

JOSE GUEVARA: Good morning.

Jose Guevara from the Coalition for an International Criminal Court, Office for Latin America and the Caribbean.

First of all, I would like to congratulate you for your recent designation as Prosecutor of the ICC, and I would also like to thank you for allowing me to address these words in my personal capacity and from a Latin American perspective regarding your draft paper on some policy issues before the Office of the Prosecutor.

Such paper is, in general, an excellent exercise of transparency, and I truly believe that the Office, like the one that you are now conducting, needs it for guaranteeing your impartiality and to enable the management of the expectations of organisations, groups, State agents, and scholars regarding the jurisdiction of the Court.

I therefore congratulate you for such tasks, and I'm sure that once it is definitively concluded, the international community interested in the existence of an independent, impartial, and efficient international criminal court will have a guide that will direct their work in its relationship with your Office.

Dr. Moreno-Ocampo, in your draft paper, you mention that in order to comply with the complementarity principle, the OTP will monitor, assess, and cooperate with national jurisdictions. I'm sure that you are aware that in order to comply with such cooperation with national systems, you will have to work in an initial informative period vis-a-vis 35 chief prosecutors, judiciaries, and Ministers of Foreign Affairs of the Americas. Such a task will be difficult due to its complexity and to the time and personnel resources consuming, and therefore I would like to suggest that you achieve such initial cooperation and understanding of your policy issues through multi-lateral efforts such as the following:

You might be aware that in Latin America, the Supreme Courts have

contributed to the ratification or not of the Rome Statute. Some of the worries of such tribunals like the one in Chile is because they do not trust an international organisation that will have the mandate to certify that the certain State is unwilling to prosecute certain persons and, therefore, they consider that as a violation of national sovereignty. I'm sure that such fears would be diminished or eliminated if they know your policy paper; that you emphasise the presumption of State action and therefore the protection of national sovereignty.

You might be aware that every year the presidents of the Supreme Courts and High Courts of Justice of Inter-American countries meet. Last year they did it in Cancun, in Mexico, and this year, 2003, it will take place in El Salvador. You definitely might give a relevant and positive action if you could explain to them your policy paper and the important position that State action, including judicial action, plays in it.

On the other hand, the General Assembly of the OAS in the Resolution of Support to the Court of this year, 2003, have suggested the Inter-American Juridical Committee, composed of 11 legal experts from the Americas, to include a discussion point on the mechanisms to address and prevent grave and persistent violations to international humanitarian law, international human rights law, and the role that the ICC will play in such process in the joint meeting with the legal advisors of the Ministers of Foreign Affairs of the Americas. Such an opportunity to address your policy paper before legal advisors and the legal experts committee of the Americas will be important to strengthen the understanding of your role as the Prosecutor of the ICC.

Finally, also within the framework of the OAS, the Ministers of Justice and prosecutors-in-chief of the Americas - it's called in Spanish "brenka trijonder ministers des justicia", or "de ministers of borkerolja seneralis des las Americas" ^[Spanish spoken] - have met on four

occasions to address certain cooperation strategies to confront common problems like trans-national crime, cyber crime, and penitentiary policies. In the year 2004 they will meet again, and the General Assembly of the OAS has entrusted the Secretary-General of such organisation to facilitate such a meeting.

It is important to recall that there are not a lot of occasions in which you can have such a number of Ministers of Justice together, especially taking into consideration that the 16 of them might be of non-States Parties of the Rome Statute. It will be important to all of them to be aware of your conception of complementarity, cooperation, and especially about the primary role that the States have to guarantee the investigation and the Prosecution of such heinous crimes.

Thank you again very much for allowing me, and good luck.