



# General Assembly

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Official Records

*President:* Mr. Muhammad-Bande ..... (Nigeria)

*The meeting was called to order at 10.10 a.m.*

## Agenda item 73

### Report of the International Criminal Court

#### Note by the Secretary-General (A/74/324)

#### Reports of the Secretary-General (A/74/325 and A/74/326)

#### Draft resolution (A/74/L.8)

**The President:** I am pleased to welcome Judge Chile Eboe-Osuji, President of the International Criminal Court, to the General Assembly.

The promotion of justice and international law has always been fundamental to the work of the General Assembly. During high-level week, Heads of State and Government reiterated their support for a peaceful, prosperous and just world order based on a strong rule of law. The Rome Statute remains a landmark on our common journey to international justice. Its adoption demonstrated the commitment of Member States to ending impunity for the most serious crimes of concern to the international community. It is clear that the activities undertaken by the International Criminal Court in fulfilling its mandate under the Rome Statute are in line with the work we are all doing to promote justice and the rule of law with a view to sustaining peace.

As we prepare to commemorate the seventy-fifth anniversary of the United Nations, we must reflect upon what we have achieved in terms of promoting the

rule of law and commit to overcoming all obstacles on our path. A rules-based international order is the best guarantor of the realization of peace and security, sustainable development and human rights.

As we consider this agenda item today, I trust we will remind ourselves of our common commitment to international justice and peace. I am confident that by striving together we will succeed in delivering for on all those ideals.

It is now my honour to invite Judge Chile Eboe-Osuji, President of the International Criminal Court, to take the floor.

**Judge Eboe-Osuji** (President of the International Criminal Court) (*spoke in French*): For the second time in my term as President of the International Criminal Court (ICC), I have the honour of presenting to the General Assembly the annual report of the Court, which has been circulated as an official document of the United Nations (see A/74/324). I will not go into detail on its content; I will simply give an overview of the Court's current situation while addressing some topical issues in more detail.

(*spoke in English*)

Before proceeding further, I must pause here to congratulate His Excellency Mr. Tijjani Muhammad-Bande on his election as President of the General Assembly. I am fortunate enough to know him personally as a man whose immense intellectual prowess is eclipsed only by his unforced aptitude for

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humility and uncommon sense of duty. With him as President, the General Assembly is in excellent hands.

I would like to start by expressing the Court's appreciation to the United Nations for the continued invaluable support and assistance that the Organization provides to the ICC, even if on a reimbursable basis, as necessary. As detailed in the Court's report, this assistance is wide-ranging and includes cooperation in such areas as conference services, transportation, communication, medical assistance and security arrangements. This assistance, particularly in the context of field operations, is truly critical for the ICC's work. On behalf of the International Criminal Court, I therefore thank the Secretary-General and the Organization's senior management for this and all other kinds of support to the Court as we all strive towards our shared goals of peace, security, universal enjoyment of human rights, development and respect for international law.

I also wish to thank previous Presidents of the General Assembly for the political and moral support they have given the Court, to the extent of their abilities. I was witness to such support from the previous President of the General Assembly, Ms. María Fernanda Espinosa Garcés, during her term. And I already see it forthcoming in Mr. Muhammad-Bande's term.

*(spoke in French)*

The cooperation of States remains equally important for the Court's activities. We are extremely grateful for the close cooperation that the Court receives from many States, be it in the provision of information, the organization of witness travel, access to documents or the freezing of assets. However, there is one area — the execution of arrest warrants — where the lack of successful cooperation is a major obstacle to the International Criminal Court's ability to fulfil its mandate.

An important aspect of that worrying situation concerns the United Nations. More than half of the outstanding arrest warrants — eight, to be precise — relate to situations referred to the ICC Prosecutor by the Security Council. The obligation of the Libyan and Sudanese authorities to cooperate fully with the ICC stems from resolutions adopted by the Security Council pursuant to Chapter VII of the United Nations Charter. I urge the Council to take concrete steps to ensure that the Libyan and Sudanese authorities comply with the requests for cooperation addressed to

them, in particular with regard to the arrest and transfer of the suspects currently on the run.

*(spoke in English)*

It remains unacceptable that allegations of criminal conduct of the gravity implicated in those cases are not properly heard before any court of law. It is unacceptable from the point of view of the victims, it is unacceptable from the point of view of the international community, and it is unacceptable from the point of view of the rule of law. In this regard, I would like to underscore the ICC's general operational methods: each suspect who appears before the ICC is afforded a fair hearing, in accordance with the strongest guarantees of due process in accordance with international standards. That must be stressed.

Let me now give a brief summary of the Court's activities during the past year. Final verdicts — judgments at first instance on whether or not the defendant was guilty — were rendered in two trials conducted against three defendants.

One of those is the trial of Mr. Bosco Ntaganda, who was found guilty on 18 counts of war crimes and crimes against humanity committed in the Ituri district of the Democratic Republic of the Congo. The defence has filed an appeal, which is still pending.

The second of the two trials involved cases against Mr. Laurent Gbagbo and Mr. Charles Blé Goudé, concerning allegations of election violence in Côte d'Ivoire. The Trial Chamber acquitted the two accused at the end of the presentation of the Prosecution's evidence, following what lawyers in some parts of the world properly called "no case to answer" submissions. The Prosecutor has appealed the judgment, and the appeal is pending.

The third trial, which involves Mr. Dominic Ongwen, continues with the presentation of the evidence for the defence. The case concerns allegations of crimes committed in northern Uganda.

As regards new cases proceeding to trial, charges of war crimes and crimes against humanity were recently confirmed against Mr. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud in relation to acts allegedly committed in Timbuktu, Mali. Barring the outcome of a pending appeal by the defence of the Pre-Trial Chamber's confirmation decision, the trial is expected to start next year.

The Court issued its first arrest warrants in the second situation in the Central African Republic, which concerns armed violence that began in that country in 2012. In that context, Mr. Alfred Yekatom and Mr. Patrice-Edouard Ngaïssona were transferred to the Court's custody last November and last January, respectively. The Pre-Trial Chamber is currently deliberating before rendering its decision on the confirmation of charges, for which hearings were held from September to October.

Beyond the work of the Pre-Trial Division and the Trial Division, the Appeals Chamber was extremely busy during the reporting period. Among the more notable developments, the Appeals Chamber issued a judgment on a question of cooperation concerning the failure of the Hashemite Kingdom of Jordan to execute the arrest warrant that the Court issued against Mr. Omar Al-Bashir, who was President of the Sudan at the time that the cooperation request was made. At the heart of the matter was whether President Al-Bashir, who was President at the time in question, was protected from arrest by the immunity afforded him by international law.

Following a week-long hearing during which the Appeals Chamber heard submissions from the African Union and the League of Arab States, as well as from several professors of law with expertise in the subject matter, the Appeals Chamber issued its judgment in the case. In the judgment, the Appeals Chamber determined that in the particular circumstances of the case, international law did not recognize any immunity for Mr. Al-Bashir in relation to the Court. It is a necessarily lengthy judgment that has clarified and settled the legal question in dispute for the purposes of the jurisprudence of the ICC.

In other developments during the reporting period, the Prosecutor requested judicial authorization to commence an investigation into crimes against humanity allegedly committed against the Rohingya people from Myanmar, which is not a State party to the Rome Statute, but the conduct of which included the deportation of victims to Bangladesh, which is a State party to the Statute. This request followed a preliminary ruling by Pre-Trial Chamber I, saying that the Court may exercise jurisdiction if at least one element of a crime within the jurisdiction of the Court, or part of such a crime, is committed, or consummated, as it were, on the territory of a State party to the Rome Statute.

In relation to Afghanistan, the Pre-Trial Chamber rejected the Prosecutor's request for authorization to open an investigation into the situation. This decision has since been appealed by the Prosecutor and some representatives of victims. The appeal is currently pending before the Appeals Chamber. The Prosecutor's request in this situation is anchored in the theory that the alleged events occurred in the territory of Afghanistan, which is a State party to the Rome Statute, or that the alleged violations also occurred in the territory of other States that are parties to the Rome Statute.

As the Assembly is no doubt aware, that matter has attracted much controversy to the Court, particularly from representatives of victims' groups who were acutely disappointed by the decision of the Pre-Trial Chamber. But my report on the matter will be necessarily incomplete if the record of the Assembly omits the mention that the controversy was also provoked by the direct political threat issued against the Court by the former National Security Advisor and the Secretary of State of the United States Government, respectively. These unfortunate developments are out of place in any society that applies the rule of law. But the Court must do its work undeterred by threats and controversies, whether they come from acutely disappointed victims against decisions they do not like or from State officials who are anxious to prevent a decision that they do not want. The international community and every one of its members must ensure that threats of any kind are not made to the independence that the Court needs to serve its mandate in the service of humankind.

The Prosecutor completed her preliminary examination in Gabon, concluding that the information available did not provide a reasonable basis to believe that crimes within the Court's jurisdiction had been committed. She therefore declined to open an investigation. The Office of the Prosecutor has ongoing preliminary examinations in eight potential situations and ongoing investigations in 11 situations.

I should say a few words about the reparative justice work that is being done under the Rome Statute system. More than 10,000 victims have been admitted both to participate in the ICC's proceedings and to request reparation for the harm they have suffered. This new focus on reparative justice represents a major shift in paradigm, contrasting with the processes of the ad hoc tribunals for Rwanda and the former Yugoslavia, which were focused almost exclusively on punitive justice.

The ICC Trust Fund for Victims is implementing the Court's first judicial orders on reparations.

In the case of Mr. Ahmad Al Faqi Al Mahdi, who pleaded guilty to the war crime of destruction of religious monuments in Timbuktu, Mali, the judges ordered a range of reparation measures tailored to the circumstances of the case, including individual compensation to those whose livelihoods depended upon the protected heritage sites, symbolic measures to signal public recognition of the moral harm suffered, community measures aimed at restoring lost economic activity and the dissemination of Mr. Al Mahdi's apology in the languages spoken in Timbuktu. In another case, that of Mr. Germain Katanga, the judges ordered monetary compensation to individuals as a symbolic measure, but also collective reparation in the form of psychological support, and support for housing, income-generating activities and education.

The overarching idea is that reparation measures are specifically aimed at addressing the harm that the victims have suffered as a result of the crimes for which the Court finds the defendant guilty. If the defendant has financial means, they will be attached and used for reparations. But if he or she is indigent, the Trust Fund for Victims can use voluntary donations received from Governments and private donors to provide reparations to victims.

