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General Assembly

Sixty-first session

Official Records

41st plenary meeting
Thursday, 26 October 2006, 3 p.m.
New York

President: Ms. Al-Khalifa . . . . . (Bahrain)

The meeting was called to order at 3.20 p.m.

Agenda item 7 (*continued*)

Organization of work, adoption of the agenda and allocation of items

Third report of the General Committee (A/61/250/Add.2)

The President: In its report, the General Committee recommends to the General Assembly that agenda item 68, entitled "Report of the Human Rights Council", be considered in plenary meeting and in the Third Committee, on the understanding that the Third Committee would consider and act on all recommendations of the Human Rights Council to the General Assembly, including those that deal with the Development of International Law in the field of human rights.

Taking into account this recommendation, the General Assembly plenary would consider the Annual Report of the Human Rights Council on its activities for the year, and also on the understanding that the division of work between them was agreed upon with the understanding that this arrangement is due to the fact that the Human Rights Council only commenced its work in June 2006.

It is also understood that the current arrangement is in no way a reinterpretation of Assembly resolution 60/251 and will be reviewed before the beginning of the sixty-second session, on the basis of the experience gained with the efficiency and practicality of this arrangement.

May I therefore take it that the General Assembly approves that recommendation?

It was so decided.

The President: The Chairman of the Third Committee will be informed of the decision just taken by the General Assembly.

Documentation for the election of the members of the International Law Commission (item 105 (c))

The President: As was announced at the 38th meeting, on Friday, 20 October 2006, I would now like to consult the General Assembly on a matter concerning sub-item (c) of agenda item 105, on the election of the members of the International Law Commission, which has been scheduled to take place on Thursday, 16 November 2006.

On that day the Assembly will proceed to the election of 34 members of the Commission, whose terms of office are to commence on 1 January 2007. It should be recalled that, in accordance with the Statute of the International Law Commission, the Secretary-General communicated to the Governments of Member States, in documents A/61/92 and A/61/92/Corr.1, the list of candidates submitted within the required time for the submission of nominations, that is, by 1 June 2006, as well as a withdrawal in document A/61/92/Add.1. The statements of qualifications of the

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candidates are contained in documents A/61/111 and A/61/111/Corr.1, A/61/111/Corr.2 and A/61/111/Add.1.

Subsequent to that date, the Secretary-General received additional information on nominations concerning candidates, new candidates and a withdrawal. The names of the new candidates and additional information are to be found in documents A/61/92/Add.2 and A/61/92/Add.3.

Under those circumstances, it is necessary for the General Assembly to take a decision as to whether the new candidatures should be accepted in spite of the submission of their names subsequent to the deadline, and whether they should be incorporated into a consolidated list of candidates. It has been the practice of the Assembly to incorporate such late submissions into a consolidated list.

If I hear no objection, I shall take it that it is the wish of the General Assembly to request the Secretary-General to issue such a consolidated list of candidates.

It was so decided.

The President: The consolidated list of candidates will be issued under the symbol A/61/539.

Letter from the Chairman of the Committee on Conferences addressed to the President of the General Assembly (A/61/320/Add.1)

The President: Document A/61/320/Add.1 contains a letter dated 19 October 2006 from the Chairman of the Committee on Conferences addressed to the President of the General Assembly. Members are aware that, pursuant to section 1, paragraph 7 of resolution 40/243, no subsidiary organ of the General Assembly should be permitted to meet at Headquarters during the main part of a regular session of the Assembly, unless explicitly authorized by the Assembly.

Authorization is therefore sought for the Executive Board of the International Research and Training Institute for the Advancement of Women to hold one meeting in New York during the main part of the sixty-first session of the General Assembly, on the strict understanding that the meeting will have to be accommodated when facilities and services can be made available without adversely affecting the activities of the General Assembly and its Main Committees. It is also the understanding that everything possible will be done to ensure the most efficient use of conference services.

May I take it that it is the wish of the General Assembly to authorize the Executive Board of the International Research and Training Institute for the Advancement of Women to meet during the main part of the sixty-first session of the General Assembly?

It was so decided.

Agenda item 70

Report of the International Court of Justice

Report of the International Court of Justice (A/61/4)

Report of the Secretary-General (A/61/380)

The President: May I take it that the General Assembly takes note of the report of the International Court of Justice?

It was so decided.

The President: In connection with this item, the Assembly also has before it the report of the Secretary-General on the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, which has been circulated in document A/61/380.

I call on Ms. Rosalyn Higgins, President of the International Court of Justice.

Ms. Higgins: It is an honour for me to address the General Assembly for the first time in my presidency on the occasion of the Assembly's examination of the report of the International Court of Justice for the period 1 August 2005 to 31 July 2006. Speaking to the General Assembly on the Court's report is a tradition initiated by Sir Robert Jennings during his presidency. It is one that I am happy to maintain and that the Court greatly values.

I am pleased to address the Assembly today under the presidency of the Legal Adviser to the Royal Court in the Kingdom of Bahrain. I warmly congratulate you, Madam President, on your election to preside over the sixty-first session, and wish you every success.

I begin by recalling that currently 192 States are parties to the Statute of the Court, and that 67 of them have accepted the compulsory jurisdiction of the Court in accordance with Article 36, paragraph 2, of the

Statute. Furthermore, approximately 300 treaties refer to the Court in relation to the settlement of disputes arising from their application or interpretation.

As the annual report of the Court transmitted to the General Assembly recounts, in the period from 1 August 2005 to 31 July 2006 the Court made an order with respect to a request for provisional measures in one case, held public hearings in two cases, and rendered Judgments in two further cases. It should be understood that the cases of *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v. Uganda*) and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Serbia and Montenegro*) have been exceptionally heavy, legally speaking, and complex in a variety of ways. Several cases are contained within each head case. The *Bosnia and Herzegovina v. Serbia and Montenegro* case required public hearings that stretched over two and a half months. The Court has sifted through vast amounts of documentary and audiovisual evidence, and heard witness testimony in the courtroom for the first time since 1991.

During the period under review the Court has been seized of three new cases: a dispute regarding navigational and related rights between Costa Rica and Nicaragua; a dispute regarding the status of a diplomatic envoy to the United Nations vis-à-vis the host State, between the Commonwealth of Dominica and Switzerland; and a dispute concerning pulp mills on the River Uruguay between Argentina and Uruguay. Following a further request from the Commonwealth of Dominica, the case against Switzerland was in fact removed from the Court's List.

Today there are 13 cases in the General List of the Court, following the entering in the General List in August this year of an application from the Republic of Djibouti instituting proceedings against France. The application was made by Djibouti in January this year. On 10 August France consented to the Court's jurisdiction for this specific dispute in accordance with Article 38, paragraph 5, of the Rules of Court. That is only the second instance since the adoption, in 1978, of Article 38, paragraph 5, in which a State has accepted another State's invitation to recognize the jurisdiction of the International Court to deal with a case against it.

The cases come from all over the world. There are four between European States, four between Latin American States, two between African States, one between Asian States and two of an intercontinental character. The Court's international character is also reflected in its composition. Following the elections held last autumn by the General Assembly and the Security Council, the Court currently has the benefit of members from China, France, Germany, Japan, Jordan, Madagascar, Morocco, Mexico, New Zealand, the Russian Federation, Sierra Leone, Slovakia, the United Kingdom, the United States of America and Venezuela.

The subject matter of the cases before the Court is extremely varied. As is frequently the case, the Court's docket contains a number of cases concerning territorial disputes between neighbouring States seeking a determination of their land and maritime boundaries, or a decision as to which of them has sovereignty over particular areas. That is the position for five cases concerning, respectively, Nicaragua and Honduras, Nicaragua and Colombia, Malaysia and Singapore, Romania and Ukraine and Costa Rica and Nicaragua. Another classic type of dispute is where a State complains of the treatment of its nationals by other States. That is the position in the cases of the Republic of Guinea against the Democratic Republic of the Congo, the Republic of the Congo against France, and the Republic of Djibouti against France. Those last two cases also raise issues relating to jurisdictional immunities of State officials.

A further category of cases that is frequently referred to the Court concerns the use of force and events that the Assembly or the Security Council have had to address. At the moment the Court is deliberating on a case in which Bosnia and Herzegovina seeks the condemnation of Serbia and Montenegro for violations of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. The Court is further seized of a similar claim brought by Croatia against Serbia and Montenegro.

Today I plan, as is traditional, to report on the Judgments rendered by the International Court over the past year. I shall deal with those decisions in chronological order. I have had the occasion to deal with some of these legal issues in more depth with the legal advisers at their meeting. Should any specific points be of particular interest, members will be able to see them discussed in that speech.

On 19 December 2005 the Court handed down its Judgment in the case concerning *Armed Activities on*

the Territory of the Congo (*Democratic Republic of the Congo v. Uganda*). By way of background, on 23 June 1999 the Democratic Republic of the Congo filed an application instituting proceedings against Uganda for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU". In its application, the Democratic Republic of the Congo contended that

> "such armed aggression ... [had] involved inter alia violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations".

Uganda disputed the Democratic Republic of the Congo's claim, and counterclaimed, on 21 April 2001, that the Democratic Republic of the Congo had committed acts of aggression against it, had attacked Ugandan diplomatic premises and personnel in Kinshasa as well as other Ugandan nationals, and had violated the Lusaka Agreement. By an Order of 29 November 2001, the Court found that the first two counterclaims were admissible, but that the third was not.

In its Judgment on the merits, the Court started by noting that it was aware of the complex and tragic situation that had long prevailed in the Great Lakes region and of the suffering of the local population. It observed that the instability in the Democratic Republic of the Congo in particular had had negative security implications for Uganda and some other neighbouring States. However, it stated that its task was to respond, on the basis of international law, to the particular legal dispute brought before it.

The Court treated first the question of the invasion of the Democratic Republic of the Congo by Uganda. Having examined the materials put before it by the parties, the Court found that in the period preceding August 1998 the Democratic Republic of the Congo had not objected to Uganda's military presence and activities in its eastern border area. The two countries had, among other things, agreed that their respective armies would "cooperate in order to ensure security and peace along the common border". The Court, however, drew attention to the fact that the consent that had been given to Uganda to place its forces in the Democratic Republic of the Congo, and to engage in military operations, was not an open-ended consent. It was limited in terms of objectives and geographic location to actions directed at stopping rebels operating across the common border. It did not constitute a consent to all that was to follow.

