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New York

President: Ms. Espinosa Garcés. . . . . (Ecuador)

In the absence of the President, Mr. Korneliou (Cyprus), Vice-President, took the Chair.

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

Agenda item 77

Report of the International Criminal Court

Note by the Secretary-General (A/73/334)

Reports of the Secretary-General (A/73/333 and A/73/335)

Draft resolution (A/73/L.8)

The Acting President: I shall now make a statement on behalf of the President of the General Assembly.

"This year's debate on the report of the International Criminal Court (ICC) (see A/73/334) coincides with the twentieth anniversary of the Rome Statute. This is therefore an important opportunity for the international community to assess the progress enabled by the adoption of the Rome Statute and to reflect on the commitment to putting an end to impunity for the most serious and most heinous crimes.

"The Rome Statute delivered a message: it expressed to the people of the world that we will support victims, that we will fight impunity, that we will respond to acts of genocide and crimes against humanity and that we will not tolerate war crimes or crimes of aggression. Twenty years later, we would be wise to recall the united stance of the international community in standing up for all people, everywhere.

"While the primary duty to exercise criminal justice remains with States, the ICC has become an indispensable part of the overall architecture. For many around the world, the very existence of the Court is indicative of humankind's will to protect people, pursue those who would do us harm and protect and promote human rights. In that regard, it is important to recognize that the Court is much more than an instrument of prosecution. Its existence also serves as a deterrent and a tool for the prevention of international crimes.

"By extension, the Court thereby helps to maintain stable societies that are able to protect human rights and pursue sustainable development. As acknowledged by the General Assembly in its resolution 68/305, the Court is a core element of

> 'a multilateral system that aims to end impunity, promote the rule of law, promote and encourage respect for human rights, achieve sustainable peace and further the development of nations'.

"If the wars and atrocities of our history have taught us anything, it is that our shared peace and prosperity depend on multilateral efforts and institutions such as the ICC. If we are to protect, defend and stand up on behalf of those most vulnerable in their time of need, we must stand behind and in support of those very institutions and the principles that guide them."

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

Judge Eboe-Osuji (International Criminal Court) (*spoke in French*): I am honoured to address the General Assembly for the first time in my capacity as President of the International Criminal Court (ICC). I have presided over the Court since March, at a time when its daily work relates to all stages of proceedings — preliminary examinations, trials, reparations proceedings and appeals — while the workload of the Prosecutor continues to increase.

My report, issued as document A/73/334, has been circulated to Member States. It contains a summary of the Court's activities, as well as information relating to cooperation between the United Nations and the Court, for which we are grateful. While I will not repeat the content of that report in my remarks today, I would neverthless like to revisit a very important element in it that resonates particularly with a recurring theme of this session of the General Assembly. We should recall that this year marks the twentieth anniversary of the adoption of the Statute of the Court, also known as the Rome Statute. In my written statement for the Nelson Mandela Peace Summit, held in September (see A/73/PV.4 *et seq*.), I recalled that the Statute was adopted 20 years ago on the eve of Nelson Mandela's eightieth birthday, on 17 July 1998. The occasion of the twentieth anniversary of the Rome Statute compels us to reflect on what the conclusion of that Treaty and the resulting establishment of the Court, under the auspices of this Organization, mean for the world and all humankind.

(*spoke in English*)

The theme we chose for that reflection is the need to go back to basics, which requires that we consider two fundamental questions. The first revisits the question of why the Rome Statute was adopted. The preamble to the Statute itself answers that question. Among other things, it sets out the following apposite declarations, namely, that the States parties to the Statute:

> "[are] conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time; [are] mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity; recogniz[e] that such grave crimes threaten the peace, security and well-being of the world; ... [and are] determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes".

The second of the basic questions on which the anniversary compels us to reflect is whether our world and our civilization have arrived at a stage where the legislative concerns that gave impetus to the negotiation and adoption of the Rome Statute have now become a thing of the past, such that the world no longer needs the Statute and the ICC. One of the most highly respected African statesmen of our time has answered that question in a very straightforward way. As part of his own reflections during the commemoration of the twentieth anniversary of the Statute in July, Nigeria's President Muhammadu Buhari answered it in these words:

> "With the alarming proliferation of the most serious crimes around the world, the ICC, and all that it stands for, is now needed more than ever, in ways that were unforeseeable to its founders. The ICC may have been created at a time of optimism that it would not need to be utilized frequently but, unfortunately, the increase in international crimes has only increased the Court's relevance."

If any one of the legislative concerns that impelled the Court's establishment merits special focus, it is that "during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity".

Can we be sure that at the close of the twenty-first century, humankind will not be left singing the same sad song if the Rome Statute and the ICC do not remain in place and are not supported by all to serve, at least, as a note of caution, if not a real obstacle of conscience, to those inclined to commit such crimes?

In her opening remarks a month ago, the President of the Assembly rightly reminded us that millions of people around the world are enduring war and violence (see A/73/PV.6). Indeed, important statistics even suggest that there has been an increase in the incidence of war and violence over the past 20 years since the adoption of the Rome Statute, possibly by as much as three times or more. That should trouble us, given that armed conflicts are the most common vectors of atrocity crimes, and typically those that take the form of ethnocentric mass violence, sexual violence or sundry war crimes.

There are many reasons to insist that the mere existence of a permanent judicial mechanism for accountability truly serves as an obstacle to the free will of those inclined to engage, even unwittingly, in conduct that creates conditions conducive to atrocity crimes. That modest value alone is sufficient return on investment in the ICC.

Nevertheless, we will continue to be troubled by the unrelenting frequency of armed conflicts in the world. In that respect, not surprisingly, the objectives of the United Nations and the ICC remain in harmony. They have in common the global effort to protect peace and security and human rights through multilateral cooperation and action, in accordance with the international rule of law. His Excellency Mr. Guterres, the Secretary-General, rightly called for a renewed commitment to a rules-based order in his address to the Assembly a month ago (see A/73/PV.6).

On behalf of the interests that the ICC represents, it was truly encouraging to hear many representatives restate during the general debate that the Court occupies a cardinal place in that rules-based order and that every effort must therefore be made to protect and support it.

Whenever a man champions an important idea with a successful outcome, we are always quick to affix his name to that idea for eternity by calling him its father. We rarely do the same for the many women who championed some of the ideas that have defined human history. That is perhaps a regrettable case of our inordinate preoccupation with the dreams of our fathers — those elusive men who are often absent from our lives for all kinds of reasons that seem important to them — and in the process, we take our long-suffering mothers for granted. Eleanor Roosevelt was no less a great champion of the history of human civilization than any man ever was. We should all recognize her as the mother of human rights. Here I quote her call for united action to improve the world under the banner of the United Nations:

> "Our own land and our own flag cannot be replaced by any other land or any other flag. But you can join with other nations, under a joint flag, to accomplish something good for the world that you cannot accomplish alone."

A product of such joint action among nations, the ICC was established as a court of last resort, a literal instrument of the rule of law. Its mandate is to try those who commit some of those unimaginable atrocities that shock the conscience of humankind. For our present purposes, let us call such crimes by their names. We are talking about genocide, crimes against humanity, war crimes and the crime of aggression. Those crimes blighted humankind for long periods of time up until the negotiation and adoption of the Rome Statute in 1998.

We can be even more specific in recalling the history of evil in the period leading up to 1998. In that regard, let us recall that no fewer than 7,000 Bosnian Muslim men and boys were massacred in Srebrenica in 1995. The International Criminal Tribunal for the Former Yugoslavia pronounced their killing as amounting to genocide. The year before, in 1994, about 800,000 Tutsis were killed in the Rwandan genocide. It is not too distant in memory for us to recall that, 50 years before, 6 million innocent human beings were killed in a genocide in eastern and central Europe because they were Jews.

Let us also recall that it was only in the early 1990s, shortly before the adoption of the Rome Statute, that apartheid — a crime against humanity over which the ICC now has jurisdiction — came to an end in South Africa. Let us also recall that beginning in 1991, Sierra Leone was engulfed by a brutal civil war. In addition to rapes, sexual slavery, murders and the conscription of children into military use, a particular brand of cruelty and terror marked that civil war. It involved the heartless amputation of human beings' arms by their fellows, leaving the victims with disabling physical and mental scars that would last a lifetime. It was a crime against humanity that has left a very visible scar on that country and on our collective conscience as human beings, even today.

We must give due credit to the joint action of nations in adopting the Rome Statute in order to have in place a permanent mechanism for ensuring eventual accountability for those who subject their fellow human beings to such cruelty in future. That, and nothing else, is the point of the Rome Statute and the ICC.

In that and other aspects of international law, through its common efforts the international community has assumed responsibility with complementary legal structures for human rights and international criminal justice. By taking up the baton in that way, there has been a correlative shrinking of the space for the malevolent forces that would commit genocide and other crimes against humanity without qualms. We

can readily appreciate the certainty with which those forces would move in and occupy the ground that would be vacated upon any dismantling of the existing multilateral mechanisms of international law and justice. They would be certain to move in, and rapidly.

History shows that the crimes over which the International Criminal Court (ICC) has jurisdiction are events that disturb international peace and security. Eventually, leaders of other nations inevitably intervene with military force to halt the ongoing atrocities, rightly compelled by the pangs of their own conscience or out of fear or concern as to the threats posed by the events to their own national interests.

It is difficult to put it in more eloquent terms than Justice Robert H. Jackson of the United States Supreme Court did at the end of the Second World War. Members will recall that he was both the leading representative of the United States at the London Conference of 1945 and, later, the United States chief prosecutor at the Nuremberg Tribunal. In a speech that he gave to the American Society of International Law in April 1945, he said:

> "We have been a freedom-loving people. Our Constitution and our philosophy of law have been characterized by a regard for the broadest possible liberty of the individual. But the dullest mind must now see that our national society cannot be so self-sufficient and so isolated that freedom, security and opportunity of our own citizens can be assured by good domestic laws alone. Forces originating outside of our borders and not subject to our laws have twice in my lifetime disrupted our way of living, demoralized our economy and menaced the security of life, liberty and property within our country."

Justice Jackson spoke from the perspective of someone who had lived through two world wars — something that none of us in this Hall can claim — not only for himself but for every citizen around the world. In those very words, in 1945 Justice Jackson bore living witness to precisely the same phenomenon expressed in the preamble to the Rome Statute in 1998, that "all peoples are united by common bonds, their cultures pieced together in a shared heritage, and ... this delicate mosaic may be shattered at any time".

However, the way in which the man-made turmoil of foreign lands affects us at home need not involve the tragedy of our own military intervention, which involves sacrificing the lives and limbs of the young men and women who are sent to engage in that military intervention as soldiers. It is enough that such turmoil would generate refugee crises from which no nation can truly isolate itself either physically or morally. For that reason, Justice Jackson rightly concluded,

> "Awareness of the effect of war on our fundamental law should bring home to our people the imperative and practical nature of our striving for a rule of law among the nations."