Furthermore, beyond the four corners of the cases in the courtroom, hundreds of thousands of victims in Uganda and the Democratic Republic of the Congo have benefited from the programmes of the Trust Fund for Victims under its assistance mandate. The assistance mandate describes the aspect of the Trust Fund's work that seeks to bring some succour to obvious victims of crimes, unrestrained by considerations of proof of guilt of the perpetrator for the harm the victims suffered. The Trust Fund is currently expanding the scope of its assistance mandate to the Central African Republic and studying the feasibility of commencing similar projects in several other countries.

I am bound to note that the Trust Fund's ability to make a difference depends very much on its financial means. In that regard, I strongly urge all States Members of the United Nations to make voluntary contributions to the Trust Fund for Victims in order to support its important work in this respect.

Allow me to reiterate in this context the essential values and dividends of the ICC for our world. In this

context, I must note that just weeks before the adoption of the Rome Statute in 1998, President Nelson Mandela reminded the world that human beings had already visited enough horrors on one another, observing that many of those horrors might have been avoided, or at least minimized, if there had been an effective, functioning international criminal court. We now have in place that permanent international criminal court that Madiba had wished for — a permanent mechanism to ensure eventual accountability for those in future who subject others to such horrors as genocide, crimes against humanity, war crimes and, indeed, the crime of aggression, over which the ICC now has jurisdiction. In its 17 years of operation, the ICC has done much more than many imagined it could do. The ICC has in fact fundamentally changed the way the world looks at accountability for the aforementioned atrocious crimes.

Let us recall what former Secretary-General Kofi Annan said on the occasion of the adoption of the Rome Statute:

“Until now, when powerful men committed crimes against humanity, they knew that as long as they remained powerful no earthly court could judge them.”

That observation captures the essential purpose of the ICC and its enduring value to humankind. With the permanent International Criminal Court now in place, even the most powerful men — and they usually are men — can no longer be certain that they will escape unpunished if they commit against their fellow humans the heinous crimes that the Rome Statute forbids.

Even if prevailing circumstances seem to make impunity possible in the meantime, perpetrators and their accomplices will now have to recognize that their impunity will always be actionably illicit in the eyes of the world and that it may not endure as long as we have a permanent international criminal court that will ask questions of accountability in the long run on the international stage when those questions were not asked at home. There may be resistance, even strident threats, against asking those questions, but as long as we have the ICC up and running, those questions will eventually be asked, and with that comes the correlative value of deterrence that the ICC brings. Deterrence is a value that cannot be emphasized strongly enough. There are many reasons to insist that the mere existence of this permanent judicial mechanism for accountability does truly serve, at the very least, as an inconvenient obstacle



to free will on the part of those inclined to commit inhumane crimes on a massive or widespread scale.

The value of the ICC in that respect is particularly evident in the context of elections in Africa — my own native region — where violence was historically used too frequently as a means to gain political power in the form of widespread or systematic attacks against civilian populations, which is, in essence, a crime against humanity. Since the advent of the ICC and its first cases concerning election violence, there has been a noticeable reduction in the incidence of electoral violence that tended always to blight the democratic experience where such violence is used to gain power in the name of democracy.

As some of those present may know, I was the presiding judge in a certain case that involved post-election violence in 2007 and 2008. In that case, we heard evidence from an expert witness, who testified that prior to the election in question, past elections in the country had perennially been marred by violent incidents that tended to wax more and more virulent with succeeding elections. But following the commencement of the ICC proceedings that addressed the 2007-2008 violence, subsequent elections in that country have seen a marked decrease in the occurrence of violence during elections.

I have also been told by leaders of States, Government ministers and civil society leaders that the ICC's existence and work have been very significant and positive in preventing bloodshed in the context of elections in their countries. That is because everyone saw that whoever would commit such violence might end up before the ICC to answer for their actions. Such deterrence value alone is enough of a return on the ICC investment, which is to say that those who fund the ICC's operations can rest assured that their money has not gone to waste.

But the Court's critical value goes beyond those achievements. I must stress that the ICC also has palpable value in the dimension of sustainable economic and human development, which the 2030 Agenda for Sustainable Development quite rightly insists upon in the form of Sustainable Development Goal 16.

The proposition is simple enough: there cannot be sustainable development where conflicts, atrocities and fear reign supreme. Some members of the Assembly may have heard me say this before, yet, the significance of the point warrants its reiteration: socioeconomic

development will remain a pipe dream where people are killed or injured and traumatized for life by all the violence of armed conflicts; where millions of people are unable to work because of the economic slowdown that war causes; where farmers cannot go to their farms because of active military operations or landmines; where entrepreneurs cannot do business because of raging wars that always result in the destruction of economic infrastructure; where children cannot go to school because of war; where precious resources, already scarce in many cases, are wasted on weapons, rather than being invested in education, health care and economic sustainability; where investors are frightened away by conflict and instability; where the best brains of nations are compelled to flee in droves in search of safer countries; or where neighbouring countries, and even those much further away, are required to struggle to cope with the flows of refugees escaping countries at war.

Earlier this year, Libya's Minister of Economy described how the ongoing conflict in Libya had severely damaged the country's infrastructure and eroded well over \$40 billion from Libya's foreign-exchange reserves alone. That testimony bears out what the International Monetary Fund and the World Bank have been saying for a long time about the relationship between armed conflicts and economic development. According to an important study published by the World Bank, the *2011 World Development Report*,

“The average cost of civil war is equivalent to more than 30 years of [gross domestic product] growth for a medium-size developing country. Trade levels after major episodes of violence take 20 years to recover.”

Moreover, these negative implications do not stop at national borders. One must stress that the effects of conflicts impede growth not only in the countries directly embroiled in war, but they also impede regional development, in addition to the migrant problems to which I alluded earlier.

And we may also pause to consider that the price tag of war may be more dispiriting in other ways, considering that, according to estimates, the total cost of the two world wars was around \$20 trillion, which is 20,000 billion dollars in today's currency, which is about 25 per cent, or one fourth or one out of four parts, of the total gross domestic product of all the world's nations put together. These are almost inconceivable

amounts of money at any point in history, and it is money that was wasted on just two wars. We should think of the cost of all the other wars in addition to the two world wars.

It is truly difficult to see that humankind would have been better served if all that money had been invested in the search for solutions to some of the world's more intractable problems through science, education and development. We could imagine, for instance, what would happen if the same \$20 trillion were invested in additional funding for research into, say, breast cancer or other cancers or some of the other maladies that break humankind's heart every day.

All of the foregoing is to say that preventing conflicts and the atrocities that they breed and addressing them purposefully and unapologetically through the rule of law constitutes an objective with far-reaching significance for the most critical aspects of human life, including economic development. It is an objective for the whole world; no one State can solve it alone, let alone remain insulated from it for long. I must stress in this regard that no barrier is strong, deep, high or hazardous enough to keep any country permanently insulated from the human tide of misery that is consistently unleashed in those circumstances where the crimes that the Rome Statute proscribes are committed and where there is no international mechanism in place to insist upon accountability in the long run.

As a multilateral instrument, the Rome Statute contributes to making our world a better place, if only by filling gaps in actionable ways. It does so by criminalizing wars of aggression and accentuating the risk of criminal prosecutions when war crimes are committed — as is inevitably the case with every war — as part of armed conflicts, notwithstanding who started the shooting, and when crimes against humanity and genocide are committed, as they often are, under cover of armed conflicts. In that way, the ICC exerts the needed pressure against the mindset of those inclined to think little of plunging their own people and others into egotistical armed conflicts.

Everyone should have access to justice, as Sustainable Development Goal 16 urges us to ensure. However, more than 70 States Members of the United Nations are currently not party to the Rome Statute. In practice, this means that some of the tragic conflicts that vex the world's attention, conscience and morality

are simply beyond the ICC's reach when crimes of atrocity are committed within the territories of those States that have not ratified the Rome Statute or acceded to it. In other words, the victims of such atrocities are left to languish outside the zone of punitive and reparative justice created by the Rome Statute system. They are thus triply victimized: by the atrocities they have endured to begin with, by the impunity that the perpetrators would apparently enjoy in the absence of an international court of last resort, and by the absence of any modicum of reparation that the Rome Statute system has set up.

In times such as these, I must echo the words of Nigeria's President Buhari,

"I urge all States that have not yet done so to, as a matter of deliberate State policy, accede to the Rome Statute so that it can become a universal treaty."

It is not only a question of what is in it for any particular State, although the general and overall benefits of deterrence in particular are obvious. It is also a question of making a contribution to the collective goals of humankind. Each ratification adds another brick to the wall that protects humankind from the gravest crimes imaginable. Each ratification helps to reduce the space for impunity, and each ratification is a contribution to the spring well of reparations and assistance that can be drawn upon in an organized and systematic way to slake the victims' thirst for justice, even if in the most symbolic way, when everything else fails.

*(spoke in French)*

I once again thank those present for their attention and wish them a most fruitful session.

**The President:** I now give the floor to the representative of the Netherlands to introduce draft resolution A/74/L.8.

**Mr. Van Oosterom** (Netherlands): The Kingdom of the Netherlands aligns itself with the statement of the observer of the European Union to be made later today.

We also to express gratitude to President Eboe-Osuji for his presentation and our appreciation for his and his team's continual efforts in support of the International Criminal Court (ICC). The annual report of the ICC (see A/74/324) gives a clear overview of the considerable work done in the reporting period, as well as of the challenges ahead. The Kingdom of the

Netherlands is a proud host and a firm supporter of the International Criminal Court.

Given the great importance of the topic at hand, please allow me to address the following three issues: first, the fight against impunity; secondly, strengthening the Court; and, thirdly, cooperation.

First, the fight against impunity is one of the top priorities of Dutch foreign policy. The perpetrators of mass atrocities have to be brought to justice. Unfortunately, accountability and international criminal law are under severe pressure and face political resistance at the moment. The Security Council is too often blocked by the use of the veto on those issues, and because of the use of the veto it has failed to hold perpetrators of mass atrocities accountable in situations where it is most needed. Syria is a regrettable example of that. The ICC is a court established by States. Unfortunately, not all States are willing to join our fight against impunity yet, but we continue to strive for universality. In the meantime, we cannot sit back and wait. We need to make sure that the ICC is doing the best it can.

Secondly, with respect to the strengthening of the Court, as I said, the Netherlands is a staunch supporter of the ICC. That Court is the embodiment of the idea that the most serious crimes are of concern to the international community as a whole. Those crimes should not go unpunished. The International Criminal Court is an indispensable organization in the fight against impunity, and we therefore need to strengthen it. We must make it more efficient, with high-quality judgments and the ability to strengthen itself against pressure from non-State parties. We cannot allow non-State parties to block the quest for accountability for the worst international crimes that the Court prosecutes.

