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Official Records

President: Mr. Shahid (Maldives)

The meeting was called to order at 10.05 a.m.

Agenda item 77

Report of the International Criminal Court

Note by the Secretary-General (A/76/293)

Reports of the Secretary-General (A/76/291 and A/76/292)

Draft resolution (A/76/L.7)

The President: More than 22 years ago, the international community united to deliver justice for victims of grave crimes, end impunity for the perpetrators of such crimes and prevent their future occurrence. Those global efforts culminated in the Rome Statute, which established the International Criminal Court (ICC). The Statute seeks to promote a universal culture of upholding the rule of law, human rights and human dignity by fighting impunity for the commission of genocide, war crimes, crimes against humanity and the crime of aggression.

However, it is only through the universal ratification of, or accession to, the Rome Statute that the jurisdiction of the ICC will encompass international crimes allegedly committed by any person in any place. I commend States that have become parties to the Rome Statute, and I encourage States that are yet to ratify or accede to do so at the earliest possible date.

Today the ICC is a vital part of the multilateral system, promoting the rule of law, encouraging respect for human rights and contributing to peace and

security. By securing landmark convictions for serious crimes, including sexual and gender-based crimes, the recruitment of child soldiers and the destruction of cultural heritage, the ICC has become an indispensable pillar of global justice. I applaud the Court for its many achievements.

To effectively fulfil its mission, Member States must extend their full cooperation to the Court, and we must identify areas in which we can do better. Today's debate on the annual report (see A/76/293) is an opportunity for the international community to do just that. As members of the global community, it is our responsibility to always uphold the values of peace and justice for all humankind. I trust that Member States join me in welcoming the annual report, which highlights both progress and challenges in the fight for accountability for the worst crimes under international law. I hope that Member States will contribute meaningfully to the debate to follow.

I give the floor to Judge Piotr Hofmański, President of the International Criminal Court.

Judge Hofmański: It is a great honour to present the annual report (see A/76/293) of the International Criminal Court (ICC) to the General Assembly. This is the first time that I do so, having assumed the position of President of the Court in March this year. I am proud to be the first President of the ICC from the Group of Eastern European States, and I take this opportunity to pay homage to my predecessors in that role, who hailed from different regions of the world.

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The ICC is not part of the United Nations, but our two organizations have a close, unique relationship. The International Law Commission laid the groundwork for the drafting of the Rome Statute of the International Criminal Court. The negotiations on the Statute took place under the auspices of the United Nations.

The preamble to the Rome Statute reaffirms the purposes and principles of the Charter of the United Nations. At its outset, the Statute provides that the ICC and the United Nations shall be brought into a relationship through an agreement. That agreement was signed in 2004, and it is the basis for the highly valuable cooperation that takes place between the ICC and the United Nations, on a reimbursable basis. That vital cooperation involves manifold areas, such as logistical assistance, personnel arrangements, judicial assistance, the provision of security services and the use of conference facilities.

We are extremely grateful for those many forms of important assistance and cooperation. I also take this opportunity to thank the Secretary-General and the senior management of the United Nations for their unwavering commitment to the Court. Their support is highly appreciated.

The relationship of the ICC and the United Nations is not only one of technical assistance; it is also one of shared values — peace, security, the rule of law and respect for human rights. Those fundamental values are threatened by the atrocious crimes that the ICC seeks to repress and redress.

The ICC was established by the States sitting in this Hall, conscious that millions of children, women and men had fallen victim to unimaginable atrocities during history, and that decisive, joint action had to be taken to try to finally put a stop to impunity for the perpetrators of such offences and to contribute to their prevention. The Nuremberg and Tokyo tribunals, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 1949 and the ad hoc tribunals for former Yugoslavia and Rwanda were some of the critical stepping stones on the road to creating the ICC.

When the Rome Statute was adopted in 1998, the crime of genocide, crimes against humanity, war crimes and the crime of aggression were already widely recognized as crimes under international law. What the Statute did was to create a judicial mechanism for the enforcement of that criminalization where, for whatever

reason, national courts are unable, or unwilling, to do so.

By performing that role, the ICC has become an integral part of the international structure for upholding the rule of law. As such, it also plays an important part in the achievement of the 2030 Agenda for Sustainable Development, in particularly Sustainable Development Goal 16. With its deterrent effect, the Court contributes to the prevention of mass violence.

With 123 States parties, the ICC enjoys broad international support. But, for the sake of future generations, victims and our shared humanity, I hope to see that number rise further.

Along with the rest of the world, the ICC has done its best to cope with the global pandemic in the past two years. I am extremely proud of how our staff have managed to keep the wheels of justice turning during that entire time. At no point did our proceedings come to a halt. The Court quickly introduced remote working methods, as well as special arrangements for judicial hearings, which allowed some participants to connect virtually, while strict safety measures were applied to those physically in the courtroom. We were therefore able to continue with all cases before the Court, with only limited delays, for instance allowing the parties more time for preparation due to the changed circumstances and the lack of face-to-face communication.

During the reporting period, several major milestones were reached. The Appeals Chamber issued two judgments on the merits, in the *Laurent Gbagbo and Charles Blé Goudé* and *Ntaganda* cases, confirming judgments of acquittal and conviction, respectively, as well as the sentence in the latter case. Also, a reparation order was issued in the *Ntaganda* case.

The Court's first trial judgment relating to the situation in Uganda was issued, against Mr. Dominic Ongwen. The verdict and the sentence of 25 years are both under appeal. At the same time, the ICC's second trial concerning alleged crimes in Timbuktu, Mali, has begun, as well as the Court's first trial concerning the conflict between the anti-balaka and the Séléka in the Central African Republic. Two more cases were committed to trial, including the Court's first case stemming from the Darfur referral by the Security Council to reach this stage, that is, against Mr. Abd-Al-Rahman. There could even be a fifth trial next year, depending on the outcome of the confirmation

of charges in the *Said* case, also concerning the conflict in the Central African Republic.

In parallel with the above, the Court and the ICC's Trust Fund for Victims have been occupied with the implementation of reparations stemming from several past cases.

In addition, in the past years, the Prosecutor has opened three new investigations in relation to the situations in the State of Palestine, in the Bolivarian Republic of Venezuela and in the Philippines, the latter following authorization by Pre-Trial Chamber I. That brings the number of open situations to 16, which is a striking amount, considering that only nine years ago there were six open situations.

When the multiple preliminary examinations conducted by the Prosecutor are added to that, it becomes clear that the ICC, as a single institution, is dealing with a scope of work that would require many different ad hoc tribunals, and that the ICC can do that at a far lower cost than the creation, running and closing of multiple tribunals would involve.

All in all, the ICC is working at full speed, successfully discharging its mandate in the fight against impunity. The Court is active on multiple continents, addressing the most serious crimes under international law. Trials are taking place in our courtrooms day to day, week to week and month to month. Naturally, the short description that I have given barely touches the surface of the Court's current work. Member States can find more details in the written report, and better yet on the ICC website and in the judicial records of the cases.

Apart from the heavy judicial and prosecutorial workload, the ICC is also working on a large number of recommendations to strengthen its operations. The review process is a joint undertaking of the Court and the Assembly of States Parties to the Rome Statute. As the ICC's work expands, we must continuously strive to develop our working methods so that we can deliver high-quality justice efficiently and effectively, without sacrificing fairness or the Court's independence. It is my top priority, as ICC President, to enhance the Court's delivery of justice in every way possible — independent, fair justice for all parties and participants.

I already referred briefly to the Trust Fund for Victims, which is a semi-independent entity that forms part of the ICC system. The Trust Fund has several important roles.

First, it raises funds from both public and private donors for the benefit of the victims of crimes under the ICC's jurisdiction.

Secondly, the Trust Fund implements reparations ordered against the convicted persons by the ICC's judges in cases before the Court. Those reparations are implemented in cooperation with local implementation partners. They can be individual or collective and take the form of compensation, rehabilitation, restitution and symbolic measures.

The Trial Chambers determine the amount of liability of the convicted person. To date, those amounts have ranged from \$1 million to \$30 million in cases before the Court. As the convicted persons have been indigent so far, the Trust Fund uses the resources received from donors to complement the reparation awards, to the degree possible.

Thirdly, and finally, the Trust Fund for Victims can also provide assistance to victims in ICC situation countries independently of the Court's decisions. That means that addressing the harm suffered by the affected communities does not necessarily have to wait for the end of the judicial process, which can take several years. The assistance mandate also enables some reparative justice to take place when cases end in an acquittal, yet it is not disputed that harm has been suffered by victims.

Since the ICC's inception, the reparative activities of the Trust Fund for Victims have reached hundreds of thousands of victims and their families. Today, the Trust Fund is busier than ever, as it is implementing reparations in three cases, preparing implementation plans in a fourth, and soon in a fifth, case, while expanding assistance activities from four to seven countries.

The increasing number of reparation cases with increasing numbers of victims has put considerable pressure on the Trust Fund's resources. I would like to use this opportunity to appeal to all States present in the Hall to make donations to the Trust Fund for Victims in order to help the ICC's important work for the benefit of victims.

The cooperation of States is a cornerstone of the ICC's operations, as the Court has no enforcement powers of its own. I take this opportunity to thank the numerous States parties, as well as several States that are not parties to the Statute, for the invaluable

cooperation that they have provided to the Court in the past year.

I also wish to acknowledge the important cooperation, assistance and support extended to the Court by many regional and international organizations, including the United Nations. At the same time, it is of great concern that more than 10 arrest warrants issued by the Court remain outstanding. More than half of those stem from situations referred to the ICC Prosecutor by the Security Council.

I recall that the Council's resolutions imposed an obligation on the Sudan and on Libya to cooperate fully with the Court's investigations and prosecutions. It is essential that those Security Council resolutions be respected and that suspects be transferred to the ICC to face the accusations against them in a fair judicial process. I call upon all States Members of the United Nations to support that objective.

It has been an eventful year in terms of institutional developments at the ICC. Six new judges were elected to the Court in December last year, and they were sworn in on 10 March. I am happy to note that the Court now has a perfect gender balance, with nine female and nine male judges. We are also working hard to enhance the gender balance among staff. In that context, I am pleased to report that, on 8 March, we appointed a full-time focal point for gender equality at the ICC.

Since June this year, we have also had a new Prosecutor, Mr. Karim Khan. Both Mr. Khan and the new judges were elected for nine-year mandates. Last December, the Assembly of States Parties elected Ms. Silvia Fernández de Gurmendi as the new President of the Assembly for a three-year term. She enjoys the full support of the Court in her important role.

In the past year, there have been several new ratifications of the amendments to the Rome Statute on the crime of aggression and of article 8 amendments on war crimes. I encourage all States parties to consider ratifying the amendments adopted by the Assembly of States Parties. I also urge all States to join the Agreement on the Privileges and Immunities of the Court, which is a separate treaty.

Finally, I strongly encourage States to implement the Rome Statute in their national legislation, in terms of both procedures for cooperation with the Court and incorporating the crimes in the domestic criminal code. The latter aspect is crucial to the principle

of complementarity, which means that national jurisdictions of States always have the primary right and responsibility to investigate and prosecute the crimes contained in the Rome Statute.

The Rome Statute system is strongly supportive of national capacity-building and the strengthening of domestic jurisdictions to address international crimes. Again, that demonstrates the important role of the ICC and the Rome Statute in enhancing the rule of law globally.

At the beginning of my presentation, I said that I hoped to see the number of 123 States parties to the Rome Statute further increase. Naturally, joining the Rome Statute is a sovereign decision for each State to make. I know that more than 70 Member States among those represented in this Hall have so far not decided to take that step.

I ask all those countries to give serious consideration to joining the ICC for the sake of humankind. There are many reasons to do that. Empirical research shows that joining the Rome Statute increases deterrence for the gravest crimes under international law. It is not just about preventing atrocities at home. Each new State party also strengthens the system as a whole and gives more hope to victims everywhere in the world. Joining the ICC is a powerful expression of solidarity with the victims of the gravest crimes. It is also one of the most tangible steps that a State can take in support of international law and a rules-based international system.

