



# General Assembly

Seventy-third session

**28**<sup>th</sup> plenary meeting  
Monday, 29 October 2018, 3 p.m.  
New York

Official Records

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

*In the absence of the President, Ms. Al-Thani (Qatar), Vice-President, took the Chair.*

*The meeting was called to order at 3 p.m.*

## Agenda item 77 (continued)

### 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)

**Ms. Brink** (Australia): This year we celebrate the twentieth anniversary of the Rome Statute of the International Criminal Court (ICC). That treaty is a remarkable achievement. It is the product of a common resolve, forged by the horrors of the previous century, to create a permanent international court to prosecute and punish those responsible for the most egregious international crimes.

We also mark another milestone this year, the activation of the ICC's jurisdiction over the crime of aggression. The Court is now empowered to exercise jurisdiction over the four core international crimes — war crimes, crimes against humanity, genocide and aggression. It is worth emphasizing that the ICC does not operate in isolation. It is part of an international criminal justice system, the Rome Statute system. The ICC's role is to step in only where national jurisdictions are unable or unwilling to act.

As a strong supporter of accountability and a long-standing supporter of the ICC, Australia will continue to work with all States parties to ensure that the Court is as strong an institution as it needs to be to fulfil its mandate. We encourage Member States not yet party to the Rome Statute to consider ratifying it, particularly non-parties in our own region of the Indo-Pacific.

At their core, the ICC and the United Nations are striving to achieve the same goals. One of the primary purposes of the Charter of the United Nations — the maintenance of international peace and security — aligns with those of the Rome Statute. History has demonstrated clearly that sustainable peace and impunity for serious international crimes rarely go hand in hand. All too often, impunity catalyses conflict.

The interrelationship between the mandates of the United Nations and the ICC makes the Court a key partner for the United Nations, particularly as the United Nations pivots to focus more on prevention. As its key partner, it is critical to ensure that the United Nations provides the ICC with the support it needs to deliver on its mandate.

We welcome the efforts of the United Nations so far and encourage the Secretary-General to continue to enhance cooperation under the Relationship Agreement. We have heard the Prosecutor's repeated requests for effective Security Council follow-up and support with respect to situations referred to the Court by the Council. It is essential that the Council not approach ICC referrals in a set-and-forget frame of mind. Its ongoing political support for the work of the ICC is

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critical, particularly with respect to our cooperation with the Court.

We must not neglect the critical role that consistent, impartial justice plays in the international community's response to the trauma wrought by conflict. Indeed, victims and the communities affected have been consistently calling for justice as an essential component of viable political outcomes and reconciliation. While we are clear-eyed about the challenges ahead, the international community simply must not tolerate impunity. Those who are most responsible for serious international crimes must be held to account. We call on the Assembly to ensure that the Court receives full and consistent support for that essential mandate.

**Mr. Skinner-Kleé Arenales** (Guatemala) (*spoke in Spanish*): Allow me to thank Judge Chile Eboe-Osuji, President of the International Criminal Court (ICC), for his briefing on his report (see A/73/334), updating us on the important events in the proceedings of the International Criminal Court during the past year. We appreciate and take note of the information on the cases filed, the final judgments pronounced in two cases by the Appeals Chamber, the important decisions on reparations to victims, the preliminary examinations, and the new investigations conducted by the Office of the Prosecutor.

Guatemala reaffirms its unequivocal support for the ICC and its commitment to the fight against impunity. My delegation values the support and cooperation between the United Nations and the International Criminal Court, not only because they strengthen the dialogue and relationship between the two entities, but also because they serve to give visibility to the hugely important work of the International Criminal Court, which provides us with an opportunity to strengthen its authority and deepen our knowledge about its mandate and the unquestionable importance of cooperation among States.

Guatemala would like to reiterate its respect for the principle of complementarity and for strengthening national systems to ensure accountability. As we have said before, the International Criminal Court does not replace national courts. Moreover, an essential component of the Rome Statute is the principle of complementarity, whereby national criminal jurisdictions have primacy in investigating and prosecuting those responsible for the crimes contemplated when the Court was founded, particularly the most serious crimes.

For that reason, we believe it is necessary to improve the cooperation between the Court and the Security Council so as to join their efforts and help to prevent crimes that undermine international peace and security and fight impunity for such acts. It is also appropriate to hold regular exchanges between the Council and the Court independently of the informational meetings that between the two.

Cooperation is one of the fundamental pillars of the proper functioning of the International Criminal Court. A firm commitment on the part of States parties is therefore crucial to efforts to build the Court's capacity to ensure accountability, bring justice, provide reparations to victims and contribute to the prevention of future crimes, as the spirit of the Rome Statute requires.

The States parties to the Rome Statute and the membership of the United Nations must work to strengthen their cooperation and continually reaffirm the relevance and importance of international criminal justice as we work to ensure the rule of law and international peace and security. My delegation urges that we redouble our efforts to achieve a universal regime. Each step towards universality will significantly reduce the risk of impunity and help to strengthen States' peace and stability. For that reason, we must continue to promote the universal dimension of the Rome Statute and maintain the momentum for the ratification and accession processes.

Finally, on the twentieth anniversary of the Court, I would like to reiterate my country's commitment to supporting the Court's work, since it is more than an institution based on a foundational document. Its work is cross-cutting and lies at the heart of an international justice system with worldwide impact. In recognition of that, my delegation has chosen to be a sponsor of the annual draft resolution (A/73/L.8) on the work of the International Criminal Court.

**Mr. Wenaweser** (Liechtenstein): The International Criminal Court (ICC) is an independent organization with a strong institutional connection to the United Nations. The two are bound by a common purpose, in that both the Charter of the United Nations and the Rome Statute are founded on the principles of justice and international law. They have had a fruitful and productive relationship on the basis of the Relationship Agreement governing their interaction. But while that has been true in all the past years that we have

discussed the reports of the Court, today's debate takes on an additional dimension.

International organizations and treaties, and indeed multilateral approaches as such, have been increasingly under assault. Both the United Nations and the ICC have been subject to political attacks, and many of the achievements of the recent past are in jeopardy. Other areas affected include trade, climate change, disarmament and, of course, accountability and human rights. It can therefore come as no surprise that the International Criminal Court is yet again under attack by those who feel threatened by the idea of international criminal justice — an area in which progress has been fast and steady over the past two decades. It has never been more important than it is today to express unequivocal political support for the Court — the world's first and only permanent, international, independent judicial institution with jurisdiction over the most serious crimes.

While our support for the Court must be unwavering, we should not be uncritical. The Court faces significant external challenges, but it also suffers from problems within, problems that it cannot afford. It is therefore time for the States parties to demonstrate leadership by asserting ownership, while fully respecting the Court's judicial independence, which is an indispensable element of any court of law. We look forward to an honest and constructive dialogue with the Court to address the challenges it is facing.

A landmark development — not just for the Court but for international law more generally — occurred on 17 July, the twentieth anniversary of the adoption of the Rome Statute. That day also marked the activation of the ICC's jurisdiction over the crime of aggression, the most serious form of the illegal use of force by one State against another. For the first time since the Nuremberg trials more than 70 years ago, we have individual criminal accountability for illegal war-making. That moment, based on a consensus decision by the 123 States parties, could not be more opportune. At a time when international norms are being dealt with in an increasingly cavalier manner, with a growing expectation of impunity for the most heinous crimes, and when well-established international rules on the use of force are being bent or violated, nothing can be more important than making it clear that the commission of crimes of aggression entails criminal accountability for those responsible.

It is also another important illustration of how closely the mandates of the Court and the United Nations are connected. The prohibition on the use of force is at the very core of the Charter of the United Nations, and it is the International Criminal Court that now offers the necessary complement of individual criminal responsibility. That is essential, although not so much because the Court is likely to exercise its newfound jurisdiction very soon. It is not going to do so, and owing to the exemption of non-States parties from its jurisdictional regime, its reach is limited. It is, however, essential for States to have a legally binding international definition of the act and crime of aggression, both for their consideration as to whether to add that crime to their national penal codes and for possible decision-making processes, including in the Security Council.

We have also recently witnessed the first referral of a situation in a State that is party to the Court by a number of other States parties. All the triggers foreseen under the Rome Statute for the exercise of jurisdiction have been applied. We welcome that development and encourage reflection on a similar course of action with respect to the crimes committed against the Rohingya population. Since the Court has concluded that it has jurisdiction with respect to the forced deportation of the Rohingya population who have fled to Cox's Bazar in Bangladesh, we now have a direct path to justice. We hope that there will be serious consideration of that policy option, not only in the interest of justice, but also in order to enable a forcibly displaced population to return home.

Whenever there is a massive crisis of impunity, whether in Myanmar, Syria or Yemen, we automatically hear calls for the involvement of the ICC from civil society, victims and policymakers. In many of those instances, however, the Court does not have jurisdiction. Working towards universality is a long and arduous task. We must and can make progress — but we should be under no illusion that a significant number of States will join the ICC system in the coming years.

Hopes that the Security Council might step in to fill impunity gaps have proven futile time and again, and it would be naive to expect that to change in the foreseeable future. It is therefore all the more important that we understand the Court as it was designed to be understood, not just as an institution working in isolation in The Hague, but rather as the centrepiece of an international criminal justice

system. In that regard, strengthening the capacities of national judiciaries can play an important role, as can the exercise of universal jurisdiction. As evidenced in the creation 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, there is room for innovation, which is a far better policy option than inaction. Engagement to fight impunity where the ICC does not have competence complements the very mission for which the Court was created.

Finally, I have the honour to deliver the following message on behalf of Austria, Belgium, Costa Rica, the Czech Republic, Cyprus, Estonia, the Netherlands, Portugal, Slovenia, Switzerland and my own country, Liechtenstein, which are all Member States that are strong supporters of the ICC and its mission to end impunity for the worst crimes known to humankind.

We would like to thank the facilitator from Mexico for his work on the draft resolution before us (A/73/L.8), and we appreciate his intentions to deliver a consensus outcome.

Our delegations have joined the consensus on that draft resolution because we strongly believe in the work of the Court. We have also decided to become a sponsor of it because it includes many important points and because we want to express our commitment to the Court. However, we would also like to point out what we consider to be a significant deficiency in the present text. We want to underline that the draft resolutions that the Assembly is asked to adopt should always include, as a bare minimum, technical and factual updates. We find it necessary to make this statement in order to highlight the fact that a number of major international law developments in the past year have been omitted from the draft resolution before us. They include the landmark twentieth anniversary of the Rome Statute, the historic activation of the ICC's jurisdiction over the crime of aggression and the adoption of amendments adding three new war crimes to the Rome Statute.

The historic significance of those developments cannot be overstated. The Court is a central achievement of multilateral diplomacy and a true milestone in the development of international law. In July, the international community marked the twentieth anniversary of the Rome Statute, an occasion that many States used in order to reaffirm their commitment to the

Court and the broader rules-based international order. Also in July, the ICC's jurisdiction over the crime of aggression went into effect. Never has humankind had a permanent independent international court with the authority to hold individuals accountable for their decisions to commit aggression, the worst form of the illegal use of force. Now we do. The Court will thus help to enforce a fundamental provision of the Charter of the United Nations, the prohibition on the use of force.

Finally, last year, during its sixteenth session, the Assembly of States Parties to the Rome Statute adopted three new amendments to article 8 of the Statute, expanding the Court's jurisdiction. Those three amendments criminalize the use of microbial, biological or toxin weapons, weapons that injure through fragments that are undetectable by X-rays, and blinding laser weapons, both in international armed conflicts and armed conflicts not of an international character.

The omissions in this year's text happen to be very significant. But even if the developments were of more limited relevance, we would still want to see a General Assembly draft resolution reflect them. We must not allow the Assembly — whether on the topic of international justice or indeed any other area — to adopt texts that are outdated. We are confident that we will do better next year.

**Mr. Favre** (Switzerland) (*spoke in French*): Switzerland thanks the President of the International Criminal Court, Judge Eboe-Osuji, for the presentation of his report (see A/73/334).

Switzerland aligns itself with the statement delivered by the representative of Liechtenstein on behalf of a number of countries, including Switzerland. I would like to add the following remarks in my national capacity.

We States adopted the Rome Statute of the International Criminal Court (ICC) 20 years ago. Today, more than ever, we need the Court to ensure a rules-based international order, and the ICC needs us. Its critics argue that the world would be better off without it, and no one would deny that in a perfect world the ICC would have no reason to exist. Unfortunately, we do not live in an ideal world. War and violence are still very much with us. States often fail to fight impunity vigorously or do not have the financial and institutional resources to do so at the national level.



The need for effective criminal justice — in other words, for an ICC that holds actors accountable, contributes to the maintenance of sustainable peace and serves victims — remains unchanged. What has changed in recent years is the context. Nationalism is on the rise, and the fight against impunity at the international level is often misrepresented as an obstacle to peace rather than as one of its building blocks. The fact that one State has recently withdrawn from the Rome Statute and that another withdrawal is about to take effect is a reflection of that regrettable development. The same is true for the political attacks against the Court.

Against that backdrop, firm signals are needed. We must reaffirm that we stand behind international criminal justice and the ICC as a vital, independent and impartial part of it. During the high-level week of the General Assembly, 35 foreign ministers, including Switzerland's, issued a public statement reaffirming their commitment to the Court. Equally, we consider the referral by six States of a situation to the Court, the first collective referral in its history, to be a sign of trust in and support for the Court. Looking ahead, we must maintain and strengthen our political and diplomatic support for the ICC. We invite Member States that have not yet done so to investigate atrocity crimes, prosecute their perpetrators through their national authorities and ratify the Rome Statute.