The Court examined carefully the various treaties directed to achieving and maintaining a ceasefire, the withdrawal of foreign forces and the stabilization of relations. It concluded that none of those instruments, save for the limited exception regarding the border region of the Ruwenzori mountains contained in the Luanda Agreement, constituted consent by the Democratic Republic of the Congo to the presence of Ugandan troops on its territory.

The Court also rejected Uganda's claim that its use of force, where not covered by consent, was an exercise of self-defence. The preconditions for self-defence did not exist. Indeed, the unlawful military intervention by Uganda was of such magnitude and duration that the Court considered it to be a grave violation of the prohibition on the use of force expressed in Article 2, paragraph 4, of the Charter. The Court also found that by actively extending military, logistic, economic and financial support to irregular forces having operated on the territory of the Democratic Republic of the Congo, the Republic of Uganda had violated the principle of non-use of force in international relations and the principle of non-intervention.

The Court then moved to the legal issue of occupation and of the violations of human rights and humanitarian law. It observed first that, under customary international law, as reflected in article 42 of the Hague Regulations of 1907, territory is considered to be occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised. Having concluded that Uganda was the occupying Power in Ituri at the relevant time, the Court stated that, as such, it was under an obligation, according to article 43 of the Hague Regulations, to take all measures in its power to restore and ensure, as far as possible, public order and safety in the occupied area, while respecting, unless absolutely prevented, the laws in force in the Democratic Republic of the Congo. That had not been done. The Court also considered that it had credible evidence sufficient to conclude that the Uganda People's Defence Forces (UPDF) troops had generally in the Democratic Republic of the Congo engaged in various violations of international

humanitarian law and human rights law. The details are specified in the Judgment. Those violations were found to be attributable to Uganda.

The third issue the Court had to deal with was that of the alleged exploitation of natural resources by Uganda. The Court considered that it had ample, credible and persuasive evidence to conclude that officers and soldiers of the UPDF, including the most high-ranking officers, were involved in the looting, plundering and exploitation of the Democratic Republic of the Congo's natural resources, and that the military authorities did not take any measures to put an end to those acts. Uganda was responsible for both the conduct of the UPDF as a whole and the conduct of individual soldiers and officers of the UPDF in the territory of the Democratic Republic of the Congo. That was so even when particular UPDF officers and soldiers acted contrary to instructions given, or exceeded their authority. The Court found that it did not have at its disposal credible evidence to prove that there was a governmental policy on the part of Uganda directed at the exploitation of the natural resources of the Democratic Republic of the Congo, or that Uganda's military intervention was carried out in order to obtain access to Congolese resources.

In respect of the counterclaims of Uganda, the Court found first that Uganda had not produced sufficient evidence to show that the Democratic Republic of the Congo had provided political and military support to anti-Ugandan rebel groups operating in its territory. The Court added that any military action taken by the Democratic Republic of the Congo against Uganda after the invasion by Uganda in 1998 would be justified as action taken in self-defence under Article 51 of the United Nations Charter.

As for the second counterclaim, the Court found that there was sufficient evidence to prove the attacks against the embassy and the maltreatment of Ugandan diplomats on embassy premises and at Ndjili International Airport. It found that the Democratic Republic of the Congo had breached its obligations under the Vienna Convention on Diplomatic Relations. The removal of property and archives from the Ugandan embassy was also in violation of the rules of international law on diplomatic relations.

The Court noted that the nature, form and amount of compensation owed by each party had been reserved and would only be submitted to the Court should the parties be unable now to reach agreement on the basis of the Judgment just rendered by the Court.

The period 2005-2006 turned out to be very much an African year for the Court. Less than two months after issuing its decision in *Democratic Republic of the Congo v. Uganda*, on 3 February 2006, the Court rendered its judgment on the preliminary objections to jurisdiction and admissibility raised by Rwanda in the case concerning *Armed Activities on the Territory of the Congo* (*New Application: 2002*) (*Democratic Republic of the Congo v. Rwanda*). It found that here it had no jurisdiction to entertain the application filed by the Democratic Republic of the Congo.

The background was the filing, in 2002, by the Democratic Republic of the Congo of an application alleging

> "massive, serious and flagrant violations of human rights and of international humanitarian law resulting from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant violation of the sovereignty and territorial integrity of the Democratic Republic of the Congo, as guaranteed by the United Nations and OAU Charters".

The Court's deliberations mainly turned on the interpretation of particular jurisdictional provisions and on the analysis of requirements they contained. The Court essentially found that the international instruments invoked by the Democratic Republic of the Congo could not be relied on, as either Rwanda was not a party to them, or had made reservations to them, or other preconditions for seizing of the Court had not been satisfied.

As the Court had no jurisdiction to entertain the application, it was not required to rule on the application's admissibility. The Court was mindful that the subject matter was very close to *Democratic Republic of the Congo v. Uganda* and that it needed to be carefully explained as to why the Court did not proceed to the merits in this case. The Court explained that it was precluded by its Statute from taking any position on the merits of the claims made by the Democratic Republic of the Congo. However, the Court reiterated that there was

> "a fundamental distinction between the acceptance by States of the Court's jurisdiction and the conformity of their acts with international law … whether or not States have accepted the jurisdiction of the Court, they are required to fulfil their obligations under the United Nations Charter and the other rules of international law, including international humanitarian and human rights law, and they remain responsible for acts attributable to them which are contrary to international law." (*A/61/4, para. 16*)

Finally, on 13 July this year, the Court handed down its Order for the indication of provisional measures in the case concerning *Pulp Mills on the River Uruguay* (*Argentina v. Uruguay*).

Early in May this year Argentina initiated proceedings against Uruguay concerning alleged violations by Uruguay of obligations under the Statute of the River Uruguay, a treaty signed by the two States in 1975. Argentina's application was accompanied by a request for the indication of provisional measures requiring Uruguay, first, to suspend the authorizations for the construction of the mills and halt building work on them pending a final decision by the Court, and, secondly, to cooperate with Argentina to protect and preserve the aquatic environment of the River Uruguay, to refrain from taking any further unilateral action with respect to construction of the two mills which does not comply with the 1975 Statute, and to refrain from any other action which might aggravate the dispute or render its settlement more difficult.

In its Order, the Court found that there was nothing in the record to demonstrate that the very decision by Uruguay to authorize the construction of the mills posed an imminent threat of irreparable damage to the aquatic environment or to the economic and social interests of the riparian inhabitants. On the basis of the evidence before it, the Court was not convinced that the rights claimed by Argentina would no longer be capable of protection if the Court were to decide not to indicate at this stage of the proceedings the suspension of the authorizations and of the construction work itself. At the same time, the Court made it clear that, by proceeding with the work, Uruguay "necessarily bears all risks relating to any finding on the merits that the Court might later make" and that the construction of the mills at the current site could not be deemed to create a fait accompli. The Court specifically states that the decision in the present proceedings in no way prejudges questions relating to the merits of the case. The parties retain the right to submit arguments in respect of the substance of the case in further stages of the proceedings.

As well as delivering these Judgments and Order, the Court has completed the hearings in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Serbia and Montenegro*) and it is currently under deliberation. In the [run-up to the case, the Court had made preparatory proposals on, inter alia, whether witness examination should be preceded with affidavits, how to organize the cross-examination, how to secure the confidentiality of the testimony during the hearings, what type of translation to provide for the witnesses and for the Court, and yet more. Very particular arrangements had to be made with the press. This case is heavy and complex in a variety of ways. It includes what are called several "sub-cases" and involves an unprecedented amount of facts and evidence requiring detailed and systematic analysis.

Although the hearings have been mainly focused on the merits of the case, a number of jurisdictional issues were discussed by the Parties as a result of various developments since the Court delivered its Judgment on jurisdiction and admissibility in 1996, and particularly the implications of the admission of the then Federal Republic of Yugoslavia to the United Nations in 2000.

I turn to what is next on the horizon for the International Court. Next month we begin public hearings on preliminary objections in the case concerning *Ahmadou Sadio Diallo* (*Republic of Guinea v. Democratic Republic of the Congo*). Next March the Court will hear a case on the merits: *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea* (*Nicaragua v. Honduras*). After that the Court will hear preliminary objections in the case *Territorial and Maritime Dispute* (*Nicaragua v. Colombia*) and arguments on the merits in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge* (*Malaysia/Singapore*).

Our aim is to increase further our throughput in the coming year. To this end, the Court has agreed for next year upon a very full schedule of hearings and deliberations, with more than one case being in

progress at all times. In this context, I draw attention to one request we will present in our budget submission. The Court's budgetary requests are always modest, and our requests for 2008 to 2009 will be particularly restrained. But there is one matter that is very important to us: the Court will request nine P-2 law clerks, which will enable us to achieve a full complement of one law clerk for each member of the Court.

This matter was raised by President Schwebel eight long years ago, and was the subject of a specific request made six long years ago by President Guillaume. At that time, he pointed to the fact that each judge has to examine case files which regularly run to several thousand pages and to conduct hearings that are sometimes unavoidably lengthy. The situation is even more pressing today, given the increasing number of fact-intensive cases and the rising importance of researching, analysing and evaluating not only doctrinal materials, but also the applicable jurisprudence of other international tribunals as well as the testimony as to alleged facts.

The Court wishes to provide its Judgments in a timely fashion, but it is simply impossible for it to do so if the judges have no assistance across this range of work. We can no longer scrape by on a small pool of six shared clerks. At the end of the day, this shortage of assistance is harmful to the client States which use us. The absence of clerks is judicially inefficient, and this fact seems everywhere recognized. It is, in reality, astounding that the International Court is the only senior international court without this form of assistance.

Each judge of the European Court of Justice is assisted by three law clerks. Each of the 16 judges at the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) has one law clerk assigned to him or her, and there is at least one "floating" law clerk assigned to the Chamber. The International Criminal Court (ICC) has provided one law clerk for each of its 18 judges. Quite simply, the International Court of Justice can no longer provide the service that Member States bringing cases desire, if it, as the principal judicial organ of the United Nations, is denied what is routinely accorded to every other senior court, national as well as international.

The International Court has been continuing to review its procedures and working methods. In September 2005, the Court adopted amendments to Article 43 of its Rules, regarding the notifications to be sent by the Court to those not directly involved in a case who are parties to a convention whose construction may be in question in the proceedings. Two paragraphs were added to Article 43 to cover the case of international organizations that are parties to such conventions and to establish an appropriate procedural framework for this purpose. Now they, too, have a means for submitting observations on the particular provisions of the convention whose construction is at issue in the case.