Multilateralism is at the heart of the Rome Statute. By joining the treaty, a State gains a seat at the Assembly of States Parties, where it can participate with the rest of the world in decisions that shape the future of international criminal law. A State party can put forward its top lawyers as candidates for leadership positions at the ICC.

A State party can both propose and vote on amendments to the Rome Statute. The Statute is a living document, as we have already seen with the evolving catalogue of crimes included in it. A lack of information sometimes stands in the way of ratification. One of the common misconceptions is that joining the Rome Statute opens the door for the ICC to look into events of the past. That is not so: the Statute contains extremely clear provisions specifying that ratification of the Rome Statute has no retroactive effect. The ICC is above all a forward-looking institution, a structure

of the rule of law built for the well-being of current and future generations.

Another common misconception is that the ICC holds States responsible. Obviously, that is not so, because the ICC is not a human rights court. The ICC can only prosecute natural persons for their individual criminal responsibility. That is done under a rigorous system with multiple checks and balances.

As I indicated earlier, fairness of the proceedings and judicial independence are among the highest values for the ICC as a judicial institution.

To any country that may have doubts about joining, I would like to say: “Let us talk”. I truly believe that many obstacles can be resolved through dialogue. There is no doubt in my mind that supporting the ICC is the right thing to do.

The President: I now give the floor to the representative of the Netherlands to introduce draft resolution A/76/L.7.

Ms. Brandt (Netherlands): The Kingdom of the Netherlands aligns itself with the statement to be made by the European Union, and I would like to start by thanking President Hofmański for his presentation and for the hard work that he and the staff of the Court have done under difficult circumstances during this reporting period.

The Netherlands is proud to be the host State of the International Criminal Court (ICC) and remains a firm supporter of the Court. Allow me to briefly address three issues.

First, concerning the fight against impunity, the adoption of the Rome Statute was a major step in the evolution of the international legal order and a breakthrough in the global fight against impunity.

The establishment of a permanent criminal court — the ICC — at the international level is the institutional response to our realization that in a world of imperfect national jurisdictions, we need a court of last resort — a court that can deliver justice to the victims of atrocity crimes when national authorities are unable or unwilling to act.

The Rome Statute entered into force in 2002 following its ratification by 60 States. Since then, the number of States parties has more than doubled, to 123. But we are not there yet, and, as the President just

said, for the sake of the victims, we have to see that number increase.

The Netherlands and the Republic of Korea are the focal points for achieving universality. In the coming year, we will step up our efforts to gain universal support for the Court’s mandate and for the principles that underpin the Rome Statute.

Accountability and the fight against impunity are top priorities of Dutch foreign policy, which brings me to my second point: the importance of strengthening the Court. The International Criminal Court is currently going through a transition period that will shape the functioning of the Court in the years to come. This year alone the Court has seen a major change in leadership with the election of six new judges, a new President and a new Prosecutor, and we commend the Court for working towards gender parity. Also, United States sanctions have been lifted, and the review process is now well under way.

The review process is aimed at strengthening the Court and its overall performance, and we thank President Hofmański for making that a top priority.

Against that backdrop, we need to keep in mind the fact that the ICC is still a relatively young institution that requires our ongoing and unwavering support. Its key objectives of ensuring accountability and contributing to prevention are crucial to a rules-based international order.

That brings me to my third and final point: the importance of cooperation. In order to strengthen the Court, we need to look more critically at how we cooperate with the Court to help it execute its mandate, both as organs of the United Nations and as States.

The full cooperation of States with the Court, including the prompt execution of outstanding arrest warrants, in line with their obligations under the Rome Statute, is essential, as President Hofmański just mentioned.

In addition, voluntary cooperation by States is vital for the effective and efficient functioning of the Court. Next year the first case related to the situation in Darfur will reach the trial stage. We are deeply concerned about recent developments in the Sudan, and we call on all relevant parties to honour their commitments, including the commitments enshrined in the memorandums of understanding signed earlier this

year between the transitional Government of the Sudan and the ICC.

We also call upon the Security Council, which has referred that situation to the ICC, to strengthen its cooperation with the Court. Findings of non-compliance should be addressed through concrete action by the Security Council, States parties and non-State parties.

We call on all States to support the measures to strengthen the Court, and we also hope that the present reform exercise will serve as an additional incentive for States Members of the United Nations that have not done so to ratify the Rome Statute and to join us in our fight against impunity.

Finally, it is my honour to introduce the draft resolution contained in document A/76/L.7.

The draft resolution welcomes the most recent report of the Court on its activities. It also acknowledges the role of the International Criminal Court in a multilateral system that aims to end impunity, promote the rule of law, promote and encourage respect for human rights, achieve sustainable peace and further the development of nations, all in accordance with international law and the purposes and principles of the Charter of the United Nations.

The draft resolution is a technical and factual rollover from last year's resolution. Due to coronavirus disease restrictions, it has again been difficult to have meaningful discussions about the substance of that important resolution. Next year, as soon as it is possible, we intend to start discussions on the content of the resolution with the intention of updating it.

I submit the draft to the General Assembly for adoption without a vote, and I sincerely thank all States that have co-sponsored the draft. The number of co-sponsors is a clear signal of the importance that members attach to the yearly report of the ICC.

The President: I now give the floor to the representative of the European Union, in its capacity as observer.

Ms. Popan (European Union): I have the honour to speak on behalf of the European Union and its member States.

The candidate countries the Republic of North Macedonia, Montenegro, Serbia and Albania, the country of the Stabilization and Association Process and potential candidate Bosnia and Herzegovina, as

well as Ukraine, the Republic of Moldova and Georgia, align themselves with this statement.

Let me start by thanking President Hofmański for having presented the report of the International Criminal Court (ICC) and by congratulating him, the newly appointed judges, the new Prosecutor, Mr. Karim Khan, and the new President of the Assembly of State Parties, Ms. Silvia Fernández de Gurmendi, on their appointments. We would like to assure them of our steadfast support for the work of the ICC and of the Rome Statute system.

The EU and its member States recognize the Court's central role and achievements in the fight against impunity at the international level. We welcome the significant progress achieved across the Court's activities during the reporting period.

The Court is undergoing a period of change and reflection that will shape its work in the years ahead. The independent expert review and the ongoing work of the review mechanism provide a unique opportunity for the Court to further improve its work in delivering justice to the victims of atrocity crimes around the world. It is important that the Court assess and take possible further action, as appropriate, on the recommendations of the independent expert review, as outlined in the proposal for a categorization by the review mechanism of the independent experts' recommendations and remaining review issues and the comprehensive action plan.

It is equally important to promote a healthy working culture that ensures gender balance, inclusion, multilingualism, diversity in legal systems and geographical representation.

We note that the Court has already begun to implement some of the recommendations of the independent experts and welcome in that connection the high-level statement on gender equality of the ICC principals, which stresses that gender equality is not only right and necessary but a driver of performance and success for the organization.

We have high expectations of the Court in terms of its narrowing the accountability gap and bringing perpetrators of atrocity crimes to account. We owe it to the victims, the communities affected and future generations, which want to make peace with the past and look forward to a peaceful future.

Yet the Court is not a panacea for all serious crimes. It is a court of last resort that cannot, and should not,

replace national courts. It is therefore important to build national capacity to ensure that crimes can be dealt with where they take place and that can pursue investigations and fair trials at the domestic level. States have the primary responsibility to investigate and prosecute serious international crimes. As the Rome Statute places complementarity of jurisdiction at the core of the ICC's mandate, the ICC may step in only where States are unwilling or unable to do so.

We call on all States to ensure full cooperation with the Court to prevent impunity from taking hold. The Court is dependent on States' cooperation, from investigations into alleged crimes to the execution of arrest warrants. We also call on the Security Council to make use of its right of referral, as appropriate. The referral of a situation to the Court by the Security Council, as well as active follow-up on such referral, can help to promote accountability in countries where the most serious crimes of concern to the international community may have been committed.

We also call on all States parties to pay their assessed contributions on time and in full, according to their obligations under the Rome Statute. That is an absolute necessity in order to allow the Court to fulfil its important mandate.

Long-lasting peace and sustainable development build on justice. The rule of law, respect for international courts and mechanisms, and criminal accountability ensure that stability and law prevail over war. We see the universal ratification of the Rome Statute as a step in that direction, which remains our long-term common goal.

The Court pursues no political objective and must be protected from outside interference and pressure in order to be able to deliver on its mandate. We will continue to protect the Court from attacks and actions intended to destabilize its judicial activity and undermine its legitimacy.

In closing, the European Union and its member States will remain strong supporters of the Court politically, diplomatically and financially. The Court is the world's only permanent international criminal court, and we will continue to stand by it.

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

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (A/76/293) and the President of the ICC for his presentation at this meeting. We note with appreciation the significant progress made by the ICC during the reporting period despite the challenges caused by the coronavirus disease pandemic.

Heinous crimes are being committed with impunity in many conflicts and situations worldwide. As a permanent Court of last resort, the ICC is in a central position and is a central institution for international accountability and the pursuit of justice, which are key components of sustainable peace, security and reconciliation.

The mission of the ICC is as crucial as ever. Yet the Court continues to face political opposition and attempts at preventing it from delivering on its mandate. That undermines our common endeavour to fight impunity for the most serious crimes of concern to the international community. The Nordic countries reconfirm our unwavering support for the ICC as an independent and impartial judicial institution. We will continue to strive to defend the Court from any attempts to interfere with its work.

States parties and the Court have together embarked on a wide-ranging review process to strengthen the Rome Statute system and to improve the performance, efficiency and effectiveness of the Court. A major step in that regard was the issuance, in September of last year, of the final report of the independent expert review commissioned by the Assembly of States Parties. We welcome the thorough assessment currently being undertaken by the Court and States parties of the comprehensive set of recommendations contained in the report.

It is now crucial that the Court and States parties move towards implementation of the recommendations in an efficient and results-oriented manner. The Nordic countries are actively engaging in that important process with a view to ensuring a strong, effective and independent Court, which the review process aims to achieve.

Holding to account perpetrators of the most serious crimes is an aspiration shared by States in all parts of the world. By increasing the number of States parties, the Court will be better able to address the most serious international crimes with greater consistency and impact. The Nordic countries continue to support and

work for universal membership of the Rome Statute. The ICC needs more States parties, not fewer. We stand ready for constructive dialogue with States parties and non-States parties alike on their relations with the ICC.

Bringing impunity to an end requires cooperation among actors that have international peace, justice and security and an international rules-based order as their common goal. The Court's effectiveness in carrying out its mandate depends heavily on cooperation with States, other stakeholders and international organizations.

Let me in this forum make particular note of the ongoing cooperation between the United Nations and the ICC as described in the report.

The Nordic countries share the Court's strong appreciation of the crucial support and cooperation from senior leadership of the United Nations. We also welcome the valuable operational support that the Court receives from other United Nations entities, departments, offices and special advisers and representatives of the Secretary-General.

Enhanced cooperation between the Court and the Security Council is still called for. That is particularly true in cases of States' non-cooperation with the ICC as well as for strengthened follow-up of situations referred to the Court by the Security Council. We note with concern that the Council, in the two situations that it has referred to the ICC, has not acted on a number of findings of non-cooperation communicated to it by the ICC. We strongly encourage and urge all States to cooperate fully and effectively with the Court, in line with the Rome Statute and all applicable Security Council resolutions. In particular, we call on all States parties and others to provide the assistance necessary for the arrest and surrender of individuals sought by the Court.

The Nordic countries would also like to see the Security Council develop a more coherent approach to the referral of situations to the ICC. Failing to make appropriate referrals contributes to impunity, which makes conflicts thrive. In the meantime, the Nordic countries continue to support the work of the investigative mechanisms established by other United Nations organs and encourage other States to do the same.

The full realization of justice for victims is a central aspect of the continuing success and relevance of the ICC. The ICC Trust Fund for Victims has an

important mandate in that regard. The Nordic countries have consistently supported the Trust Fund, and we encourage States and other entities to contribute as well.

