



General Assembly

Seventieth session

49th plenary meeting
Friday, 6 November 2015, 10 a.m.
New York

Official Records

President: Mr. Lykketoft (Denmark)

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

Agenda item 78 (continued)

Report of the International Criminal Court

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

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

Ms. Yparraquirre (Philippines): The Philippines would like to thank Judge Silvia Fernández de Gurmendi, President of the International Criminal Court (ICC), for her comprehensive briefing yesterday (see A/70/PV.48).

That individuals can be made accountable for international crimes has been a significant and defining achievement of international law. In Nuremburg it was decided that:

“[c]rimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provision of international law be enforced”.

Seventy years ago in San Francisco, our founding fathers and mothers adopted a text that created this very Organization. Their prayer remains as relevant as it is eloquent — to save us and those after us from the scourge of war which twice in their lifetime brought untold sorrow to all humankind. Arguably, the United Nations is the best thing that happened to the rule of law and international law. Among its many achievements, the United Nations, through the

International Law Commission and the initiative of Trinidad and Tobago in 1989, recognized the growing clamour for a permanent international criminal court. The long campaign culminated in the United Nations Diplomatic Conference leading to the adoption of the Rome Statute in 1998, its entry into force in 2002, and the election of the first bench of judges in 2003.

Today the Philippines reaffirms its commitment to fighting impunity and ensuring that perpetrators are held to account for their crimes. For if we cannot deliver international criminal justice, global peace and security will not be possible. The International Criminal Court has become central to the majesty of the rule of law in our time. Just as Nuremburg pointed to individuals as authors of untold sorrow and injustice to multitudes, so must we recognize individuals who contribute to the collective work of delivering international justice — a vocation that is certainly difficult, sometimes thankless and possibly dangerous. They include members of the Secretariat across the United Nations family involved in the delivery of justice; the judges of the Court led by President Silvia Fernández de Gurmendi; Prosecutor Fatou Bensouda; the staff of both the Court and the Prosecutor; President Sidiki Kaba of the Assembly of States Parties and his team; and the lawyers, civil society advocates, witnesses and victims, many of whom are unnamed and unsung. Indeed, it is people, individually then collectively, who make justice work.

The Philippines pays close attention to the increasingly heavy workload of the Court — its pending judicial proceedings, situations, and preliminary examinations. Developments in the work of the Court

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and of the Prosecutor concern us as a State party. Consistent with the principle of complementarity and as part of our duty of cooperation, we strive to ensure that our criminal justice system is transparent, fair, effective and relatively speedy, allowing for the prosecution of crimes under the Rome Statute. The Philippine legislation enacted in 2009 on crimes against international humanitarian law, genocide, and other crimes against humanity paved the way for our ratification of the Rome Statute.

The Philippines supports the code of conduct regarding Security Council action against genocide, crimes against humanity or war crimes, elaborated in the context of the Accountability, Coherence and Transparency group under the leadership of Liechtenstein. The five permanent members should refrain from using their veto in situations involving mass atrocity crimes under the jurisdiction of the Court. We also call on the Security Council to take the necessary follow-up measures on situations it has referred to the Court so as to uphold the credibility of both institutions and to ensure accountability.

The Philippines also supports the mainstreaming of the work of the Court in the United Nations system, including in the work of UN-Women, as a follow-up to Security Council resolution 1325 (2000) on women, peace and security. States, whether parties or not, should help each other to protect human rights and build domestic capacities, including through human-resource development-related assistance such as the training of judges, prosecutors, the police and the military. The Philippines would like to take this opportunity to thank, once again, the States parties for their confidence in the abilities of Professor Raul Pangalangan to contribute to the work of the Court, and for electing him as a judge for the next six years.

Our goal is universality. We join the call for many more countries to ratify or accede to the Rome Statute, particularly from our Asia-Pacific region. The 2030 Agenda for Sustainable Development (resolution 70/1) now defines our global development framework. We will achieve that agenda only if we have peace and security based on justice for our generation and for generations yet to come.

Mr. Remaoun (Algeria) (*spoke in Spanish*): At the outset, I should like to join previous speakers in thanking the President of the International Criminal Court (ICC), Judge Silvia Alejandra Fernández de Gurmendi, for her very detailed briefing (see A/70/PV.48) on the activities

of the International Criminal Court covering the period from 1 August 2014 to 31 July 2015, in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court. I should also like to take this opportunity to congratulate her on her election to this important post.

(*spoke in English*)

I should like also to thank the Secretary-General for his two reports, the first entitled “Information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court” (A/70/317). The second is entitled “Expenses incurred and reimbursement received by the United Nations in connection with assistance provided to the International Criminal Court” (A/70/346).

Algeria welcomes this opportunity to contribute to the discussions on this crucial agenda item and wants to echo the concerns raised in past years by the African Union, African States and many other countries throughout the world with regard to the need for the Security Council, the ICC and the Assembly of States Parties to engage constructively with the requests submitted by both the African Union and African States.

Here in the General Assembly, we reiterate our unflinching commitment to fighting impunity and granting access to justice. My country has shown over the years its determination to uphold the rule of law and promote human rights, democracy and good governance. We understand, on the one hand, that there is a need for the international community to commit to fighting impunity and ensuring the prosecution of individuals suspected of having committed crimes of genocide, war crimes and crimes against humanity. On the other hand, we have to stress the primary role of sovereign States in pursuing such objectives. We recall in this respect that this primacy derives from many principles well established under international customary law, international law and national laws, such as the principle of State sovereignty, territorial jurisdiction, nationality, the primacy of actions by States regarding criminal prosecutions, the protective principle, and the immunity of Heads of State and Government in the exercise of their functions.

The primacy of national jurisdictions granted by the Rome Statute itself under the principle of complementarity has not been duly applied in some

cases that were referred to the Court by the Security Council or the Office of the Prosecutor. In this regard we cannot be astonished to see many States, even those that are parties to the Statute, questioning the impartiality of this institution and the criteria that have been used in taking the decision whether or not to refer the Court, and expressing fears and doubts about political manipulation and selectivity.

It is of the utmost importance to recall that the politicization, selectivity and misuse of indictments and abuse by the International Criminal Court, targeting only African States and leaders, were the main reasons for convening the extraordinary Summit of the African Union in Addis Ababa in October 2013. As noted by our Heads of State and Government at the Summit, the activities of the International Criminal Court since its establishment have focused exclusively on Africa, while unacceptable situations in other parts of the world have been ignored.

The issue of international justice must include the need to respect the sovereignty and national independence of all States, including African countries. In this regard, based on national law and international customary law, which grants immunity to sitting Heads of State and Government and other senior State officials during their tenure, the African Union (AU) Summit decided

“to safeguard the constitutional order, stability and integrity of Member States, no charges shall be commenced or continued before any International Court or Tribunal against any serving AU Head of State or Government or anybody acting or entitled to act in such capacity during their term of office”.

While Algeria welcomes the decision made by the Prosecutor of the ICC on 5 December 2014 to withdraw the charges against the President of Kenya, my delegation would like to echo the other important conclusions of the latest Summit of the African Union, held last June in South Africa, which mainly requested suspending proceedings initiated against a serving African President or Deputy President, in accordance with article 16 of the Rome Statute on the deferral of cases, until the African Union’s concerns and proposals for amendments to the Rome Statute are considered. Those legally sound proposals represent a real opportunity to reinforce the conviction of Member States of the impartiality of international justice; defuse polarization; and preserve and safeguard peace,

security and the stability of our African continent, as well as its dignity, sovereignty and integrity.

Mr. Andrianarivelo-Razafy (Madagascar) (*spoke in French*): The delegation of Madagascar would like to thank Judge Fernández de Gurmendi, President of the International Criminal Court (ICC), for introducing the report of that international body (see A/70/PV.48).

