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Official Records

President: Mr. Deiss (Switzerland)

In the absence of the President, Ms. Waffa-Ogoo (Gambia), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda items 13 and 115 (continued)

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Follow-up to the outcome of the Millennium Summit

Draft resolution (A/65/L.7)

The Acting President: In connection with draft resolution A/65/L.7, I now give the floor to the representative of the Secretariat.

Mr. Zhang: In connection with draft resolution A/65/L.7, entitled “Review of the United Nations peacebuilding architecture”, I wish to put on record the following statement of financial implications on behalf of the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly.

Under the terms of paragraphs 2 and 3 of the draft resolution, the General Assembly would request all relevant United Nations actors to take forward, in line with their mandates and as appropriate, the recommendations of the report presented by the co-facilitators (A/65/868, annex) with the aim of further improving the effectiveness of the Peacebuilding Commission.

Recognizing that the peacebuilding work of the United Nations requires sustained support and adequate resources to meet the challenges, it is anticipated that additional staff resources would be required in the biennium 2012-2013 to improve the effectiveness of the Peacebuilding Commission. Those resources would allow for providing capacities for communication and outreach and for undertaking the mapping of existing peacebuilding initiatives and resources in countries for the Peacebuilding Commission. Furthermore, they would support the resource-mobilization functions of the country-specific configurations, the implementation of the recommendations of the review report concerning the development of an effective communications strategy for the work of the Peacebuilding Commission, as well as the undertaking of missions to engage and consult with actors such as the European Union, the World Bank, the African Development Bank, the African Union and relevant regional organizations for the purpose of building partnership for peacebuilding, including resource mobilization.

Such requirements would be considered in the context of the finalization of the proposed programme budgets for the biennium 2012-2013. Accordingly, the adoption of draft resolution A/65/L.7 would not entail any additional requirements under the programme budgets for the biennium 2010-2011.

The Acting President: The Assembly will now take a decision on draft resolution A/65/L.7, entitled “Review of the United Nations peacebuilding architecture”.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506. Corrections will be issued after the end of the session in a consolidated corrigendum.



May I take it that the Assembly decides to adopt draft resolution A/65/L.7?

Draft resolution A/65/L.7 was adopted (resolution 65/7)

The Acting President: The General Assembly has thus concluded this stage of its consideration of agenda items 13 and 115.

Agenda item 73 (*continued*)

Report of the International Criminal Court

Note by the Secretary-General (A/65/313)

Report by the Secretary-General (A/65/315)

Mr. González Sarasa (Cuba) (*spoke in Spanish*): May I begin by expressing deep condolences on the part of the Cuban Government and people for the deaths of the Prime Minister of Barbados, The Honourable David Thompson, and of the former President of Argentina, Néstor Kirchner.

The establishment of an international criminal jurisdiction that is impartial, non-selective, effective, fair, complementary to national justice systems, genuinely independent, and therefore free of subjugation to political interests that might erode its essence, continues to be an objective that Cuba supports.

The International Criminal Court has a constitutive problem regarding the limitations on its independence, given the way in which its relations with the Security Council have been defined. Article 16 of the Rome Statute gives the Council the power to suspend investigations or trials undertaken by the Court, a matter that was not settled with outcomes of the Review Conference of the Rome Statute, held in Kampala on 31 May to 11 June.

The definition of the crime of aggression arrived at during the Conference fell short of Cuba's expectations. Thus, the opportunity was lost to establish a generic definition covering forms of aggression that also manifest themselves in international relations between States and are not limited to the use of armed force but can have an impact on the sovereignty, territorial integrity and political independence of States.

For more than 50 years, Cuba has been subjected to such forms of aggression, resulting from the aggressiveness and permanent hostility of its powerful northern neighbour, which have caused thousands of deaths and injuries and incalculable material, economic and financial damage to the people of Cuba. Moreover, the definition of the crime of aggression that was adopted in Kampala adds an ambiguous qualifier to the elements that the Court should consider in determining the existence of such an act, in that it fails to describe clearly what is meant by the gravity and scale that characterize such crimes and render them clear violations of the Charter of the United Nations.

In Cuba's opinion, the use of force by a State in a manner incompatible with the Charter of the United Nations is in itself a grave breach of the Charter. The integrity of the Rome Statute as a complement to national criminal jurisdictions must be protected. The Court must remain impartial and fully independent of the political entities of the United Nations, which must not be allowed to affect its functioning. The responsibilities of the Security Council under the Charter should not limit the Court's role as a judicial body.

Cuba maintains a constructive position regarding the establishment of an international criminal justice system that is genuinely impartial, effective, independent and complementary to national jurisdictions. In that regard, we have followed with interest the Court's evolution and developments within it. We have participated with interest as an observer in the meetings of the Assembly of States Parties to the Rome Statute.

We would, however, like to express our concern about a serious precedent that has been established in the way in which the Court can initiate proceedings against nationals of States non-parties to the Rome Statute, where the jurisdiction of the Court has not been accepted in keeping with article 12 of the Statute. The Cuban delegation reiterates that the legal principle with respect to the consent of the State concerned must be respected, since this is a treaty that is covered by Article 11 of Part II of the Vienna Convention on the Law of Treaties of 23 May 1969.

My delegation reaffirms its determination to contribute to the implementation of international criminal law so that it is fully effective and conforms with international law, particularly the United Nations Charter.

Mr. Osman (Sudan) (*spoke in Arabic*): My delegation has examined the report (see A/65/313) of the International Criminal Court (ICC) before the General Assembly, and particularly Chapter III regarding the Sudan, which includes information that lacks any objectivity or legal foundation. This has strengthened our conviction more than ever before that our firm position vis-à-vis the Court is right and just and that we have been dragged into its proceedings, which are based on political deception disguised as law. Needless to say, such politicization of international justice runs completely counter to the objectives for which the Court was established. The Sudan was a full participant in all the preparatory meetings that preceded the drafting of the Statute of this Court, culminating in its adoption at the 1998 Rome Conference.

I should mention from this rostrum that since that date, and before the Statute entered into force, the Sudan has repeatedly and distinctly warned about the risk of politicizing the Court and deflecting it from the objectives for which it was established. Since that time, we have also warned about the gravity of the possibility that certain States might take advantage of the relationship between the Court and the Security Council, as addressed in article 13 (b) of the Statute, in order to transform the Court into a purely political tool disguised as a legal entity. Now we see that the situation that we warned of at the preparatory meetings before the drafting of the Statute has materialized and that the facts confirm what we repeatedly warned of and explained when expressing our reservations.

Africa, our mother continent, is now paying the price for the ambiguity and the grey texts of the provisions of the Rome Statute, which have been abused by certain circles that have used the Court as a means to serve their political interests, which can be seen in the targeting of African States and their leaders, as if the Court's only jurisdiction were in Africa and in no other continent. That politicization of justice is completely unacceptable. That is what has led the African Union to adopt its firm and principled position rejecting such a blatant politicization of justice, a position endorsed by major regional organizations and

political and geographical groups, representing more than two thirds of the total membership of the United Nations: the African Union, the League of Arab States, the Organization of the Islamic Conference, the Non-Aligned Movement and the Community of Sahel-Saharan States.

From this rostrum, I salute all the member States of those organizations. In spite of being parties to the Rome Statute, they have not hesitated to declare their firm rejection of the Court's transformation from a judicial body into a tool for political intrigue and extortion, which cannot be further from the main objectives for which the Court was established. What kind of justice ignores hundreds of thousands of civilians outside of Africa who have been killed collectively by means of the latest and most destructive tools of war and death? Why does it only see what happens in Africa? Where are the preconditions to the exercise of jurisdiction under article 12 of the Rome Statute?

With regard to the competence of the Security Council, we have already drawn attention to that situation based on the fact that the Council is a political body that Member States of the Organization have been attempting for over two decades to reform and have not been able to do so. It was obvious to us that article 13 (b) of the Rome Statute would be abused with regard to certain cases that are before the Security Council and would be referred to the Court under Chapter VII of the Charter. It was not strange, then, that resolution 1593 (2005), regarding the situation in Darfur would be adopted in a flawed manner and in contradiction of basic justice and equality, both of which prohibit exceptions or selectivity.

We could speak for a very long time if we started to dissect all the claims that have been made against the Sudan, its leadership, its people and its sovereignty. The professional conduct of people of law and jurisprudence is based on integrity and impartiality. They do not engage in political or media campaigns in order to become stars or to prove themselves. Justice is much larger and more sublime than limited personal gains. What we have seen in the prosecution statements could not be further from the provisions of article 15 of the Rome Statute.

The Assembly is well aware that during the preparatory consultations on the Rome Statute, many countries expressed reservations over the unlimited

authority of the Prosecutor, and they were right to do, since mixing politics with the law would ruin both and transform them into a complete distortion that annuls the basic tenet of legal jurisprudence, namely, that peace is the highest form of justice. The moves made by the Prosecutor with regard to the Darfur issue are a clear example of the politicization of his position. The Prosecutor has become a real obstacle to the political process aimed at achieving comprehensive and sustainable peace in Darfur. Every time negotiations get closer to conciliation and the signing of an agreement, the Prosecutor comes up with another case or a new fabricated accusation that sends the wrong message to the armed rebel movements, taking back the political process to square one.

In that context, the most recent decision by the Court to add the crime of genocide to the list of allegations against the leadership of the country and the symbol of its sovereignty took place during the preparation for the presidential elections in my country and at a time when negotiations in Doha, under the sponsorship of the brotherly country of Qatar and with the participation of the United Nations-African Union Mediator, Mr. Djibril Bassoulé, were close to reaching an agreement. It was then that the Prosecutor came up with a fabricated new accusation, namely, the crime of genocide, an accusation made against His Excellency the President of the Republic of the Sudan.