The Court recently noted the growing interest of States, reflected in the Court's docket, in issues relating to human rights, international humanitarian law and environmental law. In 1993, a Chamber for Environmental Matters was created by the Court, and it has been periodically reconstituted. But in its years of existence, no State has yet asked for a case to be heard by the Chamber. Cases such as *Gabcíkovo-Nagymaros Project (Hungary/Slovakia)* and *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* have been submitted to the plenary Bench. A survey of State practice suggests that States prefer that environmental law not be compartmentalized, but that it find its place within international law as a whole. Indeed, environmental law has now become an important part of what we may term the mainstream of international law. Accordingly, this year the Court decided not to hold elections for a Bench for the Chamber for Environmental Matters. At the same time, should parties in future cases request a chamber for a dispute involving environmental law, such a chamber could still be constituted under Article 26, paragraph 2, of the Statute of the Court.

As the Assembly knows, the International Court of Justice celebrated its sixtieth anniversary this year. A solemn sitting of the Court, in the presence of the Queen of the Netherlands, the Secretary-General of the United Nations and the President of the General Assembly, was organized in April to mark the occasion.

The anniversary has provided an occasion for the Court to reflect on what it has achieved and where it can improve. Sixty years ago the International Court stood virtually alone as the forum for the resolution of international disputes. For a variety of reasons, new

courts and tribunals have burgeoned, being established to deal with a variety of international needs, such as the law of the sea, trade, human rights, investment and the accountability of individuals for international crimes. We are forging cordial relationships with each other. The Court has set up an informal system of exchanges whereby judges at the ICTY and ICC receive summaries or relevant excerpts of our cases that address legal questions of particular interest to them, and vice versa.

This growth in the number of new courts and tribunals has generated a certain concern about the potential for a lack of consistency in the enunciation of legal norms, and the attendant risk of fragmentation. Yet these concerns have not proved significant. The general picture has been one of these courts seeing the necessity of locating themselves within the embrace of general international law.

The authoritative nature of International Court of Justice Judgments is widely acknowledged. It has been gratifying for the International Court to see that the newer courts and tribunals have regularly referred, often in a manner essential to their legal reasoning, to Judgments of the International Court of Justice with respect to questions of international law and procedure. In just the past five years, the Judgments and Advisory Opinions of the International Court have been expressly cited with approval by the International Tribunal for the Law of the Sea, the European Court of Human Rights, the European Court of Justice, the United Nations Commission on Human Rights, the Inter-American Commission on Human Rights, the International Centre for Settlement of Investment Disputes, the International Criminal Tribunal for the Former Yugoslavia and arbitral bodies, including the Eritrea-Ethiopia Claims Commission. The International Court, for its part, has been closely following the work of these other international bodies also.

The ability of international judges, lawyers, scholars, the media and, indeed, interested members of the general public to follow the work of the Court will be further enhanced by its new website, which will be launched shortly. The new website will contain five times more data than the current, already admired website, including every Judgment, Order and pleading since 1946, as well as other new features.

The International Court is the embodiment of the United Nations, being its principal judicial organ. This authority accorded to the Court has served the United Nations well over the years. The Court is indeed the Court of all the Members, in the sense that it is composed of 15 judges from around the world elected by the entire United Nations membership. The decision-making process of the Court is such that all the judges are engaged in all the cases, save in those occasional circumstances in which the parties themselves request a Chamber. Our Judgments and Opinions are written by the judges themselves. It is not the Court of any region or of any personalities. It is the Court of the United Nations.

The International Court welcomes the special efforts that the Members of the United Nations have made to strengthen our activities. In particular, we appreciate the recognition of the important role of the International Court expressed in the Outcome Document (resolution 60/1) resulting from the meeting of more than 170 Heads of State or Government at United Nations Headquarters for the 2005 World Summit. The Court, for its part, will continue to work with dedication and with its customary impartiality, and hopes that Members will provide us with the modest additional resources that we need to serve them well.

I assure the General Assembly that the International Court will maintain the high quality of its decisions, while striving to meet the expectations of those States that entrust us with finding a solution for them in a timely fashion. The Court deeply values the trust placed in it by the United Nations, and stands ready to work with the Organization towards the fulfilment of the goals enshrined in the Charter.

Ms. Ertman (Finland): I have the honour to speak on behalf of the European Union. The acceding countries Bulgaria and Romania, the candidate countries Turkey, Croatia and The former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia, and the European Free Trade Association countries Iceland, Liechtenstein and Norway, members of the European Economic Area, as well as Ukraine and the Republic of Moldova, align themselves with this declaration.

It gives the European Union great pleasure to congratulate the International Court of Justice on its sixtieth anniversary. The Union reaffirms its strong

support for the Court. We are particularly pleased to do so at a time when the international legal order is rapidly developing. That development is reflected in the work of the International Court of Justice, as States have been increasingly willing to submit disputes for settlement.

Submitting a dispute to the Court is not, and must not be, considered a hostile act by the other party. As the principal judicial organ of the United Nations, the Court is the cornerstone of the international legal order. It has significantly strengthened the international rule of law and has contributed to respect for law. It not only continues to play an important role in the resolution of international disputes, but also contributes to their prevention.

The Court is also to be seen within the wider context of the international order. In the peaceful settlement of disputes, the Court plays an important role in maintaining and restoring international peace and security, as highlighted at the open debate on strengthening international law held in the Security Council in June, under the Danish presidency.

With the rapid expansion of its scope and its growing specialization — in particular, with the development of special treaty regimes — international law is increasingly governing new areas of international life. That may herald new challenges for the international judiciary in its work of interpreting and applying this expanding body of law. In that function, the Court undoubtedly has as central a role as ever and deserves the full support of all members of the international community.

The International Court of Justice is not the only international tribunal now at work. In recent years, we have witnessed the establishment of several new international courts of law. The International Tribunal for the Law of the Sea deals with matters that may also fall within the jurisdiction of the Court. Others, like the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Criminal Court, deal with cases brought against individuals. All of them may be seen as complementing one another and strengthening the international legal order. Nevertheless, the International Court of Justice, as the principal judicial organ of the United Nations, is the only truly universal court in the exercise of general jurisdiction in the settlement of international disputes between States.

The European Union is grateful to the President of the Court, Judge Rosalyn Higgins, for presenting the report on its work. The report clearly demonstrates that, at the mature age of 60, the Court — with 12 cases on its docket at present — is fully occupied. Member States need to ensure that the Court has the resources it needs, given the importance of its task. In that context, the European Union also recalls the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice.

The European Union also commends the Court for paying increasing attention to the development of its website, which gives instant access to its Judgments and reasonings, thus contributing to wider dissemination and recognition of the work of the Court.

Finally, the obligation of States to settle their disputes through peaceful means lies at the heart of the international order. In that context, the European Union recalls the recommendation of the 2005 World Summit that States that have not yet done so consider accepting the jurisdiction of the Court, in accordance with its Statute. The European Union underlines the utmost importance of State compliance with the Court's decisions.

Ms. Graham (New Zealand): Let me first express, on behalf of Canada, Australia and New Zealand, my thanks to the President of the International Court of Justice, Judge Rosalyn Higgins, for her insightful and comprehensive report on the work of the Court over the past year.

Sixty years after the Court's establishment, the growing demands being placed on it show the international community's confidence in it as a fair, impartial and transparent judicial body. The Court's increasing workload demonstrates the essential contribution it makes, as the principal judicial organ of the United Nations, to the peaceful resolution of disputes between States and to the development of international law.

The application of the international rule of law remains crucial for a peaceful world. As countries that firmly believe in the rule of law, we hope that leaders will continue to support and explore ways to apply this. The International Court of Justice, as the only international court of general jurisdiction, is central to

ensuring that the rule of law is maintained and strengthened at the international level, and for that reason the Court deserves our support.

It is important for smaller States to have access alongside their neighbour members to such impartial means to resolve their disputes. The Court represents the equality of all Members within the United Nations.

Our confidence in the Court and its continuing ability to render considered Judgments on complex international legal issues is reflected in our acceptance of the Court's compulsory jurisdiction in accordance with Article 36 (2) of its Statute. We continue to urge other Members of the United Nations that have not yet done so to deposit with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction.

The 12 cases currently on the Court's docket are indicative of the workload facing the Court. It is fitting to see the wide regional spread of cases coming before the Court, as well as the diverse subject matter of those cases. In addition, they reflect the willingness of States to turn to judicial settlement of their disputes, and are reflective of an ever-growing faith in the decisions of the Court and in the rule of law by the international community.

Canada, Australia and New Zealand encourage a continued focus by the Court — and by parties to cases before it — on efficient and disciplined working methods. Our three countries support the intention of the Court to apply more strictly its decisions aimed at accelerating proceedings. In that context, Canada, Australia and New Zealand will reflect further on the suggestion in the report of the Court regarding the need to increase the provision of individualized legal assistance for judges, in the form of an increased number of law clerks.

Canada, Australia and New Zealand look forward to the International Court of Justice continuing to play its vital role in the peaceful settlement of international disputes and strengthening the international legal order, as mandated by the Charter.

Mr. Abdelaziz (Egypt) (*spoke in Arabic*): I should like at the outset to express the appreciation of the delegation of Egypt to Judge Rosalyn Higgins, President of the International Court of Justice, for her invaluable briefing on the work of the Court over the past year.

The creation of the United Nations coincided with the birth of a new era in international relations based on the international rule of law, primarily the significant purposes and principles of the Charter — namely, the non-use of force in international relations, the peaceful settlement of disputes and respect for territorial integrity and sovereign equality. Those principles continue to govern international relations. Over the past 60 years, the International Court of Justice has played a leading role in enhancing such principles by playing an effective role in the peaceful settlement of disputes and the development of the provisions of international law.

The Court has, indeed, succeeded in resolving almost 100 cases relating to land and maritime borders, as well as in strengthening legal obligations regarding the non-use of force and non-interference in the internal affairs of States and in enhancing relations among States. Furthermore, it has issued several Advisory Opinions reaffirming established legal principles and rules, among which the Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons and the Advisory Opinion on the legal consequences of the construction of the separation wall in the occupied Palestinian territory are the most noteworthy.

As we review the work of the Court today, we must acknowledge the value of its distinguished work. We welcome the increasing inclination of States to bring their disputes before the Court, which we believe is a true reflection of the international community's genuine confidence in the International Court of Justice and its belief in the Court's neutrality and independence. The fact that 12 cases are pending — as the President of the Court stated today — is a further affirmation of that confidence.

Nevertheless, during the past 60 years, the Court's experiences and its relations with the other organs and specialized agencies of the Organization have shown that the latter can benefit as a result of that judicial body's potential to enhance international relations and provide a legal dimension to the international community's approach to global issues, especially those under consideration by the General Assembly and the Security Council.