During the period covered by the report (A/70/35), the United Nations celebrated the tenth anniversary of the entry into force of the Relationship Agreement between the United Nations and the International Criminal Court, the only standing criminal court with universal jurisdiction. According to its reports, we note that the implementation of the Agreement has strengthened the links between the United Nations and the Court. We express our heartfelt gratitude to Secretary-General Ban Ki-moon for his commitment and devotion in the service of the United Nations and the Court. Madagascar fully supports the Court’s activities.

Cooperation is of vital importance to the functioning of the Court. Strengthening the regime of international cooperation and cooperation between the States and the ICC is of key importance to the future of the Court and to allow it to achieve its full potential. In this regard, my delegation welcomes the convening in Gaborone, on 29 and 30 October, of a high-level seminar on cooperation between the ICC and the States and the link between that cooperation and the strengthening of regional and national capacities, in which my country, Madagascar participated alongside other countries of the Southern African Development Community.

The seminar helped us to strengthen the fundamental role of cooperation of States parties as an operational pillar of the Court. The effectiveness of the Court depends on such cooperation. It is now time to implement the 66 cooperation recommendations that were adopted in 2007 by the Assembly of States Parties. We thank the organizers of that event — in particular the International Criminal Court, in cooperation with the Government of the Republic of Botswana — which was sponsored by the European Union and the Governments of the Kingdom of the Netherlands and Norway.

Growing threats to peace and international security, the current scope of migratory flows, and ongoing violence and atrocities remain a major source of concern to the international community, which is determined to put an end to impunity and to persecute

the perpetrators of the crimes of genocide, war crimes and crimes against humanity. That is why we supported the initiative of France and Mexico to suspend the veto in cases of mass atrocities, and the initiatives put forward by Liechtenstein and the Accountability, Coherence and Transparency group on a code of conduct to govern Security Council action against genocide, crimes against humanity and war crimes. A declaration on this matter was adopted in the framework of the seventieth anniversary of the United Nations.

The adoption of the Kampala amendments on the crime of aggression in June 2010 was a significant advance in terms of making international criminal law more effective. The declaration adopted in September 2012 at the high-level meeting on the rule of law at the national and international levels underscores the international community's awareness of the role that the ICC plays in a multilateral system aimed at putting an end to impunity and ensuring the rule of law. It stresses that impunity for crimes of genocide, war crimes and crimes against humanity will not be tolerated.

In this context, Madagascar is committed to ratifying the Kampala amendments on the crime of aggression, as reaffirmed by the President of our National Assembly during his visit to New York in September to participate in the parliamentary meetings on the roles of parliamentarians in criminalizing illegal and aggressive acts of war. A national action has been adopted to implement the Rome Statute and to integrate some of its provisions into our national legislative framework.

We welcome the efforts of the President of the Assembly of States Parties, Mr. Sidiki Kaba of Senegal, to overcome the challenges before the Court and to make it stronger and more independent. My delegation takes this opportunity to congratulate and wish every success to the new judges who took up their posts on 11 March and 11 July. We also congratulate the State of Palestine, which became the 123rd State party to the Rome Statute, and the States that have ratified and accepted the amendments to the statute on the crime of aggression. We encourage those States that are not parties to the Rome Statute to accede to it.

Mr. Xu Hong (China) (*spoke in Chinese*): The Chinese delegation congratulates Judge Silvia Fernández de Gurmendi on her election as the President of the International Criminal Court (ICC) and thanks her for her report (A/70/350).

China has always attached importance to the significant role of the ICC in maintaining international peace, security and justice, prosecuting serious international crimes, and promoting the development of international law, and has participated as an observer State in successive sessions of the Assembly of States Parties to the Rome Statute.

The ICC and the United Nations are independent yet related organizations with the common interest of preventing and punishing serious international crimes that endanger international peace and security. The work of the two can therefore be mutually reinforcing. The ICC and the United Nations, and the Security Council in particular, should respect each other's functions; intensify cooperation within the legal framework defined by the Charter of the United Nations, relevant resolutions of the General Assembly and the Security Council, and the Relationship Agreement between the United Nations and the International Criminal Court; and build a constructive partnership.

The recent work of the ICC has demonstrated that prosecutors are becoming more cautious and pragmatic in their investigations and prosecutions, and the role of the Court in international affairs is enjoying increasing attention. China hopes the Court will continue to perform its duties prudently in order to ensure that criminal justice is not achieved at the expense of peace, stability and national reconciliation. In addressing the issue of the immunity of Heads of State, we hope that the Court will strictly abide by existing international law and take into full consideration the legal claims of certain countries so as to avoid obstructing the performance by State leaders of their duties.

The Chinese delegation notes that 24 State parties have ratified the amendment to the Rome Statute on the crime of aggression. Given that the crime of aggression has a bearing on international peace and security, the amendment should be implemented in an orderly manner within the framework of international law established by the United Nations Charter. The paramount authority of the Charter must be safeguarded, and any other international legislation must conform to its provisions. Regarding the content of the amendment and the timing of its entry into force, China believes that parties should engage in full consultations to seek maximum consensus with a view to reaching the widest possible agreement.

Peace, justice and the rule of law are the shared vision and aspiration of human society. China looks

forward to ongoing contributions by the Court to that lofty goal.

Mr. Wenaweser (Liechtenstein): We welcome President Silvia Fernández de Gurmendi, the first woman to head the International Criminal Court (ICC) as President. We commend her for her strong leadership and look forward to seeing her frequently here in New York.

The Court's report shows the progress made during the past year. The opening of the trial against Bosco Ntaganda stands out in particular, along with the fact that the Court will finally be able to provide justice for the victims of the Lord's Resistance Army. The upcoming year will mark the highest level yet of judicial activities. That illustrates how dynamic and active the institution has become and that there is a solid level of cooperation from States.

Expediting judicial proceedings while guaranteeing full respect for the rights of the accused remains a challenge and is key for the future success of the ICC, but we should not assume that enhancing efficiency and making budget cuts automatically go hand in hand. A lack of funding can be a factor in slowing down proceedings, at which point financial austerity becomes counterproductive. Demands on the ground, not financial considerations, should determine the scope of the Court's activities.

Justice is inexpensive compared to the human and financial costs associated with atrocity crimes, from massive material destruction to large-scale displacement. We are therefore concerned by the comments made yesterday by the Prosecutor in the Security Council (see S/PV.7549) that a new investigation in Libya may not be possible due to lack of funding, and in spite of the obvious potential benefits of such an investigation. This also reinforces the point that States parties have been making for a number of years now that the costs for investigations resulting from a Security Council referral should be financed from the United Nations budget, as provided for under the Rome Statute.

The Council's lack of follow-up to its referrals continues to hamper accountability, in particular its lack of response to notifications of non-cooperation. The failure of the Council to do its job under the Rome Statute makes the full application of the other provisions impossible. Ten years after its first referral, the Council still lacks direction and purpose in its relationship with the Court. There is much room for a more productive

relationship, including through stronger mandates for peacekeeping and special political missions and targeted sanctions against indicted persons.

Unfortunately, the report of the High-level Independent Panel on Peace Operations (see A/70/95) fails to address this point even though 44 States have issued a joint submission calling for better support of the ICC and its mandate by peace operations. We hope that this can be remedied in the review by States that is under way. It is not only the Council that has to step up its game. States parties themselves must increase their efforts to execute more than a dozen outstanding arrest warrants. The location of many indictees is public knowledge. Full cooperation with the Court is an obligation that States have voluntarily undertaken in ratifying the Rome Statute.

The prosecution and the defence also rely on cooperation for investigations and witness protection and in order to ensure the freezing of assets of indictees. We have just organized a workshop in The Hague on financial investigations, together with the Court and the Basel Institute on Governance. We hope that its findings can be the basis for concrete progress in this area of cooperation between States and the Court.

