



**Judge Sang-Hyun Song
President of the International Criminal Court**

Remarks at the opening of ICC-NGO roundtable

*The Hague
18 October 2010*

Ladies and Gentlemen,

Dear friends,

It is such a pleasure to welcome you here at the ICC again and to see so many eminent representatives of the civil society in the room, starting with **Bill Pace** of course. Before we start, let me introduce three of my staff members who are with me today; my Chef de Cabinet, **Lousewies van der Laan**, the head of my legal team, **Hirad Abtahi**, and my new External Relations Adviser, **Matias Hellman**, who started in July.

I am very pleased that we have this system of regular bi-annual meetings between the ICC and non-governmental organisations. The civil society played a crucial role in bringing about the establishment of this court, it was and continues to be instrumental in pushing States to ratify the Statute and it has been supporting, influencing and monitoring the ICC's development closely all along, representing its true constituency, the population of this planet. We at the ICC are very appreciative of your work, which is of tremendous value to the Rome Statute system.

It has been quite an eventful seven months since we last met – first the historic Review Conference, then the first arrest warrant for genocide, the voluntary appearance of two suspects, a stay of proceedings in the Lubanga case, the first referrals of cooperation-related matters to the

Security Council and the ASP, and just a week ago the first execution of an ICC arrest warrant in two and a half years!

Our judicial activity is growing, slowly but steadily. Two trials are ongoing, one of them at an advanced stage. A third trial may start soon and there are several more potential cases in the pipeline, including the upcoming hearing on the confirmation of charges in the so-called Haskanita case, the recent arrest of Mr. Callixte Mbarushimana and the Prosecutor's announcement that he intends to bring two cases related to Kenya to the Pre-Trial Chamber before the year's end. The future looks increasingly busy for us on the judicial front.

I know that many of you have felt in the past that the ICC had not made the kind of progress in terms of **trials** as you had hoped, and I would like to assure you of my full commitment to the expeditious progress of our court proceedings. To give you one example, I personally invested a lot of effort into speeding up the recent appeals judgment in the Lubanga case to make sure the trial could be resumed as quickly as possible.

Furthermore, the Presidency is currently looking at the provisional court calendar for next year, the main objective being to **enable the trials to proceed as fast as the internal judicial dynamics of each case allows**. I will also do everything in my power to secure the necessary resources for

parallel trials at any time in the future, so that no trial is delayed due to any shortage of funds.

Let me now move on to the landmark event of this year, which was of course the **Review Conference**. Leaving aside the amendments to the Statute, on which the Court takes no view, one of the most important outcomes of Kampala was the momentum that it created for developing the effectiveness and reach of the Rome Statute system. The focal areas of **cooperation, complementarity and universality** have been stressed countless times and we have to keep stressing them because they are the key to the success of the ICC system.

In my view it is very important to emphasise that it is the States that have the main responsibility for ensuring further progress on all these fronts. I use every opportunity to urge States to maintain the momentum of the Review Conference and to take decisive action so that the promises of Kampala may become reality. Of course the civil society plays a huge role and the Court has a part, too, but, at the end of the day, States are the leading players on this scene.

Let me now turn to some of the challenges we are facing. One of them is the battle for the Court's credibility in Africa. We were extremely disappointed with the African Union's decision to reject the opening of the

ICC liaison office in Addis. It is all the more perplexing because the majority of African Union countries are States Parties who in the ASP context have favoured intensifying communication between the ICC and Africa. However, it seems that the AU is another arena and that the political considerations are different there.

You will have a separate session on Africa on Thursday but, on my part, I wish to appeal to you to support the ICC's efforts to dispel misconceptions about the Court in Africa and to engage in a dialogue with African States. This Court belongs to Africans just like it belongs to the whole world. I am determined to do all I can to maintain the ICC's dialogue with Africa, based on correct information about this Court, which is built on values shared by all nations of the world.

A related matter which I wish to underline is the importance of recognising that the role of the UN Security Council under the Rome Statute is beyond the influence of the ICC. The referral of the Darfur situation to the ICC was a decision of the Security Council in which the ICC did not participate. The same applies to Sudan's legal obligation to cooperate with the ICC – that obligation was created by the Security Council, not by the ICC or the Rome Statute. An Article 16 deferral, which the African Union has called for, is a possibility under the Rome Statute and, again, entirely in the hands of the Security Council.

Any questions or criticism concerning these issues, which are often political in nature, should be addressed to the Security Council, not to the ICC, which is a purely judicial institution.

The Pre-Trial Chamber's decisions reporting Sudan's non-cooperation to the Security Council and informing the ASP and the Security Council of Mr. Al-Bashir's visits to Chad and Kenya can be viewed through the same prism. These matters have a political dimension and the Court has now referred them to the political arena for the consideration of political bodies. This enables the political bodies to use appropriate measures to deal with the situation and it also protects the ICC by ensuring that it can remain within its judicial role.

While cooperation for the most part is forthcoming from States, we all know that the execution of arrest warrants presents huge challenges and that the continued freedom of suspects is having a devastating effect on victims and the affected communities.

We believe that it would be a good time for the ASP to begin a principled discussion on any applicable procedures to consider non-cooperation, as well as possible consequences thereof. I have heard some rumours of a possible new visit by Mr. Bashir to one of the African States Parties and this

would only emphasise the need for a serious discussion on cooperation issues in the ASP.

I also strongly believe that we should use all arenas and all topics to foster closer relations between the ICC system and the non-State Parties to the Rome Statute. While those countries have chosen not to join the ICC for now – to which they are fully entitled – they may do so in the future.

In my experience, ignorance is the biggest obstacle on the path towards global ratification. Any kind of communication on ICC-related topics with non-States Parties is likely to increase their understanding of the Court and perhaps little by little pave the way towards accession or ratification.

Even a change to a more positive attitude towards the ICC can be hugely significant, as we have seen perhaps most importantly with new administration of the United States.

I am encouraged by the number of non-States parties that have indicated, either at the Review Conference or in other fora, their intention to join the ICC in the near future. This is just one aspect of the slow but steady expansion of the Rome Statute system which we should keep working on in the spirit of the Kampala Declaration. I pledge my 100% commitment to that goal.

Ladies and gentlemen, dear friends,

We at the ICC hold your input to the Rome Statute system in very high regard. We congratulate you on your recent achievements, notably the four new ratifications since our last meeting. I appeal to you to continue your tireless efforts to support the ICC and to develop the impact of international justice on the national level. We also appreciate your close attention and constructive criticism which remind us that even though the Court is independent, it does not operate in a vacuum.

The Rome Statute system has huge potential to change the future and to improve the lives of countless children, women and men, helping them rebuild their lives or even sparing them of untold suffering. To achieve that, it is crucial that all the relevant stakeholders, States in particular, “think outside the Court” so to speak and make complementarity work in practice.

The Rome Statute does not provide instructions for the national implementation of Rome Statute crimes nor does it give guidelines for judicial capacity building. But without those elements, we will not be able to eradicate impunity or end atrocities.

I applaud the excellent work that many NGOs have done to promote and assist domestic implementation of the Rome Statute as well as the strengthening of national judicial capacities. But I would like to see more decisive action by States, as well as synergies with development agencies and rule of law as well as judicial reform programmes.

Thank you for your attention and patience. I would now very much like to hear your views on where we stand as well as answer any questions you may have.