

8th Assembly of States Parties

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Address of Mrs. Silvana Arbia

Registrar

International Criminal Court

CHECK AGAINST DELIVERY

Mr. President,
Excellencies
Ladies and Gentlemen,

It is truly an honour to be addressing you at this 8th Assembly of States Parties. As Registrar of this ground-breaking institution, and its principle administrative officer, I have seen a year where the Court has weathered the economic storms with a search for efficiencies and consolidation, and at the same time I have had the pleasure to support an increasing load of judicial activity, as the Prosecutor's efforts to bring to trial those most responsible of serious international crimes is coming to fruition. In my brief intervention today, I will seek to address both elements in this equation. I have also prepared for you a fact sheet which will give you a sense of the full scope and breadth of the Registry's work this year.

Mr. President

If I may, I will start with some of the achievements this year in the administration of the Court. Significant gains were made in the area of human resources, and I can point to an increased recruitment rate of this year, with 678 out of 739 approved posts filled, as well as a vacancy rate of 10.5% this year, as planned. There has also been a drastic reduction in unapproved GTAs, as requested by the CBF. Indeed, the CBF recognized all of these achievements in its report.

The CBF also noted with appreciation the efforts made by the Court in finding efficiencies. To this, I want to add that you have my firm commitment that the search for efficiencies is an ongoing exercise and that it will be streamlined in court procedures in general. The court will be reporting to you further on this matter in 2010, but I can already report that one component of this process, the re-engineering exercise, is in full swing now. The project will continue in 2010 and 2011 with the staggered selection of new processes for re-engineering.

Another initiative of the Court which has been praised by the CBF was the setting up of an investment committee. The committee, including external members, has met to provide oversight over the strategy of the Court's financial investments, especially in light of the world-wide financial crisis. This year, the investment committee focused on the need for the Court to diversify its investment strategy.

I also want to briefly touch upon the court-wide risk management project, which started last year and has continued in 2009. Having identified the major risks faced by the Court, we are now in the process prioritizing and adopt strategies to mitigate them. I hope that we will be able to report to the CBF in April with the results of this exercise,

Mr. President

The Court has also been working closely with both the CBF and the Bureau's Working Groups on a number of other issues which last year's Assembly asked us to report on. You have the different reports prepared by the Court on these matters, and I will highlight just a few here. As requested, and together with the other organs, I have prepared a report on the desirability and feasibility of an AU liaison office. You will note the Court's recommendation that such an office is both desirable and feasible, and that it should be staffed at a sufficiently senior level to interact effectively with the diplomatic community in Addis Abeba, as well as with senior AU Commission officials. We are available for any further clarifications which may assist with your discussions on this matter, and stand ready to implement any decision that is reached.

In respect of legal aid for victims and for the defence, discussions progressed tremendously this year, and only a few issues will need to continue being discussed into the next year. I wish to thank the two able facilitators from South Africa and Australia for moving these issues forward.

Of course, there will always be some tension between the policy-setting role of the States Parties and the independent judicial operations of the Court, and the Working Groups are

often the forum where these tensions are played out, and usually resolved. I want to briefly mention two areas, however, where some tensions persist to date. On the matter of an independent oversight mechanism, the Court worked closely with the UK facilitator so as to ensure that the wish of states to have independent investigations into alleged misconduct by Court staff and elected officials is aligned with the regulatory framework of the Court. Both the Court and States must now be vigilant that such an investigative mechanism is not overriding the established disciplinary mechanisms, and that it is truly accountable to states.

On the contentious issue of family visits, and despite the excellent work of the Finnish facilitator, the Court and States have not managed to see entirely eye to eye. I fully understand the point of view of States Parties who wish to use their prerogative to set policies for the Court, especially when these have financial implications both in the Court, and possibly domestically. I also fully respect the decision of the Presidency in the appeal by Mr. Ngudjolo Chui on the conditions set by me for the visit of his family. Being in the middle of these two perspectives, I have and will continue to advocate that the political track and the judicial track must be clearly separated. The independence of the judicial process must be safeguarded to the same extent as the prerogative of states to set policy.

Mr. President

To close off this brief survey of some of the most salient administrative issues this year, I will note that the Court has now opened a second interim premises building in the vicinity of its headquarters. The new building called Haagse Veste 1 allowed the Court to solve some of its space allocation problems in The Hague.

I now turn to the very reason why administrative structures and budgetary mechanisms exist, namely to support the judicial proceedings before the Court. The President and the Prosecutor have already summarized the proceedings before the Court, so I will limit

myself to adding to those excellent accounts a few particulars under the purview of the Registry.

As the President has noted, the participation of victims in the proceedings is a unique and progressive feature of this Court and a milestone in international criminal law. As the pace of judicial proceedings increases, the nascent jurisprudence on victim participation and representation is evolving rapidly. In respect of legal representation, this year has seen a number of interesting developments. At the start of the trial in the Lubanga case, the 7 lawyers representing 93 victims proposed to form themselves into two teams, so that each of the lawyers would remain involved, even though there would only be one lawyer appearing before the Court on behalf of each team at any one time. The Trial Chamber accepted the proposal.

In the case of Katanga and Ngudjolo Chui, Trial Chamber II ordered the majority of the victims accepted as participants, comprising approximately 350 victims, to choose one common legal representative, with the assistance of the Registry. Recognizing a conflict of interest between two categories of victims accepted to participate in the case, the Chamber found that it was necessary for a smaller group to be represented by a separate legal team.

