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Official Records

President: Mr. Lykketoft (Denmark)

The meeting was called to order at 3.05 p.m.

Agenda item 75 (continued)

Report of the International Court of Justice

Report of the International Court of Justice (A/70/4)

Report of the Secretary-General (A/70/327)

Mr. Mendoza-García (Costa Rica) (*spoke in Spanish*): It is an honour for me to participate once again in the annual meeting of the General Assembly to consider the work of the International Court of Justice (ICJ), the only international court of a universal character with general jurisdiction.

My delegation congratulates Judge Ronny Abraham on his recent election as President of the Court. We are grateful for his presentation of the report on the work of the Court (A/70/4) for the period 2014-2015 and for his presence here in the Assembly.

During this reporting period, the work of the Court was once again very intensive. It delivered one judgment, handed down nine orders, held two public hearings, was seized of a new contentious case and following up on 12 pending proceedings. The fact that these cases originate from every continent is a clear reflection of the universal character of the Court's jurisdiction.

As the peaceful settlement of international disputes is a vital objective of the United Nations, the role of the Court in the maintenance of international peace

and security and the promotion of the rule of law at the international level is a key one, hence the responsibility of the United Nations and its Member States to support the ICJ in the fulfilment of its tasks. This support calls for the Organization to ensure that the Court is able to deal effectively and objectively, with complete procedural and judicial independence, with the cases submitted to it and that it has the resources necessary to discharge its mandate, bearing its workload in mind.

A key requirement for the strengthening of the rule of law and of the Court itself is for States to act throughout the process in accordance with the principle of good faith and to respect and comply with the Court's decisions, both judgments and orders, as well as all precautionary measures imposed, without any exception. Such compliance must be complete and in good faith so as to guarantee the integrity of each process and thereby strengthen the indisputable role of the Court in ensuring peace and justice.

In that vein, we welcome the statements made by several States that spoke before me that reaffirmed their commitment to fulfilling the obligations emanating from the Court's decisions. I cannot but reiterate how important it is for the Organization to seriously consider options to follow up on these decisions and highlight cases of non-compliance in order to avoid such situations, which contravene the rule of law.

My delegation welcomes the fact that in 2015, two States, Greece and Romania, made respective declarations recognizing as compulsory the jurisdiction of the Court, as contemplated by article 36, paragraphs

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2 and 5, of its Statute. However, although 193 countries are parties to that Statute, to date only 72 have accepted its jurisdiction. Costa Rica has accepted as compulsory its jurisdiction since 1973 and therefore takes note of this fact with concern. It respectfully calls on those States that have not yet done so to consider making use of the mechanism provided for in article 36 of the Statute of the Court.

Throughout the years, the Court has made significant contributions to the development of international law through its judgments and advisory opinions since it resolved the first dispute, on the Corfu Channel. Today, on the eve of celebrating its seventieth anniversary, we are certain that the Court will continue to work diligently in order to resolve the disputes submitted to it in a fair and impartial fashion, in accordance with the lofty legal mission entrusted to it by States through the Charter of the United Nations.

Costa Rica, which disbanded its armed forces in 1948, depends solely on international justice to defend its sovereign rights. On that account and in accordance with our traditional respect for the instruments and bodies of international law, we reiterate, once again, our commitment to faithfully abide by all the decisions that issue from those bodies, reaffirming our full confidence that the Court will continue to strengthen peace and justice through the objective exercise of its duties.

Mr. Drobnyak (Croatia): Croatia thanks the President of the International Court of Justice, Judge Ronny Abraham, for his report (A/70/4) on the work of the Court over the past year.

During the reporting period, the Court rendered its judgment in the case brought before it by Croatia, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, and deliberated on a number of other cases brought before it by other States, as elaborated in detail by Judge Abraham. In that regard, Croatia continues to closely follow the work of the Court and all its activities.

Adherence to the rule-of international law is pivotal to ensuring the peaceful settlement of disputes between States and the avoidance of conflict. The International Court of Justice, as the principal judicial organ of the United Nations, has a central and fundamental role to play in strengthening the rule of law on the international level. Its task in that regard is indispensable.

Seen more broadly, international adjudication, in addition to its original and primary purpose to decide disputes between States, contributes, by its very existence, to the idea that there is an alternative to the unlimited exercise and misuse of power. That is why international adjudication needs to be developed in accordance with the highest standards, legal and moral alike. Jurisprudence, within the framework of applicable international law and its predictability, must be a powerful instrument in settling disputes by peaceful means and in accordance with the Charter of the United Nations.

Let me emphasize that States need to have confidence that their disputes will be decided upon competently, independently and impartially, within the framework of the highest legal and ethical and professional standards. The confidence of States that ongoing disputes will be settled through international adjudication according to the highest standards is of paramount importance for the willingness of States to turn to judicial settlement for the resolution of their disputes and for their choice of the legal framework over any other means. Indeed, the entire architecture of international adjudication rests upon that pivotal premise.

In conclusion, let me extend Croatia's support to the Court and its important work.

Ms. Mesquita Borges (Timor-Leste): Allow, me at the outset, to thank the President of the International Court of Justice, Judge Ronny Abraham, for presenting the report (A/70/4) on the work of the Court and or his work at the Court over the past year.

Timor-Leste associates itself with the statement (see A/70/PV.47) delivered by the representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement.

The International Court of Justice, as the principal judicial organ of the United Nations, is tasked with promoting the peaceful settlement of disputes, in accordance with the Charter of the United Nations. Furthermore, it is the only international court of a universal character with general jurisdiction.

The universal nature of the Court is reflected in the diversity of the cases coming before it. As stated in the Court's report, the current docket includes cases brought by sovereign parties from all regional groups. That highlights the importance attached

globally to the peaceful settlement of international disputes, as enshrined in the Charter, and to ensuring that international peace and security and justice are not endangered. There has also been an increase in the confidence and trust placed upon the Court, in particular by developing countries and small States. The reliance of small States on the Court to protect their sovereignty is a testament to its ability to resolve international disputes in conformity with the principles of justice and international law. It is our experience that international law serves well in protecting the rights and interests of small States. That is why Timor-Leste is such a strong supporter of the United Nations and international law. The multilateral system and international law guide fair behaviour and can provide States with options for dispute resolution. To date, 72 Member States have made declarations recognizing the compulsory jurisdiction of the Court. Timor-Leste is in that group and expresses its strong support for and faith in the Court. That is exemplified by the case brought before the International Court of Justice by Timor-Leste, *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)*.

The United Nations High-level Meeting on the Rule of Law at the National and International Levels (see A/67/PV.5) recognized the positive contribution of the International Court of Justice and the value of its work for the promotion of the rule of law, which it carries out through its judgments and advisory opinions, in accordance with the Charter and, in particular, in accordance with Articles 33 and 96. In its role in promoting and clarifying international law, the Court has contributed to the development of law in the following areas: interference in the domestic affairs of States, the violation of territorial integrity and sovereignty, and economic rights, among others. Timor-Leste acknowledges the role of the Court in capacity-building through the provision of information to both States and organizations regarding the procedures of the Court.

In conclusion, the seventieth anniversary of the United Nations provides an opportunity to renew our commitment — the commitment of the international community — to the peaceful settlement of disputes and to the work of the International Court of Justice. Only through such a commitment can we ensure the promotion of the rule of law in international relations by the United Nations.

Mr. Cheong Loon Lai (Malaysia): Malaysia associates itself with the statement delivered by the representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement (see A/70/PV.47).

We wish to express our appreciation to Judge Ronny Abraham, President of the International Court of Justice, for the report (A/70/4) and for his briefing to the General Assembly on the work of the Court. We also thank the Secretary-General for his report (A/70/327).

Judge Abraham's briefing has provided the General Assembly with a better understanding of, and insight into, the work of the Court. We furthermore wish to take this opportunity to commend the judges of the Court for their unwavering sense of duty in upholding the rule of law. We view international law as the legal bedrock governing and regulating inter-State relations. It is in that regard that, in our view, the International Court of Justice, as the principal judicial organ of the United Nations, played an important and major role in the maintenance of international peace and security by providing a forum for the adjudication and peaceful resolutions of disputes between States and by handing down advisory opinions of the Court on questions and interpretations of law. The rulings and decisions of the International Court of Justice epitomize the application of the rule of law at the international level. Furthermore, the rulings and decisions of the Court undoubtedly enrich the corpus of knowledge regarding international law. The increasing number of cases referred to the Court serves to provide further testament of the faith and confidence that the international community has in the Court's ability to discharge its adjudicative functions fairly and impartially, in accordance with the recognized principles of international law, including the Charter of the United Nations and the Statute of the Court.

The International Court of Justice plays an important role in the peaceful resolution of disputes through its adjudication process. We view the apolitical nature of the Court in the discharge of its functions as an important element contributing to the just and fair adjudication of the cases before it. It is our view that the General Assembly and the International Court of Justice, as principal organs of the United Nations, are working towards achieving the same goal, namely, the maintenance of international peace and security.

We firmly and steadfastly believe that States should resolve their differences through peaceful means,

as provided for in international law, and not by the threat or use of force. If dialogue fails and a negotiated settlement cannot be achieved, we view the Court, in addition to the other dispute settlement mechanisms available to the parties, as an avenue for the parties to a dispute to peacefully resolve their differences. Because of our commitment to the peaceful resolution of disputes and our confidence in the Court's fullest application of the rule of law, Malaysia and its immediate neighbours agreed to submit to the jurisdiction of the Court two cases regarding disputes on sovereignty concerning several maritime issues. Our confidence in the impartiality of the adjudication process is reflected in our full acceptance of, adherence to and respect for the decisions of the Court. In addition, on two separate occasions, Malaysia also availed itself, in the General Assembly, of the advisory opinion entitled *Legal consequences of the construction of a wall in the occupied Palestinian Territory* (A/ES-10/273) and another advisory opinion entitled *Legality of the threat or use of nuclear weapons* (A/51/218, annex).

We furthermore regard the Court's outreach programmes, including its encouragement of visits by Member States, its publications and its other online resources, as important tools for raising the awareness of the international community with regard to the work and function of the International Court of Justice. We view the briefings by the President of the Court to the General Assembly as important elements in support of our mutual commitment to the maintenance of international peace and security. We therefore reiterate our fullest support for the work of the Court.

Mr. Atlassi (Morocco) (*spoke in French*): Allow me, at the outset to thank Judge Ronny Abraham, President of the International Court of Justice, for his exhaustive report (A/70/4) covering the Court's activities from 1 August 2014 through 31 July 2015. I would also like to take this opportunity to congratulate the re-elected judges, namely Judges Mohamed Bennouna, Joan Donoghue and Kirill Gevorgian, along with those newly elected in the context of renewing the Court's composition on 6 November 2014 (see A/69/PV.39).

My delegation associates itself with the statements delivered by the representative of the Islamic Republic of Iran, on behalf of the Movement of Non-Aligned Countries, and by the representative of South Africa, on behalf of the Group of African States (see A/70/PV.47). I would like, however, to make several remarks in my national capacity.

The International Court of Justice, established by the Charter of the United Nations in June 1945, is the main judicial organ of the United Nations. The basic texts of the Court are therefore the Charter of the United Nations and its own Statute, which is also part of the Charter. As of 31 July 2015, 193 States were party to that Statute. Those States, in full exercise of their sovereignty, may seize the Court with an application seeking resolution of any manner of dispute, whether bilateral or multilateral, thanks to its character as the sole international arbiter with universal jurisdiction in both contentious cases and advisory proceedings, which makes it more accessible and more sought after for its opinions on the differences and disputes among States.

