



General Assembly

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New York

Official Records

President: Mr. Kutesa (Uganda)

In the absence of the President, Mr. Mendonça e Moura (Portugal), Vice-President, took the Chair.

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

Agenda item 73 (continued)

Report of the International Criminal Court

Note by the Secretary-General (A/69/321)

Reports of the Secretary-General (A/69/324 and A/69/372)

Ms. Cooper (Australia): From Australia's vantage point as a member of the Security Council, we are acutely aware that Rome Statute crimes continue to be committed in many locations on an alarming scale. The preamble to the Rome Statute describes the crimes that fall within the jurisdiction of the International Criminal Court (ICC) as "unimaginable atrocities that deeply shock the conscience of humanity". The fact that civilians — children, women and men — are victims of the most hideous, depraved and bloody deliberate acts of violence imaginable shocks Australia. It shocks us and it galvanizes our determination to help do what we can to prevent such crimes occurring.

It is our unshakeable conviction that the investigation and prosecution of serious international crimes is critical to the prevention of the recurrence of such crimes and to the re-establishment of inclusive and lasting peace. We note, in that context, that the Rome Statute's preamble recalls that it is the duty of every State to exercise its criminal jurisdiction over those

responsible for international crimes. The ICC, however, as a court of last resort, has a vital role to play when States are unable or unwilling to take such action. That is why the ICC deserves the unfailing support of every member of the international community.

The ICC has been asked by States parties to carry out a complex and ambitious mandate in very challenging circumstances. We commend the Court for the efforts that it has made to fulfil that mandate. Of particular note this year was the delivery of the trial judgement in the *Katanga* case and the sentencing of the accused to 12 years' imprisonment for one count of crimes against humanity and four counts of war crimes.

The Court's activities expanded this year as a result of requests for its services from situation countries. The Court opened a second investigation into the situation in the Central African Republic, following a referral from the country's transitional Government. Similarly, the Prosecutor has opened a preliminary investigation into the situation in Ukraine, following the lodging, pursuant to article 12, paragraph 3, of the Rome Statute, of Ukraine's declaration in accepting the jurisdiction of the Court over alleged crimes committed on its territory between 21 November 2013 and 22 February 2014.

The ICC is only as strong as the commitment of States on whose cooperation and support the Court relies. In that context, we underline our expectation that States will fulfil their obligations to cooperate with the Court, whether those obligations derive from being a party to the Rome Statute or from resolutions of the Security Council. Above and beyond such legal

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obligations, Australia calls on all States to support the Court in its efforts, which reflect nothing less and nothing more than a desire to investigate and prosecute those accused of serious international crimes in accordance with international standards.

The United Nations, of course, has a critical role to play in that regard. The intersections and synergies between the separate and independent mandates of the ICC and the United Nations are obvious. Both institutions are working to achieve common goals. By working more effectively together, the two institutions can ensure that their efforts have a multiplier effect. Australia therefore warmly welcomes the Secretary-General's guidance to the Secretariat on contacts with persons subject to arrest warrants and calls on the United Nations to implement that policy strictly. We also welcome the recent meeting between the ICC Prosecutor and the new United Nations High Commissioner for Human Rights, and we advise that they discuss ways to further strengthen collaboration between their respective offices.

During the remainder of our term on the Security Council, Australia will continue to advocate for at least the same level of cooperation to be extended by the Council to the Court. Such cooperation is critical to the effectiveness of the ICC and, in Australia's view, it is incumbent upon the Council to ensure that its rhetoric on accountability is backed by action.

The ICC is a beacon of hope for those whose lives have been devastated by the worst excesses of humankind. However, its promise can be fulfilled only if it enjoys the support of the international community. For that reason, Australia calls on States that have not yet done so to ratify the Rome Statute as amended by the Kampala amendments. States should support a strong General Assembly resolution on the ICC, and we call on all States to support the ICC in its fight against impunity.

Ms. Ridings (New Zealand): We thank President Song for presenting the International Criminal Court's annual report for 2014 (A/69/321) and, as this will be his last presentation as the President of the Court, we wish to acknowledge his years of service to the International Criminal Court (ICC). As a strong supporter of the ICC, New Zealand welcomes the opportunity for continued dialogue on ways and means to strengthen the Court's contribution to international criminal justice, and particularly its relationship with the United Nations.

The year 2015 marks a new chapter for the ICC and, with it, renewed opportunities both to reflect on lessons learned and to explore pathways for the future. We welcome Mr. Sidiki Kaba, Minister of Justice of Senegal, as President-elect of our Assembly of States Parties. We wish him every success as he works towards his goals of building a stronger relationship between the Court and the regions and between the Court and States parties, strengthening complementarity and working towards the universality of the Rome Statute.

The year 2015 will also see the swearing in of six new ICC judges and the departure of a cadre of ICC judges who have served since the opening of the Court. We trust that those called to serve in that capacity will draw upon their experience to enrich the Court's jurisprudence and build upon the work of their predecessors, so as to ensure that the Court is a robust and effective judicial institution.

In reflecting on this past year and looking forward, we also note the increasing workload of all organs of the Court. In that regard, we welcome recent efforts to analyse and improve existing procedures and approaches, including on the part of the Registrar and the Prosecutor. We particularly recognize the Prosecutor's strategic plan, notably its adjusted approach to investigations and strong focus on ensuring that cases are as trial-ready as possible.

New Zealand is committed to the success of international justice mechanisms, including the universality of the Rome Statute. In March 2014, we were pleased to host a workshop for Pacific and Asian States in Auckland, New Zealand, in partnership with Liechtenstein and the Global Institute for the Prevention of Aggression. The forum enabled Government representatives to engage with experts in considering the Court's work to date, the relevance of the Rome Statute to the region, and the content and function of the Kampala amendments, and to engage with providers of technical assistance and training.

The year 2014 marks the tenth anniversary of the Relationship Agreement between the United Nations and the ICC. We welcome the Secretary-General's report outlining the various areas of cooperation between the organizations, including in the field (A/69/324), and we note the important role of the Office of Legal Affairs as the focal point across the United Nations system for all aspects of the Agreement. We encourage greater efforts to embed and publicize that role within the United Nations system.

The relationship between the Court and the Security Council remains as important as ever. As we have expressed previously in the Assembly and elsewhere, we welcome dialogue on when and under what circumstances the Council should refer a situation to the ICC. Importantly, when the Council refers a situation to the Court, we are of the view that it should do so with a clear commitment to following up and should ensure that the Court receives the cooperation it needs to discharge its statutory mandate.

The ICC's experience has not been, and will not be, without its challenges. As we embark upon this new chapter, it will be a time not only for reflection, but also for constructive ideas, dialogue and progress. For our part, New Zealand remains committed to working with others to strengthen the Court's efforts as a permanent institution in the international legal landscape.

Mr. Hetesy (Hungary): Hungary welcomes the report of the International Criminal Court (A/69/321), which, together with today's debate, provides for regular interaction between the Court and the United Nations membership. Just a couple of days ago in the Security Council, 58 Member States participated in an excellent open debate dealing with the working methods of the Council, focusing, *inter alia*, on the interaction between the International Criminal Court (ICC) and the Council, especially in the case of referrals. We would like to commend Argentina for organizing that debate. In addition, outside of New York, we witnessed the first visit of the Council to the seat of the ICC. That public acknowledgement of mutual interest cannot be overestimated.

There is a crucial link between peace and security on the one hand, and criminal accountability on the other. The most important objective of the Rome Statute has always been to ensure countries' resilience against atrocity crimes. Those crimes not only kill people, but threaten the very fabric of society and statehood. Prevention is also best served by the perspective of unavoidable punishment and by ensuring that perpetrators are brought to justice.

Based on those premises, we must again underscore the need for close partnership and cooperation among the ICC, the Security Council and the broader United Nations membership, based on values, including peace, security and justice and, ultimately, the promotion of universal respect for human rights. The ICC is now part of the permanent international architecture ensuring those values.

We commend the latest reform developments taking place within the various ICC organs. We note the efforts to strengthen the Office of the Prosecutor. The Registry's ReVision project is also taking shape. Last but not least, there are signs of improvement in the Court's proceedings. Of course, there is still room for further improvement.

We must remind ourselves that the Rome Statute does not deal only with the establishment of the ICC. The Rome Statute reflects the joint will of States parties to ensure, through national legislation and action, that atrocity crimes do not happen, and, if they do, that perpetrators are prosecuted expeditiously at the national level. In that way the Rome Statute will strengthen the sovereignty of States parties, while the ICC remains the last resort when there is no other recourse to justice.

The principle of complementarity also requires further interaction among States. States parties must provide assistance to others in need of national capacity-building, so that all States can fight impunity effectively. The various United Nations organs also have a role to play in that endeavour, through assisting in national capacity-building. We welcome the fact that the annual report also deals with such issues in detail.

Finally, when the ICC must act, it must be able to rely on the support and cooperation of its States parties. We encourage further efforts aimed at strengthening the relationship of the Court with regional organizations, such as the African Union, and with civil-society organizations. In the case of referrals, the Security Council should, in our humble view, also do more to ensure that Member States cooperate with the Court.

Looking forward to the next annual report, we cannot forget the fact that the Court in general, and its actions in particular, are not immune from political comments and disagreements. Having said that, States parties bear the ultimate responsibility to respect and protect the judicial independence of the Court. However, States parties also bear the responsibility to sort out differences and find solutions to reinforce the standing and authority of the Court.

In that vein, Hungary welcomes the consensus action on the part of the African States parties in presenting Mr. Sidiki Kaba of Senegal as the next President of the Assembly of States Parties. We fully support the new President's complex vision focusing on improvements in the contentious issues, on strengthening cooperation

with the Court, on the principle of complementarity and on promoting the Statute's universality.

As a sign of our continued engagement, Hungary is set to remain a member of the Bureau for the next three years. Hungary has also decided to nominate Mr. Péter Kovács in the election of judges to the International Criminal Court for the period from 2015 to 2024. If elected, the first-ever Hungarian judge will offer his experience as a former constitutional court justice, trained in independent legal decision-making based on the utmost respect for the law. He is a candidate who is accustomed to functioning at the highest judicial level, where decisions are made concerning major legal issues — issues that are often hotly contested — with the full understanding that such decisions may also have far-reaching political ramifications.

Mrs. Miculescu (Romania): My country would like, first, to use this occasion to pay tribute to President Song's remarkable work during his presidency of the International Criminal Court (ICC). We are all indebted to him for his resilience, wisdom and professionalism, which have substantially strengthened the Court. In the challenging times that the international community is facing, we need strong actors to uphold the rule of law at the international level. We express our thanks to President Song.

I would also like to commend the Prosecutor of the Court, Ms. Fatou Bensouda, for her outstanding endeavours in increasingly complicated circumstances. I personally assure her of Romania's continued support for her complex activity.

We thank the Court for the tenth annual report on its activities (A/69/321), which reveals its increasing workload. We note that the report acknowledges that the path to the universality of the Rome Statute of the ICC involves a lengthy and difficult process with various obstacles to overcome that will require constant, concerted and coordinated efforts. Since its entry into force on 1 July 2002, the number of States parties has been on the increase. We continue to encourage all States to become parties to the Rome Statute, as it is our belief that strengthening the ICC by achieving its universality is the most powerful preventive approach.

The fundamental challenge facing the ICC remains the necessity of ensuring full and prompt cooperation with the Court and, in particular, the need to react to instances of non-cooperation by States. Non-cooperation with the ICC with respect to the

execution of arrest warrants represents a violation of international obligations and undermines the Court's capacity to deliver justice. In order to carry out its mandate in an independent and impartial manner, the ICC relies on our support.