Another development has been the participation of four legal representatives representing a total of 78 victims in the confirmation of charges hearing in the case of Abu Garda, in the Darfur situation. The victims are from several African countries that made up the peace-keeping force. Their legal representatives were permitted to make opening statements and to put questions to the witnesses heard during the hearing.

The Trial Chambers have also been developing the system governing how victims actually participate in the courtroom. I would highlight two aspects. First, in order to intervene during the trial, victims need to show that their interests are affected. Second, the Appeals Chamber decided that “victims may possibly lead evidence pertaining to the

guilt or innocence of the accused when requested, and challenge the admissibility or relevance of evidence in the trial proceedings.”

The Registry has been following the evolving jurisprudence on victim participation closely, and has worked together with UNICRI, the United Nations Inter-regional Crime and Justice Research Institute to produce a compendium of such jurisprudence.

With the increased pace of judicial proceedings and the beginning of the first trial, the judicial support work of the Registry has been rising sharply. Registry has had to manage all the filings in the ongoing proceedings, their translation and the interpretation and support to all the hearings. In the area of witness protection and support, the Victims and Witnesses Unit has had to ensure the timely appearance of the witnesses in Court, facilitating the necessary travel and consular arrangements and organizing their stay in The Hague. The Unit was also entrusted by the Trial Chamber to provide extensive witness familiarization and psycho-social support to all witnesses appearing before the Chamber.

Also in the area of witness protection, I have been working hard this year to try and increase the available pool of states where witnesses in danger can be relocated. In order to offer new modalities to states which may have the resources to fund relocations, but not on their territory, I am opening a trust fund to allow the court to enter into cost-neutral witness relocation agreements with countries that do not yet have the resources or capacity to protect witnesses. The funds received in the Trust Fund will be used both to safely relocate a protected witness, and to work with partners such as UNODC to build a domestic witness protection capacity. I invite you all to the side event on this issue Thursday lunchtime where you will be able to obtain further information and details.

Mr. President,

Whilst developing this initiative, I fully had in mind the principle of complementarity, the central importance of which the President has already highlighted. I would also like to

commend the lead taken by Denmark and South Africa on this issue, and I want to stress that the Registry is actively looking at areas in which we can use our expertise in organizing and managing fair trials to make an impact in strengthening domestic capacity to prosecute serious international crimes, bearing in mind mandate and resource constraints. I have created a working group within the Registry to look at cost neutral initiatives which we can take for this purpose.

One tool for fostering complementarity is our presence in the field. The staff of our field offices is instrumental in our outreach activities, which have been steadily increasing. Between 1 October 2008 and 1 October 2009, 39,665 individuals were engaged during 365 interactive sessions and 34 million people likely informed through local radio and television stations. Field office staff have also ensured the protection of witnesses and victims, and supported on a day to day basis the investigations of the Office of the Prosecutor, the counsel teams (defence and legal representatives of victims), and of the Trust Fund for Victims.

This work is being undertaken in difficult circumstances as the security situation in each country of situation remained a primary concern for the Registry. As Registrar, I take my responsibilities with respect to staff in the field seriously. I must also pay attention to the proper administration of the Court's assets in the field. I am thus working hard to ensure these staff and assets are properly managed and secured, and I have already taken a number of initiatives in this respect. I will be working closely with the CBF in its April session on this matter, and hope to be able to pursue this initiative further, and to begin addressing issues of legacy and archives as part of the court's exit strategy. Again, these discussions should be linked to those on complementarity.

I have highlighted the importance of the Court's cooperation with States to foster complementarity. I also want to briefly touch upon the reverse issue, namely the cooperation of states with the Court. Initially, I wish to thank the focal point of the Assembly on cooperation for his good work and the opportunity he gave the Court to put forward its experiences and views in our report to the Assembly. The President and the

Prosecutor have stressed the need for States to enforce decisions of the Court, especially arrest warrants. I fully echo those sentiments and further call on States to remove any blockages that hinder the ability to enforce decisions. As the report of the Court shows, many of these appear to be more of a bureaucratic or legislative nature which can be addressed by the mainstreaming of the Court in national bureaucracies and the adoption of implementing legislation. New issues on cooperation have also arisen this year, and I would point to the case of Jean-Pierre Bemba Gombo to illustrate the important issue of interim release. The court needs the possibility of provisionally releasing suspects. We will be approaching States individually to see whether framework agreements can be concluded for this purpose.

Mr. President

I will conclude by informing you that the United Nations has contacted the Court seeking information about the possibility of the Court could house the archives and future residual mechanisms of the ICTY and the ICTR. Equally the SCSL has approached the Court for the same reason.

First, I would like to emphasize the significance of the ICTY, the ICTR, the SCSL as well as of other mixed tribunals for the development and enforcement of international criminal justice. It is with this in mind that the Court would welcome the opportunity to assist in the completion of their important mandates and in the securing of their legacies.

The Court already has experience in offering cooperation to the SCSL similar to the one that is now being explored for future residual mechanism(s), including archives. The Memorandum of Understanding between the Court and the SCSL could provide a sound basis to further develop areas for and modalities of cooperation between the ICC and one or more residual mechanisms.

With regard to facilities, as you are aware the Court has very limited space in its interim premises. However, the plans for the permanent premises could still be adapted so as to accommodate both, residual mechanism(s) and archives. Any requirements or spare space

that would need to be incorporated would need to be known in early 2010 so as to be taken into account in the design phase.

It is for you, the Assembly of States Parties, to endorse such cooperation in principle. Further modalities, for instance with regard to financing of the premises would also have to be clarified.

Thank you Mr. President.