The disputes that the Court has considered concern, among other matters, territorial and maritime issues, violations of territorial integrity and sovereignty, genocide, environmental damage, the preservation of biological resources, the interpretation and application of international conventions and treaties, and the demand for a ban on nuclear weapons. That variety of issues serves to demonstrate the general character of the Court's jurisdiction as the principal judicial organ of the United Nations and affirms its universality. Moreover, more than 300 bilateral and multilateral treaties or conventions provide for the Court's jurisdiction *ratione materiae* in resolving differences that concern the implementation or interpretation of those agreements. The Security Council and the General Assembly, as well as other United Nations organs, are authorized to ask the Court for advisory opinions on all legal issues pursuant to Article 96, paragraph 1, of the Charter. As a result, the International Court of Justice is the judicial organ par excellence of the United Nations system.

The Court has an important role to play in the promotion and peaceful settlement of disputes, in accordance with the provisions of the Charter, in particular Chapter VI and Articles 33 and 94. It can also play a role in encouraging parties to come to the negotiating table and by delivering transactional justice, which offers parties an opportunity to resolve their differences on their own. In doing so, the Court renders an invaluable service to parties in dispute parties and plays an invaluable role as a facilitator of negotiations.

The impact of the International Court of Justice goes well beyond the judgments and opinions that it delivers. Indeed, many disputes have found their way to resolution simply because one of the parties suggested

having recourse to the Court. That is all the more true inasmuch as the Court is an integral part of an overall process that seeks the peaceful resolution of disputes, on the one hand, and the promotion of the rule of law, on the other. Through its decisions and advisory opinions the Court contributes to strengthening and clarifying international law and to the primacy of the law itself in promoting peace. The Court's jurisprudence has broadly contributed to the gradual development of the rules of international law. That is particularly true inasmuch as the Court plays a key role through its mutually beneficial complementarity with the Security Council in the maintenance of international peace and security. Moreover, its practice shows that some disputes submitted to the Court have achieved resolution not through a decision by the Court, but simply because preliminary measures contributed to their resolution. In addition, the dissemination and publication of the Court's judgments, advisory opinions and decisions contributes to promoting the values and principles of the peaceful resolution of conflicts and of preventive diplomacy.

In conclusion, the Kingdom of Morocco appreciates the important role played by the Court in the peaceful resolution of disputes and its valuable contribution to reinforcing and implementing the rules of international law.

The President: We have heard the last speaker in the debate on this item.

May I take it that the General Assembly takes note of the report of the International Court of Justice?

It was so decided.

The President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 75?

It was so decided.

Agenda item 78

Report of the International Criminal Court

Note by the Secretary-General (A/70/350)

Reports by the Secretary-General (A/70/317 and A/70/346)

The President: I welcome to the General Assembly Judge Silvia Alejandra Fernández de Gurmendi, President of the International Criminal Court.

The International Criminal Court was established as an independent permanent international court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole, with a view to ending impunity for the perpetrators of those crimes. The Court is the leading international reference for justice with regard to genocide, crimes against humanity and war crimes, and is a fundamental actor in efforts to deter future atrocities. The International Criminal Court represents a voluntary gathering of nations in a mosaic of values and aspirations for a more secure world on the path towards ending impunity.

It is now my honour to invite Judge Fernández de Gurmendi to take the floor.

Ms. Fernández de Gurmendi (International Criminal Court) (*spoke in Spanish*): It is a great honour to present to the General Assembly the eleventh annual report (see A/70/350) of the International Criminal Court (ICC).

This is the first time that I appear before the Assembly in my capacity of President of the Court, but it is not my first time in the Hall. As a former representative of my country to the United Nations, I am very familiar with, and immensely appreciative of, the important work that goes on in the General Assembly and its Main Committees. I also had the privilege of participating directly in the negotiation of the Rome Statute under the auspices of the Organization. The support of the United Nations was, and continues to be, extremely important for the International Criminal Court.

The Rome Statute reaffirms the purposes and principles of the Charter of the United Nations. The establishment of the International Criminal Court was based primarily on the recognition that atrocious crimes that offend the international community as a whole threatened international peace and security and undermined the essential values that the United Nations endeavours to promote. Through the Statute of the International Criminal Court, States reaffirmed the primary responsibility of national jurisdictions for investigating and prosecuting such crimes. However, in establishing the Court, States also recognized that there are times when domestic courts alone, for a variety of reasons, cannot cope. The International Criminal Court is complementary to national systems in such situations, with the goal of avoiding impunity for the

most serious crimes, as well as contributing to their prevention. The creation of a permanent International Criminal Court to judge such crimes brought to fruition a long-standing aspiration, and its establishment was not an easy process. It required enormous diplomatic and technical efforts to achieve broad agreement on the Court's jurisdiction, its substantive and procedural legal framework and its cooperation and enforcement regime. Today, there is a widespread expectation that atrocious crimes must not go unpunished, and the Court has a central role in upholding that expectation of the international community and the hope of victims all over the world.

Against that background, I can assure the Assembly that, as President of the International Criminal Court, I recognize the enormous responsibility that rests on the Court. The Court must fulfil its mandate, but it is clear that it cannot meet those expectations alone. The Court relies heavily on the cooperation of States and organizations at every step of the process, from investigation to arrests and from witness protection to the enforcement of sentences. However, just as the Court expects cooperation from the international community, we recognize that the Court is expected to do its part efficiently, by providing high quality justice in a timely manner. For that reason, I have made it the main priority of my mandate to enhance the effectiveness and efficiency of the International Criminal Court. All organs of the Court are actively engaged in important reforms with that goal in mind. Over recent months the judges in particular have made unprecedented collective efforts to expedite the criminal process by adopting best practices and revising working methods. It is important to note that those efforts have already yielded very positive results. As President, I intend to deploy all available efforts to complete all necessary reforms.

(spoke in English)

Let me now provide a concise update on the Court's judicial developments. More details can be found in the written report that members have before them.

We reached several milestones during the past year. The Court issued its first two final appeals judgments on the merits, as well as the first appeals judgments on sentencing and reparations. Two new trials have recently commenced hearings of evidence before the Court, and a third trial is due to commence early in 2016. Together with one existing trial, that means that

next year we expect to have up to four trials running at once, involving a total of 10 accused persons — the Court's busiest year so far in terms of trial proceedings.

In addition to those cases, two further suspects were transferred to the ICC this year. Mr. Dominic Ongwen, an alleged brigade commander in the Lord's Resistance Army in Uganda, was transferred to the Court almost 10 years after the arrest warrant against him was originally issued. And more recently, Mr. Ahmad Al-Faqi Al-Mahdi was surrendered to the Court on charges of war crimes regarding the destruction of historical and religious monuments in Timbuktu. Pre-trial proceedings in both cases are currently under way. In that connection, it is helpful that we will be moving into the ICC's new permanent premises next month, which will provide more capacity for handling the Court's growing caseload, as well as better facilities for public access.

In September 2014, the Prosecutor opened her ninth investigation, following a second referral from the Central African Republic, this time with respect to crimes allegedly committed on its territory since 2012. The Prosecutor also recently requested judicial authorization to open an investigation into the situation in Georgia, covering the period from 1 July to 10 October 2008, for war crimes and crimes against humanity allegedly committed in and around South Ossetia. That matter is currently before the Pre-Trial Chamber, which will consider whether or not there are reasonable grounds to proceed with an investigation in accordance with the Statute.

During the past year, the ICC reached some important milestones in the implementation of its unique reparations mandate, which gives unprecedented attention to the rights of the victims of international crimes. The first appeals judgment on reparations, in the case of Mr. Thomas Lubanga, provided more clarity on the principles to be applied to reparations cases under the Rome Statute and, in the circumstances of this particular case, instructed the Trust Fund for Victims associated with the Court to produce a draft implementation plan for collective reparations in accordance with the Trust Fund's mandate. The Trust Fund filed its draft implementation plan earlier this week, and the matter is now in the hands of the Trial Chamber. Reparations proceedings are also under way in the case of Mr. Germain Katanga, whose conviction for crimes against humanity and war crimes committed

in the Ituri district of the Democratic Republic of the Congo became final last year.

Regarding other activities during the reporting period, the Trust Fund for Victims has been actively carrying out its assistance mandate. Psychological, physical and material support remains central in responding to the needs of victims under the jurisdiction of the ICC. The Trust Fund, in conjunction with locally based partners in the Democratic Republic of the Congo and Uganda, has assisted a total of over 50,000 beneficiaries of psychological rehabilitation, over 1,300 beneficiaries of physical rehabilitation and over 2,500 beneficiaries of material support. The Trust Fund's assistance programme integrates several cross-cutting themes, such as supporting the advancement of women's rights, restoring the dignity of victims, promoting peacebuilding, supporting the rights of children affected by armed conflict, mobilizing communities, managing crises and addressing the impact of sexual and gender-based violence. The ability of the Trust Fund for Victims to provide general assistance and to supplement reparations, where necessary, depends entirely upon donations and the generous voluntary contributions of States. I would like to warmly thank those States that have supported the ICC's Trust Fund for Victims to date, and encourage others to consider doing so, in the interests of the victims and their affected communities.

In recognition of the important relationship between the ICC and the United Nations, the Court's report addresses at greater length than before the various aspects of the cooperation between our organizations. It ranges from logistical assistance in the field to administrative and personnel arrangements, judicial assistance and the provision of services such as those relating to security, satellite communications and the use of conference facilities. In accordance with the relationship agreement between the United Nations and the International Criminal Court, the Court reimburses the Organization for the assistance that it receives. Cooperation also works in the other direction, and the Court has on occasion provided logistical and security support to the United Nations.

In summary, the relationship between the United Nations and the Court is doing well, and the Court is very grateful for the support it receives. I would like to emphasize that the cooperation of the United Nations, as well as the cooperation of its funds, programmes and specialized agencies, is important

to the Court's activities. Nonetheless, there are some ongoing challenges. One is the continuing lack of full cooperation in relation to the two situations that the Security Council referred to the Prosecutor, namely, Darfur and Libya. During the reporting period, the Court made three judicial findings of non-cooperation — two with respect to the Sudan and one with respect to Libya. That brings to 11 the total number of non-cooperation findings referred to the Council. For the Court to be able to effectively discharge its mandate, full compliance with the relevant Security Council resolutions is required. The Court alone is not in a position to secure that compliance, so we look to the Council for active support in that regard.

(spoke in French)

In addition to the important relationship with the United Nations, the Court has continued to develop its interaction and cooperation with other international and regional organizations, institutions and entities, as well as with States in all parts of the world. The Court has cooperation agreements with the European Union, the Organization of American States, the African-Asian Legal Consultative Organization, the Commonwealth, the International Organization of La Francophonie, and the Parliament of Southern Common Market, among others. We continue to engage with various regional organizations in order to foster support for our activities. Just two weeks ago, the Court and the African Union held a joint technical seminar at African Union headquarters in Addis Ababa — the fourth in a series of seminars that started in 2011. We are also deeply grateful for the excellent cooperation that we have received from States in all regions of the world. To further enhance that vital relationship, we have held cooperation seminars in various regions, with the kind assistance of donors, and look forward to continuing that practice.

It has been an eventful year in terms of institutional developments at the ICC. Six new judges were elected to the Court in December 2014, and sworn in on 10 March 2015. Their contributions have already been outstanding, and I am sure that they will serve the Court well during their nine-year mandate. The Assembly of States Parties to the Rome Statute elected Mr. Sidiki Kaba, Minister of Justice of Senegal, as the new President of the Assembly for a three-year term. Minister Kaba enjoys the full support of the Court in the important role that he has assumed at the helm of the Court's parent body.