The report of the Court vividly illustrates the essential part played by States in many respects in supporting the Court as it strives to fulfil its mandate. The adoption of adequate national legislation remains critical for an effective and genuine fight against impunity. States bear the main responsibility to investigate, prosecute and bring to justice perpetrators of the most serious crimes of concern to the international community.

In Romania's view, the relationship between the United Nations and the ICC is paramount for both actors. We express our support for establishing a mechanism that would provide effective follow-up by addressing issues arising from referrals made by the Security Council to the ICC, in accordance with the Rome Statute, as we underlined in the recent excellent debate in the Council (see S/PV.7285).

We believe that there is a need for a constant and meaningful exchange of views among Council members to address the situations referred to the Court and the consequences of non-compliance with cooperation obligations under the referrals. Based on the periodic reporting of the Office of the Prosecutor, adequate follow-up measures could be examined. Such a mechanism would be a step in the right direction as we work to develop a mature and balanced relationship, thereby enabling both institutions to exercise their mandates in an efficient and complementary manner.

Romania remains an active supporter of the International Criminal Court and continues to promote its activity, which is crucial in matters of international peace and justice. One of its most recent initiatives carried out to that end was the event celebrating International Justice Day, held on 21 July in Bucharest, organized by the Romanian Ministry of Foreign Affairs, the National Commission on International Humanitarian Law and the Romanian Red Cross. We are very grateful to Prosecutor Bensouda for the fact that she found the time to deliver a keynote statement on the achievements and challenges of the Court.

As early as 1926, the Romanian diplomat and legal expert Vespasian Pella warned that a new system of international criminal justice could not be established

in one stroke of a magic wand. Such a system should take shape progressively, and while we have come a long way in that respect, much more remains to be done. I would like to conclude, therefore, by underlining once more the need for strong, wider and continuous public and diplomatic support by States and the international community for the International Criminal Court so as to enable it to fulfil its mandate.

Mr. Saeed (Sudan) (*spoke in Arabic*): The Sudan reiterates the importance of the noble purposes and objectives for which the United Nations was established, namely, to maintain international peace and security and work for sustainable development and the promotion and protection of human rights through a methodology based on international cooperation and dialogue for the purpose of developing amiable international relations and settling disputes by peaceful means. With a view to achieving those purposes and objectives, the Charter of the United Nations enshrines guiding principles on the equality and sovereignty of States, non-interference in domestic affairs, the upholding of political independence and territorial integrity, the provision of international support to deal with challenges in development, and the prohibition of the use or threat of use of force.

Fighting impunity is a noble cause in achieving justice, and it is not the subject of any difference of opinion. It is the responsibility of national judicial courts in the first instance, as per the jurisdictions outlined in national legal systems. Attempts to politicize international justice and make it a platform for narrow interests and objectives are incompatible with the international community's efforts to achieve justice and to uphold the principles and purposes of the Charter. Such efforts violate, in fact, the norms of international law and increase tensions in international relations, instead of establishing peace and friendly relations as per the objectives of the United Nations.

In deliberating on the report of the International Court of Justice, we touch on the issue of the relationship between the United Nations and the International Criminal Court (ICC), which must take into account the independence of both bodies and the lack of a structural or organic relationship between the two. What causes great concern are the attempts of some States parties to the ICC to turn the General Assembly into an Assembly of States Parties to the Rome Statute of the ICC. My delegation has consistently reiterated its firm position that it rejects such efforts. We have expressed that

position each year in addressing the agenda item on the ICC report, particularly when those presenting the report repeatedly try to offer wide interpretations that do not reflect the spirit and letter of the relationship, which is strictly and clearly defined and should not be used to appropriate or acquire new purposes for the ICC. In that regard, the Sudan has expressed its opinion clearly during the informal consultations on the draft resolution on the ICC report, and will consistently do so. We will always call for restrictions on the relationship and framework between the ICC and the United Nations, and we cannot allow an expanded interpretation of the relationship.

The current practices of the ICC show that it has become a tool in international conflicts and political action through its exclusive focus on Africa and targeting of African leaders and symbols. That fact has encouraged African public opinion to describe the ICC as a court of the developed nations that seeks to target the developing nations. Why is the ICC ignoring atrocities and crimes in other areas? Is it not an international court, concerned with fighting impunity whenever and wherever it takes place? Where are the principles of neutrality, integrity and independence that should be the guidelines for any practice of justice? Those are difficult questions. We pose those questions, and we have renewed them each year but never receive convincing and logical answers. However, the current practices of the ICC demonstrate the answer, which is that the ICC seems to have a single jurisdiction that targets Africans and African nations and nothing else.

When we look at the relationship between the ICC and the Security Council, we see an important way in which the Court has become politicized. One organ is supposed to be concerned with achieving international justice, and the other serves political interests and the settlement of accounts. But the same organ that refers situations to the ICC exempts another nation from referral to the ICC. It is therefore a relationship that bears witness to the lack of objectivity in the unjust practice of the mandate. The Secretary-General's reports show the developing relations between the United Nations and the Court. We must uphold the independence of the two without trying to integrate the ICC into the United Nations system, as that conflicts with the concept and scope outlined for that relationship.

My delegation expresses concern about the blatant interference of the ICC in the work of the General Assembly and its continued attempts to prescribe to the

Secretariat staff how and when they can treat Member States and how it expects them to interpret and report on their duties. My delegation also reiterates the importance of fighting impunity and achieving justice by making use of those judicial and legal organs that are willing, qualified and able, and we reject cooperation with the ICC. The Sudan is not a State party to the Rome Statute; we therefore have no obligations towards the ICC, as per the Vienna Convention on the Law of Treaties.

Mr. De Vega (Philippines): International relations are maturing from a system operating on the basis of power to one that is more rules-based. The backbone for that change is, of course, the rule of law. One of its cornerstones is the Rome Statute of the International Criminal Court.

Global peace is possible if it is also anchored in the principles of international criminal justice. The long campaign to create a permanent international criminal court dates from the Nuremberg trials in 1946. Under the Nuremberg principles, crimes against international law are committed by men, not by abstract entities, and only by punishing the individuals who commit such crimes can the provisions of international law be enforced.

The campaign culminated in 2002 with the required ratification by 60 States parties to the Rome Statute. We recall that in February 2003, the Assembly of States Parties elected the first bench of 18 judges, which included Judge Sang-Hyun Song, who became President in 2009. As he ends his term as President, we thank President Song and his team at The Hague for tirelessly promoting international criminal justice and the central role of the Court. We acknowledge his years of service and his vast contribution to the Court.

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 Rome Statute now has 122 States parties, including all of South America, nearly all of Europe, most of Oceania and about half of Africa. In 2009, the Philippine Congress enacted Republic Act No. 9851, also known as the Philippine Act on Crimes against International Humanitarian Law, Genocide, and Other Crimes against Humanity. That paved the way for our ratification of the Rome Statute.

Consistent with the principle of complementarity, the Philippines strives to ensure that its criminal justice

system is transparent, fair, effective and relatively speedy, allowing for the prosecution of the crimes contemplated by the Rome Statute. The Philippines affirms the 2012 Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (resolution 67/1), paragraph 23 of which recognizes the role of the Court in a multilateral system that aims to end impunity and establish the rule of law.

The work of justice is never easy. But the reality is that justice can be particularly complicated and difficult in countries affected, if not in fact devastated, by violence and conflict, whether sectarian or otherwise. Like all States parties and the larger international community, the Philippines is very concerned about developments in the Court. We therefore pay close attention to the ongoing judicial proceedings, investigations and preliminary examinations of the Court.

It is our belief that our friends in Africa who have expressed concern about the Court need first of all our understanding, and not our judgement. Despite their own individual developmental challenges, which, as a developing country, the Philippines certainly identifies with, African States parties have decided to cast their lot with the Court. They have demonstrated their firm commitment to and thirst for international criminal justice. We must therefore respect the lessons of recent history, if we are to ensure that international criminal justice fully contributes to successfully promoting reconciliation. We have no other option but to help each other protect human rights and build domestic capacities, including through assistance aimed at developing human resources, such as the training of judges, prosecutors, the police and the military. We must use the principle of universal jurisdiction to serve the ends of justice and reconciliation.

The Philippines continues to work constructively with all States parties in contributing to the resolution of the situation and in addressing similar situations in the future. The Philippines is hopeful and confident that we can surmount whatever challenges the Court, the United Nations and the international community face as we join hands to genuinely understand and help developing country States parties, particularly in Africa.

The United Nations development agenda is now making a transition from the Millennium Development Goals we agreed upon in 2000 to the post-2015 development agenda, which will define the future

global development framework. As a member of the Group of Friends of the Rule of Law at the United Nations, the Philippines advocates for a post-2015 development agenda in which the rule of law and human rights are strongly reflected. Together, we will ensure that perpetrators account for their crimes. By so doing, the international community will affirm that, in the post-2015 development agenda, there will be peace with justice, not just for our generation, but also for generations yet to come.

Mr. Carrera Castro (Guatemala) (*spoke in Spanish*): I would like to begin by reaffirming our unequivocal support for the International Criminal Court (ICC) and by renewing our commitment to the fight against impunity. I would also like to thank President Song for presenting his report (A/69/321) yesterday (see A/69/PV.34), of which we take note, together with the reports of the Secretary-General (A/69/324 and A/69/372).

My delegation appreciates the annual exchanges between the United Nations and the Court, not only because they strengthen dialogue and the relationship between the two organizations, but also because they serve to give visibility to the extremely significant work of the Court. Unfortunately, there remain many myths and misunderstandings about the ICC. Today's debate is an opportunity to uphold the authority of the Court and learn more about its mandate and the paramount importance of State cooperation in efforts to carry out that mandate. Accordingly, I would like to share some thoughts on the work of the Court and the challenges it currently faces.

First, with limited resources for executing its rulings, the Court depends on the cooperation and assistance, not only of States, but also of international organizations, especially the United Nations. That mutual recognition resulted in the negotiations on and adoption of the Relationship Agreement between the United Nations and the International Criminal Court (A/58/874, annex), which provides a broad framework for cooperation aimed at achieving concrete results. In that regard, we welcome the Secretary-General's efforts to promote cooperation between the United Nations and the Court, which the General Assembly noted recently in its latest resolution on the report of the ICC (resolution 68/305). Furthermore, the General Assembly stressed the critical role of focal point played by the Office of Legal Affairs, serving as the main interlocutor of the Court with respect to transmitting

all requests for cooperation to the United Nations and notice of Security Council resolutions.

Secondly, we are concerned that some States parties are not honouring their obligations under the Rome Statute in apprehending persons subject to arrest warrants in their territories. If States are truly committed to ending impunity, they should not fail to execute ICC warrants nor should they accept visits from suspects. We call for the unconditional respect for and implementation of the decisions and orders of the Court. That leads me to emphasize the notion that Governments should avoid having non-essential contact with persons subject to an arrest warrant. The Secretary-General's guidance on contacts with persons who are the subject of arrest warrants or summonses issued by the International Criminal Court is therefore essential (A/67/828, annex). Officials of the Organization and in particular senior representatives should conduct themselves in an exemplary manner in the enforcement of that policy.

