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New York

President: Mr. Ali Abdussalam Treki . . . . . (Libyan Arab Jamahiriya)

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

Agenda item 72

Report of the International Court of Justice

Report of the International Court of Justice (A/64/4)

Report of the Secretary-General (A/64/308)

The President (*spoke in Arabic*): May I take it that the General Assembly takes note of the report of the International Court of Justice for the period 1 August 2008 to 31 July 2009?

It was so decided.

The President (*spoke in Arabic*): In connection with this item, the Assembly also has before it a 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/64/308.

It is now my pleasure to give the floor to Mr. Hisashi Owada, President of the International Court of Justice.

Mr. Owada: Before I turn to the report of the International Court of Justice (ICJ), I wish on behalf of the Court that I represent to convey our deepest sympathy and condolences to the families of the five United Nations staff members who were killed in the recent shocking and shameless raid by terrorists in Afghanistan. I join the Secretary-General and the President of the General Assembly in condemning all threats and acts of violence against humanitarian personnel and United Nations personnel. The International Court of Justice is engaged in the promotion of the rule of law in the international community and it is important to reaffirm the need to hold accountable those who are responsible for such acts of atrocity.

It is an honour and a privilege for me to address the General Assembly for the first time as President of the International Court of Justice on the report of the International Court of Justice for the period from 1 August 2008 to 31 July 2009 (A/64/4).

I take this opportunity to congratulate you, Mr. Treki, on your election as President of the General Assembly at its sixty-fourth session and to wish you every success in that distinguished office.

Over the course of the last decades, the trust and respect of the international community for the activities of the Court as the principal judicial organ of the United Nations has been growing. This growth is reflected in the increased number and broadened subject matter of the cases brought before the Court by Members of the United Nations. The past year was no exception.

To give the Assembly a schematic view of the judicial activities of the Court over the period under review: the Court had more than 16 cases on its docket and rendered two judgments on the merits — one judgment in a request for interpretation and one judgment on preliminary objections — and two orders on requests for the indication of provisional measures.

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What is more remarkable is that the cases before the Court have involved States from nearly all continents, that is Asia, Europe, North America, Central America and Africa. The docket of the Court indeed represents the universal character of the principal judicial organ of the United Nations. The subject matter has been truly wide-ranging, extending from such classic issues as territorial and maritime delimitation and diplomatic protection to issues of increasing relevance to the contemporary international community, such as human rights, the status of individuals, international humanitarian law and environmental issues.

These cases present complicated sets of factual issues that have to be evaluated against diverse social and historical backgrounds and in the light of a new legal environment composed of emerging normative challenges faced by the international community. Within such an environment the Court has to carefully examine these elements of fact and law collectively; its members represent diverse historical, social and cultural backgrounds and the major legal systems of the world.

I would now like to turn, as it has become a tradition of the Court, to an overview of the judicial activities of the Court during the past year. Chronologically, the first is the order indicating provisional measures issued by the Court on 15 October 2008 in the case between Georgia and the Russian Federation concerning the *Application of the International Convention on the Elimination of All Forms of Racial Discrimination*. The case itself was filed by Georgia on 12 August 2008, alleging violations of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and founding the Court's jurisdiction on article 22 of that Convention.

Two days later, on 14 August 2008, Georgia followed up that application with a request for the indication of provisional measures, requesting that the Court order the Russian Federation to refrain from any acts of racial discrimination, to prevent groups or individuals from subjecting ethnic Georgians to such acts, to refrain from taking any actions or supporting any measures that obstruct ethnic Georgians' right of return to South Ossetia, Abkhazia and adjacent regions and to facilitate the delivery of humanitarian assistance to all individuals in the territory under its control.

In compliance with article 74 of the Rules of Court, before proceeding to the merits of the application, the Court first took up the request for the indication of provisional measures of protection. The Court found that "the Parties disagree with regard to the applicability of articles 2 and 5 of CERD in the context of the events in South Ossetia and Abkhazia" and that "there appears to exist a dispute between the Parties as to the interpretation and application of CERD". It further took the view that the procedural conditions in article 22 of CERD had been met, concluding in particular that while article 22 requires that some attempt be made to initiate discussions between the parties on issues that would fall under CERD, it does not require the carrying out of formal negotiations.

On those grounds, the Court determined that it had prima facie jurisdiction to deal with the case. As to the merits of the request, the Court concluded that "the ethnic Georgian population in the areas affected by the recent conflict remains vulnerable" and that there existed an imminent risk that they could suffer irreparable prejudice. The Court therefore indicated provisional measures, ordering both parties to refrain from any act of racial discrimination or sponsoring, defending or supporting racial discrimination; to refrain from placing any impediment to humanitarian assistance to the local population; and to refrain from any action which might prejudice the rights of the other Party or aggravate the dispute.

The next case resulted in a judgment on 18 November 2008 on the preliminary objections in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, which had been brought before the Court in 1999 by the Republic of Croatia. Croatia alleged that the Republic of Serbia was responsible for violations of the Genocide Convention on the basis of article IX of the Convention. Serbia raised a preliminary objection by arguing that the Court lacked jurisdiction, first, because Serbia had lacked locus standi before the Court as it was not a Member of the United Nations when Croatia filed its application and, secondly, because Serbia had not consented to the jurisdiction of the Court as it was not a party to the Genocide Convention.

The Court accepted that Serbia had not been a member of the United Nations as of 2 July 1999, the date of the filing of the application by Croatia. Serbia

was a Member of the United Nations and therefore a party to the Statute of the Court as from 1 November 2000, when it was admitted to the United Nations. The Court accepted that the jurisdiction of the Court is normally assessed on the date of the filing of the act instituting proceedings. In this case, the Court took an exception to that principle on the grounds of realism and flexibility in certain situations in which the conditions governing the Court's jurisdiction were not fully satisfied when proceedings were initiated, but were subsequently satisfied before the Court ruled on its jurisdiction.

In that respect, the Court followed the line enunciated by the 1924 judgment of the Permanent Court of International Justice in the case concerning the Mavrommatis Palestine Concessions, in which the Permanent Court held that "[t]he Court, whose jurisdiction is international, is not bound to attach to matters of form the same degree of importance which they might possess in municipal law".

In the *Croatia v. Serbia* case, the Court applied that principle by extending it to the question of access to the Court, concluding that any initial lack of access can be remedied without violating the fundamental principles of the proper administration of justice by way of a new, subsequent application to submit Croatia's claim.

On the second leg of the preliminary objections of Serbia on whether the Court had jurisdiction under article IX of the Genocide Convention, the Court held that the declaration and note of 27 April 1992, in which the Federal Republic of Yugoslavia agreed to strictly abide by all the commitments that the Socialist Federal Republic of Yugoslavia had assumed internationally and to continue to fulfil all obligations assumed by the Socialist Federal Republic of Yugoslavia in international relations, including its participation in international treaties ratified or acceded to by Yugoslavia, had the effect of a notification of succession by the Federal Republic of Yugoslavia to the Socialist Federal Republic of Yugoslavia in relation to the Genocide Convention, and therefore the Court had, on the date on which the present proceedings were instituted, jurisdiction to entertain the case on the basis of article IX of the Genocide Convention. The case will now move to the merits phase. The Court fixed 22 March 2010 as the deadline for the filing of a counter-memorial by the Republic of Serbia.

The next case turned to the American continent. On 19 January of this year, the Court delivered its judgment on the *Request for interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (*Mexico v. United States of America*). In that case, Mexico had asked the Court to interpret its earlier judgment on the same issue of 2004, in particular to adjudge and declare that the obligation incumbent upon the United States under paragraph 153 (9) of the *Avena* judgment constitutes an obligation of result and that, pursuant to that obligation of result, the United States must take any and all steps necessary to ensure that no Mexican national entitled to review and reconsideration under the *Avena* judgment is executed unless and until that review and reconsideration is completed and it is determined that no prejudice resulted from the violations.

The Assembly might recall that last year the Court, in its order of 16 July 2008 on the request for the indication of provisional measures of protection accompanying the application for interpretation of the judgment of 31 March 2004, decided that "the United States of America shall take all measures necessary to ensure that ... Messrs. César Roberto Fierro Reyna, Mr. Roberto Moreno Ramos" and Mr. Osvaldo Tones Aguilera "are not executed" pending final judgment in these proceedings.

In the present phase of the case, the Court took the position that paragraph 153 (9) of the judgment did not decide on the question in dispute in the application on interpretation, that is, whether that obligation of result contained in paragraph 153 (9) was directly enforceable in the United States. The Court held that because that latter question was not decided in the original judgment, it could not be submitted in the application for interpretation under Article 60 of the Statute. In effect, what the Court found was that Mexico's request for interpretation dealt not with the meaning and scope of the *Avena* judgment, as Article 60 of the Statute requires, but rather with the general question of the effect of a judgment of the Court in the domestic legal order of the States parties to the case in which the judgment was delivered.

Fourthly, on 3 February this year, the Court delivered its judgment in the case *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*. That was the first case in which those two States came to settle their dispute before the International Court of Justice. In that case, the Court was requested to draw a

single maritime boundary delimiting the continental shelf and exclusive economic zones between Romania and Ukraine in the Black Sea. The issue of the maritime delimitation, especially relating to the delimitation of the continental shelf and exclusive economic zone, has been the subject of many disputes that have come before the Court since the 1969 *North Sea Continental Shelf* cases.

Since that 1969 judgment, the jurisprudence of the Court on this issue has gone through a considerable evolution against the background of the entry into force of the United Nations Convention on the Law of the Sea in 1982. One significant element in the *Black Sea* judgment is that it sets out in a structured way the present state of the law on the issue of maritime delimitation. On the basis of established State practice and, in particular, its jurisprudence, the Court stated that the law in the area of maritime delimitation has developed into a three-step approach that the Court has to follow: first, establishing a provisional equidistance line; secondly, considering factors that may call for an adjustment of that line and adjusting it accordingly; and thirdly, confirming that the line thus adjusted will not lead to an inequitable result, by comparing such factors as the ratio of coastal lengths to the ratio of maritime areas which result from the delimitation line.

Another interesting new development came with the case entitled *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*. Belgium filed an application on 19 February 2009 in relation to Mr. Hissène Habré, the former President of Chad, who had been present on Senegalese territory since 1990. Belgium submitted that by failing to prosecute or extradite Mr. Habré for certain acts that he is alleged to have committed during his presidency, including crimes of torture and crimes against humanity, Senegal had violated the obligation *aut dedere aut judicare* contained in article 7 of the Convention against Torture and in customary international law.

On the same day, Belgium filed a request for the indication of provisional measures, asking the Court to require Senegal to take all steps within its power to keep Mr. Hissène Habré under the control and surveillance of the judicial authorities of Senegal so that the rule of international law with which Belgium requested compliance might be correctly applied.

