



SECRETARIA DE RELACIONES EXTERIORES

M É X I C O

**5ª Sesión de la Asamblea de los Estados Partes del Estatuto de Roma de la  
Corte Penal Internacional**

***Intervención de la Embajadora de México, S.E. Sandra Fuentes-Berain***

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**5<sup>th</sup> Session of the Assembly of States Parties of the Rome Statute of the  
International Criminal Court**

***Intervention by the Ambassador of Mexico, H.E. Sandra Fuentes-Berain***

**La Haya, Países Bajos, 23 de noviembre de 2006.**

CHECK AGAINST DELIVERY

**INTERVENTION BY THE AMBASSADOR OF MEXICO, H.E. SANDRA FUENTES-BERAIN  
AT THE GENERAL DEBATE OF THE 5<sup>th</sup> SESSION OF THE ASSEMBLY OF STATES  
PARTIES TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT (ICC)-**

**THE HAGUE, THE NETHERLANDS, 23 NOVEMBER, 2006.**

Mr. President:

The delegation of Mexico wishes to express its appreciation to the high officers of the International Criminal Court for their comprehensive interventions that provide this Assembly with the context and substance for starting addressing the different issues included in its Agenda. Allow me also to convey the acknowledgment of my delegation to the Chair of the Trust Fund for Victims, Madame Simone Veil. Lastly, Mr. President, I would like to continue paying tribute to your work in leading this Assembly. Under your leadership we will be surely accomplishing much during this session.

Mr. President:

**Universality and implementation** are two faces of a coin that States Parties must continue holding in a high place.

Today we are 103 States Parties to the Rome Statute and on January the 1<sup>st</sup>, 2007, we will have another new State Party. The Government of Mexico expresses its recognition to Comoros, Saint Kitts and Nevis, Montenegro and Chad for the recent deposit of their instruments of ratification. These ratifications and those expected to take place during 2007 are an unequivocal sign that we are indeed moving forward in the path towards universality.

However, there is still much to be done for making the Court the efficient and effective instrument in the fight against impunity that we created in Rome in 1998. The putting into place of implementing legislation is still an important challenge that we must face, both within the States themselves and in the dialogue between States Parties and with the Court itself.

Almost one year ago in this same building, the delegation of Mexico participated still as an observer to the Assembly. It was on January the 1<sup>st</sup>, 2006, when the Rome Statute entered into force for the Mexican State. The path before arriving to our ratification of the Statute was long and meant a joint effort from Government, legislature, organized civil society, academy and the Court itself.

Mexico reformed its Constitution so as to allow the Executive Branch to recognize the jurisdiction of the Court as a step previous to ratification. By incorporating Mexico into the Rome Statute we acquired the obligation to have the legal and administrative tools necessary for complying with the obligations derived from the international instrument. Thereafter, the Government of Mexico adopted two immediate courses of action: First, the Executive Branch referred the Agreement on Privileges and Immunities of the ICC to the Senate for its consideration during its current session. We believe that Mexico will be in a position to ratify the Agreement shortly.

Of higher importance, the Government of Mexico tasked itself with the elaboration of implementing legislation, so as to create the internal processes necessary for allowing Mexican competent authorities to comply with our duty to cooperate with the Court. I am pleased to inform you that the President of Mexico will sign very shortly a Bill on the cooperation of the Mexican State with the International Criminal Court that will be immediately sent to the Senate of the Republic – as chamber of origin – for its consideration during its current session.

It is a Draft Act that, having been widely discussed with the competent authorities of the Executive Branch, contains the elements necessary for complying with requests for cooperation made by the Court, in full accord with the requirements of the Mexican legal order.

These are, Mr. President, but two examples of the internal challenges that the regime of the Rome Statute poses for States: First, to reach ratification and; second, to have effective implementing legislation. We are convinced that the exchange of experiences in those two aspects is key for consolidating both the universality of international jurisdiction, as well as its global effectiveness. With that spirit, my country is pleased to offer its cooperation to those States that are in a process of ratification or implementation of the Statute, particularly in my region, so as to assist them overcoming obstacles of diverse nature.

Mr. President:

The International Criminal Court is fully operational. That is evident from the speeches by the President and the Prosecutor that we heard this morning, and also from the hearing for the confirmation of charges in the case against Thomas Lubanga Dyilo, for serious crimes presumably committed in the Democratic Republic of Congo. The challenges, however, are still important. It is appropriate to acknowledge and pay tribute to the accomplishments so far achieved just four years after the start of work of the ICC. We ought also to be critical and take note of the road ahead and of the best way to confront it, both within the Court as in its relation with the States, particularly in light of its executive limitations.

Allow me to mention some relevant aspects related to the future performance of the Court that constitute important challenges.