Thirdly, we must renew not only our political commitment but also our financial commitment to the International Criminal Court. We remain concerned that to date the expenses incurred by the Court in relation to referrals by the Security Council have been borne exclusively by the States parties. Last year, the Assembly of States Parties of the ICC urged States to initiate discussions at the United Nations on the correct implementation of article 115 (b) of the Rome Statute.

The Security Council should refrain from ruling on the financing of referrals and leave it to the General Assembly to consider the matter. It is not the responsibility of the Security Council to finance its referrals to the ICC, nor should it prohibit the General Assembly from doing so. The respective provisions of the two referrals by the Council encroach upon the competence of the General Assembly.

According to Article 17 of the Charter of the United Nations and article 115 of the Rome Statute, decisions on financing fall under the purview of the General Assembly. That issue was the subject of lengthy discussions in the negotiations on the most recent General Assembly resolution on the report of the ICC, to which I referred earlier. We believe the time has come to resolve the matter. We will therefore put forward proposals on the issue during the current session.

Fourthly, we must redouble efforts to establish a universal regime. Each and every step towards

universality will significantly reduce the risk of impunity and lead to peacebuilding and stability for States. That is why we must continue promoting the universality of the Rome Statute by maintaining the ongoing momentum of ratifications and accessions. Moreover, we must continue efforts to put to rest the erroneous and unjustified perception that the ICC is a court for only one region.

The International Criminal Court has made the promise of universal justice a reality. The Relationship Agreement between the United Nations and the International Criminal Court will help to ensure that justice is respected and implemented permanently.

Mr. Diener Sala (Mexico) (*spoke in Spanish*): Mexico wishes to thank Judge Sang-Hyun Song, President of the International Criminal Court, for presenting the tenth annual report of the International Criminal Court (ICC) on its activities from August 2013 to July 2014 (A/69/321) to the General Assembly.

We regret that, as indicated in the report, this was the first time period during which no new State acceded to the Rome Statute. Although the Statute counts a majority of 122 State parties, we should not lose sight of the objective of its universal ratification in maximizing its preventive potential worldwide. That is why Mexico urges States that have not yet done so to promptly ratify the Statute and thereby join the collective commitment to combat impunity for the most serious crimes of concern to the international community as a whole.

The report presented by the Court illustrates its various laudable achievements during the reporting year. The temporary acceptance of the Court's jurisdiction by Ukraine — a non-State party to the Statute — in April, as well as the second referral by the Central African Republic of its situation to the Court in June, provide evidence of the growing trust of both State parties and non-State parties in the Court's effective functioning. Moreover, at the judicial level, this year marked the first definitive judgement issued by the Court and the increasing participation by victims in its procedures.

There is no doubt that significant progress has been achieved in strengthening the criminal justice system established by the Rome Statute. At the same time, the report indicates that we, as members of the international community, must join efforts to overcome the ongoing challenges faced by the Court in fully implementing its mandate.

First, I refer to the lack of cooperation on the part of certain States, illustrated by the outstanding arrest warrants against 12 individuals, despite the fact that some of them could be easily located. That is why the cooperation of both State and non-State parties is absolutely essential for the Court to fully discharge its responsibility. Given that such a lack of cooperation affects situations referred by the Security Council to the Court, I would highlight here the importance of effective follow-up to the Council's referrals, including through the creation of a mechanism for that purpose.

Secondly, Mexico wishes to underline the importance of the Council's being guided by objective, non-politicized criteria in referring situations to the International Criminal Court, as an international response tool to ensure that international crimes do not go unpunished.

Finally, Mexico would recall an essential aspect in the effective strengthening of the Court, namely, its budget. As one of the principal contributors to the Court's budget, Mexico reiterates the importance of ensuring sufficient resources to enable the Court to fulfil its mandate. We therefore participate actively and responsibly in formulating the budget for the Court. The enormous challenges faced by the Court as the result of the increasing number of situations and cases under its consideration further demonstrate the necessity, underlined by my delegation on many occasions in this forum, of financing referrals by the Security Council through funds provided by the General Assembly, as set forth in article 115 of the Rome Statute.

Similarly, we consider that that challenge must be accompanied by greater efficiency in the Court's use of the resources provided. Mexico is convinced that such efficiency requires that the Court focus on fulfilling its mandate under the Rome Statute. Moreover, we commend the efforts of the United Nations, international and regional organizations and civil society in mainstreaming capacity-building activities aimed at strengthening national jurisdictions in the investigation and prosecution of international crimes, by way of new and existing technical assistance programmes and instruments in areas such as human rights, the rule of law and development.

In the framework of the Organization, it is worth mentioning the work of the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, the Rule of Law Assistance Unit, the Universal Periodic Review

mechanism of the Human Rights Council, and the post-2015 development agenda, among others. Furthermore, it is worth highlighting the work of the Inter-American Commission on Human Rights and other regional organizations in that key task.

Mexico recognizes the vital importance of such strengthened efforts and believes they should be carried out in the forums mentioned, rather than within the framework of the Rome Statute — which does not provide a mandate for such purposes — as a means to ensure more efficient use of the budget allocated to the Court. The relationship between the Organization and the International Criminal Court provides an opportunity to jointly achieve, from their respective spheres of competence, the common objective of combating impunity for the most serious crimes of concern to the international community as a whole.

Mexico reiterates its commitment to the International Criminal Court and its willingness to continue collaborating towards that common objective, both within the Organization and in other relevant forums.

Mr. Mahnič (Slovenia): My delegation welcomes the opportunity to discuss the annual report of the International Criminal Court (A/69/321). We see this occasion as an important chance for the International Criminal Court (ICC) to inform the United Nations about its activities in the fight against impunity for the most heinous crimes of international concern and about the activities to strengthen its functioning.

This year's report in many ways confirms that the International Criminal Court has become increasingly busy, as the workload of that judicial institution has continued to grow throughout the past year, including the launching of new preliminary investigations. While this confirms that the Court has developed into a strong institution, it also underscores the importance of, first, the efficient implementation of the principle of complementarity, and secondly, cooperation between the ICC and other international actors.

As the report stresses, "The Rome Statute was never intended to replace national courts" (A/69/321, para. 64). The primary responsibility for investigating and prosecuting mass atrocity crimes rests with States. Improving domestic capacity and inter-State cooperation is, therefore, of paramount importance. We commend the Court for its active engagement aimed at reinforcing the ability of national authorities

to prosecute Rome Statute crimes. Although such efforts can only be praised, the ICC's achievements in that respect are, naturally, limited. However, States, international organizations and other international actors can and should do more to strengthen capacities and increase cooperation with the ICC with a view to preventing and prosecuting mass atrocity crimes. The United Nations and its agencies are particularly well placed to contribute to capacity-building in the prosecution of Rome Statute crimes. We therefore welcome the recent growing attention shown by the United Nations to those important issues and call for continuing those important efforts.

With a view to contributing to the improved implementation of the principle of complementarity, Argentina, Belgium, the Netherlands, Senegal and my country, Slovenia, have been working on an initiative for the adoption of a new international treaty on mutual legal assistance and extradition between States in order to ensure the effective domestic investigation and prosecution of mass atrocity crimes. I am pleased that the initiative has already gathered support among States of all regions. I would like to take the opportunity to invite all interested States to join. Allow me also to bring to the Assembly's attention that the aforementioned States will organize a side event on the initiative to take place in the margins of this year's Assembly of States Parties to the Rome Statute.

Let me now turn to the second important issue addressed in this year's report, namely, cooperation with the ICC. The ICC's mandate is extremely challenging, and the complexities of its work require close and effective cooperation from States, international and regional actors and civil society. The United Nations is a natural and important partner of the ICC in the fight against impunity and the prevention of atrocity crimes, as both institutions share common values. We see great significance in the support that the ICC receives from the United Nations. In that context, my delegation welcomes the adoption of the United Nations guidelines on non-essential contacts with persons subject to an arrest warrant issued by the International Criminal Court (A/67/828, annex), and calls for their continuing implementation.

Slovenia fully supports the ongoing discussions aimed at strengthening cooperation between the United Nations and the ICC. The support that the Court receives from the United Nations has the potential to contribute significantly to the ICC's deliberations. That is precisely

why greater effort is necessary to enhance dialogue and cooperation between the two institutions. In that regard, allow me to draw attention to the “Report of the Court on the status of ongoing cooperation between the International Criminal Court and the United Nations, including in the field”, contained in document ICC-ASP/12/42 of the Court, which offers valuable proposals on ways to introduce the necessary improvements. The document deserves further study and attention by the United Nations system and its membership.

In that context, priority attention is needed to develop ways to strengthen and broaden the relationship between the ICC and the Security Council, for example, by using the Council’s sanctions regime against individuals subject to arrest warrants issued by the Court, by adopting the necessary mandates for peacekeeping missions whose presence in the field can importantly assist the Court in discharging its activities and by supporting the Security Council in its reaction to cases of non-cooperation with the ICC. Slovenia would also like to restate its support for the initiative on refraining from the use of the veto in cases of atrocity crimes.

Cooperation efficiency between the two institutions could also be improved through greater coordination. The Office of Legal Affairs has played a crucial role as the coordinating body on ICC matters, especially with regard to the relationship between the United Nations and the Court. States can also contribute to improved coordination within the United Nations system by promoting the mainstreaming of Rome Statute issues.

Slovenia is strongly committed to the rule of law and the prevention of impunity for atrocity crimes. The ICC plays a central role in the endeavours of the international community aimed at pursuing that goal and therefore deserves our full support and cooperation. Just as the Court needs political commitment from States, it also requires committed leadership and resolve from within. Allow me to convey my country’s deep appreciation to President Song for his unyielding dedication to the rule of law and his able leadership of the Court throughout his mandate. Slovenia also maintains ongoing appreciation for his participation in the regional seminar on the ratification and implementation of the Kampala amendments, which took place in my country in May. His personal support to States’ efforts has been crucial, and we hope that such practices will continue also in the future as he embarks upon new challenges.

Allow me to conclude by expressing Slovenia’s full commitment to the Court and by calling upon all States that are not yet members of the Court to join the ICC and the fight against impunity. We further take the opportunity to invite all States parties that have not yet done so to ratify the Kampala amendments.

Mr. Stańczyk (Poland): Poland fully aligns itself with the statement made by the observer of the European Union (EU) on this agenda item yesterday (see A/69/PV.34). The Polish delegation has asked for the floor to highlight some of the points that it deems especially important.

The universality of the Rome Statute continues to be one of the main goals of the international justice system and yet, in the present reporting period, no new States have ratified the treaty. That can be viewed from two angles: one could say that it is an unfortunate and disappointing occurrence, as there are over 70 States that have not ratified the Statute. Therefore, one could take a moment to reflect on its universality. Poland fully supports the EU stance that there is a pressing need for the promotion of the Rome Statute and for investment in ratification campaigns.

However, the other angle would be that the International Criminal Court (ICC) has been — and in the future will likely continue — operating in an environment where not every State is a party. But that should not incapacitate the ICC and its work, since every State — members and non-members alike — has a positive role to play in fulfilling the ICC mission. Only with the support of all nations, in a show of global unity, will the ICC become a truly effective judicial mechanism. The onus is, of course, on the ICC States parties. The ICC relies on cooperation between them; the refusal to transfer wanted criminals is a direct obstruction of justice and must be duly addressed.

Poland fully agrees with the EU that accountability for the most serious crimes should be guaranteed, regardless of the perpetrator’s status. By allowing individuals, no matter how influential, to escape liability, States parties are flouting the very laws put in place to ensure the effectiveness of the Court. Arrest warrants must be honoured in order to deter future genocide, war crimes and crimes against humanity. That applies to all States parties and States not parties when the Security Council has referred a situation to the Court in accordance with Chapter VII of the United Nations Charter.

