has allowed the Office of the Prosecutor to better develop and manage a network of cooperation. NGOs' acknowledgment of positive statements has strengthened the willingness of supportive States to continue expressing their support for the ICC. The development of systemic compilations of statements and reactions is useful in securing more cooperation from States and international organisations.

67. NGOs have also developed actions and programmes in order to galvanize efforts for the arrest and surrender of individuals subject to an arrest warrant issued by the Court. The Office will continue to provide civil society with information to support such programmes, subject to confidentiality and other requirements.

iv. Helping to communicate the work of the Office of the Prosecutor and the ICC to different audiences

68. The Office of the Prosecutor endeavours to produce press releases, fact-sheets, and background documents on situations and cases, so that NGOs can use the information contained therein to further their campaigns and interactions with States and international organizations in support of the Court.

69. NGOs also fulfil an important function by ensuring the dissemination of accurate information on frequently asked questions related to the work of the Office. This includes, for example: that the decision whether or not to open an investigation under Article 15 of the Statute is taken by the Court and that no other entity can in any way influence this judicial process; that the submission to the Office of the Prosecutor of information on alleged crimes pursuant to Article 15 is not a referral and does not trigger an investigation *per se*; that referrals by a State or by the UN Security Council ("UNSC") do not bind the Office of the Prosecutor in its selection of cases; that self or voluntary referrals, referrals of one party to a conflict against another or referrals by a political body (UNSC) do not affect the independence and impartiality of the Office of the Prosecutor.

70. Through programmes on the work of the Court and the ongoing situations and cases, NGOs contribute to maximizing the impact of the Court's activities. Each case can reverberate in terms of prevention, empowerment of victims'

groups (such as women), and recognition of an activity as an international crime (child recruitment). NGOs can encourage other external partners (international and regional organizations) to take into account the contribution of the Office of the Prosecutor in terms of international justice and accountability. NGOs' awareness and advocacy activities, either situation-related or theme-related (i.e. immunities, irrelevance of voluntariness with regard to the crime of recruitment of child soldiers, sexual and gender crimes, etc.) are crucial.

71. The Office of the Prosecutor will work, as a matter of priority, on further communication and dissemination of information relating to its activities so as to facilitate the advocacy work of NGOs.

d. Developing the Office's interaction with victims and victims' representatives

72. The Office's work must be relevant to the victims, the directly affected communities, and more broadly to all the relevant communities in order to foster reconciliation and deter future crimes. Field activities such as visits to situation countries by senior officials of the Office – the Prosecutor and the Deputy Prosecutor – are designed to include town hall meetings with victims and meetings with key actors such as women's associations, community leaders, and "*chefs de quartiers*". When organising such activities, the Office will take particular care in ensuring that those involved will not be exposed to security risks.

e. Involving external experts

73. *Advisory Council*: the Office of the Prosecutor will continue to appoint advisers in accordance with Article 42(9) of the Statute in different fields of expertise: Professor Catherine Mackinnon has been appointed as Special Gender Adviser, and Juan E. Méndez has been appointed as Special Adviser on Crime Prevention. The Office of the Prosecutor will appoint other experts as advisers. They will advise the Office on its policies and practices, specific projects, and legal submissions. They will also advise on the further development of expertise of the Office's staff, and evaluate the performance of the Office of the Prosecutor in their respective field of expertise.

74. A periodic meeting of the Advisory Council will be held with the Executive Committee ("ExCom") of the Office of the Prosecutor.

75. *Forensics*: the Office of the Prosecutor will maintain and expand the broad network which has been developed since 2004, providing a roster of individual experts, associations and state agencies.

76. *Justice Rapid Reaction*: the Office of the Prosecutor will continue to interact with, and contribute to, this initiative by some States to compile a roster of experts who would be available to assist with the investigation of these crimes upon request by a State facing massive crimes.

77. *Victims' rights*: the Office of the Prosecutor will continue to work with external actors with regard to sexual and gender crimes, and to constantly update as appropriate its investigative and prosecutorial techniques.

f. Promoting Court-related Educational projects

78. In accordance with the Rome Statute, the mandate of the ICC is to “put an end to impunity for the perpetrators of the most serious crimes of concern to the international community and thus to contribute to the prevention of such crimes”. The preventative impact of the Court’s work can be maximized if the issues are studied and discussed at the primary, secondary and university levels, not only in affected communities, but world-wide.

79. In order to prevent future crimes and violence, it is important that politicians, negotiators, members of the police and the military, and various other professionals be educated about the activities and decisions of the Court. States should also ensure that the concepts of genocide, war crimes, and crimes against humanity, and the international response to these depredations, become an integral part of teacher training and education at all levels. Primary and high school students should learn about the fate of child soldiers and the work of the Court generally.

80. The upcoming completion of the Court’s first trial will provide an opportunity to maximize the preventative impact of the Court’s judicial activities. The Office of the Prosecutor will approach States Parties to inquire about efforts they have made to educate their citizenry and, in particular, their youth about international criminal justice, including the Court. The Office of the Prosecutor will also be prepared to provide States Parties with information concerning relevant programs and organizations to encourage their collaboration. To that end, the Office of the Prosecutor has already begun efforts to identify appropriate educational activities.

81. As a next step, the Office of the Prosecutor will encourage States to include in their formal curricula issues related to the Rome Statute’s system. The Office will support such efforts through publication of its policies and practices, support for specific curricula and connecting professors and educators from different regions. The Office of the Prosecutor has paid particular attention to its

relationship with student networks and it will increase such efforts.

82. These educational efforts will be aimed at, *inter alia*, law, international relations, anthropology, sociology, psychology, development security, forensics, human rights and political science. Academic experts, student networks and policy institutes from all over the world will be included.

g. Furthering work with Foundations

83. The Office of the Prosecutor will continue to work with institutions that can bring support to international criminal justice. These foundations play a critical role through financing programmes and other groups, empowering local communities and allowing them to be heard; but also through organizing high level meetings and conferences with key stakeholders, lobbying States and international/regional organizations, and developing networks.

h. Engaging further with Media

84. The Office of the Prosecutor will engage local, national and international media partners in a consistent manner through its background documents, fact-sheets, OTP press releases and use of the Office's webpage, relying on the Registry services.

85. The Office of the Prosecutor will support the production of documentaries on its work and involve opinion shapers and prominent members of the international community (international leaders, intellectuals, etc.) who can contribute to explaining its activities.

86. The Office of the Prosecutor will continue to contribute to the development and implementation of a Court-wide external communication strategy.

Part III: Evaluation

87. The Office of the Prosecutor will continue to participate in the Court's work on performance indicators.

88. Measuring the performance of the Office of the Prosecutor in helping to end the culture of impunity and in contributing to the prevention of crimes under the Court's jurisdiction is a complex task that requires an evaluation of the entire Rome system.

89. Under the system of complementarity, much of the work done towards achieving the goals of the Statute may take place in national systems around the

world. Thus, the number of cases that reach the Court is not a decisive measure of effectiveness. Increasing numbers of genuine investigations and prosecutions of crimes under the Statute at the national level may well illustrate the successful functioning of the Rome system as a whole. The performance of the Office of the Prosecutor has to be evaluated as a part of this system.

90. A system to measure the impact of the Rome system is difficult to develop. However, the creation of performance indicators remains important in order to align expectations and to ensure appropriate allocation of resources. The Office will prepare a short list of indicators to evaluate its activities.