



**Remarks of President Sang-Hyun Song to the 17h Diplomatic Briefing  
The Hague, 4 November 2009**

Excellencies,

Ladies and Gentlemen,

It is my pleasure to welcome you to the seventeenth Diplomatic Briefing of the International Criminal Court. The Court has been a very busy place since the last Diplomatic Briefing in May. Today presents us with a good opportunity to provide an update on these activities, and to look ahead together to issues likely to arise at the forthcoming 8<sup>th</sup> Session of the Assembly of States Parties later this month. I will touch on some of these. Following my remarks, the Prosecutor and Registrar will briefly address you to provide updates in their areas of responsibility and discuss additional issues before the ASP. We will then be pleased to take your questions.

Since the last diplomatic briefing in May, judicial activity at the Court has been on the rise. The Court's first trial, that of Mr. Thomas Lubanga Dyilo, is now about halfway through in Trial Chamber I. Our second trial, that of Mr. Mathieu Ngudjolo Chui and Mr. Germain Katanga, is expected to begin next month in Trial Chamber II. Meanwhile, Trial Chamber III is undertaking preparations for the trial of Mr. Jean-Pierre Bemba. The most recent case, that of Mr. Abu Garda, is under way with the commencement of the confirmation of charges hearing held on October 19<sup>th</sup>. He is charged with war crimes in the context of an attack on African Union peacekeepers. In addition to these proceedings, the Pre-Trial, Trial and Appeals Chambers have issued several significant decisions on issues such as the protection of witnesses, the conditional leave of a suspect and the principle of complementarity.

One observation we have noted from proceedings so far has been that the Court must give much more attention than other courts or tribunals to issues of the protection of victims and witnesses. Of the 30 witnesses called so far in the Lubanga case, 22 testified in Court with some form of protective measures. In comparison, only 28% of witnesses at the International Criminal Tribunal for the Former Yugoslavia have required any protective measures.

The in-court protective measures are only one aspect of the steps taken to safeguard victims and witnesses. Much more goes on behind the scenes to ensure that victims and witnesses are not put at risk while also guaranteeing the rights of the accused to a fair, public trial. For example, names or other identifying information is often redacted from filings and judicial documents to protect individuals. However, ensuring a public hearing means that the judges have to continually review and ensure the necessity of all of these redactions.

All of these judicial developments are taking place within a purely judicial institution. At the same time, we are fully conscious that the Court operates in the midst of a political world represented here by the diplomatic community. It depends on States and others not just for cooperation, but also to respect, to protect and to enhance its judicial independence. When the Court issues a decision, it must be enforced by States in accordance with their legal obligations. If a request of the Court creates problems for a State, it should nevertheless respect the decision and consult with the Court in accordance with the Rome Statute. Where misperceptions may continue to exist, States, international organizations and civil society should continue to promote awareness and understanding of the Court's purely judicial nature. A handout with more details on judicial activities is available in English and French.

I will not go into too much detail on the next session of the Assembly of States Parties. There will again be a full agenda, ranging from the election of judges to the budget to permanent premises. The Court has worked closely over the past months with the Hague Working Group of the Assembly under the chairmanship of H.E. Ambassador Lomonaco of Mexico and his able group of facilitators and focal points. I am confident that these discussions will facilitate a smooth session of the Assembly.

One issue I would like to highlight on the Assembly's agenda is the Review Conference to be held in Kampala, Uganda next year. Of course, this is a matter primarily for States. It would be improper for me to take any position on amendment issues to be decided by States. But naturally, the Court as a whole shares a great interest in the Review Conference's success.

It is the Court's hope that the Review Conference can serve as another major milestone in the development of international criminal justice. Big issues including aggression may be discussed, and I'm sure technical issues will be too.

The Presidency looks forward in particular to the stock-taking exercise. While focusing on a limited number of issues, it is important that the stocktaking looks at the entire Rome Statute system. Critically, this stocktaking would include issues of global ratification, cooperation, complementarity and the impact of the Court's activities. These areas, as you know, are absolutely essential to achieving the goals of the Rome Statute. I am keen to learn why more states haven't adopted implementing legislation. Even after the Bureau's plea to the 5<sup>th</sup> session of the ASP, only a minority of States have done so. How can states better support each other in developing national capacity to credibly investigate and prosecute ICC crimes? Can the Court

contribute in any way? How can States and the Court cooperate more closely to encourage non-States Parties to ratify or accede to the Rome Statute? These are just some of the issues that could be addressed. Naturally, a thorough stock-taking exercise requires extensive preparation. In my view, the bulk of the exercise could be completed in advance of the Conference. With enough notice and where appropriate, the Court could collaborate in brainstorming and refining proposals in these areas.

Apart from these substantive points, I would like to briefly underscore the importance of how the Review Conference is perceived. The Conference has the potential to draw considerable attention to the Court and to international criminal justice more broadly. For this reason, I strongly encourage states to begin coordination now of an agreed statement highlighting the achievements of the Court and the Rome Statute system, anticipating positive developments to emerge from the Conference. Aside from any substantive decisions on amendments, a strong statement of support could contribute significantly to the work of the Court. Involving the voices of victims or others within the Conference could help to drive home the reality and the import of international criminal justice. I would also welcome opportunities for Court representatives, at least, to involve themselves in events with communities outside the conference facilities.

States not Party to the Rome Statute may observe the forthcoming session of the Assembly and be represented at the Review Conference. I am committed to deepening relationships with States not Party. For every State, ratifying or acceding to the Rome Statute is a sovereign decision. The Court stands ready to provide information so that debate surrounding this decision is based on facts. The Court also welcomes various forms of cooperation from States not Party even when this is not based on statutory obligations. The goal of ending impunity is not limited to States Parties, and we look forward to working with all of you.

I will stop here, and give the floor to the Prosecutor, Luis Moreno-Ocampo. Thank you very much.