The universality of the Rome Statute remains a key goal. While 123 States parties is a solid number, the Court does not currently have jurisdiction in more than one third of the United Nations membership. The Informal Ministerial Network coordinated by our Foreign Minister has initiated an action plan for universality in order to move forward and to close the existing impunity gaps. Expanding membership in the Court is the most obvious way to fight the perception of selectivity from which the Court continues to suffer.

We welcome the progress made in the ratification process of the Kampala amendments on the crime of aggression, which many speakers before me have referenced in their interventions. With the ratification of Switzerland in September, only six additional ratifications are needed to allow for the activation of the Court's jurisdiction in 2017. The Kampala amendments on the crime of aggression are firmly based on existing international law, provide for full clarity on their application in practice, and were therefore adopted by consensus by all States parties at the Review Conference in 2010.

The Kampala agreement exempts non-States parties from the jurisdiction of the Court, and it fully

safeguards the Court's independence vis-à-vis the Security Council while fully respecting the provisions of the Charter of the United Nations. The activation of the Court's jurisdiction in 2017 will make the most serious forms of the illegal use of force a punishable offence before the ICC. This will complement the Charter of the United Nations, which prohibits the illegal use of force and brings to a conclusion almost two decades of discussion in the framework of the Rome Statute.

Whenever atrocity crimes occur, there are calls for the ICC to get involved. The institution is thus confronted with the highest expectations, while it can of course not bring justice of itself. Its value, however, is not limited to cases where it has the capacity to conduct trials. It has been scientifically proven that the International Criminal Court can deter crimes. A recent academic study illustrated that some potential perpetrators have shied away from enlisting child soldiers because of the fear of ICC prosecution.

The biggest benefit of the Court's work, however, is its central role as a symbol of accountability and an incentive for States to investigate and prosecute the most serious crimes in their national systems. There is much room for international involvement in building and strengthening national capacities in this respect. We hope that we can enhance cooperation among the Court, the United Nations system and all States in order to be better equipped to fight impunity.

Mr. Barro (Senegal) (*spoke in French*): On behalf of my delegation, I should like first to congratulate you very warmly, Mr. President, on your election to preside over this seventieth session of the General Assembly. I reiterate the support of my delegation as you carry out your work.

I should also like to congratulate Ms. Silvia Fernández de Gurmendi on her election as President of the International Criminal Court (ICC). I welcome the laudable efforts that she has been making at the head of that body in her relationship with the judges, the Prosecutor's Office and the Registry in order to promote international justice.

Please allow me, in the same vein, to reiterate the sincere gratitude of my country to the States parties that placed their trust in Mr. Sidiki Kaba, Minister of Justice of Senegal, as President of the Assembly of States Parties.

My delegation welcomes the opportunity to consider the report of the International Criminal Court

(A/70/350) and commends its relevance in providing us with essential information on the activities of the Court from 1 August 2014 to 31 July 2015, in particular the preliminary examinations, investigations and trials, as well as the support extended to the Court by the United Nations, in particular through its offices and peacekeeping missions throughout the world.

I believe that dynamic interaction among the Court, the General Assembly and the Security Council can contribute to strengthening international peace and security and to suppressing serious crimes against humanity. Working in perfect harmony, these three bodies, whose complementarity is obvious, could further contribute to ensuring international peace and security because they often face the same challenges. In this regard, my delegation supports the idea of extending an annual invitation to the President and the Prosecutor of the Court to inform the Council and exchange views on issues of common interest and ways to strengthen their mutual cooperation. We are also in favour of allowing the Office of Legal Affairs, the focal point of cooperation between the Court and the United Nations system, to assume a stronger role as coordinator among the various United Nations bodies.

From 1 August 2014 to 31 July 2015, the Court had a very heavy workload. During that period, the Prosecutor's Office had to carry out preliminary examinations of 10 situations and open a new investigation on the situation in another country. The growing number of cases before the Court is an indicator of its importance and of the hopes that it inspires that impunity for the crimes under its jurisdiction, which weigh heavy on our collective conscience, may be eliminated. But the ongoing increase in the number of cases before the Court, together with the insufficiency of available resources, could have a negative impact on its effectiveness. It is therefore necessary to strengthen the financial support of the United Nations in order to enable the Court to carry out its functions.

In this regard, the General Assembly should take into account the costs of various investigations and prosecutions linked to situations that have been referred to the Court under article 115 (b) of the Rome Statute, which states that funds shall be provided by the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council.

Furthermore, it is also important to keep in mind the subsidiary jurisdiction of the Court, which can

be seized of cases only when a State cannot or will not discharge its responsibility to prosecute crimes that are punishable under the Rome Statute. In that regard, the United Nations should continue to provide technical assistance to those countries that request it, in particular to strengthen their national capacities in the institutional and legislative spheres by training their judicial personnel and police and security forces.

Having established the International Criminal Court and made it a standing body, the international community must now rise to the challenge of achieving its universality by encouraging States that have not yet done so to sign or ratify the Rome Statute. In this regard, I should like to congratulate the State of Palestine on its recent accession to the Rome Statute.

The cooperation of States parties and non-parties, civil society and subregional and regional organizations with the Court is also of key importance to its functions, in particular with respect to proceedings, investigations, the handling of evidence and the implementation of international mandates. I encourage States to ratify the agreement on the privileges and immunities of Court personnel, as Senegal did in September 2014 during the treaty ceremony. Furthermore, the Security Council, as guarantor of international peace and security, must act responsibly and objectively when it considers situations of mass atrocities. The Council's support and cooperation are therefore indispensable to ensure that the Court functions well.

In conclusion, my delegation wholeheartedly calls for strengthened cooperation between the United Nations system and the Court on a broad spectrum of topics. In that spirit, the full and complete cooperation of the international community is obviously necessary to ensure that the perpetrators of the most serious crimes under international law are held accountable for their activities, that we deliver justice to the victims and communities that were affected, and that we prevent further atrocities.

Mr. Sarki (Nigeria): We wish to thank the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for her comprehensive report (A/70/350) and to congratulate her and the seven new judges who were elected to serve in the Court during the reporting period. We wish to seize this opportunity also to express appreciation to the President of the Assembly of States Parties to the Rome Statute of the ICC, Mr. Sidiki Kaba, Minister of Justice of Senegal, for his work in coordinating the affairs of the Assembly

since he assumed office on 8 December 2014. We also wish to congratulate the State of Palestine on acceding to the Rome Statute.

We note that the ICC has made appreciable progress in the fight against impunity and crimes against humanity. We commend the Court for its contribution to the development of substantive and procedural elements of international criminal law. The contributions of the Court to the promotion of the rule of law and respect for human rights are also very commendable. Through its work, the need to ensure accountability for genocide, crimes against humanity and war crimes has been strengthened.

The *raison d'être* of the ICC is based on the concept that impunity must be challenged and that everybody should be held accountable for their actions. Therefore, the cooperation of States, international organizations and civil society is vital for the Court to continue discharging its role as enshrined in the Rome Statute. It is for this reason that Nigeria finds it perplexing that some Member States have decided not to recognize the Court's jurisdiction over their nationals, while at the same time clamouring for the imposition of the Court's jurisdiction over the nationals of other States, including Heads of State and Government.

That said, we note that during the reporting period, the ICC had a busy schedule in which the Office of the Prosecutor conducted preliminary examination activities in 10 situations and opened a new investigation into the situation in the Central African Republic. Also, the Court admitted 4,002 victims to participate in proceedings before it. It is also envisaged that there will be an unprecedented number of four trials that will take place simultaneously in 2016, which would cover alleged crimes involving more than 10,000 victims.

We wish to recognize the work done by the Court on specific country situations. We commend the Libyan representatives to the ICC for their close cooperation with the Office of the Prosecutor. We welcome the exchange of information between the Libyan Prosecutor-General's Office and the Office of the ICC Prosecutor and commend the commitment and professionalism of the Libyan national investigators. We encourage the two sides to strengthen their cooperation and work together to end impunity in Libya.