Poland strongly believes that when the Security Council, acting under Chapter VII, decides to refer a situation to the ICC, it must also enforce cooperation on the part of the States concerned should they fail to cooperate in fulfilling the Court's mandate. To that end, we support the establishment of a mechanism to implement Council referrals to the ICC by entrusting that task to the Security Council's Informal Working Group on International Tribunals. We believe that such an arrangement would have a positive impact on international peace and security.

We should find the proper ways and means to advocate for our African partners' cooperation with the Court in order to eradicate scepticism towards the validity of the Court's intentions. That is why Poland has always strongly supported the EU's efforts to promote a better understanding of the Court's mandate.

There are at present some appalling crisis situations unfolding around the world. The civil war in Syria has destroyed hundreds of thousands of lives and displaced more than half its population; neighbouring nations are struggling to accommodate some 2.5 million refugees fleeing death and violence. It is a large-scale humanitarian crisis. Poland has been supportive of initiatives aimed at bringing justice to the region with an active role for the ICC.

The situation in Ukraine also demands a response from States parties in condemning acts of aggression, war crimes and the resulting humanitarian crisis. An idle stance could tarnish the ICC's reputation, propagating an image of impotence and ineffectiveness. Poland particularly appreciates Ukraine's acceptance of the Court's jurisdiction in relation to events of the so-called Euromaidan. Poland would like to welcome Ukraine as a State party to the Rome Statute as soon as possible, in order to ensure that justice is rendered in both domestic and international contexts.

The pursuit of international justice and the protection of human rights are synonymous with Poland's belief that only through global cooperation can the world put an end to impunity. The International Criminal Court is central to the achievement of justice and accountability in the battle against those responsible for the most serious crimes, along with the States that harbour or otherwise endorse such actions. Poland has always, in various ways, supported the International Criminal Court's mission. As mentioned in the statement made by the observer of the European Union (see A/69/PV.34), only 20 countries have contributed to the Trust Fund

for Victims. Poland is proud to be one of them. Most recently, Poland has ratified the Kampala amendments to the Rome Statute. We invite others to follow suit.

The Informal Ministerial Network for the International Criminal Court is a perfect example of the political support States parties can provide the Court in order to help reassert its position in the international arena. That is especially important given the current adverse political climate and distrust towards the ICC in certain regions of the world. Poland takes pride in being a member of the Informal Ministerial Network, which is a valuable extension of the mission of the ICC, providing a venue for a concurrent approach towards issues at the forefront of current policy. It is a symbol of progress and initiative, and a display of the strength of unity among States parties in their resolve to create a lasting and positive impact on human rights. Now as much as ever, there is a need for States parties to encourage political support in regions holding reservations towards a global system of accountability.

We must encourage States parties to the Rome Statute and all other States Members of the United Nations to work together, and think first not of national endeavours, but of the collective goals and objectives of the ICC to create a lasting peace for the benefit of the entire world. The issue of human rights is non-partisan and will always transcend the individual political ambitions of nations.

Mr. Nonomura (Japan): At the outset, I would like to thank President Sang-Hyun Song for his comprehensive report (A/69/321) on the work of the International Criminal Court (ICC). As my delegation has said on many occasions, Japan attaches great importance to the ICC. The Court was established to punish the most serious crimes of concern to the international community and thereby to prevent such crimes. It contributes to the enhancement of the rule of law at the national and international levels.

We all know that the Court has been playing a remarkable role in putting an end to impunity against such crimes as genocide, crimes against humanity and war crimes. However, it must also be acknowledged that the purpose of the Court cannot be achieved by the Court alone. In that regard, allow me to commend the tireless efforts of Ambassador Intelmann of Estonia, President of the Assembly of States Parties. Let me also express Japan's willingness to fully cooperate with Mr. Sidiki Kaba.

Cooperation between the ICC and the United Nations is crucial. It is particularly relevant with regard to cases referred by the Security Council. As was discussed in the open debate in the Security Council last week (see S/PV.7285), it is appropriate for the Council to find out what measures should be taken to follow up on such cases through dialogue with interested countries.

One of the key priorities for the ICC is to serve the people who have suffered from the grave crimes and to support them, especially women, children and affected communities. In this regard, Japan commends the praiseworthy work of the Trust Fund for Victims for the benefit of victims and their families under the leadership of the Trust Fund's Board of Directors. I feel proud to report that Prime Minister Abe of Japan announced Japan's first voluntary contribution to the Trust Fund in May.

As a leading supporter of the Court in the Asia-Pacific region, Japan renews its commitment to continuing to encourage our Asia-Pacific friends that have not yet joined the Rome Statute to do so. Japan is willing to assist friends, if they wish, in the development of their legal systems and human resources.

In conclusion, Japan remains deeply committed to providing the ICC with its unwavering support and to cooperating with the Court so that it can be even more efficient, effective and universal.

Mr. Wenaweser (Liechtenstein): The latest report of the International Criminal Court (A/69/321) is indicative of a vibrant international judicial institution that is continuing to make great strides. Another milestone was reached during the reporting period when the Court's first verdict became final. The consensus on fighting impunity for the most serious crimes under international law now extends far beyond the 122 States that have chosen to ratify the Rome Statute, and the work of the Court has had a tremendous positive impact in that regard. Whenever there are reports of crimes that shock our collective conscience, there are calls for the Court to be involved, whether in the Democratic Republic of the Congo, Syria, Iraq, Palestine or South Sudan. The International Criminal Court (ICC) is the place that people turn to when there is a glaring impunity gap, and it is therefore dealing with huge expectations for bringing justice around the globe. A vision of the Court is thus firmly established in the minds of people all around the world, and we as States have the challenge of making that vision a full reality, in cooperation with the Court. We have come a

long way in the last 15 years, but we have much to do to make that vision a practical reality.

It is true that there are aspects of the Court's daily workings that leave us dissatisfied. We concur with those who consider that the Court is now past its infancy, and we expect it to apply the lessons it has learned from its first 10 years of judicial activity. Expediting judicial proceedings, with full respect for the rights of the accused, will be key to securing the ICC's central place in the future. We are pleased to see that the Court is beginning to live up to that challenge, and we are confident that the next generation of judges will further advance that work. But in voicing such expectations, at the same time we should always look at our own role and think about what we as States can do to make the institution stronger. We must understand that international criminal justice often does not work as fast as we would like. The trials of the two main accused persons in the case of Srebrenica will be concluded 20 years after the fact, which does not make the verdict any less important.

The Rome Statute system is strongly consent-based. The Court is primarily designed to prosecute crimes committed on the territory of States parties or by their nationals. And the Court has indeed closely followed that concept, by focusing its activities on States that have themselves requested that the Court investigate in their territory or pledged full cooperation in an investigation. But of course the Statute also allows the Security Council to refer situations to the Prosecutor, a provision designed to enable the Council to use the ICC as a tool for bringing justice beyond the family of States parties and thus obviate the need for new, expensive ad hoc tribunals, as well as to prevent impunity in places where the most serious crimes are committed on a massive scale.

It is now clear that that aspect of the Statute is not working as well as we would like. The Council has referred only two situations to the ICC, Darfur in the Sudan, and Libya. Both manifestly deserved to be referred, but so do others. Liechtenstein was among the 74 States sponsoring a draft Security Council resolution (S/2014/348) that would have referred the situation in Syria to the Court. Despite very strong support inside and outside the Council, the double veto of the draft resolution ensured that impunity continued to be the order of the day in Syria.

The harsh reality is that the Court's ability to provide justice for victims in more than 70 countries

is subject to the Security Council's willingness to see justice served, and thus to the political considerations of its members, particularly its permanent members. The best way to expand the Court's reach is thus to broaden its acceptance and have more States become party to the Statute. I therefore echo President Kutesa's call yesterday for making the Statute universal, and look forward to welcoming new members into the ICC family.

Even in the two instances where the Council has used its referral power, its lack of follow-up has limited the effectiveness of the Court's involvement, most notably in the case of the wholesale lack of cooperation of the Government of the Sudan, which, in spite of that country's clear obligation under Chapter VII of the Charter of the United Nations, is a blot on the effectiveness of the Security Council in general and its commitment to justice in particular. Council referrals usually concern States that have not ratified the Rome Statute, and thus can be effective only if the Council is resolute in following up and ensuring cooperation on the part of a State that has no obligation under the Statute itself. The Council's referrals have thus been a mixed blessing for the Court. On the one hand, they have illustrated its central importance in the fight against impunity; on the other, they have led States to question the benefit of such referrals, particularly if the broader membership of the United Nations is unwilling to absorb the costs they create.

To a large extent, the Court's effectiveness depends on the cooperation it gets from States parties. The most visible area of cooperation is in the execution of arrest warrants, and it is disturbing that of the 30 that have been issued, almost half remain outstanding. That is in spite of the fact that the location of many of the indictees is public knowledge, with at least two currently incarcerated in their State of nationality. That is not acceptable. Full cooperation with the ICC is not merely commendable, it is an obligation that all of us voluntarily undertake when we ratify the Rome Statute. We cannot expect or demand that the Court be effective without what we ourselves designed as a centrepiece of the Statute's system. Full cooperation extends beyond arrest and surrender, of course. The Prosecutor — and, indeed, the defence as well — relies on cooperation to conduct investigations, facilitate the appearance of witnesses and ensure that indicted persons' assets are frozen. That cooperation is crucial and must also be full and timely in order to be effective.

The Court's positive assessment of its cooperation with the Secretariat is reassuring. We are pleased that United Nations officials continue to implement a policy of essential contacts, but stress again that it must be implemented consistently, especially by high-level officials, particularly those tasked with mediation work.

Since the United Nations was created to save succeeding generations from the scourge of war, I should not fail to mention the Kampala amendments on the crime of aggression. The amendments, adopted in 2010, complement the prohibition of the illegal use of force enshrined in the United Nations Charter, rendering the most serious forms of the illegal use of force by one State against another a punishable offence before the Court, which will thereby help it enforce a core principle of the Charter.

The total number of ratifications of the Kampala amendments now stands at 18. We are confident that we will reach the necessary 30 ratifications well in time to allow for their activation in 2017, the earliest possible moment to do so. We continue to offer assistance to States that are interested in ratifying and implementing the Kampala amendments. We also encourage States that are interested in joining the Court to ratify the Rome Statute, together with the amendments adopted in 2010.

In conclusion, I would like to pay tribute to President Song and thank him for his leadership at the helm of the Court for so many years. His contribution will be lasting, and we will miss him.

Mr. Joyini (South Africa): I thank you, Mr. President, for giving us the floor on this very important topic. As a State party to the Rome Statute, my delegation has constantly and consistently expressed its support for the International Criminal Court (ICC), and it is with great pleasure that we can reiterate that support today.

We continue to see the ICC as an important element in the fight against impunity and in the promotion of justice. My delegation wishes to extend its appreciation to the Court for its comprehensive report (A/69/321), submitted pursuant to article 6 of the Relationship Agreement between the United Nations and the International Criminal Court. The report covers a wide array of activities of the Court, both judicial and institutional. We have particularly taken note of part II of the report, an update on judicial and prosecutorial

activities. As a firm believer in judicial independence, we shall restrict our comments on that chapter.

