

HAKAN FRIMAN: My name is Hakan Friman. I have participated in the ICC negotiations on matter of procedure, representing Sweden.

Mr. Prosecutor, let me first join the others who have spoken before me in commending this very interesting and promising initiative, and thanking you and your staff for the very solid material that we are having as a basis for our discussions today.

I would like to take this opportunity to address one particular issue that is raised in the policy paper and in several of the previous interventions; namely, the need to establish a clear prosecution strategy. Quite apart from other arguments for such a strategy as have been brought forward by previous speakers with respect to the possible division of labour under the complementarity regime, a foundation for a consistent and even-handed approach and as a tool for promoting reasonable expectations as to what the ICC could in fact do, I would like to add to this the impact that such a strategy will have on the practical work of the Office of the Prosecutor.

It is suggested tentatively in the policy paper that the investigative and prosecutorial efforts and resources of the ICC should be focussed on those who bear the greatest responsibility, such as leaders of the state or organisation. Other speakers have suggested amendments to the list of target perpetrators. Leaving the exact scope of the strategy aside, it is evident that a clear strategy will assist in more focused investigations. It is apparent that the broader the scope, the broader and more extensive the investigation. And without a clear focus, the more information and potential evidence will be collected that, in the end, may turn out to be of no use for the prosecutions actually being instituted. The amount of material will, so to speak, clog the system and require additional resources, human and others, also outside of the Office of the Prosecutor.

This brings me to a second issue; namely, that the policy should, in order to provide effectiveness, inform the whole process, including the preliminary examinations and evaluations taking place before the decision is taken whether to seek an authorisation under Article 15 or to commence an investigation upon referral under Article 53.

The implementation of the strategy should, I believe, be reflected in the Regulations. The legal basis for implementing the strategy could be through the complementary regime and its requirement of sufficient gravity, Article 17, and/or under the interest of justice requirement as can be found in Article 53(1).

Let me finally conclude by recalling that the Pre-Trial Chamber is to exercise controlling functions which may have an impact on the issue of a prosecutorial strategy. That controlling power consists of authorisation, Article 15 again, and the review powers set forth in Article 53; and thus there appears to be a need to develop a common understanding within the Court as to how the different powers ought to relate to each other.

Thank you, Mr. Prosecutor, for allowing me to make these points.