



**STATEMENT BY THE AMBASSADOR OF THE KINGDOM OF SPAIN
TO THE NETHERLANDS**

**XI ASSEMBLY OF STATES PARTIES OF
THE INTERNATIONAL CRIMINAL COURT**

Madam President,

First, allow me to congratulate you on the valuable efforts you have been carrying out during your first year in office, as well as to express my full confidence that, under your guidance, the Assembly of States Parties will carry out its work effectively.

Moreover, I would like to express my sincere congratulations to Judge Song for his re-election as President of the Court, and especially for his excellent work in leading it.

Likewise, I would like to give a warm welcome to the new Chief Prosecutor, Mrs Fatou Bensouda, and wish her every success in the future, as well as to thank the current Registrar of the International Criminal Court, Mrs Silvana Arbia, for all of her work and dedication during these past years. Allow me to also express my sincere appreciation to Prosecutor Moreno-Ocampo, for the intense and vigorous work that he has carried out during his term.

Madam President,

This is not just another meeting of the Assembly of States Parties. On this occasion, we are celebrating the tenth anniversary of the entry into force of the Rome Statute, and it is, therefore, an excellent opportunity to take stock of what we have achieved to date, and the challenges yet before us.

In our view, this stocktaking of the last ten years shows highly positive results.

The ICC has managed to consolidate its status as an independent organisation, the symbol of a new paradigm of international criminal justice and the fight against impunity, which has been able to coalesce around itself a broad base of political support.

The aspiration of achieving universality which the Rome Statute has demonstrated from the outset has been successfully implemented in these past ten years.

Spain has always held that the formal requirement of 60 ratifications demanded for the entry into force of the Rome Statute should be considered a minimum threshold. Both the criminal justice system embodied by the ICC, and the values that inspire its actions, require an even greater expansion of the number of States Parties which, beyond the Statute's legal requirements, would further its full consolidation and its recognition in the international community as a solid, viable project.

Therefore, Spain welcomes the fact that, during this past decade, the number of States Parties has doubled. With the latest accession, that of Guatemala, there are now 121 States which have ratified the Rome Statute. This is a clear sign that the international community is firmly committed to combating impunity in the face of the most serious crimes against humanity, and also makes manifest that the International Criminal Court is the best standard-bearer for such a noble task. I would like to mention, in this sense, the support the Court received during the difficult days in June by all the States Parties involved in the crisis, Spain among them. It was thanks to these joint efforts that a solution could be found satisfactory for everybody.

However, we must avoid falling into complacency. On the contrary, we must continue working towards our original goal of achieving the universality of the system that the ICC represents—and what better occasion than this celebration to hone and refine our strategy even further, and continue our efforts to attract new States into the ICC's orbit. With this end in mind, we should take advantage of the lessons learned and use all of the instruments and mechanisms available to us.

Madam President,

In this same spirit of stocktaking, looking at the past ten years since the Rome Statute's entry into force, the activity of the Court itself cannot go unnoticed. During this period, seven active situations have been addressed by the Court. It has 16 cases before it, and has issued a number of arrest warrants. In this regard, I would like to highlight the importance of the fact that in March, this High Court handed down its first judgment, sentencing Thomas Lubanga Dyilo to 14 years in prison. This is an excellent example of the ICC's vitality and dynamic nature, as well as its effectiveness as an organisation at the service of the international criminal justice system.

Now, with our eyes once again on the future, Spain believes that it is essential for the ICC to also pay careful attention to the victims of crimes within the jurisdiction of the Court. There can be no doubt that in the mirror of international conscience—as well as that of public opinion in our respective countries—the appropriate reparation for victims is one of the parameters to use when evaluating the Court's actions.

Madam President,

Together with the aspiration towards universality and the desire to increase the effectiveness of its actions, a third essential element for the ICC to operate smoothly is the need to guarantee fluid cooperation with States. The experience of the past decade leads us to the conclusion that cooperation with the Court is not only an obligation established by the Rome Statute itself, but is also essential for it to function properly and carry out its legal work.

Here, it is important to note the great progress seen in recent years. The Court has gained the support of some international organisations; it is only right to mention, firstly, the United Nations, and its agreement with the Court of 4 October 2004. Whilst guaranteeing the complete independence of the Court in its duties, it establishes mutual cooperation and judicial assistance between both Parties. Moreover, a matter of great symbolic importance is that last 24 September, during the High-Level Meeting on Rule of Law, a Declaration of the UN General Assembly recognised expressly the important role played by the International Criminal Court with regard to this vital legal principle. Even more significant is that the Declaration stresses the importance of assistance and cooperation with the Court.

In this respect, it is probably good to remember that even States which are not Parties to the Rome Statute may cooperate with the ICC, and even sign commitments or agreements with it. However, and above all, the necessary cooperation of all States Parties should undoubtedly be stressed. The experience of these past years indicates that there is still room for improvement in this area. One of the challenges that we must face is the development of more effective procedures to react appropriately in possible cases of failure to cooperate with the Court.

Madam President,

The fourth major issue to take into account when taking stock of these past ten years of the Court is the material scope of its actions. Certainly, the number of international crimes that can come before the Court is limited, but they encompass the most serious, high-profile cases. Having said that, it is no mere doctrinal speculation to consider the possibility that in the future, the ICC could have jurisdiction over the crime of aggression. If the Kampala amendment is ratified by at least 30 States Parties, as of 1 January 2017 jurisdiction over the crime of aggression could become a reality. This would, undoubtedly, be a major milestone, as would be a wide ratification of the amendment extending the Court's jurisdiction over war crimes involving the use of certain weapons or substances in non-international armed conflicts.

In Spain, the Kampala amendments are currently going through the necessary administrative processes, and we hope that soon they will be ratified by Parliament.

Madam President,

Besides these major substantive issues, the current reflections regarding the Court inevitably lead to an always sensitive topic: that of finances. The current economic situation compels us to face the need to manage our resources more efficiently, and limit our spending in accordance with the real possibilities of the States Parties. Spain—now immersed in an intense and demanding fiscal adjustment process, which, more than ever, forces us to limit *a priori* all kinds of spending, including contributions to international bodies—is in favour of tightening the 2013 budget as much as possible. Therefore, we consider it necessary, in line with what has already been set forth by the Committee on Budget and Finances, to adjust the Court's budget to this situation. Amongst all of us, we must try to strike a balance which would make it possible to combine the need for austerity imposed by the current crisis with the existence of the means for the Court to carry out its work.

Madam President,

As Judge Song affirmed barely a week ago before the UN General Assembly, "the Rome Statute system has changed the way the world looks at grave crimes under international law." Moreover, full implementation of the International Criminal Court has not only made it possible to establish an innovative international instrument to combat impunity. It has also simultaneously had the indirect impact of empowering national jurisdictions to combat impunity, as well as having a deterrent effect on the future commission of these crimes. This is, beyond any doubt, a success in and of itself, which we should welcome.

Allow me to conclude my remarks by reiterating Spain's firm support for the International Criminal Court. It can count on my country's strong commitment to definitively consolidating, over the next decade, the Court's role as a predecessor of a new international criminal law regime, and as the international community's main standard-bearer in the fight against impunity for the most serious crimes against humanity.

Thank you very much.