In order for the Court to be able to carry out its mission in the most efficient way, it also needs to be properly funded. It is our common responsibility to ensure that the Court has sufficient resources to carry out its important mandate in a time of increasing demand. We encourage States parties to ensure the timely and in-full payment of contributions. Likewise, it is the obligation of the Court to ensure its effective and efficient functioning.

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

Ms. Niamke (Côte d'Ivoire): I have the honour to deliver this statement on behalf of the African States parties to the Rome Statute of the International Criminal Court (ICC).

We welcome the debate on the Court's annual report on the activities undertaken by the Court during the period under review (A/76/293). Those activities illustrate the key role played by the Court since the entry into force of the Rome Statute, which includes investigating and trying individuals charged with the gravest crimes of concern to the international community, such as crimes of genocide, war crimes, crimes against humanity and the crime of aggression.

The African States parties take note with satisfaction of the report of the International Criminal Court and of the report on information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court (A/76/292). That agreement attests to the steadily improving cooperative relationship between the two institutions and to the positive progress made in the implementation of said agreement.

The African States parties to the Rome Statute attach great importance to the work of the ICC and the functioning of the Rome Statute system. We reaffirm our unwavering commitment to combating impunity for atrocity crimes; the rule of law; and the promotion of democratic and good governance, in conformity with agreed international instruments and in line with the mandate of the ICC as an independent and impartial judicial institution.

The African States parties remain convinced that a peaceful world and justice for all are achievable. We believe that the fight against impunity and the rule of law must be a universal mission to be carried out by the international community as a whole, recognizing the role of the ICC as the world's first and only permanent international criminal court and as an integral part of the multilateral architecture upholding the rule of law. The ICC remains a central institution in the fight against impunity and the pursuit of fairness and justice, which are essential components of sustainable peace, stability, security and reconciliation.

The principle of complementarity is at the heart of the Rome Statute. The African States parties support the ongoing efforts within the Assembly of States Parties to promote that principle, which is the backbone of the Rome Statute system. We also welcome the recent announcements by the new Prosecutor stressing the importance of promoting accountability with a view to determining how justice may best be served under the shared framework of complementary domestic and international action.

Working towards enhancing complementarity by strengthening national judicial systems to deal with the most serious crimes is key to achieving accountability. Indeed, the primary responsibility for investigating and prosecuting crimes under the Rome Statute rests with States. The ICC steps in only when States are unwilling or unable to genuinely conduct national proceedings. We also recall that the Court is a mechanism of last resort. It remains crucial, therefore, for efforts to be strengthened to build the capacity of States to investigate and prosecute atrocity crimes.

Allow me to recall that the African States parties played a key role in the establishment of the ICC and have continued to participate actively in various aspects of the Court's work, including in the context of the Assembly of States Parties and through cooperation with the Court in the implementation of its mandate. We firmly believe that those who commit atrocity crimes anywhere in the world must be held accountable. Victims of these crimes deserve justice, and justice must be impartial.

The African States Parties constitute the largest regional group within the Assembly of States Parties. We are committed to the universality of the Rome Statute and believe that increasing the number of States Parties will ensure access to justice for victims from

all geographical regions of the world. We therefore appeal to and call on all States that have not yet ratified the Rome Statute to consider signing and ratifying it. Universal ratification of the Rome Statute and the incorporation of these norms into the domestic law of States must be a reality if all victims around the world are to have a chance of obtaining justice.

Let me conclude on the important note that the African States Parties support the review of the ICC, the Rome Statute and the work of the Review Mechanism, which aims at strengthening the Court and the Rome Statute system through, inter alia, strengthening the effectiveness, legitimacy and capacity of the Court. Accordingly, the African States Parties reiterate the decision of the Heads of State and Government of the African Union that urges engagement in the review process and calls for the issue of politicization of the Court to be addressed.

The African States Parties stand ready to continue dialogue with the Court on ways to strengthen cooperation between our regional group and the Court. In this regard, the African States Parties in New York remain available to meet and engage with the Court's principals during their visit in New York.

Mr. Massari (Italy): Italy aligns itself with the statement delivered by the representative of the European Union. We would like to provide some additional remarks in our national capacity.

Let me begin by thanking the President of the International Criminal Court (ICC) for presenting the annual report of the Court covering the period 1 August 2020 to 31 July 2021 (A/76/293). With regard to this year's report, Italy continues to welcome the efforts made by the Court aimed at adapting its working methods to the exceptional circumstances caused by the coronavirus disease pandemic and in the progress made, despite the difficult circumstances, in a number of investigations and proceedings.

Italy believes that the most effective and structural answer to the many challenges and conflicts the international community is facing today lies in a reformed and enhanced multilateralism. Only a rules-based international system centred on universal values, fundamental rights, equality and inclusiveness will be conducive to long-lasting solutions to those conflicts. The International Criminal Court represents a crucial tool for achieving these goals. Italy has been a staunch supporter of the International Criminal Court since its

very creation, with special regard for the principles and values that are enshrined in the Rome Statute, including the principle of complementarity.

The ICC is a court of last resort whose jurisdiction can be activated only when the gravest crimes are not prosecuted by States. The ICC steps in with the sole purpose of pursuing justice, which is key to achieving lasting peace and international security. We firmly believe that the ICC is a pillar of the international rules-based order and that it plays a key role in the fight against impunity, in holding perpetrators of those crimes accountable and in providing justice for victims. The ratification by the Italian Parliament on 4 November this year of the Kampala amendments on the crime of aggression and war crimes bears witness to the unwavering commitment of Italy's institutions to the quest for justice and accountability which is enshrined in the Rome Statute.

Mr. Turay, (Sierra Leone), Vice-President, took the Chair.

The reporting period saw a combined total of 11,000 victims participating in cases before the Court, with the filing of 2,300 new victim application forms. The focus on victims is an essential element of international criminal justice. Italy considers the role of the Court to consist not only of bringing perpetrators to justice but also in delivering justice to those primarily affected by crimes committed. For these reasons, also this year, Italy decided to contribute to the Trust Fund for Victims at the International Criminal Court.

Italy also underlines the need to continuously observe and safeguard the judicial and prosecutorial independence of the Court and the integrity of the Rome Statute. Neutrality, independence and complementarity of the International Criminal Court are crucial to its functioning. In this respect, Italy is closely following the ongoing reform process. In particular, the approval of the action plan by the Bureau, with the indication of priority recommendations, is an important first step towards making the Court more efficient and modern.

Italy will continue to contribute to ensuring this process is expeditious, reliable and in line with the principles of the Rome Statute. In this regard, Italy believes that particular attention should be paid to the implementation of recommendations aimed at improving the quality and effectiveness of investigations, decision-making, cooperation and management of financial resources. In particular,

we note with concern the serious challenges that the Court continues to face in relation to its requests for cooperation, including the execution of its outstanding arrest warrants. States should strive to maintain a high level of cooperation for the requests coming from the Court, in full compliance with their obligations under international law.

Finally, let me take the opportunity to thank the Netherlands for coordinating this year's draft resolution (A/76/L.7), which Italy has already co-sponsored.

Ms. Lungu (Romania): Romania fully aligns itself with the statement delivered on behalf of the European Union and its member States.

First of all, allow me to congratulate Judge Hofmański on his election as President of the International Criminal Court (ICC).

Romania firmly believes that the adoption of the Rome Statute was a groundbreaking achievement that strengthened the system of international justice and guaranteed access to justice for victims of the most serious crimes by incorporating innovative provisions on victims' participation, protection and reparations. In the words of one of the legends of international justice, Benjamin Ferencz, former Nuremberg prosecutor,

"[t]here can be no peace without justice, no justice without law and no meaningful law without a Court to decide what is just and lawful under any given circumstance".

The ICC embodies this vision and sends a strong signal that the perpetrators of atrocity crimes can and must be held accountable if States are unable or unwilling to do so. In the more than 20 years since its creation, the deterrent effect of the ICC can no longer be disputed. Investigating mass crimes is now the expected norm at the global level, and the harshening tone of the Court's critics is just another indicator of the increased relevance of its work.

As the ICC has matured institutionally, initial aspirations have begun clashing with complex geopolitical realities, prompting the need to enhance the efficiency and legitimacy of the Court. Indeed, the functioning of the Rome Statute system has reached a critical juncture. The independence of the Court and its ability to carry out its mandate have been threatened by external pressures, as well as by certain organizational shortcomings and a lack of adequate resources to match its growing caseload. This is a time

for the Court's supporters to rally around and work towards strengthening it, especially given that so many international crimes continue to be committed in many parts of the world.

The ongoing review of the Rome Statute system is an important opportunity to address both internal and external challenges and to ensure the realization of its ambitious mandate. We salute the Court's openness to delving into this exercise, including by tackling issues connected to the working culture, while also expecting the Assembly of States Parties to exert its management role and make wise decisions about the governance and oversight of this complex institution, with due regard to the principle of judicial and prosecutorial independence.

At the same time, the legitimacy of the Court rests with two other important elements, namely, the safeguarding of the high quality, independent and impartial activities of the Court and the dissemination of correct information about the ICC's mandate and its inherent treaty-based limitations. With regard to the first element, the performance of the Court depends on putting in place the necessary conditions for the election of the best candidates for the posts of judges and Prosecutor, starting with the selection procedures at the national level to building on the lessons drawn from the recent election of the Prosecutor and the review of the procedure for the nomination and election of judges. The introduction of measures for the vetting of candidates according to the criterion of high moral character for the positions of Deputy Prosecutors is a first concrete step that could be further replicated in the context of other elections. With respect to ensuring a better understanding of the ICC mandate, we call for the investment of greater efforts in communications work, in the light of the Court's global reach and the diverse audiences it might address. We therefore encourage the ICC to develop a court-wide communications strategy that should improve coordination across organs in this area, with better use of the limited resources.

While we work to improve the Court's performance, we cannot forget that States have the primary responsibility to investigate and prosecute the most serious crimes of international concern, in accordance with the fundamental principle of complementarity. We join the Court's call for the inclusion of the crimes and principles of the Rome Statute into national laws and for establishing clear national frameworks for cooperation with the Court. In this context, we would like to inform the General Assembly that the relevant

Romanian authorities have initiated a law on the judicial cooperation between Romania and the ICC, which is currently under examination by the Parliament. The same goes with our draft law on the acceptance of amendments to Article 8 of the Rome Statute adopted in Kampala, New York and the Hague, which is also under examination by our Parliament. Moreover, we underscore the conditionality that exists between the discharge of the ICC's mandate and States' assistance in relation to its investigations and prosecutions, in accordance with the general obligation of cooperation set forth in the Rome Statute, and we share the particular concern in relation to the list of outstanding arrest warrants.

To conclude, we reaffirm our support for the Court better adapting to today's opportunities and challenges, as well as our confidence in the ICC's role as an essential instrument in the fight against impunity and in providing assistance and reparations to victims of mass atrocities as means of contributing to reconciliation and peacebuilding.

Mr. Kanu (Sierra Leone): The delegation of Sierra Leone welcomes the opportunity to deliver this statement under the agenda item entitled "Report of the International Criminal Court". My delegation aligns this statement with the statement delivered by the representative of Côte d'Ivoire on behalf of the African States Parties to the Rome Statute of the International Criminal Court (ICC). I take this opportunity to welcome to our debate the principals of the ICC and express our commendation for their dedication in carrying out the important work of the Court, as it continues to be an independent and impartial judicial institution, committed to upholding and defending the principles and values enshrined in the Rome Statute and in the universal resolve to end impunity for atrocity crimes.

As this is the first General Assembly plenary debate during their respective terms in office, allow me to congratulate the President of the Court, Judge Piotr Hofmański on his election to a three-year term, and the Prosecutor Mr. Karim Asad Ahmad Khan, on his election to a nine-year term. We appreciate that both the President and Prosecutor are already engaged with work on strengthening the Court, one of the key priorities of the President of the Assembly of States Parties, Madam Silvia Fernández de Gurmendi, whom we also congratulate on her election to a three-year term. The delegation of Sierra Leone assures the General Assembly of its fullest support for the leadership of the

Court and the Assembly of States Parties as they fulfil their respective mandates.