The collaboration between the ICC and the organs of the United Nations is intense, and for good reasons. Their mandates and goals are mutually reinforcing. The Court's jurisdiction over the crime of aggression is in the fundamental interest of the United Nations and its Member States. The Security Council can refer aggressive war-making to the ICC, not to mention the dissuasive and thereby protective effect that the possibility of referring perpetrators of aggression to the Court provides.

The commemoration of the twentieth anniversary of the adoption of the Rome Statute reminds us of the historic progress that the establishment of the ICC represents. Today, notwithstanding the numerous challenges that we face, we must reaffirm our collective commitment to ending impunity for the perpetrators of the most horrific crimes and bringing justice to victims. Our support in that regard must not falter.

**Mr. Duque Estrada Meyer** (Brazil): The Statute of the International Criminal Court (ICC) celebrated its twentieth anniversary on 17 July. In addition to

providing us with an opportunity to reflect on the many achievements of the past two decades in that regard, that date represented a milestone for international justice. It marked the activation of the ICC's jurisdiction over the crime of aggression and thus finally, and consensually, completing the Statute as originally envisaged. The fact that the ICC now has jurisdiction over the crime of aggression gives additional meaning to the prohibition of the use of force, fostering a more stable, just and democratic world order.

As a proud founder of the ICC, Brazil is pleased that it has firmly established itself as the first permanent tribunal for fighting impunity for the most serious international crimes. In ensuring that those accused and brought before it are judged with fairness and full respect for their rights, the Court is an instrument for justice and peace.

I am pleased to be able to point out that not only are all South American countries parties to the Rome Statute, but also that Latin American and Caribbean States represent the second largest regional group among the States parties, behind only the Group of African States. Any misperception of the existence of bias or selectivity in the ICC's activity can be definitively dispelled only by increasing the universality of the Statute and thereby expanding the space within which the Court can operate. That is particularly relevant when we bear in mind that a number of important actors are still not parties to the Statute. Brazil reiterates that international criminal justice is a central element of the rule of law and should apply to all.

In the general debate of this session of the General Assembly, Brazil drew attention (see A/73/PV.6) to the fact that in order to improve our rules-based order, we now have an additional task before us, that of defending its very integrity. Like all socially constructed systems, international law cannot sustain itself. It must be nurtured, developed and protected. The mandate of the Court requires that it speak law to power. At a time when multilateralism is under fire and political attacks on the ICC are increasing, Brazil underscores our policy, namely, that we will always respect the Court's integrity and independence, indispensable features of any court of law.

I want to take this opportunity to thank the President of the ICC for presenting the Court's report (see A/73/334), which gives a clear indication of its significant workload. Since its establishment 20

years ago, the Court has opened 26 cases involving 41 suspects or accused and conducted investigations into 11 situations. Against that backdrop, Brazil reiterates its long-standing concern about the financing of Security Council referrals. That is a structural issue that goes to the very core of the relationship between the Court and the United Nations, and the General Assembly in particular.

Once again, we reiterate our call for the implementation of article 13 of the Relationship Agreement and article 115 (b) of the Rome Statute, which provide clear guidance to the effect that such costs should be met, at least partially, by funds provided by the United Nations and should not fall solely on the parties to the Statute. It is equally important to stress that as laid out in Article 17 of the Charter of the United Nations, the General Assembly has the exclusive responsibility to consider and approve the budget of the Organization. The proper funding of Security Council referrals would enhance the credibility of both the Court and the United Nations. To date, the budget allocated within the Court in relation to those referrals amounts to more than €60 million. The current situation is neither fair nor sustainable.

The report contains a number of suggestions aimed at improving the relationship between the Security Council and the Court. Brazil concurs with the assessment that a more structured dialogue between them on issues of mutual interest, both thematic and situation-specific, would be beneficial. Through the case law that it has developed over the past two decades, the ICC has accumulated significant knowledge on issues such as children and armed conflict, women and peace and security, and the protection of cultural property. The discussion in the context of the Council's Arria Formula meeting on 6 July convened by the States parties that sit on the Security Council, provided food for thought in that regard. From a very practical perspective, there is significant room for improvement in the cooperation between the Security Council Sanctions Committees and the ICC, especially with regard to travel bans and assets freezes.

Increased cooperation remains one of the best ways to enhance the Court's effectiveness. While the execution of its outstanding arrest warrants regrettably continues to be the most visible challenge in this area, it will also be critical to diversify witness-relocation agreements and strengthen financial investigations. Asset recovery could even contribute to securing funds

for reparations to victims and covering the costs of legal aid.

Seeking to reconcile retributive and restorative justice, the Rome Statute contains a sophisticated set of provisions on victims' rights that seeks not only to protect victims but also to enable them to participate in the proceedings and apply for reparations. Victims of genocide, war crimes, crimes against humanity and the crime of aggression have rights, and their voices must be heard. Over the past 20 years, more than 22,000 victims have applied to participate in proceedings, and thousands more have applied to make submissions at the investigation stage or during reparations proceedings.

Brazil notes with appreciation that providing justice for victims continues to be an essential component of the Court's daily work. We welcome the fact that reparations procedures are ongoing in various cases and that the Trust Fund for Victims has assisted more than 450,000 individuals with physical and psychological rehabilitation, as well as material support. We commend the efforts being made to enhance witness protection, including through relocation agreements, and we stress the role of the positive dimensions of cooperation through the strengthening of national capacities.

The quest for peace and justice is always challenging, and that challenge is inherent in the search for a more just and collaborative world order. Let us not fall into the trap of operating with dichotomies that oppose peace to justice and sovereignty to accountability. We should rather focus on the shared values that bring the General Assembly together and that have made the first permanent and treaty-based international criminal court a reality. Brazil remains firm in its commitment to the Rome Statute system and to the cause of justice that motivated its creation.

**Ms. Durney** (Chile) (*spoke in Spanish*): Chile appreciates the full report of the President of the International Criminal Court (ICC) (see A/73/334), covering the period from 1 August 2017 to 31 July 2018, which reflects the workload of the Court, 20 years after the adoption of the Rome Statute. We take note of the account of its judicial activities in that period, as well as those of the Office of the Prosecutor and the Registry, in the areas of preliminary examinations, investigations and judicial proceedings, including final judgments in two cases, and decisions on reparations to victims and their implementation in fulfilment of the Court's mandate. Our appreciation also goes to the new

President of the Assembly of States Parties, who led our work during this period.

Chile has actively supported the Court since the beginning of the process that led to the adoption of the Rome Statute, as we stated at the anniversary ceremonies that took place in The Hague and New York. One of the concrete ways we showed our support was by ratifying the amendments to article 8 of the Rome Statute, as well as the amendments to the Statute relating to the crime of aggression. We are aware of the progress that has been made and of the challenges that the Court faces on a daily basis and that make it urgent to ensure that States continue to work together in a coordinated manner.

The celebrations commemorating the anniversary gave us an opportunity to highlight the importance of the relationship between the States parties and the Court, which makes it possible to address through a comprehensive dialogue issues that demand that the criminal proceedings' effectiveness and efficiency be strengthened and the challenges of cooperation and complementarity addressed. We reiterate the value of both concepts, and the importance of mechanisms to hold those responsible for crimes within the jurisdiction of the Court accountable for their actions. We therefore call on all States to cooperate fully with the Court and work together to deal with one of its greatest challenges.

Consideration of the issue of the complementarity and cooperation of national, regional and international courts, in which the International Criminal Court plays a key role, should continue, both within the Assembly of States Parties and within individual States in conjunction with their domestic bodies with judicial and investigative functions. My country would like to reiterate its commitment to that effort, as we have done regularly in the working groups in The Hague and New York, and we hope to make progress in drafting legislation on cooperation with the Court that takes into account the various areas where that cooperation must be implemented.

We recognize the crucial work of the Court's Trust Fund for Victims, which must have the means to fulfil its task of contributing to the physical and psychological rehabilitation of victims and providing material support to survivors of the crimes governed by the Statute. In that regard, we would like to recall the visit of the President of the Assembly of States Parties to Uganda, along with representatives of 10

States, including Chile. There they monitored the activities of the Trust Fund and received information in the field and the testimonies of community leaders and survivors. We thank the Government of Ireland and the Trust Fund for chairing that initiative. The ICC's digital exhibit "Trauma, healing and hope" reminds us that the international community's efforts to assist victims must not cease. We therefore call for voluntary contributions to the Trust Fund for the benefit of victims and their families.

My delegation believes that the communication between the International Criminal Court and the United Nations must be intensified, and we support the Court's efforts in that regard to ensure the Security Council's effective follow-up of situations that it refers to the Court. We also very much hope that the issues before States and the Court will be receive due cooperation, as should issues raised by the Council's follow-up to referrals.

We also want to place on record our appreciation to the Secretary-General for the services and facilities that he provided in accordance with the Relationship Agreement between the Court and the United Nations during the sixteenth session of the Assembly of States Parties, held at United Nations Headquarters from 4 to 14 December 2017. It was important not only because of the election of six judges, whose admission to the Court we have celebrated, but also because of the historic agreement reached on activating the jurisdiction of the Court over the crime of aggression.

We would also like to express our appreciation for the work of the secretariat of the Assembly of States Parties, which provided substantive support during the sixteenth session. We view its functional independence and structural integrity in meeting the needs of States parties to the Statute as fundamental and therefore particularly wanted to highlight its work on this occasion.

We reiterate our commitment to achieving the universality of the Rome Statute and our confidence in the role played by the International Criminal Court within the architecture of international justice in effectively combating impunity for the crimes that international community considers most serious. The regrettable withdrawal of some States from the Statute, which we hope can be reversed, as well as the failure of some to ratify or accede to the Statute, should not stop us from seeking to maximize the Court's effectiveness

and presence within the framework of the international legal system.

**Mr. Guillermet-Fernández** (Costa Rica) (*spoke in Spanish*): My delegation thanks Judge Eboe-Osuji for presenting the reports of the Secretary-General on the activities of the International Criminal Court (ICC) during the period from 2017 to 2018. I would also like to congratulate him on his appointment in March as President of the International Criminal Court.

The International Criminal Court is undoubtedly the most important achievement of the international justice system. It is a product of the desire of the international community to put an end to impunity for the most serious crimes against humanity and to bring justice to its victims. Its essence and main strength lie in the fact that the desire for justice is global. For that reason, we appreciate the trend towards universality of the Rome Statute and its amendments.

In that regard, we congratulate Panama, Guyana and Ireland on ratifying the Kampala amendments on the crime of aggression, bringing the number of States that have ratified them to 37. In addition, Costa Rica urges all States parties to continue working to achieve universality and to continue their efforts to ratify the latest amendments to article 8 of the Statute, approved by the Assembly of States Parties in December 2017.

Costa Rica welcomes the addition on 17 July to the Court's jurisdiction of the capacity to cover the crime of aggression and the celebration of the twentieth anniversary of the Rome Statute on the same date. The International Criminal Court was an aspiration of the international community for many years. Just over 20 years after the adoption of the Rome Statute, we can now say that the Court has fulfilled expectations, bringing justice to victims of the crime of aggression and laying the foundations for a solid and innovative jurisprudence on international criminal law.

With regard to victims, my delegation recognizes the importance of the fact that a total of 12,509 victims participated in cases before the Court during the reporting period, and we were pleased that during the reporting period the Court received a total of 384 new applications from victims for participation or reparations. That is a reflection of the Court's importance and the central role it plays for the victims of the most egregious crimes under international law.

Nor should we forget that the Court unquestionably operates on the principle of complementarity and was not created to replace the functions of national courts. In that regard, we should reaffirm that the primary obligation to end impunity for the most heinous crimes rests with States in the responsible exercise of their sovereignty. State sovereignty imposes obligations for the investigation and prosecution of crimes committed under the jurisdiction of the State concerned.

Only when a State party "is unwilling or unable to carry out an investigation or prosecution", as established in article 17, paragraph (a), of the Statute, should those crimes be brought to the attention of the International Criminal Court. For that reason, complementarity is an essential part of the machinery of international criminal justice. However, it is essential to make it clear that when the Court's jurisdiction is activated, States parties must comply with the inalienable responsibilities outlined in the Rome Statute. Failure to comply with those responsibilities is particularly serious when non-compliance translates into a refusal to provide the required support for the investigations of the Office of the Prosecutor or into the prevention or hindering of access to evidence, which could ruin an investigation and the associated case and open up the possibility for impunity.

Similarly, the fight against impunity is hindered every time a State party fails in its obligation to execute current arrest warrants. A lack of cooperation with the Court in fulfilling its orders also prevents it from providing victims with the justice they seek and deserve. Refusing to cooperate with the Court under the pretext that it is not impartial or because a high percentage of its cases refer to alleged violations occurring in the same region is not acceptable.

It is time to change the narrative. Those who make such arguments ignore the fact that the situations in Mali, Côte d'Ivoire, Uganda, the Democratic Republic of Congo and the two situations in the Central African Republic were referred to the Court by the Governments of those countries, while the situations in Libya and the Sudan were referred to the Court by the Security Council. Only three out of 11 situations — in Kenya, Georgia and Burundi — have been initiated *motu proprio* by the Office of the Prosecutor. It would therefore be absurd to expect the Office of the Prosecutor to reject referrals from States parties in order to maintain a geographical balance in its cases.