Without doubt, enabling the Court to play that role requires Member States — those represented in the Security Council as well as in the General Assembly —

to become involved by requesting Advisory Opinions from the Court on issues on which there is legal disagreement. Furthermore, it will require us to commit to implementing such opinions when they pertain to the interpretation of established legal principles, especially those set out in the Charter.

The true value of the decisions and Advisory Opinions of the International Court of Justice lies not only in the facts and principles that they establish, but also in their contribution to the enrichment, development and codification of international law. Those decisions enshrine legal and moral values that should be respected by all members of the international community, thereby further enhancing international peace and security.

This is especially the case with regard to the Advisory Opinion recently issued by the Court in response to a request from the General Assembly on the legal consequences of the construction of the separation wall in the occupied Palestinian territory. This Advisory Opinion is a clear reaffirmation of a well-established legal principle on which we are all agreed — namely, the inadmissibility of the acquisition of land by force. Thus, the Advisory Opinion is both legally and morally binding.

It is essential, therefore, that we develop a clear follow up mechanism for the implementation of decisions and Advisory Opinions issued by the Court so as to ensure that their scope is not limited to the Court itself and the parties involved in the dispute. Rather, there should be international recognition by United Nations bodies of their commitment to following up and implementing in practical terms the Court's decision.

The Court has a legal obligation to correct any misinterpretation of the rules and norms of international law, especially as they relate to the legitimate right to self-defence, the use of force under the pretext of the international campaign to combat terrorism and the attempt to promote democracy or respect for human rights by force, as well as in dealing with the encroachment by the Security Council on the mandate of the General Assembly as set out in the Charter on issues relating to, inter alia, human rights, terrorism and weapons of mass destruction. That is being done by increasingly resorting to requests for Advisory Opinions to correct such procedural misperceptions within a sound legal framework.

On past occasions the General Assembly has praised the role of the International Court of Justice and expressed appreciation for its contributions. The most recent example was in the 2005 World Summit Outcome. I have great pleasure in referring to the adoption by the Special Committee on the Charter of the United Nations and on Strengthening of the Role of the Organization, in its previous session, of the draft resolution now before the Sixth Committee (A/C.6/61/L.6) on the commemoration of the sixtieth anniversary of the International Court of Justice. Egypt was proud to introduce the draft resolution, which praises the excellent performance of the Court, reaffirms its vital role, and expresses gratitude for the Court's work, which enhances its international standing. We are also proud that the Sixth Committee is currently in the process of adopting the draft resolution for recommendation to the Assembly for adoption during this session. That is a reflection of the special close relationship between the United Nations and the International Court of Justice as its chief judicial organ.

Mr. Shinyo (Japan): It is my great pleasure and honour, on behalf of the Government of Japan, to address the Assembly under your presidency, Madam.

My delegation would like to express its gratitude to President Rosalyn Higgins for her in-depth report describing the current situation of the International Court of Justice. We would also like to express our appreciation of, and support for, the achievements in the work of the International Court of Justice during the past year.

In view of the ongoing globalization of the legal issues that the international community currently faces, and given that they increasingly involve transnational matters, the importance of the role of the International Court of Justice today cannot be overstated. As the only international court of a universal character with general jurisdiction, the International Court of Justice has contributed significantly to the peaceful settlement of conflicts, and it is expected to continue to promote peace and justice in the world by establishing and maintaining the primacy of international law.

Japan, as a country that firmly upholds the principle of the rule of law, considers that there is a need for all Member States to rely on the international judicial system to peacefully resolve conflicts. We therefore continue to fully support in particular the

work of the International Court of Justice, which is the supreme organ in this field.

Our delegation values the Court's achievements over the past year, which reflect its jurists' profound knowledge of international law and their far-sighted perspective on international society. Especially noteworthy are the Court's efforts to address such new, cutting-edge issues as massive violations of human rights and the management of shared natural resources, which show clearly the important role to be played by the international judicial system in solving the difficult problems confronting humankind today.

While bearing in mind the importance of the rulings of the Court, the Government of Japan expects that the Court will continue its efforts at rationalization, in order to manage its heavy workload and at the same time retain the confidence of Member States in its work.

We express our congratulations on the sixtieth anniversary of the Court's inaugural sitting, which was celebrated in April this year. The Court's unmatched history as a judicial organ shows how essential its role has been for the international community. We expect that the Court will continue to contribute to further strengthening of the rule of law in the years to come.

In conclusion, I wish to reiterate the great importance attached to the lofty cause and work of the International Court of Justice as the principal judicial organ of the United Nations. Japan, for its part, will continue to contribute to the invaluable work of the Court.

Mr. Abdelsalam (Sudan) (*spoke in Arabic*): At the outset, I have the pleasure to convey our sincere congratulations to the International Court of Justice, which recently celebrated its sixtieth anniversary — 60 years during which it has been a steadfast edifice of justice and a trusted guardian of the principles of international law. The International Court of Justice embodies the will to enforce the rule of law as an alternative to violence and the use of force in inter-State relations. In that connection, we would like to express our gratitude to the delegation of Egypt for its initiative in introducing a draft resolution commemorating the sixtieth anniversary of the establishment of the International Court of Justice.

We would also like sincerely to thank Judge Rosalyn Higgins, President of the International Court of Justice, for her comprehensive presentation of the Court's report, which provides an account of the many activities undertaken by the International Court of Justice in the implementation of its duties.

The report before us illustrates once again the expanding role of the International Court of Justice in shouldering its responsibility as the main judicial body of the United Nations and the sole international court with universal jurisdiction and character. The Court is the most active mechanism capable of implementing the Charter's provisions for the peaceful resolution of international disputes based on the standards of international justice and law. The Court is therefore an essential instrument for the maintenance of international peace and security.

We were pleased to learn from the report that 192 States have joined the International Court of Justice Statute, while 67 States, including the Sudan, have deposited declarations of acceptance of the Court's compulsory jurisdiction. That sends a meaningful signal that reaffirms the trust of Member States in the International Court of Justice's ability to resolve disputes in an honest way and in accordance with the provisions of international law. Another positive sign is the continuing increase in the number of cases pending before the Court. That strengthens trust in the Court and its ability to undertake the most urgent and important tasks of the United Nations, namely, the peaceful settlement of disputes.

The 2005 World Summit Outcome recognized the increasing number of challenges facing the international community, as well as the urgent need to strengthen the capacity of the United Nations to make it possible to overcome those challenges efficiently and effectively. As the International Court of Justice is one of the main organs of the United Nations, and therefore confronts similar challenges as the ones facing the Organization, it is important to both support and increase the capacities of the Court. One of the first steps that can be taken in that regard is to accept the legal jurisdiction of the Court.

As the Court carries out its tasks, it is only logical to accept its rulings, because justice cannot be fragmented or negotiated. Here, we recall the Advisory Opinions issued by the Court, including its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. The failure to comply with that Opinion

defies the will of the international community and mocks international justice.

No discussion of the obligation of Member States to support the Court would be complete without referring to the burden placed upon it and the need for it to shed light on the challenges and obstacles in its way while proposing appropriate recommendations for the consideration of Member States.

My delegation would like to stress the importance of making voluntary contributions to the Secretary-General's Trust Fund in order to help countries bear the expenses of the cases that they have brought before the Court. In particular, supporting the Fund would enable poor countries to achieve peaceful settlements of disputes.

My delegation commends the Court for its efforts to disseminate its publications to Member States and to increase access to those publications, particularly through its website, which gives users an opportunity to view the Court's rulings, Advisory Opinions and Orders, thereby enhancing harmony under international law. We believe that the Court must continue those laudable efforts by striving to strengthen its ties with other international legal bodies, as well as with regional and national ones, to raise awareness of the Court's role and activities.

Finally, my delegation reaffirms its confidence in the important role played by the Court. We renew our commitment to supporting it so that it can carry out its tasks in the best possible manner.

Mr. Andrianarivelo-Razafy (Madagascar) (*spoke in French*): The delegation of Madagascar wishes to thank Ms. Rosalyn Higgins, President of the International Court of Justice, for her excellent presentation of its report, which contains relevant information enabling us to appreciate the progress made and the effectiveness of the work of all the Court's personnel in recent years.

In this year of the celebration of the Court's sixtieth anniversary, the delegation of Madagascar congratulates the International Court of Justice on the important role it has played for 60 years as the principal judicial organ of the United Nations and the forum par excellence for the pacific settlement of disputes among States.

The significant number of conflicts in today's world makes us believe that, more than ever before, humanity needs an essential framework for promoting its security and development, with respect for the rule of law at the national and international levels. The United Nations bears a particular responsibility as the only universal Organization charged with ensuring respect for human rights and establishing the conditions needed for the maintenance of justice.

In that regard, the International Court of Justice, which is a judicial entity of the United Nations, plays a primary role in strengthening the rule of law. The diversity of the cases brought before the Court confirms that it is the only international court of a universal character with general jurisdiction, before which States have the obligation to justify the legality of their conduct or their actions under international law.

It should be emphasized that, because of State sovereignty, the principle and norm whereby no State can have obligations imposed upon it, States freely submit their disputes to the Court. The protection and implementation of the principle of sovereignty in the area of international litigation are given concrete expression by the rule of the consensual character of competence. That character guarantees that judicial decisions will be carried out.

Furthermore, Article 94 of the Charter is explicit in conferring on the Security Council the power to decide, if necessary, on measures to be taken to execute a ruling. Under the Charter system, only the Council and the International Court of Justice have the power to take decisions that, by their obligatory nature, are not subordinate to the acceptance of the State concerned. Under those conditions, all decisions of the Court are effective. It is within the institutional structure of the United Nations itself that the question of the effectiveness of its decisions arises.

The universality of the Court is due to the fact that, over the 60 years of its existence, it has dealt with cases from every region of the world. To date, 67 States out of the 192 Members of the United Nations have recognized the binding jurisdiction of the Court. We urge States that have not yet done so to recognize the Court's jurisdiction as binding, in accordance with Article 36, paragraphs 2 and 5, of its Statute. For its part, Madagascar deposited its declaration of acceptance upon its admission to the United Nations, on 20 September 1960.

We recall that, in the Millennium Declaration and the Outcome Document of the 2005 Summit, Heads of State or Government decided to spare no effort to strengthen the rule of law and respect for all internationally recognized human rights and fundamental freedoms. On that occasion, they emphasized "the obligation of States to settle their disputes by peaceful means in accordance with Chapter VI of the Charter, including, when appropriate, by the use of the International Court of Justice." (*resolution 60/1, para. 73*).