We condemn all mass executions, including that of a group of 30 Ethiopian Christians by the Islamic State in Iraq and the Sham (ISIS). We also condemn other

abductions that have been attributed to ISIS. We call for an immediate and unconditional ceasefire across Libya. Parties involved in the conflict should refrain from targeting civilians or civilian targets and should desist from committing further criminal acts. We call on all Libyan militias to disarm and participate in the efforts to restore peace, and law and order in the country. We support the political dialogue and the formation of a Government of national accord to meet the aspirations of the Libyan people to establish the rule of law in their country and to end the conflict and safeguard Libya's unity and territorial integrity. That is vital to stabilizing the country and ending the impunity of terrorist groups and militias.

We also welcome improved cooperation between the United Nations and the ICC, cooperation between the ICC and United Nations peacekeeping missions and other United Nations presences in the field, as well as cooperation with the Security Council. We agree with the report that, as the main forum for international cooperation and consultation, the United Nations offers a unique context for promoting the mainstreaming and understanding of Rome Statute issues and considerations into a wider variety of areas of international activity. We also note with satisfaction the content of the report concerning cooperation with and assistance from States, other international organizations and civil society, as well as the cooperation between relevant partners in the context of supporting and strengthening the Rome Statute system of international criminal justice, which is an example of complementarity in action.

The report also indicates that the Office of the Prosecutor continues its analysis of the war crimes committed by Boko Haram and allegedly also by the Nigerian security forces in the context of the fight against terrorism in Nigeria. It is noteworthy that the Office of the Prosecutor has not been able to identify any case against the Nigerian security forces. It must be noted clearly that as a signatory to the Rome Statute, Nigeria is faithfully committed to the ideals of the responsibility to protect. The protection of civilians in armed conflict, especially women, girls and children and other vulnerable persons, is a commitment that we have taken upon ourselves. Our stance on human rights, the rule of law, peace and security, democracy and good governance and accountability are also in line with the founding principles of the ICC.

We have been demonstrating our abiding commitment to the promotion of these values in diverse ways.

Nigeria is a member of the Assembly of States Parties to the Rome Statute of the ICC, which we ratified on 27 September 2001. We have consistently underlined the structural importance of the ICC in the fight against impunity and in the quest for judicial accountability. We believe that impunity must be addressed resolutely wherever it occurs in the world and not just selectively by targeting weaker States. It is our belief that the aspiration for a global system that is based on the rule of law, where accountability and social justice are the foundations for durable peace, should be a source of inspiration to all. Indeed, that should be a priority for the international community.

Mr. Misztal (Poland): Poland aligns itself with the statement made by the observer of the European Union on this agenda item (see A/70/PV.48). My delegation would nevertheless like to underline and discuss some of the points it considers to be of the utmost importance.

First, let me take this opportunity to thank the International Criminal Court (ICC) for its annual report to the United Nations (see A/70/350). I also wish to congratulate the new President of the Court, Judge Silvia Fernández de Gurmendi, and all newly elected judges. We are proud that Judge Piotr Hofmański, who was nominated by my Government, is one of them. I am sure that their work will contribute to further strengthening the international system of justice.

The caseload of the Court has continued to increase during the reporting period. Especially significant is the Court's first appeals judgment on the merits in the *Thomas Lubanga* case. We welcome the ongoing efforts aimed at improving the Court's work. We believe that introducing some changes to the rules of procedure and evidence involving, among others, limiting the composition of the Court in certain cases, would contribute to more efficient proceedings without prejudice to their reliability and integrity.

We are a long way from achieving the Rome Statute's universality. The majority of humankind still lives in States that are not party to the Rome Statute, the treaty which, by envisaging effective punishment of perpetrators, aims at the protection of individuals from most grievous crimes. That is why we believe that the idea of universality should be advocated by any means possible. We welcome the ICC's efforts to stimulate interest and support for more countries to consider joining the Court. But it is also a responsibility of each State Party to spread the values of the Rome Statute. We welcome the Action Plan for the Universality of

the Rome Statute, adopted recently by the Informal Ministerial Network for the ICC, in which my country plays an active part. It is a perfect example of the political support States parties can provide in order to champion the idea of universality.

Yet, there is still much to be done in this area and in the field of promoting understanding of the Statute's significance among the parties themselves. The year 2015 is the first in a long time when, instead of looking in hope at the growing number of Rome Statute States parties, we might worry that they may begin to dwindle. It is a great challenge for the ICC and the States parties to overcome this state of affairs. In this context, cooperation with African partners is especially important. Poland emphasizes that it is indispensable for African countries to be part of the international system of justice underpinned by the Rome Statute. Each State party from Africa is priceless if the scales of justice are to operate fairly.

Poland underlines that victims should be at the centre of attention of the ICC's legal system. Their rights, especially the rights to participation and reparation, are a fundamental aspect of the Rome Statute. Poland contributes to the Trust Fund for Victims and invites other parties to do so. The Trust Fund supports victims of crimes under the ICC's jurisdiction and enables them to pursue their rights. It is worth noting that during the reporting period the Court and the Trust Fund for Victims started to implement the first court-ordered reparations in the Thomas Lubanga case. Never before has this innovative solution established in article 75 of the Rome Statute been applied. We expect that further contributions to the Fund will enable victims to exercise their right to reparation.

Special attention should also be devoted to instances of the Security Council acting under Chapter VII of the United Nations Charter and referring a situation to the International Criminal Court. Poland strongly believes that the Council should enforce cooperation on the part of the States concerned should they fail to cooperate in fulfilling the Court's mandate.

Mr. González Franco (Paraguay), Vice-President, took the Chair.

The present global situation proves that the number of armed conflicts is far from falling. New challenges are piling up for the international system of justice. It must therefore be remembered that even the most smoothly running institution will not be efficient

without collaborative effort and good will on the part of members of the international community. That applies to parties to the Rome Statute and non-States parties alike, as well as to all permanent members of the Security Council, as everyone should care about putting an end to impunity for the worst atrocities. There cannot be lasting peace without justice, and ensuring justice is our common responsibility.

We believe that only together can we free the world from all forms of injustice. Poland supports the ICC in its struggle against impunity, as it is the central institution of the international systems of justice. It is therefore necessary to make progress towards achieving a more efficient and effective Court and to protect its independence. Full and unconditional independence of the ICC is a sine qua non of the international criminal justice system. We have always supported the Court's mission and will continue to do so.

Mr. Kamau (Kenya): We thank the Secretary-General for his report (A/70/350) on the International Criminal Court (ICC). I should also like at this point to take the opportunity to recognize Judge Fernández de Gurmendi, President of the International Criminal Court. Judge Fernández takes over the leadership of the Court at a time when the Court is growing in stature and reach. I wish to reassure the Judge, on behalf of the Republic of Kenya, of our continued support.

Over the years, Kenya has continued to encourage the ICC to expand activities, enhance its work and improve its efficiencies and footprint, as the Court was created to ensure that the world has a common platform to fight impunity. As with other international institutions, we continue to engage robustly, encourage and provide legislative guidance to the Court to try to keep it faithful to our collective objective while keeping it aligned to the Rome Statute.

The conclusion in this session's report (see A/70/350) is more encouraging than that of the previous session. We commend the ICC on the achievement of the first appeal judgment on the merits. However, we continue to express our deep regret at the slow pace of judicial output in the Court's 12 years of existence, particularly in the light of the resources expended, the rising expectations of millions and the mounting needs for international judicial redress in the world. In a world where multiple communities and countries are devastated by horrific wars and clashes and where grave injustices go unpunished, that dismal output of tangible results by the Court is disheartening and confounding.