Let me ask the Assembly: is it conceivable that a President of a State who is alleged to have committed the crime of genocide against certain tribes in his country would, at the same time, have five Ministers in his Government from those tribes, including the Minister for Justice? How could that be when thousands of members of those tribes live in the heart of the capital, Khartoum? Scores of members of those tribes are also members of the federal Parliament, and the state parliaments as well. Would this not give an indication that the accusation is false and has absolutely no basis in truth?

The irony and the extreme excesses of the Prosecutor reached their limit with his description of the elections in the Sudan as similar to Nazi elections. Where is the law and the objectivity in this purely political description? Is this evidence of professional conduct?

We were not at all surprised with the new tendency of the Court to contradict the well-established

and most basic tenets of international law, particularly with regard to the immunity of heads of State and Government, which have been adopted by the International Court of Justice with regard to all provisions relating to high officials of that kind. How clear, then is the difference between one Court and the other.

It is also ironic that the Assembly considered yesterday morning the report of the International Court of Justice (A/65/4) and reaffirmed that that Court, in all of its decisions and advisory opinions, was completely committed to the Charter of the United Nations, particularly with regard to respect for the sovereignty of States and their territorial integrity. Where does the International Criminal Court stand with respect to those values and principles of justice?

In the light of the position taken by the heads of State of African and Arab countries, the heads of State of the countries of the Non-Aligned Movement, meeting at Sharm el-Sheikh in brotherly Egypt in 2008, rejected the Court's proceedings and decisions with regard to the Sudan. We would like to commend the strong position taken by the Afro-Arab summit held in Sirte, Libya, in September 2010; that meeting also rejected the decisions of the Court.

In conclusion, the delegation of the Sudan, while participating in these deliberations on the report of the International Criminal Court, would like to express its deeply held belief that peace-loving countries and countries that are guided by the values of justice, freedom and equality cannot accept the politicization of the Court nor its deviation from the objective for which it was established. We are firmly confident that all States Members of the United Nations, including States parties to the Rome Statute, are fully aware of the just position of the Sudan, in which it totally refuses to deal with the Court in any way, since that body has deviated from the path of law and justice, before which all are equal and are treated without selectivity or discrimination. We believe that people are aware of and feel the hegemony of certain influential States over the Court, which has led the targeting of African leaders in a way that recalls the former abominable colonial era.

We wish to reaffirm that we will continue our diligent efforts to reach a timely, comprehensive, political and sustainable settlement of the conflict in Darfur regardless of the Court's actions and its

destructive role. At the same time, we will make every effort to hold accountable anyone who has perpetrated crimes or violations during the conflict in Darfur. Justice will be served in all cases.

In that regard, I would like to refer to the statement made by the President of the Court that it was not the Court's objective to replace national legal systems. I would respond to that by saying that the International Criminal Court, in its present form and its legal basis, which is completely flawed, cannot replace the Sudanese legal system, now or ever.

The Sudanese judiciary has had a brilliant record and a strong legacy of integrity, credibility and professionalism. That legacy goes beyond the Sudan to many other African, Arab and Asian countries. Many legal figures of the Sudan have worked and still work in those countries, using their legal expertise and professionalism and an integrity and credibility testified to by all. They are in a much better position to bring about justice in the Sudan, and no one else can do that.

Ms. Blum (Colombia) (*spoke in Spanish*): I would like to begin my statement by expressing my condolences and those of the Colombian Government on the death of The Honourable David Thompson, Prime Minister of Barbados, and of former President of Argentina Néstor Kirchner.

My delegation thanks the President of the International Criminal Court for submitting to the General Assembly the Court's sixth report, covering the period 1 August 2009 to 31 July 2010 (see A/65/313).

In taking note of the report, the delegation of Colombia wishes to highlight the contribution of the International Criminal Court to the continuing development and strengthening of international criminal law. We also welcome the Court's own strengthening as an independent institution in fulfilling its mandate to investigate and prosecute crimes under its jurisdiction.

Among the elements highlighted in the report submitted by the Court, we underscore the efforts to support national jurisdictions in their primary responsibility to investigate and prosecute alleged perpetrators of the most serious crimes of concern to the international community, as well as the Court's

efforts to develop the complementary aspects of its jurisdiction.

In addition, I would like to mention some aspects considered during the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June. Among the achievements of the Conference, we highlight the adoption of the Kampala Declaration, in which States reaffirmed their commitment to observe the duties and responsibilities agreed to under the Rome Statute, as well as to guarantee its full application, universality and integrity.

We also highlight the 102 pledges of support to the International Court made by 37 States, the thematic reviews undertaken to take stock of international criminal justice and various resolutions on some of those issues, progress in the review of the Statute in connection with the crime of aggression, the resolution on the amendment that seeks to include the use of certain weapons as war crimes under the Court's jurisdiction, the resolve to keep in force the existing article 124 in its current form and the provisions adopted on the execution of sentences.

Colombia had made significant progress in harmonizing its domestic legislation with the principles and rules of the Rome Statute. In that regard, it should be noted that in April 2009 my country acceded to the Agreement on the Privileges and Immunities of the International Criminal Court. Similarly, as stated in the Court's report, it is worth mentioning that on 1 November 2009 the seven-year transition period that the Colombian State had set with regard to the entry into force of the Rome Statute with regard to the Court's competence to recognize certain acts as crimes of war came to an end.

The Government of Colombia believes that the work of the Court is decisive in preventing and combating impunity and in encouraging States to determine that national judicial bodies should carry out investigations and trials of alleged perpetrators of serious crimes, bearing in mind the complementarity of the Court's jurisdiction. In that regard, it is important to highlight that the report of the International Criminal Court acknowledges that Colombia's national criminal justice system has made efforts to deal with persons responsible for conduct proscribed by the Rome Statute in various broad categories.

In that regard, it should be pointed out that Colombia has achieved greater efficiency and

effectiveness in its system of justice by strengthening its criminal prosecution service. The Office of the Attorney General has been modernized and continues to strengthen its investigative capacity. The criminal justice system has the competence to be seized of alleged human rights violations committed by members of the security forces.

In general, through a policy aimed at strengthening democratic security, Colombia has reaffirmed its commitment to respect for human rights and the rule of law as an integral part of State policies. The national Government continues to apply, with the utmost strictness, the mechanisms available to it to respond in an exemplary manner and to bring to justice complaints made to it on all violations involving State officials, including the security forces. In developing a project within the Office of the Attorney General to analyse cases of violations of human rights and breaches of international humanitarian law, 301 cases of possible arbitrary killings have been studied. Several courts have issued convictions against perpetrators, and they have been upheld.

Moreover, support has been provided to the human rights unit of the Office of the Attorney General, supplying the logistics and security guarantees needed to form 1,973 commissions to investigate cases of the killing of protected persons. In our penal code, that sort of killing is defined as a crime against persons protected by international humanitarian law, whether by illegal armed groups or by other actors. That support has helped to bring about trials and, by May of this year, 50 convictions had been handed down.

It is also worth highlighting the national efforts to ensure the implementation of the principles of justice, truth and full reparation with regard to victims of violence perpetrated by illegal armed groups. The State of Colombia has developed an operational system of reparations for victims through an administrative procedure. A total of 121 defence lawyers have been employed to represent victims. Through that programme, trial representation has been provided to 111,118 victims in the past two years.

In addition, the Government of President Juan Manuel Santos has presented Congress with a new bill on reparations to victims, including the restitution of land to those who were dispossessed during the violence. This shows that our State is giving the utmost

national priority to combating impunity. To that end, all branches of the Government continue to work to strengthen access to and the administration of justice.

The United Nations is called on to promote the universality of the Rome Statute. It is important that the States that have not yet ratified this instrument consider doing so promptly. Full and effective collaboration among States, multilateral organizations and the International Criminal Court is essential for the Court to achieve its objectives. We therefore reiterate our call on States represented here and to the United Nations to continue to support the Court in order to ensure that it can become established as a decisive international entity in combating the most serious crimes and ensuring that such crimes do not go unpunished.

Mrs. Smith (Norway): Let me start by expressing Norway's continuing support and full recognition of the work of the International Criminal Court (ICC) during the past year. Norway welcomes the sixth annual report of the ICC (see A/65/313) and would like to thank the President of the Court, Judge Song, for his detailed and informative report and presentation here yesterday.

I would like to focus on three issues that are significant for the Court's work. These are, first, the cooperation of States parties and other States with the Court; secondly, the universality of the Rome Statute; and thirdly, the Review Conference held in Kampala in June this year.

First, Norway welcomes the arrest of Callixte Mbarushimana by French authorities earlier this month. Over the past few years, Norway has increased its efforts to strengthen the protection of civilians, especially women and children, from the atrocities of war. We have had a particular focus on the widespread sexual violence that has been perpetrated during the conflict in the Democratic Republic of the Congo. Sexual violence constitutes one of the most serious international crimes. The arrest of Mr. Mbarushimana was a crucial step in efforts to prosecute the alleged perpetrators of the sexual crimes committed in the Democratic Republic of the Congo.

However, eight ICC arrest warrants remain outstanding. They pertain to the situations in Darfur, Uganda and the Democratic Republic of the Congo. This is a matter of grave concern to Norway, and brings me to the issue of State cooperation.

The ICC depends on the cooperation of the States parties. The recent arrest was a joint effort by many parties, including France, the Democratic Republic of the Congo, Rwanda and Germany. It is an excellent example of successful cooperation among States. All States parties must do their utmost to provide the ICC with the best possible working conditions. Norway expects States with legal obligations under the Statute, or that have entered into cooperation agreements with the ICC, to fulfil their obligations and to demonstrate their commitment to justice in practice.