The Kingdom of the Netherlands is in favour of measures to strengthen the Court through the Assembly of States Parties, for example, by stricter scrutiny of the suitability of all candidates before the election of judges takes place. Furthermore, we support a comprehensive review of the functioning of the Court by independent experts. In that way, we will receive a clear view of the biggest current challenges and what the best ways are to address those.

Thirdly, we need to look more critically at our cooperation as States and United Nations organs with the Court in executing its mandate. In our opinion, all

States should cooperate with the Court. They should execute outstanding arrest warrants in line with their obligations under the Rome Statute or Security Council resolutions. In addition, voluntary cooperation by States is also vital for the effective and efficient functioning of the Court.

A practical way to support the Court in that respect is through the conclusion of framework agreements regarding witness relocation, the release of persons and the enforcement of sentences. Also, findings of non-compliance should be addressed through concrete action by States parties and the Security Council. Furthermore, we call upon the Security Council to follow up on the situations that it has referred to the ICC and to strengthen cooperation. States parties need to support and facilitate the work of the Court throughout the various stages of its judicial proceedings.

It will be key to address all of the aforementioned as soon as possible, with a view to taking a specific decision at the 2020 Assembly of States Parties here in New York, when we also have to elect a new Prosecutor and six new judges. I hope that all States can get behind the measures needed to strengthen that important institution, and I call on Member States that have not done so to ratify the Rome Statute and join us in our fight against impunity. Our ambition remains universality: all States Members of the United Nations should become States parties.

In conclusion, it is my honour to introduce the draft resolution contained in document A/74/L.8. The draft resolution welcomes the most recent report of the Court on its activities. The draft resolution also acknowledges the role of the ICC in a multilateral system that aims to end impunity, promote the rule of law, promote and encourage respect for human rights, achieve sustainable peace and further the development of nations, all in accordance with international law and the purposes and principles of the Charter of the United Nations. I present the draft resolution to the General Assembly for adoption without a vote, and I sincerely thank all the States that have co-sponsored it. The number of co-sponsors is a clear signal of the importance that members attribute to the yearly report of the ICC.

**Ms. Eneström** (Sweden): I have the honour to speak on behalf of the five Nordic countries, Denmark, Finland, Iceland, Norway and my own country, Sweden.

Let me start by thanking the International Criminal Court (ICC) for its annual report (see A/74/324) to the

United Nations. I would also like to thank Judge Chile Eboe-Osuji, President of the ICC, for his thorough presentation on the main issues in the report.

Heinous crimes are being committed with impunity in many conflicts and situations worldwide. The ICC and its vital mandate to hold the perpetrators of the most serious crimes to account and provide justice for victims, while upholding the principle of complementarity, continue to be imperative in the pursuit of international justice. The ICC also plays an important role in promoting a rules-based order and can contribute to the advancement of post-conflict peacebuilding and reconciliation.

Yet the Court today faces a number of challenges. The Assembly of States Parties to the Rome Statute and the Court must address these challenges swiftly and in an effective and efficient manner that continually enhances results and impact, including through the careful and prioritized use of resources. The Nordic countries welcome the work currently being undertaken by States parties, the Court and civil society in this respect. The Court must be able to work independently and impartially, and the Nordic countries support the Court in this regard. Strengthening the Rome Statute system and the Court in order to meet these challenges is necessary to fulfil the vision of the drafters of the Statute.

Universality lies at the heart of the promise of the ICC and, more broadly, of international justice. By increasing the number of States parties, the Court will be better able to address the most serious international crimes with greater consistency and impact. The Nordic countries continue to support universal adherence to the Rome Statute. We stand ready to engage in a constructive dialogue on the challenges experienced by some States parties in their relations with the ICC. Based on our statutory obligations, we encourage constructive discussions on areas in which the Court's performance can continue to be enhanced. Continued dialogue is of key importance.

The Court's effectiveness in carrying out its mandate depends heavily on cooperation with States, other stakeholders and international organizations. I would like to note in this forum the ongoing cooperation between the United Nations and the ICC, as described in the report. We share the Court's strong appreciation for the crucial support and cooperation of senior leadership at the United Nations. We also welcome

the operational support that the Court receives from other United Nations entities, departments, offices, and special advisers and representatives of the Secretary-General. Mainstreaming the ICC in the United Nations system through the acknowledgment of and support for its activities expressed in various United Nations reports, resolutions, declarations and other documents adopted by the General Assembly, the Security Council and other United Nations organs remains important.

Enhanced cooperation between the Court and the Security Council is still necessary. This is particularly true in cases of non-cooperation with the ICC, as well as for strengthened follow-up of situations referred to it by the Security Council. Following the referrals of the situations in Darfur and Libya, we note that the Court reports that it has communicated 15 findings of non-cooperation by States to the Council, but that the Council has not responded to these communications in any substantive way. We strongly urge all States to cooperate fully and effectively with the Court, in line with the Rome Statute and all applicable Security Council resolutions.

We also note with great concern that the Security Council has been unable to refer the Syrian situation to the ICC. We strongly urge Council members to continue their efforts in this regard. In terms of the situation in Syria, the Nordic countries will specifically continue to support the work of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. We encourage others to do the same.

The situation in Myanmar and, in particular, the reported gross violations of international human rights law and international humanitarian law that have taken place in Rakhine remain of serious concern. We find deeply worrisome the findings in the latest report of the fact-finding mission on Myanmar. We urge the Myanmar authorities to conduct credible investigations in line with international standards. The establishment by the Human Rights Council of the independent investigative mechanism for Myanmar to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011 was an additional important step towards accountability. However, a referral by the Security Council to the ICC remains



the most robust means for achieving accountability in Myanmar.

The full realization of the rights of victims is an important aspect of the continuing success and relevance of the Court. We commend the important work of the ICC Trust Fund for Victims. We note with appreciation its work in providing support and rehabilitation to victims of sexual and gender-based violence and crimes. The Nordic countries have consistently supported the Trust Fund, and we encourage States and other entities to contribute to it.

Let me also take this opportunity to express our appreciation for the Prosecutor and her tireless work in seeking justice for atrocity crimes. We commend her work in combating sexual and gender-based crimes and atrocity crimes against, or otherwise affecting, children.

In order for the Court to be able to carry out its mission in the most efficient way, it also needs to be properly funded. The Court's budget will be dealt with in the Assembly of States Parties later this year, but we wish to underline the worldwide activities of the Court and its high workload, as reflected in the Court's report. It is our common responsibility to ensure that the Court has sufficient resources to carry out its important mandate in a time of increasing demand. Likewise, it is the obligation of the Court to ensure its own effective and efficient functioning.

Let me conclude by renewing our pledge that the Nordic countries will remain staunch supporters of the ICC. We are committed to continue working for the Court's effectiveness, independence and integrity.

**The President:** I now give the floor to the observer of the European Union.

**Mr. Chaboureau** (European Union) (*spoke in French*): I have the honour to speak on behalf of the European Union and its member States. The candidate countries the Republic of North Macedonia, Montenegro, Serbia and Albania, and the country of the Stabilization and Association Process and potential candidate Bosnia and Herzegovina, as well as Ukraine, the Republic of Moldova and Georgia, align themselves with this statement.

We would like to thank Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for his detailed briefing. We also thank the Court for its annual report to the United Nations (see

A/74/324) covering the period from 1 August 2018 to 31 July 2019, which was another year marked by many important developments.

The European Union and its member States express their unwavering support for the International Criminal Court as a vital institution in the promotion of a rules-based world order, in achieving lasting peace and ensuring that those responsible for crimes or violations are held to account. The Court remains an important guarantor of respect for international humanitarian law and human rights law in all countries and plays a powerful deterrent role. We also highlight the relevance of the Court's action in pursuing Sustainable Development Goal 16, as we believe that strong justice institutions are a prerequisite for sustainable development and stability.

We note that the period covered by this report saw some important developments in case law take place and that progress was made in several judicial proceedings, as well as in the preliminary examinations and investigations in progress, which led, among other things, to the issue of two new arrest warrants. The geographical scope of the Court's activity and increasing communications with it demonstrate that the majority of States continue to view the ICC as a point of reference for upholding justice and accountability. We also welcome the commitment of the ICC Trust Fund for Victims to implementing compensation mandates for victims of the most serious crimes affecting the international community, families and communities.

During the reporting period, the Court's workload included the Prosecutor conducting investigations into 11 situations, with 10 preliminary examinations and three trials in progress. The Office of the Prosecutor also conducted a significant number of visits to several countries around the world.

In order for the Court to be able to manage its substantial workload and remain a modern and effective institution in confronting the challenges of today, it is imperative that it evolve and adapt to those new challenges and that it be as effective as possible. We welcome and support all efforts to revise and streamline the Court's administrative and judicial processes and optimize the use of available resources.

There are still a number of serious challenges to the proper functioning of the Court. We welcome the assistance provided by States with respect to investigations and prosecutions and other requests

transmitted by the Court, but we emphasize that close cooperation with the ICC remains essential. We are particularly concerned by the fact that the arrest and surrender of persons subject to the Court's mandates remains a problem. We urge all States to take action to promote full and appropriate cooperation with the Court, including through the prompt execution of arrest warrants and entering into voluntary cooperation agreements with the Court on the implementation of sentences, the provisional or definitive release of suspects and the relocation of witnesses, which are all essential to the Court's effectiveness.

The EU and its member States fully agree with the Court in that the Security Council's ability to refer matters to the Court could help to promote accountability in countries where the most serious crimes affecting the international community have been committed but where the Court has no jurisdiction. We also stress that a rigorous follow-up by the Council is necessary to ensure cooperation with the Court when a case is referred to it by the Council.

The Rome Statute is centred on the principle of complementarity, whereby States themselves are primarily responsible for bringing suspected criminals to justice. The European Union remains committed to implementing that basic principle through its various assistance instruments and projects, in particular through its programmes aimed at improving the legal and judicial capacities of countries, as part of its efforts to strengthen the rule of law. The universal ratification of the Rome Statute remains our long-term goal. During the period covered by the report, the EU continued its efforts to promote the universality of the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court, as well as a better understanding of the Court's mandate. The European Union and its member States reaffirm our determination to encourage the broadest possible participation in the Rome Statute and to preserve its integrity, together with States parties, international and regional organizations and civil society.