I thank the Secretary-General of the United Nations for his reports contained in documents A/76/291 and A/76/292, and the President of the Court for introducing them, as well as the report of the Court contained in document A/76/293. We thank the United Nations system for its vital cooperation with the Court, and for providing facilities and services to the ICC, particularly in facilitating the convening of the resumed sessions of the nineteenth Assembly of States Parties, in New York, allowing for the election of six new judges and the Prosecutor.

Following the challenges of the past year, the leadership changes in the Court, and the review process that is well under way, the Court and the Assembly of States Parties are in a consequential time to strengthen the Court, address external threats through constructively engagements, complete the review process, focus on achieving impartial justice for atrocity crimes without fear or favour, and be responsive to victims. As a fundamental point, Sierra Leone deeply appreciates that the wheels of international justice continue to turn at the ICC despite the continuing coronavirus disease pandemic challenges and the actual external threat the Court faced.

With the current spate of continuing perpetration of atrocity crimes, the relevance of the ICC's mandate cannot be overstated, and the need for continuing cooperation by and with the United Nations to address accountability gaps in line with the Charter of the United Nations cannot be overemphasized. We acknowledge, as indicated in document A/76/293, that the Court indeed made significant progress during the reporting period in its pretrial, trial and appeals proceedings, as well as with regard to reparations, the investigations and preliminary examinations conducted by the Office of the Prosecutor.

We take note of the notable judicial developments. Most significantly we take note that Dominic Ongwen was found guilty of 61 counts of crimes against humanity and war crimes committed between 2002 and 2005 and was sentenced to 25 years' imprisonment, even as the conviction and sentence are under appeal. We also note that the Appeals Chamber confirmed the conviction and 30-year sentence of Bosco Ntaganda for crimes against humanity and war crimes. We note that

the Appeals Chamber upheld the acquittals of Laurent Gbagbo and Charles Blé Goudé.

With regard to other notable developments, in April 2021, Sierra Leone joined many others in welcoming the revocation and ending of the threat and imposition of economic sanctions and visa restrictions in connection with the Court. We hereby express our appreciation for all stakeholders that took the steps that led to this desirable outcome. We deeply welcome the constructive approach in engaging with the Court and the Assembly of States Parties to promote and strengthen accountability for atrocity crimes, including through the centrality of the ICC and the Rome Statute system built on the principle of complementarity, even where there are disagreements on approaches to specific situations and cases.

In its strategic documents and plans, the Court had committed itself to a vision of being a universal, responsive, flexible and resilient organization with a consistent outlook toward continuous improvement. In welcoming this vision, the delegation of Sierra Leone is pleased to have lent its human resources, albeit at the demanding New York station, to actively engage in the review process. We therefore express our appreciation for and commend the work of the Review Mechanism established under the auspices of the Assembly of States Parties and results achieved thus far, including in the adoption of the comprehensive action plan for the assessment of the recommendations of the group of independent experts, including requirements for possible further action, as appropriate, adopted by the Bureau of the Assembly, and the assessment of prioritized recommendations agreed to be undertaken by the second half of 2021.

Sierra Leone calls on States Parties and all stakeholders to continue their support and constructive engagement with the Review Mechanism and the Assembly of States Parties mandates undertaking the review-related work aimed at improving the performance, efficiency and effectiveness of the Court's operations. We also welcome and commend the Court and its focal points for their efforts in the review process.

In closing, Sierra Leone reaffirms its support for the Court as a way of reiterating its commitment to the victims. We recall and restate that at the heart of the work of the Court are the victims, on whose behalf we have this accountability system. We therefore

acknowledge and commend the Trust Fund for Victims for the discharge of its mandate, providing assistance, enabling increased participation of victims in trials at the Court and in payment of reparations. We welcome the fact that approximately 11,000 victims participated in cases before the Court during the reporting period, with 2,300 new victim application forms received. We take note of the work done to improve the performance of the Trust Fund for Victims and look forward to the implementation of the assessed recommendations of the Independent Expert Review process in this regard.

It is in recognition of the important work of the Trust Fund for Victims that the Government of Sierra Leone, on the recommendation of its Judicial and Legal Service Commission, nominated Mr. Ibrahim Sorie Yillah for election to the seat allocated to African States in the election of members of the Board of Directors of the Trust Fund for the benefit of victims. We believe Mr. Yillah's competence, qualifications and prior experience, *inter alia*, at the ICC in both the Office of the Prosecutor and as Defence Counsel, and currently at the Residual Special Court for Sierra Leone as Principal Defender, makes him valuable in advancing the principles, objectives and purpose of the Trust Fund. He is of high moral character, impartiality, integrity and has the requisite competence in assisting victims of serious crimes. The nomination is consistent with the overall commitment of Sierra Leone to the Court and the victims of atrocity crimes.

Finally, as a sponsor of the draft resolution contained in document A/76/L.7, we thank the Permanent Representative of the Netherlands for introducing that draft resolution, and we thank the Permanent Mission of the Netherlands for ensuring that factual updates acknowledging the election of the new leadership and taking note of the review process to strengthen the Court were reflected in the draft resolution. We urge States Members of the United Nations to constructively engage in ensuring other important factual updates are appropriately reflected in resolutions in the immediate future. This will in part but surely give true meaning to the Relationship Agreement between the United Nations and the International Criminal Court, which is based on respect for each entity's status and mandates and is aimed at promoting the effective discharge of their respective responsibilities in a mutually beneficial manner.

Mr. Malovrh (Slovenia): As a strong supporter of international criminal justice and wider international

law, Slovenia welcomes the latest report of the International Criminal Court (A/76/293) and fully aligns itself with the statement made earlier by the representative of the European Union. I would like to join others in congratulating the newly elected President of the Court, judges, Prosecutor of the Court and President of the Assembly of States Parties on their elections. We wish them all success in contributing to the good of all humankind in the field of international criminal law.

The report shows a significant increase and progress in overall activities of the Court. In this period, the Court issued some landmark decisions that pave the way for further development of international criminal law. In addition, the Court actively engaged in the review process and began the implementation of the recommendations. An appropriate setting of standards and the achievement of a set of objectives constitute a unique opportunity to strengthen both the Court and the Rome Statute system as one of the bedrocks of the rule of law.

To accomplish that, a systematic and timely implementation of the Independent Expert Review recommendations should be regarded as a matter of high priority. However, an overall increase in the Court's judicial activities should not be the central goal to be pursued. The activities of the Court are a direct response to the acts committed. Moreover, the role of the ICC is to complement national proceedings. States and national courts bear the primary responsibility for prosecuting the perpetrators of genocide, crimes against humanity, war crimes and the crime of aggression. Nonetheless, the Court must step in when States are not performing their obligations to prosecute atrocity crimes.

As the scope of the Court's activities widens, so does the number of victims of grave crimes in pursuit of justice. Slovenia continues to financially support the Trust Fund for Victims, and we are proud to announce that our 2021 contribution will be increased. We encourage States and others to contribute to the Fund and provide strong support to the victims and their families in rebuilding their lives.

The fight against impunity for the atrocities occurring worldwide is one of the cornerstones in reaching ever-desired peace and stability. This requires engagement of individuals and communities and above all a collective engagement of the States. Slovenia calls

on all stakeholders, particularly the States, to cooperate respectfully and actively as partners sharing similar goals in the fight against impunity and in ensuring justice. We also call on all States to cooperate fully with the Court by executing arrest warrants and concluding cooperation agreements. Furthermore, it is of great importance that States Parties pay their contributions on time and in full.

To enhance international cooperation for the purpose of effective proceedings before national courts on the issues of genocide, crimes against humanity and war crimes, Slovenia actively engages in the initiative to conclude a new multilateral treaty on mutual legal assistance — the so-called MLA initiative. Ahead of the diplomatic conference hosted by Slovenia, the process of consultations is ongoing. We invite all interested States to join and support the initiative.

We also call on the Security Council to use its right of referral of a situation to the Court and to follow up on its responsibility for the maintenance of international peace and security. We also invite States that have not yet done so to adopt the necessary national legislation and accede to the Rome Statute in order to guarantee lasting respect for international justice. It is only by working together that we can make a significant step forward towards a just society.

In conclusion, Slovenia will continue to support the work of the International Criminal Court and its independence. The Court was established out of a dire need to put an end to impunity for atrocities, and we should enable it to fulfil its mandate.

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

First of all, I wish to congratulate the new leadership of the International Criminal Court (ICC) on its election and provide assurances of Slovakia's full support and cooperation in pursuing the Court's mandate. I also wish to thank the President of the Court, Judge Piotr Hofmański, for his comprehensive presentation today and for the report on the Court's activities in 2020 and 2021 (A/76/293).

Allow me to begin with a more general statement. We believe that the very existence of a permanent international judicial organ, with jurisdiction over the most heinous crimes under international law, reflects

the firm conviction of the international community that accountability must be an integral component of all our policies and, more specifically, conflict resolution. It is difficult to conceive how a conflict-torn society could return to sustainable peace without fulfilling the requirements of justice and humanity. The complementary jurisdiction of the ICC takes the primacy of national jurisdictions fully into account and, at the same time, serves as a guarantor of no safe havens for perpetrators of the most serious crimes. Together with the central role of victims within the Rome Statute system, it makes the International Criminal Court truly unique.

Turning now to more specific comments, I would like to begin by expressing appreciation for the Court's measures to ensure business continuity and the fulfilment of its mandate, even during the current challenging times. In that context, it is even more commendable that, notwithstanding the ongoing pandemic, the significant number of approximately 11,000 victims were able to participate in cases before the ICC in the reporting period, thereby given an extensive voice in the respective proceedings. For our part, that is critical and much appreciated.

We also note with satisfaction that the Court is operating in better conditions than in the previous year. As a State party to the Rome Statute and a member of the Bureau of the Assembly of State Parties, we particularly welcome, and support, the ongoing review process, which strives to further strengthen the Court and the Rome Statute system of international criminal justice. It has already led to some progress, and we hope to see a positive final outcome. We further welcome the fact that threats and measures against the Court have given way to constructive dialogue and engagement.

The General Assembly debate on this report is one of the important institutional links between the United Nations and the ICC. It provides the platform for all 193 States Members of the United Nations to discuss the work of that unique judicial body. However, the Court can fully deliver on its mandate of ending impunity for the perpetrators of the most heinous crimes only if it achieves universality. We should therefore focus all our political efforts and consistently engage in a bona fide, open and patient dialogue, based on the shared values underpinning the ICC, that is, to continue strengthening international criminal justice and prevent impunity. The eventual ratification of the Rome Statute can only be a natural and logical result thereof. That said, Slovakia

encourages all Member States that have not yet ratified the Rome Statute to do so.

I will now move on to my final substantive remark. The possibility of referrals, in line with article 13, paragraph b, of the Rome Statute, has broadened the spectrum of measures that the Security Council can take when dealing with the maintenance of international peace and security. Slovakia encourages the Security Council to use that unique tool and make referrals when international crimes are committed and the national authorities are not in a position to investigate them. It is important to add that, unless the Security Council properly follows up on its referrals, including by ensuring cooperation by Member States, that course of action will not bring the desired results. That said, we note with satisfaction the developments in the situation in Darfur, the Sudan, as well as the crucial support of the United Nations, which resulted in the first-ever visit of the Prosecutor of the Court to Darfur in more than 15 years since the Security Council's referral. We hope to see further positive progress in the year to come.

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

Mr. Costa Filho (Brazil); Brazil thanks the President of the International Criminal Court (ICC) for his presentation of the annual report (A/76/293) of the Court to the United Nations. Brazil welcomes the new leadership of the Court and expresses its confidence that it will continue the excellent work of its predecessors. As one of the founders of the ICC, Brazil recognizes its value as the first permanent tribunal conceived to fight impunity for the most serious international crimes. We acknowledge that the Court is an important instrument for justice and peace.

The ICC maintained a heavy workload in the reporting period despite all the limitations caused by the pandemic. Brazil welcomes the fact that the Court managed to quickly implement arrangements to mitigate the effects of the coronavirus disease on its operations. We note with satisfaction the work of the Trust Fund for Victims, whose reparations mandate is instrumental in promoting the right of victims to justice. Aimed at reconciling retributive and restorative justice, the Rome Statute contains an innovative set of provisions on victims' rights, which allows them to both participate in proceedings and apply for reparations. It

is encouraging to see reports about ongoing projects and the Trust Fund's engagement with victims, their families and affected communities.