We therefore urge all States parties concerned to fulfil their responsibility to make the outstanding arrest warrants effective. In the Darfur situation, we call on all States, including the Sudanese authorities, to cooperate fully with the Court and to comply with their legal obligations under Security Council resolution 1593 (2005). We would in this connection also encourage the Security Council to consider measures that would ensure compliance with this resolution.

Turning briefly to the issue of universality, we are pleased to note that, with the entry into force of the Rome Statute for the Republic of Moldova on 1 January 2011, there will be 114 States parties to the Statute. The number of States parties is rising every year. It is remarkable that so many States from all parts of the world have ratified the Statute in such a short time. Norway strongly hopes that the ICC will enjoy universal adherence in the future. We believe that the long-term interests of all nations, irrespective of their size, region or political orientation, are best served by strengthening the rule of law and promoting justice.

We would like to thank the Government of Uganda and all other contributors for a successful Review Conference. In his opening statement in Kampala, the Norwegian Foreign Minister said that we should not only review the Rome Statute but also celebrate the ICC and the political, diplomatic and legal work it took to create it. The Conference showed us that there is still a strong political and diplomatic commitment to furthering the legal work to strengthen international criminal justice. In addition to reviewing articles 8 and 124, the Conference amended the Rome Statute to include a definition of the crime of aggression and the conditions under which the Court could exercise jurisdiction over that crime.

We were also pleased to see that the Norwegian proposal on enforcement of sentences materialized in a

resolution that calls upon States to accept in their prison facilities persons sentenced by the ICC. The resolution also confirmed that a sentence of imprisonment can be served in prison facilities made available by an international or regional organization, mechanism or agency. Further, we also welcome the resolutions on the stocktaking of international criminal justice and the Kampala Declaration. In the Declaration, States parties reaffirmed their commitment to the Rome Statute and its full implementation, as well as to its universality and integrity.

On that note, I would like to reiterate Norway's firm and long-standing commitment to the Rome Statute and to an effective and credible International Criminal Court. We believe that the ICC should enjoy the broadest possible support of all States. We all share the universal values attached to the protection of human dignity. This protection is enhanced by taking concerted action to suppress the most serious crimes affecting the international community.

Mr. Ulibarri (Costa Rica) (*spoke in Spanish*): Allow me to begin by expressing the condolences of my delegation, Government and people to the people and Government of Barbados on the death of Prime Minister David Thompson. Our condolences go likewise to the people and Government of Argentina on the death of former President Néstor Kirchner.

Costa Rica thanks the President of the International Criminal Court and welcomes the detailed report (see A/65/313) that he has submitted to the General Assembly. We also express our acknowledgement of the work carried out by the staff of the Court over the past year.

Since the establishment of the Court, Costa Rica has fully supported its work. In addition to our support for its tasks, we have repeatedly called for the universal ratification of and full compliance with its Statute. As in previous years, we appeal for the cooperation of States and United Nations bodies, in particular the Security Council, with the Court. Support for the Court is, in effect, support for the victims of the worst crimes against humanity, which must not go unpunished.

We welcome Bangladesh, Seychelles, Saint Lucia and the Republic of Moldova as new States parties to the Rome Statute. With these new parties, there are

now 114 States, including my country, that recognize the jurisdiction of the Court.

The International Criminal Court represents a major step forward in strengthening human rights and international law as a whole. However, we must continue to work on consolidating it as a key judicial tool in combating impunity and ensuring accountability in the international system. Our ultimate objective should be to build an international community on the solid foundations of justice.

Costa Rica believes that justice is a cornerstone of the quest for comprehensive, lasting peace. We see peace and justice as natural allies that complement each other. One need not be sacrificed for the other. On the contrary, peace and justice, together with international security and stability, can be achieved only if they are pursued together.

The Review Conference of the Rome Statute in Kampala in June was a fine opportunity for States to reaffirm our commitment to the Rome Statute and its ongoing relevance, full implementation, universality and integrity. My country reiterates its resolve to comply fully with the commitments made at the Conference.

Costa Rica welcomes the amendment made by States to paragraph 2 (e) of article 8 of the Statute to include within the Court's jurisdiction various war crimes when committed in armed conflicts not of an international character. We also commend the inclusion of a definition of the crime of aggression and the conditions under which the Court could exercise jurisdiction with respect to that crime. We hope that, when that amendment comes up for adoption in 2017, States will demonstrate their genuine commitment to the Court and adopt the amendment without serious delays.

The cooperation of States is essential to the work of the International Criminal Court. Its effective jurisdiction depends to a large extent on States' fulfilling their obligations to cooperate with it, help in the execution of its decisions and bolster its independence. Among those obligations is, of course, the execution of its arrest warrants. We are therefore concerned that the report states that nine arrest warrants have not yet been executed, which is rightly seen as the most pressing challenge now facing the Court.

Another task that cannot be delayed is for States to enact enabling legislation or other appropriate procedures in keeping with international law that will contribute to improving understanding of the Court's work at the international level, as provided for in the Declaration on cooperation adopted by States members of the ICC in Kampala.

It is also essential to ensure the cooperation and commitment of the Security Council. The Court's ability to focus on its judicial functions and fulfil its work, free of political pressure from any State, greatly depends on the Council's support and its insistence on compliance with obligations to the Court arising from its decision.

In this connection, we reaffirm our great concern that the report reflects yet again the Government of the Sudan's failure to comply with its international commitments. We emphasize that the Sudan's responsibility to comply with the arrest warrants issued by the Court derives not from the Rome Statute but from the resolutions of the Security Council and the very Charter of the United Nations. Therefore, its failure to cooperate represents a breach of international obligations voluntarily entered into by the Sudan as a State Member of the Organization.

Lastly, we reiterate our commitment to continuing to cooperate constructively with the Court in its work.

Mr. Stuerchler Gonzenbach (Switzerland) (*spoke in French*): My delegation would like first to express our sincere condolences to Barbados and Argentina.

My delegation thanks President Sang-Hyun Song for his introduction of the sixth annual report of the International Criminal Court (ICC) (see A/65/313). We also express our gratitude to all of the Court's staff members for their daily efforts in carrying out their difficult work.

The year 2010 marks a turning point for the International Criminal Court and for world justice. Twelve years after the signing of the Rome Statute and eight years after its coming into force, the States parties, meeting at the Review Conference of the Rome Statute in Kampala, adopted a definition of the crime of aggression and agreed on the conditions for the exercise of jurisdiction with regard to that crime. Switzerland welcomes the fact that States have found a

common solution by consensus, in full accord with the Statute and the United Nations Charter. That historic event was the result of intensive negotiations and a spirit of compromise.

According to the compromise, States parties are protected after ratification in accordance with paragraph 5 of article 121. The jurisdictional regime provided for in article 12 remains intact, with two exceptions. States not party are excluded from the jurisdiction of the Court in all circumstances, while every State party may lodge an opt-out declaration if it wishes to be excluded. That delicate compromise shows that the States parties all seek an effective International Criminal Court capable of fulfilling its mandate.

Sixty-five years after the crimes against peace tried by the International Military Tribunal at Nuremberg and the International Military Tribunal for the Far East in Tokyo, the crime of aggression has been given an international definition and integrated permanently into the jurisdiction of the ICC. That helps to strengthen the protection afforded by international criminal law in the form of *ius contra bellum*, which is firmly anchored in the United Nations Charter. My delegation calls on all States parties to the Rome Statute to ratify the amendment concerning the crime of aggression, which will activate the jurisdictional system as of 2017.

Progress on the crime of aggression is not the only success in Kampala that my delegation would like to mention. The amendment on the utilization of three kinds of weapons in non-international conflicts is equally important. It strengthens the protection of international humanitarian law and reduces the gap between the Statute's treatment of crimes in international conflicts, on the one hand, and those in non-international conflicts, on the other.

The convening of the Review Conference in Kampala, Uganda — a country that has chosen to refer its situation to the Court — was highly symbolic. It showed once again that the Court responds above all to the needs of those States in which the most serious crimes have been committed. It was also edifying to meet the victims and to come to a better understanding of their needs and wants. Their desire to resume their lives with dignity filled us with a feeling of great humility.

The role of the Court is a complementary one. The main responsibility for bringing the perpetrators of international crimes to justice remains in the hands of national jurisdictions. The Rome Statute prompted the modification of many of those national legal systems. Amnesty is no longer an option for the most serious crimes within the jurisdiction of the Court. The Court has shown that it can intervene when so required by its complementary role. The first trials have already begun.

The Court has had a major influence on the response to international crimes. The Rome Statute and the Court have the potential to effect a fundamental and lasting change in the international legal system. However, the ICC will be able to realize this potential only if it can count on the unshakeable support of the States parties in the execution of arrest warrants. Nine arrest warrants are currently awaiting execution.

Unless all States give the Court their support, it will lose credibility and be unable to fight effectively against impunity, pursuant to its vocation and the unanimous desire of all the countries that ratified the Statute. This was recognized during the Review Conference of the Rome Statute. The declaration on cooperation emphasizes that all States are obligated to cooperate with the Court, whether under the Statute or under relevant Security Council resolutions. Moreover, it singles out the crucial role of the execution of arrest warrants in ensuring the effectiveness of the Court.

The Court is today the main catalyst in advancing the cause of international criminal justice. My delegation is confident that its successes will induce those States that have not yet ratified the Rome Statute to do so. The system will be fully operational only when we have achieved the universal participation of States respecting their obligations. Such is the wish of my delegation, which has at all times insisted on the need for a Court that is effective, independent and universal.