In the course of the oral hearings, Senegal confirmed its position, in the form of a formal declaration, that it would not allow Mr. Habré to leave its territory while the case was pending before the Court. Under those circumstances, the Court held that there was no risk of irreparable prejudice to the rights claimed by Belgium and that no urgency justifying the indication of provisional measures existed. On those grounds, the Court declined to exercise its power under Article 41 to indicate provisional measures.

Finally, on 13 July 2009, the Court rendered its judgment in a case between Costa Rica and Nicaragua. This dispute concerned the navigational and related rights of Costa Rica on a section of the San Juan River, the southern bank of which forms the boundary between the two States pursuant to an 1858 bilateral treaty. While it was not contested that according to that treaty the relevant section of the river belongs to Nicaragua, the parties differed as to the nature of the legal regime under the treaty and the precise scope of Costa Rica's navigational rights on the river and the prerogatives of Nicaragua in respect of navigation. The Court had to assess in particular the meaning and scope of the expression used in the 1858 treaty, "libre navegación ... con objetos de comercio", a question which deeply divided the parties. The Court found that this right of free navigation included navigation for the purposes of commerce and not just navigation with articles of trade and held that the expression applied to the transport of persons, including tourists, as well as to the transport of goods.

After stating the basic principles governing the regime established by the 1858 treaty, the Court went on to examine the specific scope of the Nicaraguan regulatory measures which were accepted as a matter of principle as pertaining to Nicaragua as part of this regime. The Court held that some of the measures taken by Nicaragua were in conformity with the 1858 treaty, while other measures were not in conformity with the treaty.

Several new contentious cases were filed with the Court in the past year. First, in August 2008, Georgia instituted proceedings against the Russian Federation, as I mentioned earlier. The Court has so far dealt with its request for the indication of provisional measures.

Secondly, in November 2008, the former Yugoslav Republic of Macedonia instituted proceedings against Greece, contending that the latter violated its rights established under an interim accord

agreed by the two States, by objecting to its application to join NATO.

Thirdly, in December 2008, Germany instituted proceedings against Italy, contending that Italy had violated German sovereign immunity by allowing several civil claims in Italian courts concerning violations of international humanitarian law by the German Reich during the Second World War.

Fourthly, in February 2009, Belgium instituted proceedings against Senegal relating to the obligation to extradite or prosecute the former President of Chad. On that case also, as I mentioned earlier, the Court has disposed of Belgium's request for the indication of provisional measures.

In addition, the Registry of the Court only yesterday received an application instituting proceedings by the Republic of Honduras against the Federative Republic of Brazil.

Finally, from 14 September to 2 October 2009, the Court heard arguments on the merits in a case between Argentina and Uruguay, *Pulp Mills on the River Uruguay*. A final judgment is expected in due course.

In addition to these new contentious cases, there was a new development in the advisory proceedings before the Court. In October 2008, the Court received a request from the General Assembly for an advisory opinion on the accordance with international law of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo. Thirty-six United Nations Member States filed written statements on that question. In addition, the authors of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo filed a written contribution. We have received written comments from 14 States and a further written contribution from the authors of the declaration of independence, commenting on the written statements of other States. Thirty States and the authors of the unilateral declaration have indicated their intention to take part in the oral proceedings that will take place from 1 to 11 December this year.

As I stated at the beginning of this presentation, the increased recourse to the International Court of Justice by States for the judicial settlement of their disputes points to the consciousness among political leaders of the importance of the rule of law in the international community. The importance of the rule of law is crucial against the backdrop of the deepening process of globalization. Law does not replace politics or economics, but without it we cannot construct anything that will last in the international community.

In this sense, the issue of the jurisdiction of the Court is a crucial element. Only 66 States have so far made declarations recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. In order to strengthen the role of the Court, it is highly important to broaden this particular basis of jurisdiction through wider acceptance by States of the optional clause.

The Court greatly appreciates the trust that Member States have continued to place in what the International Court of Justice is doing as the principal judicial organ of the United Nations. I pledge that the Court will do its utmost to achieve its mandate as set out under the Charter and to assist the parties in the pacific settlement of their disputes. Furthermore, I wish also to request Member States to strengthen their support and assistance by enhancing the capacity of the Court in carrying out its task of the peaceful resolution of disputes.

I assure the Assembly that the Court will continue to dedicate its fullest efforts to the peaceful settlement of disputes as well as to the promotion of the rule of international law with integrity and impartiality in order to meet the expectations of the United Nations and of the international community as a whole.

The President (*spoke in Arabic*): On behalf of the General Assembly I thank the President of the International Court of Justice for his report. I note that since Judge Owada was elected President of the Court on 6 February 2009 he has continued the Court's efforts in expediting the proceedings before it, in order to enable the Court to discharge its mandate. As the principal judicial organ of the United Nations — whose creation resulted from a long process to develop methods for the peaceful settlement of international disputes — the role of the Court in the promotion of the rule of law and the consolidation of international peace and security cannot be overemphasized.

It is therefore our hope that Member States will continue to support the Court by affording it all required assistance, by providing the conducive environment necessary to strengthen its performance

and by renewing their undertaking to comply with its decisions.

Mr. Kessel (Canada) (*spoke in French*): On behalf of Canada, Australia and New Zealand (CANZ), I would like to thank the President of the International Court of Justice, Judge Hisashi Owada, for the helpful report on the work of the Court over the past year (A/64/4). Our delegations would also like to take this opportunity to congratulate Judge Owada and Judge Tomka on their election by the Court as President and Vice-President, respectively. We also thank their predecessors, Judge Higgins and Judge Al-Khasawneh, for their esteemed leadership of the Court over the last three years.

(*spoke in English*)

CANZ continues its strong support of the Court in its role as the principal judicial organ of the United Nations. As the report of the Court notes, the Court is the only international court of a universal character with general jurisdiction. As such, it has a unique role in furthering the peaceful settlement of international disputes.

Mr. Viinanen (Finland), Vice-President, took the Chair.

The diverse range of cases brought before the Court for determination in the last year, as just referred to in the comprehensive report of Judge Owada — ranging from environmental concerns and jurisdictional immunities of the State to human rights issues — reflects the ongoing importance of the Court's work.

We continue to urge Member States that have not done so to deposit with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction. As noted by Judge Higgins in her address to the General Assembly's Sixth Committee last year, without such a declaration by States, the Court must too often spend time examining objections to its own jurisdiction, rather than addressing the substantive problems at issue.

We value the Court's efforts to continually review its procedures and working methods to ensure the efficient administration of its cases. In this regard, we note that the Court has revised Practice Directions III and VI for use by States appearing before it. We join the Court in urging States parties to keep written and oral pleadings as concise as possible, in a manner compatible with and relevant to the presentation of their positions.

We welcome the Court's adoption of new Practice Direction XIII, which will also assist States in streamlining the Court's processes by allowing agreement between the parties on future procedures.

Mr. Winkler (Denmark): On behalf of the delegations of the Nordic States — Sweden, Norway, Iceland, Finland and my own country, Denmark — I would like to thank the President of the International Court of Justice, Judge Hisashi Owada, for the excellent report on the work of the Court over the past year (A/64/4). Before turning to the report, allow me to convey our warmest congratulations to Judge Owada and to express our full support and our belief in his competent leadership.

At the same time, I would like to take this opportunity to express our deep appreciation and thanks to Judge Rosalyn Higgins for her tremendous contribution to the development of international law through her work as Judge and President of the International Court of Justice.

The Nordic States continue to be strong supporters of the International Court of Justice in its role as the principal judicial organ of the United Nations. The Court plays a vital role in the peaceful settlement of international disputes and in strengthening the international legal order, as mandated by the Charter.

The Nordic States recognize the International Court of Justice as the international court of a universal character with general jurisdiction. The vast majority of Nordic States are among the countries that have accepted the Court's compulsory jurisdiction under Article 36 of the Statute. That speaks volumes for the Nordic States' respect for the rule of law and the importance we place on the link between justice and the peaceful settlement of disputes and stability.

The diversity, complexity and growing number of cases submitted to the Court also demonstrate increased confidence in its impartiality and independence. The many legal disputes from all over the world that are submitted for consideration by the Court are the best proof of the Court's universality and of the growing willingness of States to resolve their disputes by peaceful means. This confirms and strengthens trust in the Court and its ability to play its

role and to discharge the most urgent and important task of the United Nations.

The Nordic States themselves have been parties to a number of contentious cases before the Court, thereby also in practice attesting to our belief in a rule-based international legal order and our support for the principle of peaceful settlement of disputes by international judicial bodies.

Some of the Nordic States have also contributed to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice in an effort to facilitate a decision by parties to seek judicial settlement of any dispute through the Court.

Despite the fact that the work of the Court in relation to advisory opinions sometimes takes place in difficult and somewhat politicized circumstances, the Nordic States have strong confidence in the Court's continued ability to provide clarification of legal issues without being or being seen to engage in political contentions.

The Nordic States appreciate the ongoing efforts by the Court to increase its efficiency and to manage its increased workload. We note with great appreciation the outreach work that has been done by the Court, particularly with regard to the Court's website, which serves as a valuable tool for many practitioners of international law. The Court's ability to modernize and utilize new platforms of communication is crucial, and bears witness to its willingness to assist not only the parties that appear before it, but the broader international legal community.

These efforts by the Court should be reflected by States' readiness to ensure that the Court has sufficient resources to continue to carry out the tasks entrusted to it. In this context, we support the wish of the Court to have adequate legal support staff and the means enabling the Court to manage its daily work.

In conclusion, the Nordic States wish to reiterate our firm belief in the role of the Court as the principal judicial organ. We express our appreciation to its judges, who perform their tasks with great professionalism and dedication, and we pledge the Nordic States' continuing support for the Court's endeavour towards justice and the rule of law.

Mr. Davide (Philippines): I am honoured to address the General Assembly during its consideration of the report of the International Court of Justice, the principal judicial organ of the United Nations (A/64/4).

My delegation also welcomes this opportunity to commend Judge Hisashi Owada, President of the International Court of Justice, for his able and dedicated stewardship of the Court and for the very lucid and comprehensive report he has just presented. We also commend the members of the Court for their total commitment to the Court and its mission. The candidate of the Philippines for the Court's 2009-2018 term could have been one of them had she won in the second meeting devoted to the elections for that term (see A/63/PV.40).

My delegation commends the efforts of the International Court of Justice to increase its efficiency, including the regular re-examination and review of its proceedings and working methods. We note in particular the revisions and additions the Court has made to its Practice Directions for States appearing before it, as well as its willingness to periodically revisit the first Practice Directions adopted in 2001 and to conduct meetings devoted to the strategic planning of its work.

These efforts have led, inter alia, to four judgments being handed down during the period under consideration and two orders on requests for provisional measures, as well as the successful conduct of hearings on four pending cases. This improved working method has enabled the Court to clear its backlog of cases, as well as increase the trust and confidence of States with cases or disputes before it and the Court's capacity to resolve them in a fair, impartial and expeditious manner.