During the period covered by the report, the Court had a large volume of work. It issued new arrest warrants against two individuals, one of whom was transferred to the Court, and continued with three trials. It pronounced final judgments in two cases before the Appeals Chamber and made several important decisions regarding reparations to victims. The Prosecutor opened a new investigation, and another 10 situations remained open. Since its inception, the Court has initiated a total of 26 cases and conducted investigations of 11 situations.

In order to continue fulfilling its mandate, the Court requires the support and cooperation of the entire international community, particularly the United Nations, with which it shares the ideals of accountability, the protection of human rights, and the maintenance of international peace and security. We were pleased to hear that the Court received the valuable cooperation of the United Nations on various matters, such as operational assistance in the field, the provision of United Nations personnel for interviews and testimony, when needed, and the dissemination of information generated by the United Nations and provided under the reimbursement model.

However, my delegation reiterates the need for the United Nations to participate in financing the referrals made to the ICC by the Security Council. The Charter of the United Nations holds the Security Council responsible for the maintenance of international peace and security, and therefore, in undertaking those referrals, the Court is helping the Council to fulfil its mandate. In such cases of cooperation, article 13 of the Relationship Agreement between the Court and the United Nations must be applied, providing for an economic contribution from our Organization.

In the 20 years since the adoption of the Statute, we have witnessed the evolution of an institution that has little by little transformed into reality the objectives set by the delegations that came to Rome in the summer of 1998. Today only the most experienced could name all the cases that have been before the Court or that the Office of the Prosecutor has investigated. The Court's jurisprudence speaks for itself. Nevertheless, 20 years is not a long time, if we take into account the fact that we want this Court to be permanent and to transcend our children's generation as well as our own. There is much that remains to be done, and States have the main responsibility to ensure that the Court has the necessary tools to deliver on its mandate.

Costa Rica would like to emphasize its full support for the International Criminal Court. We are committed to continuing to support its universalization, independence and integrity so that together with other States parties, and with the support of the community of nations, we can ensure that international justice is respected and achieved, including by acknowledging the immunity of its judges and its legitimacy as a legal body.

The International Criminal Court has filled a legal vacuum that existed for many decades in the progressive development of international law. It is not dead or on its deathbed. On the contrary, we predict that it will enjoy a long life in its efforts to ensure the rights of victims and attain justice.

**Mrs. Leega Piiskop** (Estonia): We thank Judge Eboe-Osuji, President of the International Criminal Court (ICC), for his presentation of the latest annual report of the Court (see A/73/334) and his ongoing service to it. We welcome this debate today to discuss the contributions of the Court and the international community to international criminal justice.

Estonia fully aligns itself with the statement made this morning by the observer of the European Union (see A/73/PV.27).

Estonia firmly believes that the ICC is an essential tool for fighting impunity and thus contributes to peaceful societies. It has played a crucial role in the maintenance of a rules- and values-based world order. It is unfortunate that the rules-based international system, the foundation of the international community, is increasingly being challenged and questioned. International criminal justice needs greater political support. In that context, we would like to mention the particular role played by the Security Council. We call on all States, and the Council, to take appropriate action to fully cooperate with the Court so that perpetrators can be brought to justice and we can put an end to impunity.

We would like to recall that it is the primary duty of States to prevent and respond to international crimes, and we stress that the ICC complements rather than replaces national courts. Its complementary role in cooperation with national justice systems and its assistance in strengthening them are particularly important to efforts to combat impunity. The ICC's effectiveness and efficiency in fulfilling its mandate inevitably depend on States' full cooperation with it,

irrespective of whether they are parties to the Rome Statute or not.

We share the concern of the President of the Court about the fact that the prompt and unconditional execution of arrest warrants of the ICC remains a challenge today. When States parties do not comply, the ICC must be able to rely on the Security Council to intervene with its full support. We need to strengthen our common efforts to bring an end to conflicts and make perpetrators accountable. We must also do more to offer important protection to victims and witnesses who have suffered from or witnessed crimes. Here we would like to stress the Court's important role in delivering justice to the victims of atrocious crimes by providing assistance and awarding reparations.

The Court is currently dealing with more cases and situations than ever, covering most of the regions of the world. We note that there have been significant judicial developments at all stages of the proceedings before the Court. We also note that the ICC has continued to expand its tasks relating to preliminary examination activities and that two new preliminary examinations were opened this year. The increasing number of cases and situations also demonstrates that there is wide trust in the ICC and testifies to the good work it has done. However, its increasing workload also creates challenges for the Court in terms of its ability to remain efficient and effective.

This year we celebrated the twentieth anniversary of the Rome Statute and witnessed the activation of the Court's jurisdiction over the crime of aggression this past summer. It is up to us to further strengthen the Court so that it can fulfil its mandate effectively.

Estonia is committed to continuing to work together with all partners to further the work of the ICC and strengthen the system of international criminal justice. We call on all Governments that have not yet ratified the Rome Statute to do so.

**Ms. Ioannou** (Cyprus): I would like to add some remarks to the statement delivered this morning by the observer of the European Union (see A/73/PV.27), with which my delegation fully aligns itself.

Let me start by thanking Judge Eboe-Osuji, President of the International Criminal Court (ICC), for his presentation. It is Cyprus's firm belief that the ICC is an indispensable pillar of the international rules-based order that humankind has struggled so hard to

build over the past few decades, with the United Nations at its core. The Court stands for every lofty purpose that the United Nations was created to serve, that is, to ensure that there is no impunity for the most serious crimes, establish accountability and thereby deter the commission of such crimes, highlight restorative justice as an essential component in achieving sustainable peace and support the victims of such crimes.

In order to effectively serve those objectives, the Court must have a global mandate. However, as we commemorate the twentieth anniversary of the adoption of the Rome Statute and the seventieth anniversary of the Nuremberg trials, the ICC is not as close to universality as we would like. Universal ratification of the Rome Statute remains the only realistic way of effectively addressing jurisdictional gaps and thereby dealing with current challenges and shortcomings. It is also crucial to the application of the principle of equality before the law and the effective deterrence of the most serious crimes under international law. We would therefore like to take this opportunity to call on all States that are not yet parties to the Rome Statute to ratify it.

Cyprus reiterates its commitment and unfailing support to the Court, which we have given it since its inception, as well as to full cooperation between the Court, the United Nations and its States Members. We are pleased that during the reporting period Cyprus made its first symbolic contribution to the Trust Fund for Victims, which must be commended for its work. We should not forget that we collectively created the Court to provide justice to millions of victims of unimaginable atrocities that deeply shock humankind.

As reflected in its report (see A/73/334), the Court had another very full year in terms of judicial proceedings, including investigations, preliminary examinations and institutional developments. It continued three of its trials, pronounced final judgments on two cases before the Appeals Chamber and issued several important decisions on reparations to victims. The Prosecutor is also engaged in ongoing investigations relating to 11 situations.

It was significant that on 6 September, the Court issued for the first time a decision on the *Prosecution's Request for a Ruling on Jurisdiction under Article 19 (3) of the Statute*, finding that the Court has jurisdiction with respect to the alleged deportation of a population from a State that is not party to the Rome Statute to the territory of a State party. In so holding, the Court

emphasized that the rationale for its determination on the Court's jurisdiction in relation to the crime of deportation may apply to other crimes within the jurisdiction of the Court as well, in circumstances where an element of a crime occurs on the territory of a State party.

One of my country's foreign-policy priorities is preventing the destruction of cultural heritage and illicit trafficking in it. We therefore recognize the great significance of the *Al Mahdi* case, the first in which the ICC found an individual guilty of the war crime of attacking historic and religious buildings in Timbuktu, Mali. We welcome the progress regarding reparations in that case. We also welcome the active engagement of the Court's Prosecutor in discussions on the responsibility to protect cultural heritage and the signing of a letter of intent between the Prosecutor and the Director-General of UNESCO, enhancing their cooperation in line with their mandates.

Lastly, Cyprus is particularly pleased with the long-awaited activation of the amendments to the Court's jurisdiction over the crime of aggression, which is the worst form of the illegal use of force. The historic significance of the decision to activate the Kampala amendments to the Rome Statute cannot be overstated. We anticipate the application of the law contained in those amendments by the Court in exercising its jurisdiction over the crime of aggression, and we look forward to the universal acceptance of those amendments, so that the international community can be assured that no one will be immune from prosecution for the commission of that supreme international crime.

**Mr. Yelchenko** (Ukraine): Ukraine aligns itself with the statement delivered this morning by the observer of the European Union (see A/73/PV.27), and we would like to add a few remarks in our national capacity.

We welcome the President of the International Criminal Court (ICC) and thank him for his comprehensive presentation of the Court's annual activities (see A/73/334). This year has been significant for the ICC, not only because of its marking of the twentieth anniversary of the adoption of the Rome Statute, but also thanks to the activation of its jurisdiction over the crime of aggression on 17 July. That represents a huge step forward for the international criminal justice system and for strengthening the preventive role of the Court, as well as further contributing to the maintenance of international peace and security.

As a sponsor of draft resolution A/73/L.8, I would like once again to emphasize the importance of cooperation with the ICC on the part of States that are not party to the Statute, as well as the United Nations and other international and regional stakeholders, in order to enable it to carry out its activities.

Ukraine supports the International Criminal Court, which has proved its effectiveness in promoting the rule of law and combating impunity. It is important to highlight the fact that Ukraine was among the first States to support the idea of establishing the first permanent treaty-based international tribunal to deal with individual criminal responsibility for the most serious crimes under international law. Ukraine actively participated in the Preparatory Committee on the Establishment of an International Criminal Court. In 2000, I had the honour of personally signing the Rome Statute. Ukraine was also among the first non-States parties to ratify the Agreement on Privileges and Immunities of the International Criminal Court.

At the same time, Ukraine is not yet a party to the Rome Statute. However, on 17 April 2014, the Government of Ukraine lodged a declaration under article 12 (3) of the Statute, accepting the jurisdiction of the ICC over crimes committed on its territory between 21 November 2013 and 22 February 2014. Furthermore, on 8 September 2015, the Government of Ukraine lodged a second declaration under article 12 (3) of the Statute, accepting the jurisdiction of the ICC in relation to crimes committed on its territory from 20 February 2014, that is, since the beginning of the military aggression of the Russian Federation against Ukraine. Those declarations have been made for an indefinite duration. The ICC will therefore be able to exercise its jurisdiction over such crimes, regardless of the nationality of the persons who have committed them, even if they are citizens of a third State.

During the reporting period, the Court continued to engage actively with Ukrainian authorities and non-governmental organizations with regard to the preliminary examination of the situation in Ukraine, both through consultations at the Court and during its missions to Ukraine, the most recent of which took place in June.

In particular, Ukrainian law-enforcement agencies, in cooperation with civil-society organizations and human rights defenders, have continued to document and provide the Court with additional information,

facts and evidence related to the nature of the existing armed conflict in Ukraine as an international armed conflict caused by the armed aggression of the Russian Federation against Ukraine, as well as information related to the numerous war crimes committed by the aggressor State's armed forces, occupation authorities, personnel and proxies in the temporarily occupied territories of Ukraine.

We appreciate the work done by the Office of the Prosecutor and look forward to the ICC report on its preliminary examination activities in 2018.

It is a priority for the Ukrainian authorities and a strong demand on the part of the people of Ukraine that the organizers, supporters and perpetrators of the grave crimes committed in Ukraine be held to account and prosecuted. In that regard, I would like to emphasize Ukraine's commitment to the fight against impunity and reiterate that my country will spare no effort to ensure that justice is done.

**Mr. Oña Garcés** (Ecuador) (*spoke in Spanish*): My delegation thanks the President of the International Criminal Court, Judge Chile Eboe-Osuji, for presenting the report of the International Criminal Court on its work carried out in 2017 and 2018, contained in document A/73/334. We also welcome draft resolution A/73/L.8, submitted today by Mexico, on the report of the Court, of which we are a sponsor and which we hope will be adopted by consensus.

Ecuador has consistently defended the role of the International Criminal Court in the maintenance of international peace and justice and the defence of the rule of law, and its function as an essential component in conflict prevention and reparations to the victims of the most serious crimes. Today we reiterate our support for the Court as a mechanism with unique characteristics that enable it to fight impunity. We urge all States present here today to lend their support to the Court so that it can effectively and concretely exercise its jurisdiction over the most serious crimes of concern to the international community.

An irrevocable objective for Ecuador is to make progress on universalizing the Rome Statute and the jurisdiction of the International Criminal Court. We must move beyond short-term political considerations towards a genuine universal criminal justice system that combats impunity and enables those responsible to be punished. Crimes of genocide, crimes against humanity, war crimes and crimes of aggression, which

are subject to the complementary jurisdiction of the Court, can be best prosecuted if States universally accede to the Statute and provide the necessary cooperation to the Court. However, as we have already pointed out, that universality does not just concern the universal accession by States to the Rome Statute; it pertains to every part of the world and to all the crimes against humanity that are taking place in the world at this very moment. It does not have double standards, and it extends beyond political or economic interests, which could otherwise lead us to evaluate similar situations with different criteria.