The European Union has repeatedly expressed its firm conviction as to the legitimacy of the Court and our total confidence in the impartiality and independence of the judges and the Prosecutor of the International Criminal Court in the performance of their duties, as provided for in articles 40 and 42 of the Rome Statute. The European Union remains committed to defending the Court against any external interference aimed at

obstructing the exercise of justice and undermining the international criminal justice system. The EU and its member States will continue to affirm their support for the Court in multilateral forums and bilateral dialogues and provide coherent political, financial and technical assistance to the Court. Our joint efforts will make the Court truly universal and strong and make it a Court that is capable of holding to account the perpetrators of the most serious crimes affecting the international community, giving a voice and new hope to innocent victims.

**Mr. Węckowicz (Poland):** Poland aligns itself with the statement made by the observer of the European Union on behalf of its member States. We would like to supplement it with remarks in our national capacity.

At the outset, we would like to express our gratitude to Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for briefing the General Assembly on the annual report of the Court (see A/74/324). The report shows the ICC's high activity and proves that it figures prominently in the architecture of international criminal justice. However, it has not yet reached the place envisaged for it by the signatories to the Rome Statute. The world regards the International Criminal Court with both hope and unease. The States parties to the Rome Statute look at it more often with hope, while non-States parties more often think of it with unease. The latter acknowledge the Court's role and occasionally cooperate with it, but sometimes question the very purpose of its existence. We hope that the Court's diligent and systematic work and its rich case law will trigger a change in the latter approach on the part of non-States parties.

Poland remains a steadfast supporter of the International Criminal Court as part of the rules-based international order. Throughout our membership of the Security Council, which is about to expire, we have focused on the promotion of international law. One of the conclusions of the high-level Security Council debate on strengthening international law (see S/PV.8262), convened on Poland's initiative, was that a rules-based world order requires strong institutions to enforce the law, which is the purpose for which the International Criminal Court was established and the reason Poland supports the Court's activities.

That is not to say that we fail to notice the need to improve the Court's working methods and efficiency. Quite the contrary, we are of opinion that the Court's

functioning calls for advanced streamlining. We therefore look forward to receiving the outcomes of the recently launched ICC evaluation mechanisms and proposed improvements. We realize that the proper filling of positions of judges and prosecutors is paramount to the success of the ICC. We attach great importance to the selection process of a new Prosecutor, as his or her task of selecting and properly preparing cases is the cornerstone of the Court's proceedings.

The Court is operating and will always operate in a complex international environment and must arrive at difficult decisions, weighing the need to combat impunity, on the one hand, against the feasibility of prosecuting the perpetrators, on the other hand. In this context as well, the great responsibility of the Prosecutor of the ICC comes to the fore. At the same time, we must remember that achieving the promise of justice is an ongoing process requiring mutual effort, both from the Court — particularly the Office of the Prosecutor — and States parties.

Poland would like to stress that the ICC itself does not have the resources necessary to ensure compliance with its arrest warrants. The Court must therefore continuously seek to strengthen the trust of States, as their support is a precondition for the Court's work to be effective. Trust also enhances operational cooperation and funding.

Poland is ready to cooperate with the Court in conducting investigations and administering justice. We believe that without cooperation with States and international organizations, the Court has virtually no chance of being fully effective. This cooperation must be rooted in the principle of complementarity, which remains the foundation of the international criminal justice system. It is individual States that bear the key responsibility for prosecuting the perpetrators of the most serious crimes.

Complementarity is a partial remedy to the vast territorial jurisdiction of the Court. Effective domestic proceedings set a proper framework for the Prosecutor's discretionary authority and help to limit the Court's operational expenses.

In conclusion, let me take the liberty of reiterating my hope that by its diligent and systematic endeavours and the quality of its jurisprudence the International Criminal Court will convince the unconvinced and reassure those already convinced that supporting this

unique international judicial organ has been the right and worth every effort.

**Mr. Špaček** (Slovakia): While aligning my delegation with the statement delivered by the observer of the European Union, I would like to make some further observations in Slovakia's national capacity.

First of all, I wish to thank President Chile Eboe-Osuji for his comprehensive briefing. I also thank the International Criminal Court (ICC) for the report on its activities in 2018 and 2019 (see A/74/324).

The General Assembly debate on the report is one of the important institutional links between the United Nations and the ICC and provides a platform for all 193 Member States of the United Nations to discuss the work of this unique judicial body.

The 1998 Rome Conference created the only permanent international judicial organ having jurisdiction over the most heinous crimes under international law. The mere existence of the Court reflects the growing conviction of the international community that accountability must be an integral component of conflict resolution. It is difficult to conceive how a conflict-torn society could return to sustainable peace and normality without fulfilling the requirements of justice and humanity. The fact that almost 14,000 victims participated in cases before the Court during the reporting period is strong evidence of a call for justice in general and of the relevance of the Court for specific situations. These victims have to see justice delivered, not only in the form of due process, but also by receiving reparations and assistance so they can return to their normal lives.

The Court can fulfil its mission by ending impunity for the perpetrators of war crimes, crimes against humanity, genocide and the crime of aggression, only if it achieves universality. We should focus all our political efforts on and consistently engage in an open and patient dialogue based on the shared values lying at the core of the ICC, which are aimed at continuing to strengthen the rules-based international order and prevent impunity. At the same time, non-participating States shall be encouraged to join the Rome Statute system, in order to eliminate the territorial or personal jurisdictional gaps allowing perpetrators to escape justice.

Turning to the issue of links between the United Nations and the International Criminal Court, there

is a natural symbiosis between the International Criminal Court and the United Nations. The possibility of referrals in accordance with sub-paragraph (b) of article 13 of the Rome Statute has broadened the spectrum of measures the Security Council can take when dealing with the maintenance of international peace and security. Slovakia encourages the Security Council to use this unique tool to make referrals where international crimes are being committed and where the national authorities, bearing the primary responsibility for the prosecution of those crimes, are not in a position to do so. However, unless the Security Council properly follows up on its referrals, including by ensuring the cooperation of Member States, this course of action will not bear the desired results, as has been witnessed in both the situation in Libya and the situation in Darfur, the Sudan.

Last but not least, I wish to note that during the reporting period the International Criminal Court has issued several decisions, including on the issue of cooperation with the Court. The jurisprudence of the ICC has great potential for further developing and clarifying questions of international criminal law, as well as for supporting and guiding domestic efforts in the fight against impunity. However, in order for such potential to become an actual contribution, the Court needs to devote special attention to providing clear, detailed and well-founded reasoning for its decisions.

Let me conclude by reiterating Slovakia's strong support for the International Criminal Court, as well as for the broader cause of closing the impunity gap for crimes under international law. This perspective is also clearly reflected in Slovakia's committed service as Vice-President of the Assembly of States Parties to the Rome Statute and coordinator of the New York Working Group of the Bureau of the Assembly.

**Mr. García Moritán** (Argentina) (*spoke in Spanish*): First, I would like to thank Judge Chile Eboe-Osuji for briefing the General Assembly on the report on the activities of the International Criminal Court (ICC) over the past year (see A/74/324). I would also like to thank Judge Eboe-Osuji for presenting the reports of the Secretary-General on the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court and on expenses incurred and reimbursements received in connection with the assistance provided to the International Criminal Court (A/74/325 and A/74/326).

Argentina also hopes that the General Assembly will adopt the draft resolution on the report of the International Criminal Court (A/74/L.8) by consensus as it has done in previous years, coinciding with today's briefing and the debate on the agenda item.

Through its remarkable activity since the briefing (see A/73/PV.28) on last year reports (see A/73/334), the Court once again demonstrates in practice that it is a fundamental tool in the fight against impunity, the promotion of human rights and the consolidation of the rule of law at the international level. Argentina renews its ongoing commitment to the Court by remaining actively involved in the mechanisms provided for by the Assembly of States Parties and with the goal of attaining universality of the Statute.

Argentina has demonstrated its support in various ways, but we are particularly proud to have been the first State party to conclude the four cooperation agreements suggested by the Court. Argentina has also ratified the Kampala amendments on the crime of aggression and therefore welcomes the activation of the Court's jurisdiction over that crime.

We are pleased with the progress in the process of electing the next Prosecutor of the International Criminal Court, namely, the adoption of the terms of reference and the work done so far by the Committee on the Election of the Prosecutor and the panel of experts. For Argentina, it is crucial to identify candidates with significant experience and a recognized track record who will continue with the work of the current Prosecutor by always respecting gender and geographical balance and an adequate representation of the main legal systems of the world as guiding principles with respect to the staff of the Court.

We also welcome the positive progress made in the independent external review process, which will be a great opportunity to implement the necessary adjustments to the operationalization of the Rome Statute system as a whole. The process, led by the Presidency of the Assembly of States Parties, will have the legitimacy needed to succeed only if it continues with the transparency and inclusiveness it has shown to date.

I would now like to refer to the Court's relationship with the United Nations. The relationship between the Organization and the Court is crucial and must always be guided by respect for the judicial independence of the Court. In this context, we reiterate some of Argentina's



concerns about certain situations referred to the Court by the Security Council, especially the financial cost of such referrals. Despite the clear rules contained in the Rome Statute and the Relationship Agreement between the United Nations and the International Criminal Court, according to which the costs of referrals have to be borne by the United Nations, these costs have thus far been borne exclusively by States parties.

The fight against impunity is an objective of the States parties to the Rome Statute and also of the United Nations, but this objective requires the commitment to provide the Court with the necessary resources so that it is able to carry out its work. Failing to act in this regard could jeopardize the Court's ongoing investigations and impact the credibility of our Organization. We also believe that there is room for greater and better relations between the Court and the Security Council, especially the work of its subsidiary bodies, such as sanctions committees or the Working Group on Children and Armed Conflict.

Finally, Argentina wishes to underscore the contribution of the International Criminal Court to the objectives of the United Nations in its fight against impunity for the most serious crimes at the international level. Indeed, the contribution of the Court to the configuration of a multilateral system aimed at fostering respect for human rights and achieving lasting peace, in accordance with international law and the purposes and principles of the Charter of the United Nations, is undeniable. The suffering of the victims of the most serious crimes is the greatest shame of humankind. We must ensure such crimes are met with strong responses so that we are able to build a fairer world together under the primacy of international law.

**Mr. De la Fuente Ramirez** (Mexico) (*spoke in Spanish*): Mexico thanks the President of the International Criminal Court (ICC), Judge Chile Eboe-Osuji, for briefing the General Assembly on the annual report on the activities of the Court (see A/74/324). We also acknowledge his leadership and assure him of Mexico's full support.