The unprecedented increase in the number of cases brought before this international juridical body over the past decade shows us the increased confidence that it inspires and the increased importance of its activities. In addition to land and maritime border disputes, the Court currently has on its docket cases involving the issues of genocide and the use of force. We welcome the Court's efforts to manage its increased workload with the maximum efficiency. They include adopting new measures to specifically address the Court's internal functioning, the increased use of information technology and the amendment of certain provisions of its Rules in order to speed up proceedings. In that connection, the delegation of Madagascar supports the plan to strengthen qualified human resources and to increase financial resources in proportion to its workload.

Experience has shown that recourse to the Court has not only alleviated conflicts, but has also helped to establish lasting settlements owing to its impartiality.

On this happy occasion, I should like to conclude by wishing the Court every success in its future work.

Mr. Bayo Ojo (Nigeria): Let me at the outset congratulate the President of the International Court of Justice, Ms. Rosalyn Higgins, on the detailed and enlightening report on the activities of the Court for the period 1 August 2005 to 31 July 2006. It shows that, as the principal judicial organ of the United Nations, the Court is living up to the expectations of Member States.

We pay tribute to all the Court's judges for their commitment and devotion to upholding the principles of international law. For the 60 years of its existence the Court has demonstrated its capability to effectively discharge its dual role of deciding upon disputes submitted to it by Member States and advising the United Nations and its organs on legal issues.

It is a mark of the recognition of the important work of the Court that as at 31 July this year 192 Member States had become parties to its Statute, and that 67 of them, including Nigeria, had deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction, in accordance with Article 36, paragraph 2, of its Statute. Nothing should be done to undermine confidence in the Court's capability and proceedings. Meanwhile, we encourage States that have not yet done so to consider complementing their support with a declaration accepting the jurisdiction of the Court.

Further practical proof of the rising confidence in the Court is its increasing workload, which currently stands at 12 cases of varying subject matter drawn from all over the world.

Nigeria's attachment to the Court is deep and long-standing. It is reflected in the positive roles of eminent Nigerian jurists who have served on the Court, and is underscored by the voluntary submission of the dispute between Nigeria and Cameroon regarding the Bakassi Peninsula to the Court for adjudication and our adherence to its decision. On 14 August this year Nigeria lowered its flag for the last time and effectively withdrew its presence from the Bakassi Peninsula, in accordance with the ruling of the Court. With this final act, Nigeria has fulfilled its obligations under the terms of the agreement between it and Cameroon. This reflects political will at the highest levels of the two countries, dogged work and cooperation among senior officials, as well as the support and understanding of the international community.

May I in particular restate my country's appreciation of the positive contributions of the Secretary-General, Mr. Kofi Annan, who chaired Greentree, the meeting of the two countries last July, at the end of which the final agreement was signed. We are no less grateful for the sustained interest and support of the international community in this matter. Nigeria calls on all Member States to emulate this example of good-neighbourliness and the supremacy of international law in relations between States. Only then shall we attain global peace and stability, and especially strengthen the Court in its very important role. Indeed, this is consistent with Article 2, paragraph 3, of the Charter, which enjoins Members to "settle their international disputes by peaceful means in

such a manner that international peace and security, and justice, are not endangered.”

Nigeria is happy to note that, in spite of its heavy workload, the Court is not just forging ahead, but is also devising measures to improve its working methods as well as secure greater collaboration from the parties to proceedings. We note with satisfaction the Court’s efforts to rationalize the work of its Registry, to revise certain provisions of its Rules, to shorten and simplify proceedings and to increase the number of decisions reached each year. We are confident that the utmost care will be exercised to ensure that due process is followed at all times.

We agree with the observations in the report that, given the Court’s activity and the need for it to respond as rapidly as possible to pending cases, Member States should provide it with the wherewithal to carry out its numerous tasks. This includes adequate funding and staffing. While we shall coordinate efforts within the United Nations to do so, we believe Member States can and should consider making voluntary contributions to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice. We urge all Member States to sustain their clearly exemplified confidence in the Court, not only by taking cases before the Court, but also through adherence to its decisions. This will enhance the Court’s relevance and ensure its universality.

Finally, Nigeria urges the Court to continue to give meticulous, impartial and professional attention to all cases coming before it, as well as to all its other duties under the Statute.

Mr. Hachani (Tunisia) (*spoke in French*): It is a great pleasure for the delegation of Tunisia to take the floor on this agenda item.

At the outset I wish, on behalf of my delegation, to thank Judge Rosalyn Higgins, President of the International Court of Justice, for her detailed and comprehensive statement on the work of the main judicial body of the United Nations. Her report reflects the valuable role that the Court plays in the peaceful settlement of disputes among States and the promotion of international law in international relations. Tunisia welcomes the contribution the Court has consistently made since its establishment to the development of international law and the promotion of peace and security in the world. By offering a prudent, civilized alternative to violence and recourse to force, the Court helps to strengthen the peaceful coexistence of peoples.

There is no doubt that the large number of cases and questions before the Court today clearly reflect the increased confidence of the international community in the role of the Court and the impartiality, independence and credibility of its decisions. This increase has, nonetheless, imposed on it the obligation to carry out successfully a strict and constant review of its rules of procedure and working methods to cope with an ever heavier workload. We support its ongoing efforts in this area, and call upon all Members of the United Nations to show greater interest in the Court’s difficulties over its staffing and financial resources, and to do everything possible to ensure that it can carry out its work more effectively and thus contribute more quickly and systematically to the peaceful settlement of disputes.

The Opinions of the Court are unanimously considered the best formulation of the content of international law in force. We reaffirm the importance of the Court’s Advisory Opinions, which are issued at the request of the Security Council or the General Assembly. We believe that the Council would benefit from making greater use of the experience of the principal judicial organ of the United Nations to strengthen the legal value of its resolutions seeking to establish international peace and security. By using the Advisory Opinions of the Court, the General Assembly, too, could strengthen its capacity to carry out its tasks as perfectly as possible.

Despite their advisory nature, the Opinions of the Court should be taken seriously. This applies to the Advisory Opinion rendered by the Court at the request of the General Assembly on the legal consequences of building a separation wall in the occupied Palestinian territories. This Advisory Opinion constitutes a clear and unambiguous interpretation of an important legal principal that we should all be familiar with, namely, that occupying the territory of others by force is forbidden.

The invitation to strengthen the principles of democracy and the rule of law should not be limited to the national level. These principles should be strengthened and respected by the international community and in international relations. That is why the International Court of Justice, being the principal judicial organ of the United Nations, is qualified to

play a decisive role in strengthening these principles so as to promote and reaffirm law and justice.

We believe that the reform of the United Nations should include the International Court of Justice, so that it can genuinely carry out its mission in a world that is undergoing radical change.

In conclusion, I reaffirm the great importance that Tunisia attaches to the lofty cause and action of the International Court of Justice as the principal judicial body of the United Nations. We hope that the Court will be given the resources it needs to maintain the pace of its work and the quality of its deliberations, thus continuing to make an active contribution to strengthening the primacy of law and the promotion of international justice.

Mr. Joel Hernández (Mexico) (*spoke in Spanish*): The delegation of Mexico wishes to express sincere appreciation to the International Court of Justice for the work carried out in the past year and, in particular, to its President, Judge Rosalyn Higgins, for the report submitted this afternoon. We also appreciate her presence in the Assembly, where she has shared developments of the Court with representatives and legal advisers to Foreign Ministries of Member States. Clearly, her presence does us honour and reflects her personal dedication to international justice.

Mexico congratulates the Court on its sixtieth anniversary on 12 April. During its 60 years the International Court of Justice has shown that it is ever more important in interpreting, developing and applying international law. But, above all, we confirm that year after year the Court is a fundamental component of the international system for the maintenance of international peace and security. There is no doubt that its uninterrupted work over this period demonstrates that the confidence of States in the Court has grown considerably, thanks in part to its efforts to constantly improve its working methods.

We also congratulate Judge Rosalyn Higgins and Judge Awn Shawkat Al-Khasawneh on their election as President and Vice-President of the Court, respectively. We welcome the fact that a woman is presiding over the Court for the first time in its 60-year history, and reiterate our confidence that more women will become judges in the Court in the near future.

I also express the satisfaction of the Government of Mexico at the election of Mr. Bernardo Sepúlveda to the highest world tribunal, and my country's gratitude to the General Assembly for that honour. It is the first time since 1973 that a Mexican has assumed this high function, resuming a longstanding tradition of promoting the best Mexican jurists to this lofty position. We are convinced that the work of Judge Bernardo Sepúlveda in the Couòt will further the strengthening of the primacy of international law in relations between States.

Allow me to stress some of what we regard as the most important aspects of the past year. We welcome the fact that, for the second time, a country has accepted the jurisdiction of the Court under the provisions of Article 38, paragraph 5, of the Rules of the Court. My country attaches great importance to promoting recognition of the jurisdiction of the Court through declarations by States, but, clearly, we must recognize that voluntary acceptance of the Court's jurisdiction is a mechanism that States can also use as a way of settling a dispute by peaceful means.

The Court is becoming increasingly involved in matters of great complexity and importance for international law. I refer, for example, to the work that the highest jurisdictional body of the United Nations has carried out in connection with cases of the crime of genocide: Application of the *Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Serbia and Montenegro*) and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia v. Serbia and Montenegro*). This shows once again that the Court is playing a very important role in international efforts to maintain peace among peoples.

International humanitarian law seeks to protect those who have suffered the consequences of armed conflict. In the cases I have just mentioned the Court promotes the application of that branch of international law. In the case of *Bosnia and Herzegovina v. Serbia and Montenegro* the Court held several hearings to collect testimony from witnesses and experts, thereby entering the difficult but important area of obtaining evidence from those directly involved in the conflict. Even more interesting, the Court has had to consider how to take into account the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia.

In this connection, it is important that the Court has taken into account the International Law

Commission Articles on International Liability of States for wrongful acts, which it did in considering the case of *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v. Uganda*). We can see, therefore, that with these actions the fears that the law would be fragmented have been dispelled. The existence of several international legal tribunals and organs will not create chaos in international law, if each performs its function within the competence assigned to it. But if the Court itself takes into account the work done in other forums, progress will be made in harmonizing the international legal system.

I wish also to express the appreciation of the Government of Mexico for the publication of summaries of the Judgments of the Court in Spanish. This extremely important publication of the Court is very useful to students and others studying international law in Spanish-speaking countries. Nevertheless, of all the cases concerning Advisory Opinions requested by the General Assembly, the Security Council and the specialized agencies, only two were translated by the United Nations Secretariat. My delegation is holding consultations in the Sixth Committee to remedy this situation through translation into the official languages of the United Nations of languages which are not the official languages of the Court, so that all the Advisory Opinions exist in the six official languages of the United Nations.