Since the Court's previous report to the United Nations (see A/69/321), the number of States parties to the Rome Statute has increased to 123, with the accession of the State of Palestine on 2 January 2015. There have also been several new ratifications of the amendments to the Rome Statute adopted at the Review Conference in Kampala in 2010. To date, a total of 26 States have ratified the amendments to article 8, concerning the use of poison weapons and expanding bullets in non-international armed conflicts, and 24 States have ratified the amendments on the crime of aggression. In addition, two States — Senegal and the State of Palestine — have ratified the Agreement on the Privileges and Immunities of the International Criminal Court, bringing the total number of parties to the Agreement to 74. I encourage all the remaining States parties and other interested States to consider ratifying the Agreement.

As a judicial institution, the International Criminal Court is a distinct kind of international organization. The Rome Statute explicitly requires the judges to be independent in the performance of their functions and requires the Prosecutor and her staff not to seek or act on instructions from any external source. The independence of judicial and prosecutorial functions from external influence is essential for ensuring the Court's identity and the achievement of its goals. Without independence, the Court's whole *raison d'être* is compromised. That independence does not, however, mean unfettered freedom. At all times, the Court's activities are defined by the legal framework within which it operates.

The Rome Statute is the Court's constitution. It sets the limits of what we can and cannot do. The Court is accountable to States parties, the Assembly of States Parties and the international community at large. But when it comes to the Court's judicial and prosecutorial functions, its independence must be maintained. The Court must act within its legal framework and cannot step outside its legal boundaries in order to accommodate political objectives.

Joining the Rome Statute is a sovereign decision for each State to make. I know that 72 Member States among those seated in this Hall have so far not decided to take that step. I would like to recall that they can nonetheless contribute to the work of the Court and the broader Rome Statute system. Indeed, non-party States can provide us with valuable cooperation and regularly attend meetings of the Assembly of States parties in an

observer capacity. I know that many of the non-party States are actively contemplating ratification or accession to the Rome Statute and are making concrete efforts towards that goal. I hope to welcome many of them to the International Criminal Court family during my term as President. Only with global participation can the Court be fully effective in intervening whenever core international crimes are committed with impunity. Our deterrent effect equally depends on the competence of our jurisdiction.

As I mentioned earlier, before the end of the year, the Court will move to its new permanent premises in The Hague. I would like to take this opportunity to extend an invitation to all members of the Assembly to visit us there. Our doors are open to everyone. Let us cooperate towards the attainment of our shared objectives, namely, the rule of law, peace, security and prevention.

The President: I thank the President of the International Criminal Court for her briefing.

I now give the floor to the observer of the European Union.

Mr. Marhic (European Union) (*spoke in French*): I have the honour to speak on behalf of the European Union and its member States. The candidate countries of the former Yugoslav Republic of Macedonia, Serbia and Albania; the country of the Stabilization and Association process Bosnia and Herzegovina; and the potential candidate countries the Republic of Moldova and Georgia, align themselves with this statement.

At the outset, we wish to congratulate President Fernández de Gurmendi on her election and to thank her for her presence in New York and her comprehensive briefing. We also thank the International Criminal Court (ICC) for its annual report (see A/70/350) to the United Nations, which covers the period from 1 August 2014 to 31 July 2015 and provides details on what is described as a new year marked by a heavy workload for the ICC. We are staunch supporters of the International Criminal Court, and our strong policy in that regard has a firm institutional foundation in a detailed 12 July 2011 European Council decision on the International Criminal Court and a 2011 action plan on implementation, which is adapted to the evolving activities of the Court.

We acknowledge from this year's report that, with 21 cases in eight situations at different stages

of procedure, with 10 situations under preliminary examination and one new investigation by the Prosecutor, the ICC is facing an increased workload. We also note the important legal developments during the period — the transfer of Mr. Dominic Ongwen and his initial Court appearance in January 2015; the decisions on the Court's first two appeals for judgment on the merits relating to the situation in the Democratic Republic of Congo, in December 2014 and February 2015, respectively; and the confirmation of charges against Mr. Charles Blé Goudé in December 2014. With regard to the situation in Mali, we welcome the fact that the Office of the Prosecutor has paid special attention to allegations related to the attacks directed against historic monuments, notably those inscribed on the list of World Heritage sites. We note, in that regard, that on 30 September 2015, Mr. Ahmad Al Faqi Al Mandi appeared before the ICC on charges related to attacks against such buildings.

The latest report of the ICC describes the efforts that the Court has made to fulfil its mandate, the positive developments and the challenges it faces. Looking to next year, we note that an unprecedented number of four trials will be held simultaneously, covering trials that focus on allegations of crimes involving more than 10,000 victims. The Court thus continues to give hope to the victims of the most grievous crimes. We emphasize that the participation of victims and the reparations for victims are key components of the ICC's legal system.

In the context of the increasing workload of the ICC, we stress the importance of a truly efficient and effective functioning of the Court. While the proceedings before the Court must be fair and must be implemented in full compliance with the highest standards of justice, the Court's activities must be based on financial analyses and meticulous budgeting processes.

The universality of the Rome Statute continues to present one of the main challenges facing the ICC, as universality is essential so as to ensure accountability for the most serious crimes of concern to the entire international community. The perpetrators of such crimes, regardless of their status, must be held accountable for their actions. A key element in the Rome Statute is that it applies equally to all persons, without any distinction based on official capacity. We must continue to work tirelessly to make the Rome Statute truly universal.

On 1 April 2015 we saw the Palestinian accession to the Rome Statute of the ICC, and we took note of the decision of the ICC Prosecutor to open a preliminary examination of the situation in Palestine. There were two additional accessions to the Agreement on the Privileges and Immunities of the International Criminal Court, six States ratified the amendment to article 8 of the Rome Statute and eight States ratified or accepted the amendments to the Statute on the crime of aggression, including the following European member States: the Czech Republic, Latvia, Malta, Poland and Spain. We also note the declaration lodged by Ukraine under article 12, paragraph 3, of the Rome Statute, on 8 September, accepting the jurisdiction of the Court for an indefinite duration, which represents an important step towards universality.

During the reporting period, we continued to engage in promoting the universality of the Rome Statute and in increasing participation in the Agreement on the Privileges and Immunities of the Court, as well as promoting a better understanding of the Court's mandate through démarches and dialogues with third States and international organizations, the organization of dedicated local or regional seminars, the systematic inclusion of an ICC clause into agreements with third countries and financial support to civil-society organizations.

The primary responsibility for bringing offenders to justice lies with States themselves, in conformity with the relevant provisions of the Rome Statute. Complementarity is a core principle in the Rome Statute. In order to make it operational, all States parties need to prepare and adopt effective national legislation to implement the Rome Statute in national systems. Through various assistance instruments and projects, we support initiatives that focus on encouraging States to cooperate in the fight against impunity for atrocity crimes. We welcome the positive dynamic in terms of complementarity regarding the situation in Guinea, as described in the report. We commend in particular the fact that the quality and pace of national proceedings increased significantly during the reporting period, owing to the efforts of the Office of the Prosecutor, the United Nations system, civil society and the Guinean authorities.

Another continuing fundamental challenge lies in the necessity of ensuring cooperation with the ICC, and in particular how to react to instances of non-cooperation by States that are thereby in violation

of their obligations with regard to the ICC. Cooperation with the Court and the enforcement of its decisions are equally essential if the Court is to be able to carry out its mandate. That applies to all States parties to the Rome Statute, as well as when the Security Council has referred a situation to the Court in accordance with Chapter VII of the Charter of the United Nations.

We note with concern that a certain number of arrest warrants issued by the Court remain outstanding—some since 2005. We recall that non-cooperation with the Court with regard to the execution of arrest warrants constitutes a violation of international obligations and stifles the Court's ability to deliver justice. We call upon all States to take consistent actions to encourage appropriate and full cooperation with the Court, including the prompt execution of arrest warrants. We also reiterate the critical importance for all States of refraining from helping to shelter or hide the perpetrators of the most serious crimes and of taking the necessary steps to bring those perpetrators to justice in order to end impunity.

We welcome the actions undertaken by States, international organizations and civil society to increase their cooperation with, and assistance to, the ICC. We welcome in particular the cooperation of the United Nations with the Court, at Headquarters, at the level of United Nations specialized agencies and at the field-missions level, which is described in the report. We note with appreciation the fact that the Rule of Law Unit of the Secretariat, the Office of the Rule of Law and Security Institutions and the rule of law components of peacekeeping missions have proven useful in promoting international justice, in particular in countries in which the Court has been active. We acknowledge the recommendations in the report for mainstreaming the Court in the United Nations system, in particular the fact that the 2030 Agenda for Sustainable Development (resolution 70/1) could provide an important platform for strengthening national jurisdictions. We also note that the Court continues to welcome the updated guidelines of the Secretary-General on contacts with persons who are the subjects of arrest warrants or summonses issued by the Court.

The European Union and its member States, for their part, are committed to pursuing their efforts in the area of the fight against impunity, including by giving the Court their full diplomatic support.

Our common goal continues to be the same: to further strengthen the Court so that it can fulfil its mandate effectively. There are States parties to the ICC in all parts of the world, and all States parties share a feeling of ownership of the Rome Statute. We will continue to encourage the broadest possible participation in the Rome Statute, and we are determined to safeguard the integrity of the Statute, support the independence of the Court and ensure cooperation with the it. We are also committed to fully implementing the principle of complementarity, enshrined in the Rome Statute, by facilitating effective and efficient interaction between national justice systems and the ICC in the fight against impunity.

Ms. Aching (Trinidad and Tobago): I have the honour to deliver this statement on behalf of the 14 member States of the Caribbean Community (CARICOM).

CARICOM wishes to congratulate the President of the International Criminal Court (ICC) on her election. We also take this opportunity to reiterate our steadfast commitment to cooperating with all the organs of the Court as they seek to fulfil the mandate of the ICC and improve its effectiveness and efficiency. We also express our gratitude to the Secretary-General for the reports and the note on the International Criminal Court contained in documents A/70/346, A/70/317 and A/70/350, respectively.

We wish to express our unwavering commitment to the ICC based on its primary objectives, namely, to help put an end to impunity for perpetrators of the most serious crimes of concern to the international community, to contribute to the prevention of the atrocious crimes listed under article 5 of the Rome Statute and to ensure that the perpetrators of the most serious crimes of concern to the international community are brought to justice, thereby preventing impunity.

CARICOM recognizes the importance of the ICC in promoting the rule of law, encouraging respect for human rights and achieving sustainable peace and the further development of nations, in accordance with international law and the purposes and principles of the Charter of the United Nations. CARICOM agrees that the success of the Court is intrinsically linked to the universality of the Rome Statute. We believe that, through increased cooperation, the Court would be better able to effectively discharge the mandate

entrusted to it by States parties. To that end, we reiterate our commitment to promoting the universality of the Rome Statute. In addition, we urge all States that have not yet done so to ratify and fully implement the Rome Statute of the ICC with a view to promoting its universality.

We also welcome the number of ratifications of the Rome Statute and the Kampala amendments. We remain optimistic that the required 30 ratifications will be achieved before 2017 so as to facilitate the entry into force of the Kampala amendments, which would enable the Court to exercise its jurisdiction over the crime of aggression. We also recognize the most recent States parties to accede to the Agreement on the Privileges and Immunities of the ICC.

Mr. Gumende (Mozambique), Vice-President, took the Chair.