The effective and efficient functioning of the ICC itself, being independent but also accountable to its administration, is an important factor in putting an end to impunity and in setting standards for the prosecution and adjudication of the most heinous crimes of concern to humankind. By trying those responsible, the world exposes the truth of the atrocities, deters future crimes and helps to bring justice to the victims. Victims deserve justice. That will happen by strengthening institutions of justice nationally and internationally. The ICC is central to that vision and must be strengthened to deliver justice everywhere.

South Africa continues to believe that efforts to build national capacity to investigate and prosecute serious crimes of concern to the international community remain an important tool in the fight against impunity. It is therefore appropriate that complementarity is at the heart of the Rome Statute. It is for that reason that South Africa, together with Denmark, during our time as co-focal points, tried our level best to exert efforts to mainstream complementarity-related activities.

For South Africa, the Rome Statute and the International Criminal Court it created do not operate in a vacuum, but are, rather, important elements in a new system of international law. That modern system is characterized by greater solidarity, which, while remaining true to the principle of sovereignty, prioritizes the common good of humankind. The foundations for that modern system of law are, of course, contained in the Charter of the United Nations, and in particular the purposes and principles of the United Nations — namely, to maintain international peace and security and to bring about peaceful solutions to conflict in conformity with the principles of justice and international law.

International criminal law, as it stands today, is built upon the pursuit of peace through the fight against impunity. As early as 1946, the Nuremberg Tribunal recognized that only by fighting impunity can the provisions of international law be enforced and peace attained. The relationship between peace and justice is therefore ubiquitous in the development of modern international law. The relationship between peace and justice was evident to the drafters of the ICC Statute. We are firmly committed to the idea that peace and security, on the one hand, and justice and the

fight against impunity, on the other, must go hand in hand. We find those values — which, we emphasize, are the foundation of the modern system in which we interact — to be reflected in the Rome Statute.

For South Africa, therefore, peace and justice must necessarily go together. We cannot pursue one without regard to the other, and we certainly cannot pursue one at the expense of the other. They are two sides of the same coin. While the Court continues to pursue justice, the political organs of the system we have created, including the African Union Peace and Security Council and the United Nations Security Council, must use all means available to them to ensure the attainment and maintenance of peace and security.

Mrs. Baaro (Kiribati), Vice-President, took the Chair.

In conclusion, the International Criminal Court is an institution designed to create a better world by fighting impunity. The role of the ICC in the peace and security landscape is increasingly coming to be understood, and further work will need to be done to ensure that peace and justice efforts continue to be viewed as complementary. My delegation will continue supporting the Court, so that it can grow from strength to strength.

Mr. Belaid (Algeria): First of all, allow me to join previous speakers in thanking the President of the International Criminal Court (ICC), the Honourable Judge Sang-Hyun Song, for the exhaustive report (A/69/321) he presented on the activities of the Court during the period from 1 August 2013 to 31 July 2014, in accordance with article 6 of the Relationship Agreement between the United Nations and the ICC.

I would also like to thank the Secretary-General for his two reports on the expenses incurred and reimbursements received by the United Nations in connection with assistance provided to the ICC (A/69/372), and information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the ICC (A/69/324).

My delegation welcomes this opportunity to contribute to the General Assembly's discussion on that crucial agenda item, and to echo the concerns raised by the African Union (AU), African States and many other countries all over 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 both by the African Union and African States.

My country would like to reiterate once again its unflinching commitment to promoting human rights and democracy, upholding the rule of law and good governance, fighting impunity and granting access to justice.

In that regard, we understand, on the one hand, that there is a need for the international community to commit to fighting impunity and to ensuring the prosecution of individuals suspected of having committed serious crimes, such as the crime of genocide, war crimes and crimes against humanity. On the other hand, we have to stress the primary role of sovereign States in pursuing those objectives.

I should like to recall in this respect that this primacy derives from many well-established principles under international customary law, international law and national laws, particularly the principle of State sovereignty, territorial jurisdiction, the principle of nationality, the primacy of actions by States regarding criminal prosecutions, the protective principle and, most of all, immunity of Heads of State and Governments during the exercise of their functions.

The primacy of national jurisdictions, granted by the Rome Statute itself, under the principle of complementarity, have — unduly — not been applied to certain cases that were referred to the Court by the Security Council or the Office of the Prosecutor. In that regard, we should not 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 deciding whether to refer to the Court or not, or to hear them expressing fears and doubts about political manipulation and selectivity.

It is of the utmost importance to recall that politicization, selectivity and the misuse of indictments and abuse in the targeting of only African States and African leaders by the International Criminal Court were the main reason for the convening of the Extraordinary Summit of the African Union held in Addis Ababa one year ago, on 12 October 2013.

As noted by African Heads of State and Government during that Summit, the activities of the International Criminal Court throughout its 11 years of existence 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 the African countries.

In that regard, based on national law and international customary law, which grant sitting Heads of State and Government and other senior officials immunity during their tenure, the African Summit decided:

“That 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”.

The negative response to the legally sound proposals supported or initiated by the African Union to defer the proceedings initiated against two African serving Presidents and a Deputy President in accordance with article 16 of the Rome Statute of the ICC on the deferral of cases, is a matter of deep disappointment to the whole African continent.

A real opportunity was therefore wasted to defuse polarization; reinforce the conviction of the impartiality of international justice; and preserve and safeguard the peace, security and stability of our continent as well as its dignity, sovereignty and integrity.

Mr. Zellweger (Switzerland) (*spoke in French*): The Swiss delegation would like to touch on three points.

First, I would refer to the contribution of the International Criminal Court (ICC) to international criminal justice. The hard work of the Court over the past 12 years is starting to bear fruit, with three trial verdicts rendered, one of them final, and 18 other cases pending.

In assessing these figures, we should not forget all the hard work behind them. The Court has opened investigations in eight situations with very different contexts. It is this multiplicity of situations and their inherent complexities that distinguish the ICC from all other international criminal jurisdictions.

The ICC is not only very busy; increasingly it is also perceived as a key actor in the prevention and management of the consequences of the most serious crimes. Reference to the Court is regularly made in major reports, resolutions and political discussions. In addition, almost two thirds of all States Members of the United Nations have ratified the Rome Statute.

Despite these positive developments, current events show that heinous crimes are often committed outside the territorial jurisdiction of the ICC: in Syria, Iraq and North Korea, to name just a few. The inability of the ICC to act in such situations is a stark reminder of the need to continue to promote the universality of its Statute. Only through universality can the ICC act as a safety net to ensure justice for victims throughout the world.

The second point that I would like to address is the relationship between the ICC and the United Nations, more specifically the Security Council. In the light of the magnitude of the crimes and the number of victims in Syria, 13 Security Council members voted in favour of the recent draft resolution containing a referral to the ICC (S/2014/348); it was sponsored by 65 States. As we all know, the draft resolution ultimately was not adopted. That is why the 23 countries that joined the Accountability, Coherence and Transparency (ACT) Group have been persistently calling on the permanent members of the Security Council to voluntarily refrain from using the veto to block Council action aimed at preventing or ending atrocities.

In addition, my delegation will continue to work towards more consistent follow-up to Council action related to the ICC by promoting the creation of a subsidiary body, robust reactions in cases of non-cooperation, and the mainstreaming of justice considerations in the relevant mandates of the Security Council.

Thirdly, I would like to say a few words on the relationship between the Court and its States parties. After more than 10 years of existence, the Court has achieved a level of stability and maturity that makes it possible to begin a process of reflection and dialogue on certain aspects of its work that need further discussion. In doing so, it is important to remain impartial, objective and constructive. Engaging in useless polemics will only serve the objectives of those who, from the beginning, opposed the creation of this institution. Furthermore, we must avoid at all costs undermining the Court's independence and legitimacy.

In that regard, having a constructive dialogue with the Court on certain aspects of its activities would show our common willingness to strengthen the Court and contribute to its success. One example of an aspect that deserves to be dealt with in more detail through dialogue is the Court's effectiveness. Thomas Lubanga has been in custody in The Hague for more than eight

and a half years, and the appeal against his conviction is still pending. The effectiveness of the proceedings is essential for the victims, the accused, the rational use of financial resources and — most importantly — the Court's credibility and deterrent effect.

Improving effectiveness while safeguarding the fairness of proceedings is a shared responsibility of the three categories of actors: the ICC, States parties and civil society. For its part, the ICC should increase its efforts to adopt effective practices. The existing legal framework largely provides the necessary flexibility and the Court has already made positive steps in that direction. We also welcome the readiness of different Court bodies to engage in a dialogue on those issues. States parties should adopt a more strategic vision of the Court in order to limit the administrative burden and make room for discussing important issues. Performance indicators could be defined as part of a structured dialogue on effectiveness between States parties and the Court. Lastly, civil society should increase its invaluable support to the ICC through training, seminars and other relevant activities. At the same time, civil society has a crucial role to play in representing victims' interests.

Switzerland is committed to continuing to work with all stakeholders with a view to strengthening the ICC as the leading international criminal justice institution in the world. We must overcome our differences and work together to make the universal values that we have collectively decided to uphold a reality in order to ensure justice for victims and put an end to impunity for the most serious crimes.

Mr. Ceriani (Uruguay) (*spoke in Spanish*): My delegation would like to thank the President of the International Criminal Court, Judge Sang-Hyun Song, for introducing the Court's annual report (A/69/321).

Uruguay has historically pursued the legal settlement of disputes in accordance with the provisions of the Charter of the United Nations. Today, we wish to underscore the important work of the internationally established tribunals in ensuring that justice is served and in prosecuting offenders wherever and wherever they are. That was the case following the atrocious human rights violations in the 1990s in Rwanda and the former Yugoslavia, which led to the creation of the two respective ad hoc tribunals. The international community finally realized that there must be an International Criminal Court so that such aberrations would not be repeated and so that those responsible

would be prosecuted with the full weight of law, either at the national or international level.

This year marks the sixteenth anniversary of the adoption of the Rome Statute of the International Criminal Court. To commemorate that anniversary is to celebrate the development and historic evolution of international law, but primarily it is to pay tribute to the maturity of the international community in its fight against impunity. Our country welcomes the fact that, since the signing of the Rome Statute, the Court's membership has grown to encompass nearly two thirds of the total membership of the United Nations. We hope that this growth trend will continue so that the membership of both bodies can be equal in the near future and the Court's jurisdiction can be fully extended to all of humankind. Also, we hope that the Member States that have not yet acceded will reconsider their rejection of the Rome Statute, as that would mean a harmful step backwards for the primacy of justice for acts committed by man.

After ratifying the Rome Statute, Uruguay was the first country of Latin America to implement it by law. Last year, we had the great honour of being the first Latin American country to have deposited our instrument of ratification of the Kampala amendments to the Rome Statute of the International Criminal Court. We welcome the ratifications of the amendments, which were carried out this year, and we encourage other Member States of the region and elsewhere to do so as well so that the amendments can take effect as soon as possible, that is, in 2017.

In 2013, we decided to assume the responsibility of being regional coordinators for the Group of Latin American and Caribbean States for cases of non-cooperation with the Court. That task allows us, together with the remaining three coordinators, to contribute to the work of the presidency of the Assembly of States Parties whenever there is a case of non-cooperation. We hope to welcome the latest coordinator soon, and that he or she will be from a region that has not yet been represented. All of those steps show Uruguay's high level of commitment to the International Criminal Court as the representative of international criminal justice.