As multilateral institutions, this organ and the ICC stand precisely for such rule of law among nations.

In many international conflicts involving interventions to halt mass atrocities that have already commenced, as was the case in the First and Second World Wars and in many other international armed conflicts since then, we are bound to acknowledge the salutary role that military intervention can play to the extent that it is consistent with the accepted principles of international law, at the least, if not structures of international security. But it is a grave mistake to dismantle existing international structures of human rights and the rule of law in the uncertain hope that military intervention alone is all that we can rely on and nothing else.

Even when it manages to stop aggression and atrocities already in progress, military intervention has clear limitations. As noted earlier, it costs human lives to stop such aggression and atrocities. Another obvious limitation is the fact that military intervention came far too late, if at all, for the victims of all the incidents of genocide mentioned above — the millions of European Jews, the hundreds of thousands of Rwandan Tutsis and the thousands of Bosnian Muslim men. That is also the case for the victims of the various occurrences of crimes against humanity too numerous to mention — from Sierra Leone to South Africa and a great many other places.

It is also axiomatic that the administration of post-conflict justice is not quite the bailiwick of military intervention. After the guns have gone silent, the victims' cries for justice and reparation will still fill the air to touch our conscience. We therefore need a strong international structure of justice to attend to the matter of justice. The subject of the administration of post-conflict justice brings me to a certain misunderstanding that is often expressed as a concern in relation to the jurisdiction of the ICC. The concern is that of the

mistaken claim that the ICC is a usurper of national sovereignty. Justice Jackson again spoke about such a concern in that speech in 1945.

> "Governments in emotional times are particularly susceptible to passionate attack in which this emotion is appealed to, sometimes crudely and sometimes by more sophisticated formulae such as impairment of sovereignty, submission to foreign control, and like shibboleths."

Any fear that the ICC is a usurper of national sovereignty proceeds from a clear misunderstanding of the nature of the ICC's jurisdiction. That fear may indeed be implicated in the reluctance of some States to ratify the Rome Statute, as has been expressed around the world where ratification has not yet taken hold. However, I want to restate and emphasize that the ICC does not usurp or undermine national sovereignty. On the contrary, the nature of its jurisdiction does the very opposite. It underscores national sovereignty. The ICC is unusually deferential to national sovereignty, far more so than any other known order of alternative jurisdiction for the administration of criminal justice.

In that regard, I must underscore the doctrine of complementarity as the modulating feature of the ICC's jurisdiction. In substance, the idea of complementarity means what the word says. It means that the ICC is a court of last resort. As such, it intervenes only to assist national jurisdictions in their needful role to ensure the greatest level of justice for purposes of accountability when serious atrocities under its jurisdiction have been committed.

Notably, the jurisdictions of the other international criminal tribunals were or are primary relative to national jurisdictions. The Statutes of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone and the Special Tribunal for Lebanon gave those tribunals primacy of jurisdiction in relation to national courts. In contrast, the jurisdiction of the ICC is not primary in relation to national jurisdictions. Indeed, it is important also to keep in mind that the ICC's jurisdiction is not nearly as assertive as the ordinary jurisdiction of the courts of a foreign country on the territory of which a citizen of another State commits a crime. In that regard, it may be noted that even in the status of forces agreements of all nations it is a generally accepted norm — expressed in a standard clause — that the courts of the country where foreign troops are stationed enjoy primacy of general criminal jurisdiction when a foreign soldier commits a crime within that territory. The ICC does not have such primacy of claim to jurisdiction. On the contrary, under the Rome Statute, the primary jurisdiction belongs to the State with the closest sovereign connection to the situation under consideration. It is only when that State proves unable or unwilling to do justice in the exercise of that primary jurisdiction that the ICC is legally entitled to intervene.

The essence of the doctrine of complementarity is therefore that justice must not be a neglected element in the area of the sovereignty of nations. However, one may ask, beyond the elegant terminology of complementarity, what it really means in practical terms. That is a very important question. The answer is quite simple. First, we will accept that anyone can violate human rights but not everyone can do justice. That is to say, while it is extremely easy to violate human rights anywhere in the world, criminal justice systems throughout the world are not all equally able to administer justice for the purposes of accountability and reparation, according to the generally accepted international standards. In that connection, one may think of the average failed State where humankind is held hostage to the daily fear of rampant lawlessness and violent tyranny.

The following is a prime example. Somewhere in our world, an inferno of human-to-human violence engulfed a beautiful country in April 1994. However, it did not occur without warning. The internal circumstances of that country had in fact been simmering in the direction of that event long before April 1994. There had been earlier periods of intermittent violence and other kinds of systematic persecution in which human beings were killed with impunity on account of their ethnicity. Exactly one year before April 1994, the Special Rapporteur on extrajudicial, summary or arbitrary executions conducted a mission to that country and duly submitted his findings to the Commission on Human Rights, as it was then called. Concerning that country's pre-conflict judicial system, the Special Rapporteur wrote as follows:

> "It is the serious failings of this system that have made possible the impunity enjoyed by the persons responsible for the killings. The system's failure to function has been noted on many occasions, notably by [a] national commission ... which reached the conclusion that many courts were in

> a state of paralysis. This state of affairs is partly attributable to the lack of resources available for the administration of justice, but chiefly to the lack of political will shown by the authorities in bringing guilty parties to justice" (*E/CN.4/1994/7/Add.1, para.47*).

To varying degrees, that is the story of many countries with chronic histories of human rights violations. For such States, the value of the ICC as a viable backup system of justice is all too apparent. We should not overlook the fact that in the country indicated above, the number of legal professionals, including judges and lawyers, was reduced to less than 300 in the killings of the many hundreds of thousands that occurred in 1994. How could such a country be expected to administer justice meaningfully in its post-conflict phase?

The example of that country underscores the importance of the ICC's complementary jurisdiction in the most practical terms, in most cases. In that regard, in the ICC we have a permanent institution of its kind that is in place and readily available to be engaged without delay, thereby obviating the need for ad hoc solutions, which may never materialize for a great many reasons. But even for more able States, the ICC remains valuable not as a usurper of sovereignty but as a mirror of conscience. Such is the case where there may be a lack of political will to address the needs of justice behind the veil of sovereignty. In that connection, it is noted that war crimes occur in every war and the culprits can be among the rank and file of the most disciplined and professional armed forces in the world despite the best efforts of their commanders, acting with unimpeachable good faith. In his war memoirs, a well-known American general of the Second World War stated that axiom in other terms in a conversation that he had with the Grand Vizier of Morocco during the Second World War.

> "I told him that, in spite of my most diligent efforts, there would unquestionably be some [soldiers who would commit rape], and I should like to have the details as early as possible so that the offenders could be properly hanged."

The Rome Statute does not require States to hang their soldiers at all — let alone to do so "properly" — when they commit rape or other war crimes during armed conflicts. The requirements of the Rome Statute are more modest and far more humane. It requires only that suspects of war crimes be prosecuted and punished properly. The ICC would remind able States to do just that, because they can. Failing that, the ICC would exercise jurisdiction as a matter of last resort. The ability of States engages their duty to do justice, not to ensure impunity or immunity for their citizens. There is no usurpation of sovereignty in that.

In that connection, I turn again to the very thoughtful observations of Justice Jackson in the following words:

> "It is futile to think ... that we can have an international law that is always working on our side. And it is futile to think that we can have international courts that will always render the decisions we want to promote our interests. We cannot successfully cooperate with the rest of the world in establishing a reign of law unless we are prepared to have that law sometimes operate against what would be our national advantage."

Those are wise words. The only revision that may be necessary is to say that when international law operates to make our world a better place for humanity in the long run, it would have worked to "our national advantage", although it may not seem like it in the short run.

(*spoke in French*)

Since most of my remarks have been devoted to recalling the fundamental issues that underpin the Court's mandate and existence, let me once again refer members of the Assembly to the written report of the Court on its activities, which has been circulated in the six official languages of the United Nations. However, this document only scratches the surface of the wealth of judicial and investigative activities of the Court in the period covered by our report. For instance, in addition to the many situations and cases in the preliminary review, investigation, pretrial, trial and appeal phases, the Court is now increasingly engaged in the reparations phase of proceedings, also involving the important role of the Court's Trust Fund for Victims. That underlines the prominent position that victims hold in the system created by the Rome Statute. As the report makes clear, the cooperation of States as well as the United Nations and other organizations remains critically importanto to the Court's ability to carry out its mandate effectively.

(*spoke in English*)

Earlier, I recalled that a primary moral impetus for the adoption of the Rome Statute 20 years ago was the horrifying history of the twentieth century, during which millions of children, women and men were victims of unimaginable atrocities that deeply shocked the conscience of humankind. The Holocaust, the Rwandan genocide and the Srebrenica massacre are examples of such unimaginable atrocities. The ICC is one real structure that we now have to try those who aim to commit such crimes, in hopes of preventing their recurrence in future. In this regard, I cannot but once again invoke the words of President Buhari of Nigeria on the occasion of the twentieth anniversary of the Rome Statute:

> "The Rome Statute created more than a court; it created the outline for a system of justice for horrific crimes rooted first in national courts doing their job, and where they fail to do so, the ICC stepping in only as the court of last resort."

I urge the Assembly to make the ICC stronger in every way that it can. Do not allow it to be weakened. I quote President Buhari one more time:

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

Before concluding, I want to recall the famous words of Edmund Burke to the effect that all that is necessary for evil to prevail is for good men to do nothing. However, I must revise those words to say this: all that is necessary for evil to prevail is for good men and women to refrain from doing all that is possible and necessary for them to do to prevent such evil. It is both necessary and possible to strengthen the ICC, for that is to strengthen the wall of conscience and of international law against unimaginable atrocities that deeply shock the conscience of humankind. Whenever we think of human history as also being a history of unimaginable atrocities that shock the conscience of humankind, let us also always remember the wise words attributed to Eleanor Roosevelt: "It is better to light a single candle than to curse the darkness." The ICC was such a candle when it was lit 20 years ago. It behooves all of us to keep that candle lit.

The Acting President: I now give the floor to the representative of Mexico to introduce draft resolution A/73/L.8.

Mr. Sandoval Mendiolea (Mexico) (*spoke in Spanish*): This debate is framed in the context of the commemoration of the twentieth anniversary of the adoption of the Rome Statute. It is about 20 years of collective efforts to strengthen the rule of law and to prevent, investigate and sanction the worst atrocities that humankind has ever witnessed.