My delegation also takes due note of how the General Assembly has contributed to the Court's efforts to streamline and make its working methods more efficient by providing much-needed additional posts in the Court's Registry. The Philippines reiterates its call for Member States to continue to provide the Court with the means necessary to ensure its proper, effective and efficient functioning.

My delegation notes with approval the work the Court aimed at making its decisions more widely accessible to the public through the effective use of the Internet. The value of making the Court's decisions more widely known cannot be stressed enough. It is essential for promoting transparency and accountability and, above all, for strengthening respect for the rule of

law and its effective implementation. Needless to say, the effects of these improvements will further enhance the independence of the Court, which is indispensable to maintaining its integrity.

The growing number of treaties negotiated between and among States underlines the growing need to regulate the complexities of international relations in an increasingly globalized milieu. It was with this in mind that Member States resolved in the Millennium Declaration to strengthen respect for the rule of law in international and national affairs and to ensure compliance with the decisions of the International Court of Justice. The complexities of all phases of life and relationships in an increasingly interdependent world, brought closer by the miracles of information and communications technology, have created a greater need for the rule of law.

The cases brought before the International Court of Justice illustrate that, though territorial disputes still constitute a large percentage of its cases, other complex or cutting-edge issues, such as allegations of massive human rights violations, the obligation to prosecute or extradite, and the management of shared natural resources — the consequences of global interdependence — are also being handled by the Court. We are pleased to note in chapter III of the Court's report that, as of 31 July 2009, all 192 Member States of the United Nations were parties to the Statute of the Court and that 66 of them have now made declarations, many with reservations, recognizing the Court's jurisdiction as compulsory. The Philippines is one of them.

The new and emerging subjects of specialization in international law demand thorough consideration in order to ensure that rights are not encumbered or violated and obligations are carried out and complied with. My delegation notes with great interest the report of Court President Owada on the diversity of issues brought before the Court. This shows that the intricacies of modern international relations have an impact on a wide variety of rights, privileges and obligations heretofore unnoticed in the legal field.

Recent years have witnessed a steady rise in the number of States, entities and even individuals resorting to specialized tribunals and forums in an attempt to cope with the increasing demands of interdependence. My delegation views this development not as a sign of declining confidence in the Court's authority to adjudicate contentious legal issues, but as evidence of increased confidence in the rule of law that the Court has helped propagate and continues to advance. In this regard, we count on the Court's function in elucidating norms to provide a basic framework of case law and norms, and in harmonizing jurisprudence in general international law for the guidance of these specialized tribunals.

The Philippines reaffirms its support for the work of the International Court of Justice and the invaluable role it plays in promoting an international legal order founded on the primacy of the rule of law, peaceful settlement of disputes and justice. As the principal judicial organ of the United Nations, the Court is the primary institution tasked with ensuring respect for the rule of law in international relations.

My delegation views the increased workload of the Court as a manifestation of the increasing trust and confidence of Member States in the Court's judicial supremacy in ensuring the rule of law and its universality and general jurisdiction, and not as an indication of the inability of States to settle disputes peacefully. For as long as we have an International Court of Justice that is independent, effective, efficient and worthy of the world's trust and confidence, for as long as it jealously preserves and at all times holds supreme the core values of the rule of law, judicial independence and the pursuit of excellence, for as long as it courageously delivers fair, equal, impartial and swift justice, then we shall have a Court that will truly be an instrument of global justice, peace and stability.

Towards this end, and by way of conclusion, my delegation, guided by the lessons of the last elections for the Court's 2009-2018 term, wishes to pray and hope that, first, elections to the Court should be based strictly on the criteria established in Article 2 of the Court's Statute, concerning qualifications, and in Article 9, on representation on the basis of main forms of civilizations and principal legal systems. These articles do not permit election on the basis of regional representation or a Member State's category of membership in the Security Council.

Secondly, the application or interpretation of Article 4 of the Statute must be revisited or re-examined. The Philippines submits that this article on the election of members of the Court by the General Assembly and the Security Council does not allow members of the Security Council two votes each —

one to be cast as a member of the General Assembly and the other as a member of the Security Council. That special privilege perpetuates patent and palpable discrimination against Member States that are not members of the Security Council at the time of the election. It is a gross and grave violation of the principle of sovereign equality of all Member States solemnly enshrined in the Charter of the United Nations. There exists no valid or logical reason for this discrimination; it is undemocratic. This situation might even produce a greater evil, whereby a mere majority of the 15 members of the Security Council could influence the final results of the elections in the General Assembly.

This is an anomaly that should be corrected. It should be noted that in the elections for members of the Security Council itself, the Economic and Social Council, the Human Rights Council and other bodies in the United Nations system, each Member State has only one vote, in strict fidelity to and observance of the principle of sovereign equality of Member States. Thirdly, since there are many women jurists who qualify under Articles 2 and 9 of the Statute, there should be gender balance in the Court.

May the foregoing submissions be seriously considered in the next elections of members of the International Court of Justice. The Philippines now rests its case.

Mr. Badji (Senegal) (*spoke in French*): I would like at the outset to pay tribute to the outgoing President of the International Court of Justice, Dame Rosalyn Higgins, for her exceptional work at the head of that body. I would like also to extend my hearty and warm congratulations to Mr. Hisashi Owada on his election to the presidency of the International Court of Justice and to wish him every success in carrying out his noble and exalted mission.

I would also like to extend congratulations to the entire staff of the Court, and to express my pleasure at taking part once again in this annual meeting, which provides us with an opportunity to review the report of the International Court of Justice (A/64/4). For my delegation and many others, this is a timely occasion to highlight the constructive work of the Court in promoting the ideals of peace and justice that are at the very basis of the founding of the United Nations. Indeed, the emergence of a more equitable and peaceful world depends in particular on promoting respect for the rule of law and the pacific settlement of disputes.

It goes without saying that the International Court of Justice, the only judicial body with global jurisdiction and general scope, unquestionably represents the keystone of the international legal order, and that its daily work promotes justice, the development of international law and the maintenance of peace and security. For those reasons, Senegal believes and trusts in the Court, as clearly manifest in our recognition of the Court’s compulsory jurisdiction, pursuant to Article 36 of its Statute.

My delegation welcomes the large number of requests brought before the Court, reflecting growing recognition of the primacy of the rule of law throughout the world and the importance that States accord to the peaceful settlement of disputes. The importance of the Court’s role in settling disputes can be seen in the growing confidence that States increasingly place in it by submitting their cases to the wisdom of its judges. By promoting the legal settlement of disputes, the Court participates in establishing peaceful relations among States and contributes significantly to the maintenance of international peace and security.

Similarly, by basing its work on the promotion of the rule of law, the Court also contributes to ensuring respect for the rule of law at the international level. Moreover, the rulings and decisions handed down by the Court, by creating jurisprudence and legal reasoning in many circumstances, contribute to enriching, codifying and unifying international law.

For all those reasons, my delegation reiterates its unfailing support for the Court and welcomes the laudable efforts it is making to increase its effectiveness. Those efforts, which have allowed it to clear its backlog of cases, merit our support. My delegation therefore calls for the Court to be given the resources necessary to properly fulfilling its noble mission.

Today’s consideration of the report of the International Court of Justice provides an apt moment to recall, if need there still be, that the benefits of the peaceful settlement of disputes require no further demonstration. The reference in Article 1 of the United Nations Charter to the settlement of disputes “by peaceful means, and in conformity with the principles of justice and international law” as an essential goal of

the United Nations and a primary instrument for the maintenance of international peace and security in itself embodies the importance of that principle. The United Nations therefore has a special responsibility in promoting the settlement of disputes, including those of a legal nature and specifically through the medium of the Court.

My delegation therefore attaches great importance to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, and calls on those States that can do so to contribute in a significant and regular way.

Mr. Tladi (South Africa): I would like to thank the President of the International Court of Justice, Judge Hisashi Owada, for his presentation of the Court's report (A/64/4). I also extend our warmest congratulations to him on his assumption of the presidency of the Court. At the same time, we congratulate Judge Rosalyn Higgins for her stewardship of the Court for the period 2006 to 2009. We wish her all the best as she pursues a life beyond the bench.

My delegation welcomes the report of the International Court of Justice. In particular, we are pleased to see that States continue to refer disputes to the Court. The number of cases currently pending on the Court's docket is a reflection of the confidence that they have in the Court. As my delegation has stated in the context of the debate on the rule of law in the Sixth Committee, given the lack of a compulsory system of adjudication in international law and the problem of auto-interpretation, whereby States interpret their rights and obligations in different and often conflicting ways, regular recourse to international mechanisms for the peaceful settlement of disputes will go a long way towards improving the rule of law at the international level. While many such mechanisms have been established, either on a specialized or regional basis, my delegation continues to consider the International Court of Justice to be the pre-eminent mechanism for the peaceful settlement of disputes at the international level.

In this regard, we are particularly pleased that, despite the proliferation of international judicial mechanisms for the settlement of disputes on a specialized or regional basis, the International Court of Justice continues to attract a wide range of cases, covering many areas. The list of cases pending before the Court includes those pertaining to the protection of the environment, such as the case concerning *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* and the case concerning *Aerial Herbicide Spraying (Ecuador v. Colombia)*. We eagerly anticipate the judgments of the Court in those two cases with environmental implications, and we hope that they will build on the foundations of the now-famous *Gabčíkovo-Nagymaros* case between Hungary and Slovakia.

There are also a number of cases involving the delimitation of boundaries, such as those between Nicaragua and Colombia and between Romania and Ukraine, among many others. The list of current cases before the Court stretches across regions and includes intraregional disputes, such as that between Georgia and Russia, and also interregional disputes, such as that between Belgium and Senegal in a matter concerning the obligation to extradite or prosecute.

We have also noted with great pleasure that States no longer limit to issues of little political significance the matters with regard to which they consensually refer disputes to the Court. *Certain Criminal Proceedings in France (Republic of the Congo v. France)*, in which the jurisdiction of the Court in respect of a politically sensitive matter was based on the consent of both States without a pre-existing agreement, is a case in point. The number and quality of cases being submitted to the Court also reflect the fact that we have moved on from the days when the Court was viewed with suspicion by many States. We hope that this confidence in the Court will continue to grow as we attempt to establish the rule of law as the basis for international law.

The importance of the advisory opinions offered by the International Court of Justice cannot be overstated in the pursuit of the peaceful settlement of disputes in accordance with the Charter of the United Nations. For that reason, we applaud the fact that the General Assembly, when faced with particularly complex legal problems, has not been shy about referring matters to the Court for an advisory opinion, most recently in the matter relating to the accordance with international law of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo. In that regard, we recall that, under Article 96 of the Charter of the United Nations, the Security Council may also request an advisory

opinion from the Court. In particular, we recall the important effects flowing from the decision of the Council to request an advisory opinion in the matter relating to the 1971 Namibia opinion.