Firstly, the Court must count with full **international cooperation** for the fulfillment of its mandate. States Parties have a duty to fully comply with the obligations derived from the Statute. In addition, as President Kirsch expressed it in his presentation of the annual report of the Court at the 61 United Nations General Assembly, the ICC requires the cooperation from other actors.

The nature of the investigations does mean that the States in whose territory the Court conducts its activities have an immediate obligation for providing cooperation. However, the complexity of the situations for carrying out investigations efficiently, collect evidence, give attention to victims and execute sentences does also oblige the rest of the international community. In that sense, the dialogue between the Court and States Parties must be deepened and must focus in identifying expectations for cooperation in all its ramifications. Such dialogue must be continuous and must take place both at the seat of the Court and at the United Nations Headquarters.

Indeed, Mr. President, the situation in Darfur illustrates the potential role of the United Nations in assisting the Court in the fulfillment of its mandate.

For that reason, we welcome the start of operations of the **Liaison Office of the Court at the UN in New York**. The Office will serve precisely to further develop the necessary cooperation with the UN. We must emphasize the importance for this Assembly to provide the Office with the necessary means to carry out its duties and to allow it to continue bringing the Court closer to the organs and offices of the UN that could assist in the fulfillment of the Court's mandate. The urgency of this task should not be underestimated.

Mr. President,

For Mexico it is crucial to have a Court that functions effectively and efficiently. It is important to avoid unnecessary expenses and to have **budgetary processes that are clear and transparent**. While making a call for the stabilization of future budgets, Mexico acknowledges

that the presentation of the Budget is now more convenient. In addition, my Government believes that the process of elaboration of the budget and the interaction with the Committee on Budget and Finance could be improved so that States Parties are spared having to discuss every detail of the yearly budgets of the Court.

The dialogue with the Court on budget and on policies undoubtedly has now a good basis for further development. I refer to its **Strategic Planning process**.

My Delegation has taken due note of the Strategic Plan, of the Court Capacity Model and of the Plan on Outreach. We believe that they do constitute a good starting point although they would need to be improved, particularly in what relates to the balance between judicial and administrative objectives and to their proper assessment. No doubt, the dialogue with States Parties should be deepened in that respect, and must allow for more in-depth analysis on issues such as outreach, victims participation, complementarity, and geographic location of the Court's activities. The dialogue in those areas would, among others, allow to arrive at budgetary processes that are more certain and solid and contribute to the clear appreciation of expectations between the Court and the States Parties.

Mr. President,

Other important aspects of the work of the Court on the strategic planning process refer to the different **policy papers by the Office of the Prosecutor** on criteria for the selection of situations and cases, on the principle of "interest of justice" contained in Article 53 of the Statute, and on "positive complementarity". We believe that the best way to have further clarity in those issues would be through judicial activity and pronouncements that would delineate the scope of such important concepts of the Rome Statute.

For now, we acknowledge that in light of its inherent limitations, it would be materially impossible to initiate an investigation in every situation that is made known to the OTP. The prosecuting strategy presented recently in The Hague and in New York by Prosecutor Moreno Ocampo highlights the parameters for action of his Office. As he pointed out, "the intervention by the Office must be exceptional."

In that sense, the principle of **complementarity** must encourage genuine proceedings wherever it is possible; must be supported by national and international networks; and must be part of a system of international cooperation. The sole existence of the Court and its functioning are *per se* incentives for States in the prevention of the commission of crimes in their territories and, in case they take place, for taking immediate action.

Mexico values the exceptional intervention of the Court and sees it as one of its main direct benefits. That is, a triggering mechanism of a culture of prevention and deterrence of the most serious crimes as contained in the Rome Statute.

Mr. President,

An important issue at this stage of the Court's work is that of the **false dilemma between peace and justice**. Such apparent dilemma seems to manifest itself in a context in which political actors are faced with an apparent decision to choose between investigating and sanctioning those responsible of the crimes of the Statute, on the one hand, and to adopt a political solution to a situation that gave raise to those crimes, on the other. For a court of law, as is the ICC, justice is never dependent upon a contingency – something inherent in political negotiation. The dilemma does not exist, as there can be no denial of justice. Each institution has a mission to fulfill. The political power has its role. The judicial power has its role. States Parties have our role.

Mr. President,

We have come a long way. The challenges that the Court still faces are considerable. Mexico reaffirms its genuine will for providing its support to the Court so as to assist it in becoming an exemplary institution, that is efficient in resources and, more important, in results. Mexico also reiterates its commitment to comply with the obligations undertaken at the moment of its ratification of the Rome Statute. We remain convinced of our capacity to continue strengthening our own justice system and to fight impunity.

Thank you very much.