Cooperation with the Court remains at the centre of the Rome Statute and falls not only to States parties but also to all States Members of the United Nations, especially when referrals by the Security Council are involved. Those who argue in some quarters that the ICC is an obstacle to achieving lasting peace and security must be reminded that, consistent with the doctrine of complementarity enshrined in the Rome Statute, the jurisdiction of the ICC is invoked only when States are unable or unwilling to prosecute those individuals who are accused of perpetrating the most severe crimes of concern to the international community. In other words, no individual or State should fear the ICC, because it is a court of last resort.

CARICOM remains concerned about the failure of some States to honour their legally binding obligations to cooperate with the Court in the execution of outstanding arrest warrants aimed at bringing to justice those who have committed the most severe crimes of concern to the international community. We wish to underline that those who fail to cooperate with the Court are contributing to impunity, which not only undermines the rule of law but also constitutes an affront to the victims of grave crimes.

CARICOM remains deeply concerned that, while the workload of the Court increased significantly over the past year, a similar increase in resources has not been observed. The report of the Secretary-General makes it clear that 2016 will be the busiest year in the history of the Court, with an unprecedented number of four cases taking place simultaneously, covering

alleged crimes involving more than 10,000 victims. We therefore reiterate our call for the ICC to be provided with the necessary resources to properly execute its mandate.

CARICOM urges those States that have not yet done so to pay their outstanding contributions in order to ensure that the Court is able to carry out its responsibilities in an effective and efficient manner. We also encourage States to make voluntary contributions to the Trust Fund for Victims, with a view to ensuring that victims are provided with adequate reparations. Further, in accordance with Article 115, sub-paragraph b, of the Rome Statute of the ICC and the relationship agreement between the United Nations and the ICC, CARICOM stresses that funds for expenses associated with referrals by the Security Council should be provided by the United Nations. We therefore reiterate our call for the United Nations to honour its obligations to meet the costs associated with Security Council referrals to the ICC.

CARICOM also underscores the importance of proper follow-up by the Security Council to ensure cooperation, in particular with regard to the arrest and surrender of individuals, as without that cooperation justice will not prevail. We fully agree with the mention in the report of the Secretary-General that a perception of inactivity by the Council in terms of taking further measures to ensure that appropriate cases be brought to court could risk undermining the credibility of both the Court and the Council.

CARICOM takes note of the preliminary examinations undertaken by the Office of the Prosecutor on situations in various parts of the world and the conclusion of preliminary examinations elsewhere. We also acknowledge the fact that investigations and judicial proceedings are ongoing in eight States. We also commend the Prosecutor for seeking to discharge her mandate in a manner consistent with the provisions of the Rome Statute of the ICC.

CARICOM remains fully committed to the progressive development of the relationship between the United Nations and the ICC as part of our overall support for the maintenance of an international regime based on respect for the inalienable human rights of individuals, respect for the territorial integrity of States and the need to bring to justice those who commit serious breaches of the provisions of the Rome Statute

and other laws, which, in our view, represent customary international law.

In conclusion, CARICOM once more reiterates its steadfast support for the Court as it continues to discharge its sacred mandate.

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

I would like to start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/70/350). I would also like to thank Judge Fernández de Gurmendi, President of the ICC, for personally giving us a thorough presentation of the main issues contained in the report.

The Nordic countries would like to express their sincere appreciation to the Court for its significant contribution to the fight against impunity worldwide. From the report and President Fernández de Gurmendi's introduction, it is clear that the caseload of the Court has continued to increase.

During the reporting period, the Office of the Prosecutor conducted preliminary examination activities in 10 situations, in Asia, Africa, the Middle East, Europe and Latin America. Investigations by the Office of the Prosecutor now number eight, with the opening of a new investigation in the situation of Central African Republic. We also note that the Office of the Prosecutor recently requested authorization to open a ninth investigation, in Georgia. In total, the Court is now seized of 23 cases in nine situations. Those numbers are unprecedented in the history of the Court. The activities of the Court are becoming truly worldwide. We commend the President, the Prosecutor and the entire Court for the dedicated and highly professional manner in which they carry out their work.

The Court is the most important international actor in efforts to fight impunity and in developing international criminal law. We stress the importance of strong cooperation by States in order for the Court to be truly able to carry out its task in the most effective way. Only in that way is it possible for the international community and the Court to pursue the aim of ending impunity for past crimes and preventing future ones from taking place. Both the Court and the States parties are part of the Rome Statute system of international criminal justice, built upon the principles of complementarity, cooperation and shared responsibility

to hold perpetrators of mass crimes accountable and to ensure justice for victims.

It is a cause for concern that the number of outstanding arrest warrants remains high. States parties have a legal obligation under the Rome Statute to cooperate fully with the Court. In addition, we strongly urge all States to strengthen their efforts to cooperate fully and effectively with the Court, in line with any applicable Security Council resolutions. States have the primary responsibility to investigate and prosecute crimes, as the ICC is a court of last resort. We must, however, acknowledge that many States affected by such complex and large-scale crimes as genocide, crimes against humanity and war crimes lack the resources, capacity or motivation to initiate investigations and conduct appropriate criminal proceedings. The Nordic countries are prepared to assist States parties that are willing to strengthen their national legal capacities in that area. In that context, we highlight the complementarity programme of the Justice Rapid Response facility, which offers assistance, mentoring and modelling to States that are willing to investigate conflict-related international crimes.

We welcome the cooperation between the United Nations and the ICC, as described in the report. We note, however, that greater support to the Court on the part of the Security Council is still needed. That is true in particular in cases of non-cooperation with the Court and where there is a need for more effective follow-up of cases referred to it from the Security Council. While respecting the independence and integrity of the Court, the Security Council must play its part in ensuring accountability when gross violations and abuses of international humanitarian law and human rights law have occurred in any part of the world, as is most acutely now the case in Syria. We strongly appeal to the Security Council to refer the Syrian situation to the ICC. We also call upon Iraq to accede to the Rome Statute as a matter of priority. Persons responsible for war crimes and other serious international crimes in the region must be held accountable.

In order for the Court to be able to carry out its task in the most efficient way, it needs to be properly funded. The Court's budget will be dealt with in the Assembly of the State Parties later this month, but we wish to underline the global activities of the Court. They are 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 ever-increasing demand. The Court's budget needs to reflect adequately its increased caseload.

Victims are, and should be, at the core of the Court's concern in its operations; they are a priority for the Nordic countries. We especially commend the efforts of the Court, in cooperation with States and the United Nations, to strengthen international capacities to investigate and prosecute sexual and gender-based crimes in order to bring justice to the victims of those atrocious crimes. The surge in examinations and investigations is likely to increase the need to mobilize more resources to help victims, and we encourage States to contribute to the ICC's Trust Fund for Victims. We also encourage the mobilization of private resources through public-private partnerships. We believe that that source of funding is likely to become even more important in the future, considering the current economic outlook in many countries.

The full realization of victims' rights to reparations and their procedural rights are an important aspect of the continuing success and relevance of the Court. We commend the important work of the Trust Fund in the various assistance projects for victims and their families in the field. We also note the work being done by the Trust Fund in relation to the first-ever draft implementation plan for reparations for victims, which will be an important milestone for the Court.

Let me conclude by renewing our pledge that the Nordic countries will remain staunch supporters of the Court. We are committed to continuing our support to the Court's independence and integrity.

Mr. Zellweger (Switzerland) (*spoke in French*): At the outset, I want to thank the President of the International Criminal Court (ICC) for her report (see A/70/350), which has provided us with an excellent basis for discussion today.

Recently, many States have expressed their commitment to the role played by the International Criminal Court in combating impunity. Mali has asked the ICC to investigate the destruction of religious structures, and the Niger handed over a suspect implicated in the same affair. The Central African Republic has encouraged the ICC to examine crimes recently committed within its territory. Ukraine has allowed the Court to expand the scope of its preliminary examination. And Palestine has ratified the Rome Statute, bringing the number of States parties to 123, or two thirds of all States in the world.

The ICC itself is making every effort to combat impunity. Currently, the Court is undertaking preliminary examinations, investigations and judicial proceedings relating to situations throughout the world: in Afghanistan, the Central African Republic, Colombia, Côte d'Ivoire, the Democratic Republic of the Congo, Georgia, Guinea, Iraq, Kenya, Libya, Mali, Nigeria, Uganda, Palestine, the Sudan and Ukraine. The Court has also issued important preventive statements, as was the case during the tensions that arose during elections in Burundi. Moreover, the ICC is examining hundreds of communications concerning numerous other places throughout the world.

What can we conclude from the those facts? It is clear that the mission of the ICC and the support it provides are of a global scale. While some accuse the ICC of being a political tool directed against high-ranking officials, it is in fact an independent judicial institution serving thousands of victims. For that reason, the Court requires and deserves our support.

Recently, there have been repeated discussions of whether it would be appropriate to establish ad hoc international tribunals when States have neither the will nor capacity to prosecute the perpetrators of international crimes. That may be an option when the ICC has no jurisdiction *ratione temporis*, as would have been the case for the crimes committed in Chad in the 1980s. In other situations, recourse to the ICC is an obvious solution because of its established legal framework, fully funded budget and highly qualified personnel. The decision to establish an international ad hoc tribunal because it is politically more convenient in the short-term will prove to be unsatisfactory in the longer term. However, even when the ICC is resorted to, it will be able to try only perpetrators who bear primary responsibility. Therefore, the creation of specialized national courts to hear crimes not dealt with by the ICC, as in the case of the Central African Republic, is to be welcomed. It breathes life into the principle of complementarity and allows for justice to be accorded to victims.

I would now like to address the issue of cooperation between the ICC and the United Nations. As the report of the Court illustrates, such cooperation is increasingly broad and deep. All the relevant United Nations entities work regularly with the Court. Switzerland welcomes in particular the cooperation between the ICC and United Nations commissions of inquiry, groups and expert panels, as well as efforts to institutionalize such

cooperation. We also welcome the joint work towards building capacity in national jurisdictions so as to be able to address the most serious crimes.

While cooperation is effective at that level, the relationship with the Security Council is not as clear-cut. On the one hand, the Council mandates peacekeeping missions to support arrests being made, or even to execute them directly. On the other hand, there are areas in which the Council could develop and support the fight against impunity more than it is currently doing. The most striking example in that respect is the decision by the Council not to refer the situation in Syria to the ICC. The lack of response to the numerous ICC communications about non-cooperation in referred situations also attests to the apparent reluctance of the Security Council to support the ICC fully. We welcome the fact that the Court's report addresses the issue of sanctions. Switzerland believes that we could strengthen cooperation between the Court and the Council on sanctions issues and that dialogue should be initiated in that regard.

The Court is facing an ever growing number of judicial activities. It is also confronted with growing, and at times conflicting, expectations from stakeholders. Their expectations must be matched by political and financial support. In order to maximize its impact, the Court needs to work as efficiently as possible. Switzerland therefore strongly supports the President of the Court, the Prosecutor and the Registrar in their efforts to enhance the efficacy of judicial procedures and other processes at the ICC.

In conclusion, we encourage all States parties to ratify the Kampala amendments to the Rome Statute, which consist of expanding the notion of war crimes in non-international armed conflicts and defining crimes of aggression. Switzerland ratified those amendments early in September. We also support a timely activation of the competencies of the ICC by the Assembly of States Parties with respect to crimes of aggression, for the very simple reason that preventing wars prevents war crimes from being committed.

Mr. Adank (New Zealand): We welcome the 2015 annual report (see A/70/350) of the International Criminal Court. We also appreciate the annual opportunity at the General Assembly to discuss the Court's activities, and in particular its relationship with the United Nations.