With regard to the cases referred to the Court by the Security Council, we are pleased that the practice has been established and we hope it will continue to be used. We note that the impact of armed conflicts and the increase in perpetrators of serious human rights

violations remain disturbing. Correspondingly, we believe that the Security Council must act consistently in similar situations and cases. We cannot pretend that the Council is bound by historical precedence, because it is not a jurisdictional body but a political one. However, it is also the organ empowered by the Charter to maintain international peace and security, and it acts on behalf of the entire international community. It should act with non-selective responsibility wherever peace is threatened. In that regard, we believe it would be advisable for the permanent members of the Security Council to consider abstaining from the use of the veto to block action of the Council in preventing or ending genocide, war crimes and crimes against humanity.

It is quite clear that, in accordance with the provisions of article 115 (b) of the Rome Statute, the United Nations must contribute to the costs incurred by the Organization's referrals made by the Security Council, in order to share the financial burden of international criminal justice. To that end, we hope that, in accordance with article 13 of the Relationship Agreement between the two bodies, an agreement will be reached as soon as possible on the respective arrangements to implement that cooperation. In conclusion, we believe that there must be greater cooperation between the Security Council and the Court, which means a monitoring mechanism for cases referred by the Council to the Court should be established.

Mr. Pérez Pérez (Cuba) (*spoke in Spanish*): Cuba has taken note of the report of the International Criminal Court (ICC) (A/69/321).

We wish here to express our commitment to combating impunity for crimes affecting the international community. Events of recent years clearly show the need for an international jurisdictional institution that is independent and that combats impunity for the most serious crimes. Nevertheless, pursuant to article 16 of the Rome Statute and the broad powers granted to the Security Council in the work of the International Criminal Court, the reality is that the Court is not necessarily an independent institution. Moreover, that issue not only tends to distort the jurisdiction of that body, also violates the principles of independence of legal bodies and affects transparency and impartiality in the administration of justice.

Referrals to the Court by the Security Council confirm the negative trend to which our country has referred on several occasions. Through its referrals,

the Security Council continually violates international law and attacks developing countries on behalf of an alleged fight against impunity. That is why Cuba reiterates its position in favour of the establishment of an international criminal jurisdiction that is impartial, non-selective, effective and just, complements national justice systems, and is truly independent and therefore not subordinate to political interests that may distort its authority.

Unfortunately, issues related to those topics were unresolved in the outcome of the Review Conference of the Rome Statute of the International Criminal Court, held in Kampala in 2010. The Court, as a body dealing with international criminal law, has remained subject to the illegitimate and undemocratic decisions of the Security Council, which violates international law and continues to grant total impunity to those truly responsible for crimes and massacres against the international community. It is regrettable that Security Council resolutions stipulate that crimes committed by the forces of certain permanent members of the Security Council and non-parties to the Rome Statute are excluded from investigation. Such exclusions are offensive to the international community and highlight the political double standards under which that body operates, and violate the principles governing the activities of the International Criminal Court.

The delegation of Cuba reiterates that the ICC cannot ignore international treaties or the principles of international law. The Court must respect the principle of law relating to the State's right to consent to be bound by a treaty, reflected in article 11 of the 1969 Vienna Convention on the Law of Treaties. Cuba reiterates its deep concern over the precedent that was created by the Court's decisions to carry out judicial proceedings against nationals of non-State parties to the Rome Statute that have not even accepted the jurisdiction of the Court in accordance with article 12 of the Statute. As clearly spelled out in the Secretary-General's report, "[t]he Rome Statute was never intended to replace national courts" (A/69/321, para. 64). We must not lose sight of the fact that the jurisdiction of the ICC must remain independent of the political bodies of the United Nations and always work in a way complementary to national criminal jurisdictions.

The people of Cuba have been subjected to various forms of aggression for 50 years, leading to thousands of deaths and injuries in our country and untold material economic and financial losses. Yet the definition of the

crime of aggression reached at the Kampala conference is far from taking such elements into account. The crime of aggression must be defined in a generic fashion that covers all forms of aggression in international relations among States, and is not limited to the use of armed force but extends to the sovereignty, territorial integrity and political independence of States.

The ICC must report its activities to the General Assembly pursuant to the Relationship Agreement between the United Nations and the International Criminal Court. Although Cuba is not a State party to the Court, it is prepared to continue to participate actively in the negotiation process with that institution, in particular on the resolution adopted every year by the General Assembly with respect to ICC reports. However, given the nature of the resolution, its adoption in the context of the General Assembly, in which all Member States participate whether or not they are parties to the Rome Statute, it is imperative that the negotiation process be conducted with transparency and impartiality in an inclusive way based on all opinions and concerns of the States Members of the United Nations.

Cuba reaffirms its readiness to fight impunity and its commitment to international criminal justice in adherence to the principles of transparency, independence, impartiality and strict application and respect for international law.

Mr. Dabbashi (Libya) (*spoke in Arabic*): In its resolution 1970 (2011), the Security Council referred the crimes committed in Libya since 15 February 2011 to the International Criminal Court (ICC), despite the fact that Libya is not a State party to the Rome Statute. Nevertheless, Libya would like to attain positive complementarity between Libyan national jurisdiction and the ICC and close cooperation between the Office of the Prosecutor of the ICC and the Office of the Libyan Prosecutor, which would achieve justice and fight impunity. To translate that into action, the Deputy Prosecutor of Libya signed with the Prosecutor of the ICC a memorandum of understanding in November 2013 aimed at sharing the burden of investigations, to ensure additional legal prosecutions for the grave crimes perpetrated in Libya, and to bring them to justice.

We would also like to continue our efforts to promote complementarity in exchanging information regarding the investigations and prosecutions conducted by the

two sides. In May, we concluded arrangements between the Libyan authorities and the ICC regarding the entry of ICC officials and advisers into Libyan territory and to provide them privileges and immunities that would enable them to carry out their responsibilities. The Office of the Deputy Prosecutor has made available samples of investigation proceedings and evidence and documents regarding preventive detention for the aides of the former regime, who are accused of various crimes.

The Libyan judicial system is keen on the principle that litigants must be present and that the Court should be responsible for adhering to such rules. In order to address certain security challenges, on 26 March the Libyan legislature issued act 7 (2014), by which it amended article 343 of the penal code to allow the accused to be connected remotely with the courtroom, as we feared for the safety of the accused or that they might flee. We asked the International Criminal Court to provide us with modern means of communication to that end. The amendment was implemented with the use of closed-circuit video, whereby Saif Al-Islam Al-Qadhafi, Abdullah Al-Senussi and others attended public sessions, in accordance with the principle of transparency required by the International Criminal Court.

The sessions were attended by human rights and transitional justice representatives from the United Nations office in Tripoli, representatives of international human rights and Libyan civil-society organizations, and correspondents from different mass media. In order to provide all guarantees for the accused by law, including their right to a defence, the Office of Law Administration asked a female lawyer to defend Saif Al-Islam Al-Qadhafi before the Court. The Court assigned the accused Abdullah Al-Senussi a special lawyer after his lawyer asked to recuse himself.

In the light of the recent security situation in Libya, and since the relevant Court in Libya would like to pursue the case in circumstances conducive to a just trial, the Court adjourned its most recent session until next November. In that respect, the Parliament and the provisional Government are seeking to restore the State institutions that were taken over by armed groups in Tripoli. Indeed, we are trying to impose the rule of law and establish conditions conducive to the resumption of trials, so that we can protect the rights of the accused and complete the trials in accordance with international criteria. In the light of all this, we are hopeful that the

ICC will soon recognize Libyan jurisdiction for trying Saif Al-Islam Al-Qadhafi as it did with respect to the trial of Abdullah Al-Senussi.

Despite our support for the ICC, we hope that it will be very careful when considering cases of high-ranking officials of Member States. To achieve justice, it is not enough to apply law alone. Law should be applied cautiously, and the particular political situation of a country should be taken into account in order to avoid a verdict that will reflect poorly on the court and the judges, especially with regard to matters touching upon the sovereignty of the State, or that might provoke nationalist sentiment among the people. We therefore have to avoid making high-ranking officials, especially Heads of State, appear before the ICC, which could happen only in the absence of effective legal and judicial systems that cannot be reformed.

The Libyan Parliament and provisional Government are determined to meet their judicial and legal responsibilities to restore security and stability to our country, to fight impunity and achieve criminal justice, and to try the perpetrators of crimes and of the destruction of public and private property, and those who have violated human rights in Libya since 15 February 2011. Regardless of those perpetrators' identities, we are determined to pay reparations to the victims, in order to achieve national reconciliation, which would ensure the return of displaced persons and refugees to their homes.

In conclusion, we are looking for more cooperation from States Members of the United Nations to help Libyan legal authorities prosecute those responsible for the crimes committed in Libya, to hand them over to the Libyan judicial authorities and to trace the funds that were frozen by the relevant resolutions of the Security Council. In accordance with resolution 2174 (2014), we look forward to taking international measures against those who threatened our State institutions and are now blocking the advent of democracy in Libya.

Ms. Hamilton (United States of America): We appreciate the presentation given by President Song on the activities of the International Criminal Court (ICC) between 1 August 2013 and 31 July 2014, as described in the ICC's annual report to the General Assembly (A/69/321). We recognize President Song for his service to the Court.

Strengthening accountability for those responsible for mass atrocity remains a priority for the United

States. As President Obama's national security strategy lays out,

“the United States has seen that the end of impunity and the promotion of justice are not just moral imperatives; they are stabilizing forces in international affairs”.

To those ends, the United States is committed to working with the international community in a common effort not only to help prevent atrocities wherever possible, but also to ensure accountability for the perpetrators of the worst crimes in the world.

The framers of the Rome Statute charged the ICC with pursuing only those accused of bearing the greatest responsibility for the most serious crimes and only when States are not willing or able genuinely to investigate or prosecute such crimes in the Court's jurisdiction. Much in the same way, the United States supports an approach of positive complementarity. Given the importance of local ownership, the responsibilities that States have for protecting their own populations and the limited capacity of any international body in that regard, we place a premium on supporting countries in their domestic efforts to establish the rule of law and pursue accountability for atrocity crimes. From the Democratic Republic of the Congo's domestic efforts to begin holding abusive soldiers and armed group members accountable, to Senegal's unique work with the African Union and the Chadian Government to prosecute those responsible for alleged crimes committed during the Administration of Hissène Habré, the United States continues to support efforts to build fair, impartial and capable national justice systems, as well as hybrid tribunals, where appropriate.

At the same time, more work should be done to strengthen accountability mechanisms at the international level. The United States has long been a supporter of such mechanisms, ranging from the ad hoc tribunals established by the Security Council in the 1960s to many of the unique hybrid arrangements that emerged in the following years. Although the United States is not a party to the Rome Statute, we recognize that the ICC can play an important role in a multilateral system that aims to ensure accountability and end impunity.

The United States continues to work with the ICC to identify practical ways in which we can work to advance our mutual goals on a case-by-case basis and consistent with United States policies and laws. In the

past year, after we witnessed the shocking atrocities that had taken place in the Central African Republic, the United States expressed its support for the decision of the Office of the Prosecutor, made at the request of the interim Government, to open a new investigation into the situation there.

Accountability remains a critical element of the international community's response to the crisis in the Central African Republic, and the United States supports the coordinated efforts of the United Nations, the interim Government, regional and international partners and civil society to begin to address the destabilizing impact of impunity for these horrible crimes. The United States also continued to offer rewards for information leading to the arrest of several of the individuals facing ICC arrest warrants for alleged atrocity crimes, including Sylvestre Mudacumura and Joseph Kony.