As we encourage recourse to advisory opinions, it is appropriate to remind delegations that, while advisory opinions of the International Court of Justice are not binding in and of themselves in the sense of Article 94 of the Charter of the United Nations, they are not without legal consequence, and that failure to comply with such a decision would be considered a violation of whatever rule the Court may have been deemed to be at issue in that case. We are thus particularly concerned that the recent advisory opinion on the legal consequences of the construction of a wall in the occupied Palestinian territory continues to be disregarded.

A number of disputes on the docket of the Court are of specific importance not only to the States concerned, but to a wider range of States. Those cases involving the use of force, such as the *Georgia v. Russian Federation* dispute, to the extent that they have an impact on *jus cogens* norms, are of particular significance. We note with particular appreciation the information provided by the Court that the parties in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* are making progress in the implementation of the Court's decision, which was reached in 2005.

Another case on the Court's list that has significance beyond the parties to the dispute in question is the *Certain Criminal Proceedings* case between the Congo and France. As with a previous case before the Court, concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, this case relates to the question of universal jurisdiction and its application, particularly with regard to certain high-ranking Government officials. Given that the General Assembly is currently seized with the question of the scope and application of universal jurisdiction, my delegation keenly awaits the decision in that case. We note in particular that, while dissenting and separate opinions in the *Arrest Warrant* case provided some observations on universal jurisdiction, the judgment of the Court was eerily silent on that issue. We hope that that silence will be broken in the *Certain Criminal Proceedings* case.

My delegation is particularly pleased to hear of the frequent visits being made to the Court by national judges, senior legal officials, researchers and other members of the legal profession. We believe that that can only strengthen the understanding of and appreciation for international law, which is an important tool towards the creation of a rules-based international system.

Mr. Gutiérrez (Peru) (*spoke in Spanish*): I wish to thank Judge Hisashi Owada, President of the International Court of Justice, for his presence this afternoon and for his interesting briefing on the work carried out by the Court over the past year.

Article 1 of the Charter of the United Nations stipulates that States should settle their disputes by peaceful means and in conformity with the principles of justice and international law. That provision recognizes the peaceful settlement of disputes as a general principle of international law whereby States should refrain from resorting to the use or threat of force.

The International Court of Justice was established to give effect to that principle. Its Statute is an integral part of the Charter of the United Nations. The Court is the only international court of a universal character with general jurisdiction. Its decisions put an end to the legal disputes referred to it by States and contribute to the strengthening of international peace. In addition, through its advisory opinions, it assists in the development of international law and in ensuring the rule of law.

The legal quality of its decisions and its independence and impartiality have given the Court enormous legitimacy. This is demonstrated by the fact that, despite the sensitivity of the issues involved in disputes, including territorial boundaries, the exercise of jurisdiction and the immunities regime, States have preferred to resort to the Court for a final settlement. It should also be stressed that the work of the Court contributes substantially to the promotion of the rule of law at the international and national levels, as shown by the exhaustive list included by the Secretary-General in his report (A/64/308).

Peru's commitment to the work of the International Court of Justice is reflected in the 1948 American Treaty on Pacific Settlement, or Pact of Bogotá, whereby States parties agree to have recourse

at all times to pacific procedures to settle disputes, including recourse to the Court.

My country, Peru, has also recognized the Court's jurisdiction as compulsory ipso facto and without special agreement, in accordance with Article 36, paragraph 2, of the Statute of the Court. Moreover, through the Manila Declaration on the Peaceful Settlement of International Disputes, adopted by consensus through resolution 37/10, it was established that legal disputes should as a general rule be referred by the parties to the International Court of Justice and that such recourse should not be considered an unfriendly act between States. In keeping with that recognition, Peru believes that it is of the utmost importance that the Court's jurisdiction be universally accepted. We call on those States that have not yet done so to accept its compulsory jurisdiction with regard to disputes.

States are obliged to comply with the Court's decisions. That is why Peru, as a State that respects international legality, reaffirms its commitment to meeting the obligations arising from the Statute of the Court and calls on all other States to comply with the Court's decisions.

With regard to disputes, the Court has had quite a heavy agenda over the past year, with the referral of four new cases. In addition, in October 2008, the General Assembly submitted a request for an advisory opinion. In addition to these new tasks, there are other pending cases, which means that 16 cases and one advisory proceeding have been dealt with in the period under review.

In reiterating our full support for the work of the Court, we must also acknowledge the outstanding work of its judges. We draw attention to their outstanding legal abilities as well as their administrative abilities. In this regard, the review of their working methods, in particular the revisions to their Practice Directions, will enhance their effectiveness.

Mrs. Gallardo Hernández (El Salvador), Vice-President, took the Chair.

We should also draw attention to the outreach work that is taking place, particularly through the Court's website, which is an invaluable tool for gaining access to information on the work of the Court. Peru hopes that, as stated in chapter VII of the report, the website will soon include audio and video material from hearings.

States must ensure that the Court has sufficient resources to carry out the task entrusted to it. In addition, it should be provided with the administrative and legal support staff that it requires, as well as the resources that will allow it to manage the documentation it uses on a daily basis. This will allow the Court to promptly settle disputes and issue advisory opinions, thus benefiting the entire international community. In this regard, we are of the view that the requirements mentioned in the Court's report and included in the draft budget for the 2010-2011 biennium are reasonable, as they are aimed at maintaining the promptness and effectiveness of the work being carried out by the Court.

Finally, Peru would like to express its recognition of those who have contributed to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, and joins the Secretary-General's appeal to all States and relevant bodies to collaborate with the Fund.

Ms. Negm (Egypt) (*spoke in Arabic*): At the outset, I would like to express Egypt's appreciation to Mr. Hisashi Owada, President of the International Court of Justice, for his useful presentation of the report of the Court (A/64/4) on its work over the past year, and to reaffirm Egypt's faith in the key role of the Court in ensuring the implementation of the provisions of international law, adjudicating disputes between States and providing advisory opinions to States and international organizations in order to assist them to best assume their respective roles.

Since its establishment, the Court has strengthened important international legal principles and rules through its advisory opinions on the legality of the threat or use of nuclear weapons, the legal consequences of the construction of the separation wall in the occupied Palestinian territory, and other decisions and rulings on territorial and maritime border disputes. Those advisory opinions have contributed to the settlement of several disputes around the world and to the prevention of their escalation into armed conflicts.

The delegation of Egypt therefore emphasizes the need to strengthen the capacity of States and United Nations organs and specialized agencies to request advisory opinions from the Court on important issues,

as such opinions — given their moral and legal weight — help to develop and codify the rules of international law and to consolidate the principles of justice and equality at the international level, to positive effect on the promotion of international peace and security.

Egypt believes that it is important to provide the Court with the chance to adjudicate cases concerning the encroachment by certain principal organs of the Organization on the areas of competence proper to other, more representative and more democratic principal organs.

In this regard, the implementation of the Court's decisions must be pursued and the international interaction with the moral and legal aspects of its advisory opinions evaluated. This could be done by establishing a mechanism within the United Nations charged with evaluating the extent of States' implementation, in good faith and as required under the Charter of the United Nations, of the advisory opinions issued by the Court at the request of one of the principal organs. The mechanism would also monitor the damage caused by failures in implementation and adopt measures to compensate affected States, analogous to the work of the committee created to assess the damage caused by the construction of the separation wall and to determine the necessary compensation, which still faces certain obstacles.

In that context, the delegation of Egypt expresses its appreciation for the pioneering role played by the Court in strengthening the principle of the rule of law, and stresses the need to draw from the experience of the Court in consolidating established legal rules on the responsibility of States to protect their citizens, respect for international law, diplomatic protection and consular relations, and the distinction between terrorism and legitimate armed struggle in the context of the right to self-determination.

From this perspective, the Court must study any abuse of the principle of universal jurisdiction in violation of the principle of territoriality of national laws. In particular, it should address the fact that some ignore the immunity of heads of State and Government and Government officials — in particular African heads of State and senior Government and military officials — from criminal prosecution by national courts other than those of their home countries. In fact, an item on that subject has been added to the agenda of the Sixth Committee.

On the other hand, the delegation of Egypt affirms the Court's vital role in issuing opinions on controversial issues raised by new ideas bruited in the corridors of the United Nations, be they concerning human rights, control over natural resources or other matters. We must ensure that these ideas will not be used to interfere in the internal affairs of States in violation of the principles of international law and the Charter of the United Nations.

Consequently, the delegation of Egypt has called in previous sessions for the Court to present its vision for the development of its own legal and judicial role within the framework of the reform of the United Nations so that the Court can perform its tasks in keeping with its international standing. In this regard, we welcome the reference in the Court's report to the obstacles to the technological renovation of the Peace Palace facilities, the lack of posts for support staff for the judges, and the establishment of an efficient documentation division, with the allocation of the necessary financial resources for them.

The delegation of Egypt also welcomes the steps taken by the Court to increase the effectiveness of its work so that it is able to keep pace with the steady increase in the number of cases before it. We support its request for six additional law clerks posts from the regular budget and the provision of the necessary resources to effectively create an efficient documentation division by merging the Library and the Archives Division.

We also support the Office of the Registrar, the development of the Court's technology to achieve greater productivity, and the more effective management of judges' pensions in order to keep up with changes in the cost of living. Egypt will work with other States in the Fifth Committee to respond to these requests, especially since they come at a time of increasing international efforts to strengthen the United Nations so that it can assume its role in the framework of international legitimacy and preserve international public order on the basis of the principles agreed upon at its establishment.

In conclusion, the delegation of Egypt commends all the judges of the Court, as well as its Registrar and its staff, for their efforts during the year covered by the

report, and wishes them every success as they carry out their roles and the tasks of the Court.

Ms. Hong (Singapore): My delegation thanks the International Court of Justice for its detailed report on the work of the Court from 1 August 2008 until 31 July 2009 (A/64/4). We salute the Court for having successfully completed a busy and productive year. We should also like to extend our warm congratulations to Judge Hisashi Owada on his election as President of that body. We have confidence that, under his able stewardship, the Court will continue to fulfil its mandate with competence and distinction.

Singapore attaches great importance to the rule of law, both domestic and international. We have consistently joined in international efforts to promote and strengthen the rule of law at the multilateral and regional levels to the best of our abilities. In the same vein, Singapore subscribes to pacific means of settling international disputes. We firmly believe that where inter-State disputes, in particular long-standing disputes, cannot be resolved through a consensual process such as negotiation or mediation, States, and indeed the international community, will stand to gain by having recourse to a neutral third-party process to settle their differences.

The Court plays a crucial role in this regard by providing an effective and objective mechanism for States to adjudicate their disputes on the basis of international law. The importance of its role in resolving disputes and thereby preserving world peace cannot be overemphasized.