We welcome the election of seven new judges. We congratulate Judge Silvia Fernández de Gurmendi of Argentina on her election as President of the Court, and support the observation that she made in March that the success of the Court depends on both the cooperation of the international community and the performance of the Court. We look forward to engaging with her on such issues in order to ensure that the Court is as effective and efficient as it can be.

We also thank His Excellency Mr. Sidiki Kaba, Minister of Justice of Senegal, who was elected President of the Assembly of States Parties, for his recent efforts to strengthen the relationship between the Court and States parties, including through in-country visits. We welcome his commitment to working with all States parties to create the conditions necessary for a constructive dialogue that is focused on our common goal of ending impunity for crimes of concern to the international community as a whole through national and international measures of cooperation. Looking ahead, we see value in providing a regular space for constructive dialogue to take place, whether in the Assembly of States Parties or other more informal forums. In addition to the dialogue on relationship issues, we acknowledge the President of the Court's important work aimed at promoting the complementarity and universality of the Rome Statute, which she spoke about today.

The workload of the Court is ever increasing. The Court is currently seized of 21 cases and eight situations. During the reporting period, the Office of the Prosecutor conducted preliminary examination activities in seven situations and opened one new investigation. We welcome the efforts of the Office of the Prosecutor to develop its strategic plan for the period 2016-2018, which will build on the lessons learned from the current plan and identify pathways for the future.

A critical success factor for the Court is its ability to cooperate and work with the United Nations at all levels. Cooperation is central to the relationship agreement between the two organizations. We welcome the extra attention that the Court paid to that issue in its report, and we encourage it to continue to focus on practical matters in future reports. It is important that all United Nations offices, funds and programmes implement the obligation to cooperate, including through simple but significant actions such as continuing the practice of high-level consultations and ensuring that requests are responded to. Such efforts and others, in particular

the Court's suggestions in relation to sanctions, are essential for a sustainable relationship built on mutual trust and respect.

As the Court notes, peacekeeping missions provide valuable assistance to the Court's work and to host States. Consistent with their mandates, such missions lend essential support to host States that are trying, often with limited capabilities, to cooperate with the Court and ensure that the persons most responsible for international crimes are held to account. As a member of the Security Council, New Zealand is ever cognizant of the link between conflict prevention, peacebuilding and accountability for international crimes. Non-cooperation with binding Council resolutions that refer situations to the Court is not only a critical issue for the Court, but also goes to the heart of the Council's own credibility. As previously expressed in the General Assembly and the Security Council, referrals need to be carefully considered, and the Council needs to have a genuine commitment to support the implementation of the referrals it makes.

New Zealand shares the view of many present in this Hall that countries need to be empowered and equipped with the tools to investigate and prosecute crimes at the domestic level, in line with the principle of complementarity. We were reminded several times today that the Court is a court of last resort. Accountability ought to be pursued at a range of levels and in a manner that is appropriate to the specific country context.

The international community grappled for decades with the question of whether the establishment of a court with permanent standing and jurisdiction over the most serious international crimes was possible. Since the adoption of the Rome Statute, in 1998, we have seen the International Criminal Court develop its place in the international legal landscape. Given the breadth, depth and technical complexity of the Court's work, the future will not be without its challenges.

New Zealand remains committed to working with others to ensure that the Court continues to be regarded and perceived as a sustainable and effective judicial institution.

Mr. Pérez Pérez (Cuba) (*spoke in Spanish*): The delegation of Cuba takes note of the report (see A/70/350) of the International Criminal Court on its activities in 2014 and 2015. We express our commitment

to the fight against impunity for crimes of concern to the international community.

The current international situation and the events that have taken place in recent years are irrefutable proof of the need for an autonomous international juridical institution to maintain the fight against impunity for the gravest crimes. However, given article 16 of the Rome Statute of the International Criminal Court and the broad powers granted to the Security Council with regard to the work of the Court, the reality that we see is not exactly that of an independent institution. That problem, besides undermining the essence of the Court's jurisdiction, also violates the principle of the independence of judicial bodies, as well as the transparency and impartiality needed in the administration of justice.

Referrals to the Court by the Security Council confirm the negative trend that my country has witnessed and mentioned on several occasions. In the process of the referrals by the Security Council, international law is constantly violated and developing countries are attacked in the name of the alleged fight against impunity. That is why Cuba reiterates its position for the establishment of an impartial criminal jurisdiction that is not selective, but effective, fair, complementary to national justice systems, truly independent and thereby free from subordination to political interests that could undermine its very essence.

Unfortunately, the results of the first Review Conference of the Rome Statute, which took place in Kampala in 2010, did not resolve the issues I have mentioned. The Court, as an organ with international criminal jurisdiction, continues to be subjected to the illegitimate, undemocratic and abusive acts of the Security Council, which violate international law. It is also deplorable that some Security Council resolutions stipulate that crimes committed by the forces of some of the Powers that are Security Council members but non-parties to the Rome Statute are excluded from investigation. Such referrals by the Security Council are offensive to the international community. They constitute evidence of the political double standards in the Security Council, and they violate the procedural principles of the International Criminal Court.

The delegation of Cuba reiterates that the International Criminal Court cannot ignore international treaties and the principles of international law. The Court must respect the legal principle relating

to the consent of the State to be bound by a treaty, which appears in article 11 of part 2 of the Vienna Convention on the Law of Treaties, of 23 May 1969.

Cuba reiterates its serious concern at the precedent created by the decisions of the Court to initiate legal proceedings against nationals of States not party to the Rome Statute, which have not even accepted its jurisdiction in accordance with article 12 of the same treaty. As numerous reports and speakers have stressed, the Rome Statute was never intended to replace national courts. We should not forget that the jurisdiction of the International Criminal Court must be independent of the political organs of the United Nations, and always function in a complementary manner in relation to national penal jurisdictions.

The people of Cuba have been the victims of the most diverse forms of aggression for 50 years. Harassment and aggression have left thousands of people dead and injured in Cuba, hundreds of families have lost their children, parents, siblings, and innumerable trade, financial and material losses have occurred. However, the definition of the crime of aggression reached at the first Review Conference fell far short of taking into account some of the elements I have mentioned. The definition of the crime of aggression should be formulated in a generic manner and encompass all forms of aggression that occur in international relations between States. It should not be limited to the use of armed force, as aggression also affects sovereignty, territorial integrity and the political independence of States.

The International Criminal Court must report its activities to the General Assembly on the basis of the provisions of the relationship agreement between the International Criminal Court and the United Nations. Cuba, although not a party to the International Criminal Court, is ready to continue actively participating in the negotiation processes relating to the Court, especially under the agenda item "Report of the International Criminal Court", which the General Assembly considers every year.

Cuba reaffirms its determination to combat impunity and maintains its commitment to international criminal justice and its attachment to the principles of transparency, independence and impartiality and the unrestricted application and respect for international law.

Ms. Cooper (Australia): At the outset, I would like to thank the President of the International Criminal Court (ICC), Judge Sylvia Silvia Alejandra Fernández de Gurmendi, for her informative presentation. I also congratulate her on her election as President and on being the first woman to hold that position.

This year we are celebrating the seventieth anniversary of the United Nations. It is fitting, in this anniversary year, to reflect on the many accomplishments of the United Nations. It is also time to take stock and consider how the United Nations and Member States can do more to respond to unanswered challenges, including our failure to end impunity for serious international crimes. Unimaginable atrocities are being perpetrated daily in all corners of the globe: from the forced cannibalism recorded in the African Union's commission of inquiry on South Sudan to the indiscriminate bombing documented in the latest report (A/HRC/30/48) by the Office of the United Nations High Commissioner for Human Rights Independent International Commission of Inquiry on the Syrian Arab Republic. Yet to date those most responsible for those shocking acts have not been held to account. That is despite the fact that history has demonstrated time and again that the investigation and prosecution of serious international crimes is critical to the re-establishment of an inclusive and lasting peace and, in that way, to the prevention of the recurrence of such crimes.

The acknowledgment of those facts led the States Members of the United Nations to propose the establishment of a permanent criminal court in the early years of the United Nations. The recognition of those facts also led States to conclude the Rome Statute, which established the International Criminal Court as a critical part of the international peace and security architecture some 50 years later.

The Court's services are more in demand than ever. Nine situations are currently before the Court, and another nine are under preliminary examination. Each of those situations has come before the Court because States with jurisdiction were either unwilling or unable to take action to hold alleged perpetrators to account.

As the President of the Central African Republic, Catherine Samba-Panza, explained when she addressed the latest meeting of the ICC's Assembly of States Parties, her Government made a referral to the Court because it recognized that the Government could not deliver justice alone. The Interim Government was

convinced that reconciliation and lasting peace required that justice be done, but accepted that the foundations of the judicial system in the Central African Republic had collapsed. It therefore called on the Court for assistance — a brave decision that Australia commends.

Australia does not shy away from recognizing that the Court has been asked to undertake a complex mandate. Collecting evidence in the midst of ongoing conflicts, providing protection to witnesses half way around the world and bringing forward cases against those sitting atop chains of command are all tasks that entail obvious challenges. But, distressingly, one of the greatest challenges facing the Court is a lack of cooperation from the same actors that have pledged to save succeeding generations from the scourge of war and affirmed that the most serious crimes of concern to the international community as a whole must not go unpunished.

The Court's success in combating impunity for serious international crimes hinges on the degree of cooperation that it is afforded, not just by States parties and States obliged to cooperate with the Court by virtue of Security Council resolutions but also by non-party States and regional and international organizations, including the United Nations. For that reason, Australia once again calls on States that have not done so to ratify the Rome Statute, as amended by the Kampala amendments, in order to send a clear and universal message to would-be perpetrators that Rome Statute crimes will not be tolerated.

We call on States to support a strong draft resolution on the International Criminal Court this session, so as to demonstrate the commitment of Member States to the Court. We call on the Security Council to enhance its cooperation with the Court, including by taking follow-up action in relation to those situations that it has referred to the Court, in order to turn the Council's rhetoric on accountability into action.

Secretary-General Dag Hammarskjöld famously said that the United Nations was not created to take us to heaven, but to save us from hell. The same can be said of the International Criminal Court. The Court has Australia's unwavering support in that mission. We trust that all Member States will agree that it is a worthy one.

Mr. Koch (Germany): The International Criminal Court (ICC) was founded on our strong belief that sustainable peace and security can be based only on

justice and the rule of law. That very notion is reflected in the preamble to the Rome Statute, which stipulates that the crimes under the jurisdiction of the Court “threaten the peace, security and well-being of the world”.

That is the spirit that makes the success of the ICC a joint endeavour on the part of all States parties, as they have a genuine interest in ensuring an effective fight against impunity. The Court needs our support and deserves its States parties' unconditional cooperation so that it can fulfil its mandate. That is true because a lack of cooperation by States leaves the Court without means. It is even more true because a lack of cooperation seriously undermines the Court's credibility as it seeks to perform its all-important work.

But support for the ICC concerns not only its States parties, but also the Security Council. As others have said before me, the Security Council's involvement does not end with a decision to refer a situation to the ICC. Rather, the Council needs to actively support the Court's work in following up on requests to investigate a given situation. The Council therefore needs to take a more sustained interest in the ICC's work so as to support its credibility and, finally, the credibility of the ideas on which the Court is based.

Ms. Rodríguez Pineda (Guatemala) (*spoke in Spanish*): We wish to congratulate Judge Silvia Fernández de Gurmendi on her election as President of the International Criminal Court (ICC) and to thank her for her detailed and informative briefing, which we listened to with great interest. My delegation appreciates the annual exchanges between the United Nations and the Court, not only because they strengthen institutional dialogue and the relationship between the two organizations but also because they serve to give visibility to the vital work of the Court. I would like to address the relationship that exists between the Court and the United Nations by highlighting four key areas.

