

**Statement by Mr. Luís Serradas Tavares, Alternate Representative, Director of the
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Portuguese Republic**

**Fifth Session of the Assembly of States Parties to the Rome Statute of the International
Criminal Court (ICC)
General Debate
The Hague, 24 November 2006**

Mr. President,

It is with great honour that I address the Fifth Session of the Assembly of States Parties to the Rome Statute. Let me begin by stating that Portugal fully shares the views already expressed in this General Debate by Finland as Presidency of the European Union.

Together with our partners in the European Union, Portugal considers the ICC to be a significant advancement in the development of international law, in the real protection of human rights and for the implementation of an effective and universal system of international criminal justice, in order to prevent and punish the most serious international crimes.

We note with satisfaction that the Court has now entered into a new phase of its yet short life and that it is making steady progress in its work. The first trials will certainly have a crucial role in assessing the Rome Statute in practice and also put into evidence the challenges that the Court faces in pursuing its mandate, be it in terms of arresting suspects, victim protection, choice of situations for criminal proceedings or other issues. These challenges particularly stress the need the ICC has for cooperation from States and the fact that the Court is part of a wider system where peace and justice have to be reconciled.

The adoption of the first Strategic Plan, that provides a common framework for the Court's activities over the next 10 years, with emphasis on the three years immediately ahead, is an important step that merits to be closely followed in the future.

We look forward to the deliberations of the Fifth Session of the Assembly of the States Parties in the next days, based on a thorough set of documentation prepared for this purpose, and share the view that such deliberations will allow for the reinforcement of the work of the Court.

Mr. President,

The main foundations of the ICC have been laid and, as we just noted above, this allowed for the Court to enter in 2006 into a new and active phase of its life with the first arrest and trial. We must not forget, however, that some important issues still have to be addressed to complete the work that was initiated with the major achievement that was the adoption of the Rome Statute in 1998.

In this respect, we very much welcome the Preliminary Paper submitted to this Assembly of States Parties by the focal point, Mr. Rolf Einar Fife of Norway, on the "Review Conference: scenarios and options" (document ICC-ASP/5/INF.2, of 21 November 2006).

In the context of the Review Conference and in line with Resolution F of the Final Act of the Rome Diplomatic Conference, the Preliminary Paper notes that the crime of aggression is given particular priority, as may be gathered from its inclusion in article 5 of the Statute and from the work currently being carried out by the Special Working Group on the Crime of Aggression, both in the course of various sessions of the Assembly of States Parties and during intersessional discussions.

We look forward for a successful Review Conference of the Statute and we stand ready to contribute to this objective in a constructive manner. We also share the view that preparations for the Review Conference should start as early as possible and would support the idea of establishing a working group of the Assembly of States Parties for this purpose.

Mr. President,

Portugal signed the Rome Statute in 1998, which was approved domestically in 2002, after a process that entailed a constitutional revision. This revision consisted of adding to the Constitution a general permission for ratification of the ICC Statute, in view of the uniqueness of our Constitution which forbids extradition if life imprisonment could be applied. Portugal deposited its instrument of ratification on 5 February 2002, thus becoming the 51st State party.

Portugal has now adapted its own criminal legislation to the Rome Statute through Law n.º 31/2004, of 22 July. This law criminalizes acts that are grave violations of international humanitarian law and other similar infractions, and follows closely the ICC Statute, sometimes even going beyond what was achieved in that treaty.

At this very moment, we are in the process of ratifying the Agreement on Privileges and Immunities of the ICC, and we hope that this endeavour can be achieved until the end of the current year or beginning of next year. We are also looking at other forms that can increase our cooperation with the Court.

As a member of the European Union and in accordance with the Common Position of the Council adopted in 2003, Portugal has been engaging in the promotion of the universality and integrity of the Rome Statute and intends to continue doing so. In this respect, we would also like to note with appreciation the Draft Plan of Action prepared by the Bureau in order to promote the universality and full implementation of the ICC Statute. We warmly welcome all efforts by States to become parties to the Statute of the International Criminal Court and hope that one day it can reach universal ratification.

Thank you Mr. President.