In that regard, we recognize and support the ongoing work of the Court, which, since its establishment, has opened a total of 26 cases involving 41 suspects or accused. We also give our full support to Ms. Fatou Bensouda, Prosecutor of the Court, whose work has contributed to the Court's recent historical achievements and enabled it to issue new arrest warrants against two persons and continue three trials in the reporting period. We support the Office of the Prosecutor's ongoing investigations into 11 situations and its willingness to open new preliminary investigations and examinations in all parts of the world where necessary. Those landmark actions undercut the misguided criticism that has been voiced of selectivity and bias in the Court's investigations. We deplore States' withdrawal or notifications of withdrawal from the Rome Statute. We support all efforts to achieve the universality of the Statute, provided that they do not require concessions or weaken the Court's scope or jurisdiction.

Ecuador incorporated into its 2008 Constitution and domestic criminal legislation the mandatory nature of measures and penalties against the crime of genocide, crimes against humanity, war crimes, the enforced disappearance of persons and the crime of aggression. In our country, no amnesties or statutes of limitation can be applied to those crimes. That fully coincides with the Rome Statute, whose very *raison d'être* is the fight against impunity. We therefore welcome the fact that the Assembly of States Parties to the Rome Statute decided by consensus to activate the Court's jurisdiction over the crime of aggression, which entered into force on 17 July. Ecuador is in the process of ratifying the Kampala amendments, and we call on everyone to work together to achieve their universality.

I want to take this opportunity to reiterate our position with regard to the principle of complementarity as it concerns the Court and its jurisdiction. We



attach particular importance to complementarity, as a mechanism that enables States to cooperate in the fight against impunity and involves national capacity-building, which is critical. Through complementarity, the International Criminal Court supports national legislations. It is not a substitute for them.

Ecuador supports any initiative aimed at strengthening the fight against impunity. That is why in June we successfully hosted a high-level regional seminar with the International Criminal Court, during which 11 Latin American Governments signed the Quito Declaration on the twentieth anniversary of the adoption of the Rome Statute of the International Criminal Court. In that same spirit of commitment, I am pleased to announce that in the coming days the Government of Ecuador will sign the code of conduct regarding Security Council action against genocide, crimes against humanity and war crimes.

My delegation also believes that it is essential for the Court to have the necessary funding to enable it to meet the objectives set out in the Rome Statute, especially at a time when the judges' caseloads, the investigations in the Office of the Prosecutor and the general workload of the Court have increased. In addition, we believe it is essential to strengthen the mechanisms for obtaining resources and improving the international community's cooperation with regard to the Trust Fund for Victims, given the fact that the Fund assists the work of the Court with regard to a fundamental element of justice, the protection of victims and reparations for the crimes dealt with in the Rome Statute.

My delegation would also like to express its support for the efforts of the United Nations system to improve the channels of cooperation with the Office of the Prosecutor and other organs of the Court. We call on Member States to provide every possible support to the fulfilment and execution of the orders issued by the relevant authorities of the International Criminal Court. We welcome all the activities undertaken during the year to commemorate the twentieth anniversary of the Rome Statute. They send a powerful message of support for the Court, highlighting the importance of that unique judicial institution's mandate and the need for a more vigorous and effective Court in the face of the alarming proliferation of the most serious crimes around the world.

Last but not least, my delegation would like to express special appreciation for the work of the Registry

of the Court and the secretariat of the Assembly of States Parties, whose efficiency and effective coordination and support have made it possible to achieve these results.

**Ms. Telalian** (Greece): Greece aligns itself with the statement delivered earlier by the European Union, and I would now like to make some further comments in my national capacity.

First, we want to thank the President of the International Criminal Court, Judge Chile Eboe-Osuji, for his comprehensive briefing. We also thank the International Criminal Court for its annual report to the United Nations (see A/73/334), which gives us an opportunity to take stock of the achievements and the progress made by the Court during the reporting period in the fight against impunity and also to reflect on the challenges that it faces.

This year we are celebrating the twentieth anniversary of the adoption of the Rome Statute. On 17 July 1998 in Rome, the international community took a crucial step towards the establishment of a permanent international criminal court that would be able potentially to intervene as a complementary mechanism in any situation involving serious international crimes, while also serving as a powerful deterrent to the commission of such crimes.

Having from the very beginning wholeheartedly supported the establishment of the International Criminal Court, on the occasion of this anniversary Greece would like to reiterate its support for the Court and its legitimacy, as well as to express its commitment to the Court's independence and to the integrity of the Rome Statute. In that respect, we regret the recent withdrawals from the Statute and call on all States that have not yet joined it to do so in order to expand its reach and deepen its work so as to ensure that the most heinous international crimes do not go unpunished. We are also ready to continue assisting the Court in fulfilling its mandate in an increasingly complicated international environment, radically different from that of 20 years ago, when its Statute was adopted. We firmly believe that the Court must be able to act without hindrance within the legal parameters defined by its founding treaty. We also encourage the Court to continue to review its judicial and administrative processes in order to enhance its effectiveness, maximize the impact of its work and live up to the expectations of the international community and of the victims of crimes falling within its jurisdiction.

As the report of the Court demonstrates, effective cooperation with the Court remains a key challenge to its fulfilment of its mandate. Furthermore, while Security Council referrals may help expand the reach of the Court to areas not falling within the scope of its jurisdiction, it is crucial to have active follow-up for such referrals in order to ensure cooperation with the Court and make full use of the possibilities that the Rome Statute offers in the fight against impunity. We therefore share the view expressed in the report that a structured dialogue between the Court and the Security Council could improve the implementation of referral resolutions and enhance accountability.

Last but not least, Greece welcomes the historic activation during the reporting period of the Court's jurisdiction over the crime of aggression, which completes the regulatory framework of the Rome Statute and reinforces the prohibition and prevention of the illegal use of force in international relations, thereby help to strengthen the relevant purposes and principles of the Charter of the United Nations.

**Ms. Byrne Nason** (Ireland): Ireland associates itself with the statement made earlier by the observer of the European Union on behalf of its member States (see A/73/PV.27).

I want to take this opportunity to thank the International Criminal Court for its annual report (see A/73/334) to the United Nations and to thank its President, Judge Eboe-Osuji, for his presentation today (see A/73/PV.27), which outlines a year of significant developments in relation to many aspects of the Court's work.

This year marks the twentieth anniversary of the adoption of the Rome Statute and provides an opportunity to reflect on the achievement that is the International Criminal Court. Twenty years ago, the international community set up the first permanent International Criminal Court with jurisdiction to prosecute individuals for the most serious crimes of concern to the international community when States are unwilling or unable to do so. In so doing, we made it clear that there are certain lines that should not be crossed and that if they are crossed, there must be accountability for the perpetrators and justice for the victims. The victims must be a central focus of our concerns.

My country, Ireland, sees the International Criminal Court as the cornerstone of international

criminal justice. The annual report, outlining as it does the range of situations under examination, the various ongoing investigations and the cases being processed, demonstrates how very necessary the Court is, in our view. Over its lifetime, it has been subject to much criticism, some of which may be justified, of course, because no institution is perfect. Constructive criticism is both warranted and helpful. However, some of the harshest criticism directed at the Court is not motivated by some failure of the Court to fulfil its mandate but precisely because it is doing its duty to combat impunity for the most serious crimes of concern to the international community. Echoing the words of Simon Coveney, Ireland's Tánaiste-Deputy Prime Minister and Minister for Foreign Affairs and Trade with responsibility for Brexit, in his address to the Assembly last month (see A/73/PV.13), I want to take this opportunity today to reaffirm Ireland's continuing commitment to working to ensure that the Court can fulfil the mandate that it has been given.

This year we also witnessed a further significant and historic development whereby the Court's jurisdiction over the crime of aggression was activated as of 17 July. Ireland welcomes that important development, which sends a clear signal about the fundamental importance of the prohibition of the use of force and the overriding imperative of preserving world peace. Ireland took the step of ratifying the amendment to the Rome Statute on the crime of aggression just a few weeks ago, on 27 September.

It is always important to recall that the Court does not operate in a vacuum. It is very much a key element in the system of international criminal justice. As is clear from the annual report, the Court has a network of relationships with the United Nations, other international organizations, States and civil society. Cooperation on the part of the international community as a whole is essential for its success. In this debate, we believe that it is particularly relevant to reflect on the relationship that the Court has with the United Nations. Justice and peace are at the very core of why both organizations exist. Ireland very much shares the view that the Court and the United Nations, while clearly having differing mandates, can and should reinforce one another in fulfilling those mandates. It is encouraging to see a reference in paragraph 65 of the report to ongoing cooperation between the United Nations and the Court, including crucial support for

the Court on the part of the United Nations senior leadership, up to and including the Secretary-General.

The report also references the importance of cooperation between the Court and the Security Council. Ireland was pleased that on 6 July the States parties to the Court serving on the Security Council, led by the Netherlands, convened an Arria Formula meeting to discuss relations between the Court and the Council. Many helpful suggestions were put forward at that meeting about how to strengthen the interaction and cooperation between the Security Council and the Court, and we believe they deserve further consideration. In particular, Ireland would welcome the further exploration of possible mechanisms to improve the support that the Council can provide to the Court in relation to the Court's work on situations referred to it by the Council pursuant to Chapter VII of the Charter of the United Nations.

A key issue that the Security Council should address is cases of non-cooperation by States in relation to such referrals. Fifteen such cases have been referred to it, with no substantive response, according to the report. Furthermore, we believe that the Court must receive adequate financial support when situations are referred to it. Those issues are undoubtedly challenging, but it is necessary to address them so as to enable the Court to do what the Council mandates it to do when referring such situations to it — delivering justice in situations of grave concern with a potential to destabilize international peace and security.

I also take this opportunity to reiterate Ireland's firm view that there must be unity of purpose within the international community in prosecuting mass crimes through the international criminal justice system. There should be consistency in the referral of situations to the Court. Ireland supports the reform of the Security Council veto power and believes that at a minimum, the use of the veto must be restricted in accordance with the French-Mexican initiative and the cross-regional Accountability, Coherence and Transparency group's code of conduct regarding Security Council action on genocide, crimes against humanity and war crimes.

I also want to highlight the emphasis given to victims by the Rome Statute. One of the welcome innovations in the Statute was the manner in which that document sought to address the needs of victims. One of those innovations was the establishment of the Trust Fund for Victims. The focus of the Trust Fund's critically

important work is to deliver tangible reparative justice to victims and their families and communities. It is important to remember that the Trust Fund depends on voluntary contributions for its work and that without active support from States parties, its vital work would stall. Ireland is, therefore, pleased to make a regular annual contribution to the Trust Fund, and this year we have increased our contribution. Also, as members will see in the annual report, in February Ireland undertook a joint initiative with the Trust Fund and conducted a monitoring mission in northern Uganda. The purpose of the mission was to assess the impact of the Trust Fund's work and promote it. The President of the Assembly of States Parties and representatives of 10 States parties took part in that mission. We firmly believe that delivering on real and effective reparative justice is critical to the implementation of the Rome Statute. We echo the Trust Fund's call to States parties and others to consider making new and increased contributions.

In conclusion, Ireland, like others, is fully aware that, in order to implement the principles of the Rome Statute, it is absolutely essential that we work together. We are committed to the universality of the Rome Statute. The greater the reach of the International Criminal Court, the greater the chance that the core principles underlying the Statute will be respected. We encourage all States that have not yet done so to consider becoming party to the Statute.

**Mr. Bermúdez Álvarez** (Uruguay) (*spoke in Spanish*): The delegation of Uruguay is grateful for the full report on the activities of the International Criminal Court covering the period from 1 August 2017 to 31 July 2018 (see A/73/334).

Important events have taken place during that period, particularly the activation of the Court's jurisdiction over the crime of aggression by the Assembly of States Parties, which met in December 2017. The jurisdiction entered into force on 17 July, which coincided with the twentieth anniversary of the Rome Statute. That activation of the Court's jurisdiction over the crime of aggression is a cause for celebration, as it is a victory for the ideal of justice and law. Despite the opposition of several States, which had no legal grounds, consensus was finally reached.

Despite its shortcomings and the need for improvement, we need an independent Court for prosecuting the most atrocious crimes, detailed in article 5 of the Rome Statute. The International Criminal Court

has been a milestone in the international community's struggle against impunity and the most serious crimes against human beings and their integrity and rights. It was made possible because we prioritized international human rights law and international humanitarian law with a focus on the victims of such crimes.

Attacks on women and children, slavery and the use and recruitment of children, for example, are some of the cases that may now be subject to the Court's judgment. Uruguay has always prioritized the defence of human rights, both domestically and internationally. That is why we helped to set up the Court and were part of the negotiation process that led to its establishment. We were one of the first countries to ratify the Rome Statute, through our adoption in 2006 of Law No. 18026, on cooperation with the International Criminal Court. We were also the first country in Latin America to ratify the Kampala amendments, in September 2013. The importance of the Court and its mission impels us to support any action aimed at improving its operation. We would like to remind the States parties to the Rome Statute of the need to cooperate with the Court to ensure its ability to fulfil its mandate. We also believe that it is important to raise awareness about the importance of the Court and therefore about the importance of States acceding to the Rome Statute by ratifying the Statute and its amendments.

Uruguay believes that cooperation between States and the International Criminal Court is essential if the Court is to achieve its objectives and enable us to put an end to impunity for perpetrators of the cruel acts detailed in the Rome Statute. We must bear in mind the work, independence and impartiality of the judges, which applies to the Court as a whole, and the difficult work that they do in carrying out their duties.

For Uruguay, combating crimes against humanity, war crimes, genocide and crimes of aggression perpetrated against the rights of men, women, children and groups is vital. It is important, above all, in the current difficult context when there is a lack of cooperation on maintaining maximum support for the Court's work, which is essential if we wish to ensure that human rights, human dignity and the rule of law are respected at the international level.

