

STATEMENT BY AMBASSADOR MARCEL BIATO
ON BEHALF OF THE BRAZILIAN DELEGATION
TO THE REVIEW CONFERENCE

Mr. President,

I would like to join previous speakers in expressing my satisfaction at seeing you at the head of our endeavors to complete the crucial task before us. Eight years after the entry into force of the Rome Statute and its ratification by 111 States, we have come together, States Parties and Non-States Parties, as well as non-governmental actors, to review this cornerstone of International Criminal Justice.

Brazil therefore reaffirms its commitment to fully cooperate with the International Criminal Court in the struggle to curb impunity and foster global peace and justice. It is with this disposition that the Brazilian delegation has come to Kampala.

Brazil notes with satisfaction that all countries of the union of South American Nations have ratified the Statute. I would also like to congratulate Bangladesh on becoming the latest State Party.

Mr. President,

That we should be meeting in Kampala is an expression of our recognition for all that Uganda and Africa have achieved in terms of national reconciliation through democracy, good governance and its strong support for the International Criminal Court.

We have come a long way since 2002. The Court has helped revive hope that justice will truly prevail in the face of heinous crimes. We have shown determination to act collectively to ensure that the Court's writ is respected whenever national authorities are unable or unwilling to punish perpetrators. The Court has made clear that nothing must trump the fundamental rights of individuals and communities to justice. Not even that organizing and founding principle of international life - State sovereignty. After all, no nation can truly enjoy liberty so long as the basic freedoms of others are denied.

After eight years there is much to celebrate, but also cause for concern and renewed endeavor. We should take to heart the lessons of the Court's experience. The stocktaking exercise will provide an excellent opportunity to assess the progress already made and the challenges ahead. This Conference will also address the issue of article 124, which is a transitional provision, and the praiseworthy proposal on war crimes.

Mr. President,

The history of the last decade leaves no doubt that we have no time to lose. Egregious acts of aggression continue to take place in the pretence of sacred values and high principle. Fully integrating this crime into the Rome Statute remains a crucial step towards a more stable, just and democratic world order. If aggression under any pretext is to be curbed, military might must no longer be the litmus test for being right. Like *a la carte* multilateralism, cherry-picking when it comes to rules is ultimately self-defeating.

In times of globalization and growing interdependence, never has the need for global governance and effective multilateral coordination been greater. As with other major threats and challenges, impunity can only be effectively combated at the global scale. Just as with climate change or terrorism, there can be no exceptions or exemptions when it comes to setting up enforcement regimes. Let us therefore renew the spirit of the 1944 San Francisco Conference, when we pledged to create a system of global governance founded on the coordinated work of universal institutions working in harmony. A peaceful world order requires a strong and independent ICC to work side by side with other organizations envisioned by the UN's founding fathers, such as the Security Council, the General Assembly and the International Court of Justice.

Mr. President,

After so many years of discussions within the Special Working Group on the Crime of Aggression, which you chaired, the vast majority of States Parties is convinced that the time has come to conclude our work. Not to do so would be to ignore the wishes of so many States. We look forward to accomplishing the task left unfulfilled twelve years ago – defining the crime of aggression as well as deciding on the conditions for the exercise of jurisdiction of the Court, as mandated by articles 5.2 and 123 of the Statute. We need, however, to respect the integrity of the Statute by avoiding new rules that jeopardize the balanced approach adopted for the different crimes within the Court's jurisdiction.

The international community must not fear making tough decisions. This is what we did in Rome. We did not shy away from taking bold action to ensure that our clarion call for an end to impunity was heard loud and clear

the world over. As President Sang-Hyun Song recently put it, “States must have the sense of audacity that prevailed in Rome”. We would not be here otherwise.

To argue that introducing the crime of aggression risks “politicizing” the Court is to pretend that we can avoid difficult options. Matters of world peace and security are by definition political in nature, but are best addressed through a legal framework that enjoys broad support and legitimacy. This requires leadership and courage of vision in the face of the realities of military power and vested interests.

Mr. President,

The Court will only be as strong as the willingness of its members to commit to and enforce its guiding principles. The international community must have the courage of its convictions. The universality of the Court lies in the widely held values that it espouses. Its reach will grow as a result of fulfilling its promise and not by submitting to false pragmatism and the so-called realities of power. To do so is self-defeating and unworthy of those who over the years fought for the creation of the ICC. There is no stronger incentive for a country to join it than the writ and credibility of the Court itself.

The late Sergio Vieira de Mello put it quite forcefully when he said: “an International Criminal Court will come into being...and will operate whether one or another country joins it or not”. These words are still very much alive. We heard them reaffirmed by Kofi Annan this morning.

Thank you.