My delegation notes that there are numerous specialized courts and tribunals on the international scene. While there is no formal hierarchy of courts or tribunals in international law, as the report of the Court notes, the International Court of Justice is the only international court of a universal character with general jurisdiction and is the principal judicial organ of the United Nations. The Court thus occupies a special position in upholding and promoting the rule of law. Singapore has been and will continue to be supportive of the Court.

The Court delivered its judgment in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/ Singapore)* last year. In the course of this year, the Court has already delivered two important decisions relating to shared bodies of water between States, namely, that in the cases concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)* and *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*. Given the fact that many States have, to a greater or lesser extent, seas or rivers which they share with neighbouring States, the Court's judgments represent a very relevant and valuable articulation of legal principles that will guide these States in the conduct of their relations with their neighbours.

In October 2008, Singapore voted in favour of resolution 63/3 requesting an advisory opinion of the Court on whether the unilateral declaration of independence of Kosovo was in accordance with international law. We stated at that time that, in such a highly complex situation, there was value in clarifying the interpretation and application of international law, and that the Court was an appropriate international body to do so.

Moving on to the operation of the Court, my delegation notes that the Court has taken steps to enhance its efficiency by reviewing and revising its Practice Directions, as well as by instituting regular meetings on strategic planning. The report also states that the Court has managed to clear its backlog of cases by setting itself a particularly demanding schedule of hearings and deliberations. Consequently, parties can now be confident that as soon as the documentary filings and exchanges are completed, the Court will be able to move to oral proceedings in a timely manner. This is indicative of the level of commitment and professionalism with which the Court and the judges are discharging their functions. My delegation wishes to express our appreciation for their dedicated service to the international community.

My delegation also notes with some concern that, once again, the Court has pointed out in its report that its request for more manpower has not been fully met by the General Assembly. We also note that the Court has reiterated its request for funds to install up-to-date information technology on the judges' bench and on the tables occupied by the parties to cases, facilities which have been adopted by other international tribunals in recent years and which the Court is still without. The Court is the principal judicial organ of the United Nations system and has discharged its functions responsibly. It should enjoy the full support of Member States. It is thus vital that Member States demonstrate their support by ensuring that the Court be given

adequate resources to discharge its role effectively and efficiently.

In conclusion, Singapore has and will continue to place great emphasis on the rule of law. My delegation will continue to support the work of the Court and to monitor with great interest every decision of the Court. We wish the Court every success in the coming year.

Mr. Repetto (Chile) (*spoke in Spanish*): At the outset, I should like to express my thanks to the President of the International Court of Justice, Judge Hisashi Owada, for his detailed presentation of the Court's report on the period from 1 August 2008 to 31 July 2009 (A/64/4).

My country recognizes the important work undertaken by the International Court of Justice as the principal judicial organ of the United Nations and its role under the Charter in the peaceful resolution of disputes and advisory matters. My country believes that its work makes an ongoing contribution to the construction and strengthening of a multilateral system that promotes an international legal order based on respect for the rule of law, which contributes to the maintenance of international peace and security.

As an expression of my Government's recognition of the important functions of the International Court of Justice, Chile has accepted the jurisdiction of the Court to resolve all disputes relating to the interpretation and application of the many multilateral treaties to which it is party. We also believe that the advisory role of the International Court of Justice is of particular relevance, as demonstrated by its many opinions on various spheres of international law. Our country shares the view that the Court should be granted the necessary means and material and human resources to effectively undertake its growing workload.

We should also like to commend the efforts of the International Court of Justice to publicize its work through modern methods that are broad and accessible to the international public. International law is strengthened by such efforts, and we express our firm support for continued funding to the Court to ensure that it has sufficient resources for administration and so that it can continue publicizing its work effectively both through its yearbook and by electronic means. My country also appeals to the International Court of Justice to issue Spanish-language versions of its judgments.

In relation to the case before the International Court of Justice to which Chile has been summoned, my Government affirms that it will set out its position on that topic before the Court at the appropriate time.

Let me conclude by reiterating our appreciation for the work of the Court and its invaluable contribution to the development of and compliance with international law.

Mr. Muita (Kenya): I would like at the outset to join previous speakers in commending you, Madam Vice-President, for the excellent manner in which you are guiding our deliberations.

I would also like to take this opportunity to thank Judge Rosalyn Higgins for her successful tenure and to congratulate Judge Hisashi Owada on his election as President of the International Court of Justice and for his very comprehensive report. I wish to reiterate Kenya's support.

Kenya has consistently supported the International Court of Justice and its international adjudication mechanisms. We highly value the Court's contribution to the development of international law and its important work in the judicial settlement of international disputes. The high number and scope of cases submitted to the Court for judicial settlement, highlighted in the report, and the number of parties that have submitted cases are testimony of the Court's universality as the main judicial organ of the United Nations. We therefore urge Member States to actively utilize the Court for settling any emerging international disputes.

The steps the Court has taken to expedite the global administration of justice are encouraging. The determination of cases by summary procedure at the request of parties and the ongoing review of the Court's procedures and working methods are all positive developments.

My delegation welcomes the presentations of the Court's Registrar and the Information Department on the activities of the Court to a broad-based audience. Equally significant is the work of the Publication Division in disseminating the Court's decisions and other documents. We believe all those efforts will contribute immensely to creating greater awareness of the work of the Court.

As we are all aware, in this century the International Court of Justice is facing new and

challenging developments that are emerging from areas which have previously not been of concern to international jurisdiction. That change has been brought on by increasing global interdependence. However, considering the number of years it has taken us to reach our current position, and taking into account the fact that the development of international law is by nature a process, Kenya is confident that the Court and parties will be able to address the issue of the role of national jurisdiction in the context of the implementation of international norms.

Finally, my delegation urges all parties to engage positively in the law-making process in international law. It is only by doing so that all our voices can be heard, thereby ensuring the legitimacy and universality of international law and institutions. It is important that we support and utilize the adjudication mechanisms of the International Court of Justice.

Mr. Sher Bahadur Khan (Pakistan): I wish to thank Judge Owada, President of the International Court of Justice, for his excellent report on the work of the Court over the past year.

The ever increasing globalization and interdependence of our societies constantly remind us that justice and the rule of law are keys to an orderly international society. They are critical to the realization of all human rights and the noble aspirations of peace, sovereign equality of States and justice. The International Court of Justice, being the principal judicial organ of the United Nations, provides the best platform to Member States and the United Nations organs for this endeavour.

According to the latest report of the Court (A/64/4), 192 States are party to its Statute, but only 66 States have accepted compulsory jurisdiction of the Court. Pakistan is one of those 66 countries.

The United Nations Charter recognizes that settlement of international disputes by peaceful means and in conformity with the principle of justice and international law is one of the basic purposes of the United Nations. Under Chapter VI, the Charter offers vast possibilities for the United Nations and its organs to play an important role in the pacific settlement of disputes and in conflict prevention.

Article 36 of the Charter gives the role of the Court in the settlement of disputes. The Court's advisory opinions and jurisdiction, in accordance with Chapter IV of its Statute, covers consultations by the General Assembly and the Security Council on legal questions arising within the scope of their activities. In addition, some 300 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising from their application and interpretation. States may also submit a specific dispute to the Court by way of special agreement. The Court also enjoys jurisdiction in forum prorogatum situations.

Yet these possibilities remain grossly under-utilized. We strongly believe that better utilization of the Court for the peaceful settlement of disputes and conflict prevention can serve as the basis for long-term peaceful coexistence in the international community.

The Court plays a valuable role in its handling of cases related to its primary jurisdiction. We are happy to note that the number of cases decided by the Court in the last few years has substantially increased, due to the efficient handling of the cases brought before it. However, problems come from States that are reluctant to accept the Court's jurisdiction in dispute settlement due to political considerations. We hope that with time even those reluctant today will accept the Court's jurisdiction for the peaceful settlement for disputes and conflict prevention.

In cases of non-compliance with the judgment of the Court, Article 94, paragraph 2, of the Charter sets out a procedure to address such situations. The Secretary-General, through his good offices and upon request of the party or parties concerned, should play an ever more active role in facilitating and securing the due implementation of the judgments.

We have noted with appreciation that the Court has been regularly and systematically re-examining its ongoing proceedings and working methods. The Court's efforts to enhance its productivity, especially through regular meetings devoted to strategic planning of its work, deserve our appreciation. We also note that the Court has set for itself a particularly demanding schedule of hearings and deliberations and has cleared its case backlog. We appreciate the Court's assurance to Member States that oral proceedings on cases can now be started in a timely manner, immediately after the completion of the written exchanges.

We believe that the Court should have at its disposal all the resources necessary to perform the tasks assigned to it. The General Assembly should

provide the Court with the resources needed to perform its work effectively and efficiently. We hope that the Assembly will give positive consideration to the Court's request, in its budget submission for the 2010-2011 biennium, for a new post of Special Assistant to the Registrar.

The International Court of Justice has an important role in defining and implementing justice and the rule of law at the international level. The principles of peaceful coexistence and respect for basic human rights can be ensured only through respect for justice and the rule of law. However, those noble aspirations could be achieved only by mutually supportive and consistent efforts of Member States, the General Assembly, the Security Council and the Court itself.

Mr. Soares (Portugal): Let me begin by expressing Portugal's gratitude to the President of the International Court of Justice, Judge Owada, for the thorough report on the Court's work over the period under review. I would also like to take this opportunity to congratulate him on his election as President of the Court.

The International Court of Justice is the only international court of a universal character with general jurisdiction. The Court holds important responsibilities in the international community. Also, it plays a fundamental role in the judicial settlement of disputes between States as well as in the strengthening of the international rule of law. Furthermore, that enables it to play another very particular role, which is to help to avoid that disputes between States erupt into violence.

The Court has a crucial function in the international legal system that is being more and more recognized and accepted. By 31 July 2009, all of the States Members of the United Nations were parties to the Statute of the Court and 66 out of these States had recognized its jurisdiction as compulsory. Moreover, approximately 300 bilateral and multilateral treaties provide for the Court to have jurisdiction over the resolution of disputes arising out of their application or interpretation. The heavy workload of the Court confirms its success.

It is worth highlighting that the Court's cases come from all over the world, relate to a great variety of matters and have a high degree of factual and legal complexity. That confirms not only the universality of the Court but also the expansion of the scope of its work and its growing specialization.

The Court's efforts to cope with the very demanding level of activity have been impressive. However, it is also important for the Member States to acknowledge the Court's need for adequate resources.

The Court recalls in its report (A/64/4) that everything it does is aimed at promoting the rule of law. That is indeed so. It is worth mentioning the Court's outstanding contribution to the development of international law.

In that context, it is also worth stressing that although the International Court of Justice is a main player in the international jurisdictional field, there are other international courts and tribunals whose significance should be emphasized. Portugal strongly believes that, in order to enhance the international legal order, all of those courts and tribunals must cooperate and consequently face together the challenges posed by the fragmentation of international law and the proliferation of international courts and tribunals.