Complementarity stands as a cornerstone of the Rome Statute. States have the primary responsibility to investigate and prosecute perpetrators of international crimes, and enabling them to do so remains an essential component of the fight against impunity. In that context, Brazil welcomes that, as reported, the Registry and the Office of the Prosecutor continued their efforts to assist with national proceedings. Positive complementarity activities may give meaning to an integral view of the Rome Statute system, which is built on a positive relationship between the Court and States parties.

All States parties have the responsibility to continuously work for the improvement of the Rome Statute system, addressing challenges and extending their support when needed. One important challenge relates to universality, which is instrumental to overcoming perceptions of selectivity in the application of international criminal justice.

A second challenge relates to the relationship between the ICC and the United Nations. Brazil reiterates its long-standing concern regarding the financing of Security Council referrals. The greater involvement of the United Nations with the ICC should be accompanied by a greater responsibility of the United Nations in providing the means for the work of the Court. We reiterate our call for the implementation of article 13 of the Relationship Agreement between the United Nations and the International Criminal Court and of sub-paragraph (b) of article 115 of the Rome Statute so that costs from Security Council referrals are met, at least partially, by funds provided by the United Nations. As laid out in Article 17 of the Charter of the United Nations, the General Assembly has the exclusive responsibility to consider and approve the Organization's budget. The proper funding of Security Council referrals would enhance the credibility of both the Court and the United Nations. The current situation is neither fair nor sustainable.

Perhaps the most pressing challenge for the ICC and its States parties is to adopt the necessary changes to the Rome Statute system. Brazil is engaged in the ongoing review process as an important exercise to carefully assess the recommendations of the independent experts and implement those that will effectively improve the work of the Court. In that context, Brazil cautions

against pursuing expert recommendations that seek to amend the Rome Statute system. Attempts to implement recommendations that do not enjoy the broad support of the parties to the ICC are also counterproductive, as consensus is key to ensuring an effective and legitimate review.

The quest for peace and justice is always challenging, and that challenge is inherent to the search for a more just and cooperative world. Let us not fall into the trap of operating with false dichotomies that seem to oppose peace to justice, as both values complement each other. They form part of the shared values that have made the first permanent, treaty-based International Criminal Court a reality. Brazil remains committed to the Rome Statute system and the values that motivated its establishment.

Mr. Klussmann (Germany): Germany fully aligns itself with the statement made by the representative of the European Union, and we would like to add some comments in our national capacity.

Germany shares the view that the International Criminal Court (ICC), although still a relatively young institution, is an integral part of today's international legal order. With its unique independence and impartiality, the ICC was established on a solid foundation. The Court is highly esteemed by the international community for its clear determination to ensure justice and fight impunity. International crimes must not go unpunished, and the perpetrators must be held accountable.

Against that background, Germany expresses its full support for the new President of the Assembly of States Parties, Ms. Silvia Fernández de Gurmendi, and the new Prosecutor of the Court, Mr. Karim Khan. Similarly, we reaffirm our enduring support for the ICC as a whole. We remain convinced that outside interference or pressure has no place in the independent work of the Court.

Almost 20 years after the ICC effectively came into operation, there is still ample reason to remain modest in our outlook. The Court's scope is still not universal, and perpetrators of atrocity crimes continue to avoid responsibility, submitting to investigation and standing trial.

Germany is the second largest contributor to the ICC's budget, and many other States provide substantial contributions. Nevertheless, the Court is facing

financial challenges. Given the Court's critical role in providing a forum for victims to air their grievances and seek redress, it is important to secure additional voluntary contributions to the Trust Fund for Victims. Sources of reliable financial support are essential in order to allow the Court to fulfil its important mandate. That mandate can only be achieved collectively by the Court, States parties and civil society. Our contributions must safeguard the judicial independence of the Court and the integrity of the Rome Statute.

We are of the view that the Court also merits the full political support, cooperation and assistance of States. The Court's mission and the United Nations mandate politically complement each other's objective to achieve a rules-based global order and end impunity.

Germany will remain committed to improving the Court and its mechanisms. That includes supporting the ongoing review process so that the Court and States parties may act on the resulting recommendations in order to become even more effective and efficient. Let us move forward together towards that goal.

Mr. Uddin (Bangladesh): Justice is a key prerequisite for lasting peace and sustainable development. Bangladesh is steadfast in its commitment to supporting global efforts to uphold justice and the rule of law, a critical pillar in the maintenance of international peace and security. In that regard, we recognize the International Criminal Court (ICC) as one of the principal global criminal justice institutions and reaffirm our unwavering support for its independent and impartial judicial nature. We reiterate our commitment to upholding and defending the principles and values enshrined in the Rome Statute and preserving its integrity.

My delegation thanks the President of the International Criminal Court for his comprehensive presentation of the report (A/76/293) on the activities of the Court in 2020 and 2021. We acknowledge the efforts of the Court to continue its functions during the reporting period despite various practical challenges, including those posed by the coronavirus disease pandemic. In that regard, Bangladesh is pleased to once again co-sponsor draft resolution A/76/L.7, entitled "Report of the International Criminal Court".

We believe that justice is critical for the resolution of global conflicts. We are even more convinced of that after having to bear the brunt of a conflict situation in our neighbourhood that has forced more than 1 million

civilians to take shelter in Bangladesh, as the Assembly is aware.

The forced displacement of Rohingya from their ancestral homes in Myanmar has now been considered by the International Criminal Court.

We believe that the investigation by the ICC Office of the Prosecutor with regard to the situation of the Rohingya minority constitutes an important confidence-building measure for their safe and voluntary return to Myanmar. In the total absence of accountability for the perpetrators, the Rohingya remain concerned about their safety in Myanmar. We welcome the updates provided in the report in connection with the investigation in the situation of Bangladesh/Myanmar.

We stress that the cooperation, assistance and support of the State and non-State parties to the Rome Statute remain critical for discharging the ICC's mandate in a sustained and meaningful manner. In that regard, we support the ICC's efforts to broaden its cooperation network in the region and join the Court in calling on all State Parties to cooperate with its investigations, including on the situation in Myanmar.

As reflected in the report, Bangladesh has been extending its full cooperation to the Court throughout the investigation process. We call on Myanmar to cooperate with the International Criminal Court, so that the perpetrators of crimes against the Rohingya can be brought to justice and in order to help break the cycle of violence and impunity in their country.

Updating governance mechanisms, working methods and judicial proceedings are critical to ensuring the Court's efficient delivery of justice. In that context, we welcome the Court's review process, initiated in 2019, with a view to strengthening the Court and the Rome Statute system of international criminal justice. As one of three ad-hoc country focal points of the Review Mechanism, Bangladesh is committed to that process.

The Trust Fund for Victims plays a pivotal role in responding to the harm suffered by victims as a result of crimes that come under the Court's jurisdiction. We attach high importance to its mandate and efficiency, which is also reflected in our contribution to the Fund. We take note with satisfaction that throughout 2020 and 2021, the Fund's activities grew significantly — from six projects, conducted with the implementing partners,

to 27. We call for enhancing voluntary contributions for the Trust Fund for Victims in order to enable it to deliver on its reparation and assistance mandates.

In conclusion, we reiterate the need for fostering solidarity among State Parties and preserving the integrity and credibility of the ICC as the Court of last resort in the overarching interest of combating impunity for the gravest crimes under international law within its jurisdiction.

Mr. Liu Yang (China) (*spoke in Chinese*): China thanks President Hofmański for reporting the work of the International Criminal Court (ICC) to the seventy-sixth session of the General Assembly and congratulates the newly appointed prosecutors and six judges who took office this year.

China has always paid close attention to the work of the ICC and has participated as an observer in previous Conferences of the States Parties to the Rome Statute of the International Criminal Court. We note that over the past year, the Court has overcome the challenges posed by the epidemic and has continued its investigation and trial activities by adjusting its working arrangements and innovating its working methods.

China has always supported combating and punishing serious crimes that threaten international peace and security in accordance with the law. The ICC should exercise its authority prudently, in full compliance with the Rome Statute, and its judicial activities should conform to the basic principles of international law, including the purposes and principles of the Charter of the United Nations, and promote international and regional peace and security.

Under international law, States bear the primary responsibility for punishing international crimes, eliminating impunity and achieving justice. The ICC was established as a complement to national jurisdiction and should therefore fully respect national judicial sovereignty, strictly follow the principle of complementarity and all other requirements under international law, prudently determine and exercise its own jurisdiction, further respond to the legitimate concerns of States and earn broad-based trust and support through its practices. The Court should also commit to an independent, objective and non-politicized stance and must see through fabricated facts, false accusations and frivolous and abusive tactics and resolutely resist the abominable practices of political manipulation of judicial proceedings.

International criminal justice is facing unprecedented threats as a certain country imposed unilateral sanctions on ICC prosecutors and other officials in September 2020. Although the aforementioned unilateral sanctions have been lifted, the root causes of unilateral sanctions have yet to be eliminated. That State has repeatedly placed its national agenda and domestic laws above international law, with which it adopts a cherry-picking approach in a manner that seriously undermines the international rule of law.

It bears emphasizing that unilateral sanctions that are incompatible with international law seriously hamper the economic and social development of the sanctioned countries, affect the livelihoods of their people, gravely violate fundamental human rights and even lead to major humanitarian disasters. China has always opposed unilateral sanctions. China notes that some parties to the Rome Statute have submitted information to the International Criminal Court regarding unilateral sanctions against them. The International Court of Justice, the main judicial organ of the United Nations, is also hearing inter-State proceedings on unilateral sanctions. China hopes that the international community will make greater efforts to put an end to unilateral bullying.

The International Criminal Court launched an investigation into the situation in the Philippines in September. That is the first time that the Court has officially launched an investigation after a contracting country's withdrawal. China notes that there are divergent international views regarding the interpretation and application of the provisions of article 127 of the Rome Statute on withdrawal — in particular on whether the preliminary examinations carried out by the prosecutors belong to the criminal investigations and proceedings that commenced before the effective date of withdrawal under Article 127. A definitive conclusion has yet to be reached as to whether a matter already under the consideration by the Court or further initiated after the withdrawal takes effect or whether the Court can continue to hear the matter. The above-mentioned issues relate to the precise obligations of withdrawing countries in cooperating with the ICC. In addition, the application of the principle of respect for national sovereignty and national consent should be clarified and set forth in no ambiguous terms.

China has always attached great importance to the role played by international criminal justice institutions in promoting the international rule of law and punishing

egregious international crimes and has always actively participated in the constructive development of the international criminal justice system. China reaffirms its support for the establishment of an independent, impartial, effective and universal international criminal justice institution and looks forward to the Court maintaining judicial justice and promoting peace and security through objective and impartial judicial activities.

Mr. Wenaweser (Liechtenstein): The strong participation in this debate illustrates clearly the high relevance of the work of the International Criminal Court (ICC), which goes indeed to the very purposes of the Organization. After almost 20 years of operations of the Court, the Rome Statute remains one of the most powerful and lasting statements on the importance of the rule of law at the international level. It is based on a number of key premises that are of the most direct relevance to the work of the United Nations and of the Assembly:

First, nobody is above the law. The Rome Statute applies to all individuals, irrespective of official capacity, in particular as Head of State or Government, member of Government and other official functions. A look at the situations on the agenda of the United Nations main political organs — from Myanmar to the Syrian Arab Republic to the Sudan — illustrates just how important this principle is, not just for the purpose of achieving justice, but also for the sake of achieving sustainable peace.

Secondly, the Court's work is based on the principles of impartiality and of judicial and prosecutorial independence. The latter in particular has come under frequent and at times systematic attack. We welcome the lifting of the unprecedented measures that the former United States Administration had imposed against the Court as an institution and even against individuals working in leadership positions. At the same time, it would be naïve to think that such attempts to undermine the independence of the Court are a thing of the past. States parties in particular, but indeed all States committed to the rule of law, even if they have not yet joined the Rome Statute, must stand ready to defend this fundamental principle. Of equal importance is the principle of impartiality, which is key for the perception of the Court not only as the beacon of hope for victims of crimes of international concern but also as a means of deterrence of their commission in the future.

