

**Statement of the Prosecutor
Luis Moreno Ocampo
to Diplomatic Corps
The Hague, Netherlands
12 February 2004**

PRIORITIES

- Start the investigation of two situations in 2004
- Building the OTP team
- Building international cooperation with the OTP

INITIATIVES TO DATE

Strategic Decisions

- In the past months, we have taken a number of strategic decisions that will guide our work. In the spirit of openness and transparency, we have published a statement of our policy, which was developed after public consultation.
- Some key strategic decisions include:
 - A collaborative approach with the international community, including cooperative states, international organisations and civil society.
 - A positive approach to complementarity. Rather than competing with national systems for jurisdiction, we will encourage national proceedings wherever possible.
 - While states have the first right to prosecute, and we will encourage them to do so, there may be situations where a state and the Office agree that consensual “division of labour” is appropriate (for example where a national system is fractured or where the impartiality or expertise of the

Court is needed). There is no doubt of admissibility in such scenarios, since Article 17 is clear that cases are admissible in the absence of national proceedings.

- At times, the territorial state may oppose ICC investigation. In such cases, I can use my *proprio motu* power, but it will be difficult to deploy investigators to the field, and difficult to carry out arrests. Thus, the positive approach to cooperation and complementarity is indispensable. Uganda and Congo are two examples of this approach.
- A policy of targeted prosecution, focusing on those who bear the greatest responsibility.
- A small and flexible office, relying on extensive networks of support with States, civil society, multilateral institutions, academics and the private sector. This approach enables us to better represent 92 States Parties and to benefit from ideas and perspectives from around the world.

Organisational decisions

- Since my arrival in June 2003, we have taken many steps to build a lean, efficient and active Office.
- Our Office faces unprecedented challenges, given our potentially wide-reaching but complementary jurisdiction. Our experiences in the last months have guided us in shaping the best structure to carry out this mission. The new structure includes three functional divisions:
 - *The Prosecution Division*, with trial and appeals lawyers who will present cases before the judges. This division is concerned with classic prosecutorial work, although some of the procedures being applied are new. For example, the representation for victims during trial is different from common law systems but also different from civil law systems. This Division is just being established, and we have selected the first three senior trial lawyers.
 - *The Investigation Division*, a group of lawyers, investigators, and experts working together in special teams tailored to each specific situation. Some will be based in headquarters and others will be deployed in the field. They will have to conduct investigations of massive cases under extreme conditions in vastly different parts of the world. Investigations will generally take place in areas where national authorities do not have a monopoly of force or where national forces are committing crimes. We will

require support and logistical assistance. Serge Brammertz has been elected by the Assembly of States Parties as Deputy Prosecutor for Investigations. Following his arrival, work has begun on recruitment and on investigative strategies.

- *The Jurisdiction, Complementarity and Cooperation Division* was developed in response to the unique situation of the ICC, which is very different from the ICTY, ICTR and Nuremberg. Unlike previous tribunals, this Office has a potentially broader scope and must conduct extensive analysis of jurisdictional and admissibility questions, including complementarity. Moreover, unlike a national prosecutor, this Office does not have its own police and national system to rely upon, and unlike the previous tribunals, it is not integrated into the United Nations. Thus, building networks of international cooperation is essential.

Personnel decisions

- We are now finishing recruitment of the senior people in the Office and rapidly building a team of qualified and effective experts.
- Our hiring is based on highest standards of efficiency, competency and integrity, having regard to the need to promote equitable geographic and gender representation, in accordance with the Statute (Article 44). In this context, we appreciate the efforts of States to identify the most highly qualified candidates for vacant positions. We must emphasize however that staffing can only be done in an independent and impartial process based on objective criteria. We ask States Parties to respect this independence, which is essential for the credibility of the institution.
- One area where we will continue to strive is to recruit highly qualified candidates from under-represented regions. One problem in this area may be that potential candidates in some regions are not aware of the opportunities at the ICC. It would be useful if states and organisations assist in increasing public awareness in those regions. I hope to improve our record on recruitment of women and recruitment from under-represented regions by September.
- We will soon be announcing on our website the invitation of applications for Deputy Prosecutor of Prosecutions. I welcome information about appropriate candidates, particularly bearing in mind geographic and gender representation.

PRIORITY SITUATIONS

- Based on information received, we have selected five situations to be followed. In general, the decision to follow a situation is confidential. However, in some situations, such as the Ituri situation, we have made the decision public in order to mobilise support and, hopefully, to help create deterrence.
- There are two situations that are being analysed by the Office with a view to determining whether to proceed with an investigation. The first is the situation in Ituri (Democratic Republic of Congo) and the second is the situation in northern Uganda.

Ituri

- Ituri remains a priority for my Office. Two weeks ago, more than one hundred people were reportedly killed in Gobu. The crimes are ongoing. We cannot allow the situation to continue unchecked.
- According to information received, there are many groups committing crimes. We cannot deal with all of them at once. However, as we are a permanent Court, we can work on the situation as long as needed.
- Decisions on investigation and prosecution will be guided by the factors in the Statute (Article 53). This includes the interests of victims and the interests of justice.
- We have proposed a consensual division of labour with the DRC. We would contribute by prosecuting the leaders who bear the greatest responsibility for crimes committed on or after 1 July 2002. National authorities, with the assistance of the international community, could implement appropriate mechanisms to address other responsible individuals.
- The DRC has recently responded with a letter affirming that such a division of labour would be welcomed. I recently met in Capetown with the Minister for Human Rights of the DRC, as well as local and international NGOs.
- I expect to meet soon with national authorities to discuss the practical modalities of cooperation. So, good progress is being made in developing a sound and cooperative approach.

Uganda

- Uganda has made the first referral of a situation by a State Party, referring “the situation concerning the Lords Resistance Army.” As a result, we will be analysing alleged crimes carried out in northern Uganda in an independent and impartial way.
- I have determined that the situation referred is sufficiently serious to warrant further analysis. I will decide in the coming months whether to proceed with an investigation.
- I was recently invited by the President of Uganda to a meeting to confirm the referral and to discuss the manner in which the government will cooperate with our investigations. We decided that the meeting should not be secret and that it would be appropriate to inform the public.
- After that meeting, I also met with national authorities as well as NGOs from Northern Uganda.
- We will continue analysis and preparation in order to determine whether to proceed with an investigation (Article 53). If a determination is made to proceed, States Parties will be informed in accordance with Article 18.
- The referral illustrates the contribution that the ICC can make. The situation involves allegations of large-scale crimes against civilians, including summary executions, torture and mutilation, child sexual abuse, rape, forcible displacement, and looting and destruction of civilian property.
- There have been questions about the scope of the referral. I am unable to share the referral itself, as it contains detailed information provided in confidence. The disclosure of that information may prejudice the investigation.
- However, I can confirm that the scope of the referral will be interpreted in accordance with the principles underlying the Statute. I will investigate all crimes related to the situation in an impartial way. I will continue to receive information from any source on crimes within the jurisdiction of the Court.
- I am aware of some local initiatives underway to find negotiated solutions to the situation. I encourage those involved to provide the Office with further relevant information in order to ensure that international justice plays a proper role in these efforts.

COOPERATION

- As you can see, these situations by definition pose extreme challenges for investigation. In order to succeed, we will need support from the international community, including states, multinational organizations and civil society.
- From your governments, what I most need is your support as we embark on this difficult but important process.
- I will also need various forms of practical and logistical support and assistance. This might relate to gathering information, protecting witnesses, or ensuring a secure environment for investigation. The active cooperation of states and organisations may be required in order to locate suspects and carry out arrests.
- Thank you.