Today, as it did 20 years ago, Mexico reiterates its commitment to international criminal justice and to strengthening the system created by the Rome Statute with a view to preventing the perpetrators of the most serious crimes affecting the entire international community from enjoying impunity. That commitment is reflected practically in our active involvement in the activities of the International Criminal Court. As a State party to the Statute since 2006, Mexico participates in the Assembly of States Parties, including through its current membership of the Bureau, its chairship of the Working Group on Amendments of the aforementioned Assembly, which I have the honour of chairing, and its facilitation of Cluster II of the Study Group on Governance. In addition, Mexico promotes the effective consolidation of the international criminal justice system created by the Statute in various multilateral and regional forums.

Our efforts are not limited to supporting and strengthening the Court itself but include the dissemination of the content of the Rome Statute and developments in international criminal justice drawing from the Statute itself. In this context, and as part of the commemoration of the twentieth anniversary of the Statute, together with the National Commission of Superior Courts of Justice of the United Mexican States, Mexico's Ministry for Foreign Affairs organized a series of six training courses for magistrates and judges of the different judicial regions of the country in order to disseminate the obligations that derive from the Rome Statute. In total, more than 500 judges and magistrates were trained on issues such as the adoption of the Statute, its contents, its scope, its incorporation into national legislation, the jurisprudence of the ICC and judicial cooperation, among other topics.

Over the past year, in which there have been significant challenges for both the Court and the States, the Court has made significant progress. Special

mention should be made of the fact that on 17 July the jurisdiction of the Court on the crime of aggression was activated. That historic event, finally, is a culmination of the system envisaged in Rome 20 years ago and contributes significantly to the strengthening of the regime of the Charter of the United Nations with respect to the prohibition of the use of force in international relations.

With regard to the issues of the Court's judicial practice, today we are looking at such relevant issues as cooperation between the States and the Court, their compatibility with other international standards, the interpretation of the substantive obligations derived from the Statute, and the scope of the jurisdiction of the Court in situations that involve both States that are party to the Court and States that are not. A successful resolution of these issues will result in significant contributions to the development of contemporary international criminal law, both substantively and procedurally.

We welcome the inclusion in the report of the Court (see A/73/334) of specific proposals and concrete actions to strengthen the international criminal justice system. We want to highlight three in particular.

First, we note with satisfaction the Security Council's holding of an Arria Formula meeting on relations between the Council and the Court, in which we discussed in depth the need for the Council to effectively follow up on referrals that it makes to the Court, particularly when the Court has determined that there is a lack of cooperation on the part of a State. We also discussed the need for permanent members to abstain from exercising their veto right when atrocious crimes are committed, as proposed in the initiative presented jointly by Mexico and France.

Secondly, we highly value the Court's interaction with other organs of the United Nations system and the conclusion of agreements and commitments that enable collaboration with other bodies, such as the letter of intent signed between UNESCO and the Prosecutor of the Court on protecting cultural heritage from attacks in situations of conflict. Such agreements prevent duplication of effort and enhance the capacity of each institution to fulfil its mandates.

Thirdly, Mexico appreciates being able to use the platform provided by the 2030 Agenda for Sustainable Development, especially Sustainable Development Goal 16, to include issues related to the Rome Statute in programmes for judicial reform and the training of legal professionals and others responsible for enforcing the law, with the support of the United Nations.

Despite the advances to which we have referred, it is undeniable that we are witnessing an era in which the world is facing an erosion of multilateralism and the rules-based global order. The establishment of the rule of law, built on a solid legal foundation and supported by international organizations, has been the result of many decades of work by the international community as a whole.

The path towards the consolidation of international criminal law and the establishment of a permanent and nearly universal International Criminal Court has been even more dramatic and difficult. Behind the Court, there are stories of genocide, war crimes and crimes against humanity, as well as acts of aggression and, above all, the pain and lives of billions of victims. It is to them, the victims of international crimes of the past, but above all of the present, that we have the moral and historical obligation to fight against impunity through the defence of international accountability mechanisms. In any debate on the International Criminal Court we must therefore always keep in mind the values we are defending and that are at stake.

With all that in mind, Mexico has the honour to present once again to the General Assembly the draft resolution contained in document A/73/L.8, which we hope will be adopted once again without a vote. In spite of the differences that exist between Member States with respect to this institution, today the General Assembly, in paragraph 8 of the draft resolution before us, once again

> "[a]cknowledges the role of the International Criminal Court in a multilateral system that aims to end impunity, promote the rule of law, promote and encourage respect for human rights, achieve sustainable peace and further the development of nations, in accordance with international law and the purposes and principles of the Charter of the United Nations",

This is the message that must resonate throughout the world. It is what moves us to continue to support, strengthen, promote and perfect the International Criminal Court.

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

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/73/334). I would also like to thank Judge Chile Eboe-Osuji, President of the ICC, for his thorough briefing on the main issues of the report and for putting the work of the ICC into a broader context. We fully subscribe to his final assertion that it is both necessary and possible to strengthen the ICC.

At its twentieth anniversary, the ICC remains an essential institution, not only for promoting respect for international criminal justice but also for advancing post-conflict peacebuilding and reconciliation. The Court is a fundamental part of a rules-based international order and the centrepiece for accountability for the most serious crimes in international law. As we recognize its importance as a permanent, independent and impartial criminal court, we also stress that this is a crucial moment for all of us to speak up for the Court and its mandate to provide justice to victims of international crimes.

The desire to hold perpetrators of the most serious crimes to account is shared by States all over the world. The success of the Court depends on cooperation with other stakeholders, and many States and international organizations provide important contributions to the Court. However, it is a continued cause for concern that the number of outstanding arrest warrants remains high. We strongly urge all States to cooperate fully and effectively with the Court, in line with the Rome Statute and all applicable Security Council resolutions.

The Court's promise of justice for victims corresponds with the reach of its jurisdiction. The Nordic countries continue to support and work diligently for universal membership of the ICC. The ICC needs more States parties, not fewer. We stand ready for a constructive discussion about concerns that some States parties may have and encourage and invite States parties with these concerns about the Court to seek solutions within the framework and fundamental principles of the Rome Statute. Continued dialogue is of key importance.

Let me in this forum make particular note of the ongoing cooperation between the United Nations and the ICC as described in the report. We share the Court's strong appreciation of the crucial support and cooperation of the senior leadership of the United Nations. We welcome the ongoing high-level consultations between the principals of the Court and senior United Nations officials. This dialogue also sets a course for more concrete areas of cooperation, including a stronger cooperation at the field level and supportive policy statements from relevant United Nations bodies.

Enhanced cooperation between the Court and the Security Council is still called for. This is true in particular in cases of non-cooperation with the ICC as well as for strengthened follow-up of situations referred to it by the Security Council. We also note with great concern that the Security Council has been unable to refer the situation in Syria to the ICC, and we strongly urge members of the Council to continue efforts in this regard. Specifically, with respect to the situation in Syria, the Nordic countries will continue to support the work of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. We encourage others to do the same.

The situation in Myanmar, and in particular the reported gross violations of international human rights law and international humanitarian law that have taken place in Rakhine state, is a cause for great concern. Earlier this autumn, as an important step towards accountability, the Human Rights Council decided to establish an independent mechanism to collect, consolidate, preserve and analyse evidence of some of the most serious international crimes and violations of international law that have been perpetrated since 2011 in Myanmar, and to prepare files in order to facilitate and expedite future fair and independent criminal proceedings. However, a referral by the Security Council remains the most robust means of achieving accountability in Myanmar.

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

In order for the Court to be able to carry out its mission in the most efficient way, it must also be properly funded. The Court's budget will be dealt with in the Assembly of the States Parties later this year, but we want to underline the worldwide activities of the Court, as reflected in its report. It is our common responsibility to ensure that the Court has sufficient resources to carry out its important mandate in a time of increasing demand. Likewise, it is the obligation of the Court to ensure its effective and efficient functioning. We also stress the importance of upholding and strengthening governance standards and ensuring the proper investigation of alleged misconduct.

We welcome the decision of the Assembly of States Parties last year whereby the Court's jurisdiction over the crime of aggression was activated as of 17 July 2018, and we are pleased that the decision was taken by consensus. Let me conclude by renewing our pledge that the Nordic countries will remain staunch supporters of the ICC. We are committed to continuing to work for the Court's effectiveness, independence and integrity.

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

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

We would like to thank Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for his comprehensive briefing. We also thank the International Criminal Court for its annual report to the United Nations, which covers the period from 1 August 2017 to 31 July 2018 (see A/73/334) and details what is described as a time marked by significant developments for the ICC.

International criminal justice is not only a powerful deterrent to future violations of international humanitarian and human rights law, it is most of all instrumental in achieving accountability and sustainable peace. Past experience has shown that injustice and impunity are the main obstacles to healing the deep wounds in societies caused by the most serious crimes and that they create fertile ground for the recurrence of conflict. The European Union and its member States see the International Criminal Court as an essential institution for promoting a rules-based global order to fight against impunity and achieve justice for the victims of the most serious crimes of concern to the international community as a whole when that is not possible at the national level.

The European Union expresses its unwavering support to the International Criminal Court, as was recently reconfirmed in the European Council conclusions of 16 July 2018 on the occasion of the twentieth anniversary of the adoption of the Rome Statute. The European Union has repeatedly affirmed its strong belief in the Court's legitimacy and its full confidence in the impartiality and independence of its judges and Prosecutor in the performance of their functions, as stipulated respectively in articles 40 and 42 of the Rome Statute.

The European Union will continue to affirm its support for the ICC in multilateral forums and bilateral dialogues. The European Union will also continue its consistent political, financial and technical assistance to the Court. The effective functioning of the ICC and the promotion of its independence are the best ways to strengthen its credibility and legitimacy and protect it from any outside interference.

The workload of the Court remains heavy. Some 11 situations are under investigation by the Prosecutor, nine preliminary examinations are being conducted and three trials are ongoing. During the reporting period, the Court also carried out a significant number of missions to several countries worldwide in the framework of their investigations or preliminary examinations. We note the important judicial developments in terms of fulfilling the Court's mandate during the reporting period, in particular the opening of two new preliminary examinations of the situations in the Philippines and in the Bolivarian Republic of Venezuela, the issuing of two new arrest warrants, and the handing down of several important decisions on reparations to victims.

The geographical scope of the Court's activity and the increasing number of situations submitted to it demonstrate that many States have faith in the Court and entrust it with their hopes for justice and accountability. Faced with this increasing workload, it is imperative for the ICC to work in an efficient and effective way. We therefore welcome the Court's efforts aimed at implementing reforms to streamline its administrative

and judicial processes, make efficient use of its resources, enhance the efficiency of its activities at all stages of the judicial process and improve the impact of its action.

Complementarity is one of the core principles of the Rome Statute and is set out in article 1. Primary responsibility for bringing offenders to justice lies with the States themselves. In order for this system to function, all States parties should adopt effective national legislation to implement the Rome Statute. The European Union remains committed to supporting initiatives aimed at encouraging States to cooperate in the fight against impunity for atrocity crimes. To that end, the EU has various assistance instruments and projects at its disposal, including programmes aimed at improving the legal and judicial capacities of countries in the context of EU assistance to the development of the rule of law.