Thirdly, cooperation by States is indispensable to justice to be delivered. The drafters of the Rome Statute recognized this very clearly and created an obligation for States parties to cooperate with the Court in a specific and clearly defined manner. States not parties to the Rome Statute can be invited to extend cooperation as well or called upon to do so in the case of Security Council referrals. Cooperation is key not only in the area of evidence sharing, but also when it comes to arrests — where the record is mixed at best, as the number of outstanding arrest warrants indicates. The case of the Sudan is worth mentioning in particular here, as we follow the developments on the ground. We welcome again the announcement of the Cabinet of the transitional Government in August to hand over individuals indicted by the Court and hope that they will be able to deliver on that promise. But cooperation must also take on the form of political support for the Court when it comes under political attack, in particular when attacks are directed against its independence. We hope that many States that are not part of the Rome Statute system yet will recognize that an independent International Criminal Court is in the interest of all who support the rule of law and a rules-based international system.

The report before us (see A/76/293) — and our thanks go to President Hofmański for his leadership — illustrates yet again the vibrant relationship between the United Nations and the International Criminal Court. Based on the Relationship Agreement, the two organizations have established various forms of cooperation, including the exchange of information, judicial assistance and field support. The Court receives essential operational support from numerous parts of the United Nations system. The cooperation of entities present in the field — in accordance with their mandates and with the agreement of host States — is of particular importance.

The second dimension of the Court's relationship with the United Nations system is far more complex. Under the Rome Statute, the Security Council has the authority to refer situations to the Court. The Council has done so twice, in the case of Darfur/Sudan and in the case of Libya, but its interest in engaging the ICC has receded in a manner that is proportionate to its inability to do meaningful work in the area of accountability, and more broadly on the protection of civilians. Over the past ten years, one referral decision — on the situation in the Syrian Arab Republic — has been vetoed and the Council has not made a single statement

on the execution of arrest warrants or other issues of cooperation. The referral power foreseen in the Rome Statute is premised on a meaningful interaction with the Court and effective follow-up on the Court's activities. This, however, has not happened and there simply is no meaningful dialogue taking place. The upcoming briefing of the ICC Prosecutor on the Darfur investigation is an obvious opportunity for the Council to correct this record and to express itself in a meaningful way in support of lasting peace in the Sudan. We also wish to recall that the activities carried out by the ICC as a result of a Council referral should be paid for by the membership of the United Nations, on whose behalf the Council takes its decisions, and not by States parties to the Rome Statute.^[P.5] Since July 2018, the Council has had an additional tool with respect to the International Criminal Court. With the exercise of the jurisdiction of the ICC commencing in July of that year, the Council also has the authority to make a determination that an act of aggression has been committed, which can be the basis for the Court to proceed with an investigation with respect to the crime of aggression, committed by a person in a leadership position. While there may not be a case before the Court with respect to this crime in the near future, on the basis of a Council referral or otherwise, it is of essential importance that all States familiarize themselves with the relevant provisions of the Rome Statute, in particular with respect to their possible service on the Security Council.

The Kampala amendments on the crime of aggression have now been ratified by 41 States, and we congratulate Italy on its decision to join soon as the forty-second. While these amendments are based on existing international law, in particular resolution 3314 (XXIX), adopted by the Assembly in 1974, they are also applicable to modern methods of warfare, in particular in cyberspace. Together with 10 other committed States parties, we have created a Council of Advisers that has produced an in-depth examination of the provisions of the Rome Statute and come to the unanimous conclusion that its provisions do indeed apply to cyberwarfare. We invite all members of the Assembly to join us in our further examination of this issue, which is of direct, high relevance to other discussions under way in the United Nations system.

The main strength of the Rome Statute is its comprehensive vision for international criminal justice. At its heart is indeed the International Criminal Court, but the most relevant factor are national judiciaries.

For all of the most serious crimes committed around the globe — genocide, war crimes, crimes against humanity and the crime of aggression — there is at least one national judiciary that has the competence and the responsibility to investigate and prosecute. In all cases, this competence precedes the jurisdiction of the Court, whose mandate is to step in only when national judiciaries themselves are unable or unwilling to investigate and prosecute. Ultimately, the Rome Statute is therefore a strong encouragement not only to national systems to live up to their obligation, but also to the international community to be supportive of such efforts in any way we can. In line with the goals we have set ourselves when adopting the 2030 Agenda for Sustainable Development — in particular Sustainable Development Goal 16 — there is a strong case to be made for vibrant and positive engagement both by the Secretariat and the political organs of the Organization with the Rome Statute system

Allow me add a joint message on behalf of Austria, Belgium, Costa Rica, Cyprus, Luxembourg, Portugal, Sierra Leone, Slovenia, Switzerland and my own country, Liechtenstein on draft resolution A/76/L.7, introduced earlier on by our Dutch colleagues. We are States parties to the Rome Statute that are steadfast supporters of the Court and its mission to end impunity for the worst crimes known to humankind.

Our delegations support the draft resolution because it includes many important points that correspond to our strong belief in the work of the ICC. We also wish to clearly reiterate our commitment to the Rome Statute system at a time when the fight against impunity is more important than ever. As the Court marks 20 years of operations next year, it remains the centrepiece of the international effort to ensure accountability for the most serious crimes under international law and for upholding the rule of law — a vision it shares with the Charter of the United Nations.

At the same, we wish to place on the record our regret that it was not possible to make important and overdue factual updates on the draft text. In particular, three key developments that have taken place in recent years are not reflected in the draft resolution before the Assembly.

First, since 17 July 2018, the ICC has been able to exercise jurisdiction over the crime of aggression, a competence that complements the United Nations Charter's prohibition on the use of force, which is of

direct relevance to the purposes of the Organization and the work of the Security Council.

Secondly, in 2017 and again in 2019, the States Parties decided to amend the Rome Statute to add several new war crimes, including on the intentional starvation of civilians in non-international armed conflicts and on war crimes in connection with the use of biological and toxin weapons, weapons causing injuries to the human body by fragments that escape detection by X-ray, and laser weapons that cause permanent blindness. These amendments make a meaningful contribution to the protection of civilians, which is at the heart of the work of the United Nations, and to restricting the means and methods of warfare considered to be of a nature to cause superfluous injury or unnecessary suffering for combatants.

Thirdly, we would have also liked to see a reference to the important cooperation between the ICC and the recently established United Nations accountability mechanisms reflected in the draft text, in particular the Independent Investigative Mechanism for Myanmar, which was established by the United Nations in 2018 to investigate a crisis situation that features prominently on the agenda both of the General Assembly and the Security Council.

These developments, which are not reflected in this year's draft resolution, illustrate the value of the Rome Statute, which close to two thirds of the United Nations membership have ratified. We regret that we were not given the opportunity to propose factual updates to the draft resolution this year and hope that inclusive consultations will be possible next year.

Mrs. Baeriswyl (Switzerland) (*spoke in French*): Switzerland thanks the President of the International Criminal Court for his report (A/76/293) and for his leadership.

The Court was established to fight impunity for the most serious crimes under international law, bring justice to victims and, in so doing, contribute to lasting peace. As stated in today's report, the Court is fulfilling its role despite the many challenges posed by the coronavirus disease pandemic. It has fulfilled its mandate and rendered judgments in situations in all regions of the world. Switzerland would like to take this opportunity to express its thanks to the Court, its staff and all those who support this institution.

One year ago, after the imposition of sanctions against the Court, 73 States Parties to the Rome Statute came together in a joint statement before this Assembly to express their unwavering support for the Court (see A/75/PV.18). Today, the sanctions have been lifted. Switzerland welcomes the more positive momentum around the Court. This strengthens cooperation between the Court and the States Parties, including those that have not yet ratified the Rome Statute. Let us continue our efforts together.

Switzerland's support for the Court goes hand in hand with our efforts for an effective Rome Statute system. The Court and the States Parties have a common responsibility in this regard. Let me highlight the following four points.

First, it should be emphasized that States have the primary responsibility for the investigation and prosecution of the most serious crimes. Such crimes continue to be committed, and often are not properly investigated at the national level. However, victims rightly expect accountability. All States have an obligation to prosecute and punish such crimes.

Secondly, the Court's role is complementary to that of national criminal courts. It can only intervene if States are unable or unwilling to do so. The Court was established to prevent and investigate the most serious crimes, regardless of who committed them. It is therefore an independent judicial institution governed solely by law. Switzerland is committed to impartial and independent justice. By fulfilling its mandate, the Court makes an important contribution to lasting peace and reconciliation.

Thirdly, we will continue to respect our cooperation obligations under the Rome Statute and call on all States to do the same. Only with the full cooperation of States can the Court fulfil its mandate and ensure justice for the victims of the most serious crimes.

Fourthly, the Court needs a strong Statute and universal support. We therefore call on all States that have not yet done so to ratify the Rome Statute. Switzerland is also committed to strengthening the Rome Statute system. In this context, it should be noted that in recent years the Assembly of States Parties has adopted several amendments to the Rome Statute precisely with the intention of strengthening it. Accordingly, Switzerland calls on all States Parties to ratify these amendments. This will contribute to

strengthening the effectiveness of criminal justice at both the national and international levels.

In establishing the Rome Statute system, we have made a promise — a promise to fight impunity for the most serious crimes, to bring justice to victims and to contribute to a lasting peace. It is therefore our shared responsibility to help strengthen the Court and ensure that it can effectively deliver justice.

Ms. Bassols Delgado (Spain) (*spoke in Spanish*): Spain aligns itself with the statement made by the representative of the European Union on behalf of the Union and its member States. This statement is made in my national capacity in order to highlight some aspects of special interest to my country.

It is always a moment of particular relevance for Spain to participate in the General Assembly debate on the occasion of the presentation of the annual report of the International Criminal Court (ICC) on its activities, this time for 2020-2021 (A/76/293). I would especially like to thank the President of the Court, Judge Piotr Hofmański, for his briefing on the report. At the outset, and once again, I would like to emphasize Spain's commitment to the fight against impunity and to the work of the International Criminal Court. Reaffirming the Court's validity as a jurisdictional body responsible for investigating the most serious crimes affecting international society as a whole and for prosecuting those responsible for such crimes is primordial. It is always worth remembering that, in the Rome Statute system, the International Criminal Court is a jurisdiction of last resort, complementary to national jurisdictions, and does not exempt States from their duty to provide justice to their citizens.

Over the past year, despite the coronavirus disease (COVID-19) pandemic, the International Criminal Court has been unwavering in its efforts to continue carrying out its jurisdictional work. Working methods had to be adapted, and the Court's staff made a commendable effort to keep the institution functioning. The report reflects the continuity of the Court's jurisdictional work, which is the best letter of introduction to the institution and platform on which it builds its reputation and makes itself attractive to those States that are not yet part of the Rome Statute family. Spain is grateful to all ICC staff for their work in response to the practical problems caused by the COVID-19 pandemic.

The ICC has also undergone in recent months a profound renewal of its most senior officials. Since

2020, 6 new judges and a new Prosecutor, Mr. Karim Khan, have been elected. The new President of the Court, Mr. Piotr Hofmański, and the new President of the Assembly of States Parties, Ms. Silvia Fernández de Gurmendi, have also been elected. Spain would like to take this opportunity to welcome this new generation of leaders in the ICC system and express its full support to them as they work to take the ICC to new heights of success in the coming years.

As many delegations that have preceded me in this debate have already noted, the ICC is at a crucial juncture, approaching the twentieth anniversary of the beginning of its jurisdictional activities. The Court has important issues before it that can be condensed into three fundamental ideas: first, to successfully conclude the evaluation process to strengthen the Rome Statute system; second, to achieve greater efficiency; and third, to strengthen the diversity of its functions to achieve its objectives.