Moreover, Kenya remains deeply concerned by the current interpretation and implementation of the Rome Statute, as we have stated several times. There is growing anxiety and urgency, particularly among African States, that the manner of the application of the Rome Statute by the ICC does not augur well for the future of the Court. For us, the continued wrongheaded interpretation of the Statute could very well be the undoing of the Court. Clearly, something is deeply wrong with the collective architecture of the international criminal system at the ICC, for the very reasons that we have stated before on several occasions.

As we said at this very rostrum last year (see A/69/PV.34), when we, the Member States, were forming the International Criminal Court, we were convinced that we were setting up a Court with higher standards of practices and procedures than those found in our national jurisdictions. However, today we find ourselves saddled with a Court that has lower standards and thresholds than those found in our national courts. That ought simply to be unacceptable. To illustrate the point, Kenya recalls that during the Assembly of States Parties to the Rome Statute meeting in November 2013, the Assembly made an informed and collective decision that the amendments to rule 68, on prior recorded testimony, would not be used retroactively and would not be used in any case before the Court at that point. Less than a year later, in total disregard of the collective will and understanding that had been reached at the Assembly, the prosecution ignored the legislative authority of the Assembly and sought to apply the amended rule in the Kenya case. What is more shocking is that the Court itself has gone ahead to allow such application of rule 68 not only in total disregard of the basic tenets on the retroactive application of law, but also in full knowledge of the aforementioned understanding and consensus reached at the November 2013 meeting.

It should be remembered by all that the retroactive application of the law does not meet the legal thresholds in any of our countries, including tribunals and judicial bodies even at the lowest levels. In the Kenyan case, we now find the Prosecutor perpetuating the prosecution of a case with little evidence, and being forced to resort to the use of recanted statements. Such statements cannot be subjected to cross-examination, as is the requirement in criminal law. That surely goes against the rights of an accused person, whether in civil or common law systems. Yet we see it playing out at The Hague.

Furthermore, in paragraphs 50 and 51, the report before us today mentions ongoing investigations into the situation in Kenya. Recently, the integrity of the investigations in the Kenyan cases have been called into question owing to the alarming but credible revelations that the Prosecutor's witnesses brought before the Court were procured with promises of reward. The efficacy of evidence that is now eight years old has become even more suspect. Those devastating revelations of witness tampering have led to 190 members of the Kenyan Parliament, 50 of whom are from the opposition, to petition the President of the Security Council as well as the President of the Assembly of States Parties in seeking intervention in this eight-year-old case on Kenya that has been at The Hague.

Over the year — that is, in one single year — 4,002 victims were admitted to participate in the proceedings before the Court. That is an admirable number. However, it is Kenya's experience that the issue of admitting victims, while in principle laudable, remains a likely avenue for abuse. Kenya is concerned that adequate steps are not in place and the systems do not exist at The Hague to ensure that only genuine victims, and indeed for that matter, genuine witnesses, are included in the proceedings and can avail themselves of the protections laid out in the Rome Statute.

Kenya, as a situation country, continues to be acutely aware of the manner in which the ICC operates and the interpretation it gives to the Rome Statute. As we approach another election cycle, we have come to recognize that the manner in which the ICC processes are applied can be prejudicial to the interests of a Member State, and can have serious consequences to the political reality of a country as it goes through its political cycle. The mishandling of those processes can be severely disruptive to the political cycle and social progress. They can impact severely on national healing after a collective trauma, as Kenya suffered in 2007-2008. They can impact severely on the promotion of peace and stability and even, sadly, on the pursuit of truth and justice. It is important, therefore, that the ICC and its cases must not be used or allowed to retard national healing or to destabilize countries.

What we have found is that bringing all these concerns to an Assembly such as this is something that is clearly challenging to a delegation such as ours. We have noted that notwithstanding the huge financial outlays provided for the ICC and the pressure on the

already overstretched budget that we have seen at the ICC, and despite the growing disquiet about the Court's performance, we remain concerned that any attempts to discuss and question the issues that I have just spoken about, both publicly and transparently, continues to be met with stiff resistance under the guise of protecting the independence of the Court and its organs. We simply cannot have a situation where Member States cannot engage in dialogue over the issues that are of concern to Member States and the performance of the Court in a situation where bringing up those issues is met with ridicule or resistance.

The report that we have before us rightly states, in paragraph 100, that national jurisdictions should be encouraged and assisted by the international community to address the need for increased capacity in the areas of the administration of justice and the fight against impunity. The ICC was never intended to replace national courts, and is therefore a court of last resort. Therefore, greater emphasis should be accorded to supporting national and regional initiatives to promote peace and to fight impunity in our regions. In that vein, African States have tried to engage constructively with the International Criminal Court, but with little success. Despite individual and collective efforts to initiate and develop an enabling environment for constructive dialogue with the ICC, they have met with marginal success.

Finally, section III B of the report deals with cooperation with, and assistance from, States, other international organizations and civil society. We note a telling, glaring omission in paragraph 107, namely, the absence of any mention of the African Union. One would think that, as the bulk of the work that the Court deals with is centred in Africa, there would be a greater and more proactive effort on the part of the Court not only to report on that, and the entity that oversees it, but to deepen its interactions and cooperation with the African Union and individual African States in a manner that reflects these important matters. This unfortunate state of affairs needs to be discouraged. As a way forward, we suggest that high-level Court officials, who come through New York quite regularly, should hold regular and predictable meetings and briefings with the New York African Group whenever they travel to the United Nations on business. We note that they already do that with other certain regional groups, and we call for remedial action from the Court in that regard.

In conclusion, the report we have in front of us fails to tackle the real issues facing the ICC and fails to offer any insights, as we have said in previous years, on possible solutions to improve the work and relationship of the ICC with its member States moving forward. None of the organizational realities and challenges that the Court has faced in implementing its mandate is contained in this report. It lacks analysis and perspective. Our continued acceptance of the status quo therefore will only undermine the legitimacy of the Court and its core mandate, the fight against impunity. We look forward to the new President of the ICC rectifying those matters in future reports.

Mr. Alday González (Mexico) (*spoke in Spanish*): The Government of Mexico would like to thank Judge Silvia Fernández de Gurmendi, President of the International Criminal Court, for the presentation of the eleventh annual report (see A/70/350) of the Court to the General Assembly, which covers the work of the Court from August 2014 to July 2015.

Mexico welcomes the accession of the State of Palestine to the Rome Statute in the period covered by the report. The State of Palestine has thus become the 123rd State party to the Rome Statute. Our goal will continue to be working towards the achievement of the universality of the Rome Statute.

The report on the work of the Court includes, among other things, the opening of a new investigation, the confirmation of its first verdict and sentence and the detention and appearance of the first accused in the first situation that was referred to the Court's jurisdiction. Together with the progress made in judicial proceedings and the increasing participation of victims, this shows progressive development in the work of the tribunal. We note that this week the Trust Fund for Victims presented its first draft implementation plan for collective reparations to victims in connection with the *Lubanga* case.

Despite the instances of progress that I have just mentioned, the Court is also facing challenges in fully complying with its mandate. For example, arrest warrants issued by the Court remain outstanding against 12 individuals.

Secondly, and related to the point I just made, in the period covered by the report, the Court referred to the Security Council three findings of non-cooperation pertaining to situations the Council had referred to the Court, bringing the total number to 11. It is urgent that

the Council, as guarantor of international peace and security, provide effective follow-up to the situations that it has referred to the International Criminal Court, particularly when the Court has notified the Council of non-cooperation by a given State.

Thirdly, it is worth recalling that the powers conferred upon the Security Council in the Rome Statute to refer situations to the Court involve a duty towards the victims and the international community as a whole. I reiterate the call of my country for the Security Council to make such referrals on the basis of objective and non-politicized criteria. The goal should be that the perpetrators of international crimes are effectively brought before the law and that victims are compensated.