**Mr. Arriola Ramírez** (Paraguay) (*spoke in Spanish*): The delegation of the Republic of Paraguay thanks the President of the International Criminal Court, Judge Eboe-Osuji, for presenting the annual

report of the Court (see A/73/334) and commends the Court and the Office of the Prosecutor for their work in the period from 2017 to 2018.

The delegation of Paraguay is a sponsor of draft resolution A/73/L.8, which is under consideration by the General Assembly today.

For Paraguay, the establishment of an International Criminal Court was a very important milestone in the history of humankind, as the international community sought to address and overcome impunity for the most atrocious crimes, ensure justice and reparations for victims of international crimes within the framework of international law, and realize the purposes and principles of the Charter of the United Nations. Paraguay reaffirms its commitment to international criminal justice and advocates the universalization of the Rome Statute, to which it is a party, and of the Kampala amendments, which are currently under legislative review by our National Congress, a procedure required by our Constitution prior to their approval and ratification.

In its Constitution, Paraguay acknowledges international law and is governed by the principles that flow from it. We acknowledge a supranational legal order that among other things provides guarantees for human rights, and we prohibit and declare genocide, torture, the forced disappearance of persons and kidnapping and homicide for political reasons to be crimes that are not subject to any statute of limitations.

The law regarding the national implementation of the Rome Statute categorizes and establishes a gradation of penalties for genocide, crimes against humanity and war crimes, distinguishes between national and universal jurisdiction, and specifies the limitations of national jurisdiction, which are provisions that are complemented by general criminal legislation.

Through their jurisprudence, Paraguay's courts have also implemented the principle of universal jurisdiction. One notable example is Judgment No. 195/2008 of the Supreme Court of Justice of the Republic of Paraguay, which established the irrevocability of horrendous and repudiated crimes, such as torture, thereby enshrining a high standard of protection of human rights and reaffirming that violations of fundamental human rights must not go unpunished.

The Republic of Paraguay offers a legal framework that concerts with international criminal justice, and



since 2003 we have extended a standing invitation to international organizations that wish to observe the efforts undertaken in Paraguay by Government agencies and civil-society organizations in relation to the promotion of human rights.

Paraguay considers that in its exercise of universal jurisdiction and under the principle of complementarity, in situations of serious and systematic violations against humanity, the Court may represent a light of hope and justice for a people oppressed by authoritarian regimes, by holding those responsible for such violations to account before international criminal justice. Paraguay therefore calls on all States, regardless of their status as parties to the Rome Statute and its amendments, and on all actors in the international community, to cooperate with the International Criminal Court so as to ensure its independence and impartiality, facilitate its investigations and execute its decisions, with a view to trying the defendants, with full respect for their fundamental human rights, thereby bringing to account those who have committed heinous crimes and securing reparations to their victims.

Finally, Paraguay strives to bring together other existing institutions and mechanisms for the realization of international criminal justice with the International Criminal Court. We trust in the efforts of international, global, regional and subregional bodies to monitor human rights situations around the world and document possible cases of atrocity crimes. We emphasize the importance of optimizing the cooperative relations between the International Criminal Court and the Security Council in the follow-up to the cases referred by the Council to the Court and in the execution of the Court's decisions by the Council. We believe that the discussion of issues of mutual interest by the two bodies, and in particular with regard to the relevance of the work of the Council's Sanctions Committees to the enforcement of the Court's decisions, will be productive to that end. We also appreciate the work of non-governmental organizations, civil society and academia aimed at achieving the universalization of the Rome Statute and its amendments and at raising awareness of the virtues of the multilateral system of international criminal justice.

**Mr. Imnadze** (Georgia): Georgia aligns itself with the statement made earlier by the observer of the European Union (see A/73/PV.27), and in addition, I would like to make a few remarks in my national capacity.

At the outset, I would like to thank the President of the International Criminal Court (ICC), Judge Eboe-Osuji, for his comprehensive presentation, and we welcome the report of the Court (see A/73/334). The strengthening of universality and cooperation with the Court are key factors enabling the ICC to work effectively to end impunity for the perpetrators of the most egregious crimes that threaten international peace, security and well-being. We believe that the role of the ICC is to complement rather than replace existing national judicial systems. The primary responsibility for investigating and prosecuting crimes still remains with individual States.

As we mark the twentieth anniversary of the adoption of the Rome Statute, the international community must take a collective stance on the fight against impunity. We welcome the milestone achievement represented by the activation of the Court's jurisdiction over the crime of aggression on 17 July of this year, the Day of International Criminal Justice. In the volatile world we all live in, it is vital that we all unequivocally support the international justice system. The Rome Statute essentially created a permanent and global institution that embodies the Nuremberg principles aimed at fighting impunity and preventing the most heinous crimes. It is time to reflect on the challenges, take stock of the achievements and unite in echoing the call of "Never again".

Since the ratification of the Rome Statute in 2003, Georgia has been cooperating effectively with the International Criminal Court. As an enabling factor in our fully fledged cooperation with the ICC, we have put in place legislation to implement the Statute at the national level. Furthermore, in December 2017 an ICC field office was opened in Georgia to support various organs of the Court and cooperate with stakeholders on the ground and relevant United Nations agencies. In that connection, I would like to underline that just a few days ago Georgia hosted a high-level regional ICC conference designed to promote and enhance cooperation between the Court and countries from Eastern Europe and Western Asia.

In conclusion, let me stress Georgia's support for the recommendations in the current report of the Court regarding the necessity of investigating crimes committed in Georgia during the Russian aggression of 2008, and in that context, we support the Prosecutor's call on the Russian Federation to cooperate with the Court on its investigations. I want to once again

reiterate my country's unwavering support for the ICC as an important tool in the international community's fight against impunity and a significant contribution to the maintenance of peaceful societies.

**Ms. Stresiná** (Romania): We would like to thank the President of the International Criminal Court (ICC), Judge Eboe-Osuji, for his eloquent presentation of the Court's annual report (see A/73/334).

Romania aligns itself with the statement delivered this morning by the observer of the European Union (see A/73/PV.27).

Twenty years ago, more than 120 States made a collective commitment to ending impunity for the most serious crimes. The adoption of the Rome Statute changed the paradigm of international criminal justice, sending a strong signal that perpetrators of such horrific crimes can and must be held accountable.

This year's anniversary offered us a good opportunity to reflect on the achievements and the lessons learned in the functioning of the world's only permanent international criminal judicial institution. The ICC has made significant progress in developing itself further. With active cases that are in all stages of proceedings, the Court has developed its own body of jurisprudence, including standards that may set benchmarks for the future. In that context, we should underscore its contribution to the establishment of sexual violence in conflict and the destruction of cultural heritage and property as international crimes.

The growing deterrent effect of the ICC is increasingly evident. The investigation of mass crimes is now the expected norm, and the input of the Court to that end cannot be ignored. The harsher tone of its critics is merely a reflection of its relevance. As an independent body working in a tense political landscape, the resolve of the Court should not be affected by volatile relationships with States and the implicit challenges of securing cooperation and resources.

While we have confidence in the non-discriminatory application of the relevant criteria in selecting cases and situations, the Prosecutor's role is extremely difficult and unavoidably prone to controversy. However, it is up to the Court to ensure fair proceedings so as to protect the credibility and effectiveness of the ICC. From that point of view, we would like to salute the ongoing efforts of the Court to implement the necessary reforms aimed at improving its effectiveness.

At the same time, we would like to emphasize the victim-centred approach to criminal justice as one of the innovations brought in by the ICC. We therefore further encourage the Court and States to focus on the components of victim participation and effective representation by tackling existing challenges in that field. Victims' confidence in the Court will remain a strong indicator of its legitimacy.

The ICC is not free of problems. It is obviously important to discuss the various concerns about its performance constructively. However, any criticism should take into consideration the limitations imposed by the Court's treaty-bound competence, its reliance on State support and its external financial constraints. From that point of view, we should remind ourselves that the ICC is an essential piece of the Rome Statute system, but not the only one. It is a court of last resort that was not meant to, and cannot, solve every international crime committed in this world. The strength of the system should actually rest on the work of the national courts, which serve as the first line of accountability for the most egregious crimes.

As a co-focal point for this topic since 2017, Romania strongly supports the implementation of the complementarity principle, which represents the cornerstone of the ICC machinery. Our aim for the long run should be to reduce the number of cases submitted to the Court as more Member States are willing and able to investigate and prosecute crimes within their jurisdictions. We therefore echo the Court in its plea to the relevant actors to include capacity-building elements for judicial reform in assistance programmes devoted to the development of the rule of law.

Furthermore, we must be constantly aware that the Court depends on State cooperation in order to function effectively. In that context, we would like to reiterate Romania's support for the Court and add our voice to the calls for enhanced cooperation between States parties and the ICC, in accordance with the obligations set forth in the Rome Statute.

The potential for improving relations between the Security Council and the Court in support of dealing better with the gravest crimes that threaten international peace and security remains unaddressed. After the Arria Formula meeting of the Council in July this year, we encourage the continuation of a more structured and action-oriented dialogue on the matter.

Romania welcomes last year's historic consensus decision to activate the Court's jurisdiction over the crime of aggression, which reinforces the prohibition of the illegal use of force as enshrined in the Charter of the United Nations. While we can continue the discussion about potentially burdening the ICC with more expectations, in our view the main added value of that decision lies, in its symbolic power, by forcing both policymakers and citizens to focus on the question of the legality of wars, and more specifically, on the responsibility of individuals for them.

In conclusion, Romania shares the view that the adoption of the ICC Statute constitutes one of the most important achievements in the fight against impunity. Achieving the universality of the Rome Statute would be a powerful tool for preventing violations of international criminal law and, at the same time, a significant contribution to establishing lasting peace and healthier societies, in accordance with the core principles and values of the United Nations.

**Mr. Escalante Hasbún** (El Salvador) (*spoke in Spanish*): We would like to begin, as every other speaker has done, by thanking the President of the International Criminal Court (ICC), Judge Eboe-Osuji, for his briefing on the report of the Court (see A/73/334), which details the conduct of both administrative and judicial activities and has been transmitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and paragraph 28 of resolution 72/3.

My delegation welcomes the commemoration on 17 July of the twentieth anniversary of the Court's founding treaty, the Rome Statute, and we stress the importance of the Court's mandate for the international community, as well as the need to strengthen the international criminal justice system.

We were pleased to read that in the past year the International Criminal Court has continued to maintain a heavy workload with the issuance of new warrants of arrest against two persons, the continuation of three trials and the delivery of final judgments in two cases before the Appeals Chamber, as well as a number of important decisions on reparations to victims, a focus of the Court's activities that represents one of its greatest strengths. In addition, the Prosecutor opened a new investigation, and there are 10 other situations that remain open.

In that regard, while we are aware that in recent years the International Criminal Court has achieved a lot, we also recognize that much remains to be done. The road ahead is full of challenges and opportunities for the Court's efforts to prosecute serious human rights violations and bring to justice those who have committed crimes under the Rome Statute. It also serves as a deterrent to those crimes.

In view of the above, our country calls on States to ratify the Kampala amendments, and we especially welcome the activation in July of the Court's jurisdiction over the crime of aggression, in line with the decision adopted by the Assembly of States Parties in New York in December 2017. That step reinforces the jurisdiction and competence of the International Criminal Court.

As part of our commitment to the international community and the International Criminal Court to strengthening the Court's normative and operational structure, we have initiated domestic efforts under our national legislation to ratify the Agreement on the Privileges and Immunities of the International Criminal Court as soon as possible, as we are convinced that such an instrument will facilitate its fulfilment of its purposes as well as its functions.

Finally, I want to conclude by reiterating my country's deep support and commitment to the work of the International Criminal Court, and we urge those who have not yet ratified the Rome Statute and its amendments to do so, with a view to ensuring the full universality of the Statute in the near future and promoting justice and accountability at the global level.

**Mr. García Moritán** (Argentina) (*spoke in Spanish*): At the outset, I would like to congratulate Judge Chile Eboe-Osuji on his election as President of the International Criminal Court (ICC) and thank him for presenting his report (see A/73/334) on the activities of the Court over the past year.

I would also like to express our gratitude for the presentation of the reports of the Secretary-General (A/73/333 and A/73/335) on the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court and on the expenses incurred and reimbursements received in connection with the assistance provided to the International Criminal Court. Argentina also supports the adoption of this year's draft resolution (A/73/L.8) on the report of the International Criminal Court, which coincides with the presentation of

the report by its President and today's debate on the agenda item.

In its remarkable activity since the presentation of the previous report (see A/72/PV.36), the Court has once again demonstrated that it is in fact a fundamental tool in the fight against impunity, the promotion of human rights and the consolidation of the rule of law at the international level.

Within the framework of the twentieth anniversary of the Rome Statute, Argentina renews its ongoing commitment to the Court by remaining actively involved in the mechanisms envisaged by the Assembly of States Parties and through its support for the goal of achieving the universality of the Statute.

Argentina has demonstrated its support in various ways, but we are particularly proud to have been the first State party to conclude the four cooperation agreements suggested by the Court. Similarly, Argentina has also ratified the Kampala amendments on the crime of aggression and therefore welcomes the activation of the Court's jurisdiction over that crime. That activation completes the legal edifice that is the Court, reaffirming the prevalence of law and justice over the use of force in international relations.