There remain challenges to the effective operation of the Court. One is the need to ensure cooperation with the ICC on the part of both the United Nations and the States parties to the Rome Statute, in accordance with Security Council resolutions that refer situations to the Court. The European Union and its member States fully agree with the Court that the Council's prerogative of referring situations to the Court can help to promote accountability in countries where grave crimes may have been committed but where the Court would otherwise have no jurisdiction. We also agree that once a referral is made, active follow-up is necessary to ensure cooperation with the Court, particularly regarding the arrest and surrender of individuals subject to arrest warrants. We note with concern the number of instances of non-cooperation, including in cases referred by the Security Council for follow-up and for which no substantive response has been given.

We encourage the Security Council and the Court to find ways to strengthen their cooperation and coordination. Non-cooperation with the Court hampers the ICC's capacity to deliver on its mandate. We urge all States to take action to encourage appropriate and full cooperation with the Court, including the prompt execution of arrest warrants, and explore further ways to assist the Court by considering, for example, the conclusion of voluntary cooperation agreements on witness relocation or the enforcement of sentences. We also welcome the projects implemented by the Trust Fund for Victims to provide support reparations to victims of heinous crimes in the Democratic Republic of the Congo and Mali and to launch assistance programmes in Côte d'Ivoire, northern Uganda and the Democratic Republic of the Congo.

The universality of the Rome Statute is essential for ensuring accountability for the most serious crimes of concern to the international community. Universality remains one of the main objectives of the ICC and the EU. The EU regrets the withdrawal of Burundi from the Rome Statute, which took effect on 27 October 2017, and the decision of the Philippines to submit a notification of withdrawal from the Statute on 17 March 2018. During the reporting period, the EU continued its efforts aimed at promoting the universality of the Rome Statute and the Agreement on the Privileges and Immunities of the ICC and a better understanding of the Court's mandate. We will continue to work tirelessly to make the Rome Statute truly universal. We call on all States that have not yet done so to ratify the Rome Statute and on States parties to fully implement it.

The year 2018 is an important one for the ICC because, as we have said, it celebrated the twentieth anniversary of the adoption of the Rome Statute on 17 July 2018 and saw the activation of its jurisdiction over the crime of aggression, thereby fulfilling the legacy of the Nuremberg Trials, the 1998 Rome Conference and the 2010 Kampala Review Conference. In 2017 we also welcomed the adoption of three amendments to article 8 of the Statute. The preamble to the Statute states that the most serious crimes of concern to the international community as a whole must not go unpunished. This is a core principle for the EU. The perpetrators of atrocities must be brought to justice and held to account. The EU affirms its commitment to renewing its efforts aimed at promoting the universality and preserving the integrity of the Rome Statute, this year and beyond.

We welcome actions by States, international organizations and civil society that express their support for the Court and promote its universality. We will encourage the widest possible participation in the Rome Statute, support the independence of the Court and promote cooperation with the ICC. The EU and its member States are committed to working with the global community to pursue our common goal beyond 2018 to further strengthen the Court so that it can fulfil its mandate effectively.

Mr. Bessho (Japan): Let me begin by thanking Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for his leadership and the

powerful statement he just made on the work of the International Criminal Court.

Japan is committed to the fight against impunity and attaches great significance to the promotion of the rule of law. We have therefore consistently supported the ICC since its inception. My Government's long-standing policy is to help enable the Court to function effectively and sustainably with the support of the international community. Besides being the ICC's largest financial contributor, Japan is also dedicated to supporting the Court through ensuring its supply of qualified human resources, including judges.

This year marks the twentieth anniversary of the adoption of the Rome Statute. While the ICC has made steady progress in investigating and prosecuting the most serious crimes of international concern, there is still a long way to go. I would like to stress two points with regard to the strengthening of the Court.

First, to ensure that the ICC effectively promotes the rule of law around the world, it should enhance its own universality. In the long run, the ICC should aim at becoming a truly universal criminal court so that it can gain strong support for its work. It is unfortunate that about a third of the States Members of the United Nations have yet to accede to the Rome Statute. Moreover, some States parties have either chosen to withdraw from the Statute or considered doing so. Japan acknowledges that there are various concerns surrounding the ICC. The ICC and its States parties should continue to listen carefully to those concerns and work to enhance the ICC's universality in order to maximize support and cooperation from a greater number of States.

For its part, Japan has advocated for the value of the ICC, especially in the Asia-Pacific region. Japan hosted this year's annual session of the Asian-African Legal Consultative Organization earlier this month and organized an outreach event involving non-parties to the Rome Statute from the Asia-Pacific and African regions, with the participation of the President of the Assembly of States Parties, ICC judges and other ICC officials. We must continue engaging with non-parties to the Statute and emphasizing the importance of the Rome Statute system in the fight against impunity.

Secondly, I would like to stress that the ICC's role is to complement national criminal jurisdictions. Its existence does not change the importance of national jurisdictions in the prosecution of serious crimes. In that context, capacity-building for legal institutions in each State carries significant weight, not only in facilitating the work of the Court but also in ensuring justice and the rule of law. Such capacity-building is an important component of Japan's aid efforts. Japan strongly believes that those efforts will help to close the impunity gap and advance the rule of law in the long run.

In conclusion, we hope that the ICC will continue to work diligently in the fight against impunity while consolidating its credibility. Japan will continue to strongly support the work of the ICC.

Mr. Mohamed (Sudan) (*spoke in Arabic*): At the outset, I would like to stress that like many other countries, the Sudan is not a party to the Rome Statute of the International Criminal Court (ICC). The Court explicitly contravenes the principle of international law that holds that international conventions are binding only on those that are party to them. As everyone is aware, the Court is not an organ of the United Nations, yet in committees of the General Assembly some States have tried to portray the situation differently.

In the pursuit of justice, putting an end to impunity is an indisputably noble goal. However, ensuring its fulfilment falls primarily within the purview of the competent national judicial bodies, pursuant to the jurisdictions created within States' domestic legal systems. Attempts to politicize international justice and make it a springboard for achieving narrow political interests are inconsistent with international efforts to achieve justice and fulfil the purposes and principles of the Charter of the United Nations. Rather than promoting the overarching goals of the United Nations, they breach established rules of international law and increase tensions in international relations.

The Sudan is honoured to be the country that continues to highlight the failures of the Rome Statute of the ICC, including the Statute's breach of such well-established principles of international law as equality, the principle that international instruments and agreements are binding only on parties to them, and the principle of legality, which states that there is no crime if there is no corresponding law. Given that the jurisdiction of the Court covers individuals from States parties to the Rome Statute, its failure as an institution is evident when we consider that almost 60 per cent of the peoples of the world are citizens of States that do not recognize the jurisdiction of the Court, in this case China, Russia, the United States, India, Pakistan and

Indonesia. Those States alone include at least half of the Earth's inhabitants.

As we debate the report of the ICC (see A/73/334), it is important to point out that the relationship between the United Nations and the Court should take into consideration their independent and separate nature and the fact that no organic or structured relationship exists between them. It is very worrying to see some States parties to the Rome Statute speaking in the General Assembly in terms that imply that all States Members of the United Nations are also members of the Court. My delegation will continue to firmly and explicitly reject this trend, which is also manifest in the draft resolutions on the ICC submitted each year to the Assembly. Their sponsors seek time and again to propose new paragraphs and provide expanded interpretations of the Relationship Agreement between the United Nations and the ICC that do not reflect the spirit and letter of the Agreement. The Court should not be used in any way to gain political advantage at the United Nations, as the Agreement that sets out the Court's legal framework clearly states that the ICC is to be independent of the Organization.

The Sudan has clearly and consistently expressed that position in the informal consultations on the draft resolutions on the ICC and the Secretary-General's reports on the Court. We will continue to express that position and call for strict observance of the scope and framework of the Relationship Agreement between the United Nations and the ICC, arguing for a narrow interpretation of the Relationship Agreement. The relationship should remain within the limits outlined in the Agreement, and portraying the Court as having been universally accepted should be avoided. The mandate of the United Nations and its various organs is clear, and any attempt to go beyond that mandate or reinterpret it to serve the Court alone would divert the Organization and its various subsidiary organs from their purposes and undermine their credibility.

It is crucially important to note that there is no consensus on the ICC and its Rome Statute. My delegation is concerned by what the Secretary-General states in this year's report on the Relationship Agreement between the United Nations and the International Criminal Court:

> "In the field of cooperation and judicial assistance, addressed in chapter III of the Agreement, the Organization provided extensive assistance to the Court in the period under review, especially in the form of access to the Organization's records and archives and the making available of United Nations personnel for interview by the prosecution in connection with situations before the Court and with situations under preliminary examination by the Prosecutor" (*A/73/335, para. 4*).

The United Nations must maintain its impartiality and must not be involved in a politicized Court. If that should happen, it would have an adverse effect on States' cooperation with the Court and a negative impact on the functionality and work of the Organization that would eventually lead to the Court's exclusion. The report of the Secretary-General on the Relationship Agreement should respect the letter and spirit of the Relationship Agreement and avoid interpretations that consider the Court as part of the United Nations system. Failure to do so would contradict the explicit scope and concept of the Relationship Agreement.

My delegation wants to express its concern about the Court's interference in the work of the Secretariat, particularly its ongoing attempts to dictate to Secretariat staff how they should deal with Member States, and especially with respect to how they are discharging their duties to report. Efforts to include the Court in the administrative work of the United Nations are also illegitimate, representing as they do attempts to give the Court legitimacy — not because, as we have explained many times before, they result from contradictions within the Rome Statute, but because they contribute to corrupting the implementation of the Court's work.

Sixteen years after the entry into force of the Rome Statute, we have seen nothing but miserable results. We still ask ourselves how many cases have been considered by the ICC. By our count, only 26 cases have been taken up, while 41 indictees are currently being tried. Out of the 11 investigations conducted by the Court, only seven have been concluded. How much money has been spent so far on the Court? Hundreds of millions of dollars were spent for the reporting period alone. How much does a trial cost? If we do the math and divide the Court's aggregate budget over 16 years, the period the Court has been in operation, by the number of completed trials, then we should get the answer. Who is paying for it?

The proponents of the ICC have stated that the ad hoc or provisional courts established by the Security Council do not deter the commission of crimes. In

contrast, the ICC, as a standing Court, does provide an element of deterrence. The question then becomes to what extent the Court has succeeded in deterring violations of the rules of war and international humanitarian law all over the world. To what extent has the Security Council been able to equitably apply article 13 of the Rome Statute? Does the Court apply the Statute equally to all States? How many States have agreed to be a party to the Rome Statute?