With regard to the role carried out by the Security Council in that area, I should like to underscore the recent support by a large number of countries for the initiative promoted by my country jointly with France for permanent members of the Security Council to commit to refrain from exercising their so-called right to the veto when dealing with situations where mass atrocities have been committed.

The report presented by the International Criminal Court highlights the importance of strengthening cooperation with the United Nations and proposes some means of achieving that goal. It would be interesting to explore those options in order to assess their feasibility.

Finally, the report also mentions the actions taken by other actors in the international community, including the Organization through its specialized entities and agencies, all of which contribute to efforts to encourage States and to help them boost their capacities to improve their justice systems and accountability mechanisms. As Mexico has highlighted on many occasions, it is precisely in such forums with an explicit mandate in that regard where it is extremely relevant to promote such efforts, rather than in the Court itself, which, as a fully judicial tribunal, has no such mandate.

Mexico acknowledges and underscores the importance of the work of the International Criminal Court as presented in the report under consideration at the present session. We encourage the Court to continue strengthening its work strictly within the framework of the Rome Statute.

Ms. Guillén-Grillo (Costa Rica) (*spoke in Spanish*): My delegation would like to express its gratitude for the

detailed and accurate report (see A/70/350) presented by the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi. Costa Rica welcomes her election and would like to assure her of our support as she carries out the important functions entrusted to her. At the same time, we would like to congratulate her on the steps that have begun to be taken in order to increase the efficiency and effectiveness of the Court.

Costa Rica wishes to reiterate its full support for the Court. We are entirely convinced that it is one of the most important achievements of multilateralism and an outcome of the willingness on the part of the international community to achieve two goals. The first was to put an end to impunity for the most serious crimes against humanity, regardless of who commits such crimes. The second, no less important aim, was to provide justice to victims. Because that is a universal aspiration, the world requires that there be no room for impunity in any State. In that regard, Costa Rica welcomes the accession of Palestine to the Rome Statute, which brings the number of States parties to 123. We reiterate the importance of continued efforts to promote ratification of the Statute until it is universal.

With regard to the common goal of putting an end to impunity for atrocity crimes, my delegation recalls that the ICC is a Court of last resort and was not created to replace domestic courts. The responsibility to investigate and prosecute crimes under its jurisdiction belongs first to the justice systems of each State. That is why complementarity is an essential element of entrenching a system of international criminal justice. Nevertheless, it is important to be clear that, once the Court's jurisdiction is activated in accordance with the Rome Statute, States parties must fulfil the unavoidable responsibilities that flow from the Statute. In that regard, cooperation with the Court is key not only for accountability, but also because any lack of cooperation means that victims are prevented from seeing justice done and receiving the reparations that they call for and deserve. Our main obligation is to victims.

The next point I should like to mention is the financial situation of the Court, and the possibility that, owing to budget constraints, the Court's very important work could be threatened. The Court currently has the heaviest workload in its history. We cannot allow its work and its effective responses to be contingent on an inappropriate budget. Costa Rica is convinced that the benefits of investing in international justice for peace,

coexistence and human dignity will far surpass the costs.

With regard to that point, my delegation would like to refer to cooperation between the Court and the United Nations, which is based on the relationship agreement between the two organizations signed on 14 October 2004. That cooperation has been developing in a positive way and has led to tangible benefits for both organizations. Nevertheless, Costa Rica once again reiterates the need to address the issue of the financing of activities as a result of the referral of cases to the Criminal Court by the United Nations. Due to the fact that the Charter of the United Nations confers the responsibility for international peace and security on the Security Council, in taking on such referrals the Court is helping the Council to fulfil its mandate. In such cases of cooperation, article 13 of the Agreement between the Court and the United Nations should be implemented without delay. That article calls for an economic contribution by the United Nations for the activities of the Court. The agreement is clear in that such contributions should be made through decisions of the General Assembly. My delegation hopes that such support will very soon materialize via the proper channels.

With regard to referrals, my delegation reiterates that the Security Council would benefit from a uniform, predictable and transparent protocol for referring cases to the Court. On this issue Costa Rica welcomes France's proposal for permanent members of the Council to adhere to a code of conduct by which they commit themselves not to use the veto cases involving mass atrocities. We also support the proposal of Liechtenstein on behalf of the Accountability, Coherence and Transparency group to establish a broader and more concrete code of conduct.

With regard to the geographical location of the cases before the Court and the insinuation that it is due to a biased Court, my delegation would respectfully like to recall that, of the nine situations before the Court, five were referred by States themselves. Another two situations were referred to the Court by the Security Council. Therefore, only two of the situations were raised by the Prosecutor's Office. In addition, one of those situations was raised following a declaration by the State involved under article 12.3 of the Rome Statute. I mention this by way of clarification for the benefit of those who may have had any doubts. We would also like to recall that the 10 preliminary examinations

carried out by the Prosecutor in the period covered by the report represent cases across three continents.

In conclusion, my delegation reiterates its full commitment to the international criminal justice system and to the International Criminal Court. We respectfully call on the General Assembly and the Security Council to continue supporting the fight against impunity and to continue to support efforts to bring justice to the victims of mass atrocities.

Mr. Lasso Mendoza (Ecuador) (*spoke in Spanish*): The delegation of Ecuador would like to acknowledge the presence at the General Assembly of the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, to present the report (see A/70/350) on the work of the Court in the period spanning 2014-2015, dated 28 August.

The delegation of Ecuador welcomes the report, which relates, among other things, the following achievements: preliminary examinations conducted by the Prosecutor, rulings of the Court on appeals proceedings, the election of seven new judges and of the President of the Court, the election of the President of the Assembly of States Parties and the accession of Palestine, which became the 123rd State party to the Statute — a significant step towards the much-hoped-for universality of the Rome Statute.

Ecuador reiterates its support for the Court as a mechanism that has unique characteristics to fight impunity. We call on all States gathered here to provide their support so that the Court can effectively and tangibly exercise its jurisdiction over individuals in connection with its competence on the most serious crimes of concern to the international community. The crime of genocide, crimes against humanity, war crimes and crimes of aggression, which are subject to the complementary jurisdiction of the Court, can be adequately prosecuted only if there is universal adherence by States to the Statute and if they provide the necessary cooperation to the Court. Certainly, that is the least we can do in the light of the fact that throughout its history humankind has witnessed so many events, including ones that continue in the present, that have resulted in so many victims — children, men and women — of unimaginable atrocities that boggle the mind and deeply move the conscience of humankind, as highlighted by the preamble to the Statute.

However, Ecuador is very concerned about efforts to politicize and abuse the Rome Statute. My country

rejects such efforts as attempting to create artificial environments to implement the Statute so as to give jurisdiction and competence to the Court — for example, through the resolutions of the Third Committee. That is all the more inappropriate given that the Statute allows countries to bring cases to the Court directly through the Security Council. Ecuador does not agree with that provision of the Statute, as it creates abuses. There are valid alternatives to beginning judicial proceedings to fight impunity without having to politicize justice.

Another issue of concern to Ecuador has to do with the cost entailed in the referrals made by the Security Council to the Court. Such costs should be borne by the United Nations in accordance with its relationship agreement with the Court, which the General Assembly adopted by consensus.

My country advocates for the universality of the Statute. It is a matter of combating impunity in the framework of an open multilateral treaty, as is the Rome Statute. Therein also lies the importance of the amendments to the Rome Statute adopted in Kampala in 2010. What we adopted in Kampala should bind all of us. However, in order to encourage States to ratify the amendments and make progress in the fight against impunity, it is essential for other States also to accede to the Statute, particularly those that use it politically without being a State party to the Statute. I must point out that the political constitution of my country contains a provision regarding no statute of limitations for the crime of aggression, thereby adhering to the fundamental principles set out in the Rome Statute. Combating impunity is a cross-cutting element in the work of the United Nations. My country stands prepared to cooperate in the area of international law.