I would now like to discuss the relationship between the Court and the United Nations. The relationship between our Organization and the Court is crucial, while it must always respect the judicial independence of the Court. In that context, we reiterate some of the concerns that Argentina has regarding the referral of situations by the Security Council to the Court, particularly in terms of their financial cost. That cost has so far been borne exclusively by States parties to the Statute of the Court, despite the clear rules contained in the Rome Statute and the Relationship Agreement between the International Criminal Court and the United Nations, which state that the costs of such referrals must be borne by the United Nations.

The fight against impunity is an objective shared by the States parties to the Rome Statute and the United Nations, but that objective must be accompanied by a commitment to providing the Court with the resources necessary to fulfil its functions. Lack of action in that regard could jeopardize the sustainability of the Court's investigations and damage the Organization's credibility. We also believe that there is scope for a closer and better relationship between the Court and the Security Council, especially with regard to the

work of its subsidiary bodies, such as the Sanctions Committees and the Working Group on Children and Armed Conflict.

In conclusion, Argentina wants to emphasize the International Criminal Court's contribution to the objectives of this Organization in its fight against impunity for the most serious crimes of international concern. Indeed, the Court's contribution to the configuration of a multilateral system that aims to promote respect for human rights and achieve a lasting peace, in accordance with international law and the purposes and principles of the Charter of the United Nations, is unquestionable.

The suffering of the victims of the most atrocious crimes is humankind's greatest shame. We cannot allow this century to pass without providing concrete responses to those violations. That will enable us to work together to build a more just world under the primacy of international law.

**Mr. Islam** (Bangladesh): Bangladesh thanks the President of the International Criminal Court (ICC) for his comprehensive report with its valuable insights (see A/73/334). We commend his observations concerning the standing of the ICC vis-à-vis national sovereignty, a relationship worthy of the attention of all Member States.

Bangladesh is pleased once again to be a sponsor of draft resolution A/73/L.8, entitled "Report of the International Criminal Court". We have taken due note of the updates on the judicial and prosecutorial activities of the Court, as well as on the status of preliminary examinations.

During the reporting period, we followed the ruling by the Pre-trial Chamber of the ICC on the issue of the forced deportation of the Rohingya population from Myanmar's Rakhine state to Bangladesh with particular interest, in our capacity as a State party to the Rome Statute. We acknowledge the sua moto initiative by the Office of the Prosecutor to seek the Pre-trial Chamber's ruling in that regard, especially at a time when the Court itself faces challenges on multiple fronts. Bangladesh considered it a solemn responsibility as a State party to respond to the letter sent by the Pre-trial Chamber within the set deadline. Against the backdrop of our bilateral efforts with Myanmar to ensure the safe, dignified and sustainable return of the Rohingya people to Rakhine state, we consider the Pre-trial Chamber's



ruling concerning the possible denial of their right to return to be an important development.

Bangladesh will continue to cooperate with the Court in the wake of the Pre-trial Chamber's ruling, while we want to underscore the need for ensuring accountability for the entire spectrum of atrocity crimes committed against the Rohingya by the Myanmar security forces and the non-State actors concerned. In that context, we recall the responsibility of the Security Council in the face of the authoritative evidence of the gravest crimes under international law committed against the Rohingya, which has been furnished by the United Nations Independent International Fact-finding Mission on Myanmar. We acknowledge the Human Rights Council's decision to act on the Fact-finding Mission's report (A/HRC/39/64) and to establish an ongoing independent mechanism to collate, analyse and preserve evidence for facilitating the prosecution of crimes through the appropriate national or international judicial mechanisms. It is crucial to the restoration of confidence among the forcibly displaced Rohingya with regard to the prospects for their voluntary return that the atrocity crimes that they have been subjected to are duly accounted for and the perpetrators brought to justice.

Bangladesh welcomes the decision by the Assembly of State Parties to activate the Court's jurisdiction over the crime of aggression as of 17 July. We also support the three amendments to article 8 of the Rome Statute and take note of further proposals brought before the Working Group on Amendments.

We stress that the cooperation, assistance and support of State parties to the Rome Statute, as well as other States, remain critical to ensuring that the mandate of the ICC is discharged in a sustained and meaningful manner. We reiterate the importance of recognizing the Court's mandate and competence throughout the United Nations system with a view to acknowledging its valuable contribution to international peace and security, the rule of law and the creation of peaceful, just and inclusive societies. We take positive note of the collaboration pursued between UNESCO and the Office of the Prosecutor to protect cultural heritage from attack during armed conflicts.

We underscore the need for the Security Council's continued support for the effective functioning of the Court, including in the cases referred to it by the Council. There is clear merit in the suggestion for

a structured dialogue between the Council and the Court on issues of mutual interest, notably in relation to States' non-cooperation, sanctions, travel bans and asset freezes. For our part, we shall continue to extend all necessary cooperation to the Court in mission areas where our peacekeepers and military observers are deployed.

Bangladesh reaffirms the primary responsibility of national jurisdictions to investigate and prosecute the crimes defined in the Rome Statute. We fully endorse the recommendation for the possible inclusion of issues related to the Rome Statute in legal and judicial reform programmes supported by the United Nations in the context of development assistance for the rule of law. That would be particularly crucial for States that are not party to the Rome Statute.

As a State party, Bangladesh remains committed to promoting the universality and full implementation of the Rome Statute. We would hope that the twentieth anniversary of the adoption of the Rome Statute, which was observed last year, will help create the necessary impetus for the eventual universalization of the Statute. ICC cooperation seminars and other cooperation arrangements with relevant international and regional organizations should also contribute to the universalization agenda.

Bangladesh underscores the need for appropriate capacity-building support for the national jurisdictions of States parties, pursuant to the principle of complementarity. In that context, we reiterate the importance of considering budgetary support for internships and visiting professional programmes for applicants from States parties representing the developing and least-developed countries. We have circulated a working paper on that subject for favourable consideration by all States parties and the Court. We reiterate that due attention must be given to ensuring the equitable geographical representation of the staff at the Court, especially at the professional level.

We consider it important to enhance voluntary contributions to the Trust Fund for Victims so that the Court can deliver on its reparations and assistance mandates. As the designated facilitator, Bangladesh is making efforts to engage with the States parties concerned to settle their outstanding arrears. We also look forward to discharging our responsibilities as a member of the ICC Bureau during the next two-year period.

In conclusion, we want to emphasize the importance of upholding solidarity among States parties, as well as the integrity and credibility of the ICC as a court of last resort, in the overarching interest of fighting impunity for the gravest crimes under international law that are under its jurisdiction.

**Ms. Roopnarine** (Trinidad and Tobago): Trinidad and Tobago is grateful to the Secretary-General for the annual report of the International Criminal Court (ICC) contained in document A/73/334 and supporting documents on the activities of the Court in 2017 and 2018. We view those documents as important instruments that convey essential information on the activities of the Court to the wider membership of the United Nations as well as States parties. We also want to take this opportunity to congratulate the President of the ICC, Judge Chile Eboe-Osuji, on his presentation of the report.

Trinidad and Tobago was a participant in the trenches during the genesis of the Rome Statute, through the work of our late former Prime Minister and subsequent President of the Republic of Trinidad and Tobago. We are therefore pleased to join others in celebrating the twentieth anniversary of the founding document of the ICC. The praise of the international community is well placed and well merited.

We submit that the ICC is both an international guardian and guarantor of the rule of law. Indeed, Trinidad and Tobago's unwavering commitment to the ICC is informed by its recognition of the importance of ending impunity for perpetrators of the most serious crimes of concern to the international community as outlined in article 5 of the Rome Statute, that is, the crime of genocide, crimes against humanity, war crimes and crimes of aggression.

We welcome the activation of the Court's jurisdiction over the crime of aggression as of 17 July. Trinidad and Tobago ratified the amendments concerning the crime of aggression in November 2012, following the Review Conference of the Rome Statute in Kampala in 2010. We view that development as a means to ensure that the Court is able to exercise wider jurisdiction, including over crimes of aggression, thereby preventing impunity.

Notwithstanding the many challenges facing the Court, it cannot be denied that the ICC continues to be a beacon of hope to the victims of grave crimes within its jurisdiction who are seeking justice. They include the most vulnerable, such as thousands of women and

children, who are often the ones most affected by the actions of criminals who show blatant disregard for the sanctity of human life by violating international humanitarian and human rights law.

We nonetheless remain deeply concerned about the recent withdrawals and notifications of withdrawal from the Rome Statute, as highlighted in the current report. While respecting the sovereign right of States to act as they deem appropriate, Trinidad and Tobago is of the view that engagement, not disengagement, should be the prevailing approach to the ICC.

We recognize that the ICC has been perceived by some as a threat to national sovereignty. However, we want to demystify that notion and remind Member States that consistent with the principle of complementarity as enshrined in the Rome Statute, the Court's jurisdiction is invoked only when States are unable or unwilling to prosecute those alleged to have committed grave crimes. No individual or State need fear the ICC, therefore, as it is a court of last resort.

Trinidad and Tobago reaffirms that the success of the Court is fundamentally linked to the universality of the Rome Statute. To that end, we reiterate our commitment to promoting the universality of the Rome Statute, and we urge all States that have not yet done so to ratify and fully implement it.

Pursuant to the provisions of the Relationship Agreement, which provides for close cooperation between the Court and the United Nations in discharging their respective responsibilities, we are satisfied that during the current reporting period, the United Nations cooperated extensively with the Court with a view to further strengthening the relationship and ensuring the effective implementation of the Agreement. In accordance with the report of the Secretary-General on this item, we would like to recall that the capacity of the Security Council to refer a situation to the Court is crucial to our efforts to promote accountability, but active follow-up on referrals, ensuring that there will be cooperation, is necessary in order to ensure that justice is delivered. We therefore welcome the dialogue on 6 July between the States parties to the Court that are members of the Council through the convening of an Arria Formula meeting, the first of that nature.

Finally, Trinidad and Tobago commends the efforts of the Court to ensure that justice can prevail and that criminals are not allowed to continue their actions with impunity. We remain satisfied with the steadfast

commitment and hard work on the part of the Court's Prosecutor, who continues to discharge her mandate in line with the provisions of the Rome Statute of the ICC.

**Mr. Suan** (Myanmar): Paragraphs 43 and 44 of the report of the International Criminal Court (ICC) (see A/73/334) mention the Prosecutor's submission of a request for a ruling of the Pre-trial Chamber as to whether the Court might exercise jurisdiction on the alleged deportation of the so-called Rohingya from Myanmar to Bangladesh. Consequently, on 6 September, Pre-trial Chamber I ruled by a majority decision that the Court may exercise jurisdiction over Myanmar.

Myanmar resolutely rejects that decision, which results from faulty procedure and is of dubious legal merit. I would like to reiterate my Government's position that since Myanmar is not a party to the Rome Statute, it is under no obligation to respect the findings of the Court. The decision was the result of manifest bad faith, procedural irregularities and a general lack of transparency. Permission was given to organizations to file *amicus curiae* submissions without consideration of their identity or of the beneficial scope of their proposed contributions. Several of the briefs submitted did not address legal issues, in fact. Furthermore, allegations consisting of emotionally charged narratives of harrowing personal tragedies, which have nothing to do with the legal arguments in question, were permitted, putting emotional pressure on the Court. Submissions of observations by those groups had the intended effect of placing the Court in an emotional bind.

The Prosecutor incorrectly applied article 19 (3) of the Statute in her request for a ruling from the Court on jurisdiction at a time when the Court was not properly seized of the matter. In that respect, Judge Marc Perrin de Brichambaut shared his view that articles 19 (3) and 119 (1) of the Rome Statute are inapplicable and that the competence-competence doctrine cannot serve as an alternative basis for the Chamber to provide a ruling. Myanmar also disagrees with the Prosecutor's assertion that population displacement across a national boundary is an essential objective element of the crime of deportation, as set out in article 7 (1) (d) of the Statute.

Furthermore, there is no organizational policy of the kind required for proving crimes against humanity under the Rome Statute. Such a policy would be hard to reconcile with the repatriation agreement signed between Myanmar and Bangladesh in November 2017,

whereby both countries agreed on a short time frame for the voluntary return of all those who fled Rakhine state as a result of hostilities in the region. Myanmar and Bangladesh also signed the terms of reference for the joint working group and the physical arrangement for the repatriation of displaced Myanmar residents from Bangladesh. All of those bilateral agreements are aimed at facilitating the repatriation of verified residents of Rakhine state who crossed over to Bangladesh following the Arakan Rohingya Salvation Army terrorist attacks in October 2016 and August 2017. There was no cap on the number to be repatriated, and the process was intended to begin on 23 January 2018.

Moreover, the Myanmar Government also signed a memorandum of understanding with the United Nations Development Programme and the Office of the United Nations High Commissioner for Refugees on 6 June 2018. The memorandum seeks United Nations participation in coordinating and harmonizing humanitarian and development action in Rakhine state and in assisting the Government of Myanmar in the voluntary, safe and dignified return of displaced persons from Rakhine state who have been duly verified as residents of Myanmar, in line with the physical arrangement. In accordance with the memorandum of understanding, the United Nations team has already completed the first phase of its field assessment in 23 villages in northern Rakhine. It is now undertaking the second phase of the field assessment in an additional 26 villages.