The foregoing questions are indeed difficult ones, and they cannot be answered quickly. We refer them to the conscience of those present and to the conscience of the world and global justice. Notwithstanding its claims, the ICC has not been able to justify any serious person's trust that it can attain the goal it was established to achieve, that of ending impunity. Criticism of the Court is growing, and its integrity and impartiality are increasingly being called into question. A case in point is the practice of allowing voluntary contributions to be made the Court's budget, which of course undermines its integrity and independence, as is confirmed by the very history of the Court.

For these reasons, my country completely dissociates itself from the Court. We call on all Member States to listen to reason and reconsider the Rome Statute and the practices of the Court. Who among us would not like to put an end to atrocious crimes and impunity and bring justice to the victims? The question is how we can do that. Does the politicization of justice and judiciary systems serve that goal? Does the use of double standards serve that goal? The continued practices of the Court and its flawed Statute undermine many of the well-established rules of international practice that are considered the pillars of stability in the international legal and political system.

We strongly believe that the Court is doomed to fail, and history provides support for that belief. It is regrettable that it was not until 1947 that we saw a first attempt at establishing a strong and healthy international legal system as a foundation for international peace and security. As the Assembly is aware, there were attempts in 1947 to reach consensus on the crimes that undermine the peace and security of humankind. No one would ever have thought that the result of those attempts would be the adoption of the Rome Statute of the ICC in 1998. The Court's first President described the provisions of the Statute as constructively ambiguous, but that ambiguity has been used to deprive developing countries, in particular African countries, of their judicial sovereignty and independence both as individual countries and as a group of countries represented by the African Union, which by itself represents nearly 30 per cent of the Organization's membership.

We align ourselves with a recent statement by South Africa's Minister for Foreign Affairs, in particular her assertion that there are deep questions that proponents of the Court must answer. The principle of equality among individuals and States is the principle on which the Charter of the United Nations and international law are predicated. How can the Court and its ongoing heinous practices be reconciled with the application of that principle?

The President of the Court, for whom I have great respect, has said that the ICC complements the work of national courts and interferes only in situations where national courts are unable or unwilling to act. This is the principle of complementarity, which is set forth both in the preamble to the Statute and in its article 1, and is deliberately but generally covered in article 17 on issues of admissibility. It is ironic and unfortunate that the Prosecutor of the Court, under overwhelming external political pressure, has used the general language of these provisions' phrases together to carry out experiments, not unlike those involving mice, in implementing the Statute in Africa.

In policy papers, the Prosecutor has stated that if the country concerned fails to investigate and prosecute the cases identified by the Prosecutor, the country would be considered "unwilling or unable to act". The two experiments in applying the Rome Statute in Africa have, in short, given the Prosecutor absolute power, which the Prosecutor has abused absolutely. The two countries where the complementary principle of the Statute was invoked were both in Africa. It is probable that it will only be applied in Africa, or possibly also in certain other similarly situated countries, which I could easily name.

Mr. Liu Yang (China) (*spoke in Chinese*): I am very pleased to take the floor at this meeting of the General Assembly on the agenda item related to the report of the International Criminal Court (ICC). The Chinese delegation thanks President Eboe-Osuji for introducing the Court's annual report (see A/73/334).

China has unfailingly supported the use of law to combat serious international crimes that endanger peace and security. Having been deeply involved in

the negotiating process of the Rome Statute of the ICC, China closely follows the Court's work and has attended all the sessions of the Assembly of States Parties to the Rome Statute as an observer.

This year marks the twentieth anniversary of the adoption of the Statute. Over the past two decades, starting from scratch, the ICC has made gradual improvements to its rules of procedure and has successfully investigated and concluded some cases involving serious crimes. However, it also faces many challenges, such as various countries' poor cooperation with the Court and the need to improve its authority and credibility.

China has always believed that the Court should exercise its mandate prudently and in strict accordance with the Rome Statute. Its judicial activities should comply with the basic principles of international law, including the purposes and principles of the Charter of the United Nations, so as to promote international and regional peace and security.

It is regrettable that some of the Court's judicial activities have generated great controversy, giving rise to major concerns that have prompted some countries to withdraw from the Rome Statute. African countries have even requested that the General Assembly seek an advisory opinion from the International Court of Justice, which has a jurisdictional connection to some cases before the ICC pertaining to the immunity of Heads of State and Government. These issues warrant serious reflection.

China has taken note of the recent ruling by the Pre-Trial Chamber of the ICC that the Court has jurisdiction over the situation in Myanmar. The ICC Prosecutor subsequently announced the opening of a preliminary examination. China is of the view that this ruling was based on an inappropriate interpretation of the applicable legal concepts, thereby unduly expanding the Court's jurisdiction. Not only is that not conducive to a proper resolution of the relevant situation, it may even make the Court's judicial activities in the future more contentious, thereby further diminishing the Court's authority and credibility.

Pursuant to the decision adopted last year at the Assembly of States Parties, the Court activated its jurisdiction over the crime of aggression as of July. China has always maintained that the Security Council has exclusive power to determine acts of aggression, since the collective security mechanism established after the Second World War has the Security Council at its core. The Court's jurisdiction over the crime of aggression must fall within this basic legal framework. With respect to the specific scope of jurisdiction, the Court should strictly abide by the amendments on the crime of aggression and the decisions of the Assembly of States Parties, thus excluding both crimes committed by nationals of non-State parties or by nationals of States parties that have not yet accepted the amendments, and crimes committed in the territories of those States.

China reiterates its support for an independent, impartial, effective and universal institution for dispensing international criminal justice. It is our hope that the ICC will see the twentieth anniversary of the Rome Statute as an opportunity to take stock of its successes and failures and contemplate how to gain the universal trust of all countries so as to promote judicial justice and international peace and security through more objective and impartial judicial practices.

Mr. Borut Mahnič (Slovenia): Slovenia aligns itself with the statement made just now by the observer of the European Union.

In view of the importance of the subject matter before us, we would like to make some additional comments. Slovenia joins others in thanking the President of the International Criminal Court (ICC), Judge Chile Eboe-Osuji, for his helpful introduction of the latest report of the Court (see A/73/334) .

This was a landmark year for the ICC, as it has been commemorating the twentieth anniversary of the adoption of the Rome Statute and completing the activation of the Court's jurisdiction over the crime of aggression, thus giving it jurisdiction over all the crimes for which jurisdiction was originally envisaged under the Statute. Today the ICC is a central institution of international criminal justice. The importance of its role is evident from the number of cases that the Court has taken up, which directly or indirectly affect many regions all over the world. The Court has registered achievements in the fields of case law and victim assistance, among others, and this important anniversary is a great opportunity to acknowledge them.

At the same time, the twentieth anniversary is an opportunity to address the Court's challenges and the need for improvement in various areas so as to ensure its successful operation in future. In this context, it is important to acknowledge the difficulty of establishing

a Court that prosecutes high-ranking individuals. The expectations about what the Court can do, given its capacities, should be reasonable. Furthermore, in the light of the many conflicts around the world, the ICC is not without its opponents. Given its increasingly active role, as well as changes in the international arena that are challenging the very concept of multilateralism, it is imperative that we continue to support the Court.

States will have to show greater initiative in assisting the Court by taking concrete action, including by doing more to arrest individuals for whom warrants have been issued. We need to seek solutions for victims who do not come under the Court's jurisdiction, due either to the Court's lack of universal acceptance or the unsatisfactory actions of the Security Council. One such case is Syria, where for several years we have observed complete impunity for crimes committed on Syrian territory. Slovenia also supports initiatives within the United Nations that call for prohibiting the use of the veto in the Security Council with regard to the referral of cases to the ICC. At the same time, we realize that in addition to State-based challenges, we must be able to address possible legitimate criticism of the Court.

As a long-standing supporter of the International Criminal Court, Slovenia encourages all States that have not yet done so to consider joining it. We also commend those who have ratified and acceded to the Kampala amendments to the Rome Statute on the crime of aggression. Slovenia's commitment to strengthening international justice reflects its foreign policy, which is based on the rule of law, respect for international law and an awareness that lasting peace and security and social progress are impossible without respect for human rights and the prosecution of the most serious crimes.

Allow me to briefly present Slovenia's activities in support of the Court. Slovenia is active in both multilateral and regional forums. We strive to promote support for the Court's work through bilateral contacts and through events and initiatives. Slovenia is represented on the Bureau of the Assembly of States Parties. The Mutual Legal Assistance initiative, which Slovenia leads together with Argentina, Belgium, the Netherlands, Mongolia and Senegal, proposes an international convention on mutual legal assistance and extradition for domestic prosecution of the most serious international crimes with a view to strengthening the capacity of national courts.

Slovenia joined others in commemorating the twentieth anniversary of the adoption of the Rome Statute this year by organizing a round table in Ljubljana in June and a panel at our most prominent annual international conference on foreign policy, the Bled Strategic Forum, in September. At the Forum, Prosecutor Bensouda received the Distinguished Partner Award, and Mr. O-Gon-Kwon, President of the Assembly of States Parties, was among the speakers. An agreement between my country and the ICC on the enforcement of the Court's sentences will be signed soon.

A great portion of this year's report focuses on international cooperation, and rightly so. Lacking enforcement powers and outreach capacities, the ICC depends greatly on cooperation and support on the part of States, civil society and regional and international organizations.

Slovenia greatly values the many forms of mutual cooperation between the United Nations and the ICC, both with Headquarters and with peacekeeping missions and other United Nations presences on the ground. Slovenia is pleased to note that cooperation between the United Nations and the ICC is generally very good. At the same time, we see room for improvement.

In that context, Slovenia considers that increased cooperation between the Security Council and the ICC would contribute significantly to the prevention of atrocity crimes, as well as to the Court's effectiveness and credibility. The roles of the Council and the Court are inherently interlinked. For example, the Council has the capacity to play an important part in addressing non-cooperation with the Court. It can contribute to the Court's effectiveness through its work on sanctions-related matters, such as travel bans and the freezing of assets. Moreover, its active follow-up on its referrals to the ICC would make a decisive contribution to the Court's effectiveness.

Cooperation with the ICC by States parties to the Rome Statute, as well as States that are not party, in the case of Security Council referrals, is not a policy choice. It is an international legal obligation. Slovenia is concerned about the fact that 15 arrest warrants issued by the Court remain outstanding, and some of them have been so for several years. That presents a serious obstacle to the Court's mandate and its credibility. It is clear that more should be done by States to ensure the

execution of outstanding warrants. Slovenia calls for full and prompt cooperation with the Court.

Also critical to the Court's credibility are its efficiency and integrity. In that respect, Slovenia welcomes the efforts within the Court to further improve the efficiency of its proceedings. We recognize the importance of addressing the challenges that the Court faces. It is not exempt from criticism and it has already lived through some challenging moments. In that context, Slovenia underlines the important role of internal processes and the Court's Independent Oversight Mechanism. We place our trust in the Mechanism and are confident that, through its work, the Court will be able to perform its tasks, which will protect its integrity.

