



Argentina

Corte Penal Internacional
Sexta Sesión de la Asamblea de los Estados Parte del Estatuto de Roma

Intervención del Embajador Jorge Argüello
Representante Permanente de la República Argentina
ante las Naciones Unidas

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International Criminal Court
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Statement by Ambassador Jorge Argüello
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Misión Permanente de la República Argentina ante las Naciones Unidas
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Mr. President,

Allow me to start by expressing the satisfaction of the Argentine Delegation for having you preside over this Assembly of the States Parties and congratulate you on your work. Also, please transmit these sentiments to the other members of the Bureau and to the Registrar and his staff.

The Argentine delegation would like to begin this intervention by reaffirming its full, unconditional and continued support for the work carried out by the International Criminal Court as well as all efforts towards the universalization of the Rome Statute and the strengthening of its institutions.

The continued and reiterated violations of the fundamental rights of human beings, which have been increasing progressively over the past decade, have allowed *Ius Gentium* to progress in the regulation of the international pursuit of those crimes that offend the common conscience of humanity.

The process of progressive development of international criminal institutions resulted in the formation of a jurisdictional body enabled to judge individuals through the application of criminal norms of international sources. This, to guarantee that the most serious crimes of international relevance do not go unpunished, which presupposes a new guarantee since this international jurisdiction complements the national level. At the same time, the establishment of the Court constitutes a dissuasive instrument that contributes to guarantee the maintenance of international peace and security.

Thus, the international community witnessed the adoption of the Statute of the International Criminal Court on July 17, 1998 and its entering into force on July 1, 2002. This was a milestone in the evolution of international criminal law and, particularly, of the international criminal accountability of individuals.

Today we are in a transcendent phase in the history of the International Criminal Court - its establishment and the beginning of its criminal proceedings and investigations, that at this time concern the Democratic Republic of the Congo, Uganda, the Central African Republic and the Sudan. The beginning of the criminal cases and investigations that have been initiated show that the criminal justice system that States envisioned at the Rome Conference is being consolidated. Therefore, all States are called to work towards this goal.

In this context, we would like to highlight the situation in Darfur, where the jurisdiction of the International Criminal Court was activated by Security Council Resolution 1593 (2005). On this occasion, Argentina -who at that time was a member of the Council- voted in favor of the resolution, in the understanding that the international community must foster the existence of a permanent and impartial tribunal such as the International Criminal Court, rather than continue creating new ad hoc tribunals. In this sense, we would like to reaffirm our support for the efforts of Dr. Luis Moreno Ocampo, Prosecutor for the investigation of the acts committed in Darfur, and our hope that with the cooperation of the relevant authorities, it will be possible to elucidate those acts and judge those who are presumed responsible.

At the same time, with regard to the investigations in Uganda, we would like to underline the warrants issued by the Court in the framework of the proceedings that

have been initiated. We trust that progress in the investigations will contribute to guarantee the efficiency of the international criminal justice system.

Mr. President,

The mentioned cases underline the fundamental importance of international cooperation to ensure that the International Criminal Court can effectively fulfill its functions. In this regard, we believe that the States Parties must ensure the fulfillment in good faith of the provisions of the Rome Statute and, in particular, of its Part IX. Cooperation must be full and in the framework of the complementarity rules as codified in the Statute.

The Argentine Republic is fully aware of such obligations and in this regard, the National Congress passed in December, 2006 the Act 26.200 on the Implementation of the Provisions of the Rome Statute, which criminalizes the relevant conducts as provided for in the Statute. Also, it establishes a cooperation regimen with the Court that will allow tribunals and competent Argentine bodies to count on a specific norm in cases where the Court might issue a request of extradition or of judicial assistance.

In this sense, Argentina would like to stress the importance of States adopting national regulations allowing for the efficient compliance with their obligations of international cooperation. Argentina deems it timely for different States to exchange ideas and experiences on this issue. Such exchanges could serve as a useful base to improve mutual technical assistance for the proper national implementation of the Rome Statute.

In the same line of thought, and within the policy of full support for and collaboration with the work of the Court, Argentina ratified last February the Agreement on Privileges and Immunities of the International Criminal Court (APIC).

Mr. President,

I would also like to take this opportunity to mention two fundamental aspects that will be dealt with in our sessions: (I) The definition of the crime of aggression and (II) the Review Conference of the Statute.

I. As far as the crime of aggression is concerned, we would like to reaffirm what has been expressed in the Working Group, i.e. that our position is structured around two key elements:

a) from the point of view of international law, we understand that the definition of a criminal act can only be based on those customary norms generally accepted by the community of nations. This is not the time to attempt a progressive development process of the international law on aggression, but rather we must sanction individual acts that already have been considered illicit by the general international law. Therefore, we believe that the typification of the crime of aggression must be based on Resolution 3314 (XXIX) of the United Nations General Assembly.

b) from the point of view of criminal law, we would like to recall that in most judicial systems of the world, especially those in the Roman-German tradition, the principle of legality is conceived on the basis of criminal types that include all objective and subjective elements of the illicit act, and that no open criminal types are allowed.

Consequently, and so that the future definition can claim the universality that is characteristic of international law, it would be necessary to search for a definition that is in accordance with this conception of criminal law, as consecrated by the constitutional systems of a significant number of countries in the world.

II. Regarding the Review of the Statute, Argentina considers that the principal task of the international community must be centered in supporting the work of the Court in the terms in which its jurisdiction was created. In this context, it would seem advisable to allow the institutions created by the Rome Statute to consolidate, avoiding the introduction of amendments that do not have true consensus among States. We believe that it would not be advisable to attempt to amend the criminal acts already typified by Articles 6, 7 and 8 of the Statute -thus reopening the debates that already took place in Rome- since this would conspire against the necessary legal reliability that should characterize international criminal law.

Therefore, and in accordance with the provisions of Resolution F of the Rome Conference, it would seem more prudent for the Review Conference to concentrate on the typification of the crime of aggression, the last crime against international law whose legal sanction is pending. On the other hand, an attempt to advance in the consideration of other criminal acts of transnational incidence, such as terrorism or illegal trafficking in drugs, would imply a difficult exercise that presupposes, among other elements, the achievement of consensus regarding the characterization of such conducts as "delicta iure gentium" and, upon achieving such consensus, structure the new types of criminal types in the light of the multiple valid international instruments on these subjects.

Mr. President,

These are, in brief, the position and points of view of Argentina on the subjects that we will discuss during the coming two weeks. Again, we are ready to work constructively with other delegations with an aim to reaching solutions that forward our central objective, which is the full consolidation of the Rome Statute and the end of impunity.

Thank you very much.