First, with regard to the Court and the General Assembly, States Members of the United Nations increasingly recognize that the ICC is the central mechanism for the administration of international criminal justice. The reality is that war crimes, crimes against humanity and genocide know no borders. We must all join forces in the struggle against those crimes. The success of the Court is therefore an issue that concerns all Member States, be they States parties or not.

We must follow the path chosen 17 years ago with the adoption of the Rome Statute and redouble our efforts to combat impunity. We must bear in mind the long-term effects of the Court, which will be greater respect for international law, including international criminal law and international humanitarian law, and for human rights and the rule of law. Ultimately, that will contribute to international peace and justice in accordance with the Charter of the United Nations. We urge Member States that have not yet done so to become parties to the Rome Statute. Our appeal is particularly urgent at a time when we are about to witness the cessation of activities of the ad hoc international tribunals established by the United Nations.

Secondly, with regard to the relationship between the Court and the Security Council, the Council must commit to effectively following up on its own decisions regarding the specific situations that have generated a referral by the Council to the Court. It is the responsibility of the Council to ensure compliance with Court decisions, especially when Court judges have noted and reported instances of non-cooperation. Currently, there are 11 communications from the Court to the Council on the lack of cooperation with regard to Darfur and Libya, to which no response has yet been received.

We are concerned that there are States that are not honouring their obligations under the Rome Statute and the Charter of the United Nations. Whenever the rule of law is defied and the Security Council does not prevent it, the rule of law is undermined. One way of preventing such undesirable situations from arising in the first place, given the unwillingness of some States to execute arrest warrants, would simply be not to extend invitations to or accept visits of suspects subject to such warrants. We also regret the Council's reluctance to take additional measures and to monitor the progress of the Court, limiting itself to receiving regular reports from the Prosecutor on country situations. That is a sign of indifference by the Council to upholding the rule of law in general, and to ensuring accountability in particular.

Thirdly, with regard to the relationship between the Court and the Office of the United Nations High Commissioner for Human Rights, the functions of that Office include the use of a variety of early warning measures, including the submission of reports on situations and issues of particular interest. Reports from commissions of inquiry and monitoring missions have proved useful for corroborating information

regarding the nature and severity of specific situations. Such information can be especially advantageous for the Office of the Prosecutor in preliminary hearings, during which publicly available information is used to determine whether there is a sufficient basis for conducting an investigation.

We support the recommendation in the Court's report (see A/70/350) for the continued pursuit of ways to increase cooperation and coordination in situations that fall within its jurisdiction, with a view to facilitating an exchange of information in accordance with the relationship agreement. In that regard, we look forward to the conclusion of a framework memorandum of understanding between the Office of the Prosecutor and the Office of the High Commissioner for Human Rights.

Fourthly, concerning the relationship between the Court and the Secretariat, the Court is often faced with complex situations in which the United Nations is attempting to achieve parallel objectives. For that reason, the United Nations is a crucial partner of the Court and is often uniquely positioned to offer logistical and security support on the ground. In that regard, we are pleased to welcome cooperation with the Department of Peacekeeping Operations through the conclusion of several memorandums of understanding with some peacekeeping operations on the ground. We would note the relevance of the point made in the recent report of the High-level Independent Panel on Peacekeeping Operations (see A/70/95) to the effect that a United Nations peacekeeping mission alone cannot take on all aspects of the judicial system and that combined efforts are needed to achieve sustainable results. That report adds that it is necessary to examine the whole chain of institutions, including tribunals, and that they should collaborate efficiently. We believe that the International Criminal Court, in accordance with the principle of complementarity, can contribute to such operations by ensuring that the rule of law performs effectively to combat impunity through the Court's support of the appropriate transitional justice mechanisms in cases where past violations have not been resolved and pose an obstacle to achieving a durable peace.

Furthermore, it is important to recall that the relationship with the Secretariat is not confined to peacekeeping operations or to the Office of Legal Affairs, which provides unequivocal support to the Court, but that it affects all aspects of the United

Nations presence on the ground through its offices, funds and programmes, as well as its humanitarian operations. We consider it essential that that commitment to collaboration should be shouldered by all parts of the United Nations system, in accordance with the Secretary-General's policy and on the basis of the relationship agreement. For example, we note that the Court's report points out that it has asked on various occasions for restrictions on documents from the United Nations and other sources to be lifted in order for the Court to be able to use them during trials. The report likewise stresses the assistance provided by the United Nations and related bodies with regard to making available former officials to testify in trials. The annual joint round tables between the United Nations and the Court provide a good opportunity for both entities to hold working sessions to discuss practical cooperation agreements, lessons learned and future challenges.

In conclusion, I once again reiterate Guatemala's unwavering commitment to the International Criminal Court and to the fight against impunity for grave crimes of concern to the international community.

Mr. Gâlea (Romania): The Romanian delegation thanks the International Criminal Court for its eleventh annual report (see A/70/350) to the United Nations.

First of all, we would like to congratulate Judge Silvia Alejandra Fernández de Gurmendi on her election as President of the International Criminal Court (ICC). We also congratulate Mr. Sidiki Kaba on his election as President of the Assembly of States Parties to the Rome Statute of the ICC. I can ensure them both of Romania's commitment to, and full support for, their efforts.

My delegation equally welcomes the election of seven new judges, given the increasing workload and prospects faced by the Court. As the report highlights, the ICC is currently dealing with 21 cases in eight situations at different stages of proceedings, while the Office of the Prosecutor is conducting investigations and preliminary examinations in a significant number of cases. Next year is expected to be a very busy one, with four trials taking place simultaneously.

The universality of the Rome Statute of the ICC is, in our view, the most powerful preventive approach. This year marked Palestine's accession to the Rome Statute and the declaration by Ukraine, which was submitted under article 12, paragraph 3, of the Rome Statute, accepting the jurisdiction of the Court for acts committed on its territory since 20 February 2014. We

continue to encourage all States to become parties to the Rome Statute.

From our perspective, the ICC's ability to deliver justice depends on the full cooperation of States. The fundamental challenge to the Court's work remains the need to ensure full and prompt cooperation with it, and in particular the need to react to instances of non-cooperation. The Court's efforts to ensure respect for the rule of law must not be undermined. Victims face the prospect of remaining victims forever when justice fails to fulfil its basic role. States should be aware of the significant role that they play in the fulfilment of international justice in compliance with their legal obligations stemming from the Rome Statute and/or the relevant Security Council resolutions.

The ICC remains a court of last resort, complementing national jurisdictions. Therefore, the effective implementation of the principle of complementarity is particularly important if the potential of the Rome Statute is to be fully realized. We commend the positive example of the situation in Guinea, as described in the report, and the efforts of all the actors involved.

The report equally illustrates the importance of the relationship between the United Nations and the International Criminal Court, as well as the need for unwavering political support and follow-up action by the Security Council to address issues arising from referrals to the ICC made by the Council in accordance with the Rome Statute. We express our support for establishing a mechanism that would ensure effective follow-up to such referrals. Romania remains an active and strong supporter of the International Criminal Court and continues to promote its work, which is crucial for international peace and justice.

The Romanian delegation aligns itself with the statement delivered on behalf of the European Union and its Member States.

Mr. Logar (Slovenia): Allow me to begin by extending Slovenia's heartfelt congratulations to the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, on her election and to thank her for introducing the annual report of the Court (see A/70/350).

Slovenia welcomes today's opportunity to engage in a discussion on the work of the Court. The report reaffirms the continuous increase in the workload of the

Court, as well as the scale and versatility of its efforts to bring justice to victims — all of which attests to the growing role of the Court in establishing accountability for the most serious crimes under international law. With the transition of the Court to its new permanent premises, the Court will be able to conduct an unprecedented number of trials simultaneously, leading to an even greater pace for the Court in 2016. Since the effectiveness and efficiency of the Court in fighting impunity largely depend on the level of commitment of the international community, it is crucial that we do our share.

I would like to focus in my statement on four key areas of particular importance, which are also highlighted in the report before us, namely the relationship between the ICC and the United Nations, States' cooperation with the ICC, the principle of complementarity and universality.

One of the underlying aspirations of the United Nations is to establish conditions under which, according to preamble of the statute of the Court, "Justice and respect for the obligations can be maintained". With the principles and powers enshrined in the Charter of the United Nations, the United Nations is a vital partner of the ICC in establishing accountability for atrocity crimes. Slovenia therefore welcomes the highly valuable cooperation between the ICC and the United Nations, including in the form of information exchange, logistical support and security assistance, involving not only United Nations Headquarters, but also United Nations peacekeeping missions and other United Nations presence in the field.

As is evident from the report, the ICC-United Nations relationship has seen notable progress in recent years, which is highly commendable. While fully appreciative of those developments, my delegation would like to refer to several priorities and priority areas where we see room for further improvements. Let me begin with the role of the Security Council.

With the powers vested in the Security Council, including the ability to refer situations to the ICC, the Council is a particularly important partner of the ICC, and its support has a great potential impact on the efficiency of the Court. However, 11 unanswered Court communications to the Security Council, concerning non-cooperation regarding Darfur and Libya and a general lack of policy with respect to referrals, attest to the fact that greater efforts are needed to further

enhance the cooperation between the Security Council and the Court. There is a clear need for a better follow-up to the referred situations on the part of the Security Council. Moreover, the full implementation of the Relationship Agreement and better use of the Security Council's sanctions system in cases of persons sought by the Court under an arrest warrant would also, and importantly, advance the Court's efforts and efficiency. In that regard, Slovenia would like to reaffirm its support for initiatives urging permanent members of the Security Council to refrain from using the veto in situations of atrocity crimes.

Further improvements would also be welcome concerning the mainstreaming of the Court in the United Nations system and the role of peacekeeping missions. Slovenia welcomes the concrete recommendations in the report on how to further strengthen both areas of concern, and stresses the need to examine ways they could be implemented. Therefore, it is essential that we make the best use of it to raise awareness and political support for the Court and to create greater synergies among the relevant actors in the field of human rights, peace and security and international criminal justice.

With the broad United Nations presence on the ground, we believe that its potential for cooperation with the Court is vast. What we need to ensure, however, is that the peacekeeping mission mandates allow for the most effective cooperation with the Court and host States. Just as the Court needs effective support and cooperation from the United Nations, it requires full and prompt cooperation from Member States. It is critical to understand that cooperation with the ICC is not a choice; it is a legal obligation, as defined in the Rome Statute. To date, 12 arrest warrants remain outstanding — some for several years — including that of Omar Al-Bashir. A lack of cooperation on the part of States seriously undermines the Court. Slovenia therefore calls on States to comply with their international obligations.

The third area of importance for the functioning of the Court, which I would like to address today, is the principle of complementarity. As the report rightly states, "Ending impunity is not the preserve of any one institution" (A/70/350, para. 101 (a)). As other delegations have noted, the Court is a court of last resort and can prosecute only a limited number of individuals. What we need is the proper and effective implementation of the principle of complementarity. That, however, requires appropriate national legislation,

the necessary capacities and inter-State cooperation. Slovenia, together with Argentina, Belgium and the Netherlands, is actively engaged in such efforts, in particular through an initiative to adopt a multilateral treaty for mutual legal assistance and extradition for the domestic prosecution of genocide, crimes against humanity and war crimes. I would like to take this opportunity to invite all States to join nearly 50 other States in supporting that initiative.