An impartial, independent, universal and effective ICC that delivers high-quality judgments and ensures that victims remain central to its tasks should be our common goal. That will require joint efforts by all stakeholders. Slovenia remains firmly committed to the rule of law and international criminal justice and stands ready to contribute to further strengthening international criminal justice.

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

First of all, I want to thank Mr. Eboe-Osuji, President of the International Criminal Court (ICC), for his comprehensive presentation. I would also like to thank the ICC for the report on its activities in 2017 and 2018 (see A/73/334). The General Assembly debate on this report is one of the important institutional links between the United Nations and the ICC and provides a very useful platform for all 193 States Members of the United Nations to discuss and address the work of this unique judicial forum.

Today I would like to address the issues of the universality of the Rome Statute and the relationship between the United Nations and the International Criminal Court.

Established 20 years ago, the ICC is the only permanent international judicial organ that has general jurisdiction over the most heinous crimes under international law. The Court can fulfil its mission of ending impunity for the perpetrators of war crimes, crimes against humanity, genocide and the crime of aggression only if it achieves universality. We believe that we should focus all of our political efforts and consistently engage in an open and patient dialogue based on the shared core values of the ICC, which in turn will enable all States parties to the Rome Statute to continue strengthening the international rules-based order and prevent impunity.

Also, non-participating States must be encouraged to join the Rome Statute system in order to eliminate the territorial or personal jurisdictional gaps that enable perpetrators to escape justice. Having activated the Court's jurisdiction over the crime of aggression and having adopted three new war crime amendments in December 2017, the Rome Statute provides broader protection than ever to the victims of the most heinous international crimes. We believe that all States should work closely together in the spirit of cooperation and mutual trust.

Coming to my second point, the institutional links between the International Criminal Court and the United Nations have broadened the spectrum of measures that the Security Council can take when dealing with the maintenance of international peace and security. Without justice, sustainable peace cannot be achieved. Slovakia encourages the Security Council to use that unique tool and to make referrals in cases where international crimes are being committed and the national authorities with the primary responsibility for prosecuting those crimes are not in a position to do so. It is equally important to ensure that the Security Council follows up on its referrals. The ICC and the international community as a whole should not be thwarted by a lack of cooperation by Member States.

I also want to take this opportunity to point out a worrying development whereby the ICC-related language in some recent Security Council resolutions — for example resolution 2427 (2018), on children and armed conflict — has been weakened in comparison with its predecessor, in this case resolution 2225 (2015). Trust and a symbiotic relationship are built first and foremost on actions but words also matter. We hope that we will all work collectively to prevent any erosion of support, verbal or practical, to the International Criminal Court.

Let me conclude by reiterating Slovakia's strong support for the International Criminal Court, as well as for the broader cause of closing the impunity gap for international crimes. That support is also

clearly reflected in Slovakia's committed service as Vice-President of the Bureau and Coordinator of the New York Working Group of the Assembly of States Parties to the Rome Statute.

Mr. Jiménez Piernas (Spain) (*spoke in Spanish*): Let me begin by congratulating the International Criminal Court (ICC) on its work since our meeting during the previous session (see A/72/PV.36) and by thanking its President, Judge Eboe-Osuji, for his presentation of the report on the Court's activities in the past year (see A/73/334). The International Criminal Court is one of the greatest and most recent achievements of the international community. Twenty years ago, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court culminated in the adoption of the Rome Statute.

Since then, States have followed the work of the Court both from our capitals and through our participation in various working groups, committees and, of course, the meetings of the Assembly of States Parties. The consideration given to the ICC is consistent with the importance of its mandate, the serious political implications of its activities and the burden of its budget on our national finances. Moreover, there are many aspects of the Court's daily functioning that merit our attention — the Kampala amendments, the promotion of its universalization, judicial assistance, protection of victims and many others. We will address only some of those aspects.

It is true that the Court enjoys the significant support of an increasing number of States, including Spain and members of the European Union, whose statement we endorse. There has been ongoing development of the Court's jurisprudence, which demonstrates the extent of its impartiality, with no suspicion that it may be taking sides or disregarding the rights of any of its participants. But today the Court faces a number of challenges — old, new or recurring — that make it difficult to render justice for the most serious crimes of concern to the international community as a whole. In the past year, the Court has been harshly criticized by its enemies. We have seen withdrawals, threats of withdrawal and even threats of retaliation against judges — and their property — whom we elected to deliver justice on behalf of the international community.

Many States have reaffirmed their strong support to the Court before the General Assembly, since we consider it a key instrument in the administration of international justice as a means to address the kinds of conduct set out in the Statute. A month ago, in his statement to the Assembly, the President of my Government recalled that the efforts of the International Criminal Court in that regard were irreplaceable (see A/73/PV.11).

The International Criminal Court is not yet a universal organization, although not for lack of intention. Its States parties and civil society continue to make efforts in that regard. Meanwhile, our main objective should be to protect the Court in order to enable it to function as it should without undue interference from third parties and with all the resources it requires.

Being a State party to the Court of course means participating in its arrangements and those of its organs. However, in recent years, we have seen some Member States refuse to cooperate with the International Criminal Court, including in cases where the Court acts at the request of the Security Council in its capacity as the guarantor of international peace and security under Chapter VII of the Charter of the United Nations. We have the responsibility to make every effort to rectify that lack of cooperation whenever it occurs and to prevent its recurrence in future.

It is true that the Court has failed to meet expectations in some of its cases, with unconfirmed charges, cases abandoned during oral hearings and acquittals that grieve the communities where the crimes took place. However, the significance of the rule of law is the high level of protection for the rights of the accused. In that regard, the International Criminal Court has lived up to what we as States parties expect of a leading international court. We should clearly seek a higher rate of conviction in the cases initiated by the Office of the Prosecutor in order to ensure the most efficient use of the resources allocated to investigate crimes and prosecute criminals.

We should also redouble our efforts to raise awareness of the requirements of the rule of law in communities ravaged by the most serious crimes. Specifically, we must explain that a trial's premature end or an acquittal judgment in no way negates the commission of crimes or asserts that no one should be held responsible, but rather that the evidence presented was insufficient to convict the defendants. It is crucial that in such cases, there is no doubt about the commission of crimes but rather about the guilt beyond

all doubt of the individuals whom the Prosecutor has indicted.

In conclusion, I want to mention the delicate issue of the resources available to the International Criminal Court to carry out its mandate. The Court is currently considering 11 cases, and another nine are under preliminary examination. That is an important point because an ad hoc international tribunal can investigate only one case at a time. The current caseload of the Court is therefore equivalent to that of a number of ad hoc tribunals, even excluding situations that are at a preliminary stage.

Nevertheless, the budget of the Court between 2010 and 2015 was lower than those of two ad hoc tribunals, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Clearly, a single jurisdiction is always less expensive than multiple jurisdictions and generates economies of scale, but that lack of resources limits the work of the International Criminal Court. The qualifications needed to investigate different crimes in different places in the world are also not comparable.

All of that applies both to the Office of the Prosecutor and the defence teams, which need the necessary resources, pursuant to the Court's regulations, to ensure an effective and efficient defence. The Secretariat has just issued a reform proposal for free legal assistance before the Court, and Spain will participate in the discussion with a view to ensuring adequate resources within our budgetary means.

In talking about participants in the proceedings, I would be remiss not to mention the victims. In past years it has become standard practice for the Court's budget to cover the cost of the common legal representatives of the victims in every case, including the participation of the Office of Public Counsel for Victims. We also understand that the funds that States allocate for that task should be channelled through that Office, that is to say, that the Office should always represent the victims at the Court's expense.

The International Criminal Court is a part of the mechanism that the international community has been patiently building since 1945 in order to make the world a better place. We all have a responsibility to maintain, grease and fuel it, as it were. Let us take every opportunity, such as the next elections of judges and the Prosecutor, to establish a new milestone in its consolidation within the international system.

Mr. Spengemann (Canada): I am the member of Parliament for the electoral district of Mississauga-Lakeshore in Canada. It is an honour to have this opportunity to address the General Assembly this afternoon.

The fight against impunity for the most serious international criminal acts is at the core of the rules-based international order. A clear conviction about ensuring accountability for war crimes, genocide and crimes against humanity has guided our collective efforts to safeguard international peace and security. That same conviction prompted the establishment of the norms and institutions that give expression to our values, including respect for the inherent dignity of all. This year, on the twentieth anniversary of the Rome Statute of the International Criminal Court (ICC), we should pause and take stock, both to consider and celebrate what we have been able to achieve and what remains to done.

Together we have helped to build an institution that has rendered landmark judgments condemning the recruitment of child soldiers as well as sexual and gender-based crimes. Together we have supported the development of jurisprudence that makes clear that those responsible for the most serious crimes will be held to account. And together we have helped the International Criminal Court to become a beacon of hope for victims seeking justice, including women, girls and members of ethnic and religious minorities, who continue to be among those most affected by the commission of such atrocities. However, the fight against impunity is nowhere near complete, and this century, like the previous one, continues to demand urgent action.

We remain some distance from achieving the full universalization of the Rome Statute. Canada will continue to encourage States that have yet to do so to join the Rome Statute system. As it continues to mature, work must be done to make the Court more efficient. Canada will work constructively in support of our common goals of maintaining and strengthening the structure of permanent, independent judicial institutions that have the respect and confidence of the international community. The ICC cannot fulfil its mandate without the cooperation of States. To be efficient, the Court must operate without obstruction, beyond power politics and beyond geopolitics.

We strongly encourage all United Nations Members to fully respect the independence of the ICC, which is an indispensable feature of any court of law. We believe that the ICC has a central role to play in resolving the current situations in Venezuela and Myanmar and thereby reinforcing the rules-based international order. For that reason, together with our regional partners, we have referred the situation in Venezuela to the ICC. Canada also welcomes the decision of the Pre-Trial Chamber on the question of jurisdiction over the crime of the forced displacement of Rohingya refugees. We urge the Security Council to take up that issue and refer the situation to the ICC.

(*spoke in French*)

Accountability is not a luxury to be afforded only when circumstances allow. It is the duty of each State to bring to justice those responsible for the serious crimes committed within its jurisdiction. As a Court of last resort, the International Criminal Court seeks to complement rather than replace national courts. Its work is intrinsically linked to broader justice efforts within national jurisdictions. Canada is determined to seek justice for the victims of serious international crimes. If Canada is elected as a non-permanent member of the Security Council for the term from 2021 to 2022, we will continue to champion accountability in all of the Council's deliberations. We are confident that together we can fight impunity.

Mrs. Zappia (Italy): Italy aligns itself with the statement delivered earlier by the observer of the European Union.