Mr. Shawabkiah (Jordan) (*spoke in Arabic*): Allow me at the outset to welcome the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, and to thank him for introducing the sixth annual report of the ICC to the United Nations (see A/65/313), which was submitted pursuant to the Relationship Agreement between the United Nations and the Court. The report provides an overview of the main

developments in ICC activities between 1 August 2009 and 31 July 2010.

Jordan welcomes the cooperation that the United Nations has offered to the ICC and affirms the need and importance of States' cooperation with the ICC in order to achieve its objectives and purposes. From this rostrum, Jordan calls on all States and international and regional organizations to fully cooperate with the Court and to assist it in all aspects, be it by collecting evidence, offering logistical support for field missions, transporting witnesses, apprehending and handing over individuals or executing sentences handed down by the Court in order to end impunity for the most serious crimes.

International cooperation is very important to improving the operations of the ICC, be it in terms of coordination or of information exchange. Jordan reaffirms its continued support for the ICC and its belief in the principles for which it was created. The ICC is a main pillar in bolstering international justice, maintaining international peace and security and ensuring the supremacy of the rule of law.

Mrs. Cabello de Daboin (Bolivarian Republic of Venezuela) (*spoke in Spanish*): My delegation would like to begin by expressing our thanks for the report of the International Criminal Court (ICC) on its activities for 2009-2010 before the General Assembly (see A/65/313). In the report, the Court reports to the United Nations for the sixth consecutive year on its main activities in bringing to justice those responsible for the most serious crimes affecting the international community. The report reflects the unifying work of the ICC and we would therefore like to congratulate its President and all its members.

Section II of the report was written for the purpose of describing the outcomes of an event that was extremely important to the Bolivarian Republic of Venezuela. As is generally known, from 31 May to 11 June the Review Conference of the Rome Statute was held in Kampala, Uganda. We would again like to thank the people of Uganda for their hospitality during the Conference.

In Kampala, an amendment was adopted whereby the definition of the crime of aggression and the conditions under which the ICC can exercise jurisdiction with respect to that crime were incorporated into the Statute. The political circumstances prevailing on the international scene in

1998, when the Rome Statute was adopted, made it necessary for the crime of aggression, although formally included in the Statute, to remain outside the Court's jurisdiction. A waiting period was introduced, both for defining the crime and for the activation of the Court's jurisdiction with respect to it. It was hoped that, 12 years on, the international political scene would have evolved to the benefit of countries that, like ours, have voiced their desire for a true democratization of the United Nations system, eliminating once and for all the antidemocratic system that prevails in the Security Council. Unfortunately, from 1998 to our meeting in Kampala, there were few major changes in this regard.

While the definition of the crime of aggression has finally been incorporated into the Rome Statute, we all bore witness to the great pressure exerted by those States which, with a view to continuing to postpone the full operation of the ICC, proposed the establishment of a new waiting period before which the Court could exercise its jurisdiction over the crime of aggression. My delegation recalls the example of one statement made during the Conference, according to which the International Criminal Court was not yet sufficiently mature to include the crime of aggression and it would therefore be necessary to await a further review conference to discuss the question of its incorporation. As a result, the international community will have to wait yet again, this time until 2017, when the Court will finally exercise jurisdiction with respect to the crime of aggression and begin to try those responsible for committing that serious crime and bring an end to impunity in that regard.

Nevertheless, with a view to striking a balance at the Kampala Conference, we were encouraged that the amendment was adopted by the consensus of all members of the ICC and that, as of 2017, the Court will be able to exercise its independence and not be subject to political filters, in compliance with its objectives and functions.

As a State party to the Rome Statute, my country welcomes the outcome of the Conference and notes that, in Kampala, we not only adopted the amendment to the Statute concerning the crime of aggression and article 8, which we also welcome, but that States parties also reaffirmed our commitment to the Statute and the International Criminal Court in the aptly titled Kampala Declaration. We also welcomed the pledging ceremony, which our delegation considered to be an

important event due to its openness and inclusiveness, and in which States parties, non-parties and regional organizations participated. Venezuela was among those that participated and pledged.

In this regard, we recall that, in the days prior to the Review Conference, the Union of South American Nations (UNASUR) and its heads of State and Government met in special session and issued a declaration condemning the most serious crimes of international concern and reaffirming their commitment to the Rome Statute and the ICC. UNASUR represents the only region in which every State has ratified the Rome Statute.

Today, UNASUR is mourning the untimely and shocking passing of its Secretary-General, former Argentinean President Néstor Kirchner, whose death is a loss not only for Argentina but for the whole region. In the words of our President, Hugo Chávez Frias, Néstor Kirchner was a pillar of the continent, a bulwark of the region, a friend of South America and a brother of Venezuela. Our profound condolences go to the people of Argentina and to his wife, President Cristina Fernández de Kirchner. We will miss that great builder of the new Latin American homeland who was, above all, a friend and brother to Venezuela.

We would not wish to end our statement without first thanking the co-facilitators of the ICC review for their valuable work, which allowed the Review Conference to take a genuine step forward in terms of the assessment and future of international criminal justice. Finally, the Republic of Venezuela asserts once more its firmest commitment to the system that includes the Rome Statute and the ICC. Proof of that is the fact that my country was the third country of the Latin American and Caribbean region to ratify the Statute. In this context, my delegation stresses that the Bolivarian Republic of Venezuela is convinced that, if true international criminal justice is to exist, the Rome Statute must achieve universality as soon as possible. To that end, we commit ourselves to promoting, in the various forums of Latin America and the Caribbean in which we participate, its ratification by those countries that have not yet done so. In this context, we welcome the newest States parties to the Statute: Bangladesh, Seychelles, Saint Lucia and Moldova.

Mr. Rodríguez (Peru) (*spoke in Spanish*): I would like to thank the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for his

thorough presentation of the hard work accomplished by the Court in the past year.

Over the past year, a number of events pertinent to the work of the Court have occurred. First, Bangladesh, Seychelles, Saint Lucia and Moldova have ratified the Rome Statute, so that we now total 114 States parties. This is very encouraging, but a number of States have not yet ratified or signed. Peru therefore calls on those States that have not yet done so to ratify or become parties to the Statute so that it can achieve a genuinely universal scope that will prevent the most serious crimes of international concern from going unpunished.

While the increase in the number of States parties is essential, so too is strengthening cooperation among States so that the Court can achieve its goals. To that end, it is always important to remember that States must comply with the provisions of the Statute by supplying information; executing arrest warrants issued by the Court; detaining suspects and transferring them, where necessary, to the Court; protecting witnesses and victims; and implementing and aligning their domestic laws with the Statute.

Unfortunately, the Court does not always enjoy the necessary cooperation. This is a matter of concern, as the report of the Court (see A/65/313) indicates in regard to arrest warrants that have not been executed, that some persons whose arrests have been ordered by the Court have yet to be brought to justice or surrendered to the Court. The cooperation of States with respect to arrest warrants is an obligation derived both from the Statute and from the Charter of the United Nations.

Similarly, we must support cooperation between the ICC and the United Nations. It should be noted that such cooperation has allowed the Court to undertake important efforts and to publicize and raise awareness of its work. We trust that such cooperation will become increasingly close and coordinated, so that the Court can rely on the support of the various organs and entities of the United Nations.

The International Criminal Court plays a fundamental role in promoting the rule of law in that it is the only permanent judicial institution charged with investigating and trying those charged with the most serious crimes of international concern. This task requires a balance to be struck between respecting the rights of the accused and allowing victims to

participate in the proceedings, which is one of the innovative aspects of the Rome Statute.

The outstanding work of the Court's judges and staff has allowed the ICC to enjoy great legitimacy in the eyes of the international community. We can therefore assert that the international community, and victims in particular, recognize the Court as a genuine instrument of justice. This is borne out by the fact that, during the current judicial year, it has received 559 new communications relating to article 15 of the Rome Statute. This is noteworthy, given that behind these communications are potential cases in which war crimes, crimes of genocide or crimes against humanity may have been committed.

There can be no doubt that the Review Conference strengthened the system created by the Rome Statute. On the one hand, the Kampala Declaration and the exercise of submitting pledges reflect the firm commitment of States to the Court's work and to international criminal justice in general. Similarly, the stocktaking of international criminal justice has made it possible to address crucial areas relating to cooperation, complementarity, the impact of the system on victims and affected communities, and the relationship between peace and justice, as well as to identify the challenges they present. Dealing with this requires the involvement not only of States but also of international organizations and, in particular, of civil society.

Moreover, the amendments adopted will make it possible to fully implement the provisions of article 5 of the Statute, regarding crimes that are under the Court's jurisdiction. It should be noted that, with respect to the crime of aggression, through its resolution RC/Res.6, the Review Conference expressed its determination to make the Court's jurisdiction operational as soon as possible. To that end, States agreed on a definition of the crime of aggression and the conditions necessary for the Court to exercise jurisdiction, such exercise of jurisdiction being subject to a decision to be adopted by the States in 2017.

Lastly, Peru wishes to reiterate its willingness to collaborate actively and constructively with the International Criminal Court in order to combat impunity for the most serious crimes of international concern.

Ms. Millicay (Argentina) (*spoke in Spanish*): Before I begin, I would like to express my thanks for the heartfelt condolences expressed by the delegation of Venezuela and for the displays of sorrow and affection received from other delegations on the death of the former President of my country, Mr. Néstor Kirchner.

Argentina expresses its appreciation and recognition to the President of the International Criminal Court, Mr. Sang-Hyun Song, for his submission of the report on the Court to the United Nations contained in document A/65/313.

The Rome Statute and the International Criminal Court are among the most notable achievements of multilateral diplomacy, and their contribution to fighting impunity for crimes against humanity, crimes of genocide and war crimes is evident. Only a decade after the adoption of the Rome Statute, the Court is a fully functioning permanent international criminal tribunal.