Although we recognize that there is a certain tension between law and power, between the obligation of States to settle their disputes in a peaceful manner and the need of sovereign consent to resort to such mechanisms, it is our firm belief that the Court is an institutional pillar of the international community. In that sense, Portugal would like to encourage all States that have not yet done so to consider accepting the Court's compulsory jurisdiction.

Portugal is confident that the Court will continue to overcome the challenges that will increasingly press upon it. Those challenges are a good sign. They mean that States have confidence that the Court will contribute to the settlement of their disputes and to the strengthening of the international rule of law for the benefit of justice and peace.

Mr. Hussain (India): Thank you, Madam President, for giving me the opportunity to address the General Assembly on the report of the International Court of Justice (A/64/4), one of the principal organs of the United Nations. At the outset, I would like to thank the President of the International Court of Justice for his detailed presentation of the report.

The International Court of Justice is the principal judicial organ of the United Nations. Along with the other organs of the United Nations, it was established

to save future generations from the devastating effects of war and to find means of settling inter-State disputes through application of international law.

The Court remains the only judicial body deriving its legitimacy from the Charter and enjoys general jurisdiction. All other international judicial institutions have specific competences and lack general jurisdiction of a universal nature. Through Article 92 of the Charter of the United Nations, the Statute of the International Court of Justice was made an integral part of the Charter. That is a status unique to the Court, not enjoyed by any other international court or tribunal established to date.

All States are free to approach the Court for the resolution of their disputes with other States. Under Article 36 of the Charter, the Security Council may also recommend to parties that they refer their legal disputes to the International Court of Justice, while the General Assembly and the Security Council may seek advisory opinions from the Court. Those provisions clearly indicate the central role given to the Court within the United Nations system.

The judgments of the Court have played an important role in the progressive development and codification of international law. Though cautious, out of respect for political realities, sentiments of States and its own Statute, the Court has asserted its judicial functions. The Court has clearly emphasized the role of international law in regulating inter-State relations even though such relations are necessarily political in nature.

India continues to believe that no other judicial organ in the world can have the same capacity for dealing with international problems as the International Court of Justice. The Court has contributed significantly towards settling legal disputes between sovereign States, thus promoting the rule of law in international relations.

Since its inception, the Court has dealt with a variety of legal issues. It has pronounced judgments in areas including sovereignty over islands, navigational rights of States, nationality, asylum, expropriation, law of the sea, land and maritime boundaries, the principle of good faith and equity and legitimacy of the use of force. Those judgments have played an important role in the progressive development and codification of international law.

At present, there are five cases between European States before the Court, four between Latin American States and two between African States. The subject matter of those cases includes territorial and maritime delimitation, environmental concerns, jurisdictional immunities of the State, violation of territorial integrity, racial discrimination and human rights violations. This list reflects the increased relevance of and respect for due process of law that States are showing and is an affirmation of faith in the Court.

The growing acceptance by States of the Court's jurisdiction further highlights the Court's importance and States' confidence in the Court's ability to resolve their disputes. This has caused the workload of the Court to increase many times over. As of 31 July 2009, there were 13 contentious cases and 1 advisory procedure pending before the Court.

In order for the Court to respond effectively to the increasing demands on its resources and carry out its mandate efficiently, it is necessary that the Court be provided with adequate resources. The ability of the Court to effectively discharge its functions is also critical for the credibility of the United Nations system as a whole.

Mr. Mohamad (Sudan) (*spoke in Arabic*): It is our pleasure to congratulate the International Court of Justice (ICJ), which is and has been a solid citadel of justice. It is entrusted with protecting international law and embodies the application of the principles of the rule of law in lieu of violence and the use of force in international relations. We are delighted to express our deep appreciation to Judge Hisashi Owada, President of the Court, for his comprehensive report (A/64/4) on the activities of the ICJ and the Court's achievements in fulfilment of its mandate. We also wish to commend the tremendous efforts and contributions made by Dame Rosalyn Higgins during her term of office as President of the Court.

The report before us testifies anew to the growing role of the ICJ in shouldering its responsibilities as the principal judicial organ of the United Nations and the only court of universal character with general jurisdiction. It represents the most vital and capable organ for implementing the Charter tenet of the peaceful settlement of disputes based on principles of justice and international law. The Court is thus an essential tool for maintaining international peace and security.

The increasing acceptance by Member States of the Court's compulsory jurisdiction proves the degree of confidence that the international community has in the ability of the Court to carry out its mandate in settling disputes within the context of the rules of international law. One positive indicator is the growing number of cases before it, which strengthens confidence in the Court and its ability to fulfil the most compelling and important function of the United Nations: the peaceful settlement of disputes.

The 2005 World Summit Outcome (resolution 60/1) acknowledged the growing challenges that are facing the international community today and the urgent need to enhance the capacity of the United Nations to face those challenges effectively and efficiently. Since the Court is a principal organ of the Organization and is thus facing challenges similar to those faced by the United Nations as a whole, it is necessary to support and enhance the capacities of the Court. The first step in that direction is to accept the jurisdiction of the Court. In order for the Court to optimally fulfil its mandate, it is only logical to accept its jurisdiction, because justice is indivisible and cannot be compromised.

In this respect, we recall the legal opinions issued by the Court, in particular the opinion on the illegal construction of the separation wall in the Palestinian territory, whose non-implementation constitutes a challenge to the will of the international community and to international justice. The ICJ should protect the established rules of international law and agreements.

As regards the immunity of heads of State or Government and government officials, which is a principle that has been repeatedly affirmed by opinions of the Court, it is our hope that the ICJ will play the role it is called upon to play with respect to so-called universal jurisdiction and to the targeting of African personalities. That is an issue that Africa has rejected at the level of its summit of heads of State and Government. If we do not face this kind of piracy, the door will be wide open to the law of the jungle, with all its attendant threats to international peace and security. It is also incumbent on the ICJ to provide an antidote to attempts by States to hold other States to the terms of treaties of which they are not signatories or members.

The support of States for the work of the Court will not be complete unless we acknowledge the obstacles it is facing and offer recommendations by which Member States can remove them. My delegation stresses the importance of continuing to provide voluntary support for the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice to enable the Fund to meet the cost of settling disputes peacefully, especially in poor countries.

My delegation commends the efforts of the Court in disseminating its documents to Member States as widely as possible, especially through its website, which enables us to follow the rulings of the Court in a manner that helps harmonize international law. We encourage the Court to work to strengthen its relations with other legal entities at the international, regional and national levels in order to raise awareness of its role and publicize its activities.

In conclusion, my delegation reiterates its faith in the great role played by the ICJ and its commitment to support the Court in a manner that will enable it to perform its functions at the highest possible level.

Mr. Okuda (Japan): My delegation would like to express its gratitude to Court President Hisashi Owada for his in-depth report summarizing the current situation of the International Court of Justice and express its appreciation and support for the achievements in the work of the Court during the past year. The devoted work and profound legal wisdom of the Court in seeking peaceful settlements of disputes have earned the respect and support of Member States of the United Nations. We welcome the fact that Member States, in principle, are attempting to resolve disputes through international law by referring cases to the Court. Japan sincerely hopes that, through the work of the Court, the rule of law will take firm root in the international community.

The cases on which the Court recently rendered its final judgments include a dispute concerning maritime delimitation. Cases which have been referred to the Court recently cover a range of important questions on international law, such as the jurisdictional immunity of a State from a foreign court and the obligation to prosecute or extradite. In addition, the General Assembly requested the Court in October 2008 to deliver an advisory opinion on the question of the accordance with international law of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo,

on which Japan submitted its written statement to the Court in April this year. Thus, the Court is playing an even more significant role in resolving international disputes between States and providing its opinion on important questions of international law.

In the present international environment, where we continue to witness armed conflicts and acts of terrorism, the firm establishment of law and order is truly indispensable. Indeed, there has been increasing recognition in the international community of the need to establish and maintain the primacy of international law as well as the importance of settling disputes through peaceful means. In this regard, the role of the International Court of Justice, as the principal judicial organ of the United Nations, is paramount and cannot be overstated.

As a nation resolutely devoted to peace and firmly dedicated to promotion of the rule of law and respect for the principle of the peaceful settlement of disputes, Japan appreciates the strenuous efforts and intensive work of the Court over the past year in delivering decisions based on exhaustive deliberation. We believe that the Court must bring to bear not only a profound knowledge of international law but also a far-sighted view of the international community, given that the world is now experiencing such rapid change and that a variety of international disputes continue to arise. Japan respects the Court's ability to meet these requirements and continues to fully support its work.

Japan accepted the compulsory jurisdiction of the Court in 1958, immediately following its accession as a Member State of the United Nations. We urge those States that have not yet done so to accept the compulsory jurisdiction of the Court in order to facilitate the establishment of the rule of law throughout the international community.

In conclusion, I reaffirm the great importance the international community attaches to the lofty cause and work of the International Court of Justice. Japan, for its part, will continue to contribute to the invaluable work of the Court.

Mr. Aguiar Patriota (Brazil): Let me begin by thanking the President of the International Court of Justice, Judge Hisashi Owada, for his comprehensive report on the work of the Court. I also take this opportunity to commend the judges of the Court for their outstanding contributions to an effective and impartial application of international law.

In the Preamble to the United Nations Charter, all Member States made a clear commitment "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Furthermore, numerous other provisions of the Charter make specific references to the importance of upholding the principles and norms of international law and ensuring a peaceful settlement of disputes. In fact, one of the main purposes of the United Nations, under the Charter, is

> "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace".

The International Court of Justice is a key element in the efforts to achieve those goals. By resolving international disputes and issuing advisory opinions, the Court not only strengthens the rule of law on a global scale, enhancing predictability and stability in international relations, but also contributes to the maintenance of international peace and security.

As the only international court of a universal character with general jurisdiction, the International Court of Justice has been addressing cases whose subject matter touches upon a wide range of sensitive issues, such as territorial and maritime delimitation, environmental concerns, jurisdictional immunities of the State, violation of territorial integrity, racial discrimination and human rights violations.

According to the report of the Court (A/64/4), four new cases and one request for an advisory opinion were referred to the Court over the past year. The number of contentious cases on the docket remains high, standing at 13 at the moment. It is worth noting that the contentious cases came from various parts of the world, signalling the universal character of the Court and its wide acceptance.

The varied list of matters and the large number of cases submitted by Member States to the Court are living proof of the trust placed by the international community upon the principal judicial organ of the United Nations. In order to maintain confidence in the Court, States that are parties to any case need to comply with the respective decision reached by that organ, in accordance with the Charter.

My delegation welcomes the efforts made by the Court to increase its efficiency and thereby cope with the steady increase in workload. We note that the cases referred to the Court reflect increasing factual and legal complexity. The Court's processes comprise several phases which may include preliminary objections or requests for the indication of provisional measures. However, justice needs to be served speedily in order to provide the best outcome.