Additionally, faced with the continuing and appalling atrocities perpetrated by the Syrian Government against its own people, the United States and 12 other members of the Security Council voted for referring the situation described in a draft Security Council resolution on Syria to the ICC's Prosecutor. Although that effort was blocked, we remain committed to pursuing accountability for those crimes.

Finally, we would note the importance for the international community of grappling with the crime of aggression. The United States continues to have many concerns about the related amendments adopted in Kampala, including the risk of those amendments working at cross purposes with efforts to prevent or punish genocide, crimes against humanity and war crimes. As we have consistently said, the States parties were wise to create breathing space by subjecting the Court's jurisdiction to a decision to be taken after 1 January 2017. The international community should use that breathing space to ensure that efforts to ensure accountability for atrocity crimes can be consolidated and that measures regarding the amendments can be properly considered. It remains our view that States should not move forward with ratifications pending the resolution of such issues.

The international community continues to face a daunting challenge in upholding our commitments to prevent mass atrocities and to ensure that those who carry out such crimes are held accountable. Although the international community has made progress on both fronts, much work remains. None of us can bear this

burden alone, and our success will continue to depend in large part on our ability to work together.

We look forward to continued discussions here at the United Nations and to our upcoming participation as an observer at the ICC's Assembly of States Parties in New York later in 2014.

Ms. Millicay (Argentina) (*spoke in Spanish*): As this is the last time Judge Sang-Hyun Song, President of the International Criminal Court (ICC), is before the General Assembly, I would like to thank him for presenting the report of the Court (A/69/321) to the Assembly (see A/69/PV.34). I would also like to welcome the report of the Secretary-General (A/69/324) containing information on the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court.

The Rome Statute and the International Criminal Court are among the most notable achievements of multilateral diplomacy, and their contribution to the fight against impunity with respect to genocide, crimes against humanity and war crimes is clear. Just a little over a decade after the adoption of the Rome Statute, the Court is a fully functioning permanent international criminal tribunal.

Argentina welcomes the fact that the Rome Statute has 122 States parties, and that 21 States parties have ratified the Kampala amendments.

Other delegations have referred to this matter, and I wish to stress that Argentina also believes that defining the crime of aggression is one of the achievements of the Rome Statute, through the Kampala amendments. My country, like many other States parties, is committed to ratifying the amendments as soon as possible. In spite of the fact that it seems to be difficult to include a substantial reference to the crime of aggression in the General Assembly draft resolution on the ICC, due to the firm opposition of a very few delegations, Argentina will continue to work to reach 30 ratifications before 2017 in order to activate the jurisdiction of the Court, as foreseen in Kampala.

I would like to refer to the relationship between the Court and the United Nations. Throughout the years, since the entry into force of the Statute, the need for accountability for crimes under the Rome Statute has been integrated in a tangible manner into the considerations of the United Nations and of the international community as a whole, and the Security

Council has taken ownership of it, integrating the Court into its deliberations on concrete situations. All of that has strengthened the fight against impunity. However, challenges still exist, which must be dealt with.

The relationship between the Organization and the Court is crucial, although the United Nations must always respect the judicial independence of the Court. We would like to welcome the United Nations guidelines on non-essential contacts.

However, the relationship of the United Nations with the Court is also affected by the relationship of the Court with the Security Council, as that organ has the power to make referrals to the Court and has done so in connection with two situations. For years, Argentina has expressed some concerns, both in the General Assembly with respect to the Assembly resolution, and in the Security Council, of which Argentina is currently a non-permanent member.

In accordance with the Rome Statute, the Court, in a referral, exercises its jurisdiction over nationals of parties and non-parties to the Rome Statute. No pronouncement of the Security Council has the power to amend the Statute in order to grant immunity to nationals of States non-parties who have committed Rome Statute crimes in a situation referred to the Court. That is to say, nothing in the text of Security Council resolutions referring situations to the Court has the power to alter either the norms of the Statute with regard to the jurisdiction of the Court or the rule that, in case a decision is to be taken, the Court itself is the judge of its own jurisdiction.

I would also like to underline that the financial cost of referrals made by the Security Council to the Court has up until now been defrayed exclusively by States parties. Resolution 68/305, which was recently adopted, recognizes that fact. But it is also a fact that the Rome Statute provides that the costs of referrals are to be defrayed by the United Nations, a provision that is also reflected in the Relationship Agreement between the United Nations and the Court, which the Assembly adopted by consensus. Argentina and other Member States have objected to the regrettable practice followed by the Security Council regarding the financing of the referrals despite a large majority of States supporting full compliance with article 115 (b) of the Statute and article 13 of the Relationship Agreement. It is not acceptable that the Assembly be put in the position

of not being able to adopt a decision on this issue, a decision for which it has full powers under the Charter.

The fight against impunity is an objective of the States parties to the Rome Statute and of the United Nations. But that goal has to go hand in hand with the commitment to provide to the Court the necessary resources to carry out its functions. That commitment is not alien to the United Nations, as it was already made with respect to the ad hoc tribunals established by the Security Council. It is now necessary to address it with respect to the International Criminal Court. Failure to do so could endanger the sustainability of investigations by the Court and have an impact on the credibility of the Organization.

In conclusion, Argentina would like to highlight that the notable contribution made by the International Criminal Court to the fight against impunity for the most serious crimes of international concern is also a contribution to the objectives of this Organization. I would like to recall — as set out in the Kampala Declaration — the noble mission and the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and achieve sustainable peace, in accordance with international law and the purposes and principles of the Charter of the United Nations. Finally, I would like to reiterate Argentina's firm commitment to the International Criminal Court.

Mr. Ruiz (Colombia) (*spoke in Spanish*): I would like to thank Judge Song, President of the International Criminal Court (ICC), for presenting the report of the Court (A/69/321) (see A/69/PV.34). I also take this opportunity to welcome and congratulate Ambassador Tiina Intelmann for her work and commitment over the past three years as the President of the Assembly of States Parties of the International Criminal Court. Likewise, I would also like to congratulate and welcome the Minister of Justice of Senegal, Sidiki Kaba, as President of the Assembly for the next triennium. I am certain that under his leadership we will continue to progress in attaining the common goals.

Colombia has had an important and historic commitment to the work of the Court. That deep commitment has manifested itself in actions such as the ratification of the Agreement on Privileges and Immunities of the Court, the signing of the agreement between the Republic of Colombia and the International Criminal Court on the enforcement of sentences

imposed by the International Criminal Court — the first country in the Latin American and Caribbean region to do so — and the voluntary contribution to the Trust Fund for Victims. Currently, Colombia, along with Tunisia, is facilitating discussions on victims and affected communities, reparations and the Trust Fund for Victims in the framework of The Hague Working Group of the Bureau of the Assembly of States Parties.

Also, when the Assembly of States Parties meets in this city in December, Colombia will join the Bureau of the Assembly of States Parties for the first time. My country sees membership in the Bureau as a great opportunity to continue supporting the work of the Court and to continue to cultivate values shared by the States parties and contained in the Rome Statute.

I would also like to emphasize the value of the Rome Statute, not only as an international instrument that led to the establishment of the International Criminal Court, but as a valuable tool for the international community to tackle particularly grave situations. Therefore, I take this opportunity to invite States that have not yet done so to become parties to the Statute and to ratify it.

My country remains committed to defending both the Statute and the Court, as well as the cause of international criminal justice. That is why we believe that the cooperation of States is fundamental for the Court to be able to carry out its work appropriately, always within the framework outlined in the Statute, which is the guide for any Court activity and its interaction with States. All activities within the scope of the Statute must result from its rigorous interpretation.

While it is true that the International Criminal Court and the United Nations system are independent and have different mandates, they share common values and objectives, such as peace and justice. In that regard, Colombia supports the initiatives aimed at uniting efforts and establishing synergies to strengthen cooperation between those organizations so as to identify common interests, challenges and different ways of achieving those objectives.

I take this opportunity to highlight the importance of the principle of complementarity as the backbone of the international criminal justice system enshrined in the Rome Statute. Colombia supports the International Criminal Court in the light of that principle, based on respect for the jurisdictional sovereignty of States and on confidence that they will do their work, in addition to reasons of efficiency, since State authorities on the

ground have better access to evidence and witnesses, and they know at first hand the historical context and the needs of victims for justice, truth, reparations and guarantees of non-recurrence.

In its national legislation, the Colombian State has classified crimes of genocide, crimes against humanity and war crimes. It has strengthened national capacities to investigate and prosecute such conduct and is absolutely committed and ready to take the necessary actions for investigation and prosecution.

Finally, I want to underscore the importance of defining the concept of justice within this context, and its relationship with peace. We must work for a concept of justice that can provide a fitting response to complex situations that arise from armed conflicts, as well as to the context that gave rise to them. If we do not recognize the causes of problems we will be doomed to relive them, and that is why we must ensure the rights of victims to truth, justice, reparations and non-recurrence. Those rights must be the priority in any process of seeking justice and in any judicial forum. It must always be in a context of peace.

Mr. Sylla (Senegal) (*spoke in French*): At the start, I would like to thank Mr. Sang-Hyun Song, President of the International Criminal Court (ICC), for presenting the report of the Court (see A/69/321) (see A/69/PV.34). We welcome this opportunity to consider that document, which provides essential information on the proceedings and investigations before the Court and on the nature of the support that the United Nations provides to the Court, particularly through its offices and peacekeeping missions deployed throughout the world.

We must acknowledge that dynamic interaction among the Court, the General Assembly and the Security Council can contribute to maintaining international peace and security and suppressing serious crimes against humanity. With the desired harmony, those three bodies should contribute, through full complementarity, to establishing international peace and justice, because they often face the same challenges.

In that regard, my delegation supports the recommendation made during the Security Council open debate held on 17 October 2012 (see S/PV.6849) regarding the establishment of a formal framework for exchange between the Security Council and the Office of the Prosecutor on a regular basis, independently of

the cases submitted by the Council. That interaction could focus on specific situations or on thematic issues.

We also support the idea of annual invitations to the Court's President and the Prosecutor to report to the Council and to have exchanges on issues of common interest and on ways to strengthen their mutual cooperation. My delegation also encourages the Office of Legal Affairs — the focal point for cooperation between the Court and the United Nations system — to fully exercise its role of coordinating the actions of the different United Nations bodies.

The increase in the number of cases submitted to the Court, often without resources available, risks having a negative impact on the effectiveness of the Court's work. It is therefore necessary to strengthen United Nations financial support in order to enable the Court to appropriately discharge its mission in the best conditions. In that context, the General Assembly should assume responsibility for funding the costs related to investigations and prosecutions linked to situations that the Security Council refers to the Court. That is in accordance with article 115 (b) of the Rome Statute, which includes among sources for covering the expenses of the Court funds 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. My delegation therefore regrets that resolution 68/305, entitled "Report of the International Criminal Court", which the Assembly adopted on 9 September 2014, did not refer to that essential issue.

Moreover, it is also important to keep in mind the principle of complementarity, whereby the Court should consider cases only if a State cannot, or is unwilling to, assume its primary responsibility to prosecute the perpetrators of crimes punishable under the Rome Statute. In that regard, the United Nations should continue to provide technical assistance to countries that need it, including to strengthen their national capacities in the institutional and legislative areas through training judicial, police and security service personnel.

While the international community succeeded in establishing a permanent International Criminal Court, the fact remains that it is still essential to work for its universality by encouraging those States that have not yet done so to sign or ratify the Rome Statute. In the same vein, cooperation with the Court by States parties and non-parties, civil society and subregional

and regional organizations is equally essential for it to exercise its powers, in particular when it comes to conducting investigations, handling evidence and implementing international arrest warrants.