Since the last report of the International Criminal Court to the Assembly (A/64/356), in addition to the situations in Uganda, the Democratic Republic of the Congo, the Central African Republic and Darfur, the Sudan, in November 2009 the Court assigned the situation in Kenya to Pre-Trial Chamber II, which authorized the Prosecutor in March 2010 to open an investigation. Also, on 22 November 2010, the trial against Jean-Pierre Bemba Gombo for war crimes and crimes against humanity in the Central African Republic will begin.

This year also finds the Rome Statute and the International Criminal Court strengthened. To date, 114 States are parties to the Statute. Accordingly, I would like to welcome Bangladesh, Seychelles, Saint Lucia and Moldova to the Statute.

The other reason to be gratified is the success of the Review Conference of the Rome Statute, which took place in Kampala, Uganda, from 31 May to 11 June. The Conference, excellently organized by the Republic of Uganda, was attended by a large number of States parties, non-parties and representatives of civil society. Attendance at the segment devoted to the general debate and the adoption of the Kampala Declaration was at the highest level.

Allow me now to refer to the achievements of the Review Conference.

The Conference adopted, as corollary to the high-level segment, the Kampala Declaration, whereby States parties reaffirmed their commitment to the Rome Statute and to its full application, universality and integrity. They also renewed their determination to put an end to impunity for perpetrators of the most serious crimes of international concern, emphasizing that justice is a fundamental building block of sustainable peace, and decided to pursue and strengthen their efforts to ensure full cooperation with the Court in accordance with the Statute and to maintain their political and diplomatic support for the Court. They also decided to celebrate 17 July, the day of the adoption of the Rome Statute in 1998, as the Day of International Criminal Justice.

At the pledging ceremony, many States parties, one observer State and one international organization of regional integration made pledges. Argentina was among them.

The stocktaking of international criminal justice produced remarkable results, due undoubtedly to the high level of the panellists and other participants and to the active participation of States and civil society. Argentina had the privilege of being one of the focal points, jointly with the Democratic Republic of the Congo and Switzerland, on the topic of peace and justice. We were pleased to participate in the panel on that topic in Kampala, whose debates reinforced the conclusion that there can be no lasting peace without justice and that peace and justice are thus complementary requirements. I take this opportunity to recognize the devoted and cooperative work of Switzerland and the Democratic Republic of the Congo and the contribution of the experts providing background material and of States and non-governmental organizations, which also provided valuable material.

One of the firmest commitments made in the Kampala Declaration was to work actively during the Review Conference towards the satisfactory outcome on the amendment proposals to be considered at the Conference.

Regarding article 124, the Review Conference decided to retain it in its current form and agreed to further review its provisions during the fourteenth session of the Assembly of States Parties, in

recognition of its merely transitional nature. The Review Conference also adopted amendments to article 8 of the Statute, adding to the list of war crimes acts committed in the context of armed conflicts not of an international character, employing poison or certain poisonous weapons; asphyxiating, poisonous or similar gases and all analogous liquids, materials and devices; or bullets that expand or flatten easily in the human body. Such amendments constitute a step forward in the fight against impunity regarding breaches of international humanitarian law. I recognize the initiative of the delegation of Belgium in this regard.

But the definition of the crime of aggression is the amendment that determined the historic significance of the Review Conference. In 1945, the founders of the modern international community and of this Organization decided to ban the use or threat of use of armed force by States as a pillar of the peaceful relations among States. The Kampala Conference reinforced that pillar through the incorporation of articles 8 bis, 15 bis and 15 ter into the Rome Statute, defining aggression as a crime that triggers individual criminal liability. The adoption of articles 8 bis, 15 bis and 15 ter fulfilled the mandate arising from the now-deleted paragraph 2 of article 5 of the Rome Statute.

Article 8 bis contains the definition of the crime of aggression. This definition was drawn up during years of work by a working group open to the participation not only of States parties, but also of non-parties and representatives of civil society. The elements of crimes were also adopted. Regarding the exercise of the jurisdiction of the Court with respect to the crime of aggression, article 15 bis, adopted in Kampala, provides for the referral by a State and the commencement of an investigation *proprio motu* by the Prosecutor, as set forth in paragraphs (a) and (c) of article 13 of the Rome Statute.

Referral by the Security Council in the case of aggression is provided for in similar terms to those for other crimes under the jurisdiction of the Court. State referral and the commencement of an investigation *proprio motu* represent a balance between the role of the Security Council and that of the Court as an independent judicial tribunal. In both cases, the Court will be able to exercise its jurisdiction with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by 30 States parties and after the parties have adopted, as of 2017, the decision to activate the exercise of

jurisdiction of the Court in accordance with the amendment.

The historic significance of the incorporation into the Rome Statute of the definition of the crime of aggression and the conditions for the exercise of the jurisdiction of the Court cannot be underestimated. Negotiations began after the adoption of the Rome Statute, as recalled by the heretofore unfulfilled mandate contained in paragraph 2 of article 5. During those protracted negotiations, notable progress was made on the definition of the crime of aggression, leaving for Kampala and the previous phase the hard work of defining a formula containing the conditions for the exercise of the jurisdiction of the Court.

The negotiating effort was enormous. Lasting for years, it was guided by the successive coordinators of the Special Working Group on the Crime of Aggression, with the active participation of States parties, non-parties and non-governmental organizations. In Kampala, delegations worked hard to achieve a formula that may not have represented the ideal that every country would have preferred with respect to the exercise of jurisdiction, but that largely incorporated elements of all positions and thereby reflected a delicate compromise of the kind that can be achieved when great effort is exerted towards a common objective. That made it possible for the amendment on the crime of aggression to be adopted by consensus.

We hope that the amendments adopted by the Review Conference will soon be communicated to States parties by the Secretary-General, in his capacity as depository for the Statute, and we encourage all States parties to the Statute to ratify the amendments adopted as soon as possible, including the one on the crime of aggression.

The International Criminal Court is the first permanent international criminal tribunal. Cooperation by States, particularly the States parties, is required in order for the Court to exercise its full jurisdiction. Part 9 of the Rome Statute establishes obligations for States parties — which were reaffirmed by the renewed commitment set out in the Kampala Declaration — to strengthen our efforts to ensure full cooperation with the Court, in particular in the enforcement of Court decisions and the execution of arrest warrants.

Mr. Mac-Donald (Suriname), Vice-President, took the Chair.

Allow me to conclude by recalling, as we did in the Kampala Declaration,

“the aims and purposes of the Rome Statute and ... the noble mission and the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and achieve sustainable peace, in accordance with international law and the purposes and principles of the Charter of the United Nations,”

and to reiterate, once again, the firm commitment of Argentina to the International Criminal Court.

Mr. Seck (Senegal) (*spoke in French*): Senegal aligns itself with the statement made yesterday by the representative of Zambia on the Rome Statute on behalf of the Group of African States (see A/65/PV.39). I would also like to make some comments in my national capacity.

At the outset, I offer warm and sincere thanks to the President of the International Criminal Court, Mr. Sang-Hyun Song, for the detailed presentation of the Court's activities from 1 August 2009 to 31 July 2010. As President Song said, during the period under review, the Court's activities experienced significant developments that will undoubtedly impact the life and the future of that body. But I am sure that Member States will agree that the successful organization on African soil, in Uganda, of the first Review Conference of the Rome Statute, was the beacon that will certainly lead to the next phase of international criminal justice in the next decade, in view of its considerable contribution to the strengthening of the Rome Statute and international humanitarian law.

In fact and in line with our expectations, the Review Conference was not simply another opportunity to just gather together and then return home without having seriously considered the many challenges that must be addressed in order to fine-tune and complete the system established by the Rome Statute. Besides the list of subjects considered in the stocktaking, reflecting the Court's major concerns, the laudable results achieved by the Review Conference under the Statute's mandate for the review should also be commended.

Of course, that mission was not easy, given the many cases of reticence seen here and there mostly for political or strategic reasons. But the challenge was within our grasp, thanks especially to the belief and commitment exhibited. Results were also achieved with regard to the difficult issue of the crime of aggression, which required more than a decade of intensive work. The compromise reached in Kampala was certainly not perfect — as is the case for any compromise — but still allowed us to define the crime of aggression and establish conditions for the Court's jurisdiction in that regard, even though a decision must still be taken after 1 January 2017 in order to activate that jurisdiction. Thus, the decision, which required great effort to achieve, must be correctly applied. The Court's credibility depends on that.

We should also welcome the widening of the Court's competencies with regard to war crimes resulting from certain acts committed in a non-international armed conflict, such as the use of certain toxins and expanding bullets, toxic asphyxiating gases and all similar liquids, solids and materials, as well as the use of bullets that flatten and spread throughout the body. That is an additional step to strengthen international humanitarian law and should be welcomed appropriately.

I would like to conclude by reiterating the unwavering commitment of my country, Senegal, and its senior authorities to the ideals of peace and justice that underpin the international criminal justice system and form the basis of the International Criminal Court's creation. Senegal's unequivocal commitment to those fundamental values — which has translated into visible participation in all regional and international campaigns and initiatives to promote and create an international criminal court — strengthens its resolve in the quest for an apolitical, non-discriminatory and impartial international criminal justice system that meets the legitimate aspirations of peoples for peace and justice.

Mr. Gevorgian (Russian Federation) (*spoke in Russian*): First, allow me to express our appreciation to Mr. Sang-Hyun Song, President of the International Criminal Court, for his report (see A/65/313). The Russian delegation is pleased to note the growing momentum in the Court's work, its strengthened role in combating impunity and its contribution to ensuring wider observance of international law in general. My delegation notes the importance of the Court as the

first full-time international organ for criminal justice that is general in scope and not designed to consider a particular regional situation.

