



Judge Sang-Hyun Song
President of the International Criminal Court

Remarks to the 21st Diplomatic Briefing

The Hague
8 November 2011

Excellencies,

Ladies and Gentlemen,

I would like to extend to all of you a very warm welcome to the twenty-first diplomatic briefing of the ICC, and to thank you for finding the time to attend.

Today, I wish to update you first on the ever-increasing judicial activities at the Court. I will then look ahead to some of the challenges in the coming period, as the Court approaches its tenth anniversary next year.

My indication to you during the last Diplomatic Briefing in April – that 2011 would be the Court's busiest year to date – has turned to be entirely justified. The number of situations under ICC investigation has risen from five to seven, following the referral of the Libya situation by the UN Security Council in February and the authorization by the Pre-Trial Chamber III to the Prosecutor to open investigation of the situation in Côte D'Ivoire in early October.

The latter situation concerns the alleged crimes committed since 28 November 2010 in the wake of Presidential elections in Côte D'Ivoire. As you probably know, Côte D'Ivoire is not a State Party to the Rome Statute, but it accepted the ICC's jurisdiction in 2003 and President Outtara confirmed that decision last December, pledging full cooperation with the Court.

The ICC's first trial concluded in August with closing statements in the case against Mr. Thomas Lubanga Dyilo, charged with the use of child soldiers in the Democratic Republic of the Congo. Judgment in this case is expected before the end of the year.

In the second trial arising from the situation in the Democratic Republic of the Congo – that of Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui concerning the use of child soldiers, rape, murder and other crimes – the presentation of evidence is nearing its conclusion. A judgment is likely to be rendered in the first half of 2012.

The ICC's third trial – against Jean-Pierre Bemba, who is charged as a military commander with rape, murder and pillaging allegedly committed in the Central African Republic – has progressed well and the prosecution case is at an advanced stage.

A fourth trial is under preparation, pertaining to the situation in Darfur, Sudan. Mr. Abdallah Banda and Mr. Saleh Jerbo face charges of war crimes in connection with an attack on an African Union mission. The process of disclosure of evidence in this case illustrates some of our many challenges towards securing a fair trial. The evidence is required to be translated into zaghawa – a Saharan language spoken by only between a hundred thousand and several hundred thousand people, as the accused do not fully understand another language. However there are virtually no professional translators or interpreters for zaghawa. The ICC has thus had to hire and train native speakers to reach the required level of proficiency to provide language support.

The proceedings in the situation in Kenya have progressed significantly since the last Diplomatic Briefing. There are two cases, each involving three senior persons alleged to be responsible for murder, persecution and other crimes in connection with the violence that erupted in Kenya following the December 2007 elections. All six individuals appeared voluntarily before the Court in April and then re-appeared in September for the continuation of the hearings on the confirmation of charges. The Pre-Trial Chamber has decided that it will issue its rulings on whether these cases should proceed to trial simultaneously, which is expected early next year.

In the context of the Kenya situation, the ICC set a legal precedent by dismissing the Kenyan government's challenge against the admissibility of the two cases. The Pre-Trial Chamber and the Appeals Chamber both held that the Government of Kenya had failed to provide sufficient evidence to substantiate that it was investigating the six suspects for the crimes alleged in the proceedings at the ICC.

A decision on the confirmation of charges is also pending in the case against Mr. Callixte Mbarushimana, charged with attacks on the civilian population allegedly committed in the Kivus region of the Democratic Republic of the Congo in 2009.

This brief overview of the Court's judicial activities is illustrative of the Court's increasing workload over the past year. But it is also an indication of what is to come. Should all or the majority of cases currently at pre-trial proceed to the trial stage, and with the first cases moving to the reparations or appeals phase, the next year may well be even busier!

The year 2012 will also be remarkable in a symbolic but important way, as the Court is, of course, marking its 10th anniversary. This will present an opportunity to look back, to take stock of what has been achieved and – crucially – to see what lessons could and must be learned for the future.

In particular, we need to look very carefully at the experience of our first trials so that we can identify and implement new ways to make our judicial proceedings more expeditious and efficient.

2012 will also be a year of changes. We will have a new Prosecutor and six new Judges. I believe that it is vital that the ASP elections in a few weeks' time provide the Court with individuals of the highest quality, who will be well equipped to face the demands of the years ahead.

I hope that the 10th anniversary will draw more attention to the ICC and inspire more States to join. The last year has been very good in this respect. We now have 119 States Parties, and hope this will reach 120 by the end of the year. I was especially pleased to see that the process of increasing the universality of the Rome Statute continued in Asia-Pacific – as the most underrepresented region – with joining of the Philippines and the Maldives. At the same time, Tunisia's accession to and Cape Verde's ratification of the Rome Statute brought the total number of African States Parties to 33! We need now to ensure that all the relevant actors work even more closely together to keep up this momentum.

Against this background, resources are going to be a particularly complex issue. The Court is very conscious of financial pressures on States Parties, but the new cost drivers cannot be ignored. Some of these cost drivers, such as the Libya referral, are entirely beyond the Court's control, while others, such as the legal aid, are partly the consequence of the rules of the system which the States Parties themselves have approved.

Madame Registrar will address the Court's budget in greater detail, but I wish to stress here that the Court has made the utmost efforts to bring its budget to the bare minimum and to make savings wherever possible.

Excellencies,

I do not underestimate the difficulty of finding a way to bridge the gap between the Court's assessment of its needs in the light of all these developments and the expectations of many states parties, given the financial constraints they are facing at home.

However, a sensible budget remains central to the Court's ability to deliver what the Statute and the States Parties have tasked it to do. I thus hope that the States Parties will also keep in mind the responsibility that their governments collectively bear for enabling the Court to discharge its obligations in the way that the international community increasingly expects.

I would like to thank you for your attention and I look forward to taking your questions later.