Turning to the important issue of universality, Slovenia remains committed to promoting the universality of the Rome Statute and the Kampala amendments. We believe that it is only through universal outreach that the ICC can truly develop to its full potential. However, attaining that goal will require active engagement on the part of international and regional organizations, States and civil society. With that in mind, this year Slovenia organized two international conferences that put international criminal justice at the top of the agenda: the Rights for Peace: Challenges and Opportunities conference in April, and the annual international Bled Strategic Forum in September. The Forum included panels dedicated to ending sexual violence in conflict and strengthening the fight against impunity. Our commitment to promoting universality has been further affirmed by the action plan on universality, adopted in September in the framework of the informal ministerial network supporting the ICC. Slovenia takes this opportunity to once again call on all States to join the ICC, ratify the Kampala amendments and, in so doing, affirm their commitment to accountability and respect for human rights.

To conclude, Slovenia remains firmly committed to advocating and promoting the rule of law and international criminal justice. Global peace and security can be possible only with the advancement of the well-being of nations, respect for human rights and the rule of law. The ICC is an important tool for the prevention and prosecution of atrocity crimes, and deserves our strong political commitment and cooperation, as well as our full respect for its independence and integrity. Let us do our share.

Mr. Mohamed (Sudan) (*spoke in Arabic*): Sudan underscores the importance of the noble objectives that prevailed when the United Nations was established. These include the maintenance of peace and security, sustainable development, and the protection of human rights through an approach based on international

cooperation and dialogue aimed at the development of friendly relations and the peaceful settlements of disputes. To this end, the Charter of the United Nations sets forth the principles of the equality and sovereignty of States, non-interference in the internal affairs of other States, and respect for the political independence and territorial integrity of States. Such international cooperation is the way we will withstand all challenges, including those in the economic, social and political areas. We must refrain from using or threatening to use violence.

Avoiding impunity is one of international justice's loftiest goals. We all agree on the importance of this principle. It is the responsibility of the national judicial and legal authorities to uphold this principle with the support of relevant national legislation. The politicization of international justice and the manipulation of justice to serve narrow interests are inconsistent with the efforts of the international community to achieve justice and implement the principles and purposes set forth in the Charter of the United Nations. Such politicization increases tension in international relations and infringes upon the established rules of international law instead of promoting it in fulfilment of one of the main purposes for which the United Nations was founded.

As we review the report of the International Criminal Court (see A/70/350), we should remind ourselves of the relationship between the United Nations and the International Criminal Court (ICC), which is based on the independence and discreteness of each entity and the non-existence of any organic or structural relationship between them. We note with concern that a number of States parties to the Rome Statute of the ICC are trying to transform the General Assembly into an assembly of States parties to the Rome Statute. The Sudan has voiced a strong objection against this trend, which has been clearly expressed in the ICC annual report.

The authors of the report have proposed new provisions that might lead to interpretations that do not reflect the letter or spirit of the relationship agreement between the United Nations and the ICC. These proposals should not be used to support arguments in favour of merging the ICC with the United Nations system. The Court must remain independent and should act in accordance with unambiguous provisions that serve as a balanced legal framework for its operations. The Sudan has clearly expressed its position in informal

consultations on the Court's draft special decisions, and we will not change that position.

In its recent practice, the ICC has shown that it has become a tool of international conflict and a political action mechanism, particularly through its special focus on Africa and through its targeting of African leaders and symbols, to such an extent that African public opinion describes the ICC as a court of big States bearing down on developing countries. A number of questions impose themselves in that regard. What is the ICC position with respect to crimes in non-African regions? Why does the ICC ignore those crimes? Is it not an international court entrusted with the task of preventing impunity whenever and wherever crimes are perpetrated? Where are the principles of impartiality, independence and integrity as the main pillars of the practice of the Court?

These questions, which we have raised and continue to raise, are very difficult ones, but we have not received any rational or convincing response. The current practices of the ICC and the persons representing it provide a clear answer — the ICC's only mandate is to target Africans and African States and nobody else. I would ask members to read the list of situations and cases in the report. The list contains situations in eight countries of the world, which is enough to provide additional proof of what I am saying. All the listed situations are in African States; this is by no means a coincidence; far from it.

The relationship between the ICC and the Security Council is an explicit illustration of politicization. There should be no such relationship between a body entrusted with achieving international justice and another political body driven by political interests and calculations — the same body that refers cases that occur in certain countries while excluding others. This relationship typifies the blurry distinction between justice as a principle that unites humankind at large, on the one hand, and the political calculations that are so inconsistent with the principle of equity, on the other hand.

The reports of the Secretary-General on the ICC and its relationship with the United Nations should respect the spirit and letter of the Relationship Agreement without advocating for the merger between the ICC and the United Nations system. Furthermore, the Sudanese delegation expresses its concern regarding the explicit interference of the ICC in the work of the Secretariat,

with its efforts to instruct Secretariat staff on how to deal with Member States or asking Member States to send reports and explanations on how they implement their obligations.

We are not the only ones concerned about the harmful impact of voluntary contributions on the Court's integrity and independence. We are not the only ones to express their deep concern — I repeat, deep concern — with respect to the principle of complementarity described in the Rome Statute. I am speaking of the ambiguity that was described by the first President of the ICC as a positive ambiguity, a "constructive ambiguity". Unfortunately, this so-called constructive ambiguity is the same principle that has become hostage to political interpretation to such an extent that it has led a European Minister for Foreign Affairs to say that ICC jurisdiction does not apply to his own State.

The principle of equality should not be based on constitutional rights as was stated by a previous speaker, not because it is part of international customary law alone, but because equality at its core means that there should be no distinction between persons based on their nationality or the State with which they are affiliated. However, the factual reality of the Court is that such distinctions are made, which is an explicit abuse of the principles of justice and good conscience.

My State reiterates that we should avoid impunity and achieve justice through competent legal bodies. Furthermore, we categorically refuse to deal with international bodies that we are not States parties to, in accordance with the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations.

Mr. Meza-Cuadra (Peru) (*spoke in Spanish*): Peru welcomes with interest the report (see A/70/350) of the International Criminal Court on its activities in 2014 and 2015, which has been submitted to the General Assembly pursuant to article 6 of the Relationship Agreement between the United Nations and the International Criminal Court. It also wishes to welcome the election of seven new judges and in particular the election of the President of the Court, Judge Silvia Fernández de Gurmendi, who is an illustrious representative of our region. Peru reiterates its recognition of the work of the Court's organs, which is carried out in strict compliance with the provisions

of the Rome Statute and is not subordinate to any other kind of consideration.

Twelve years after its creation, the International Criminal Court has a heavy workload, consisting of 21 cases and 8 situations. We also know that in 2016, the Court will be even more active, with an unprecedented caseload. Peru is therefore pleased that in December the Court will move to its permanent headquarters. Nevertheless, we also recognize that the Court can continue to improve its efficiency. In that regard, Peru is honoured to serve as a focal point for Cluster I, which is focused on increasing the efficiency of the criminal process, of the Study Group on Governance of the Assembly of States Parties. In that regard, we support the adoption of practical measures, in accordance with the Rome Statute, to expedite proceedings and improve the efficiency of the Court, provided that they do not undermine due process or the rights of the parties and victims.

Despite that progress, Peru recognizes that international criminal justice continues to be a lofty goal and that the International Criminal Court, a young institution on the international scene, needs more support and a high level of cooperation. Such support should come not just from the States parties to the Rome Statute, but rather from all States Members of the United Nations. In that regard, Peru expresses deep concern about the problems linked to the financing of the Court, in particular in relation to referrals by the Security Council, which are funded by the States parties to the Statute alone instead of by all the States Members of our Organization. Similarly, we reiterate our concern with regard to the meagre progress reflected in the recent General Assembly resolutions on the report of the Court, and we hope that during the current session fruitful discussions can be held to achieve a substantive resolution that is fully supported by the entire international community and will help the fight against international impunity.

I shall now briefly refer to the need to keep moving forwards towards comprehensive reform of the Security Council, particularly in relation to its working methods and the use of the veto. That is especially relevant given the imperative of preventing atrocity crimes. Indeed, when a State cannot fulfil its sovereign responsibility to protect its population, we have noted that the international community has failed to respond adequately and the Security Council has been unable to fulfil its primary responsibility for maintaining

international peace and security. Therefore, Peru supports the French initiative and the initiative of the Accountability, Coherence and Transparency group regarding a code of conduct on Security Council resolutions to prevent mass atrocities.

As a member of the Informal Ministerial Network for the International Criminal Court, Peru attaches the greatest importance to the universality of the Rome Statute. Indeed, in the context of the Ministerial Network, we have recently adopted an action plan, which is an important step towards that end. Therefore, we take this opportunity to call upon the States that have not yet done so to consider ratifying the Statute, preferably in its 2010 version.

Peru is a peaceful and stable country that has overcome serious internal conflicts over the course of its history. That was possible thanks to the implementation of genuine accountability mechanisms, which are the best way to prevent the recurrence of serious human rights violations. We therefore reaffirm our commitment to the struggle against international impunity, as well as to the work of the International Criminal Court, which is the best-placed institution for ensuring that the most serious crimes do not go unpunished.

Mr. Pressman (United States of America): I thank President Gurmendi for her presentation of the activities of the International Criminal Court (ICC) between 1 August 2014 and 31 July 2015, and for her service to the Court in this first year of her tenure as President.

Ending impunity for those responsible for war crimes, crimes against humanity and genocide is something that the United States views as both a moral imperative and a stabilizing force in international affairs. To that end, the United States continues to work, on a case-by-case basis and consistent with United States policy and laws, with the International Criminal Court to identify practical ways to advance accountability for the worst crimes known to humankind. Together, the international community must find ways to intensify its collaboration to bring to justice the perpetrators of atrocity crimes.

This past year has been marked by some progress. In January, the United States welcomed the transfer of Dominic Ongwen by Central African authorities to the ICC, which occurred thanks to close cooperation between the Court, the Central African Republic,

Uganda, the African Union Regional Task Force and the United States. Ongwen is allegedly responsible for committing and directing brutal crimes in Uganda and the region. The fact that he will now stand trial at the ICC is a welcome and long-overdue step towards justice for the victims of the Lord's Resistance Army. The United States was pleased to work with its partners to help make that happen. We look forward to the day when Joseph Kony, too, will be held accountable.

The United States also recently welcomed the announcement by the ICC Prosecutor in September that Ahmad Al-Faqi Al-Mahdi, an alleged member of the Islamic extremist group Ansar Eddine, was surrendered to the Court by the authorities of the Niger, with the cooperation of Mali. That is an important step towards holding accountable those responsible for serious crimes in Mali and towards holding accountable alleged members of extremist groups for war crimes. The charges against Al-Faqi signal progress in bringing to justice those accused of intentionally targeting attacks against religious and historic buildings and monuments. Such assaults are not just on Mali and its people, but on the common cultural heritage of all humankind. Those are attacks against civilization and a tragedy for all civilized people, and, as Secretary of State John Kerry has said, the civilized world must take a stand. The United States commends Mali and the Niger on their cooperativeness in transferring Al-Faqi to the Court.

The United States also welcomes the Court's report of continued cooperation with peacekeeping missions that have been authorized by the Security Council to provide support to appropriate justice and accountability initiatives. We recognize with particular appreciation the contributions of UN-Women to the work of the Office of the Prosecutor through the secondment of gender experts. At a time when we continue to witness the commission of horrific sexual and gender-based violence and crimes against women and girls and boys and men in atrocity situations around the world, we must remain vigilant in our fight to prevent, end and hold to account those responsible for these most heinous crimes. The United States remains committed to pursuing justice for victims of sexual and gender-based violence, including through strengthening the ability of national authorities to address these crimes, which we are doing in countries like the Democratic Republic of the Congo.