The Court possesses a powerful capability for preventing the most serious crimes, which can affect the interests of the entire international community. The Court's strength is not so much that it can punish, but that its very existence exerts a serious influence both on the global political climate and on States' domestic legislation. It is important that that potential be fully realized. It is hard to imagine achieving that goal without the reliable support of States and international and regional organizations.

Russia favours strengthening the authority of the Court and is attentively following the status of cases on its docket. In our view, the broad participation of States in the Rome Statute is a vitally important factor for the Court. The Court is going through a formative stage. The extent to which it effectively and objectively discharges its functions will largely determine its prospects for becoming a truly universal organ for international criminal justice.

At the Rome Diplomatic Conference Russia voted for the Statute, and later signed it. Now, though it remains outside the framework of the Statute, Russia is cooperating with the Court in a fruitful manner.

An important milestone in the development of the Court was this year's Review Conference of the Rome Statute in Kampala, in which our delegation participated actively. We are grateful to the Government of Uganda for its excellent organization of the event and for its hospitality. The Russian Federation has a generally positive assessment of the results of the Conference. Of course, the main question before the meeting was the adoption of the amendment on the crime of aggression, without which the jurisdiction of the Court would be incomplete.

That matter is of great importance and its political significance far transcends the Court. The solution that was found was, of course, a compromise. It is important that it was based on broad consensus including both parties and non-parties to the Statute. The compromise formula reflects, in our opinion, the role of the Security Council in the global system of collective security. However, we still have some concerns regarding the possible prospects of the Court exercising jurisdiction over crimes of aggression

without the appropriate decision by the Security Council.

We discussed that issue in Kampala, and we re-emphasize here that the crime of aggression bears a clear, undeniable political dimension. It is always committed not by individuals but by leaders of States relying on the full power of their States, so an individual cannot possibly commit the crime of aggression without aggression by the State. Under the United Nations Charter, the universal treaty superseding all other international treaties, the prerogative of establishing that an act of aggression has been committed belongs to the Security Council.

That is, in our view, the objective legal situation. The Court cannot operate in isolation from it. It has worked and is working in an international legal context up until now. In that regard, we are of the view that the interpretation and application of the relevant provisions on aggression should be implemented in full compliance with the United Nations Charter. On that basis, we believe it reasonable that the Conference conditioned the application of the provisions on aggression on the adoption of a special and separate decision to that effect to be taken after 1 January 2017.

Mr. Moeletsi (Lesotho): We align ourselves with the statement delivered by the Permanent Representative of Zambia on behalf of the African States parties to the International Criminal Court. We commend the Court for its comprehensive report, contained in document A/65/313. As a State party to the Rome Statute, Lesotho has consistently expressed its support for the Court. Lesotho reiterates that support today. My delegation sees the Court as an important institution in the fight against impunity and in the promotion of justice.

Our statement will address the cooperation of States parties and other States with the Court, the universality of the Rome Statute and the recent Review Conference of the Rome Statute, which was held in Kampala in the Republic of Uganda. Our basic premise is that the Court cannot discharge its functions effectively without the cooperation of States parties and other States, but particularly the States parties. As stressed in the report, the Court relies on the cooperation of States parties and other States in such areas as facilitating investigations, arresting and surrendering persons, protecting witnesses and enforcing sentences. It is in that context that we urge

all States parties to do their utmost to provide the Court with the best possible assistance.

However, we are acutely aware of the necessity for States to have a consistent, clear and unambiguous framework for cooperation under the Statute. In that regard, we note the Court's efforts to engage in bilateral agreements with States parties with regard to cooperation under the Rome Statute's general obligation to cooperate.

Regarding the universality of the Rome Statute, we are pleased to note that, with the ratification of the Rome Statute by Bangladesh, Seychelles, Saint Lucia and the Republic of Moldova, there are now 114 States parties to the Statute. It is a remarkable achievement that so many States from all regions have ratified the Statute within such a short space of time. It is also a genuine reflection of the international community's increasing rejection of impunity for serious crimes and evidence that there is a rising tide in favour of the rule of law.

The crimes falling under the jurisdiction of the Court are universally accepted as the most serious crimes of international concern. We share a common responsibility to ensure that they are effectively investigated and that the perpetrators are brought to justice. We are now witnessing a historic shift towards universal acceptance of the thesis that the long-term interests of all nations, irrespective of size, region or political orientation, are better served by strengthening the rule of law and promoting justice. We encourage all States that are not parties to positively consider being States parties to the Rome Statute.

The recent Review Conference of the Rome Statute in Kampala was undoubtedly a success. It tackled critical questions such as the definition of the crime of aggression and the conditions under which the Court may exercise jurisdiction in respect of that crime. The Conference also provided an opportune moment to take stock of the state of criminal justice. The stocktaking exercise covered areas such as peace and justice and complementarity. Lesotho continues to believe that, in the final analysis, the success of international criminal justice founded on the Rome Statute must partly be determined by the capacity of domestic court systems to deal with the serious crimes in question. We therefore deem it fitting that a stocktaking exercise was part of the Review Conference.

In conclusion, we reiterate Lesotho's firm and long-standing commitment to the integrity of the Rome Statute and to an effective and credible International Criminal Court. We believe that the Court should enjoy the broadest possible support from all States. As United Nations Member States, we all share the universal values that are fundamental to the protection of human dignity. That protection relies on concerted action on our part to prevent the most serious crimes affecting the international community as a whole.

Mr. Böhlke (Brazil): I thank the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for presenting the sixth report of the Court (see A/65/313) to the General Assembly (see A/65/PV.39). I also commend him and his fellow judges for their significant contribution towards fostering international justice.

International law has been under constant development, and one of the hallmarks of that impressive movement is the attribution of a special condition to individuals. They are no longer only the subject matter upon which treaties are negotiated. Now, individuals are entitled to specific rights and also bear responsibilities under international law.

In that context, the Rome Statute puts the human person at the centre of international law. The ICC is the first permanent, treaty-based court to try persons accused of the most serious crimes of international concern. At the same time, it allows victims of such crimes to be part of the proceedings in order to present their views and observations, with the possibility of obtaining some form of reparation for their suffering.

However, the Court cannot move ahead alone. In order for the Court to succeed in its efforts to provide justice, it needs the vital support and cooperation of all States. Universality is a permanent concern of those who helped to establish the Court. My delegation sincerely hopes that more States, large and small, may ratify the Statute or accede to it in the near future with a view to granting a truly universal character to the Court.

Like previous delegations, Brazil applauds the recent decision of the Governments of Bangladesh, Moldova, Saint Lucia and Seychelles to ratify the Rome Statute, making the number of States parties 114. In becoming parties to the Rome Statute, those States have contributed to strengthening the legitimacy of the

Court and have joined the international community in its endeavour to put an end to impunity.

On a different note, we wish to express our satisfaction with the significant achievements of the Review Conference of the Rome Statute, held in Kampala earlier this year. At the Kampala conference we took an important step in the fight against impunity. Based on a consensus decision taken by all States parties, with the valuable support of many other interested delegations, we were able to amend the Rome Statute to include not only the definition of the crime of aggression, but also the conditions under which the Court may exercise jurisdiction with respect to that crime.

While acknowledging the role played by the Security Council in determining the occurrence of an act of aggression, the Conference agreed to authorize the Prosecutor, in the absence of such determination, to initiate an investigation on his own initiative or upon State referral, with the prior authorization of the Pre-Trial Division of the Court. That approach ensures the independence of the Court.

My delegation has strongly advocated for the need to define the crime of aggression. That position reflects Brazil's long-standing commitment to international law and, specifically, the primacy of multilateral rules on the use of force. In our view, the adoption of the definition of the crime of aggression strengthens the Court, fulfils an obligation undertaken in Rome in 1998 and contributes to a more just, safe and equitable international order.

Obviously, the successful outcome of the Review Conference was possible only in the light of the firm engagement and remarkable flexibility of many delegations. The result was a compromise deal that combined elements from all participants. Part of that package was the decision, by the same majority of States parties as is required for the adoption of an amendment to the Statute, to activate the agreed mechanism only after 1 January 2017.

Even though it was not the preference of my delegation, we accepted that the Court does not have jurisdiction with respect to crimes of aggression committed on the territory of non-States parties or by their nationals. Nor does the Court have jurisdiction with regard to States parties that declare that they do not accept the Court's jurisdiction over the crime of aggression. Otherwise, the Court continues to have

jurisdiction over the crime of aggression in relation to all States parties.

In addition to the progress made with regard to the crime of aggression, my delegation notes with great satisfaction other important achievements of the Review Conference, such as the adoption of amendments to article 8 and the Kampala Declaration, which reaffirms our commitment to the Rome Statute and the Court. Moreover, the Review Conference constituted a valuable opportunity to engage States parties, observers and civil society in a more in-depth discussion of the current status of international criminal justice, addressing some pressing issues, such as peace, justice, complementarity, victims and cooperation.

In conclusion, my delegation wishes to stress the importance of further strengthening cooperation between the International Criminal Court and the United Nations. The work of the Court contributes to our efforts to include the concept of the rule of law in the many ongoing initiatives undertaken within the United Nations system.

Ms. Guo Xiaomei (China) (*spoke in Chinese*): At the outset, I would like to thank President Song for his report on the International Criminal Court (see A/65/313).

China always attaches importance to the role of international criminal justice in the advancement of social development. China is in favour of setting up an international criminal judicial institution that is independent, impartial, effective and universal to serve as a complement to national legal systems in punishing the gravest international crimes, promoting international peace and achieving judicial justice.