We join others in thanking the President of the International Criminal Court (ICC) for his introduction of the report today (see A/73/334). I would like to make just two main additional points in my national capacity.

First of all, I want to reaffirm Italy's strong support for the International Criminal Court and its activities. In that regard, let me emphasize the importance of the principles and purposes that inspire the Rome Statute system, including the impartiality and independence of the Court, as well as the continuing relevance of the imperative norms of international law that are codified in the Rome Statute. Those are fundamental achievements for the international community as a whole that we must cherish.

As Italy's Minister for Foreign Affairs and International Cooperation said on the occasion of an event marking the twentieth anniversary of the Rome Statute, history has shown that leaving international crimes unpunished is not only morally wrong, it plants the seeds of new conflicts and atrocities. A solid system of accountability for international crimes is a pivotal tool for prevention.

I now come to my second point. We — States both party and non-party to the Rome Statute — must work together, particularly here at the United Nations, to strengthen the preventive aspect of accountability. The prevention of conflicts and crimes must be strengthened through all possible means. Clearly, the Court has a role to play in that regard.

Italy firmly believes in a rules-based international legal order. The first permanent global criminal court, the ICC, is an essential element of such a legal order. In that regard, we are committed to the universality of the Statute and encourage all States that are not yet party to it to consider ratifying it. With that in mind, we should recall that the Court is a judicial body of last resort that operates only in cases where national jurisdictions are unable or unwilling to prosecute. Our task is to work together through capacity-building, technical assistance and other forms of cooperation, including judicial cooperation, to ensure that domestic jurisdictions are in a position to discharge their primary function to render justice to victims of the most heinous crimes.

The report introduced this year proves that the Court is a solid institution that is progressing on a number of situations and cases. It is working effectively with States and in partnership with the United Nations on the basis of the Relationship Agreement between the United Nations and the International Criminal Court of 2004 and in compliance with the requests set out in Security Council resolutions. Italy will continue to lend its support to the Court in the fight against impunity and in the strengthening of accountability measures for the most serious crimes.

Ms. Hallum (New Zealand): We thank the President of the International Criminal Court (ICC), Judge Chile Eboe-Osuji, for his report (see A/73/334), and we welcome the opportunity to discuss the contribution of the International Criminal Court to the international rule of law and the Court's relationship with the United Nations. New Zealand strongly supports the Court and the critical importance of its mandate to hold to account

those who commit the most serious international crimes, regardless of where they occur.

There has been a great deal of reflection on the role of the Court in this twentieth anniversary year of its founding Rome Statute. For New Zealand's part, we consider the Court to be a central component in the international rules-based order and international efforts to end impunity. We acknowledge that it has weathered significant challenges over the past two decades and continues to do so. We emphasize, however, that an independent Court to act as a last resort to try the most serious crimes of concern to humankind is now as essential and necessary as ever.

New Zealand is committed to the Rome Statute and its underpinning principles of complementarity, cooperation and universality. We are also firmly of the belief that the mandate and credibility of the Court are intrinsically tied to its independence and impartiality. New Zealand urges all States to uphold those principles and be guided by them in their dealings with the Court.

Last year's Assembly of States Parties to the Rome Statute of the International Criminal Court saw the successful completion of a decades-long process towards activating the Court's jurisdiction on the crime of aggression. That was a momentous achievement of historic significance, all the more so because it was adopted by consensus. The Assembly of States Parties also added three new war crimes to the Rome Statute, criminalizing the use of microbial, biological and toxin weapons, weapons that injure by fragments undetectable by X-ray and laser-blinding weapons, in the case of both international armed conflicts and armed conflicts not of an international character.

As we look ahead to the next session of the Assembly of States Parties, in December, New Zealand's view is that States parties should focus on supporting the Court in consolidating its work in the exercise of its existing mandate and focusing on the investigation and prosecution of the most serious international crimes, consistent with the principle of complementarity. New Zealand considers that channelling our collective efforts towards that goal will be the most effective way of galvanizing the Court against the challenges it faces.

New Zealand has previously stated the view that in the spirit of universality, we must listen to one another, constructively debate concerns and address them in a manner that preserves the integrity of the Court. We stand by that view and remain ready to work with other States to increase the membership of the Court.

One of the most important strands in the relationship between the Court and the United Nations is the role that the Security Council can play in achieving accountability for international crimes through the use of its referral powers. New Zealand reiterates its view that the Council should use those powers to ensure accountability. Just as the International Court of Justice is an important tool in the Council's peace and security toolkit, so is the International Criminal Court. New Zealand continues to believe firmly that when the Council decides to refer a situation to the Court, it should do so with a clear commitment to following up and ensuring that the Court receives the support, cooperation and resources, including funding, that it needs to implement Council decisions. A failure to take action calls into question the authority of the Council and its decisions. New Zealand is encouraged by the efforts made to raise that issue, including in the Arria Formula meeting earlier this year, but calls on all Council members to make greater efforts to address the issue systematically.

The importance of the Court's work for the victims of the crimes that it prosecutes must not be forgotten. In acknowledging that work, we recognize that States parties can assist by making contributions to the ICC Trust Fund for Victims. New Zealand was pleased to be able to make a contribution to the Fund this year. We look forward to constructively engaging with other States parties at the upcoming Assembly of States Parties to identify practical options that will make the Court stronger and more effective.

Mr. Al-Ghadban (Libya) (*spoke in Arabic*): At the outset, I would like to thank Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for the Court's annual report (see A/73/334) to the General Assembly, which we have taken note of.

We have one question constantly in mind — where justice regarding the most heinous crimes in the world can be served. Is it through national jurisdictions, or through the ICC in The Hague? The Rome Statute created the ICC to combat impunity. It is a modern Statute that brings together the two systems of national and international jurisdiction. It aims to investigate the most heinous crimes, that is, war crimes, crimes against humanity and genocide.

The concept of the ICC's complementary competence was designed to frame the relationship between international and national criminal justice. Based on that concept, the ICC complements national criminal jurisdiction. In that regard, Libya has cooperated with the ICC in order to achieve justice at that stage, while stressing the principle of State sovereignty in connection with the implementation of national laws for crimes perpetrated on its soil.

We are fully aware of the delays in Libya in pursuing and prosecuting accused persons. However, we underscore that they in no way indicate that our national justice system does not intend to prosecute and punish the perpetrators of crimes. On the contrary, they are due to the security conditions in Libya. The fact is that our national justice system has already initiated trials of several accused persons. Moreover, judgments have been rendered to punish some of the accused and acquit others. For that reason, it is important to respect the competence of our national jurisdiction.

In that regard, we highlight the capacity of our national justice system in fulfilling its commitments, achieving justice and strengthening the rule of law. That requires significant support on the part of the international community in assisting the Libyan authorities in overcoming the security crisis plaguing the country, alongside the efforts being made to ensure the success of the political process. To that end, our law-enforcement authorities need the necessary support to enable them to perform their role, strengthen security and stability and control the factors and circumstances under which violations and crimes arise. They must also be supported so that they can seize the tools used to perpetrate crimes, specifically weapons, which will help them to curb terrorist and lawless groups.

To conclude, we reiterate that the Libyan authorities are determined to punish the perpetrators of crimes and combat impunity, in line with the principle of applying the relevant legal rules, reflecting the sovereignty of law. The Libyan jurisdiction is independent and impartial, capable of achieving social and criminal justice as soon as our State institutions are stabilized, which we are on our way to achieving.

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

At the outset, we would like to express our gratitude to the President of the International Criminal Court (ICC), Mr. Chile Eboe-Osuji, for presenting the annual report detailing the activities of the ICC (see A/73/334). The report gives evidence of the increasing activity of the Court and proves that it has become an indispensable instrument of international criminal justice. By fighting impunity for the perpetrators of atrocities that shock the conscience of humankind, the ICC continues the tradition of the ad hoc criminal tribunals. Twenty years after the signing of the Rome Statute of the International Criminal Court, we are proud of the Court's record in augmenting the international rule of law.

Poland notes that the underlying goals of the Rome Statute coincide with the purposes and principles of the Charter of the United Nations. The ICC has been granted jurisdiction over atrocity crimes because, by their very nature, those crimes are understood to be threats to international peace and security. Consequently, the achievement of ensuring individual criminal responsibility is the pinnacle of the rules-based international order. However, have we in the international community of States done everything we can to ensure the centrality of the ICC? We often take for granted the fulfilment of universal justice, ignoring the fact that achieving the promise of justice is a continuing process requiring mutual effort.

Poland would like to stress that the ICC itself does not have the resources necessary to ensure compliance with its arrest warrants. Due to inadequate cooperation from States, the Court's activity is in constant jeopardy. Moreover, unequivocal commitment is needed from international organizations. As a member of the Security Council for the period from 2018 to 2019, Poland understands the Council's role as the Court's critical partner. We favour granting the Court the broadest possible support by the Council. Cooperation with the Security Council in executing arrest warrants should be sought in order to bring justice to every corner of the world.

The efforts of States parties should by no means absolve the Court from the task of building trust. The efficiency of the Court's proceedings still needs improvement, and that should be a priority for the Court. We trust that the Court will enhance the procedures of international criminal justice, assuring that there will be no hindrances to progress in the fight against impunity. Poland welcomes the efforts that the Court has already undertaken to streamline procedures, developments that

are very much needed to dispel misconceptions about its performance. With 11 situations under investigation and another nine preliminary examinations launched, the Court's record is on the way to translation into a legacy of lasting jurisprudence. Poland hopes that, with more proceedings brought to conclusion, the Court will prove even more worthy of the trust of the international community. It is in the interests of all nations to sustain the mechanism for bringing about justice and reconciliation provided by the ICC.

Poland appreciates the broadening of the Court's mandate. The decision of the Assembly of States Parties to activate the Court's jurisdiction over the crime of aggression is a milestone in the quest for justice. Poland reaffirms its commitment to the universalization of the Kampala amendments. We remain hopeful that more States will ratify them in order to help the Court effectively discharge its responsibility for punishing the perpetrators of the crime of aggression. We underline that the joint effort of all States parties is needed in order to vest the Court with the most effective and expansive toolkit for its task of preventing and punishing the most serious crimes.

Twenty years after the adoption of the Rome Statute, Poland reaffirms its support for the ICC. We urge all members of the international community to commit to the Court's efforts to deliver justice. We plead for the universalization of the ICC, which will allow us, as Prosecutor Fatou Bensouda said at the first Arria Formula meeting on relations between the Security Council and the International Criminal Court, to realize the

> "[h]ope that the cold calculus of international politics does not ... undermine humanity's shared values and common yearning for peace".

We encourage all States to treat the Court as a partner in pursuit of the common goals of justice and peace. A strong and robust Court is a guarantee that the world will not be enveloped by mass atrocities.