Allow me to reflect on each of these three ideas. With regard to the first aspect, the International Criminal Court is indeed immersed in a profound exercise of evaluating how to strengthen its functioning in order to continue serving the objectives of the Rome Statute. Spain supports this exercise in a decisive and constructive manner, with the dual purpose of strengthening the Court's functioning and further reaffirming the Rome Statute system with which those of us who signed onto it on 13 July 1998 endowed ourselves. On the eve of the next session of the Assembly of States Parties in December this year, which should take stock of the progress of this process, Spain advocates a pragmatic and constructive, results-oriented approach. The evaluation process undertaken is therefore not an end in itself, but a tool that should produce, as soon as possible, an early harvest of tangible results. The *raison d'être* of this evaluation process is to help the ICC achieve the full potential offered by the Rome Statute, without renouncing its principles in the least. This process should reinforce the work and functioning of the Court as a strong and independent criminal court and as a serious and transparent organization.

With regard to the imperative of effectiveness, the ICC must always strive for the highest standards in achieving its objectives. Spain believes that in this particular area the ICC Office of the Prosecutor has an opportunity to take the lead, in particular with regard to the prioritization of cases and the completion of preliminary examinations. Spain considers it

appropriate for the Office of the Prosecutor to have clear criteria for the selection of cases in order to maximize the results of its work and avoid any criticism of bias. The specification of these criteria and their application should be done very carefully, taking into consideration the potential impact that the Office of the Prosecutor's actions might have in each case. Accordingly, Spain recalls that the Office of the Prosecutor's decision to address a given situation can have a dissuasive and preventive effect and can be crucial in those scenarios where a State is at a turning point in which there is a very high risk that the serious conduct that the ICC was designed to help prevent will be committed.

On the other hand, the effectiveness of the Court also depends, to a large extent, on the way in which preliminary examinations are conducted by the Office of the Prosecutor. Spain is in favour of any approach to the conduct of preliminary examinations by the Office of the Prosecutor that is functional and pragmatic. Spain understands that it is not for the Office of the Prosecutor of the ICC to apply the Rome Statute alone, but that in doing so it must rely on the sustained support of the criminal prosecution authorities of the States Parties, in particular the national authorities of those States on whose territories specific acts are being investigated. For my delegation, it is a question of taking the principle of complementarity to its highest level. Prosecuting authorities of States Parties to the Rome Statute should not feel that they are controlled by the ICC, but that they have an incentive to partner with it to achieve results that are shared successes.

With regard to the third point, the desirability of strengthening the very diverse functions performed by the ICC, Spain wishes to draw attention to the fact that the Rome Statute does not merely create an isolated international criminal court but lays the foundations of a true system of international criminal justice. In this regard, my delegation would like to expressly underline the work of the Trust Fund for Victims, an initiative that responds to the harm suffered as a result of crimes within the ICC's jurisdiction. During the reporting period, the Fund significantly increased its activity and, in the middle of this year, provisionally adopted a regulation on working methods. For Spain, the Fund's assistance to victims, through the payment of reparations or through support for educational, income-generating or community-service programmes, is essential for the administration of comprehensive and all-encompassing justice for all that meets the needs of victims.

My country has made a sustained effort to keep up its voluntary contributions to the Trust Fund for Victims, and this effort will continue. Furthermore, Spain appreciates the fact that the Fund's specific actions can assist States' internal systems in providing reparations to victims of qualified crimes, such as those prosecuted by the ICC, as well as of terrorism. Spain sees this as a potentially salutary and desirable effect of the ICC's activities, which should make the Court attractive to more States.

In the context of the ICC system's diversity of functions, Spain is convinced that the Rome Statute is perfectly applicable to the new challenges of the twenty-first century in the light of the new ways that international humanitarian law, international human rights law and the prohibition of the use of force are being seriously violated. Together with a group of States under the coordination of Liechtenstein, Spain has actively participated in promoting the work of a group of experts, the Council of Advisers on the Application of the Rome Statute to Cyberwarfare, to examine the applicability of the Statute to criminal conduct undertaken through cybernetic means.

The report of the Group of Experts was made public on 26 October, finding that the Rome Statute is a valid criminal-penal instrument and fully commensurate with the functions of Court activities, and reflecting the need to avoid any fragmentation that could weaken the central role the International Criminal Court plays in the system of international criminal justice.

In conclusion, the fight against impunity is an essential duty of all States. However, when that duty is not upheld adequately at the domestic level within the judicial system of a State, the International Criminal Court is called upon to fill impunity gaps, to investigate crimes so serious as to affect the entire international community, to prosecute the perpetrators of such crimes, and to provide reparation and justice to victims.

Spain calls on all States to join in this endeavour by ratifying the Rome Statute. Ensuring that the International Criminal Court is strong, independent and effective is the best way to contribute to the strengthening of international peace and security, an aim in the interests of all Members of the General Assembly.

Mr. Lam Padilla (Guatemala) (*spoke in Spanish*): Allow me to thank Judge Piotr Hofmański, President of the International Criminal Court (ICC), for introducing his report, contained in document A/76/293, on the

activities of the Court over the past year. We appreciate and take note of the information and the cases presented, as well as the preliminary examinations and new investigations carried out by the Office of the Prosecutor.

Guatemala reaffirms its unequivocal support for the International Criminal Court, as well as its commitment to the fight against impunity, as the International Criminal Court plays a fundamental role within the international justice system with the aim of ending impunity for the most serious crimes of concern to the international community. My delegation's support for the Court is reflected in the fact that we, as every year, are among the main sponsors of draft resolution A/76/L.7, on the report of the ICC.

Guatemala reiterates its call for respect for the principle of complementarity and the strengthening of national systems to guarantee accountability, which is a fundamental pillar of the Statute and a guiding principle of the Court's endeavours. We therefore believe that it is necessary to strengthen cooperation between the Court and the United Nations, especially with the Security Council, so as to join forces and help prevent crimes that may threaten international peace and security. In that regard, we stress the complementarity that must exist between these entities in order to work together in a coordinated and impartial manner in taking timely and effectively action in response to such crimes, which represent grave violations of human rights.

Cooperation is one of the essential principles and pillars undergirding the Court's proper functioning. Therefore, the firm commitment of States parties is essential for nourishing the capacities of the Court to ensure accountability, do justice by victims and help prevent future crimes, as envisaged by the spirit of its Statute. The States parties to the Rome Statute and the membership of the United Nations must strive to strengthen cooperation and continuously reaffirm the importance of international criminal justice in upholding the rule of law at the national and international levels, as well as international peace and security.

Combatting impunity is an objective of the States parties to the Rome Statute and of the United Nations, but this objective must be accompanied by the commitment to provide the Court with the necessary resources to fulfil its functions, in order to protect their integrity and independence. Resourcing shortfalls risk jeopardizing the sustainability of investigations.

With the exception of the stipulation in article 26 of the Rome Statute, Guatemala wishes to recall that no one is above the law and all perpetrators of crimes under the jurisdiction of the Court must be judged equally and held accountable for their acts, whether those actors be material or intellectual. My delegation calls for redoubled efforts and support for achieving the universalization of the regime. Each step towards universalization will significantly reduce the risk of impunity and help consolidate the peace and stability of States.

To conclude, we urge all Member States to support the draft resolution presented today. Its adoption would reflect the strong and consistent support the International Criminal Court requires to carry out its mandate and continue playing a fundamental role in the strengthening, promotion and protection of international law and international humanitarian law.

Mrs. Maille (Canada): Canada congratulates Judge Hofmański, President of the International Criminal Court, on his recent appointment and thanks him for the latest report on the work of the International Criminal Court (see A/76/293). We are very pleased to welcome his presence here in New York.

As always, the Court plays a pivotal role within our multilateral system in enhancing respect for the rule of law and creating a more peaceful and just world for all. Canada applauds the Court's ongoing work in holding to account those responsible for the most serious international crimes. This work is fundamental to our goal of ending impunity and ensuring justice for the victims of atrocity crimes.

Over the past year, the Court has made important strides in its judicial and prosecutorial activities. These achievements came about in part thanks to the use of novel solutions in responding to the ongoing challenges posed by the global coronavirus disease pandemic, such as hybrid court room proceedings and the many other activities mentioned by Judge Hofmański earlier.

The year 2021 also marks a year of significant transition at the Court's top levels, with the election of six new judges, a new President, and a new Prosecutor, Mr. Khan. Canada congratulates those newly elected officials and wishes them the greatest success in their mandates. Canada also congratulates the new President of the Assembly of States Parties, Silvia Fernández de Gurmendi, and is honoured to return as a member of the Bureau of the Assembly. We are very pleased

to have Ambassador Rae serve as Vice-President of the Assembly.

Multilateral cooperation is vital to the successful functioning of the International Criminal Court. Such cooperation contributes to the efficiency and fairness of its judicial proceedings. In that context, Canada welcomes the lifting of sanctions against Court officials and is encouraged that the Court continues to receive highly valuable assistance and operational support from both the United Nations and from multiple member States. However, Canada notes with concern the outstanding warrants for arrest and surrender, which remain a critical challenge to the Court's work. Canada calls on States parties and others to give effect to Court-issued requests for arrest and surrender. The Court can succeed only with active support for its ongoing investigations.

Cooperation between the Court and the Security Council is also vitally important, given their different yet complementary roles in responding to atrocity crimes and maintaining international peace and stability. Canada supports meaningful and enhanced dialogue between these two bodies on matters of mutual interest, in order to strengthen synergies and complementary objectives between those respective bodies.

Furthermore, Canada recalls the Security Council's prerogative to refer situations to the Court, a mandate that can assist in promoting accountability in instances where grave crimes may have been committed outside of the Court's jurisdiction. In this regard, Canada takes this opportunity to again urge the Security Council to refer the ongoing situations in Myanmar and Syria to the Court for its consideration.

(spoke in French)

Canada joins the International Criminal Court in acknowledging the dedicated efforts of civil society in raising awareness of the Court's work and in promoting universal ratification and full national implementation of the Rome Statute. Universalization is essential to enhancing accountability for the most serious crimes under international law and to strengthening the Court's effectiveness in combatting impunity and delivering durable justice for atrocity crimes. Canada takes this occasion to reiterate its call on all non-States parties to ratify the Rome Statute.

As noted by the President, the Trust Fund for Victims also plays a crucial role in offering restorative justice

through support to victims of crimes and their families, who are of course within the Court's jurisdiction. Canada is therefore very pleased to provide \$4 million in voluntary funding over a five-year period to the Trust Fund's initiative in Mali, known as "Réparer les vivants et leur résilience". In supporting that work, we hope to contribute to peace and reconciliation efforts within Mali.

The twentieth session of the Assembly of States Parties promises to be a fruitful one. Canada supports plans to elect two Deputy Prosecutors, including at least one female and one representing the international civil law tradition. We were pleased to see the short list of qualified candidates. We take this opportunity to extend our very sincere thanks and gratitude to the outgoing Deputy Prosecutor, James Stewart, who has made Canada proud throughout his years of dedicated service.

Support for the Court in improving its budgetary efficiencies and making best use of its existing resources will be another important topic of discussion during the twentieth session. Canada notes with concern that persistent liquidity issues increasingly constrain the efficient and effective operation of the Court. In the light of severe budgetary shortfalls, Canada has provided early payment to the Court of a portion of its 2021 and 2022 assessed contributions. We are proud to support the Court during this difficult period.

However, having some States pay their contributions earlier and earlier each year so as to offset the failure of others to pay some or all of their assessments is not an acceptable long-term solution. The Committee on Budget and Finance has repeatedly highlighted the need to address these liquidity issues. There is a pressing need for States in arrears to pay their contributions. Canada encourages the Assembly of States Parties to explore additional means to encourage the payment of contributions, on time and in full.

Among other proposed solutions, the question arises as to whether States parties in arrears should be restricted from presenting candidates for elected positions to the Court. Canada looks forward to participating in these discussions going forward. For the moment, we would simply note that as the Court's challenging workload continues to increase, it is imperative that it be adequately resourced.

(spoke in English)

Canada welcomes these and other ongoing discussions aimed at improving and strengthening the functioning of the Court. In particular, we are encouraged by the efforts of the Review Mechanism to chart our way forward in prioritizing and implementing the key recommendations of the Independent Expert Review panel. Canada looks forward to continued engagement with other States parties in the coming months and years to strengthening that young but important institution.