We have been closely following the activities of the International Criminal Court. The Court has now been established for more than seven years. Not only has it made some progress in institution-building, but it also has entered into full judicial functioning, initiated the investigation and prosecution of a number of cases and carried out explorations in judicial practice. It should be acknowledged that the Court's activities have heightened the attention of the international community with regard to international criminal law. At the same time, we have also noted that some of the Court's practices have affected the stability of and the harmony among countries in the regions concerned and

given rise to broad concern in the international community.

The first Review Conference of the Rome Statute, held in Kampala in June, adopted an amendment to the article on the crime of aggression. China, as an observer State, participated in its negotiation in a positive and responsible manner. China has noted that some countries still have concerns and reservations regarding that amendment. We will closely follow developments in that regard and are ready to further exchange views with all countries on that issue.

The Chinese delegation believes that the Court, as part of the international community and as a member of the world peace and security system, cannot operate successfully without the support of countries and relevant international organizations. The Court must conduct its work within the current international law system, based on the United Nations Charter.

International judicial justice and international peace are mutually reinforcing and complementary. A fundamental requirement for the pursuit of judicial justice should be to safeguard the values of peace and security and maintain a harmonious and stable international order. Therefore, it is our hope that the Court will exercise its functions more prudently in its future work, further establish its credibility and, through its objective and impartial performance, win broader trust and support from the international community so as to make its contribution to peace and justice.

Mr. Ntwaagae (Botswana): At the outset, allow me to convey my delegation's sincere condolences to the Government and people of Barbados and of Argentina on the sad loss of their Prime Minister and former President, respectively.

Let me take this opportunity to express our appreciation to the President of the International Criminal Court (ICC) for the report of the Court (see A/65/313), which contains useful information on this agenda item.

Botswana aligns itself with the statement delivered at the 39th meeting by the representative of Zambia on behalf of the African States parties. I would like to make some general comments on a number of issues in my national capacity.

The consideration of this item comes at time when we have just witnessed the historic Review Conference in Kampala, where we adopted some amendments to the Statute, including a definition of the crime of aggression.

As a State party to the Rome Statute, Botswana is committed to maintaining the integrity of the Statute and supporting the promotion of its universality. We also believe that the International Criminal Court should be given the freedom to exercise its mandate without political or external influence.

We are, however, alive to the fact that the role and mandate of the Court is intended to be complementary to national judicial systems. States have the responsibility to develop legislation that will effectively deal with, and act as a deterrent to, perpetrators of crimes, including crimes against humanity. That complementary function of the Court should not be misinterpreted as an affront to national jurisdiction and establishments, but should simply be understood as assisting our own efforts in closing the impunity gap.

We should never lose sight of the deterrent value provided by the Rome Statute in safeguarding the interests of global peace and security. The Statute gives the international community an excellent opportunity to advance the ideals of the United Nations Charter, in which there is universality in the respect for human rights and enjoyment of fundamental freedoms for all.

Botswana — consistent with its commitment to the ideals and principles of the United Nations Charter and to the promotion of democracy, good governance, respect for human rights and the rule of law — is of the firm conviction that it is essential for Member States to extend the necessary cooperation to the Court in order to ensure that the perpetrators of grave crimes are brought to justice.

Botswana fully subscribes to the notion that the objectives of international peace and security may be pursued jointly, with the Court exercising its judicial mandate while the relevant organs of the United Nations exercise their political mandate. My delegation is fully convinced that the relationship between the Court and the United Nations system provides a good platform for joint initiatives aimed at resolving conflicts and addressing the plight of victims, as well as promoting accountability on the part of those who

are entrusted with the rare privilege and authority to govern.

We therefore believe that it is timely to invest our collective energy in consolidating and strengthening the role of the Court by building bridges between the Court and the countries in question in order to reduce the current negative perception about the work of the ICC. We do not believe that the establishment of the ICC Liaison Office at the African Union will be contrary to that spirit, but rather that it would go a long way in addressing the misconceptions about the role and function of the Court.

Let me conclude by once again reaffirming Botswana's commitment to the preservation of the integrity and independence of the International Criminal Court. To that end, I am pleased to report that Botswana is currently reviewing its domestic legislation with a view to giving full effect to the provisions of the Rome Statute.

Mr. Joyini (South Africa): South Africa would like to begin its intervention by associating itself with the statement delivered at the 39th meeting by the Permanent Representative of Zambia on behalf of the African States parties to the Rome Statute of the International Criminal Court (ICC).

I am delighted to welcome His Excellency Mr. Song, President of the International Criminal Court, to New York. We thank him and his team of judges, not only for the Court's report (see A/65/313) but also for their tireless efforts in the promotion of international criminal justice with the ultimate objective of securing a peaceful world for all of us who live in it.

We have taken note of the report of the ICC to the General Assembly. As always, we found the report to be comprehensive and to touch on very important aspects relating to the Court's work.

We have particularly taken note of section III of the report, on judicial proceedings. As a firm believer in judicial independence, we will restrict our comments on that chapter. We note, however, that the effective and efficient functioning of the ICC itself, being independent but also accountable in its administration, is also an important factor in bringing an end to impunity and for setting standards for the prosecution and adjudication of the most heinous crimes of concern to humanity.

A lot has been achieved over the past eight years, with the ICC now having five active situations under investigation or in the trial phase. We look forward to the completion of the Court's first trial, a milestone that will make tangible the fight against impunity.

Again, we have taken note of the situations under analysis by the Prosecutor. We are hopeful that the Office of the Prosecutor will, with the requisite urgency, consider those issues and come to a decision. We welcome the draft policy on the preliminary examinations phase, and we are in the process of studying this policy document. We also note that the Prosecutor, having begun to deal with the situation in Kenya, has decided to proceed with investigations. We trust that other situations that have been pending for some time, including those in Georgia, Colombia and Palestine, *inter alia*, will be decided upon in due course.

In our statement of last year under this agenda item, we urged the Office of the Prosecutor to adopt a purposive interpretation to article 12 of the Statute in considering whether to proceed with investigations. It is our view that, in order for the Court to be truly universal, it should be of benefit to victims everywhere in the world.

The next two years are going to be significant in the life of the Court. A new Prosecutor is to be elected in 2012. We hope that the process of electing the new Prosecutor, in conformity with the Rome Statute and the relevant resolutions of the Assembly of States Parties, has begun in earnest. We are confident that the Assembly of States Parties will select a person of integrity to hold that very important office.

Without question, the highlight for the Court and for international criminal justice in general in 2010 was the Review Conference of the Rome Statute held in June in Kampala. We are thankful to the Government of Uganda for hosting what we believe was a very successful Review Conference.

My delegation was particularly pleased with the conduct of the stocktaking exercise, which provided an opportunity for ICC States parties to look back and take stock of the contributions that the Court has made to international criminal justice. In the course of the stocktaking at the Review Conference, we were able to consider, in a comprehensive and honest manner, various aspects, including cooperation, peace and justice, complementarity and the impact of the Rome

Statute on victims and affected communities. In all of those areas, we were able to engage not only with each other as States parties, but also with non-States parties and civil society, on contributions that the Court can make and has made to the further development of the international criminal justice system.

As an outcome of those deliberations we were able to adopt a number of resolutions and, importantly, a ministerial Declaration on the Review Conference, in which we collectively reaffirmed our commitment to the principles and values underlying and reflected in the Rome Statute. As we proceed to deal with issues after the review, let us not forget those deliberations. We should continuously look back and ask ourselves whether our actions are in keeping with the commitments that we made in Kampala.

My delegation was particularly pleased to serve, together with the delegation of Denmark, as a focal point for the topic of complementarity, which, as we all know, is at the heart of the Rome Statute. Under that principle, the Court can only act where States are unable or unwilling to genuinely investigate and prosecute crimes in their own jurisdictions. Thus, even where serious international crimes have been committed, a case would not be admissible to the Court if the State concerned was itself conducting genuine domestic proceedings. As focal points — and this idea was affirmed by the States parties at the Review Conference — we believe that, in order to give effect to the principle of complementarity in the Statute, national jurisdictions must be strengthened and enabled to conduct genuine national investigations and trials of the crimes included in the Rome Statute. We are delighted to have been reappointed by the Bureau to continue on as a focal point with a view to taking forward the decisions reached in Kampala.

But, of course, there were other issues on the agenda of the Review Conference, most notably the question of article 124 and the proposal on the enforcement of sentences. We are particularly pleased that we were able to reach a decision to facilitate the willingness and capability of States to offer facilities for the enforcement of sentences.

Without question the main issue on the agenda of the Review Conference was the definition of the crime of aggression. At this stage, we all know that the Rome Statute includes aggression as a crime but provides that the Court may exercise jurisdiction only after the

adoption of a definition. The deliberations, both before and during the Review Conference, brought into sharp focus the relationship between the Court and the Security Council. It is unnecessary to rehash the debate on whether the Council's mandate in the maintenance of international peace and security is primary or exclusive; surely we all know it is the former. Many of us expressed serious concern about leaving the determination of the crime of aggression in the exclusive hands of the Security Council.

While the legally complex outcome of Kampala — which provides for the possibility of opting out and delays the exercise of jurisdiction — is less than what we would have liked, my delegation is nevertheless pleased that we were able to reach a compromise outcome by consensus. We trust that the required number of ratifications and a positive decision by the Assembly of States Parties in 2017 on the exercise of jurisdiction by the Court over the crime of aggression will allow the operationalization of the definition in seven years' time.

As we end our statement, we wish to say a special word of gratitude to the President of the Assembly of States Parties, Ambassador Wenaweser, who will be presiding over the Assembly for the last time in December. We thank him for his tireless efforts in sometimes difficult situations.