The Government of Myanmar is aware of accusations regarding human rights violations in the aftermath of the August 2017 terrorist attacks. In line with the Government's commitment to the rule of law, an Independent Commission of Inquiry was established on 30 July. The Commission consists of two prominent international personalities and two national members. The Commission will investigate allegations of human rights violations and related issues following the terror attacks by the Arakan Rohingya Salvation Army. The Government of Myanmar is committed to taking necessary action based on the Commission's findings. We are willing and able to take on the accountability issues for any alleged human rights violation where there is sufficient evidence.

The Government of Myanmar is now undertaking in earnest the preparation of the necessary conditions that would be conducive to the safe, voluntary and dignified repatriation of the people who fled to Bangladesh. In accordance with the bilateral agreements and

arrangements concluded with Bangladesh, Myanmar has been ready to receive the first batch of verified returnees since January.

During the high-level week of the current session of the General Assembly, an informal meeting was held between China, Myanmar and Bangladesh with the presence of the Secretary-General, Mr. Guterres. It reached a three-point consensus on resolving the issue of displaced persons in a friendly and expeditious manner. As a result, a third meeting of the Joint Working Group will be held on 29 and 30 October in Dhaka to work out detailed arrangements for the first repatriation as soon as possible. I can assure the Assembly that the first group of verified displaced persons will be able to return to Rakhine state very soon.

The Court's overextended application of jurisdiction challenges the fundamental principle of legal certainty and is contrary to the accepted principles of public international law. It has created a dangerous precedent and erodes the moral authority of the Court. Nowhere in the Rome Statute of the International Criminal Court (ICC) does it say that the Court has jurisdiction over States that have not accepted that jurisdiction. Furthermore, the 1969 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations states that no treaty can be imposed on a country that has not ratified it. What the Prosecutor is attempting to do is to override the principles of national sovereignty and non-interference in the internal affairs of other States, contrary to the principles enshrined in the Charter of the United Nations and recalled in the preamble to the Rome Statute. I would also like to state that we strongly deplore and reject attempts made by some States Members of the United Nations to refer this case involving Myanmar to the ICC. We will never recognize discriminatory, selective, biased, politically motivated and illegitimate ICC jurisdiction over Myanmar.

Finally, my delegation dissociates itself from the draft resolution (A/73/L.8) to be adopted this afternoon.

**Mr. Hwang Woo Jin** (Republic of Korea): At the outset, I would like to express my sincere appreciation to the President of the International Criminal Court (ICC), Judge Eboe-Osuji, for his comprehensive presentation of the report (see A/73/334). My delegation also commends the joint efforts by the presidency, the Chambers, the Office of the Prosecutor and the Registry

to help end impunity for perpetrators of the most serious crimes of concern to the international community.

After the successful ceremony this past summer celebrating the twentieth anniversary of the adoption of the Rome Statute, now is the time for the United Nations and the International Criminal Court to work more closely together and to reassert the relevance and importance of international criminal justice in securing the rule of law and international peace and security.

We cannot overemphasize the significant role that the ICC has played in sustaining the three pillars of the United Nations — peace and security, development and human rights. Securing criminal justice for the perpetrators of heinous crimes that shock the conscience of humanity is a cornerstone of the rule of law that provides a solid basis for the successful implementation of the 2030 Agenda for Sustainable Development. It is for that reason that we support the ongoing cooperation between the ICC and the United Nations at various levels, as described in the report.

While the progress that the ICC has made on its path to ending impunity is quite remarkable, it has also been facing some harsh realities on various fronts. We hope that with the help of its stakeholders, the Court will rise above those considerable challenges to firmly establish itself as a robust and reliable institution for international criminal justice.

First, as an international court, the ICC cannot sustain itself without active cooperation at each and every step from multiple stakeholders, especially States parties and the United Nations. In order to enhance cooperation with States, it is crucial that the Court also reach out to interested regions, States and relevant organizations. Since the cooperation between the ICC and the United Nations, especially the Security Council, is vital to the proper functioning of the system, it was notable that on 6 July the Security Council held an Arria Formula meeting on relations between the Council and the ICC in which both the President of the Assembly of States Parties and the Prosecutor participated as briefers.

Secondly, the success of our fight against impunity hinges not only on adequate cooperation but also on the universal application of the Rome Statute. The number of States parties to the Statute has more than doubled since its entry into force in 2002, a remarkable achievement indeed. Nevertheless, the number still falls short of two thirds of the States Members of the United Nations.



Wider participation by States in the Statute would undoubtedly lead to stronger support for the Court. And the States newly joining the ICC would be investing not only in the protection of their territories and peoples but also in the protection of future generations and the creation of a more just world. We should be aware that the ratification of the Rome Statute by a State does not equate to a concession of that State's sovereignty, given the principle of complementarity.

The Republic of Korea has been a staunch supporter of the ICC since its inception. We will continue to be an important part of the concerted efforts of the international community to establish the ICC as a responsible, universal and efficient institution working to end impunity for perpetrators of the most serious crimes against humanity. In that regard, we have full confidence in the leadership of the incumbent President of the Assembly of States Parties, Mr. O-Gon Kwon, and will continue to provide adequate assistance to him as he discharges his important duty.

Let me conclude by reiterating the Republic of Korea's strong support for the ICC.

**Mr. Ly (Senegal)** (*spoke in French*): Like other speakers before me, on behalf of my country I would like to congratulate the President of the International Criminal Court (ICC), Judge Chile Eboe-Osuji, for his election to lead that important institution. I would also like to thank him for his presentation of the report on the Court's activities (see A/73/334), which demonstrates its importance in our universal fight against impunity and for respect for the rule of law. His presentation is taking place in the context of a general erosion of the international legal order and multifaceted criticism of the ICC. But it is also taking place at a time of accountability, in which demands for justice and reparations for the wrongs suffered by victims cannot be ignored.

Senegal has always supported the path of dialogue in promoting peaceful and mutually trusting relations between States and the Court, because we believe that the fight against impunity and for the rule of law must be a universal struggle on the part of the entire international community. In that respect, we are of the view that dialogue and cooperation are the most effective ways to deal with the concerns of others and change the negative, if unjustified, perceptions of the Court. That is why we have consistently urged all States to engage in a consensual, unified and interdependent

dynamic and in a spirit of wisdom and discernment, so that the trust and enthusiasm that the peoples and leaders of the world placed in the Court when it was created 20 years ago can be restored.

We must listen to one another and constructively discuss and deal with the concerns expressed by States, all while ensuring the integrity of the Court. The Security Council must act with care and objectivity in exercising its right to refer matters to the Court, so as to avoid the perception that it is using the Court as a political tool. As for the Court, in order to avoid the risk of tarnishing its credibility, it must continue to apply the highest trial standards, respecting the rights of both the defence and the prosecution and protecting the integrity of witnesses unfailingly.

The review of the report before the General Assembly today is a convincing barometer of the first and only permanent international court in charge of prosecuting mass crimes. The Court has demonstrated remarkable resilience in the face of adversity, and it will undoubtedly prevail. Since its creation, the Court has received a total of 26 cases, involving 41 suspects or defendants, and has investigated 11 cases. During the reporting period it issued new arrest warrants for two persons, one of whom has appeared before it. It conducted three trials, rendered final judgments in two cases before the Appeals Chamber and handed down several important decisions concerning reparation for victims. Preliminary examinations by the Office of the Prosecutor, involving 11 cases around the world, as well as the opening of a new investigation, support our belief that international criminal justice is slowly but surely and irreversibly progressing on a path to universality.

Let us acknowledge that today the ICC, despite its shortcomings, remains the only recourse for victims of serious crimes when the right to justice cannot be exercised in situ. Since the Court is a complementary mechanism of last resort, it remains crucial for us to make every effort to strengthen the capacity of States to investigate and prosecute crimes committed on a large scale and to prosecute their perpetrators. When all is said and done, since the Rome Statute establishes only a court of last resort that targets neither States nor regions but rather aims to protect victims, the primary responsibility of States to investigate and try the atrocious crimes defined in the Statute remains.

Let us also acknowledge that the Court, despite its relative youth, is recognized today as a major institution

in a functioning and maturing international criminal justice system. In that respect, it deserves the support of the international community in a world where massive violations continue to strike innocent people before our eyes and where in many cases such crimes go unpunished at the State level or are even erased from people's memory.

The universal ratification of the Rome Statute and the integration of those norms into the domestic laws of States must be made a reality if we want all victims across the globe, wherever they live, to have an equal and fair chance to obtain justice, and if we want to enhance the effectiveness, legitimacy and capacity of the Court to contribute to the rule of law, justice, peace and sustainable development. All Member States should always remember that the prevention of conflicts and the pursuit of peace and effective universal justice, which is the deepest aspiration of all peoples, require that all countries around the world work together within the framework of the Rome Statute.

I would like to conclude by saying that justice for those victims must remain a priority for the international community. Our daily action should be based only on protecting those victims so that the tree of hope planted 20 years ago in Rome continues to flourish forever between the dunes of The Hague and the North Sea. May it be so.

**Mr. Ndong Mba** (Equatorial Guinea) (*spoke in Spanish*): First of all, I would like to welcome and thank the President of the International Criminal Court, Mr. Chile Eboe-Osuji, for his extensive, valuable, detailed and enlightening report on the judicial activities of the Court (see A/73/334), as well as for highlighting the many ways in which the United Nations and States have cooperated with the International Criminal Court during the period under review. I also want to congratulate him on his brilliant election to the presidency of that body.

On the whole, we note and agree that the Court has carried out actions of special relevance. In that regard we welcome the consensus decision to activate the Court's jurisdiction over the crime of aggression, as well as the continued cooperation and support of the United Nations for the Court.

As we have reiterated on many occasions in this Hall, the Republic of Equatorial Guinea supports respect for international law and international humanitarian law, which is why we commend the great

efforts by States and the United Nations, especially the Security Council, as well as the Court, in ensuring its ongoing work on holding accountable all perpetrators of war crimes, genocide and crimes against humanity, among others. We also commend the Court for its extraordinary zeal in establishing institutions and methods to combat pervasive impunity. However, we believe that if the Court is to be able to comply with its mandate, it requires strong cooperation from States parties and other States, a cooperation that is being eroded owing to the lack of credibility of the Court, which results from its failure to execute its duties effectively, honestly and transparently in several cases.

While it is true that the United Nations and the International Criminal Court are closely linked, their respective aims show that they are independent organizations with different mandates. It is therefore vital to preserve the difference between the Security Council and the International Criminal Court. Nevertheless, the international community expects both organizations to perform their functions in their respective areas of competence with objectivity, credibility and impartiality, and to avoid politicizing the Court. In that context, we are very concerned about the selectivity with which the competent institutions of the United Nations have referred lawsuits under article 16 of the Rome Statute, owing to political considerations that apparently play a major role in such referrals. That also raises questions about the independence of the International Criminal Court.

In those circumstances, we encourage the institutions of the United Nations to examine the referral of new cases to the Court in application of the possibility offered by article 13 of the Rome Statute extremely carefully. We believe that one of the important factors that should be evaluated when considering the eventual referral of a situation to the International Criminal Court is the existence or lack of legal norms and judicial institutions in the country in question, and therefore whether it will be appropriate to file an objection with the Court at a later date, based on whether the principle of complementarity has been observed.

With regard to the International Criminal Court proceedings concerning Mr. Omar Al-Bashir, President of the Sudan, we would like to point out that Equatorial Guinea adheres to all the declarations and resolutions issued by the African Union regarding the manner in which the Court has dealt with some African issues,

and especially with regard to the proceedings against the President of the Sudan. We are of the view that the Court does not have jurisdiction to indict a Head of State, since, as the symbol of national sovereignty, he enjoys full immunity. Besides that, the Court is expected to act only in countries that are party to it, unless a non-party State requests its cooperation in criminal matters and deems it necessary to cooperate with the Court.

In conclusion, we would like to urge the United Nations and the Court to devote more of their efforts to assisting and training national judicial institutions in order to achieve closer and more effective cooperation between the Court and States that request such assistance.

**The Acting President** (*spoke in Arabic*): We have heard the last speaker on this agenda item.

We shall now proceed to consider draft resolution A/73/L.8.

Before giving the floor to delegations that wish to speak in explanation of position before the adoption of the draft resolution, I would like to remind speakers that explanations are limited to 10 minutes and should be made by delegations from their seats.

**Ms. Palau-Hernandez** (United States of America): The United States recently announced a change in its policy regarding the International Criminal Court (ICC). The reasons for that change in policy have been made public, including in the speech delivered 10 September by our National Security Advisor, Mr. John Bolton, and are widely available. We will therefore not repeat them at length here.

The United States reiterates its continuing and long-standing principled objection to any assertion of ICC jurisdiction over nationals of States that are not party to the Rome Statute, including the United States and Israel, without a Security Council referral or the consent of such a State.

We also wish to reiterate our serious and fundamental concerns about the ICC Prosecutor's proposed investigation of United States personnel in the context of the conflict in Afghanistan. The United States remains a leader in the fight to end impunity and supports justice and accountability for international crimes, including war crimes, crimes against humanity and genocide. The United States respects the decisions of nations that have chosen to join the ICC, and in turn

we expect that our decision not to join and not to place our citizens under the Court's jurisdiction will also be respected. Accordingly, the United States dissociates itself from the consensus on draft resolution A/73/L.8.

**Mr. Ahmed** (Sudan) (*spoke in Arabic*): The politicization of international justice in order to attain specific goals or serve specific narrow interests does not consort with the efforts of the international community to achieve justice and remain faithful to the purposes and principles of the Charter of the United Nations. Such politicization violates established principles of international law and foments tension in international relations rather than promoting their improvement as one of the primary objectives underlying the establishment of the United Nations.