As a State party to the Rome Statute since 2006, Mexico is an active participant in the Assembly of States Parties through its membership in the Bureau and its chairmanship of the Working Group on Amendments. In addition, my country has co-sponsored the draft resolution we will be adopting today (A/74/L.8) and is a member of the Group of Friends of the ICC. For

the Organization of American States, Mexico is the penholder of the resolution presented and adopted biennially by the General Assembly of that organization to encourage States of the Americas to ratify the Rome Statute, implement its provisions at the national level and cooperate with the International Criminal Court. Efforts are not limited to supporting and strengthening of the Court itself, but also include disseminating the contents of the Statute and developments in international criminal justice based on the Statute itself. In this context, and as part of our constant updating of public officials, an annual course on international humanitarian law held in Mexico this year offered a segment focusing on the International Criminal Court.

My delegation takes note of the important judicial advances made by the Court in the past year. This has been a year of new challenges both for the Court and for States, both institutionally and practically as well as in terms of the relationship between the Court and States parties and with non-States parties. At the institutional level, Mexico welcomes the initiative aimed at conducting a study on the work of the ICC, which was requested by the Court itself. This study will serve to strengthen the Court in all its aspects, and we reiterate Mexico's commitment to continue working towards this end.

We also wish to highlight the responsibility of States parties in electing the next Prosecutor and adjusting, through the Assembly of States Parties, all aspects that must be collectively agreed in order for the Court to continue fulfilling its mandate in an effective manner. We also support the Swiss initiative to amend the Rome Statute in order to recognize the crime of famine in both international and non-international armed conflicts. We are pleased to see the evolution of this issue in the Working Group on Amendments and hope that it will soon be decided upon so that it can be submitted to the Assembly of States Parties for adoption in December.

With regard to issues related to the judicial practice of the Court, relevant matters of cooperation between the States and the Court were resolved this year, as were issues of its practice's compatibility with other international norms. The Court also addressed other complex issues such as the interpretation of the substantive obligations arising from the Statute and the scope of the Court's jurisdiction in situations involving both States parties and non-States parties. Likewise, we

were satisfied to note the prompt execution of the arrest warrants issued by the Court during this period.

We are also pleased to see that the Court's report included specific proposals and concrete actions to strengthen the international criminal justice system. In particular, we value as positive the interaction of the Court with other bodies of the United Nations system and the conclusion of agreements and commitments that enable collaboration with other bodies. The United Nations has the necessary structure and agencies for States to be able to build capacity in such matters related to the Court as the rule of law, human rights and the protection of cultural heritage, to name but a few examples. Agreements in this vein avoid the duplication of efforts and enhance the capacity of each institution to fulfil the mandate bestowed upon it.

I wish to conclude by reiterating Mexico's commitment to the international criminal justice system and to strengthening the system created by the Rome Statute in order to prevent impunity for the perpetrators of the most serious crimes affecting the international community as a whole. In this context, in the coming months, we expect Mexico to ratify the amendments to article 8, paragraph 2 of the Rome Statute, adopted in Kampala in 2010 and in New York in 2017.

**Mr. Fox-Drummond Gough** (Brazil): The establishment of the International Criminal Court (ICC) more than 20 years ago epitomized the impact that values and ideas can have in the real world. Based on the notions of human dignity, the fight against impunity and international justice, nations from all regions have worked together to build an institution designed to investigate and punish the most serious international crimes. As is the case with any human endeavour, the ICC has shown both accomplishments and shortcomings. Let us celebrate the victories, such as the granting of reparations to victims and the Court's successful outreach activities, and at the same time reflect on how we can address current challenges.

As a proud founder of the ICC, Brazil is pleased to see that it has firmly established itself as the first permanent tribunal conceived to fight impunity for the most serious international crimes. As it ensures that those on trial before it are judged with fairness and full respect for their rights, the Court is an important instrument for justice and peace.

The Court's annual report (see A/74/324) gives a clear indication of its high workload during the period

under review. Since its establishment 20 years ago, the Court has opened 27 cases, involving 45 suspects or accused persons, and has conducted investigations into 11 situations. Brazil welcomes the fact that the two new arrest warrants were promptly enforced and that the suspects were transferred to the Court's custody. It is a positive example of the successful application of Rome Statute norms on cooperation.

Another encouraging development relates to the work of the Trust Fund for Victims, whose reparations mandate is instrumental to promoting victims' rights to justice. Aiming at reconciling retributive and restorative justice, the Rome Statute contains a sophisticated set of provisions on victim rights, which allows victims to participate in the proceedings and apply for reparations. It is encouraging to see reports about ongoing projects and the Trust Fund's engagement with victims, their families and affected communities. We also praise the positive dimension of cooperation as seen in the strengthening of national capacities.

All States parties have a responsibility to continuously work for the improvement of the Rome Statute system, addressing challenges and extending its support when needed. One important challenge relates to universality. I am pleased to recall not only that all South American countries are parties to the Rome Statute, but also that Latin American and Caribbean States represent the second-largest regional group among States parties, second only to the African Group.

The second challenge relates to the relationship between the ICC and the United Nations. In this regard, Brazil reiterates its long-standing concern about the financing of Security Council referrals. It is an issue of a structural nature with a high impact on the Court's capacity to fulfil its mandate. Once again, we reiterate our call for the implementation of article 13 of the Relationship Agreement and of sub-paragraph (b) of article 115 of the Rome Statute, which provide clear guidance to the effect that such costs should be met, at least partially, by funds provided by the United Nations and should not fall solely on the parties to the Statute. It is equally important to stress that, as laid out in Article 17 of the Charter of the United Nations, the General Assembly has the exclusive responsibility to consider and approve the Organization's budget. The proper funding of Security Council referrals would enhance the credibility of both the Court and the United Nations. The current situation is neither fair nor sustainable.

The third challenge is at the core of current discussions taking place in the Assembly of States Parties to the Rome Statute and its subsidiary bodies. The calls for a review of the Rome Statute system came from a variety of actors. We, as States parties, should step up and work together to strengthen the International Criminal Court. For Brazil, it is imperative that any review process preserves the Court's prosecutorial and judicial independence, which is the cornerstone of any legitimate judicial institution. Brazil is closely following the discussions, both in The Hague and in New York, and looks forward to having fruitful debate at the Assembly of States Parties in December and making positive contributions to the decisions made at that time. We believe that the States parties should be fully involved in any review process, as it would confer the legitimacy and transparency that the exercise requires. The Assembly of States Parties will take all major decisions on the review, particularly those with a budgetary impact.

The quest for peace and justice is always challenging, and this challenge is inherent to the search for a more just and cooperative world order. Peace and justice complement each other. They form part of the shared values that have made the first permanent, treaty-based international criminal court a reality. Brazil remains firm in its commitment to the Rome Statute system and to the values that motivated its creation.

**Mr. Kawamura** (Japan): I would like to begin by expressing my appreciation to President Chile Eboe-Osuji for his dedication and leadership, as well as for his briefing on the comprehensive report on the work of the International Criminal Court (ICC) (see A/74/324).

Japan is committed to the fight against impunity and attaches great significance to the promotion of the rule of law. Accordingly, Japan has consistently supported the ICC since its inception. My Government's long-standing policy is to help enable the ICC to function effectively and sustainably with the support of the international community. Besides being the ICC's largest financial contributor, we are also dedicated to supporting the Court in our capacity as a Bureau member and through qualified human resources.

This year marks the seventieth anniversary of the Geneva Conventions, which were a great step towards a more humane world. Yet, today, we still see large-scale cruelty in conflicts. We believe that accountability is

the key to a better world. In that sense, we believe that the ICC is an ambitious attempt to bring justice and ensure that no one is left behind.

Any institution goes through its ups and downs. The ICC is no exception. Seventeen years have passed since its foundation, and it is time for the States parties to reaffirm our responsibilities as stakeholders. Reform of the ICC is very important for the Court to achieve its core mandate. The States parties need to remain engaged in constructive discussions on how we can strengthen the Court. The States parties are in the driver's seat of the reform, and the ICC's future is in our hands. Japan is committed to active engagement on ICC reform and to strengthening the Court.

Let me stress three important points related to the strengthening of the Court, namely, universality, steadiness and complementarity. To the first of these, I note that we are stronger together. To ensure that the ICC effectively promotes the rule of law around the world, more countries should join the Court. In the long run, the ICC should aim at becoming a truly universal criminal court. We call on States that have not yet become parties to the Rome Statute to do so. As States parties, we need to continue engaging with non-States parties and emphasizing the irreplaceable value of the Rome Statute system in the fight against impunity.

In that context, we would like to emphasize that it is necessary to take a step-by-step approach to earn the understanding and cooperation of a greater number of States. The ICC is still a relatively young organization; hastily seeking achievements would jeopardize our efforts aimed at fighting impunity. Japan believes that the most important thing is for the ICC to pursue its efforts consistently and make steady progress.

Now to the final point, with regard to complementarity, the role of the ICC is to complement national criminal jurisdictions. The existence of the Court does not lessen the importance of national jurisdiction in the prosecution of serious crimes. Enshrining this principle in the Court's activities will also help improve the universality of the Court. Japan believes that, by paying attention to the feasibility of investigations and the principle of complementarity, as well as by appropriately prioritizing issues, the Office of the Prosecutor can most effectively utilize its resources and achieve its core mandate.

In conclusion, we hope that the ICC will continue to work diligently in the fight against impunity while

consolidating its credibility. Japan will continue to strongly support the ICC's work.

**Mr. Scott-Kemmis** (Australia): The International Criminal Court (ICC) is a key element of the Rome Statute system — a system designed to ensure that those responsible for the most serious crimes of concern to the international community face justice. Accountability for atrocity crimes remains critical to sustaining peace and supporting reconciliation in post-conflict situations. The primary responsibility to investigate and, where appropriate, prosecute those responsible for mass atrocity crimes rests with States, and rightly so. But the ICC has a critical role to play as a Court of last resort where States that would otherwise have jurisdiction are unable or unwilling to exercise it. This complementarity is, of course, crucial to the Court's success.

We welcome the key achievements of the Court this year. We reflect in particular on the conviction of Bosco Ntaganda for 18 counts of crimes against humanity, in particular sexual slavery and war crimes, including the use of child soldiers. We also refer to the swift transfer into custody of the two individuals accused following the issuance of arrest warrants. We also welcome the reform process under way to support the realisation of the robust, effective institution envisaged by the Rome Statute and to strengthen the Court's ability to deliver on its core mandate. Elections next year for a new Prosecutor and new judges will also be crucial. A close focus on delivering on the Court's core mandate through the conduct of fair and expeditious trial proceedings is essential, as is the close focus of the Office of the Prosecutor on ensuring that well-prepared, well-evidenced cases are brought before the Court.