In addition, we are aware of the Court's need for support in continuing to carry out its great mission. Of course, it is crucial that the judges have the requisite human and material support to perform their duties. We agree with the Court's appeal with regard to there being only five law clerks to carry out the legal research for 14 judges and all the ad hoc judges elected for each case. It is important that, given the enormous workload, the General Assembly heed the Court's appeal, reiterated by the President today, to increase the number of law clerks.

I conclude by reiterating Mexico's commitment to the Court's lofty purposes. We are convinced that the main judicial organ of the United Nations should continue to be strengthened, in order that the peaceful settlement of disputes submitted to it by States shall contribute to the future maintenance of international peace and security.

Mr. Sen (India): At the outset, I thank the President of the International Court of Justice, Judge Rosalyn Higgins, for her detailed and comprehensive presentation of the report of the Court.

The International Court of Justice, the principal judicial organ of the United Nations, is an important forum for the peaceful settlement of international disputes. In April the Court celebrated the sixtieth anniversary of its inaugural sitting. We congratulate the Court on its distinctive contribution to the maintenance of international peace and security in all the years of its existence.

The United Nations was established to save succeeding generations from the scourge of war. Its founding fathers sought to achieve that objective by the twin approach of prohibiting the use of force under Article 2, paragraph 4, of the Charter and by promoting the peaceful settlement of international disputes under Article 33. As a central element in the promotion of international peaceful settlement, departing from the model of the League of Nations, the Charter of the United Nations established, through Article 92, the International Court of Justice as its principal judicial organ. Further, in the case of disputes under consideration by the Security Council, Article 36, paragraph 3, directs the Security Council to recommend to the parties that they refer all legal disputes to the International Court of Justice. Finally, Article 92 makes the Statute of the International Court of Justice an integral part of the Charter.

The foregoing provisions clearly indicate the respect for, and the central role assigned to, the International Court of Justice within the United Nations Charter system. That is a status that is unique to the International Court of Justice, and not enjoyed by any other tribunal established since 1945.

The recent period has witnessed the creation of a number of specialized regional and international courts. The political process connected with the establishment of special international judicial bodies has been, on occasion, perceived as diminishing the role of the International Court of Justice in the field of the peaceful settlement of international disputes. Moreover, legitimate questions have been raised about the legal basis underlying the establishment by the Security Council of the ad hoc International Criminal Tribunals established for the former Yugoslavia and Rwanda. The Security Council does not have that power under the Charter, and, while it can set up subsidiary bodies, it cannot give them powers that it

does not have itself: the established legal principle of *nemo dat quod non habet*. The lack of challenge from the general membership of the United Nations does not mean acceptance of such an exercise in the future, still less any general endorsement of a power that the Charter does not give.

However, despite all those developments, the International Court of Justice still remains the only judicial body with legitimacy directly derived from the Charter, enjoying general jurisdiction and available to all States of the international community on all aspects of international law. All other international judicial institutions, established as they are with competence over specified fields, are confined to their limited areas of jurisdiction and lack general jurisdiction of a universal nature.

Over the past 50 years the Court has dealt with a variety of legal issues. Its Judgments have covered disputes concerning sovereignty over islands, navigational rights of States, nationality, asylum, expropriation, the law of the sea, land and maritime boundaries, the enunciation of the principle of good faith, equity and the legitimacy of the use of force. The issues currently before it are equally wide ranging, and its Judgments have played an important role in the progressive development and codification of international law. Despite the caution it has exhibited, and the sensibility it has shown to the political realities and sentiments of States, the Court has asserted its judicial functions and consistently rejected arguments to deny it jurisdiction on the ground that grave political considerations were involved in a case in which it otherwise found proper jurisdiction for itself. Thereby the Court clearly emphasized the role of international law in regulating inter-State relations, which are necessarily political.

In the same vein, the Court — or for that matter any other competent judicial body — should not regard itself as precluded from questioning the validity of a Security Council resolution in so far as it affects the legal rights of States. The issue was raised very pointedly by Judge Shahabudin and others in the Lockerbie case.

Many legal scholars rightly emphasize that the Court should not concede to the Security Council a place above the Charter; it should, rather, adopt a textual approach to Article 39, the wording of which contains all the necessary elements for a delimitation of the competences of the Security Council under Chapter VII. The Court should not hesitate to affirm the rule of law in the international legal order. In the Lockerbie and Namibia cases the Court showed that it has the power of judicial review, but, unfortunately, this is limited to a very few contentious proceedings and a very few Advisory Opinions that are sought. The power of judicial review has been a crucial element in a democratic system of checks and balances ever since Marshall's famous judgment in *Marbury v. Madison*. The most practical, and perhaps the only, way of introducing those checks and balances into the functioning of the Security Council is through an expansion of the permanent and non-permanent membership of the Council and a transformation of its working methods. That is important, because sometimes the justice that is done by the Security Council is really the kind of justice that is done after the heavens fall, and that is why so often we are busy catching the larks.

The phenomenal explosion of the Court's docket attests to the Court's high standing and authority, not only in the United Nations system, but in the international community itself. It also reflects the increased relevance of, and respect for, due process of law that States exhibit, and is an affirmation of faith in the Court. From being in a situation in which, in the early 1970s, it was called the Court without a case, it is now faced with the problems of plenty. In fact, it now finds itself in the position of being unable, within its existing resources, to respond effectively and in time to the demands made on it as a result of its increasing workload.

As emphasized in its report, the Court is taking various measures to rationalize the work of its Registry, making greater use of information technology, improving its working methods and securing greater collaboration from parties to reduce the time taken for individual cases. The report says that the Court's docket increasingly includes fact-intensive cases, which raise new procedural issues for it. The Court's request, therefore, for individualized legal assistance for all its members is reasonable and must be implemented urgently to enable it to efficiently carry out its designated functions as the principal judicial organ of the United Nations.

Mr. Maqungo (South Africa): Allow me to take this opportunity to thank the President of the

International Court of Justice, Judge Rosalyn Higgins, for her elucidating introduction of the Court's report.

We commend the Court for taking steps, such as rationalizing the work of the Registry, to absorb the increasing workload it faces.

South Africa is fully committed to the peaceful resolution of disputes. Hence, the International Court of Justice is very important to us as the judicial forum for resolving disputes peacefully. We are encouraged by the growing number of States, in particular African States and other developing States, that are bringing their disputes before the International Court of Justice rather than resorting to less peaceful means.

It is also gratifying to see the evident political will to implement the decisions of the International Court of Justice. We witnessed the continued implementation of the decision of the Court regarding the Bakassi Peninsula, disputed between the two friendly nations of Nigeria and Cameroon, when, on 14 August, it was reported that the Nigerian military had withdrawn from part of the disputed peninsula, consistent with the decision of the Court. In addition, we have just heard from the Minister of Justice of Nigeria comments to that effect.

Another positive development has been the conduct of the friendly Government of Uganda in proceeding to negotiate reparations to its neighbour, the Democratic Republic of the Congo, following the ruling of the Court in their case last December, which was in favour of the Democratic Republic of the Congo. In a different case, involving the Democratic Republic of the Congo and Rwanda, the Court handed down a Judgment indicating that it had no jurisdiction in the case.

In the year under review there have also been cases between small and larger countries, as demonstrated by the case involving two friendly countries, Djibouti and France, where France accepted the jurisdiction of the Court, as well as the case of France and Congo-Brazzaville, involving an issue similar to that in the Djibouti and France case. The President of the International Court of Justice has already spoken extensively about those cases, which are indeed evidence of positive developments in respect for the rule of law and the peaceful resolution of disputes.

The growing trend by countries, in particular developing countries, to resolve their disputes through utilization of the Court must therefore be encouraged. The Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice must therefore be maintained and more widely publicized. It is worrying that the Fund has had a decreasing level of resources since its inception, and that the number of contributions to it remains low. We encourage all States and other relevant entities to contribute to the Trust Fund. We take note that the Fund has received no application in the year under review, and attribute that to lack of information regarding its availability.

Let us now turn to the working methods of the Court. Recent cases before it, such as those of the Democratic Republic of the Congo and Uganda and the Bosnia and Serbia case, have involved extensive fact-finding by the Court. To a large extent, the Court traditionally relies on documentary evidence to ascertain the factual situation in any given case, while international criminal tribunals — such as the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda — in similar situations rely heavily on oral evidence. We appreciate the difference in constitution between the International Criminal Tribunals, on the one hand, and the International Court of Justice, on the other. But we believe that the Court may wish to avail itself of greater use of oral testimony in order to resolve factual disputes, rather than keep its traditional reliance on documentary evidence. We have taken note of the report by the President of the Court that it has in fact made use of oral testimony since 1991, and encourage it to do so more often. For that reason, the South African delegation is favourably disposed to consider a request by the Court to increase the number of law clerks to ensure that the Judges can work more rapidly and efficiently in their deliberative and adjudicatory tasks.

We would also like to take this opportunity to wish the Court a happy sixtieth anniversary.

Mr. Chávez Basagoitia (Peru) (*spoke in Spanish*): I would like to thank the President of the International Court of Justice, Judge Rosalyn Higgins, for her detailed and comprehensive introduction of the Court's annual report.

Since its establishment, the International Court of Justice has made an essential contribution to the maintenance of international peace and security; the fulfilment of the fundamental purposes of the United Nations through the peaceful resolution of legal disputes between States; the development of international law; and the observance of the rule of law. That contribution continues to be essential. As we celebrate 60 years since the Court began its work, the number of cases submitted to it, in terms of disputes both for resolution and for Advisory Opinions, continues to grow. That reflects the effectiveness of the Court as a mechanism for the peaceful settlement of disputes as well as the international community's confidence in its impartiality, independence and professionalism. We therefore congratulate the judges on what they have achieved in those 60 years, and encourage them to continue to shoulder the great responsibility entrusted to them by the international community.

Peru believes that it is of the utmost importance that the jurisdiction of the International Court of Justice be universally accepted. We therefore call upon States that have not yet done so to consider accepting the binding jurisdiction of the Court. Peru would also like to express its gratitude to the States that have made contributions to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice. We also join the Secretary-General's often repeated appeal to States, intergovernmental organizations, national institutions, non-governmental organizations, people working in the law and ordinary citizens to make financial contributions to the Fund.