The ICC was established as a court of last resort, one that would focus on those deemed most responsible

for the most serious crimes and one that would step in to investigate and prosecute such persons only when States are not willing or genuinely able to do so themselves. Our support for domestic accountability efforts must be integral to our approach collectively to ending impunity for atrocity crimes. We welcome the progress made in the Central African Republic to establish a special criminal court, within its domestic system, but with international participation. This represents an important step towards providing accountability at the national level for the crimes committed amid the ongoing brutal violence in the Central African Republic, while simultaneously bolstering national-level capacity. The special criminal court could demonstrate the potential of positive complementarity, whereby international scrutiny and activity have stimulated and supported the capacity of the domestic judiciary to bring justice to victims.

In closing, it is important to note that there is still much to be done in our work together to prevent mass atrocities and bring to justice those who commit crimes against humanity, war crimes and genocide. Facing limited resources and increasing demands, it will be important for the Court to make prudent decisions about the cases it pursues and declines to pursue and ensure that its choices are guided by justice, rigour, fairness and care. The international community should strive to ensure that the Court is able to remain focused on its core mandate to address war crimes, crimes against humanity and genocide, and the Court should remain focused on achieving concrete and just results.

We note, in this regard, that the United States continues to have serious concerns about the amendments on the crime of aggression adopted at Kampala, which we believe would risk undermining not only the Court's work to prevent and punish atrocity crimes, but other legitimate efforts to do so as well. If States do not have clarity on what conduct is covered, it is easy to imagine the complications and the chilling effect that would arise in any number of situations where the imperative for action, including by our partners and allies who are parties to the Rome Statute, is overwhelming, including action aimed at stopping the very atrocities that prompted the Court's creation. Imagine — in such a situation after the Court's aggression jurisdiction has been activated — the questions States would face about whether the Court would regard as aggression a decision to join or support a coalition to prevent a humanitarian catastrophe.

It is in this context that we stress that we all have an interest in seeking greater clarity on key issues before any decision is taken to activate the Court's jurisdiction over the crime of aggression, including with regard both to what conduct is covered and also to which States are covered. States should not have to decide whether to activate the amendments without clear and common understanding on these points. We look forward to continued cooperation with the United Nations and our international partners on these most important matters.

Mr. Auväärt (Estonia): Estonia aligns itself with the statement delivered earlier by the observer of the European Union. In my national capacity, please allow me to make the following remarks.

I thank President Silvia Fernández de Gurmendi for her presentation of the report (see A/70/350) of the International Criminal Court (ICC) on its activities in 2014/15 and congratulate her on her election. The report illustrates the continuously increasing caseload of the Court, which in turn reflects the worldwide demand for justice. There are now 21 cases and eight active situations under the Court's consideration, of which a considerable number were referred to the Court by the States themselves. In addition, the Prosecutor is seized with numerous communications and preliminary analysis from all over the world and next year, for the first time, the Court will deal with four different trials taking place simultaneously. In this regard, we note the important internal reforms and evaluation by the Court in order to make its work more efficient. Estonia hopes that States parties will keep the growing workload of the Court in mind when negotiating the Court's budget at the upcoming Assembly session and provide the Court with the necessary resources to fulfil its mandate.

With respect to the past year, we note the ratification of the Rome Statute by the State of Palestine and the second declaration by Ukraine accepting the exercise of jurisdiction by the Court over alleged crimes committed in Ukraine's territory since 20 February 2014. Estonia hopes that Ukraine will also promptly ratify the Rome Statute to enjoy the full protection of the Rome Statute system. We welcome the fact that, during the reporting period, six States ratified the Kampala amendments and eight States ratified or accepted the amendments to the Statute on the crime of aggression. Estonia reiterates its call on all United Nations Members that have not yet done so to ratify the Rome Statute.

While the ICC is an independent judicial institution, it is connected to the United Nations through its genesis and shared values. This natural relationship was institutionalized 11 years ago, in 2004, through the Relationship Agreement between the United Nations and the International Criminal Court. The Agreement provides a general framework for cooperation for these two institutions. We appreciate the continued cooperation and assistance the Court receives from the United Nations, and we further encourage the strengthening of the relationship between the Court and the Security Council.

Estonia recognizes the important judicial developments during the reporting period with the Court's first two appeals judgements in the situation in the Democratic Republic of the Congo, the transfer and subsequent proceeding in the Dominic Ongwen case, and the confirmation of charges against Charles Blé Goudé in the situation in Côte d'Ivoire. We also note the first appearance of Ahmad Al-Faqi Al-Mahdi before the ICC, who allegedly was involved in the destruction of historical and religious monuments in Timbuktu and therefore constitutes the first case before the ICC concerning this type of crime. Furthermore, we recognize the Prosecutor's progress in her work on the situation in Georgia and note her assignment of the situation to the Pre-Trial Chamber in order to open an investigation into the situation.

The Security Council has authorized the missions in the Democratic Republic of the Congo and Mali to cooperate with and support the Court. We encourage the Security Council to mandate peacekeeping missions to arrest ICC fugitives and to equip them in such a manner that the missions are able to fulfil their mandate. We recommend this in the light of the 12 outstanding warrants of arrest issued by the Court and the fundamental goal of the Council to prevent mass atrocities, which constitute a threat to international peace and security. Estonia also calls upon all States Members of the United Nations to contribute to ending impunity by working together to execute the pending arrest warrants.

Considering that the Office of Legal Affairs is the focal point for ensuring cooperation within the entire United Nations system on all aspects of the relationship with the Court, Estonia encourages all United Nations actors to systematize their cooperation with the Office of Legal Affairs.

The failure to bring individuals responsible for the most serious crimes under international law to justice means failing the victims of these crimes. The victims are the *raison d'être* of the Rome Statute system. The Court has given hope to the victims of atrocity crimes, and more than 200,000 victims have already benefited directly or indirectly from the concrete assistance programmes of the ICC Trust Fund for Victims. We welcome the progress made by the Court in the Lubanga case concerning the policy on reparations. Estonia is contributing again this year to the Trust Fund and we call upon others to do the same.

In conclusion, given the States' primary responsibility to ensure accountability, it is of the utmost importance that States, the United Nations and other international, regional and non-governmental organizations assist States in building the national capacity to investigate and prosecute Rome Statute crimes domestically. The increasing attention that the United Nations has recently given to the strengthening of domestic capacity to address crimes under the Rome Statute is most welcome, and Estonia hopes that these efforts will continue. Estonia has allocated development cooperation resources to promote the strengthening of national judicial capacity in this regard, working closely with civil society organizations, which play a crucial role in assisting States to bring domestic legislation into line with the Rome Statute, and we call upon all Member States in a position to do so to do the same.

Ms. Krasa (Cyprus): At the outset, we would like to congratulate President Fernández de Gurmendi on her election as President of the International Criminal Court (ICC) and to thank her for her comprehensive presentation of the report (see A/70/350) covering the period from 1 August 2014 to 31 July 2015. My delegation aligns itself with the statement delivered by the observer of the European Union and would like to deliver additional remarks in its national capacity.

The Republic of Cyprus is pleased to participate in today's consideration of the annual report and would like to reiterate its conviction that the Court significantly contributes to the overall goal of the United Nations to work towards a more just and peaceful world, serving in this way the purposes and principles of the Charter of the United Nations. Given the connecting and complementary mandates of the United Nations and the Court, the relationship between the United Nations and the Court, as formalized in the 2004

relationship agreement between the United Nations and the International Criminal Court, is significant.

The Republic of Cyprus is pleased to note that, during the reporting period, the United Nations continued to work closely with the Court to further strengthen the relationship and to ensure the effective implementation of the relationship agreement. As reflected in the report, the Court had another very full year in terms of judicial proceedings, investigations, preliminary investigations and institutional developments, a pace of work that is likely to continue to intensify in the subsequent period. Cyprus acknowledges the important judicial developments in the reporting period and will continue to follow closely developments in the 21 cases and eight situations currently before the Court. We also welcome the fact that the Office of the Prosecutor is giving particular attention to allegations concerning attacks against cultural heritage and buildings dedicated to religion and, in this regard, welcome progress in the Ahmad Al-Faqi Al-Mahdi case. In the light of these developments, the further strengthening of the relationship between the United Nations and the Court by means of practical steps, such as those contained in the report of the Court to the Assembly of States Parties on the status of ongoing cooperation between the International Criminal Court and the United Nations, is a prospect that we support.

It is a fact that the Court continues to look to the international community for support and cooperation in establishing accountability for the most serious crimes under international law, bringing justice to victims and affected communities, and helping to prevent future atrocities. In this context, my delegation would like to seize the opportunity of this meeting to reiterate its commitment and support to the Court, a support that we have afforded to the Court since its inception. In line with Cyprus's role as a focal point within the Assembly of States Parties for the promotion of universality and the full implementation of the Rome Statute, I would like to welcome the accession of the State of Palestine to the Rome Statute and to seize this opportunity to call upon States not parties to ratify the Rome Statute, preferably in its 2010 version. The universal ratification of the Rome Statute is crucial to the application of the principle of equality before the law and to the effective deterrence of the most serious crimes under international law. We also look forward to an early activation of the provisions on the crime of

aggression and encourage States parties that have not yet done so to ratify the Kampala amendments.

It is always worthwhile to remind ourselves and the international community that the very creation of the ICC was thought by many to be a mission impossible. Yet, for the last 13 years, the Court has been making a perceptible contribution to the advancement of international justice. For this reason, the Republic of Cyprus would, in welcoming this year's report of the ICC, like to reiterate its unwavering support to the Court. It is our conviction that, through universality, cooperation and complementarity, the current and future challenges of the Court can be overcome. States parties, especially, ought to continue promoting the independence, credibility and efficiency of the Court. We very much welcome the example of complementarity with regard to the preliminary examination in Guinea mentioned in the report and share the hope that it will serve as a successful cooperation model for other situations.

The Acting President: We have heard the last speaker in the debate on this item for this meeting.

The representative of the Sudan has requested to speak in exercise of the right of reply. May I remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first statement and to five minutes for the second statement and should be made by delegations from their seats.

Mr. Saeed (Sudan) (*spoke in Arabic*): The delegation of the Sudan would like to take the floor

to respond to the representative of Slovenia, who had the audacity to make an undiplomatic reference to the Sudan and the President of our Republic in his statement, even though we all here work in the area of diplomacy. In his statement, he named the President of our Republic without giving him his title, even while knowing that he is the President of a State Member of the United Nations. The Sudan was the first State in the sub-Saharan region to achieve independence, some 60 years ago.

The case of the International Criminal Court (ICC) involving the Sudan is political in the extreme and has nothing to do with justice. It is an example of selectivity, politicization and double standards. It is also an attempt to undermine the stability and development of the Sudan, as well as its territorial security and integrity and its political independence. All this is surely quite clear to the representative of Slovenia, who must be aware of these principles and this reality.

The reference by the representative of Slovenia is unacceptable, inappropriate and not in line with diplomatic custom. It echoes well-known positions against the Sudan, its people and its leadership, including the symbol of the Sudan, which is the President of the Republic. The fact that the representative of Slovenia highlighted this matter makes the State of Slovenia a tool used by the International Criminal Court to echo well-known positions. That is strange and unacceptable. The delegation of the Sudan expresses its strong rejection of the reference by the representative of Slovenia.

The meeting rose at 6 p.m.