



Ms. Fatou Bensouda
Deputy Prosecutor of the International Criminal Court

OTP-NGO Roundtable

Introductory remarks

The Hague

19 October 2010

Ladies and Gentlemen,

Thank you for being here. I am looking forward to a fruitful exchange of views.

On Thursday, in the inter-organ part of the roundtable, we will discuss strategies for dealing with President Al Bashir's campaign on the alleged Africa-bias of the Court.

Allow me, however, to already make some comments on this particular matter, as I have been travelling a lot through Africa over the past months, and as food for thought for later discussion.

Following the AU Summit decision in July, including the refusal of an ICC liaison office at the AU in Addis Abeba, as well the visits of President Al Bashir to two States Parties, Chad and Kenya, international criminal justice has again been put to a test. What's more, later this month, President Al Bashir might again travel to Kenya. ICC discussions in Addis take place in highly charged politicized atmosphere with disregard for legal argument. Voices of discomfort about the ICC's legitimacy, presenting the institution as a tool in the hands of western States, are being promoted by President Al Bashir. The two arrest warrants issued against him and the Security Council's alleged refusal of the AU's request for deferral evoke emotions and have become a rallying point for President Al Bashir's campaign. In sum, concerns over loss of support from the Court's largest constituency loom large, while misperceptions, lack of knowledge and understanding gain ground; anti-ICC elements are hard at work to discredit the Court and lobby for non-support.

At the same time, practice shows that engagement and cooperation of *individual* African States with the Court has not diminished. Over the last 7 years African states have consistently helped us at each step of our activities: in opening the investigations, in conducting the investigations, in pursuing and arresting individuals sought by the

Court, in protecting our witnesses, etc. Those are not just words. African States receive more than 50 per cent of our requests for cooperation. 85 per cent are met with a positive response. All segments of Kenyan society have welcomed the Court's investigation into the post-election violence. Botswana, as principle supporter of the Court, continuously and publicly calls for the execution of arrest warrants, including at the latest UN General Assembly. Another good example: in the same period when the AU issued its decision, I travelled to Nigeria on the invitation of the Nigerian authorities for meetings with Government representatives.

Ladies and Gentlemen,

I do not need to explain that African institutions and African people are largely responsible for building the system of international justice designed by the Rome Statute. The experience of centuries of suffering, including by the inaction of the international community in the 1990's with regard to the genocide in Rwanda and the Congo wars, made African States led the discussions on the Rome Statute with the goal to end impunity for those grave crimes they suffered. Currently, 31 African States are State Parties to the Rome Statute, therewith forming the largest regional group. African judges are 28% of the Court's bench. We are heartened to see public figures such as Nobel Prize winners Wangari Maathai and Wole Soyinka speak for international justice. This evening, we are meeting with one of the most popular African singers, Youssou N'dour, who also expressed support for our work.

However, the *institutional* relationship between the AU as a continental body representing all Africa and the ICC is not in its best shape. It should not be allowed to deteriorate further. There is a need for counteracting anti-ICC sentiments in Africa prompted by President Al Bashir, who is fighting for his freedom using different tactics, including abusing African hospitality by going to neighbouring countries, threatening

Western countries with affecting the south and offering carrots to foreign business, to French, American and English companies.

The ICC cannot resolve the problem alone – in fact the Court itself, as a judicial institution, is not at all well equipped to deal with wide-ranging political campaigning against it. In this regard, it is important that the Assembly of States Parties is engaged in a campaign to safeguard the credibility and future development of the Rome Statute system as strong and as active as the campaign of President Al Bashir. The States Parties vowed their commitment to the universality and integrity of the Rome Statute in Kampala – now they face a situation which requires those words to be transformed into concrete action.

NGOs have also an important role to play, insisting on the need to stop the crimes in Darfur and to implement the arrest warrants. Promoting solidarity with the Court and not with the persons sought by the Court. We need such action in particular if President Al Bashir attempts to visit a State Party. In fact, I understand civil society is already preparing for a renewed visit to Kenya, such as the Kenya chapter of the International Commission of Jurists that is seeking before national courts an order forcing the Government to obey the arrest warrant of the ICC. Such efforts should be encouraged and organised, to ensure Al Bashir's arrest.

Ladies and Gentlemen,

That's all I would like to say for now. I wish you all a pleasant discussion with the Office.

Thank you.