Peru recognizes the importance of justice being administered both efficiently and in a timely manner. Peru therefore urges the Court to continue its efforts to improve its working methods and rules. In that connection, we hope that the new edition of the publication setting out the instruments governing the work and practice of the Court, as well as its rules, will soon be available in all the official languages of the United Nations. We make that appeal as regards language because we are convinced that the work of the Court should be well known throughout the world, not only in governmental and academic circles, but also, and above all, among the general population.

In that regard, we emphasize the Court's contribution to the discussion of its activities and decisions, especially through its website, which is soon to be updated, and encourage it to continue in that direction, particularly through making available in all the official languages of the United Nations its Judgments, findings and Advisory Opinions. We reiterate our proposal concerning the possibility of having academic institutions cooperate in translating that documentation, to be made available by electronic means to those who are interested.

Peru agrees with the President of the Court that with carefully balanced continued change the Court continues to be an example and guide for our constantly growing international legal system.

As a country that has historically demonstrated its strict compliance with international law, Peru will therefore continue to support the International Court of Justice in the discharge of its important responsibilities.

Mr. Henczel (Poland): The Polish delegation fully associates itself with the statement made by the representative of Finland on behalf of the European Union. In addition, in the year of the sixtieth anniversary of the inaugural sitting of the Court, we would like to share a few more reflections on the Court's jurisdiction and the challenges it is facing.

Concerning the history of the Court, allow me to recall with appreciation the work of the eminent Polish judges, Professor Bohdan Winiarski and Professor Manfred Lachs. They contributed substantially to the development of the jurisprudence of the Court, and were also honoured to serve as its President, from 1961 to 1964 and from 1973 to 1976 respectively.

As for the scope of the Court's jurisdiction, it is regrettable that today, of 192 Member States of the United Nations, only 68, including Poland, have made declarations recognizing the jurisdiction of the Court as compulsory. Wider acceptance of the jurisdiction of the International Court of Justice becomes an imperative of our time, due to the extraordinary expansion and development of the body of international law.

We need not only to strengthen the international rule of law, but equally to counteract one of the greatest weaknesses of international law: its ineffective implementation. It is in this context that the international community should perceive its duty to strengthen both judicial and non-judicial means of implementing international law. For those of us who

are guided by the wisdom of the Roman law tradition, the obvious conclusion follows from the statement *Ubi ius ibi remedium* — Where there is law, there must be a remedy. As Judge Higgins pertinently pointed out during the Security Council's thematic debate on the strengthening of international law, on 22 June, "strengthening international law" means "the widening and deepening of the content of international law, and … the fortifying of the mechanisms for securing compliance with or enforcement of international law" (*S/PV.5474, p. 5*).

The International Court of Justice is a reflection of international law in force, with all its strengths and weaknesses. Therefore, it is so important to have a Court that is able to develop jurisprudence of international law and remedy its weaknesses. Through a number of cases, the Court has introduced interpretations of rules or principles going well beyond the parameters of individual judicial determinations and paving the way for new legal thinking or approaches.

As is the case with other judicial institutions, the International Court of Justice is sometimes confronted with attempts to politicize its activities in both contentious and advisory jurisdictions. It should be firmly emphasized that the Court's judicial role has prevailed over such attempts and has become a well-established principle of its *modus procedendi*. In that way the Court has strengthened its authority as the principal judicial institution of the United Nations.

Another dilemma facing judicial institutions, including international courts, is whether their conduct should be tailored to what is termed judicial constraint or to judicial activism. Weaknesses of, and lacunae in, international law may naturally invite temptations to excessive judicial activism by actually developing international law. The collective wisdom of the International Court of Justice has demonstrated that the focus has commendably been concentrated on its role of judicial constraint, with a reasonable proportion of judicial activism. The Court thus offers solid, well-reasoned and profound interpretations without replacing the Governments in their law-making role.

Recent years of the activity of the International Court of Justice have seen, as its annual report says, at page 75, "Still a heavy caseload, but a reduced backlog". It must be noted that in addressing the problem of its workload the Court did not rely solely on its budgetary requests. The Court regularly reviews its methods of work and adopts various organizational and procedural improvements. However, there is still a need for continued rationalization and modernization of procedures to ensure efficient proceedings without undue delays. As in domestic jurisdictions, the International Court of Justice should be guided by the principle "justice delayed, justice denied". Although a grave and large-scale malaise of excessively lengthy judicial proceedings has not yet gravely affected the International Court of Justice, such a risk cannot be underestimated.

Significant lessons in this respect can be learned from domestic and other international judicial systems that are already confronted with the phenomenon of protracted judicial proceedings. One general lesson is that this problem of lengthy proceedings needs to be addressed in anticipation. Another conclusion, and quite a surprising one, is that increased financial and other resources can remedy the situation, but only to a certain extent and for a limited temporal duration. It has been the experience of the European Court of Justice in Luxembourg and the European Court of Human Rights in Strasbourg that budgetary increases and the growth of judicial infrastructure are essentially helpful, but that their momentum has its limitations, because the workload starts to be on the increase again. This is why more far-reaching and profound reforms of the bodies and proceedings should be envisaged well in advance. Otherwise, harmful effects may generate irreversible consequences for international law.

Let me add a few observations on the so-called proliferation of international courts and tribunals. The position of the International Court of Justice as the only international judicial body to possess general jurisdiction cannot be questioned. A discernible trend towards further judicialization of modern international law has been noted. Not only has the number of regional courts increased, but so, too, has the number of ad hoc and specialized, sectoral courts. This trend proves that international law is undergoing a fundamental transformation, which strengthens its judicial power. However, proliferation of international courts has raised many concerns about possible overlapping jurisdictions, conflicts of jurisprudence, threats to cohesion of international law, and forum shopping, which would allow Governments to file their applications with the courts most favourable to their arguments.

It appears that most of these concerns may be exaggerated. In her address at the ceremony marking the tenth anniversary of the International Tribunal for the Law of the Sea, the President of the International Court of Justice, Judge Rosalyn Higgins, noted that they had not proved significant and that some overlap was inevitable.

Although that proliferation of courts has not yet brought about serious instances of conflicts between the international jurisdictions, first cases of conflicting jurisprudence have been discernible. If, nevertheless, certain conflicts between the international jurisdictions occur, they should be attenuated by the collective wisdom of the judges, and the consistency of the jurisprudence will be maintained.

The Court's unique character and its increasing role in our global society found its proper expression in the declaration by the presidency on behalf of the European Union on the occasion of the sixtieth anniversary of the Court on 12 April 2006:

> "While the establishment of specialized international courts, tribunals and other dispute settlement institutions confirms the increasing acceptance of the judicial settlement of disputes, the ICJ remains the principal judicial institution and at the heart of an international order based on the rule of law".

The Government of the Republic of Poland highly appreciates the International Court of Justice, which, as President Shi rightly pointed out in his presentation of the Court's 2005 report, deals "with cases as promptly and efficiently as possible while maintaining the quality of its judgments and respecting the consensual nature of its jurisdiction" (*A/60/PV.39, p. 6*). Therefore, the Polish delegation supports the Court's budgetary proposals, which would enable it to better serve the international community. Strong international law requires a strong international judicial institution.

Mr. Belinga-Eboutou (Cameroon) (*spoke in French*): This debate on the report of the International Court of Justice is, in the view of my delegation, of twofold importance. First, it comes at a time when the Heads of State and Government of Member States agree that international law is vital in inter-State relations, as their conclusions at the 2005 World Summit, as well as in the Millennium Declaration, clearly illustrate. Secondly, it is important because it is taking place in the year when the Court celebrates its sixtieth anniversary. We congratulate Egypt on its initiative with regard to the draft resolution (A/C.6/61/L.6) on this event, an initiative with which Cameroon is happy to associate itself.

We would like to express our warm appreciation to Ms. Higgins, President of the International Court of Justice, for the excellent quality of the solid and detailed report she has just presented, a report whose merits have been stressed by several previous speakers.

The International Court of Justice has never had so much success as it has over recent years. Member States are entitled to welcome this success, particularly at a time when the rule of law, at both the national and international levels, has become one of the major concerns of our day. This admirable vitality of the Court stems from the juridical quality of its judgments and the increasingly great speed with which it takes up cases before it. It also demonstrates the essential role of the Court, the principal judicial organ of the United Nations, in the contemporary international juridical system, because of its remarkable contribution both to the development of international law and to the maintenance of international peace and security.

The presentation of the Court's report for the period August 2005 to July 2006 gives the Cameroon delegation an opportunity to outline a few ideas on a question that has drawn the attention of States over recent years, and on which a number of delegations have spoken in this debate: the implementation of certain decisions of international jurisdictions, in particular by the International Court of Justice itself.

It is not the task of the Court to ensure the execution of its Judgments, unless, of course, the parties expressly request it; its judicial function ends the moment it hands down its Judgment. But a judge cannot be entirely indifferent to the fate of his Judgment, even if it is ultimately up to the parties to find the best ways and means to implement the verdict of the Court.

In this regard, the experience of implementing the Court's Judgment of 10 October 2002 on the land and maritime boundary between Cameroon and Nigeria is worth sharing. Implementation, which began in November 2002, took a decisive turn with the conclusion between Cameroon and Nigeria of the Greentree Agreement of 12 June this year, which was signed by the Heads of State of the two countries and

countersigned by the Secretary-General of the United Nations and the representatives of Germany, the United States, France and the United Kingdom. The agreement is part of the comprehensive mechanism for implementation of the Judgment, with the two heads of State and the Secretary-General as the political entity and the Cameroon-Nigeria Mixed Commission the body tasked with the technical follow-up of the process. The Commission, established through the good offices of the Secretary-General, is under the chairmanship of his Personal Representative.

The effective implementation of the Greentree Agreement began on 14 August 2004 with the withdrawal and transfer of authority in the Bakassi Peninsula. That required courage, patience, wisdom and perseverance on the part of President Paul Biya of Cameroon, and open-mindedness, commitment, determination and a clear view of what was at stake on the part of President Olusegun Obasanjo of Nigeria. They needed a long-term vision of relations between two States and two fraternal peoples — a vision buttressed by a profound commitment to peace — to prevent a conflict in which the armed forces of the two countries had confronted each other for 12 years degenerating into a general conflagration that could have consumed the Gulf of Guinea and would undoubtedly have further destabilized the African continent.

The Secretary-General, Mr. Kofi Annan, needed finesse and diplomatic tact, as well as conviction and a high-minded sense of duty, to ensure that his good offices were successful, thus making possible what unquestionably constitutes the greatest success in the field of peace in the world in 2006.

