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18th Diplomatic Briefing

Statement

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English Version

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Excellencies, Ladies and Gentlemen,

I am pleased that we can meet in advance of the Kampala Conference, which, as the President said, is a seminal event in the further reinforcement of the international justice system.

There are many reasons for celebration. We will arrive in Kampala with 111 States Parties, regular interaction with the UN Security Council, as well with strong relations with non-States Parties, governmental and non-governmental organizations, and with the common understanding that the ICC is a fully operational Court.

In a few years, the Court has become a part of the international landscape.

The delegates of 1998 put a new design on paper, an innovative design to manage violence in the world. 2010 is different. You can take stock of the successful implementation of the Rome system, and decide how to strengthen the system.

As the President said, the Court will not be involved in any way in definition of, or amendments to the law. Legislative powers belong to States. But we can contribute to the stock-taking exercise. The facilitators did a tremendous work preparing the ground for our meeting in Kampala. I would like to thank them and present some comments on the four issues to be discussed there, starting with the role of victims.

The Rome Statute establishes victims as actors in the system, not just passive recipients of justice. Victims are critically important during the preliminary examination phase, helping my Office to select situations to investigate. We have received thousands of communications in accordance with Article 15 of the Statute. Gravity of crimes against victims is the single most important criterion in the selection process of situations and cases. My Office will continue to fully respect their rights to participate in the Court's proceedings. We recently published our policy paper on victims' participation, designed to ensure a consistent and clear approach of the Office.

If I had one wish to add to the list of expected achievements in Kampala, it would be to ensure that victims are given in peace processes the same role that they have in proceedings in the Court. They should be listened to. In Rome, States were mindful that *"during the 20th century millions of children, women and men have been victims of unimaginable atrocities"* and they *"recognized that such grave crimes threaten the peace, security and well-being of the world"*. The UN Security Council has also recognized the importance of victims, in

particular women, in conflict resolution and peace processes, first in Resolution 1325 (2000) and in subsequent resolutions. But the practice is different. Victims of sexual and gender violence and child soldiers are now listened to in the courtrooms. But we don't see them yet at the negotiating table. Their rights are ignored. Could I ask the delegations in Kampala to ensure that the principles established in the Preamble of the Rome Statute and in the UN resolutions are implemented?

Let me now turn to cooperation and complementarity. The Rome Statute is an agreement between States, based on these two principles: complementarity and cooperation.

As the President said, cooperation is forthcoming. 85 per cent of my Office's requests for cooperation to States Parties and non-States Parties receive positive answers. This is a highly satisfactory rate. States are fulfilling their legal duties, and including cooperation to punish and prevent massive crimes in their policies.

But, as stressed by the facilitators and emphasized by the President of the Court, one remaining challenge is to arrest individuals when they are protected by active militias or when they use the state apparatus to commit massive crimes. Kampala is an opportunity to refine our strategy to face this challenge. I would encourage you to add the following key points to your pledges in Kampala:

- a. Public and diplomatic support to execute arrest warrants issued by the Court;
- b. Severance of non-essential contacts with persons who are the object of an ICC arrest warrant;
- c. Cutting off all supply networks to such persons; and
- d. Providing concrete support for arrest operations.

Regarding positive complementarity, the Office of the Prosecutor has adopted a proactive policy. Our cooperation with Germany regarding the recent case against an FDLR leader in the DRC situation is one example of this approach. We are ready to discuss in Kampala how to further develop various forms of judicial interaction with States Parties and non-States Parties. As the President said, in the DRC, there are judges and prosecutors willing to investigate and prosecute cases, but they need protection, for themselves and for the witnesses.

With regard to peace and justice, the stock-taking exercise in Kampala will provide an occasion to confirm the States' commitment to end impunity for

the perpetrators of the most serious crimes, thus contributing to the prevention of such crimes. The failure to act during the Rwandan genocide provided the impetus in Rome to transform the pledge of “never again” from a moral promise to a legal standard.

This is a new reality, and we have to adjust to it. In fact, we are. This principle has been put into practice, among others, by two high level representatives of the African Union, former South African President Thabo Mbeki and former UN Secretary-General Kofi Annan; both have stressed the need to ensure justice in their work in Darfur and Kenya to end recurring violence. Both need the full support of the 111 States Parties. If we are committed, certainty of investigations and prosecutions for the most serious crimes will deter future crimes.

The best example is Kenya. Justice for the post-electoral violence in Kenya will ensure a peaceful election in 2012. Additionally, it will send a clear message for the 15 elections to come in the region: violence during electoral times cannot be a tool to retain or to gain power; but it is a sure avenue towards a one-way ticket for prison in The Hague. That is the message we need to send it Kampala.

Excellencies, Ladies and Gentlemen,

Let me conclude.

Since 1998, the Rome Statute was adopted, the Security Council referred a situation to the Court, and the Court issued its decisions on individual cases. The situation is clear. Kampala is an opportunity for States to demonstrate their consistent support for the new legal framework established in Rome, for a renewed commitment to protect the rights of the victims of the most serious crimes.

Let me conclude by thanking the Government of Uganda in providing a venue for the Review Conference in Africa, a leading continent in the fight against impunity. As an example, I met last week with the President of Tanzania Jakaya Kikwete and I was struck by the forward-looking ideas he plans to put forward in Kampala, including on the future of the Arusha facilities to assist in the work of the Court in Africa.

Thank you. I look forward to seeing you in Kampala in a month.