The International Criminal Court cannot fulfil the critical mandate that we have bestowed upon it alone. We call on the United Nations system to ensure the Court receives full and consistent support. We must not neglect the critical role that consistent, impartial justice plays in the international community's response to the trauma wrought by conflict.

At their core, the ICC and the United Nations are striving for the same goals. One of the primary purposes of the Charter of the United Nations, namely, the maintenance of international peace and security, aligns with the Rome Statute. We have heard the Prosecutor's repeated requests for effective Security Council follow-up and support with respect to situations referred to the

Court by the Council. The Council's political support for the Court's work in situations it has referred is critical, particularly with respect to cooperation. The interrelationship between the mandates of the United Nations and the Court makes the Court a key partner for the United Nations. As a key partner, it is critical that the United Nations provides the Court with the support it needs to deliver on its mandate. In this regard, we welcome the efforts of the United Nations thus far and encourage the Secretary-General to continue enhancing cooperation in accordance with the Relationship Agreement.

**Mr. Leal Matta** (Guatemala) (*spoke in Spanish*): Allow me to thank Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for his briefing on the report of the Court (see A/74/324), which provides us with a detailed update on the activities of the Court during the period from 1 August 2018 to 31 July 2019.

Since the beginning of the Court's operations, 27 cases have been initiated in relation to 45 suspects or defendants, and investigations have been conducted into 11 situations, demonstrating the extent to which the Court has been active. However, at the same time, reflection is called for, as the jurisdictional nature of the ICC is to bring perpetrators of genocide, crimes against humanity and war crimes to justice, which results in advances made towards the protection of victims, including victims of conflict-related sexual violence, as well as combating the recruitment of children in armed conflict. Two decades after the adoption of the Rome Statute, we should consider the efforts of the international community to prevent any new cases that would fall within the Court's jurisdiction.

We appreciate and take note of the information presented on the activities of the Court, including its Pre-Trial, Trial and Appeals Chambers, as well as the Office of the Prosecutor and the Trust Fund for Victims. My country believes that the actions of the Court contribute to the strengthening of justice and the rule of law in States parties. For that reason, we reaffirm our unequivocal support for the International Criminal Court and our commitment to the fight against impunity and to the prevention of atrocities. My delegation values the support and cooperation between the United Nations and the International Criminal Court, not only because it strengthens the dialogue and relationship between the two entities, but also because it lends the transcendental work of the International Criminal Court more visibility, which represents an



opportunity for the Court to strengthen its authority, spread awareness about its mandate and demonstrate the primary importance of cooperation by States.

In line with the foregoing, Guatemala wishes to reaffirm its full respect for the principle of complementarity and the strengthening of national systems to ensure accountability. The jurisdictional function of individual States must take precedence in the investigation or prosecution of those responsible for crimes that fall within the jurisdiction of the International Criminal Court, but the complementarity of the Court still has value where States fail to fulfil those functions, as it always respects the sovereignty of each country.

We also believe that cooperation between international organizations is extremely important. We therefore consider it necessary to improve cooperation between the Court and the Security Council, which must join forces to prevent crimes that threaten international peace and security, work together to combat impunity for such acts, and maintain regular interactions to that end.

Cooperation is one of the fundamental pillars upon which the proper functioning of the International Criminal Court rests. Therefore, the firm commitment of States parties is crucial to enhance the capacity of the Court to ensure accountability, bring justice and provide compensation to the victims, as well as help prevent future crimes, as enshrined in the spirit of the Rome Statute. We wish to stress this point because the Court has an essential role to play in the sphere of international criminal justice in terms of guaranteeing respect for the rule of law and the maintenance of international peace and security.

The fight against impunity is an objective of the States parties to the Rome Statute, as well as of the United Nations, but that goal must be supported by a commitment to providing the Court with the resources it needs to carry out its functions. Their absence could jeopardize the sustainability of ICC investigations. The Court continues to require the cooperation and support of the United Nations, States parties and other States in order to carry out its activities and fulfil its mandate.

*Mr. García Moritán (Argentina), Vice-President, took the Chair.*

At the same time, my delegation calls for redoubling efforts to achieve a universal regime. Every

step towards universality will significantly reduce the risk of impunity and help strengthen States' peace and stability. We must therefore continue to promote the universal aspect of the Rome Statute and maintain momentum in the ratification and accession processes. As more countries join the 122 States parties, the international regime for protecting human rights against violations carried out by State and non-State actors will be strengthened.

Lastly, we commend the high-level participation of the International Criminal Court in activities involving gender issues and in highlighting its relationship with Sustainable Development Goal 16 to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. We would like to assure the Assembly of our delegation's firm and continued support for the International Criminal Court in fulfilling its mandate.

**Ms. Bavdaž Kuret (Slovenia):** Slovenia aligns itself with the statement made earlier by the observer of the European Union.

Given the importance of the subject matter before us, we would like to make some additional comments. Allow me to begin by thanking the International Criminal Court (ICC) for its annual report (see A/74/324) presented to the United Nations, and Judge Chile Eboe-Osuji, the President of the ICC, for his thorough presentation of its main issues.

Slovenian foreign policy remains focused on firmly promoting the rule of law. We believe that the ICC, as a court of law, plays an instrumental role in establishing that principle by ensuring that the most serious crimes do not go unpunished, and that increased support for international criminal justice and the Court is essential, especially considering that the Court is facing some challenges and resistance in its efforts to prosecute the most serious atrocities and prevent such violations in the future. In the light of Slovenia's ongoing cooperation with the ICC, we are grateful to the President of the Court for visiting Slovenia last month. During his visit to Ljubljana, we were able to engage in substantive discussions of the challenges, operations and role of the Court and other topical issues relating to international criminal justice.

Since criticism of multilateralism is increasingly on the rise and recurrent pressures are undermining the rules-based international order, increased cooperation

between its main proponents is vital. The Security Council and the ICC must enhance their efforts to build an effective relationship that enables the Court to fulfil its mandate to close the impunity gap and hold those most responsible to account, and the Council to fulfil its mandate to maintain international peace and security. The partnership between the two institutions enhances their own credibility and that of the Rome Statute system.

Ensuring the full and swift cooperation of States is equally important. States must be aware of their legal obligations as defined in the Rome Statute. Any lack of support inevitably leaves the Court unable to operate effectively, especially when it comes to executing outstanding arrest warrants. We must realize that the universal ratification of the Rome Statute is crucial to the effective deterrence of the most serious crimes. In that regard, we regret the withdrawal of the Philippines from the Court and Malaysia's decision to withdraw its instrument of accession to the Rome Statute. We welcome the Court's ongoing efforts to cooperate with international and regional partners in its pursuit of the universality of the Statute, enhanced cooperation among States and their adoption of national implementation legislation. Slovenia reaffirms its commitment to promoting the principles of the Rome Statute and its universality and enforcement of the prosecution of crimes of aggression. With regard to the integrity of the Rome Statute and the efforts aimed at making it more coherent, changes are sometimes needed in order to improve. This year we ratified the deletion of article 124 of the Rome Statute. As has already been pointed out, starvation in the case of an armed conflict not of an international character should be listed as a war crime in article 8.

In the fight against impunity, it is vital to have a strong International Criminal Court, but it is also important for national courts to play their part and be provided with the necessary tools when prosecuting crimes of an international character. In that regard, the Mutual Legal Assistance initiative, which Slovenia leads together with Argentina, Belgium, Mongolia, the Netherlands and Senegal, proposes an international convention on mutual legal assistance and extradition for the domestic prosecution of the most serious international crimes, which would strengthen the capacity of national courts. So far 69 States have expressed their support for the initiative. The core group of States leading the initiative will continue their

efforts towards the holding of negotiations on a mutual legal assistance convention, scheduled to take place in Slovenia in June 2020. We would like to invite all States that have not yet done so to join the Mutual Legal Assistance initiative.

We welcome the fact that the reparations mandate of the Trust Fund for Victims is beginning to play a larger role in its work. Reparative justice for victims of international crimes, their families and communities is essential. We also appreciate the Fund's efforts in addressing mental health issues and providing psychological support for victims who are survivors of conflict. Slovenia is pleased to continue to contribute to the Trust Fund for Victims.

For the sake of the Court's credibility and integrity, it is vital to address the current challenges. We believe that all deliberations on the various potential dimensions of reform processes should be based on openness to constructive cooperation and engaged dialogue between the Court, its States parties and civil society. Any reform measures should be aimed at producing concrete and actionable recommendations on how to enhance the Court's performance and effectiveness. The synchronized issuance of the three plans — the Court-wide strategic plan for the period from 2019 to 2021 and the specific strategic plans of the Office of the Prosecutor and the Registry — are certainly one such measure. Nevertheless, more attention should be given to the fact that many issues both can and should be addressed by States parties themselves. Their work and role in the Assembly of States Parties and the existing working groups should be instrumental in improving the Court's effectiveness while taking into account the specific characteristics of each authority.

We believe that various simultaneous initiatives to find effective remedies for the challenges facing the Court reflect its importance and its role in the wider international community. We firmly believe that with joint efforts and the unwavering support of all the major actors in the Rome Statute system, any obstacles to the Court's efficient functioning can be successfully overcome.

**Mr. Nfati (Libya)** (*spoke in Arabic*): I would first like to express my gratitude to Judge Chile Eboe-Osui, President of the International Criminal Court (ICC), and to thank him for introducing its annual report (see A/74/324) of which we have taken note.

A question we hear often is about where justice should be done for the most serious crimes. Should it be in our national legal systems or at the ICC in The Hague? With the aim of combating impunity, the Rome Statute has created a modern approach that links national and international systems in addressing the most serious crimes — crimes against humanity, war crimes and genocide. As a result, the concept of the ICC's complementary jurisdiction has emerged to create a framework for the relationship between the international criminal justice system and national systems, which have benefited from this complementarity. This is why Libya has cooperated with the ICC in this stage of its struggle to achieve justice, while stressing the principle of the sovereignty of the Libyan State in implementing its national legislation for crimes committed in our country. While we are well aware of the delays there have been in prosecuting suspects, we affirm that they do not mean that the Libyan national system does not want to prosecute and punish perpetrators. The delays are the result of the issues of national security that my country is dealing with. We have seen this in the fact that our national judicial system has already begun prosecuting many suspects, and the sentences that have been passed have punished some and acquitted others. Our national jurisdiction should therefore be respected.

We stress that our judicial system is capable of rising to the occasion and upholding justice. If we are to enhance the rule of law in Libya we need serious efforts on the part of the international community to assist our Government of National Accord in overcoming our current security crisis. That must go hand in hand with the work of ensuring that our political processes are successful. This can be done by providing the necessary support to law-enforcement entities so that they can help to enhance peace and stability, control the drivers of conflict and emerging situations that lead to violations and crimes, confiscate the means for committing such crimes, especially weapons, and curb armed and outlawed groups.

