

ADDRESS BY PROSECUTOR LUIS MORENO-OCAMPO

**THIRD SESSION OF THE ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

The Hague, 6 September 2004

Mr President,

One year ago I presented before this Assembly the results of the first three months of our work. I informed you that we were establishing the policy, structure and regulations of the Office, and that cost-efficiency would be a priority. I explained that we were analyzing information about the situation in the Democratic Republic of Congo. I said, if necessary, I would start an investigation *proprio motu*, but that the work of my Office could be facilitated by a referral or active support from that state. Finally, I told you that as soon as the Deputy Prosecutor arrived, he would begin preparing our investigation plan.

Allow me now to summarize first, how we built our team, second, the policies we established, third, the structure designed to execute our strategy. I will explain how we have started to investigate the two gravest situations that could trigger further Court activity: the massive crimes committed in the Democratic Republic of Congo and Northern Uganda.

First, we have built an operational office. The Office has grown tenfold. One year ago, it had a staff of 4 professionals; it now comprises 41. The Office as a whole represents 32 different nationalities and has a gender balance of 53 percent men and 47 per cent women.

The Office also has worked to present a first-rate short-list of Deputy Prosecutor candidates for your consideration. This is the last key senior position to be filled. Each of the three candidates would excel in this post.

Second, after extensive public consultation, we have developed our core policies:

- A positive approach to cooperation and to the principle of complementarity. This means, encouraging genuine national proceedings where possible, relying on national and international networks, and participating in a system of international cooperation.
- A focused prosecutorial strategy: This means centering our efforts on perpetrators bearing the greatest responsibility, with a policy of short investigations, targeted indictments and expeditious trials, and an interdisciplinary investigative approach, adjusted to the peculiarities of each situation.

We produced a policy paper which explains our policies and strategies. The document is available in this room.

We are very pleased with the explicit endorsement of our basic policies by the Assembly's Committee on Budget and Finance. The Committee has said that it was impressed by our innovative and strategic approach. It also recognized our resolve to maximize the Court's impact and cost-effectiveness, and our efforts to avoid resource-intensive investigatory approaches.

Third, a structure for the Office was specifically designed to implement and carry out our policies. Last year we proposed the creation of a unit in charge of complementarity and the creation of special investigation teams. We also proposed that the two Deputy Prosecutors be put in charge of the investigation and prosecution divisions.

Based on our experience during our first year of operation, we introduced some changes using existing resources. These changes were made following external and internal consultations, and having sought the advice of international experts on organizational matters. Allow me to summarize the main developments:

- We decided to have a lean immediate office to avoid internal duplication of functions. Operational and services activities were transferred outside the immediate office but are being carried out by the same number of people.
- Also with existing resources, we created the Jurisdiction, Complementarity and Cooperation Division (JCCD), comprised of institutional analysts and international lawyers who provide systematic analysis and recommendations on referrals from states and on communications from citizens and organizations. These functions require analysts with a different profile and skill-set from that of the criminal analysts in the Investigation Division. The division also helps us overcome the major challenges we face by building cooperation.

The division is part of our strategy of cost-effectiveness: the more cooperation we obtain, the less costs we have.

- We also reorganized – through redeployment – the services area. In doing this, I exercised the administrative authority granted in article 42, in coordination with the authority of the Registry. To exercise my authority, I have three advisors: one to oversee administrative activities; a staff strategy advisor, to ensure that the Office's key asset – its staff – is attracted and properly trained and evaluated; and a public information advisor. The Division of Common Administrative Services and the Public Information Section of the Registry implement and support our policies. My advisors liaise with the Registry and supervise it in the implementation of the Office's strategic decisions.

The structure I have described ensures the effective implementation of our policies.

I would also like to discuss how we are improving cost-effectiveness through internal and external coordination.

At the top level, we established an Executive Committee, comprised of the heads of each of the three divisions. This Committee advises the Prosecutor in all major decisions. This ensures coordinated and collective decision-making.

At the working level, we take a joint team approach. It brings together members of each division to carry out core tasks, drawing on our diverse profiles and skills. There are three basic phases: analysis of admissibility, investigation, and prosecution. Each division contributes to each phase. In the first stage, the Jurisdiction, Complementarity and Cooperation Division provides analysis on national institutions and proceedings and on the interests of justice, and, assisted by the Investigation Division with crime-base analysis, assesses the seriousness of information received. In the investigation phase, the Investigation Division leads a joint team, in which the JCCD assists on cooperation matters and continues its analysis of admissibility and interests of justice issues, and the Prosecution Division contributes to the definition of charges and the general strategy to present the case. In the prosecution phase, trial teams present the case before the judges, with the support of the other two divisions.

