



BRAZIL

INTERNATIONAL CRIMINAL COURT

Sixth Assembly of States Parties to the Rome Statute

General Debate

**Statement by Ambassador Maria Luiza Ribeiro Viotti,
Permanent Representative of Brazil to the United Nations**

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Mr. President,

I wish to congratulate you on the efficient leadership with which you have discharged your important task. I also wish to congratulate the other members of the Bureau of the Assembly of States Parties and the Facilitators, who have conducted fruitful consultations within the two Working Groups. Such consultations have produced valuable recommendations and information to be considered by the States Parties.

I would also like to take this opportunity to commend the work of the New York Liaison Office of the Court. The Liaison Office provides an outstanding contribution to the work of the Court by prompting cooperation and exchange of information between the Court and the United Nations, as well as among delegations based in New York.

Mr. President,

Since the adoption of the Rome Statute, 105 States have become Parties to this most praiseworthy initiative of the international community. The Court has just constituted Trial Chamber I. This is a reason for celebration, and a powerful encouragement to keep up with the good work so far carried out.

Today, 105 States subscribe to the principle that impunity must not go unchecked and sustain that a system of international justice is possible. In the last five years since the entry into force of the Rome Statute, the International Criminal Court has steadily consolidated itself in The Hague, started investigations in several countries, issued arrest warrants, and constituted its first Trial Chamber, a major step in its institutional development and a milestone in the history of international relations.

The ICC is a system based on two mutually-reinforcing pillars – the primary responsibility of the States and the judicial activity of the Court, in accordance with the principle of complementarity. The recent achievements have been possible thanks to the support extended by the States Parties. But much work still remains to be done in the near future. We trust that the Court will continue its consideration on the back of a reinforced commitment to the ideals of the Statute and on the resolute involvement of the international community with its activities.

The Brazilian Government, as an early supporter of the ICC, takes this opportunity to reaffirm that commitment.

We will continue to advocate for the ICC in all fora. A message to this effect was included in the final communiqué of the last meeting of the Council of Ministers of the Community of Portuguese Speaking Countries. It represents another example of our supportive and constructive attitude towards the Court.

Mr. President,

The principle of complementarity makes interdependence between the Court and States a requirement. It calls for the cooperation from States as a vital necessity.

I would like to reiterate the importance that all States, Parties and non-Parties to the Rome Statute, cooperate fully with the Court. Its preemptive role can only be completely fulfilled once suspects in the situations under investigation by the Court are brought to trial. In this connection, the execution of pending arrest warrants is of utmost importance.

The ability of the Court to fulfil the high functions mandated to it by the States Parties depends upon the support and cooperation made available to the Court not only by the States concerned, but by the international community as a whole, including the important grassroots work of the non-governmental organizations.

The Court needs the support and cooperation of governments, as well as of international and regional organizations. Such assistance can be provided both at high political levels and through day-to-day tasks and actions, and, above all, by means of fulfilment of its judicial decisions. Our common international endeavour to uphold human rights, to promote international justice and the rule of law worldwide can only be strengthened through the expansion of the universality of the Rome Statute and of the Court. Brazil, therefore, welcomes the ratification of the Rome Statute by Chad and the recent accession of Japan as auspicious news that further strengthens the ICC, and encourages States that have not yet done so to become parties to the Statute.

Mr. President,

Professor Michael Walzer, in his seminal book on just and unjust wars, noted that "for as long as men and women have talked about war, they have talked about it in terms of right and wrong". If we are to draw the implications of this apparently simple sentence, we must assume that, for most men and women in our planet, war is essentially a moral subject.

Professor Walzer also claimed that no crime could meaningfully exist without a perpetrator to be held accountable for it. Therefore, our main duty, regarding the crime of aggression, is to set the appropriate framework within which we can effectively connect the act of the State to the individual conduct of men and women in a position to lead their people into war.

We believe that sovereignty and international justice are complementary rather than mutually excluding concepts. War stems more often from human choices than from

human needs. The criminal individual responsibility of political and military leaders is, thus, a legal construction that allows us to fulfil the very notion of human responsibility, when it comes to the most serious breaches of human rights and international humanitarian law. Brazil is in favour of the timely adoption of a definition for the crime of aggression, so that the Court can have jurisdiction over it. We are ready to support a definition that adequately preserves the independence of the Court as a judicial organ, and conveys, as useful indications, the elements set forth in General Assembly's resolution 3314.

The definition of the crime of aggression will open a new and promising chapter in international relations. It is probably the most urgent issue facing this Assembly. It is up to us to make justice fully able to reach to the reality of war. The accomplishments of the Court so far demonstrate that judgment of war and of wartime conduct is a decisive step towards peace and reconciliation.

Time has come for us to move forward in this issue, so as to pave the way to the Review Conference of the Rome Statute. In our view, the definition of the Crime of Aggression should be at the top of the agenda. I commend those delegations engaged in the consultations in the Special Working Group on the definition of the Crime of Aggression on their commitment to advance the cause. I also would like to congratulate the facilitator, Ambassador Christian Wenaweser, on the report on the session held in Princeton, which constitutes a good basis for further negotiations.

Mr. President,

The Rome Statute and the Court's work still require improvements. These should be attained guided by the principle of due process of law. Legal aid, witnesses protection and victims assistance, on a universal and non-discriminatory basis, are not only essential aspects closely related to due process, but also institutional challenges we can consider as priorities, for they encompass the responsibility of the Court to ensure full compliance with basic human rights and needs.

Brazil welcomes the dialogue initiated between the Court and the Bureau of the Assembly of States Parties in order to ensure equitable geographical representation and gender balance in the recruitment of staff members. While upholding the need to recruit the most qualified professionals, we are ready to consider improvements in the current model, mirrored in the experience acquired in the United Nations system, in order to secure fair representation of developing countries and women, specially in high ranking positions.

Mr. President,

The pursuit of international justice and the fight against impunity are key in achieving lasting peace and security. Individuals who perpetrate crimes against mankind must be sure of their punishment and the victims must have no doubt that criminals will be brought to justice. The international community has taken memorable steps in this regard with the establishment of the International Criminal Court. It is now up to the States Parties and other peace loving countries to strengthen the Court. It is our true hope that this Sixth Session of the Assembly of States Parties may contribute to the further consolidation of the Court. I assure you that the Brazilian delegation is ready to do its part in that endeavour.

Thank you, Mr. President.