In its budget submission for 2010-2011, the Court has reiterated its request for the creation of the six law clerk posts with a view to enabling each member of the Court to benefit from personalized legal support and thus to devote more time to reflection and deliberation. The Brazilian delegation is of the view that this request should be granted so that every judge may have the necessary assistance for his or her research.

To conclude, allow me to reiterate the firm support of my delegation to the work undertaken by the Court and its significant contribution to the strengthening of the rule of law in international affairs. We believe the Court continues to play a key role in the fulfilment of the purposes enshrined in the Charter of the United Nations and will continue to be needed while the world becomes more integrated and interconnected.

Mr. Mukongo Ngay (Democratic Republic of the Congo) (*spoke in French*): My delegation has taken note of the report submitted to the General Assembly by the International Court of Justice in document A/64/4. We note that during the period concerned, the Court had 16 contentious cases and one advisory proceeding, which represents an increase over the previous period.

My delegation attaches great importance to the work of the International Court of Justice, recognizing the role the Court has to play as a principal organ of the United Nations to, in the words on the Charter, "bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace".

My country appreciates the remarkable role that the Court is currently playing in promoting the rule of law and we encourage it to continue its efforts in that direction. Here we must commend the skill with which the Court has conducted its deliberations on the questions brought before it in recent years. It has not only managed an increasingly heavy load of contentious cases, but has asserted itself as the principal judicial organ of the United Nations responsible for settling, in accordance with international law, disputes of a legal nature brought before it by Member States. Holding to the letter of the law, the Court has also affirmed its independence with respect to the Security Council, the political organ of the United Nations, as was seen in its judgment of 24 May 1980 in the case concerning *United States Diplomatic and Consular Staff in Tehran*, following the events of 4 November 1979.

Turning to the question of resorting to the use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, to which Article 2, paragraph 4, of the Charter refers, I should like to refer to the case of *Armed Activities on the Territory of the Congo*, settled by the Judgment of 19 December 2005 and referred to in paragraphs 110 to 113 of the report of the International Court of Justice. As stressed by the eminent Congolese legal expert Professor Sayeman Bula-Bula, this case is even more significant than the Corfu Channel case of 1949, the Nicaragua case of 1986 and the oil platforms case of 2003. Of course, the findings of the Court could have been expressed more clearly in the Court's judgment, as some have observed; nevertheless, the contents remain no less safely enshrined, regardless of the particular wording. In this regard, it is important that we read the judgment in its entirety with great care, especially its paragraphs 153, 304 and 345.

With respect to this topic, the President of the Court notes in his report the progress in the negotiations being held by the parties to settle the issue of reparations. It has to be said that my delegation hopes that, based on the friendly relations and cooperation being established between the two formerly belligerent parties, a fair, prompt and equitable solution to this issue of reparations will be found through the means set out in the Judgment of 19 December 2005.

The Democratic Republic of the Congo has made a valuable contribution to the development of international law and to what is now being called the return to international law. Ours has been a significant contribution that has allowed us to administer the rule of law, respecting international law, both as an applicant State and as a respondent State. Indeed —

and here I am not praising any imaginary achievements — the Democratic Republic of the Congo has, for over a decade, been one of the main applicants before the International Court of Justice, enriching its docket with five cases, which, with the exception of one, have been resolved.

In the light of our experience with the Court, my delegation would like to reaffirm its support for the activities of the Court and to encourage States to submit their disputes to it and thus to promote the concept of peace based on law and to facilitate peaceful coexistence. We also encourage States to subscribe to the declaration recognizing the compulsory jurisdiction of the Court in keeping with Article 36, paragraph 2, of the Statute of the Court. This, in the view of my delegation, is one of the most efficient means for submitting cases to the Court, allowing as it does States parties to the Statute of the Court to recognize as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes. The report of the President states that only 66 Member States of the United Nations — and this includes the Democratic Republic of the Congo — out of the 192 making up this universal organization have made declarations recognizing the compulsory jurisdiction of the Court pursuant to Article 36, paragraph 2, of the Statute of the Court. Finally, many of these States' declarations were accompanied by reservations and limitations which set certain categories of disputes apart or established certain conditions to be fulfilled for a case to come under the jurisdiction of the Court. This is a practice that my delegation can in no way encourage.

Mr. Shin Boonam (Republic of Korea): At the outset, I would like to thank Judge Hisashi Owada, President of the International Court of Justice, for presenting the comprehensive report on the activities of the International Court of Justice over the past year. We would also like to offer our praise and support to the Court for its achievements during the period under review.

Over the years, the International Court of Justice has been engaged in the search for equitable and just Judgments to resolve legal disputes between States. The devoted work and profound legal wisdom of the Court have gained increasing respect and support from the international community. Undoubtedly, its remarkable role in the promotion of peace and security has to be underscored.

Notably, the Court rendered three judgments on the merits of the cases and one judgment on preliminary objections. In these cases, the Court met our high expectations for authoritative language on matters of international law. In addition, two orders were issued on requests for the indication of provisional measures. It is important to note that these cases before the International Court of Justice come from all over the world and relate to diverse subjects in international law, demonstrating not only the universality of the Court but also its growing specialization.

Last year, the Court issued an order on the request for the indication of provisional measures in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*. In its ruling, the Court reconfirmed the binding nature of its orders for the indication of provisional measures under Article 41 of the Statute. The process took just over two months after the institution of proceedings — not a long time, in particular considering the gravity of the situation. Without prejudice to a final decision, my delegation recognizes that this case will serve to strengthen the role and authority of the Court by enhancing the effectiveness of the judicial proceedings.

While provisional measures were urgently taken in the case I have just described, this year the Court rejected the request by Belgium for the indication of provisional measures in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*. Here, the Court clearly illustrated the standard of urgency required for it to indicate provisional measures: where there is a real and imminent risk that irreparable prejudice might be caused to the rights in dispute before the Court had given its final decision. My delegation believes that these orders on provisional measures, based as they are on insightful reasoning and analysis, will be recorded and referred to as distinctive judicial decisions.

The number of cases coming before the Court has risen substantially during the past decade, significantly increasing its workload. We recognize that the judicial year 2008-2009 was also a busy one, as mentioned in the report, with six cases under deliberation at the same time. In that regard, it is important to note that the

Court has taken a significant number of steps to increase its efficiency and thereby enable it to cope with the expansion of the scope of its work.

We welcome that sustained level of activity on the part of the Court, and also emphasize that unreserved cooperation among Member States and the support of the international community as a whole are important for the Court's success. In that regard, my delegation is of the view that the President's proposed budget for the next biennium — including the request for the creation of the six law clerk posts to assist the judges in the increasing number of fact-intensive cases — should receive favourable consideration. A revitalized and more efficient Court with sufficient funding would be a great benefit to all members of the international community.

As I conclude my remarks, let me reaffirm the Republic of Korea's steadfast contribution to the invaluable work of the International Court of Justice to achieve the ideal of peace under the rule of law.

Mr. Hernández-Milian (Costa Rica) (*spoke in Spanish*): At the outset, I would like to thank Judge Hisashi Owada for his detailed report. The submission of many contentious cases to the Court's expertise confirms its credibility and legitimacy. Furthermore, it irrefutably proves that, thanks to the rigour of the Court and the ethical and professional standing of its members, international law and the peaceful settlement of disputes are continually strengthened.

For Costa Rica, the creation of the United Nations system and the establishment of the International Court of Justice enabled us to entrust our peace and security to the rule of law and to multilateral mechanisms of coexistence. We have made the rule of law the guiding principle that nurtures our internal coexistence and our relations with the international community. That gained even greater significance after the army was abolished, only three years after the signature of the San Francisco Charter. The existence of legitimate procedures to decide legal disputes was for us a major difference in the manner of handling our international relations. The Court played a primary role in a political context that at that time was exposed to successive breaches of peace and threats to international security.

Costa Rica's confidence in the international legal order and in the work of the International Court of Justice has not been a rhetorical exercise. It has been borne out by real events. Costa Rica turned to the Court to resolve, in an amicable and peaceful way, the legal disputes regarding our navigational rights on the San Juan River, which delineates our border with the sister Republic of Nicaragua. We turned to that body in the belief that entrusting the settlement of a dispute to international jurisdiction was the most civilized way to settle a dispute between nations.

The case was resolved satisfactorily by the Court a few months ago. The Court's main task was to establish a balance between the sovereignty and full authority of Nicaragua over the river and Costa Rican rights to its use for peaceful purposes. The decision is a modern interpretation of the provisions established in the Treaty of Limits of 1858. With that decision, from now on both countries know the legal position of their rights over the San Juan River and how such rights can best be exercised. From the very moment the decision was issued in The Hague, Costa Rica and Nicaragua declared their complete commitment to fully respecting it. My country welcomes the decision of the international judges and recognizes that that decision contributes to the coexistence and harmony of our peoples.

When my country recognized the independence of Kosovo, it did so in the belief that that recognition was founded on the Rambouillet Accords and other legal instruments, but we stand respectfully ready to submit our legal reasoning for consideration by the International Court of Justice. Costa Rica supported the request of the Republic of Serbia that the International Court of Justice be asked for an advisory opinion on the legal implications of Kosovo's unilateral declaration of independence. The General Assembly submitted that request to the Court for its study and expertise in 2008 (resolution 63/3). Although the recognition of a new State falls within the sovereign sphere of action of a country, the opinion that the Court is to provide in that regard has, in our view, an intrinsic value and will be studied in depth by Costa Rica.

Costa Rica welcomes the fact that many treaties recognize the Court's competence to settle disputes arising from their application or interpretation, although there remains some way to go before most States of the international community fully adhere to obligatory contentious jurisdiction. It is necessary that more States deposit with the Secretary-General their acceptance of that jurisdiction.

At this time, the universalization of international justice is needed. Costa Rica values the universal character of the Court, its contributions to the ongoing building of international law and the invaluable service it provides in the concord of nations. Costa Rica urges acceptance of the Court's obligatory jurisdiction, the abandonment of calculated national interests so as to ensure an increasingly credible international legal order in an age characterized by the intersection of civilizations and by extensive and interdependent links among societies. Accepting the Court's competence to consider contentious cases, without restrictions or limits of any kind, is an indisputable condition for the full functioning of the international legal order.

Only with transparent standards and rules regulating relations among States can we attain the necessary legal certainty for contemporary international law to prevail and, under it, mechanisms such as the International Court of Justice for the peaceful settlement of disputes.

Mr. Dinescu (Romania): Romania would like to thank President Owada for the report on the work of the International Court of Justice (A/64/4), which, as is the case every year, is both wide-ranging and highly informative, and to extend our warmest congratulations to him on his election as President of the Court.

The report reflects the importance and the central role of the world Court in strengthening respect for international law by solving the disputes submitted to it on various and complex matters. The workload of the ICJ has increased considerably in recent years, and the report bears witness to the laborious work done by the Court, always to the most rigorous legal standards. Romania considers that the ever more frequent recourse to the Court, by States from every region of the world, in order to settle disputes in a wide range of fields of international law, shows not only the increasing confidence of the international community in the professionalism and impartiality of the Court, but also the acknowledgement of the unique contribution that the Court's case law brings to the advancement and development of international law.