In conclusion, we would like to reaffirm that the Libyan authorities are determined to hold perpetrators to account and to fight impunity, in accordance with the principle of the territoriality of law that reflects the rule of law. The Libyan justice system is independent, transparent and capable of delivering social and criminal justice once the institutions of the State are established, and it will do so.

**Ms. Rush** (New Zealand): We thank President Chile Eboe-Osuji for his report (see A/74/324) and his ongoing service to the International Criminal Court. We commend the Court's recent achievements, as reflected in the President's report, and its ongoing relationship with the United Nations. We note with appreciation the Court's engagement with States, the United Nations, intergovernmental and regional organizations and civil society in order to enhance cooperation with, awareness of and support for the Court.

New Zealand strongly supports the Court and its mandate to hold to account those individuals responsible for the most serious international crimes. As the only permanent international criminal court, it has a crucial role to play within the broader system of international accountability mechanisms, and we welcome its invaluable contribution to this system so far. The Court and its Statute have progressively established a new paradigm in international criminal justice, which has made accountability for atrocity crimes an integral aspect of the rule of law. As such, the Court is one of many bodies implementing accountability for the most serious international crimes.

However, the primary responsibility for taking robust and appropriate measures when faced with the commission of international crimes lies with States. The Court is an independent court of last resort to try such crimes. Domestic courts and judicial processes that secure accountability for the perpetrators of international crimes are crucial to implementing the principle of complementarity. By fulfilling this responsibility, States parties support the Court's focus on the investigation and prosecution of the most serious international crimes, consistent with the principle of complementarity.

As the Court celebrated the twentieth anniversary of its founding Statute last year, we now look ahead to the next chapter of its existence. While we acknowledge its many successes and achievements, some challenges remain. New Zealand welcomes the fact that the Court and States parties are together exploring prospects of reform aimed at strengthening the Court and enhancing its effective performance of its mandate. All potential reform should enable and empower the Court to best deliver accountability and appropriate oversight.

The Court has made significant contributions to international criminal justice and jurisprudence through the quality and nature of its judicial functions

and decisions. That is the Court's core function, and we urge all States parties to strengthen and uphold it, including by implementing practical measures to ensure that its bench is as well-equipped as possible to play its role. New Zealand looks forward to engaging constructively with other States parties and with civil society on this and other reform issues in the lead-up to and at the forthcoming Assembly of States Parties.

In the light of the ongoing progress of the Court and of States parties towards ensuring justice and accountability for the gravest crimes, New Zealand commits to continuing dialogue that is open, honest, respectful and focused on the common goals of the international community. Achieving that goal must include cooperation at the national, regional and international levels. The independence and impartiality of the Court are fundamental to its mandate and credibility, and New Zealand urges all States to uphold those principles and to be guided by them in their dealings with the Court. Above all, we are committed to the Court and will work with others to ensure the Court continues to be, and is seen to be, an effective and sustainable judicial institution.

**Mr. Bondiuk** (Ukraine): Ukraine aligns itself with the statement made earlier by the observer of the European Union, and I would like to add a few remarks in my national capacity.

At the outset, I would like to thank the President of the International Criminal Court (ICC) for his comprehensive presentation of the Court's annual activities.

We welcome the steps taken by the Court to improve its work and optimize the use of its resources, as well as its adoption of a Court-wide strategic plan for the period from 2019 to 2021. We note with appreciation that following the activation last year of the Court's jurisdiction over the crime of aggression, several States parties have already ratified or accepted the amendment on that crime. The effectiveness of all of the Court's activities, from ongoing investigations to judicial activities, depends on the cooperation of States. Providing that cooperation is an important contribution to preventing the most serious crimes and fighting against impunity for them.

As one of the first States to support the idea of establishing a permanent treaty-based international tribunal, Ukraine actively participated in the Preparatory Commission for the Establishment of

the ICC and became a signatory to the Rome Statute in 2000. Later on, Ukraine was also one of the first non-State parties to ratify the Agreement on Privileges and Immunities of the ICC. In its firm belief in this court of last resort, on 17 April 2014 the Government of Ukraine lodged a declaration under paragraph 3 of article 12 of the Rome Statute accepting the ICC's jurisdiction over crimes committed on its territory between 21 November 2013 and 22 February 2014. Furthermore, on 8 September 2015, the Government of Ukraine lodged a second declaration under the same article of the Statute accepting the exercise of the ICC's jurisdiction in relation to crimes committed on its territory as of 20 February 2014, when the Russian military aggression against Ukraine began. I should reiterate that those declarations were made for an indefinite duration. The ICC will therefore be able to exercise its jurisdiction over such crimes regardless of the nationality of their perpetrators, even if they are citizens of third States.

We appreciate the fact that during the reporting period, the Office of the Prosecutor focused its analysis on crimes in Crimea and eastern Ukraine with a view to defining potential cases for investigation. The Government of Ukraine and Ukrainian and foreign non-governmental organizations continue to submit further information to the Court and cooperate with the Office of the Prosecutor with regard to the preliminary examination, both through consultations at the Court and during its missions to Ukraine, the latest of which took place in June. In particular, Ukrainian law-enforcement agencies, in cooperation with civil-society organizations and human rights defenders, have continued to document and provide the Court with additional information, facts and evidence related both to the nature of the existing armed conflict in Ukraine as an international armed conflict caused by a foreign armed aggression and to the numerous war crimes committed by the aggressor State's armed forces and its occupation authorities, personnel and proxies in the temporarily occupied territories of Ukraine. We appreciate the work done by the Office of the Prosecutor and look forward to the ICC report on preliminary examination activities in 2019.

The demands of the people of Ukraine for justice and especially for the prosecution and holding to account of all perpetrators of grave crimes committed in Ukraine remain as relevant as ever. In that regard, Ukraine reiterates its wholehearted support for the ICC.



In conclusion, I would like to highlight the fact that the fight against impunity is directly connected with achieving peace and security for all.

**Ms. Blais** (Canada) (*spoke in French*): Canada has long supported the International Criminal Court (ICC) and its efforts to hold those responsible for the most serious international crimes to account. Ensuring accountability for such crimes helps end impunity, which is inextricably linked with respect for the rule of law. We are particularly concerned about impunity in Myanmar and we therefore welcome the fact that the Court is in the process of examining alleged crimes against humanity committed against the Rohingya people. However, we recognize the inherent limitations presented by the Court's need to stay within its jurisdiction. Canada therefore continues to call on the Security Council to refer the situation in Myanmar to the ICC. Such a referral would ensure that the Court has the jurisdiction to investigate the full scope of the atrocity crimes committed against the Rohingya people.

As the Court has noted in its report (see A/74/324), the Security Council's acknowledged prerogative to refer a situation to the Court can promote the application of the principle of responsibility in countries where grave crimes may have been committed but where the Court lacks jurisdiction. The Court also noted that structured dialogue between the Court and the Security Council could improve the implementation of the Council's referral resolutions and strengthen the fight against impunity. Such discussions could also help to ensure that the ICC receives sufficient funding for cases referred to it by the Council. Canada therefore supports the implementation of structured dialogue with the Security Council.

Given the need for a strong Court, Canada also welcomes ongoing discussions to find possible ways to strengthen the Court. In particular, we welcome the efforts of the Bureau to convene States parties for this purpose. While the areas of discussion are many, Canada supports seeking increased diversity and improved gender balance within the Court, ensuring strong national selection processes for candidates for elected positions within the Court and the best allocation of the resources that enable the Court to fulfil its mission. Canada therefore looks forward to engaging with other States parties on these and other issues at the Assembly of States Parties in December.

I would be remiss if I did not briefly reiterate our belief that universal ratification of the Rome Statute is crucial to the Court's success. Since other forums are proving less effective than was hoped in ensuring accountability for the commission of atrocity crimes, we should continue to prioritize the universalization of the Rome Statute. Like the Court, we greatly appreciate the efforts of civil society in promoting that universalization. However, it is also incumbent on all States parties to raise that issue regularly with non-States parties, given the important role that the International Criminal Court plays in the fight against impunity.

International cooperation is also essential to the ICC's success. In that regard, Canada echoes the Court's deep concern about the fact that requests for the arrest and surrender of 15 persons remain outstanding. The Court can succeed in its work only if all States parties respond to arrest warrants and assist ongoing investigations. For that reason, Canada welcomes the prompt execution of the two new arrest warrants issued by the Court in the past year for war crimes and crimes against humanity allegedly committed in 2013 and 2014 in the Central African Republic, and the transfer of those individuals to the ICC's custody. We also welcome the description of the ongoing cooperation of States parties in investigations. We can hold perpetrators of serious international crimes accountable only by working together.

I would like to conclude by stressing that Canada will continue to provide strong support to the International Criminal Court and looks forward to continuing discussions on efforts to strengthen the ICC.

**Ms. Pino Rivero** (Cuba) (*spoke in Spanish*): The Cuban delegation takes note of the report of the Secretary-General (see A/74/324) and would like to express its firm commitment to fighting impunity for crimes that affect the international community.

The current international situation and events of the past few years clearly demonstrate the need for an independent international judicial institution that can lead the fight against impunity for the most serious crimes. However, we believe that the broad powers granted to the Security Council under article 16 of the Rome Statute regarding the work of the International Criminal Court (ICC) do not specifically define it as an independent institution. Besides distorting the essence of the Court's jurisdiction, that represents a violation

of the fundamental principles of the independence of judicial bodies and of transparency and impartiality in the administration of justice. The Council's referrals to the Court confirm the negative trend that our country has frequently pointed out. The Security Council's referral processes continually violate international law and attack developing countries in the name of the so-called fight against impunity. That is why Cuba reiterates its position in favour of establishing an impartial, non-selective, effective and just international criminal court that complements national justice systems and is truly independent and therefore free from political interests that could taint its essence.

Cuba emphasizes that the International Criminal Court cannot ignore international treaties or the principles of international law. It must respect the legal principle that a State must consent to be bound by a treaty, endorsed in article 11 of the Vienna Convention on the Law of Treaties of 23 May 1969. We want to reiterate our serious concern about the precedent created by the Court's decisions to initiate judicial proceedings against nationals of non-States parties to the Rome Statute that have not accepted its jurisdiction, in accordance with article 12 of the Statute. The ICC's jurisdiction must maintain its independence from the political bodies of the United Nations and must always complement national criminal jurisdictions. The Rome Statute was not created to replace national courts.