Mr. De Aguiar Patriota (Brazil): My first words are to congratulate Judge Silvia Fernández de Gurmendi on her election as President of the International Criminal Court (ICC). Brazil is particularly pleased to note that four of the main offices of the ICC — its presidency, both vice-presidencies and the Office of the Prosecutor — are currently held by women. I join others in thanking Judge Fernández de Gurmendi for presenting the Court's annual report (see A/70/350) to the General Assembly. I also take this opportunity to commend the Court for contributing to the fight against impunity and for promoting respect for the rule of law.

Brazil remains steadfast in its commitment to the Rome Statute system and to the cause of justice, which

motivated its establishment. As an instrument for ensuring that those accused before it are judged with fairness and full respect for their human rights, the ICC is a vehicle for justice and peace. The foundations of the legitimacy of the Rome Statute system lie not only in the independence of its organs, but also in its reach. Enhancing the universality of the Rome Statute will contribute to dispel the misperception of selectivity regarding the Court's activities.

I am pleased to recall not only that all South American countries are parties to the Rome Statute, but also that Latin America and the Caribbean represents the second-largest regional group among the States parties — only behind the Group of African States. Approximately two thirds of the United Nations membership has ratified the Rome Statute, but it is still not universal. Every new ratification is an important step towards the promotion of peace and justice. Brazil welcomes the accession of Palestine to the Statute. States that exercise their right to join multilateral treaties, especially those conceived for defending human rights and combating impunity, should be welcomed, rather than met with reprisals and sanctions.

In that context, allow me to underscore the importance we attach to the outcomes of the Kampala Review Conference, in which Brazil was an active participant. We are convinced that the activation of the amendment regarding the crime of aggression — hopefully by 2017 — will represent a major contribution to completing the international criminal justice system.

As reported by President Fernández de Gurmendi, the ICC has reached an unprecedented level of activity, and its workload is increasing significantly. In that context, I should like to recall my delegation's concern with regard to the financing of Security Council referrals, an issue of a structural nature that goes to the core of the relationship between the Court and the United Nations, in particular the General Assembly. Once again we reiterate our call for the implementation of article 13 of the Relationship Agreement and of article 115 (b) of the Rome Statute, which provide clear guidance in the sense that such costs should be met by the United Nations and not fall to the parties to the Rome Statute. It is equally important to highlight that, as set out in Article 17 of the Charter of the United Nations, the General Assembly has the exclusive — and I underline exclusive — responsibility to consider and approve the budget of the Organization.

Proper funding of Security Council referrals will enhance the credibility of both the ICC and the United Nations. The current situation is not sustainable, as illustrated on 5 November when the ICC Prosecutor called attention (see S/PV.7549), in her tenth report to the Security Council on the situation in Libya, to resource constraints that will prevent her Office from conducting additional investigative activities on Libya.

The pursuit of international justice and the achievement of lasting peace and security are mutually reinforcing objectives. Both the ICC and the Security Council have pivotal, albeit different, roles in pursuing those objectives in a uniform manner and without selectivity. The quest for peace and justice is fraught with challenges. It is a common purpose of both the United Nations and the ICC. Our efforts in that regard must be informed by the shared values that bring the Assembly together and have made the first permanent, treaty-based International Criminal Court a reality.

Mr. Ntwaagae (Botswana): Let me, at the outset, convey my delegation's congratulations and gratitude to Judge Silvia Fernández de Gurmendi on her ascendance to the presidency of the International Criminal Court (ICC) as well as for her very insightful brief to the General Assembly. My delegation expresses its readiness and willingness to support her and other newly elected judges of the Court in the discharge of the Court's mandate. We also wish to offer our support to the President of the Assembly of States Parties for the continued discharge of his mandate.

Botswana remains a strong supporter and friend of the ICC. To that end, we reiterate our unwavering commitment to contributing to a strong, effective and accountable international criminal justice system based on respect for the rule of law. Ever since its establishment, in 2002, the ICC has played a critical role in the lives of millions of people as a permanent court of last resort for victims of genocide, crimes against humanity and war crimes. From all corners of the globe, the Court continues to be a useful deterrent in pushing back the frontiers of impunity, promoting the protection of human rights and working with other stakeholders to bring justice to victims of mass atrocities. The Rome Statute of the International Criminal Court recognizes that States have the first responsibility and right to prosecute international crimes. Where national legal systems either fail or are unwilling or unable to do so, then the Court may exercise its jurisdiction over such crimes.

As former Prosecutor Luis Moreno-Ocampo once said,

“As a consequence of complementarity, the number of cases that reach the Court should not be a measure of its efficiency. On the contrary, the absence of trials before the Court, as a consequence of the regular functioning of national jurisdictions, would be a major success.”

We therefore wish to appreciate the support and cooperation the Court continues to receive from various States parties, as well as non-State parties, to investigate cases and situations under the Court's jurisdiction. We welcome with appreciation the report (see A/70/350) delivered to the Assembly by the President of the Court on the activities of the Court covering the period August 2014 to the end of July 2015. We take note that, currently, the Court is seized of 21 cases and eight situations, mainly on the African continent. We are also well aware of the complexity, character and nature of the cases before the Court, as well as potential ones.

We remain convinced that there are numerous other potential cases deserving of the Court's attention. We also recognize that, in order to achieve full accountability for the gravest international crimes, the Court depends entirely on the willingness and readiness of States to cooperate and enable it to have a universal outreach. In that respect, we welcome the support and assistance the Court continues to receive from the United Nations system, as well as from civil society and States parties, to promote the rule of law at the national and international levels. We know that these present a profound challenge to the Court in its pursuit to make perpetrators of human rights abuses account for their deeds. As human rights violations and atrocity crimes continue to take place in other parts of the world, we call on some members of the Security Council to refrain from frustrating initiatives to refer deserving cases to the ICC. We believe that in doing so the Council would enable the Court to cast its net wide and would not be perceived to be unfairly targeting certain regions of the world.

We look forward to continuing to support the International Criminal Court in its quest to fight against impunity and to bring justice to the millions of men, women and children. We believe that the Security Council can do more to enable the ICC to complement the principles and purposes of the Charter of the United Nations in relation to justice and the maintenance of international peace and security.

Mr. Martinsen (Argentina) (*spoke in Spanish*): At the outset, I should like to express the particular satisfaction of the Argentine Republic upon receiving this first report (see A/70/350) of the new President of the Court, our compatriot Silvia Fernández de Gurmendi, as well as to warmly congratulate her on her election. I should also like to express gratitude for the presentation of the report (A/70/317) of the Secretary-General on the implementation of article 3 of the relationship agreement between the United Nations and the International Criminal Court and the report (A/70/346) on expenditures and reimbursements in relation to assistance provided to the Court.

With regard to the update on the judicial activities of the Court and the activities of the Office of the Prosecutor, we welcome the fact that it has been possible to move forward with activities both in terms of preliminary examinations and situations and cases under the charge of the Court in fulfilment of its mandate and within the limit of the resources that have been allocated for that purpose. We call on all Member States that are parties to the Rome Statute to bear in mind the particular nature of the Court as they evaluate their own annual budgets, so that the Court's budget can be approved at the next Assembly of States parties in order to allow the Court to fulfil its mandate and carry out its essential functions. We also encourage States to promote the streamlining of processes through positive consideration of the proposed amendments to the rules of procedure and rules of proof drafted by judges and debated within the focus group on governance.

With regard to the report's section on international cooperation, I should like to refer to the relationship of the Court with the United Nations. Over the years since the entry into force of the Statute, the need to ensure greater accountability for crimes covered by the Rome Statute has been concretely integrated in United Nations deliberations and those of the international community as a whole. The Security Council has done the same and has incorporated the Court into its own consideration of specific situations. All of that has served to strengthen the fight against impunity. However, certain challenges remain that ought to be addressed.