Mr. Meza-Cuadra (Peru) (*spoke in Spanish*): I would like to begin my statement by expressing our gratitude for the presentation of the report of the International Criminal Court (see A/73/334) by the President of the Court on its activities for the period from 2017 to 2018, as well as for the report of the Secretary-General on the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court (A/73/335).

I reaffirm our commitment to upholding international law and the promotion and protection of human rights and fundamental freedoms, as well as the rule of law, as we consider them the basic prerequisites for bringing about peaceful and inclusive societies. We are aware that access to justice and accountability are fundamental to achieving that goal. Accordingly, my country supports all initiatives aimed at ensuring that those responsible for serious human rights and international humanitarian law violations are held accountable for their actions.

In a world marked by conflict and humanitarian emergencies, the Court requires the firm support of the international community and the determined cooperation of State parties more than ever. While some States question the role of the Court, Peru firmly believes in its legitimacy and shows its support in no uncertain terms. Since March, a Peruvian woman, the lawyer and prosecutor Ms. Luz del Carmen Ibáñez Carranza, has been serving as a judge of this important Court. Likewise, in keeping with our commitment to combating impunity in domestic and international matters, Peru, together with Argentina, Canada, Chile, Colombia and Paraguay, pursuant to article 14 of the Rome Statute, has requested the Office of the Prosecutor of the International Criminal Court to initiate an investigation into crimes against humanity committed in Venezuela since 12 February 2014, so as to determine whether one or several individuals should be charged with the commission of such crimes. We have based our case on the evidence gathered by impartial international bodies, such as the Office of the United Nations High Commissioner for Human Rights, the Inter-American Commission on Human Rights and the Panel of Independent International Experts of the Organization of American States. In addition to the signatory States' commitment, we are grateful for the support of France, Costa Rica, Germany and the European Parliament in that initiative.

Peru is advocating in the Security Council for a more meaningful relationship between the Council and the International Criminal Court. We therefore stress that the primary responsibility of the Security Council for maintaining international peace and security and the Court's jurisdiction over the most serious crimes must be understood and acted on as complementary and interdependent tasks in general. We nevertheless regret that there has been no consistent, coherent or systematic commitment in the referral of situations to

the International Criminal Court, an issue that must be rectified. In that regard, we welcome proposals for the Security Council to refer cases in a more consistent and predictable manner, as well as those aimed at establishing specific procedures to process cases involving non-compliance with the Court's orders. We also reiterate our concerns about funding the Court, especially with regard to those cases referred by the Security Council. We must find ways that will create predictable funding so as to enable the Court to adequately examine all cases under its jurisdiction.

In conclusion, I reiterate our firm belief in the important role that the International Criminal Court plays in preventing impunity and helping punish those responsible for the worst atrocities committed in the world. Peru has learned from its own experience that the implementation of accountability mechanisms is the best way to prevent serious violations of human rights and international humanitarian law from recurring and to achieve sustainable peace.

Mr. Van Oosterom (Netherlands): The Kingdom of the Netherlands aligns itself with the statement by the observer of the European Union.

We thank Mexico for the excellent work in facilitating the draft resolution (A/73/L.8) on the report (see A/73/334) of the International Criminal Court (ICC).

We would like to join others in expressing gratitude to President Eboe-Osuji for his excellent presentation. The annual report provides a clear overview of the considerable work done during the reporting period as well as of the challenges that we face ahead. The Kingdom of the Netherlands is a firm supporter of the International Criminal Court, and we are proud to host the Court in The Hague. I will focus on three issues — first, the fight against impunity; secondly, the current challenges facing the Court; and, thirdly, universality.

First, concerning the fight against impunity, the Rome Statute was adopted 20 years ago. Since then the International Criminal Court has established itself as a main actor in the fight against impunity. The Court plays a key role in achieving a culture of accountability and sustainable peace. It brings justice to those responsible for the most serious crimes when States are unwilling or unable to do so themselves. Unfortunately, today the battle against impunity has become even more pressing and urgent. The international community must redouble its efforts to enable the Court to live up to its full potential. States must take up their primary responsibility to prosecute atrocity crimes, but as long as that does not happen, we have to continue to strengthen the International Criminal Court, politically as well as financially.

That brings me to my second point, the current challenges facing the Court. As set out in the report, the Court's judicial activities are increasing rapidly. The growing workload reflects the widely held trust in the Court but also brings with it many challenges, which the Court should not face alone. As the Court has itself repeatedly underlined, it has to rely on States parties to exercise its mandate effectively. The Court needs sufficient means to handle its increasing workload efficiently. Furthermore, States should cooperate with the Court, including by promptly executing outstanding arrest warrants. Voluntary cooperation on the part of States is vital for the effective and efficient functioning of the Court. I am talking about framework agreements regarding witness relocation and the enforcement of sentences. Additionally, cases of non-compliance should be addressed through concrete actions by States parties and the Security Council. States parties should support and facilitate the work of the Court throughout the various stages of its judicial proceedings.

That brings me to my third point, on universality. This year we are celebrating the twentieth anniversary of the Rome Statute and the fact that jurisdiction over the crime of aggression has been activated. Up to this very day, we have seen State parties, international organizations and civil society united in their efforts to honour those achievements. By voicing their support and advocating for global support, they emphasize that the International Criminal Court truly does embody norms and values that are both fundamental and universal. We hope that those positive signals will resonate throughout the international community and encourage States Members of the United Nations that have not done so to ratify the Rome Statute and join us in our fight against impunity. We also call on States that have given notice of their withdrawal to reconsider that decision. Universal ratification of the Rome Statute is necessary for the Court to exercise its mandate more effectively. We must therefore not waver in our efforts but continue to strive for universality, during this commemorative year and beyond.

Ms. Rodríguez Abascal (Cuba) (*spoke in Spanish*): The delegation of Cuba takes note of the report of the

Secretary-General (A/73/335) and expresses its firm commitment to the fight against impunity for crimes affecting the international community.

The current situation in the world, as well as the events of the past several years, clearly demonstrates the need for an autonomous international judicial institution to lead the fight against impunity for the most serious crimes. However, we believe that the broad powers granted to the Security Council pursuant to article 16 of the Rome Statute in connection with the work of the International Criminal Court (ICC) blur the lines as to the Court's status as an independent institution. In addition to undermining the very jurisdiction of the Court, this violates the basic principles of the independence of judicial bodies and transparency and impartiality in the administration of justice. Security Council referrals to the Court substantiate that negative trend, which my country has mentioned on a number of occasions. International law is constantly violated in the process of Security Council referrals, while developing countries are attacked based on a putative fight against impunity. Cuba therefore reiterates its position in favour of the establishment of a system of international criminal jurisdiction that is impartial, non-selective, effective, fair, complementary to national justice systems, truly independent and consequently free from any subordination to political interests that might undermine its purpose.

Cuba reiterates that the International Criminal Court cannot ignore international treaties and the principles of international law. The Court must respect the principle of law relating to the consent of a State to be bound by a treaty, pursuant to article 11 of the Vienna Convention on the Law of Treaties of 23 May 1969. Cuba reaffirms its deep concern about the precedent established by the Court's decisions to initiate judicial proceedings against nationals of States not party to the Rome Statute and that have not even accepted its jurisdiction pursuant to article 12 of the Statute. On the other hand, the jurisdiction of the ICC must remain independent of the political bodies of the United Nations and always function in complementarity with international criminal jurisdictions. The Rome Statute was not established to replace national courts.

The people of Cuba have been the victims of very diverse forms of aggression for almost 60 years. Harassment and aggression have resulted in thousands of deaths and injuries in our country. Hundreds of families have lost children, parents or siblings, in addition to undergoing incalculable property, economic and financial losses. The definition of the crime of aggression agreed on at the Kampala Review Conference in 2010, however, does not even come close to covering some of those elements. The definition of the crime of aggression should be established generically so that it encompasses all forms of aggression that arise in international relations among States. It should not be limited to the use of armed force but should also address aggression in the context of the sovereignty, territorial integrity and political independence of States.

The International Criminal Court must report on its activities to the General Assembly based on the provisions of the Relationship Agreement between the United Nations and the International Criminal Court. Although Cuba is not party to the ICC, it stands ready to continue participating actively in the negotiation processes concerning the Court, especially with regard to the annual draft resolution on the report of the International Criminal Court.

In conclusion, Cuba reaffirms its resolve to combat impunity and maintains its commitment to international criminal justice and adherence to the principles of transparency, independence and impartiality, as well as the unrestricted application of and respect for international law.

Mr. Tichy (Austria): My delegation fully aligns itself with the statement made by the observer of the European Union, and I would like to add some points in our national capacity.

Strengthening effective multilateralism, the rules-based global order and our multilateral institutions is one of the goals enshrined in the Global Strategy of the European Union Common Foreign and Security Policy as well as a priority of the current Austrian presidency of the Council of the European Union. Multilateralism and respect for international law, including human rights law, international humanitarian law and international criminal law, are cornerstones of the rules-based international system. In that system, we must ensure that the perpetrators of genocide, crimes against humanity, war crimes and aggression are brought to justice and, if necessary, through international criminal justice mechanisms when national jurisdictions are unwilling or unable to prosecute the most serious crimes of international concern.

It was for that purpose that the International Criminal Court (ICC) was created, 20 years ago, to

complement national sovereignty and not usurp it, as its President, Judge Chile Eboe-Osuji, so ably explained in his statement this morning. The jurisdiction of the ICC is complementary to national criminal justice and arises only where a State is unable or unwilling to investigate and prosecute the most serious crimes of international concern. In the case of States parties to the Rome Statute, the delegated jurisdiction of the ICC may arise when such crimes are committed on their territory or by their nationals. That is fully in accordance with the sovereignty of those States and their responsibility for the prosecution of crimes committed on their territory or by their nationals.

Let me affirm Austria's strong support for the International Criminal Court as an independent and impartial judicial institution. Austria particularly welcomes the consensus activation of the Court's jurisdiction over the crime of aggression as of 17 July 2018 as another leap forward in the fight against impunity. We regret that that important development could not be reflected in the draft resolution (A/73/L.8).

This year we celebrate the twentieth anniversary of the adoption of the Rome Statute. The establishment of the ICC was a major step for international criminal justice. However, the ICC needs our continued support and cooperation, particularly in the framework of the United Nations, so it can meet the expectations of victims and survivors that justice is being done. We must also increase our prevention efforts by enhancing international cooperation and strengthening national jurisdictions.

Austria has already incorporated all Rome Statute crimes — genocide, crimes against humanity, war crimes and the crime of aggression — into its national criminal code, which enables national criminal prosecution of those crimes. Austria will continue to advocate for a strong and effective International Criminal Court that delivers justice and thereby lays the groundwork for reconciliation and lasting peace.

The meeting rose at 1.05 p.m.