The International Criminal Court must report its activities to the General Assembly on the basis of the Relationship Agreement. While Cuba is not part of the International Criminal Court, it is willing to continue participating actively in negotiation processes related to it, especially the resolution on the report of the Court that the Assembly adopts every year, currently before the Assembly as draft resolution A/74/L.8. However, we reiterate our concern about attempts to breach the Relationship Agreement, specifically with regard to the ICC's relationship with the Security Council. We should point out that the report contained in document A/74/324 refers to the need to structure dialogue between the two bodies, something that we consider exceeds the mandates in the Relationship Agreement.

The people of Cuba have been victims of the some of the most unprecedented forms of aggression for almost 60 years. Harassment and hostility have killed and injured thousands of our compatriots. Hundreds of families have lost children, parents and siblings, in addition to suffering enormous material,

economic and financial losses. However, the definition of the crime of aggression established at the Review Conference of the Rome Statute in Kampala simply does not consider some of those elements. Crimes of aggression must be defined generally, encompassing every form of aggression manifested in international relations between States, and should not be limited to the use of armed force but should also include actions that affect States' sovereignty, territorial integrity and political independence.

In conclusion, Cuba reaffirms its will to fight impunity and maintain its commitment to international criminal justice and adherence to the principles of transparency, independence and impartiality, as well as to the unrestricted application of international law and full respect for it.

**Mr. Liu Yang (China)** (*spoke in Chinese*): The Chinese delegation thanks President Chile Eboe-Osuji for his annual report (see A/74/324) on the work of the International Criminal Court (ICC). China has taken note of the ICC's continued efforts in areas such as investigation, trials and reparations to victims. However, misgivings at the international level regarding the authority and credibility of the Court have been mounting. There are five main issues in that regard. First, the major concerns of some States parties have not been effectively responded to within the framework of the ICC. Secondly, the Court's approach to the rule on State officials' immunity from foreign criminal jurisdiction has been controversial, and a number of States believe it would be wise for the General Assembly to request an advisory opinion from the International Court of Justice on the matter. Thirdly, the Court's Pre-Trial Chamber has unduly expanded its jurisdiction to the point of blurring the boundaries between States parties and non-States parties. Fourthly, the Court does not appear to have explicit and uniform conditions and criteria for authorizing the Prosecutor to investigate a given situation. Fifthly, one judge accepted an appointment as an ambassador for her country while still being involved in case trials, prompting widespread scepticism. Although the situation was subsequently remedied, it should not have happened in the first place in an international judicial body whose very *raison d'être* is based on ensuring independence and impartiality.

China has also noted the fact that the judgment of the Court's Appeals Chamber in May this year on an appeal by Jordan has evoked major concerns among

various parties. The judgment, based on the practices of relevant ad hoc international criminal tribunals, determined the non-applicability of immunity for Heads of State before international judicial institutions as a rule of customary international law. However, the Court failed to spell out detailed distinctions pertaining to the specific contexts and conditions of the practices of those international criminal tribunals. For example, the tribunals' statutes have explicit provisions on Head of State immunity, and similar provisions can be found in the relevant resolutions of the Security Council. We have seen from State practice that the vast majority of States have consistently and unequivocally maintained that immunity applies to Heads of State and other senior officials without exception. Furthermore, the Court's Pre-Trial and Appeals Chambers have issued multiple judgments on relevant matters but have cited grounds that are different or even contradictory, much to the detriment of the Court's authority and credibility.

China believes that the Court should take concrete and effective measures to address its shortcomings and improve its work in order to respond to the legitimate misgivings and concerns of the international community about the array of issues that I have mentioned. China hopes that the Court will carefully exercise its authority, in strict accordance with the Rome Statute, to ensure that its judicial activities are in line with basic principles of international law, including the purposes and principles of the Charter of the United Nations, so as to truly achieve equity and justice.

**Mr. Jiménez Piernas (Spain)** (*spoke in Spanish*): It is a great honour for me to once again address the General Assembly on such an important matter. Strengthening the International Criminal Court is a priority for Spain. Its job is to investigate the most serious crimes affecting the international community as a whole and to exercise its jurisdiction as a court of last resort, as a complement to national jurisdictions, with a view to ending impunity, preventing such crimes and providing justice to the victims.

I would first like to note that Spain associates itself with the statement made earlier on behalf of the European Union and its member States.

I want to commend the Court's ongoing work, because it continues to function. It currently has 11 open cases and 11 others in a preliminary phase. Some cases are at the appeal stage, some are awaiting sentencing, some are almost concluded, and some are just beginning.

All of that work is reflected in the report for the period from 1 August 2018 to 31 July 2019 (see A/74/324), presented by President Eboe-Osuji. We sincerely thank him, the judges, Prosecutor Bensouda and all the staff of the Court. The International Criminal Court is one of the greatest achievements of the international community in recent times. Since the adoption of the Rome Statute, more than 20 years ago, States have remained seized of the tasks of the Court both from their capitals and through their participation in the various working groups, committees and meetings of the Assembly of States Parties. The attention given to this issue is due to the importance of its mandate, the political component of its work and its budgetary burden on the finances of its States parties.

The Court is facing many challenges, such as the creation of a technical review process by independent experts designed to improve the Court's performance, efficiency and effectiveness in some fundamental areas, particularly its governance and the work of the Office of the Prosecutor. Their report is to be submitted in September 2020 for consideration at the nineteenth session of the Assembly of States Parties, almost simultaneously with the culmination of the process of electing new judges and prosecutors. It is also important to highlight the issues of cooperation with States parties, the protection of victims and the election of officials to senior positions, which I will now touch on.

It is true that the Court enjoys the firm, if also informed and critical, support of an increasingly large group of States, including Spain, of course. But today it is facing a number of challenges, old, new or recurring, that make it difficult to render justice for the most serious crimes of concern to the international community as a whole. We deplore the obstacles and difficulties that the Court has encountered in trying to carry out its functions, particularly the threats of retaliation against the Prosecutor, the person elected to prosecute such crimes on behalf of the international community. Those attacks are unacceptable because they are designed to limit her freedom to investigate. Within the General Assembly, many States continue to reaffirm their strong support for the Court as a key instrument in developing the administration of a universal system of justice. While the Court is not yet a universal organization, it aspires to become one. Its States parties and civil society continue to work towards that. Meanwhile, our main objective should be

to protect the Court so that it can do its work without undue interference from third parties and with all the resources it requires.

Being a State party to the Court of course means participating in its arrangements and those of its entities. Nevertheless, over the years, we have seen some States refuse to cooperate with the Court, including in cases where the Court is acting at the request of the Security Council in its capacity as the guarantor of international peace and security under Chapter VII of the Charter of the United Nations. We have the responsibility to make every effort to rectify that lack of cooperation whenever it occurs and to ensure that it does not happen again in future. We therefore welcome the recent decision of the Appeals Chamber regarding the non-cooperation of a State party with the Court since it reinforces the role of the Court vis-à-vis States, especially considering that the Security Council had referred the case in question to the Court.

A lack of cooperation with the Court remains one of the main challenges we have to deal with, but it is also an opportunity to demonstrate our support for the Court and our commitment to its work. Bilateral cooperation agreements have been concluded with the Court in the past few years with the main aim of developing capacities that were not originally provided for in the Rome Statute but have proved to be fundamental to ensuring that the Court functions well. Spain is currently negotiating with the Court the conclusion of two cooperation agreements — a new judicial cooperation agreement that will encourage a smooth and efficient relationship between Spain's judicial organs and the Court, and an agreement on judgment enforcement that is part of the agreements usually concluded between the Court and States parties.

I would be remiss if I did not mention the victims of the crimes heard by the Court. The jurisprudence of the Court attests to its impartiality. It has not taken sides or ignored the rights of any party in any case. But acquittals, which are the result of a system of guarantees that respects the rights of all parties, are understandably frustrating for the victims. It is essential to help them and improve their status by promoting the practice of free legal assistance covered by the Court's budget, without forgetting the essential role played by the Court's Trust Fund for Victims, to which Spain contributes regularly, according to our financial capacity. Under its mandate to provide assistance, the Fund has already helped more than 400,000 victims by paying the reparations

stipulated in the Court's judgments in cases where the defendants are unable to pay. Voluntary contributions to the Fund are critical to ensuring victims' right to reparations and the effectiveness of the system created by the Rome Statute.

In conclusion, I want to mention the always delicate question of the election of the persons who will occupy the Court's most senior positions in the next few years. I refer particularly to the posts of Prosecutor and judges, without meaning to ignore other positions. A new election cycle is approaching, and it is essential to ensure that the leading criteria are the search for and assessment of recognized, technically proficient candidates. The work that those elected individuals will do in the coming years requires candidates with extensive experience in the field and guaranteed technical expertise, above and beyond other criteria. That is the only way to ensure the success of the Court's tasks in the future.

The International Criminal Court is a fundamental piece of the complex system that the international community has been building since 1945 to make the world a better place. We have a responsibility not only to maintain that legacy but to improve it through our actions. Let us take advantage of every opportunity, such as the upcoming elections for judges and the Prosecutor, to strengthen the Court, without losing sight of the importance of its mandate in contributing to the maintenance of international peace and security.

**Mrs. Azucena** (Philippines): We thank the President of the International Criminal Court (ICC) for his report (see A/74/324). The Philippines dissociates itself from draft resolution A/74/L.8.

The withdrawal of the Philippines from the Rome Statute took effect on 17 March. Our decision to withdraw is part of the Philippines' principled stand against those who politicize human rights and disregard our country's independent and well-functioning organs and agencies, which continue to exercise jurisdiction over charges arising from our efforts to protect our people. As in all democracies, the wheels of justice sometimes turn slowly, but they do turn. The rule of law cannot and should not be compromised for immediate retribution. Notwithstanding our withdrawal from the Rome Statute, the Philippines affirms its commitment to fight against impunity for atrocity crimes. We have national legislation that punishes such crimes. Indeed, this year we mark the tenth anniversary of the Philippine



Act on Crimes against International Humanitarian Law, Genocide and Other Crimes Against Humanity.

Many conveniently forget that the Rome Statute is anchored in the principle of complementarity, not substitution. It recognizes that States have the first responsibility and right to prosecute international crimes, and that the ICC may exercise jurisdiction only where national legal systems fail or are unable to prosecute such crimes. We are able and willing. The

ICC was never conceived as a substitute for national courts, as some would like it to be. Early this year, a member of the terrorist Maute Group was convicted in a court of law for violations of international humanitarian law, in a demonstration of the Philippines' effective enforcement of its domestic legislation and international humanitarian law.

*The meeting rose at 1 p.m.*