As mentioned in the report, my country has recently been involved in proceedings before the Court, in relation to the delimitation of the exclusive economic zones and continental shelf of Romania and Ukraine in the Black Sea. The judgment was rendered on 3 February 2009; it is highly significant that it was adopted unanimously and with no separate opinions or declarations appended to it. For us, the proceedings before the Court truly represented a milestone, as Romania had never before been party to a contentious case before the International Court of Justice. The decision to seize the Court of this matter was a clear expression of my country's recognition of the Court's high professionalism and, in particular, of its extensive expertise in the field of maritime delimitation.

Our expectations have been wholly fulfilled. We are very satisfied with the outcome of the case, which reflects the most accurate application of the relevant norms of international law and is fully equitable. The unprecedented unanimity with which the judgment was handed down is convincing proof that the Court's solution was well grounded and judicious. The judgment is also a significant development in the law of maritime delimitation, as it reinforces and refines an already sizable body of jurisprudence in this field. It offers extremely useful clarifications of various points of law and will certainly be of great assistance in lawsuits concerning maritime boundaries in other geographical areas.

I had the privilege of being co-agent, counsel and advocate for Romania in this case. I thus had the chance to acquire first-hand knowledge of how the Court works and to assure myself of its efficiency and professionalism. I note in this context the remarkable efforts of the Court to deal with the case in the shortest possible time. I would also like to commend the Registry of the Court for its highly effective activity and to congratulate the staff on the quality of their work.

My country strongly believes in respect for the rule of law in international relations. In this context, I note that the Court will quite soon hold hearings on the issue of the accordance with international law of the unilateral declaration of independence by the Provisional Institutions of Self-Government in Kosovo. Romania voted in favour of the General Assembly's resolution 63/3, requesting an advisory opinion of the Court on this matter, participated in the written stage of the process and expressed its intention to participate in the oral hearings due to commence on 1 December. We are convinced that in rendering an advisory opinion on the merits of the question, the Court will uphold its usual standards of impartiality and professionalism.

Let me conclude by reaffirming Romania's full confidence in, and strong support for, the invaluable activity of the Court in ensuring respect for law and justice at the international level.

Mr. Ben Lagha (Tunisia) (*spoke in Arabic*): It is my honour to address the General Assembly on behalf of the delegation of Tunisia as it considers the report of the International Court of Justice (A/64/4). Let me begin by expressing our thanks and appreciation to Judge Hisashi Owada, President of the Court, for his comprehensive and valuable presentation on the Court's work during the past year. Let me take this opportunity to congratulate him warmly on his election to the presidency of the Court and pay tribute to the valuable efforts of his predecessor, Judge Higgins.

Tunisia attaches great importance to the rule of law in international relations as a pillar of peaceful coexistence among States. We greatly appreciate the pivotal role played by the International Court of Justice, as the principal judicial organ of the United Nations system, for the peaceful settlement of international disputes and for consolidating and implementing the norms and principles of international law.

The past judicial year was quite busy: the Court handed down four judgments and two orders on requests for the indication of provisional measures. In this regard, we would like to express our satisfaction with the judgment rendered by the Court in the case of *Maritime Delimitation in the Black Sea*, as well as that in the *Dispute regarding Navigational and Related Rights*. We also pay tribute to the parties to the disputes for their acceptance of the Court's judgments and their willingness to unite their efforts to implement them. This is a good example to be followed in the area of the peaceful settlement of disputes between States, and is testimony to the importance of the Court's mandate and role.

The report outlines the increasing number of cases before the Court. In addition to previous cases under examination, the Court is considering four new contentious cases and another request for an advisory opinion. The report shows that cases are coming from many parts of the world and that they are diverse in nature. The subject matter and diversity of the cases reflect the universal character of the Court and the confidence placed in it, but they also pose new challenges. Owing to the limited human and technological resources available to the Court, we should give more consideration to ways to strengthen the Court and develop its working methods in order to improve its efficiency and keep abreast of the demands and imperatives of modern times, as recommended in the 2005 World Summit Outcome (resolution 60/1).

We would like to commend the high professionalism and efficiency shown by the Court, and its ability to clear its backlog of cases and cope with its increasing workload. In this regard, we reiterate our belief that the Court's efforts should be supported by creating new posts for clerks and legal assistants, in addition to providing adequate resources for establishing a documents division for the Registry and equipping the Court with state-of-the-art technology.

While priority should be given to international law, given the increasing complexity of international relations, my delegation attaches great importance to the role of the Court in providing advisory opinions that illuminate the law and eliminate ambiguities. This helps the United Nations system and its organs implement the goals of the Organization and the development and strengthening of the authority of international law. The Court's role in that sphere is commendable, for it is a source of interpretation of the norms of international law. Hence, we urge the Security Council, under Article 96 of the Charter, to seek its help in addressing issues, thus ensuring harmony between United Nations resolutions and international law. We also encourage the General Assembly and other United Nations organs and specialized agencies to seek the Court's opinions. This would undoubtedly enrich the Court's jurisprudence and ensure the primacy of the rule of law and the values envisioned by the authors of the Charter, given the high moral and legal value of the Court's decisions.

My delegation thinks that the Court's advisory opinions are not just a point of view but a reaffirmation of the principles of international law and therefore should not remain dead letters: they must be taken into consideration by all Member States as well as by the principal organs of the United Nations, in particular the General Assembly and the Security Council. In this context, we would like to recall the recent advisory opinion relating to the construction of the separation wall in the occupied Palestinian territory. That advisory opinion upheld and strengthened the principle of the inadmissibility of the acquisition of land by force, and

we reiterate our call for it to be taken into account by the principal organ of the United Nations responsible for the maintenance of international peace and security.

In closing, I reaffirm our belief in the important role played by the ICJ and express our thanks to all its judges, who perform their duties with high professionalism and transparency. We reiterate our support for the Court as it carries out the noble mission for which it was created in the sphere of the administration of justice and upholding the rule of law.

Mr. Appreku (Ghana): Ghana welcomes the report of the International Court of Justice (A/64/4), presented by the President of the Court, Judge Hisashi Owada. Ghana further welcomes 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 (A/64/308).

I would like to use this opportunity to congratulate Judge Owada on his election as President of the International Court of Justice (ICJ) and to pay tribute to his predecessor, Dame Rosalyn Higgins, for her outstanding work on the Court.

Ghana appreciates the measures taken by the Court to clear its backlog of cases and to improve its practice directions, proceedings and working methods. It is gratifying to note from the report that States considering coming to the Court can now be confident that as soon as they have finished their written exchanges, the Court will be able to move to the oral proceedings in a timely manner. However, the remaining administrative bottlenecks and logistical challenges impeding the administration of justice by the Court, which have been highlighted in the report, require urgent attention. Ghana therefore appeals to the Assembly to address urgently the various requests submitted by the Court, including the request for six additional law clerks, additional registry staff, new equipment and adjustments in the pension scheme, in order to strengthen the staff of its Registry, that is, the secretariat of the Court, as well as upgrade its technology, information management and record keeping. That, we believe, will enhance efficiency, effectiveness and incentives for the learned judges, with a view to making it possible for States to obtain justice without undue delay and at less cost.

The Secretary-General has reported that in the period under review the Trust Fund did not receive any applications from any State for assistance in the settlement of disputes through the ICJ. Although the reason was not stated, it would be desirable to create greater awareness about the existence of the Fund, which assists financially challenged parties that submit disputes to the Court to enable them to honour their financial obligations associated with the Court's dispute-settlement mechanism.

It is significant that many of the disputes that have come before the Court during the reporting period involve contentious issues of international law over which States have expressed divergent or sometimes diametrically opposed views. These include questions relating to the obligation to extradite or prosecute, the immunity of foreign officials in foreign criminal jurisdiction, jurisdictional immunities of States and the delimitation of the continental shelf, areas in which there may be gaps in the relevant rules of international law or where established norms or principles may need further clarification or elaboration. For example, in the absence of an agreement among States parties to the United Nations Convention on the Law of the Sea (UNCLOS), the Court may be called upon in the foreseeable future to resolve overlapping claims and issues arising from submissions made by States pursuant to paragraph 8 of article 76 of UNCLOS, whereby coastal States may claim an extended outer limit of their continental shelf beyond 200 nautical miles. It is hoped that the decisions or opinions rendered by the Court in the cases settled or yet to be resolved by the Court in the reporting period will become instrumental in lessening prevailing differences and tensions as well as forging consensus and thus facilitating the codification and progressive development of international law.

My delegation would like to encourage the Court to intensify its outreach programmes including its ongoing dialogue with other international judicial bodies, such as the International Criminal Court, with the aim of addressing the question of the fragmentation of international law and harmonizing the norms of international law. To that end, it is particularly important for it to deepen its dialogue with the various international ad hoc criminal tribunals, many of which are currently implementing their completion strategies. Ghana will also reiterate the need for the Court to improve its cooperation and dialogue with regional and subregional courts, including the African Court of Justice, the African Court of Human and Peoples' Rights and the Court of Justice of the Economic

Community of West African States. The capacity of these regional and subregional courts in Africa and other regions will no doubt be enhanced through the sharing of the Court's experience and expertise in terms of working methods and caseload management, among other areas.

The diversity of disputes that have been settled by or are pending before the Court, in terms of subject matter, geographical region and the level of development of the States involved, attests to the growing confidence in the Court. It is by now a truism that the Court plays an indispensable role in the promotion of peace and security. However, what my delegation would like to stress is the invaluable contribution of the decisions of the Court to the promotion of good-neighbourliness, as many cases before it involve disputes between States that share common boundaries and belong to the same region or international organization, and that at times bring disputes requiring the Court to interpret bilateral agreements that they themselves have concluded to promote good-neighbourliness. The fact that the overwhelming majority of parties to disputes before the Court accepts the judgments and decisions of the Court in good faith has helped to keep friendships and alliances — as well as otherwise hostile or unfriendly relations — in constant good repair. That is evidence of the moral authority of the Court.

Indeed, at times the mere filing of claims or lodging of grievances at the Court has been instrumental in preventing the escalation of many conflicts. Ghana believes that it is imperative for the Court to strive to sustain the confidence of the international community in it, on the basis of its impartiality, independence, integrity, competence and efficiency, about which there is no doubt.

In conclusion, we wish to recall that the Charter of the United Nations imposes an obligation on Member States to ensure respect for the principles of justice and international law. The national Constitution of Ghana reaffirms this obligation. Therefore Ghana would like to take this occasion to renew its commitment to support the work of the International Court of Justice as the principal judicial organ of the United Nations in its quest to promote the rule of law as the foundation for the conduct of international relations.

The meeting rose at 6.10 p.m.