The International Criminal Court (ICC) has clearly demonstrated that it is merely a tool used in international struggles and a political instrument. That is why the Sudan reiterates its clear and steadfast position rejecting the Court and its practices, since it represents a platform that seeks to politicize international justice, target African leaders and threaten peace and stability in African countries.

My delegation reiterates the importance of combating impunity and achieving justice through national judicial bodies that are authorized and capable of exercising national competence and achieving justice. National judicial bodies are supposed to do that without foreign intervention or guardianship. My country possesses its own national judicial system capable of establishing national jurisdiction and achieving justice.

The continued attempts to turn the General Assembly into an assembly for States parties to the ICC represent a violation of the Charter and contradict established principles enshrined in international law. The Sudan reiterates its full and unequivocal refusal to deal with the Court. We are not a State party to the Rome Statute, and we have made no commitments to it. In that connection, the relevant provisions of the Vienna Convention on the Law of Treaties, international law and international customary law should be borne in mind. The continued attempts to make the General Assembly an assembly for States parties to the Court will always constitute a violation of the Charter and run counter to the principles I have mentioned.

The ICC is a separate entity that has no organic relationship with the United Nations. There are no commitments with regard to it incumbent on States

other than those assumed by parties to the Court. On that basis, the draft resolution that is about to be adopted (A/73/L.8) is of no relevance to the Sudan, and we will attach no weight to it. We dissociate ourselves from it and would like our position on it to be reflected in the meeting record.

**The Acting President** (*spoke in Arabic*): We have heard the last speaker in explanation of vote before the voting.

The Assembly will now take a decision on draft resolution A/73/L.8, entitled “Report of the International Criminal Court”.

I give the floor to the representative of the Secretariat.

**Mr. Nakano** (Department for General Assembly and Conference Management): I should like to announce that since the submission of the draft resolution, and in addition to those delegations listed in the document, the following countries have also become sponsors of A/73/L.8: Andorra, Australia, Bangladesh, Barbados, Belgium, Botswana, Bulgaria, Chile, Colombia, Croatia, the Czech Republic, El Salvador, France, Germany, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Malta, Norway, Panama, Peru, Poland, Portugal, the Republic of Korea, Saint Lucia, Samoa, San Marino, Sweden, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Vanuatu.

**The Acting President** (*spoke in Arabic*): May I take it that the General Assembly decides to adopt draft resolution A/73/L.8?

*Draft resolution A/73/L.8 was adopted (resolution 73/7).*

**The Acting President** (*spoke in Arabic*): Before giving the floor for explanations of vote after the voting, I would like to remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

**Mr. Al Arsan** (Syrian Arab Republic) (*spoke in Arabic*): At the outset, I would like to stress that my delegation dissociates itself from any consensus on resolution 73/7, which has just been adopted. The Syrian Arab Republic has been and remains opposed to suspicious and unfounded attempts by the Governments of certain Member States to expand the scope of universal jurisdiction in a distorted and illegitimate

manner, as well as those who treat the concepts of justice, accountability and the prevention of impunity in a politicized, partial and unbalanced way. Such an approach serves only to undermine State sovereignty and infringe on the mandates of national legal and judicial institutions.

Syria was one of the first countries to actively contribute to the negotiations on the Rome Statute, which established the International Criminal Court (ICC). Syria was also one of the first countries to become a signatory to the Statute. However, when we look back after all these years at the nature of the work of the ICC, we see a politicized and manipulated body that is capable of acting only against weak countries. Even the recent Kampala amendments to the Rome Statute on the crime of aggression are a dead letter. Everyone here today knows that it will be impossible to implement the amendments, because the Court’s activities are subjected to political arrangements and deals.

The representatives of certain delegations continue to insist in this Hall on cheap political exploitation of the situation in my country, Syria. They have shamelessly, hypocritically and deceitfully called for the situation in Syria to be referred to the ICC. Frankly, I find it strange that the Permanent Representative of one such State has issued a call from this very rostrum for referring the situation to the ICC. Perhaps he knows, or perhaps he does not know, that his country’s Government has signed a bilateral memorandum with another State to ensure impunity for its soldiers and officers so that they cannot be prosecuted by the ICC.

There are also certain States that continue to insist in this Hall on promoting the so-called 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. They remain responsible for limiting the mandate of the ICC to certain countries and cases and are now seeking to cover up the genuine and fundamental reasons that led various States to withdraw from the Court and its Rome Statute. While I did not want to delve into that issue or its details, some States have pushed me to do just that.

On the International, Impartial and Independent Mechanism, I would like to emphasize to the political hypocrites that the majority of Member States no longer want to hear from biased parties who attempt



to use the General Assembly to promote it. It has been demonstrated to all that it is an illegitimate entity that has been dead since its inception. It was merely the consequence of the General Assembly's adoption of a resolution without consensus, where the Assembly went beyond its specific mandates under Articles 10, 11, 12 and 22 of the Charter. The Mechanism has also grossly overstepped the Security Council's mandates as provided for in Article 12 of the Charter.

I do not want to take up the time and effort of the Assembly by focusing too much on the Mechanism. I therefore invite delegations to read the letters addressed to the Secretary-General and the President of the General Assembly submitted by our delegation and those of a number of Member States, which give conclusive proof of its significant legal defects. I would like to refer in particular to our two letters issued as documents A/71/799 and A/72/106. I once again stress to the Assembly that the parties that continue to promote the so-called Mechanism cannot refute the legal arguments that we presented against its establishment. Our legal arguments were based on the Charter and international law, not on a politically biased perspective.

In conclusion, I call on those who continue to promote the ICC to bring their words into line with their actions. They must dissociate themselves from the harsh and unbalanced political reality that the world is encountering. They should start by holding accountable the Governments of States that have supported and funded the extremist Salafi jihadi organizations that are responsible for killing tens of thousands of innocent Syrians. They should hold accountable Governments of States that were implicated in the rise and spread of the phenomenon of foreign terrorist fighters. Only then will we be able to listen to them about achieving abstract international justice not based on the law of power, political considerations and narrow interests.

**Mr. Musikhin** (Russian Federation) (*spoke in Russian*): The Russian delegation is committed to the rule of law at the international level and to combating impunity. We are adapting our national criminal legal system in response to current threats and challenges, as well as making active use of the applicable mechanisms for international cooperation on these issues, while being guided, where applicable, by the principle of extradite or prosecute.

The contribution of the current bodies of international justice to the fight against impunity are

not uniform. The International Criminal Court (ICC) is perhaps the least effective among them. We are disappointed that the text of resolution 73/7, on the report of the ICC (see A/73/PV.334), has once again been merely technically updated. First, that does not reflect the real state of affairs in and around the Court, and secondly, it does not take into account the positions of States that are not party to the Rome Statute of the ICC. There is little sense, if any, in the adoption of such a resolution.

We have repeatedly detailed our views on the activities of the ICC. Unfortunately, the past year has given grounds for an even more pessimistic assessment. Huge resources have been squandered on three convictions throughout the ICC's 16 years of existence. The Court continues to interpret the norms of international law, including on the immunity of State officials, very loosely and often unprofessionally. That has resulted in the well-known concerns of a number of States in Africa and of the African Union, which we share. It is symbolic that this year the States of that region have initiated the introduction of an item into the agenda of the General Assembly on a request for an advisory opinion from the International Court of Justice on those issues.

We are also concerned about the ICC's desire to unjustifiably expand its jurisdiction, attempting to draw into its orbit States that are not party to the Statute. That was particularly clear in the Court's approach at the beginning of the preliminary investigation of the alleged Rohingya deportations.

The reputation of the ICC is deteriorating year by year. Incidentally, in October 2017, the Office of the Prosecutor of the Court announced the launching of a full-fledged investigation by the Independent Oversight Mechanism into accusations of misconduct on the part of the Court's staff, which is alleged to have taken place during the investigation of the Libya case. It was also reported that a former Prosecutor of the ICC was embroiled in dubious schemes. However, nothing has been heard about the results of that investigation.

In sum, the Court has many problems and we will not list them all. Yet another State recently announced its withdrawal from the Rome Statute. We cannot help noting that it does not seem that the Court's activities have been able to genuinely help to stabilize situations, halt violence or alleviate the plight of civilian populations in any of the situations under its consideration. In that

regard, the outcomes of the ICC's years of work on situations referred to it by the Security Council are particularly indicative. Given the circumstances I have outlined, our delegation cannot support this technical update to the text and we dissociate ourselves from the consensus on the resolution.

**Ms. Ponce** (Philippines): The Philippines has dissociated itself from the consensus resolution 73/7. The withdrawal of the Philippines from the International Criminal Court takes effect on 17 March 2019. Our decision to withdraw is based on our principled stand against those who politicize human rights, while our country's independent and well-functioning organs and agencies continue to exercise jurisdiction over complaints, issues, problems and concerns arising from the Government's efforts to protect its people. It is true that as in all democracies, the wheels of justice grind slowly and not always exceedingly well, but they do turn. We wish that we were able to, but we cannot give assurances to well-intentioned critics that we will bypass justice so as to give plaintiffs immediate retribution. That would undermine the rule of law. We affirm our commitment to fighting impunity for atrocity crimes, despite our withdrawal from the Rome Statute, especially given that the Philippines has national legislation punishing atrocity crimes.

**Mrs. Weiss** (Israel): Israel has decided to dissociate itself from the consensus resolution 73/7, not because we do not support the noble goals for which the International Criminal Court (ICC) was founded but rather because we do. Israel was among the first supporters of the establishment of a permanent criminal institution, and we continue to believe in the critical importance of combating impunity for mass atrocities. Our position today is a way to give voice to the growing concerns that we know are shared by many, including both States that are parties and non-parties to the ICC, on the increasing gap that appears to be developing, even in the view of many of its supporters, between the original mandate of the Court and the way in which the mandate is being implemented in practice.

The ICC is a relatively young institution, and those who seek to ensure its integrity and effectiveness as a legal body have an interest in ensuring that it operates and is seen to be operating not on the basis of what may be politically popular, but on the straightforward, impartial and independent application of the terms of its own Statute. Unfortunately, too many decisions and actions emanating from the ICC have given

cause for concern in that regard. In the final analysis, the credibility, legitimacy and standing of any legal institution is earned, not given. It must be built incrementally on firm jurisdictional ground, and it is only as strong as the quality of its legal decisions, the integrity of its processes over time and the choices that it makes regarding the allocation of its time and resources.

While States parties are called on to respect the principles of independence and impartiality on which the Court was founded, we believe that the ICC's core mission is harmed rather than advanced when the international community gives it uncritical support rather than the serious review that is warranted. We urge States, especially those that are strong supporters of the Court, as well as other key stakeholders, to be sensitive to the serious concerns that are being voiced and to become partners in an effort to better align the functioning of the ICC with its founding principles and objectives.

**The Acting President** (*spoke in Arabic*): We have heard the last speaker in explanation of vote after the voting.

Several speakers have requested to speak in exercise of the right of reply. I would like to remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first statement and five minutes for the second and should be made by delegations from their seats.

**Mr. Suárez Moreno** (Bolivarian Republic of Venezuela) (*spoke in Spanish*): Today the delegation of Peru, speaking on behalf of Argentina, Canada, Chile, Colombia and Paraguay, spoke out against Venezuela without any legal basis and with the sole purpose of inflicting political damage. If today's common objective is strengthening multilateral institutions dedicated to the administration of justice, that will not be accomplished by turning the International Criminal Court into a battleground for ideological, economic and geopolitical interests in the service of a minority group of countries. The International Criminal Court already has enough enemies who have publicly declared their intention to weaken its international prestige, integrity and autonomy. The last thing we need is the work of a new, now covert group of enemies of the Court trying to convert it into a tool for carrying out aggression against third countries. They are not strengthening the Court that way but rather destroying it.

We call on the international community to reject all manipulations that masquerade as expressions of concern about justice but that are actually coordinated political aggression without a basis in reality. They are in violation of international law and run counter to the spirit and purpose of the International Criminal Court.

Venezuela reiterates its support for the International Criminal Court and its independence, integrity and transparency with a view to ensuring that those responsible for the most serious crimes are brought to justice. Finally, we call on the Member States of the United Nations to adhere strictly to the principles enshrined in the Charter of the United Nations and the rules of international law.

**Mr. Islam** (Bangladesh): I am exercising the right of reply in reference to the statement made by the representative of Myanmar.

The Pre-Trial Chamber's ruling in the International Criminal Court (ICC) confirms the jurisdiction of the Court over the forced deportation from Myanmar to Bangladesh, which is a State party to the Rome Statute. The Myanmar delegation appears to have conflated the issue of jurisdiction. We do not agree that the issue

of accountability would be hard to reconcile with the bilateral agreements between Bangladesh and Myanmar on the question of the safe, dignified and voluntary return of the Rohingya. We have always maintained that accountability is a critical aspect in restoring confidence among the Rohingya for their return.

Bangladesh remains committed to working together with Myanmar and any interested Member States in facilitating the Rohingya repatriation. We expect Myanmar to initiate the necessary national judicial mechanisms to prosecute the gravest crimes under international law, including those committed against the Rohingya. However, in the face of the repeated unwillingness of the State concerned to do so, the international community has a responsibility to take action against impunity. In that regard, the ICC's role as the court of last resort can in no way be discounted.

**The Acting President** (*spoke in Arabic*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 77?

*It was so decided.*

*The meeting rose at 6.15 p.m.*