Surely Africa deserves to have the international community take note of this exemplary model for the peaceful settlement of disputes, and to receive the attention of all the bodies that encourage those who promote the cause of world peace? For it is now generally agreed that this unprecedented experience could be a model in its field, as the Secretary-General himself has said.

Strengthening the role of the International Court of Justice, as advocated in the proposed reform of the United Nations, requires strengthening the confidence of States in the Court. That is possible only if the States parties to a case before it have a guarantee that its Judgment will be carried out. As we said here on 29 September last year,

> “Implementation of the rulings of the International Court of Justice — for which it is not responsible — remains of pivotal importance to international peace and security, because a dispute does not end, and is not considered to have ended, until the Court’s ruling has been fully implemented.” (*A/60/PV.25, p. 11*)

On 27 October 2005 we recalled:

> “Notwithstanding all of the pledges and statements of intent made, the Court cannot live up to the hopes of the international community unless its decisions are implemented fully and speedily.” (*A/60/PV.39, p. 21*)

Implementation of the Judgments is therefore of the highest importance.

In this spirit, my delegation would like to make some suggestions that may contribute to strengthening the mechanism laid down in Article 94, paragraph 2, of the Charter, the mechanism to which the representative of Madagascar referred.

First, the delegation of Cameroon wonders whether it might not be appropriate to have what we might call an updated reading of that provision of the Charter in the light of the recent evolution in the Court’s jurisprudence. Indeed, since its Order of 2 March 1999, in the *LaGrand* case, the Court considers that its Orders in terms of provisional measures are as binding as its Judgments. However, Article 94, paragraph 2, refers explicitly only to failure to implement a Judgment of the Court. So the question arises as to whether it would not be appropriate to interpret this provision in the future as extending also to all decisions rendered by the Court in contentious issues and having binding force.

Secondly, to extend the suggestions made here last year by Cameroon, on 29 September and 27 October, would it not be a good idea to consider creating a follow-up mechanism for implementation of the Court’s decisions? Such a mechanism, established within the framework of preventive diplomacy, could be attached to the Secretariat, which would thus be in a position to inform both the United Nations and all Member States. Clearly, if international peace and security are the business of each and every Member State, so is implementation of the Court’s decisions.

I have given just an outline of thoughts that I hope will commend themselves to the General Assembly. If it finds them to be of any interest, Cameroon will contribute at the most appropriate level with more exhaustive proposals.

Mr. Shah (Pakistan): At the outset, let me thank the President of the International Court of Justice, Judge Rosalyn Higgins, for presenting its report on its work during the past year. I also thank her for her excellent briefing on the role and functioning of the Court.

Justice and the rule of law are the key to an orderly international society. The need for international legal order and justice has never been so acutely felt as it is today. Justice and fairness have become an integral requirement of present-day existence. They are critical to the realization of all human rights.

Pakistan fully supports the aims and objectives of the International Court of Justice. We believe that strengthening the work of the Court will contribute towards the strengthening of international legal institutions, as well as the rule of law.

The Court's position as the principal judicial organ of the United Nations is unique. It is the only international court of a universal character with general jurisdiction.

Chapter VI of the Charter offers vast possibilities for the United Nations and its organs to play an important role in the pacific settlement of disputes and conflict prevention. Article 36, paragraph 3, clearly sets out the role of the Court in the settlement of disputes. Article 1, paragraph 1, recognizes that settlement of international disputes "by peaceful means and in conformity with the principles of justice and international law" is one of the basic purposes of the United Nations.

More than 300 bilateral and multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. Almost 65 countries, including Pakistan, have accepted the compulsory jurisdiction of the Court in accordance with Article 36 of its Statute. In addition to the settlement of disputes, the Court can be consulted by the General Assembly and the Security Council on any legal question. Other organs of the United Nations and its specialized agencies can also consult the Court on legal questions, subject to authorization by the General Assembly. The Court can also be consulted by States with their special agreement on specific disputes. These provisions offer a wide array of options for the settlement of disputes to Member States and the United Nations as a whole. It is for Member States and the United Nations organs to make the best possible use of the Court's facilities.

In pursuance of its aims and objectives, the Court has delivered excellent decisions during the period under consideration. We especially noted with appreciation the Court's Judgment delivered on 19 December 2005 in *Democratic Republic of the Congo v. Uganda*. The Judgment validates a number of fundamental principles of international law, including, first, the principle of the non-use of force in international relations; secondly, the prohibition of killing, torture and other forms of inhuman treatment of civilian populations; thirdly, the prohibition of the destruction of civilian property and the establishment of a distinction between civilian and military targets; fourthly, respect for human rights and international humanitarian law in occupied territories; fifthly, the establishment of law and order in occupied territories; and, sixthly, establishment of the principle of compensation for damages in occupied territories. We are of the view that this Judgment will go a long way in promoting respect for international law in the event of armed hostility.

We have also noted with appreciation the Court's efforts to re-examine its working methodology in order to tackle its heavy workload and to realize the work of the Registry. In view of the Registry's dual role of judicial support and international secretariat, it was an important challenge. We appreciate that these efforts have resulted in shortening the period between the closure of written proceedings and the opening of oral proceedings. We hope the Court will continue to periodically review its working methodology to meet upcoming challenges.

We have also taken note of the Court's views regarding the shortage of law clerks for the judges. We believe that the Court should have at its disposal all the resources necessary to perform the task assigned to it. The General Assembly should provide the Court with the resources needed to perform its work effectively and efficiently. We hope that a detailed proposal by the Court with its annual budget for 2008-2009 will find support at the time of its consideration.

The commitment we have made to strengthen and advance the international rule of law will be a lasting legacy for future generations. Pakistan stands ready to cooperate fully and to contribute fully to the work of the Court in realizing such commitments.

Mr. Ja'afari (Syrian Arab Republic) (*spoke in Arabic*): My delegation would first like to express its appreciation to Judge Rosalyn Higgins, President of the International Court of Justice, for her comprehensive statement about the International Court of Justice's work over the past year.

The International Court of Justice is an essential body and the principal United Nations organ guaranteeing the rule of law in international relations in a genuine manner, in a world that grows more complicated by the day. This is realized through the Court's role in achieving peaceful settlements of disputes amongst States.

As we celebrate the sixtieth anniversary of the Court's formation, Syria would like once again to commend the principal judicial organ of the United Nations, especially for its continued contribution to the advancement of international law and the encouragement of justice among States. In this regard, we note that two Syrian judges had the honour of participating in the settlement of international disputes in this competent Court. Syria has continuously and traditionally been interested in the proceedings of the Court, and has completely supported it. This is not unusual, since my country's region has from the earliest times witnessed forms of written human justice. In this regard, the Charter, in our opinion, is still relevant for dealing with current international issues, because it is based on justice and equality in international relations.

The International Court of Justice, 60 years after its formation, is more qualified by virtue of its Statute to undertake this task than ever before, owing to the international community's need for it and its increasing need for the international community. Here we note the Court's ruling in two cases and its adoption of precautionary measures in another case during the period under consideration. We also note the large number of cases submitted to the Court, cases that cover a variety of subjects. We also note clear geographic diversity of the States that have resorted to the Court. This reaffirms the credibility of the work, activities and legal Opinions of the Court. This intensive workload reflects the fact that the Court embodies the principle of the equality of States before international law and that it is a neutral third party and guardian of international law, and as such presents a coherent international legal order.

The report presented by Judge Higgins mentioned many cases that the Court has recently considered. It also stated the results achieved and the respect which its rulings received. In that context, we express our appreciation for the Opinions of the Court and reaffirm that respect for them is the real and true test of a State's effective belief in the rule of law. That is because justice cannot only be a point of view; rather, its true value lies in its implementation and in the State's compliance with the ruling — whether that State is large or small, powerful or weak, rich or poor.

In that regard, we recall the Advisory Opinion issued by the Court on Israel's construction of the separation wall in the occupied Palestinian territories. The Court found that Israel's construction of the wall was in violation of international law and that Israel is therefore obligated to put an end to its violation of international law and to compensate for any damages caused by the wall's construction. The Court also found that all States are bound to recognize the illegal status arising from the construction of the wall, and that countries must guarantee that Israel abide by international humanitarian law as stated in the Fourth Geneva Convention.

Despite the fact that the legal Opinion of the Court stresses the need for the United Nations, including the Security Council and the General Assembly, to adopt measures to put an end to the illegal status arising from the construction of the wall, the Security Council regrettably has not played its role, due to the selectivity practised by some of its member States and their protection of Israel's violations of international law, as long as those violations serve their policies and interests.

In that regard, we wish to indicate another important legal Opinion issued by the Court, which is considered an important term of reference — namely, the Advisory Opinion on the Legality of the Use or Threat of Use of Nuclear Weapons. Here we also note that several nuclear-weapon States have, unfortunately, been speaking openly and irresponsibly over the years of the possibility of using such weapons. Such actions are a direct, open and illegal threat against other States.

Since the early 1990s the United Nations has witnessed an important wave of calls for reform. In that context, we must achieve balance in the working methods of the main organs of the United Nations, especially the Security Council and the General Assembly. We feel it is necessary in that context for the Court to monitor how these main organs abide by their mandate under the Charter, in particular the Security Council, as its agenda has become inflated in a worrisome manner and has extended beyond its mandate in many instances. The fact that the courts of some countries have deliberated the legitimacy of some of the measures adopted by the sanctions committees of the Security Council should ring warning bells and make us realize the dire urgency of strengthening the Court's role.

We have noted that the Court has a heavy workload, which we expect to intensify during the next few years, a matter that we cannot ignore. If we want it to be an effective and independent judicial body in the service of the international community, we must give the necessary attention to its staffing needs and financial needs. Syria therefore supported the introduction of two new professional posts for the 2007-2008 budget, and we hope that more resources will be allocated to the Court.

My country supports the proposals of the Court to increase the number of legal clerks. In that regard, we note that there are no specialized language employees, which causes the Court to resort to the services of interpreters from abroad. We hope that the Court will propose in its next programme budget the creation of the necessary posts for those tasks. We stress the importance of observing the principle of equitable geographic distribution in filling them, in order to guarantee the balanced representation of all the regions of the world and their respective legal systems. In addition, we encourage all countries that can make contributions to the Trust Fund to do so.

In closing, Syria once again expresses its respect and appreciation for the role of the Court in carrying out its tasks. It pledges to exert, with all other United Nations Member States that believe in justice and the rule of law, every possible effort to strengthen the Court's role in all fields.

The President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 70?

It was so decided.

The meeting rose at 6.20 p.m.