Moreover, the Security Council, as the guarantor of international peace and security, must act responsibly and without any politicization when considering situations involving mass crimes so as to avoid suspicious selectivity and double standards in making referrals to the International Criminal Court. That precipitates unhelpful tensions, which may hinder the efficiency of the Court. The fight against impunity must remain our common struggle, founded on compliance with the spirit and the letter of the provisions of the Rome Statute.

In conclusion, I would like to invite all stakeholders to seize the opportunity provided by the thirteenth session of the Assembly of States Parties, to be held in December 2014, to elect as His Excellency Mr. Sidiki Kaba, Minister of Justice of Senegal, as head of the Assembly, replacing Ms. Tiina Intelmann, whose dedication and determination we commend. We therefore call on all stakeholders to take this opportunity to review, with clarity and responsibility, the many challenges still facing the International Criminal Court, which call on us to maintain our common commitment to bringing about a world of peace and justice.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): First of all, I would like to thank the President of the International Criminal Court (ICC) for the report on the work of the Court for the period from 1 August 2013 to 31 July 2014 (see A/69/321).

The Russian Federation is firmly committed to combating impunity for the most serious crimes under international law. Our country was among those responsible for the inception of the Nuremberg and Tokyo Tribunals, and it supported the idea of establishing an international criminal court as the first permanent body for international criminal justice.

Russia is keen to continue its cooperation with the ICC. Dialogue and cooperation between the Court and the United Nations should be carried out within the framework defined by the Charter, the relevant Security Council resolutions and the Relationship Agreement between the United Nations and the ICC.

The ability of the ICC to impartially and effectively discharge its functions with respect to the cases before it is one of the decisive factors that States take into

account when deciding whether to accede to the Rome Statute. It is also important how the Court's statutory documents evolve. In that connection, we continue to be concerned that the crime of aggression remains in the Court's Statute. We believe that the Kampala compromise fails to fully take into account the Charter prerogatives of the Security Council. We believe it would be extremely undesirable for a situation to arise whereby the Court would have jurisdiction over a crime of aggression in the absence of a relevant determination by the Security Council.

We call on the Court to carefully address the concerns that have arisen among States of the African Union regarding certain aspects of its work and to make the necessary efforts to find mutually acceptable solutions. In that regard, we note the particular importance of the effective application in practice of the principle of complementarity, as enshrined in the Rome Statute.

On a number of matters, the ICC is forced to work in conflict or post-conflict situations. In such cases, it is particularly important to achieve a harmonious combination of measures to restore peace and steps to bring to justice the perpetrators of crimes committed during the conflict. For all the importance of the Court's independent and effective performance of its functions in the field of criminal justice, its activities must take into due account broader efforts to resolve crises. It is just as important for the ICC to be able to take an equally flexible and serious approach to investigating possible crimes by all parties to an armed conflict, without any exception. It is this very approach that will lead to the goals of peace and justice being achieved.

Mr. De Aguiar Patriota (Brazil): I join others in thanking the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for his statement (see A/69/PV.34) and for presenting the tenth report of the Court (see A/69/321) to the General Assembly. Brazil commends the judges of the ICC for their role in fighting impunity and contributing to the rule of law.

Brazil remains steadfast in its commitment to the Rome Statute system and to the cause of justice that motivated its creation. As a tool for ensuring that those accused before it are brought to justice, with fairness and full respect for their human rights, the Court's legitimacy stands out as one of the most important assets to be preserved. And the foundations of the legitimacy of the Rome Statute system lie not only in

the independence of the ICC, but also in the universality of its reach.

I am pleased to recall that all South American countries are parties to the Rome Statute. Two thirds of the United Nations membership have ratified it, but it still not universal. We regret the lack of new ratifications reported this year and believe that it demonstrates the need to redouble our efforts to ensure adherence by all United Nations Members. After all, enhancing the Rome Statute's universality is a means of promoting peace through justice and of addressing a key institutional dimension of the rule of law, to which all Members should commit.

In that context, allow me to underscore the importance we attach to the Review Conference of the Rome Statute, which took place in Kampala in 2010, in which Brazil was an active participant. The activation of the Kampala amendments in 2017 will represent a major contribution to completing the international criminal justice system.

Brazil welcomes the fact that the ICC has delivered three verdicts and that, while there are appeals pending on two of them, one of the judgements recently became final. This is an important development, since it materializes our common goal of fighting impunity. We also note that the Court's workload is increasing, including by territorial State referrals.

Considering that this month marks the tenth anniversary of the entry into force of the Relationship Agreement between the United Nations and the ICC, allow me to recall my delegation's concern about issues of a structural nature, which go to the core of the relationship between the Court and the United Nations, in particular the General Assembly.

At the Security Council open debate on working methods organized by the Council's Argentine presidency earlier this month (see S/PV.7285), Brazil voiced its conviction that the pursuit of international justice and the achievement of lasting peace and security were mutually reinforcing objectives. Both the ICC and the Council have pivotal, albeit different, roles in pursuing those objectives and striking the right balance among peace and justice, accountability and reconciliation. That is valid for both referrals and deferrals of situations, where the same rules and principles should apply equally and to all, thus avoiding double standards and selectivity.

The cooperation between the ICC and the United Nations should also move beyond rhetoric and find concrete implementation in the funding of Security Council referrals. We reiterate our call for the implementation of article 13, paragraph 2, of the Relationship Agreement and article 115 (b) of the Rome Statute, which provide clear guidance in the sense that such costs should be met by United Nations funds and should not fall on the parties to the Statute. The incipient practice of the Security Council to try to block the possibility that the United Nations should bear those costs not only is in contrast with those internationally agreed dispositions, it also usurps the Assembly's exclusive responsibility for considering and approving the budget of the Organization, as laid out in Article 17 of the Charter of the United Nations.

I would like to take this opportunity to welcome the decision of the Bureau of the Assembly of States Parties to endorse Africa's consensus candidature of the Minister of Justice of Senegal, Mr. Sidiki Kaba, for the presidency of the Assembly of States Parties as from the thirteenth Assembly. Coming from the region with the largest number of States parties to the Rome Statute, Mr. Kaba is particularly well placed to lead our efforts to tackle the increasing challenges facing the Statute's system. Brazil welcomes the priorities he has set for his tenure and the fact that they include cooperation, complementarity, universality and healing the relationship between the Court and his own region.

The Assembly of States Parties needs to engage constructively with African States. We need to exercise diplomatic wisdom in order to preserve the instruments of international criminal justice that we have been building up, one the one hand, and on the other hand, to be sensitive to requests that are legally sound and reflect wide political support. We must be able to hear without prejudice the concerns expressed by African States. We are convinced that there is institutional space for defusing polarization, upholding respect for international law and the rule of law and addressing questions raised by African Union members.

The quest for peace and justice is always challenging, and it is a key 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 General Assembly together and have made the first permanent, treaty-based International Criminal Court a reality. Brazil stands ready to continue to contribute to strengthening both objectives.

Mr. Mendoza-García (Costa Rica) (*spoke in Spanish*): Costa Rica is grateful for the detailed and accurate report of the International Criminal Court (ICC) (see A/69/321) presented by Judge Song (see A/69/PV.34), whose leadership and vision during his presidency of the Court we acknowledge and thank him for.

My delegation would first like to emphasize its absolute support for the Court, in the full conviction that it is one of multilateralism's most important achievements. The ICC was born of the international community's desire to end impunity for the most serious crimes against humanity and bring justice to their victims. Its essence and main strength lie in its jurisdiction *erga omnes*, a basic principle for being able to speak of justice. And as history has shown, there can be no lasting peace without justice.

Because that desire is universal, there can be no State where there is room for impunity. That is why Costa Rica deplores the fact that, during the period covered by the report, the number of States parties to the Rome Statute did not increase. However, we look forward to results from the processes under way in several States with a view to ratifying the Rome Statute. Some of those processes are in Latin America and the Caribbean, a region that has strongly supported the Court since its creation. Costa Rica reaffirms the importance of continuing to promote the Statute's universality and rejects any action that attempts to undermine it.

I would now like to address specific aspects of particular interest to my delegation.

First, as President Song said yesterday in his presentation, the ICC is a court of last resort. It was not created as a substitute for domestic courts. The responsibility for investigating and prosecuting crimes committed under their jurisdiction lies primarily with the justice systems of individual States. For that reason, complementarity is an essential element in the gears of international criminal justice. However, it is vital that it be made clear that when the Court has jurisdiction, as established by the Rome Statute, States parties must comply with their irrevocable obligations under the Statute. Any failure to comply is particularly serious when manifested in a refusal to provide access to evidence or execute active arrest warrants.

As Judge Song informed us, 13 warrants are still outstanding, some of them since 2005. While

some States have attempted to justify their lack of cooperation by alleging that the Court's decisions have been politicized, such arguments are not grounded in reality. The cases that have been adjudicated before the ICC have shown that its proceedings are guided by absolute respect for the principles of the presumption of innocence, legality and due process.

The next point I would like to draw the Assembly's attention to is the Court's financial situation and the possibility that its important tasks could be jeopardized by budgetary constraints. As the report shows, the work of the Court increased substantially during the period, and will continue to do so in future. But while its tasks are growing, its budget has fallen in real terms, and some major States parties have insisted on zero-growth policies that do not take adequate account of the Court's internal realities and external challenges. We hope we will be able to analyse and solve this issue at the next Assembly of States Parties, in an atmosphere of calm, realism, goodwill and by considering two basic premises. The first is the continued improvement of the effectiveness and efficiency of the Court's work, and the second is the commitment to investing in international justice in the belief that its benefits for peace, harmony and human dignity far outweigh its costs.

Another issue my delegation would like to address is the cooperation between the Court and the United Nations, based on the Relationship Agreement between the two bodies signed on 14 October 2004. That collaboration has developed well and has resulted in tangible successes for both organizations. However, Costa Rica reiterates once again the need to address the issue of the financing of referrals to the Court by the United Nations. Since under the Charter the Security Council is responsible for the maintenance of international peace and security, when the Court takes on referrals it is helping the Council to fulfil its mandate. Article 13 of the Relationship Agreement, which provides for financial support by the United Nations, should apply in such cases of cooperation. The Agreement is clear that contributions are to be implemented pursuant to decisions of the General Assembly.

In one of its last sections, section IV B, the report refers to amendments to the rules of procedure and evidence that were approved during the last Assembly of States Parties. My country joined the consensus on the adoption of those amendments with a view to facilitating the participation by a number of defendants

in trials. However, in order for such flexibility not to be misinterpreted as a lack of commitment to the core principles of the Rome Statute, my delegation wishes to state that it will not support any proposed amendment that would prevent the Court from fulfilling its objective of ending impunity for heinous crimes and ensuring that every individual, without exception, is held accountable for committing such crimes. To do otherwise would be to irreparably undermine the Court and leave the victims, who should be our principal concern, completely defenceless.

It is precisely in assisting victims that the impact of the Court is most evident. The 8,040 victims represented

in six cases and the 110,000 victims, their families and communities who have benefited through programmes of physical and psychological support — that is proof of the far-reaching role played by the International Criminal Court.

Costa Rica will have the honour to be among the countries representing Latin America and the Caribbean at the next session of the Assembly of States Parties, in December. I want to assure the Court that it can count on our wholehearted support in this common struggle for a world in which accountability, justice and peace prevail.

The meeting rose at 1 p.m.