In addition to the internal joint team approach, we are working together with the Registry. We rely on the services provided by the Common Administrative Services Division, the Safety and Security Section and the Public Information Section. Inter-organ working groups have been set up to coordinate our victims and outreach activities. The two organs also worked together to prepare the missions to Kampala and Kinshasa. They operated jointly in the field.

The contribution of non-governmental organizations is crucial to our work. We are very grateful for their continued assistance and commitment. I would also like to express our gratitude to the Coalition for the ICC, which coordinates our work with many of these organizations.

Mr President,

Our 2004 budget assumption was the following: we would open one investigation (article 53) with two cases and would have two situations in the analysis of information phase (article 15).

In fact, we opened two investigations under (article 53) and we are analyzing six situations (article 15).

I cannot provide details on the six situations under analysis, because our work in this phase is strictly confidential. However, I can say that the six situations are located in four different continents.

Allow me to give you some details on the investigations opened under article 53.

- In December 2003, Uganda referred the situation in the north of the country to the Court.
- In March 2004, the Democratic Republic of Congo referred to us the situation in its entire territory.

We appreciate very much the trust expressed by Uganda and the DRC in making these referrals, and their ongoing cooperation with our work. The referrals will allow the Court to start its first cases with clear jurisdiction and open channels of cooperation.

- On 21 June 2004, after a rigorous analysis we announced the opening of an investigation in the DRC. Reportedly, an estimated 5,000 to 8,000 unlawful killings have been committed since 1 July 2002, among many other crimes.
- On 28 July 2004, we announced the opening of the investigation in Northern Uganda, after an equally rigorous analysis. Allegedly, widespread and systematic attacks have been committed against the civilian population since July 2002, including the abduction of thousands girls and boys.

In both situations the available information suggests that rape and other crimes of sexual violence, torture, child conscription, and forced displacement continue to take place.

Since the opening of these investigations:

- We have concluded cooperation agreements to facilitate our investigations and execute arrests.
- The Deputy Prosecutor, Serge Brammertz, has led investigation missions in Kinshasa and Kampala. Our team in Uganda has begun taking critical investigative steps: interviewing persons and collecting evidence in the field.

We are very pleased with the smooth manner in which the investigations have begun. No requests for deferral to national investigations were received following the notification to States Parties required by article 18.2.

Mr President,

Allow me now to turn briefly to the budget for 2005.

We will conduct analysis pursuant to article 15 in up to eight situations. We assume that we will finish the investigation of one case during this year and, if defendants are arrested, will start the trial in

that case at the beginning of 2005. We also plan to investigate two other cases, to finish one in 2005, and, if the defendants are arrested, start that trial. We estimate that we will open an investigation in a new situation in the middle of next year.

To execute the tasks required by these assumptions, we have requested no additional posts in the services area. We have requested some conditional posts in the area of translations, in JCCD, and in the Investigation and Prosecution Divisions.

The Office expects to fulfil the timelines of its assumptions even with the recommendation not to approve the conditional positions as part of the budget, on the understanding that, should such resources become necessary, they would be drawn from the contingency fund.

I thus fully support the comments of President Kirsch on the contingency fund. It is a welcome idea, provided that the trigger mechanism is consistent with the independence of the Court.

The OTP would consider the opening of an investigation as sufficient demonstration of the need for access to the conditional positions required. We will fill positions only as the need to hire arises. I ask for your approval in advance. In any case, I cannot and I will not announce the opening of a third investigation without being certain that sufficient resources are available.

The Committee's recommendations on the OTP's administration and public information capacity have no financial implications, but do have profound organizational consequences for our operation. Despite the significant increase in the Office's activities, neither the administrative nor the public information capacities have been expanded. This lack of expansion is due to the fact that the Office focuses on strategic matters, as explained, while the bulk of administrative activities are performed by the Registry.

Some of the Committee's recommendations contradict decisions made by the Assembly during the 2004 budget process and affect positions that have already been filled. For instance, the three positions in the Public Information Unit, with exactly the same titles and levels, were expressly approved last year.

I would therefore make only one general suggestion, which would not have resource implications if accepted: not to cut or redeploy the few posts that were approved last year in the administration or public information area.

Mr President,

President Kirsch is leading the Court in the development of a common strategy. I fully support him and his vision. Within my Office, having met the goals of our initial set-up phase, I will further develop and implement our strategy and organization in a coordinated manner.

We are now working in the midst of two ongoing conflicts, in societies divided by years of violence. We have no police and no army. We are expected to carry out our mission in a rapid, cost-effective and exemplary manner. We cannot do this without your sustained, active support. We also need your understanding of the extraordinary challenges we face and of the policies and structures we have set in place to meet these challenges.

Thank you.