The relationship between the Organization and the Court is crucial and should always respect the judicial independence of the Court. I should like to recognize the directives of the Secretary-General on non-essential contacts. The relationship between the United Nations and the Court is also characterized

by the relationship of the Court with the Security Council. That organ is empowered to make referrals to the Court, which it has in fact done in two situations. For years, Argentina has expressed some concerns, both in the General Assembly and in the Security Council as a non-permanent member. In accordance with the Rome Statute, when it comes to referrals the Court exercises its jurisdiction over nationals of States parties and the nationals of non-States parties to the Statute. No decision by the Security Council has the capacity to change the norms of the Statute with regard to the jurisdiction of the Court to provide immunity to nationals of non-States parties who commit crimes that are covered by the Statute. That is in the context of a situation that is referred to the Court.

I should like to reiterate that to date the financial cost of the referrals made by the Security Council to the Court have been covered exclusively by States parties. The Rome Statute provides that such costs must be borne by the United Nations. That is also reflected in the Relationship Agreement between the United Nations and the Court, which the Assembly adopted by consensus. Argentina and other Members of the United Nations have questioned the unfortunate practice of the Security Council in terms of funding those referrals, despite the fact that a large majority supports full compliance with sub-paragraph (b) of article 115 of the Rome Statute and article 13 of the Relationship Agreement. Fighting impunity is a goal of the States parties to the Rome Statute and of the United Nations. But that objective also needs to be accompanied by a commitment to provide the Court with the necessary resources to fulfil its functions. That commitment is not an alien concept at the United Nations, given the experience with the ad hoc Tribunals set up by the Council. We now need to address the issue as it relates to the International Criminal Court. The lack of action in that regard could jeopardize the sustainability of the investigations carried out by the Court and can have an impact on the credibility of the Organization.

In conclusion, Argentina would like to emphasize that the significant contribution of the International Criminal Court to fighting impunity for the most serious crimes of international concern is also a contribution to the objectives of the Organization. As indicated in the Kampala Declaration, there is a noble mission and function of the International Criminal Court in the multilateral system, the objective of putting an end to impunity, establishing the rule of law, fostering respect for human rights and achieving lasting peace

in accordance with international law and the purposes and principles of the Charter of the United Nations. We reiterate the firm commitment of our country to the work of the International Criminal Court.

Mr. Minami (Japan): At the outset, I should like to thank President Silvia Fernández de Gurmendi for her comprehensive report (see A/70/350) on the work of the International Criminal Court (ICC). Japan's basic policy towards the Court is to enable it to function effectively in a sustainable manner, with the support of the international community. Japan is proud of being the largest financial contributor and of sending capable human resources, including judges, to the Court.

While the ICC has demonstrated progress in the past 13 years, some challenges still remain. One of them is the sustainability of the Court. The Court has been exercising its jurisdiction over nine situations, more than 10 suspects remain at large and nine preliminary examinations are still going on. However, its financial and human resources are limited and should be used in a most efficient manner. My delegation supports the lessons-learned initiative of the Court and closely follows the work of the study group on governance in The Hague.

Another challenge is the effectiveness of the Court. We see issues related to executing arrest warrants and collecting evidence. Its experience in the past 13 years tells us that cooperation among the States concerned is one of the key elements for a more effective implementation of the Rome Statute.

My delegation is of the view that capacity-building in legislation and the criminal justice systems of the States concerned can serve justice and reconciliation, and thereby contribute to effective cooperation from them. Enhanced capacity will also enable national authorities in the States concerned to conduct investigation, prosecution and punishment in close cooperation with the international community. Japan is willing to play a positive role in the field of capacity-building.

Cooperation is also crucial in situations referred to the Court by the Security Council. The ICC can function more effectively when the Council follows up such situations in close cooperation with the Court and the States concerned. With the support of Member States, Japan will become a member of the Security Council from January next year. My delegation wishes to contribute to further deepening dialogue and

cooperation between the two bodies from inside the Council.

In conclusion, I wish to express the sincere appreciation of Japan for the work that the ICC has accomplished to date. It is our hope that the ICC will continue to work diligently in the fight against impunity and to consolidate its credibility and reputation both inside and outside the Rome Statute system. Japan, for its part, is determined to strengthen its contribution to the ICC, and consequently to the establishment of the rule of law in the international community.

Mr. Rhee Zha-hyung (Republic of Korea): At the outset, we would like to extend our warm congratulations to President Silvia Fernández de Gurmendi, together with the two Vice-Presidents, on their elections to the presidency of the International Criminal Court (ICC). We also welcome the seven judges newly elected during the reporting period. While thanking the President for her comprehensive presentation of the report (see A/70/350), we cannot fail to express our sincere appreciation to those in all organs of the Court for their hard work and dedication.

As emphasized by previous speakers, the Rome Statute reaffirms the purposes and principles of the Charter of the United Nations. As we are all aware, the three pillars of the work of the United Nations — peace and security, development and human rights — depend heavily on securing criminal justice at both national and international levels, especially for those serious crimes of concern to the international community as a whole. That is all the more so considering the 2030 Agenda for Sustainable Development (General Assembly resolution 70/1), which includes various elements concerning justice, the rule of law and accountability. In that regard, we support the ongoing cooperation between the ICC and the United Nations on various levels, as presented in the report and the presentation, especially those cooperative activities in the field.

For the past 13 years, the ICC has been making steady contributions to helping end impunity for the perpetrators of the most serious crimes, and its work is laudable. That being the case, the ICC, now as a teenager on its path to adulthood, has to overcome a number of growing pains to establish itself as a robust and solid institution for international criminal justice.

First, it is imperative that the ICC enhance efficiency at various stages, especially given the expectation of four trials running simultaneously next

year and of heavier caseloads for the following years. In that regard, we welcome the remarks by the President that all organs of the Court are actively engaged in important reforms towards enhancing the effectiveness and efficiency of the institution, and hope for continued efforts to achieve that goal. We especially appreciate the recent publication of the pre-trial practice manual.

Secondly, the number of States parties to the Rome Statute has more than doubled since the Statute's entry into force, in 2002. That is truly a remarkable achievement. Nevertheless, the number still falls short of the two thirds of the States Members of the United Nations. Securing universality is part and parcel of ending impunity for perpetrators of atrocity crimes wherever such crimes are committed. It also helps to enhance the credibility of the Court and the deterrence of crimes. As such, continued efforts for universality should be made by both the Court and States parties.

Thirdly, cooperation at every step of the process continues to be an essential component of the effectiveness of the Court and of the genuine meaningfulness of universality. Cooperation between the ICC and States parties is vital and has been reinforced by the Assembly of States Parties, international organizations, civil society organizations and non-party Member States as well. It is quite encouraging that two suspects were transferred to the ICC with the cooperation of States parties during the

reporting period. However, as is still the case, the ICC suffers from a lack of full cooperation. States parties must be further encouraged to investigate grave crimes within their borders and prosecute or extradite the criminals based on the principle of complementarity. The ICC, together with States parties and other entities mentioned above, must help improve the judicial capacity and overall competency of States parties at the national level by offering assistance and expertise. In cases of non-compliance or non-cooperation, we must assess the underlying reasons and develop strategies to encourage more cooperative engagement.

The Republic of Korea has been a staunch supporter of the ICC since its inception. As a member of the Bureau, we are actively participating in the concerted efforts to establish the ICC as the responsible, universal and efficient institution to end impunity for the perpetrators of the most serious crimes against humankind. We will continue to spare no effort in that noble and significant endeavour, both at the ICC and at the United Nations.

The Acting President (*spoke in Spanish*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 78?

It was so decided.

The meeting rose at 12.10 p.m.