

**Cour  
Pénale  
Internationale**



Présidence

**International  
Criminal  
Court**

Presidency

**Address by Philippe Kirsch,  
President of the International Criminal Court**

**Address to the United Nations General Assembly**

**New York, 8 November 2005**

Thank you, Mr. President.

Distinguished Delegates,

It is my pleasure to speak to you today on the occasion of the first report of the International Criminal Court (ICC) to the United Nations (UN). The UN, and the General Assembly in particular, have always been closely linked to the Court. In 1989, this body began the process of establishing the ICC with a request to the International Law Commission. In the mid-1990s, the General Assembly was the driving force behind efforts to develop a statute for a court. And it was this body that convened the Rome Conference in 1998 which would adopt the Statute of the ICC.

The Court welcomes its observer status before the General Assembly and the opportunity to submit reports on our activities in accordance with the Relationship Agreement between our institutions. In my remarks today, I would like, first, to update you on where the Court stands today; and second, to speak about the cooperative relationship between the Court and the United Nations.

### **I. Update on the Court Today**

Mr. President,

Since the Court submitted its report, there have been two significant developments.

First, Mexico deposited its instrument of ratification of the Rome Statute with the Secretary-General on 28 October. Mexico is the 100<sup>th</sup> State to become a Party to the Statute. This is an important milestone in the Court's development.

Second, the Court has issued its first arrest warrants. On 8 July of this year, Pre-Trial Chamber II issued the first arrest warrants of the Court in the situation in Uganda. Warrants have been issued for five members of the Lord's Resistance Army for alleged crimes against humanity and

war crimes. Subject to sufficient cooperation in the arrest and surrender of persons, the first trials could begin next year.

The Court is now well into the judicial phase of its activities, involving both operations in the field and courtroom proceedings. As you know, four situations have been referred to the Court's Prosecutor. Three States Parties have referred situations on their territories; and the Security Council, acting under Chapter VII of the UN Charter, has referred the situation in Darfur, Sudan. In addition, Côte d'Ivoire, a non-State Party, has declared its acceptance of jurisdiction over crimes on its territory. The Prosecutor has opened and is conducting investigations into the situations in Uganda; Democratic Republic of the Congo; and Darfur. The Statute specifies the criteria to be considered by the Prosecutor in selecting situations. The Prosecutor has indicated that gravity is a major factor, and that Uganda and the Democratic Republic of the Congo are the gravest situations under the treaty-based jurisdiction of the Court. The Prosecutor has also indicated that the Darfur situation, referred by the Security Council, is graver still.

Each situation referred to the Court has been assigned to a Pre-Trial Chamber consisting of three judges. The Pre-Trial Chambers have responsibility for the judicial aspects of situations during the investigations phase. The Pre-Trial Chambers have held hearings and issued decisions on a number of issues, including the arrest warrants.

The Court's investigations are occurring in situations of ongoing conflict. The security of Court staff, victims, witnesses, and others who could be affected by the Court's activities are paramount concerns. Field operations also present challenges in terms of establishing reliable and secure logistics, transportation and communication in three different situations. Each situation also presents its own specific needs, such as in terms of local language capacity requirements. These circumstances present practical challenges, not only for the Prosecutor in his investigations, but also for the Court's other related field activities. These activities include protecting the rights of defence, conducting outreach to explain the Court to affected local populations, and carrying out of the Court's specific mandate in relation to victims and witnesses.

The Court does not have a police force of its own. Instead, the Court relies on the cooperation of States and other actors to carry out many essential functions. I already mentioned that cooperation of States will be required in arresting persons wanted by the Court. I must be very clear on this point: cooperation in arrest and surrender of persons is necessary if there are to be trials.

Other forms of State cooperation will be equally important. The Court has negotiated and is negotiating a range of agreements with States and international organizations on both general cooperation and specific issues. The Court has concluded several agreements with States on the relocation of witnesses. The Court recently concluded the first agreement with a State Party regarding the enforcement of sentences. A network of effective cooperation is critical to the success of the Court. I hope that other States will soon conclude other such agreements with the Court.

## **II. Cooperation**

Mr. President,

I would now like to turn briefly to one particular form of cooperation of specific interest: cooperation between the Court and the UN.

The Rome Statute, which defines the Court's activities, reaffirms the Purposes and Principles of the UN Charter. The preamble to the Statute expresses several specific objectives which overlap with the goals of the UN. These objectives include:

- First and foremost, the prevention and punishment of serious international crimes, including genocide, crimes against humanity, and war crimes.
- Second, through prevention and punishment, the Court is intended to contribute to the maintenance and restoration of international peace and security.
- Third, the Court is also envisioned to play a part in guaranteeing respect for and the enforcement of international law.

To achieve our collective aims, our institutions must work together. This is happening in practice. There is positive cooperation in relation to the Court's current activities which are primarily in the field. The Court's field activities often occur in areas where there is a UN presence. Cooperation in such situations may involve information-sharing as well as coordination on issues including security, transportation and logistics. The Court and the UN also cooperate in the area of institutional relations. Underlying our institutional relations, the general sharing of information is important to ensuring that the Court and the UN have accurate, up-to-date information about our respective activities. The report of the Court before you today is one aspect of this cooperation.

The Court looks forward to continuing and strengthening our cooperation with the UN in all areas: in the field; in connection with proceedings; and in our institutional relations. This cooperation will benefit both institutions, as it will allow each institution to further its objectives.

Mr. President,

Cooperation is important because the Court and the UN are part of an interdependent system of international law and justice. To take one possible example of this interdependence, in his 2004 report to the Security Council on the rule of law and transitional justice, the Secretary-General remarked "[the United Nations'] experience in the past decade has demonstrated clearly that the consolidation of peace in the immediate post-conflict period, as well as the maintenance of peace in the long term, cannot be achieved unless the population is confident that redress for grievances can be obtained through legitimate structures for the peaceful settlement of disputes and the fair administration of justice." The Court has a natural role in such situations. Other debates within the Security Council and this General Assembly have also focused on the relative contribution of institutions including the International Criminal Court to our collective effort to protect individuals from the most serious crimes of concern to the international community as a whole. As I have indicated today, such collective endeavours are made possible through regular practical cooperation.

### III. Conclusion

Mr. President,

Over fifty years ago, in the wake of the Holocaust, the newly-created United Nations first took up the issue of a permanent international criminal court. The Genocide Convention, adopted by this General Assembly in 1948, envisioned that this “crime of crimes” could one day be punished by an international penal tribunal. The dream of a permanent international court was deferred for far too long. Now, however, we have the opportunity:

- to ensure that the perpetrators of the worst atrocities no longer benefit from impunity;
- to deter future perpetrators; and
- to build a culture of accountability.

Mr. President, we cannot afford to fail.

Thank you.