Canada particularly supports the Court's efforts to strive for increased diversity and improved gender balance at all levels within the institution. In that regard, we welcome the appointment of a Focal Point for Gender Equality at the Court and its ongoing commitment to strengthening the integration of gender-based perspectives into its work.

International justice is an indispensable pillar of the rules-based international order. Since its inception, the Court has been at the forefront of hard-earned progress towards greater accountability for atrocity crimes. Canada remains committed to maintaining and strengthening the structure of a permanent, independent judicial institution that has the respect and confidence of the international community. To that end, we fully support the essential mandate and ongoing work of the International Criminal Court, which seeks to make our world a safer, more secure, and more just place for all.

Mr. Mills (United States of America): I thank President Hofmański for his briefing and for his leadership as President of the International Criminal Court (ICC).

As noted in the Court's report on developments between August 2020 and August 2021 (A/76/293), this has been a year of significant change and activity at the Court. The United States would like to commend the ICC for a number of achievements in some of the longest running situations before the Court. Those situations involve national Governments that invited the ICC to act because they were unable to do so.

In March, the United States welcomed the verdict in the case against former Lord's Resistance Army commander, Dominic Ongwen, for war crimes and crimes against humanity. That was a significant step in securing justice for atrocities committed by the Lord's Resistance Army and we hope that the verdict brought

some measure of closure to its too many victims. We also welcome the Appeals Chamber's decision in March to confirm the convictions of Bosco Ntaganda, closing one chapter of the many years of atrocities against the population in the eastern Democratic Republic of the Congo, including sexual slavery, as a crime against humanity and a war crime that had been committed by his forces.

We are pleased to have assisted in facilitating the voluntary surrender of Ongwen and the transfer of Ntaganda to the ICC. The United States remains committed to furthering justice for Lord's Resistance Army atrocities and we continue to offer monetary rewards for information leading to the arrest of Lord's Resistance Army leader Joseph Kony.

Finally, the United States applauds the progress that has been made to advance accountability in the Central African Republic, including the commencement in February of the trial against Alfred Yekatom and Patrice-Edouard Ngäissona for atrocity crimes.

We are also pleased to note several positive developments beyond the ICC. Those are developments in relation to broader efforts to seek justice for atrocity crimes in national, hybrid and international courts. That includes the commencement of trials in the Kosovo Specialist Chambers and the announcement of an atrocity crime indictment by the Special Criminal Court of the Central African Republic.

Given the responsibilities that States have for protecting their own populations and the limited capacity of any international court, the United States continues to robustly support countries in their own domestic efforts to ensure accountability.

Turning back to the ICC, we would also like to take note of the important effort under way relating to reform as the Court approaches its twentieth birthday. All organs of the Court and States parties, working with other States, civil society and victims, have engaged over the past year in consideration of a broad range of reforms, including those identified in the Independent Expert Review of the ICC.

Although, as the Assembly knows, the United States is not a State party, we welcome those ongoing efforts to identify and implement reforms that will help the Court better achieve its core mission, serving as a Court of last resort in punishing and deterring atrocity crimes. While we maintain our long-standing

objection to the Court's efforts to assert jurisdiction over personnel of non-States parties, absent of Security Council referral or the consent of the State, we believe that our concerns are best address through engagement with all stakeholders.

Where domestic systems are unable or unwilling to genuinely pursue the justice that victims deserve and that societies require to sustain peace, international courts such as the ICC can have a meaningful role. We are impressed that the ICC persevered during the coronavirus disease pandemic and has been able to remain continuously operational in its pursuit of justice. We extend our appreciation to all ICC staff for their dedication to accountability.

Around the world, far too many victims of mass atrocities, both within and outside of the ICC's jurisdiction, have yet to find justice. We are reminded that much remains in our work together to prevent mass atrocities and to ensure that the perpetrators and those responsible for genocide, crimes against humanity and war crimes are brought to justice.

The United States looks forward to continued discussions at the United Nations and to our upcoming participation as an observer in the Assembly of States Parties to the Rome Statute in The Hague next month.

Mr. Espinosa Cañizares (Ecuador) (*spoke in Spanish*): My delegation thanks the President of the International Criminal Court, Judge Piotr Hofmański, for presenting the report of the International Criminal Court on its activities in 2020 and 2021, contained in document A/76/293. It also welcomes the draft resolution introduced today by the Netherlands, entitled "Report of the International Criminal Court" (A/76/L.7), which Ecuador has co-sponsored and hopes will be adopted by consensus.

Ecuador is committed to a rules-based international order, which is why it has consistently defended the role of the International Criminal Court (ICC) in the fight against impunity, the maintenance of peace and the pursuit of international justice. The progressive universalization of the Rome Statute and of the jurisdiction of the International Criminal Court is our inalienable objective.

We call on all States to ensure full cooperation with the Court so that it can fulfil its important mandate to ensure justice for the victims of the most serious crimes.

We recall that the ICC is a court of last resort, intervening only when States are unwilling or unable to actually carry out domestic proceedings. We therefore reject any unilateral measure against the independence of the Court and its officials.

Beyond conjunctural political considerations, it is vital to move towards genuine universal criminal justice. We support the relentless work of the Court, the caseload of which, since the beginning of its operations, has recorded a total of 30 cases involving 46 suspects or accused persons. In particular, we acknowledge the work and progress made by the Court in 14 cases at various stages of proceedings, despite the situation we are experiencing with the ongoing coronavirus disease pandemic.

We acknowledge the excellent work of the former Prosecutor of the Court, Ms. Fatou Bensouda, who, until June, contributed to the preliminary examinations of the current reporting period. We reiterate our full support to the current Prosecutor of the Court, Mr. Karim Khan, who has continued with that work to complete preliminary examinations in 10 situations.

In its 2008 Constitution and its domestic criminal legislation, Ecuador has incorporated the imprescriptible nature of actions and penalties for crimes of genocide, crimes against humanity, war crimes, the enforced disappearance of persons and crimes of aggression. In our country, none of those cases are subject to amnesty or statutes of limitation in full accordance with the very nature of the Rome Statute, namely, to combat impunity. Ecuador has ratified the amendments to the Rome Statute relating to the crime of aggression and has also subscribed to the code of conduct regarding Security Council action against genocide, crimes against humanity and war crimes.

The Court must be adequately funded so that it can meet the objectives set out in the Rome Statute. It is also necessary to strengthen existing mechanisms to obtain resources and to mobilize the international community's support for the voluntary Trust Fund for Victims.

My delegation expresses its support for the work of the United Nations system to improve the channels of cooperation with the Office of the Prosecutor and other organs of the Court, and we appeal to Member States to do all they can to support the implementation and execution of the orders issued by the International Criminal Court.

From within the Bureau and the Assembly of States Parties, Ecuador is conducting a thorough review of the report on the review of the ICC system and the Rome Statute, prepared by the group of independent experts. The report makes 384 recommendations in the various areas of work. Ecuador welcomes the Overall Response of the International Criminal Court to the "Independent Expert Review of the International Criminal Court and the Rome Statute System — Final Report", from April. In no way should the report increase the Court's burden. We trust that the evaluation will be carried out objectively and in a technical manner, within the framework of the Rome Statute, and will take into consideration the budgetary implications that could arise from the complex situation we are going through on this issue.

Last but not least, my delegation wants to particularly acknowledge the work of the secretariats of the Court and the Assembly of States Parties, whose efficiency and effective coordination and support have made it possible to achieve the above-mentioned results.

Mr. Rodríguez Cuadros (Peru) (*spoke in Spanish*): I thank the President of the International Criminal Court (ICC) for the presentation of the report (A/76/293) on the Court's activities for the period 2020-2021.

The indicators of the Court's important activity over this period are particularly illustrative. The Court issued a new judgment. The Appeals Chamber issued two judgments for crimes against humanity and war crimes, confirming previous judgments. The opening of 14 new investigations is also significant. Importantly, over the past year, the Court heard cases involving 11,000 victims, and received more than 2,300 new petitions from victims. The Court must — and does — pay special attention to the protection and safeguarding of victims' rights. Justice understands them.

We take note of the Court's judicial proceedings on situations concerning the Democratic Republic of the Congo, Uganda, the Central African Republic, Darfur, Kenya, Libya, Côte d'Ivoire, Mali, Georgia, Burundi, Afghanistan, Bangladesh, Myanmar, the State of Palestine, the Philippines and the Bolivarian Republic of Venezuela.

The delegation of Peru underlines the importance of the decision adopted by the Court's Pre-Trial Chamber I, which has determined that Palestine is a State party to the Statute and that the Court therefore has territorial jurisdiction over the situation in the State of Palestine.

We also highlight the importance of the memorandum of understanding signed between the Bolivarian Republic of Venezuela and the Office of the Prosecutor of the International Criminal Court on 3 November 2021 in order

“[t]o establish mechanisms to enhance cooperation between the Parties and to facilitate the effective discharge of the Prosecutor’s mandate in the territory of the Bolivarian Republic of Venezuela”

and

“[t]o strive towards agreeing on the means and mechanisms that will effectively contribute to the efforts of the Bolivarian Republic of Venezuela to carry out genuine national proceedings in accordance with article 17 of the Rome Statute”.

My delegation echoes the idea expressed in the report that under international criminal law, national authorities have the primary responsibility to investigate and prosecute the crimes defined in the Rome Statute. It is therefore essential that States commit to including war crimes and crimes against humanity and the principles of the Rome Statute in their legal codes. Moreover, States must establish or improve cooperation with the Court and train legal professionals on how to investigate and prosecute international crimes, particularly as part of mandates to support judicial and correctional institutions in post-conflict situations.

I would also like to highlight the Court’s ongoing activities, per the report, to promote Sustainable Development Goal 16, on peace and justice.

As a State party to the Rome Statute, Peru reaffirms its commitment to international law, the promotion and protection of human rights, humanitarian law and the rule of law, as we consider them basic prerequisites for achieving peaceful and inclusive societies and for achieving justice that is prompt, timely, respectful of due process, independent and, especially, capable of combating impunity.

We firmly believe in a rules-based international order and are aware that access to justice and accountability are fundamental to the maintenance of international peace and security. Peru therefore supports all initiatives aimed at ensuring that perpetrators of serious violations of human rights and international humanitarian law are held accountable for their actions and be prosecuted and sanctioned accordingly.

In a context marked by conflicts and humanitarian emergencies, the International Criminal Court, as the first and only permanent international criminal court in the world, requires the firm support of the international community and the determined cooperation of its States parties so that it can fulfil its mandate to ensure justice for the victims of war crimes and crimes against humanity.

Peru resolutely supports the validity of the Rome Statute.

We believe that the reform process should be aimed at strengthening the Court’s capacity to exercise supranational criminal jurisdiction, while ensuring the necessary and indispensable means for it to fulfil its mandate to investigate, punish and protect victims. The Court’s institutions must therefore be strengthened, and its legitimacy reinforced.

It is imperative that the standards established by the Rome Statute are not undermined or weakened. We therefore appreciate the review process and the recommendations presented in the report of the group of independent experts and commit to making our best efforts to contribute to ensuring the success of the process. The Government of Peru is in the final phase of ratifying the pending amendments to the Rome Statute, which are currently before the Congress of the Republic for approval.

It is essential that the crucial issue of the financing of the Court be assumed with greater responsibility. The international community and particularly the States signatories to the Rome Treaty must seek the most appropriate ways for the Court to have predictable funding that will allow it to examine and resolve all cases submitted to its jurisdiction efficiently and promptly. This is an essential aspect of the quest for the promotion of justice in the international community.

Finally, the Government of Peru once again expresses its conviction with regard to the decisive role the Court plays in the fight against impunity and in helping to punish those responsible for the most atrocious crimes that harm the dignity of the human being. Peru has learned from its own experience that the use of accountability mechanisms is the best way to prevent the recurrence of serious violations of human rights and international humanitarian law, strengthening rules-based governance and thereby advancing the shared goal of a sustainable and just peace.

The meeting rose at 1.15 p.m.