In conclusion, the International Criminal Court is an institution designed to create a better world. We will continue to support the Court, so that it can grow from strength to strength.

Mr. Ileka (Democratic Republic of the Congo) (*spoke in French*): My delegation has taken note of the sixth annual report of the International Criminal Court (ICC) to the United Nations (see A/65/313), presented by the President of the Court, Judge Sang-Hyun Song.

To begin with, we would like to concur fully with the statement made yesterday by the representative of Zambia, who spoke on behalf of the African States parties to the International Criminal Court.

The situation in the Democratic Republic of the Congo was voluntarily referred to the Court by our authorities, acting on behalf of populations in our country, which has been stricken by what some have rightly called the first African world war. The International Criminal Court was created, in fact, to take on those types of situations. That is why the

foundation of the Rome Statute, based on what to some is a simple theory, is a reality that the peoples of the Congo, particularly those of North and South Kivu and the district of Ituri, are living every day.

Wars — and all forms of violence that negate the dignity and sacred nature of human beings — have no nationality. That reality, which some wish to confine to the Democratic Republic of the Congo in order to escape their own obligations and responsibilities, is intolerable and unacceptable. It concerns us all, and cooperation with the Court must be the foundation for our action. Regarding cooperation — and we will never cease pointing this out — the Democratic Republic of the Congo was the very first State party to develop significant cooperation with the Court. Our country's efforts in that area are unquestionably a model of cooperation with the Court, and several legal documents testify to that fact.

First, the Democratic Republic of the Congo did not wait for the Rome Statute to enter into force before ratifying it. We ratified it on 30 March 2002, more than three months before its entry into force. Secondly, my country proactively referred its situation to the Court as of 3 March 2004, signed an agreement on judicial cooperation with the Court on 6 October 2004, and concluded an agreement on judicial assistance with the then United Nations Organization Mission in the Democratic Republic of the Congo and the Court. Thirdly, on three occasions in connection with proceedings before the Court and at the request of the Court, the Democratic Republic of the Congo executed arrest warrants from the Court against its nationals.

Clearly, the Democratic Republic of the Congo believes that peace and justice are complementary. We recognize through our experience the irreplaceable role of justice as a factor in social harmony, national reconciliation, peace, security and stability. It was with the help of justice that we were able to bring peace back to the districts of Katanga and North Katanga. It is with the help of justice that we intend to bring peace back to the entire country. In that regard, my delegation welcomes the recent arrest in Paris, on an ICC warrant, of the Executive Secretary of the Forces démocratiques de libération du Rwanda (FDLR). Mr. Calixte Mbarushimana will have to answer for war crimes and crimes against humanity, including murder, rape, torture, persecution and destruction of property, committed in the Democratic Republic of the Congo in 2009.

The sixth annual report of the International Criminal Court to the United Nations, which we are discussing in this meeting, describes the very significant progress made in the work of the Court, with the start of trials in some situations and the confirmation of charges in others, as well as the opening of new investigations. In that regard, my delegation would like to take this opportunity to recall its interest in seeing the proposal for organizing trials in situ implemented. That would fulfil a long-held desire to grant some moral satisfaction to the victims of the crimes and to deter potential recidivists.

Such progress in the course of international criminal justice is being achieved in the context of a strong campaign of hostility against the Court. The Court should set up mechanisms that can curb such campaigns, which risk undermining the Court's reputation and compromising its achievements, despite the fact that more than half the Member States of the Organization are now parties to the Court, less than five years after its entry into effect. It is just as important, however, that the Court consider its own operations, reflect on how it works and become more professional and less political. Politics and justice do not necessarily go well together. As a final note to this part of my statement, my delegation would like to welcome to the club of States parties to the Court its most recent members, namely, Bangladesh, Saint Lucia, Seychelles and Moldova, which bring the number of States parties to 114.

The Review Conference held in Kampala in May and June was a valuable opportunity for Member States to confirm the achievements of Rome and to strengthen the belief that the Court is a gift of hope for future generations and an important step forward for respect for human rights and the rule of law. The Kampala Declaration, in which States reaffirmed their willingness to promote the Rome Statute and its full implementation, as well as its universal nature; the stocktaking of international criminal justice at Kampala; and the modifications to the Statute, which now includes a definition of the crime of aggression and the conditions under which the Court may exercise jurisdiction over that crime, are all achievements that we should guard jealously.

In conclusion, and to reiterate my delegation's willingness to watch over the respect for the integrity of the Statute of the Court, I would like once again to call on those delegations that have not yet done so to

become States parties to the Court, so that together we may contribute to the universality of the fight against impunity.

Mr. Muhumuza (Uganda): I join other speakers before me in expressing my delegation's condolences to the Governments of Barbados and Argentina during this time of great loss to their nations.

Uganda is humbled by the words of gratitude expressed by various delegations concerning our hosting of the first Review Conference of the Rome Statute from 31 May to 11 June.

To begin with, I associate my delegation with the statement delivered by the Permanent Representative of Zambia on behalf of the African States parties to the Rome Statute of the International Criminal Court.

We thank the President of the International Criminal Court for his report (see A/65/313). Uganda reiterates its commitment to the Court and the fight against impunity, which it showed in making the first State referral and, more recently, by hosting the first Review Conference of the Rome Statute. At the Conference, States parties reviewed and amended the Statute, conducted a stocktaking of international criminal justice and made significant pledges on a wide range of issues.

Kampala was indeed a continuation of the legacy of Rome in the pursuit of a more humane world. Holding the Conference there offered an opportunity to many victims from the region to interface with the other stakeholders in the fight against impunity. The adoption of the Kampala Declaration reaffirms our commitment to the Rome Statute and its full implementation, as well as its universality and integrity. We remain particularly concerned, however, that Joseph Kony and the Lord's Resistance Army continue to cause untold suffering to defenceless women and children, in spite of the indictment.

The Court is steadily marching on the road to universality. Accordingly, we welcome the new members — Seychelles, Saint Lucia and Moldova — whose ratification of the Rome Statute has brought the total membership to 114. We call upon other States that have not yet done so to consider ratifying the Rome Statute. Universal ratification will send a clear message that there is no room for impunity for anyone, anywhere.

We recognize that the Court relies on the cooperation of States, international organizations and civil society to carry out its functions, in accordance with the Rome Statute and international agreements concluded by the Court. We therefore call on all States to offer the necessary cooperation so as to enable the Court to carry out its mandate without reserve.

Finally, unlike traditional jurisdictions, the Rome Statute recognizes and allows victims to participate actively in the proceedings, with the possibility of compensation for the harm inflicted. We therefore encourage the Court, in its recruitment of staff, to take into account the cultural peculiarities of victims and witnesses who are required to be in The Hague to participate in Court proceedings. We believe that the furtherance of justice calls for appropriate attention to that important matter.

Mr. Al Habib (Islamic Republic of Iran): The delegation of the Islamic Republic of Iran expresses its appreciation to the President of the International Criminal Court for submitting the sixth report of the Court, contained in document A/65/313. The report is unique in the sense that it contains the outcome of the first Review Conference of the Rome Statute of the International Criminal Court, held from 31 May to 11 June in Kampala.

The Review Conference managed to reach agreement on the definition of the crime of aggression. That is a breakthrough in many respects and offers hope that the most serious crimes of international concern will not go unpunished. While we rejoiced in seeing that long-overdue desire to criminalize aggression bear fruit, we cannot help expressing our dissatisfaction at the fact that the outcome of the Conference was far from the expectation, especially since the implementation of the most promising clauses was postponed for at least seven years.

The Islamic Republic of Iran reiterates its position that any act of aggression is of a grave nature, irrespective of its consequences, and constitutes an international crime. That finding cannot be affected by so-called understandings. Nor can we invoke resolution 3314 (XXIX), on the definition of aggression, to distinguish between acts of aggression, by their consequences.

In the view of the Islamic Republic of Iran, the inclusion of a clear reference to the Charter of the United Nations left no doubt that any use of armed force by a State in cases other than those stated in the Charter of the United Nations, namely, the use of armed force in self-defence if a State is the victim of an armed attack and the use of armed force when authorized by the Security Council under Chapter VII of the Charter, is unlawful and should be qualified as a crime of aggression under resolution 3314 (XXIX).

As a victim of an all-out act of aggression, the Islamic Republic of Iran attaches the utmost importance to the process of defining the crime of aggression and including it in the Rome Statute of the International Criminal Court. We are delighted to have actively engaged in the process, as a result of which the International Criminal Court now has the necessary legal jurisdiction to prosecute the perpetrators of the most serious crimes of international concern. However, the mission will not be accomplished until and unless we make sure that the conditions for exercising such jurisdiction are met. We look forward to see that vision come true in 2017, and we stand ready to cooperate constructively with others in that direction.

Also, while regretting that the Review Conference had no chance to work towards criminalizing the use of weapons of mass destruction, particularly the use of nuclear weapons as the most destructive and inhumane weapons, the delegation of the Islamic Republic of Iran hopes that that key issue will be kept high on the agenda of the next Review Conference.

My delegation takes note of paragraphs 81 to 85 of the report, concerning developments in connection with the possible exercise of jurisdiction by the Court over the international crimes committed in the Palestinian territories by the Israeli regime. While we understand that the Court is still examining the jurisdictional question, we hope that such important technicalities will, in the end, lead to justice through the prosecution of the perpetrators of the gravest crimes of international concern.

The declaration filed by Palestine with the Registrar of the Court on 22 January 2009, pursuant to article 12, paragraph 3, of the Statute, provides jurisdiction to the Court with respect to the crimes committed on the territory of Palestine since 1 July 2002. It is expected that the Prosecutor will interpret

article 12 of the Statute in such a manner that the main purpose of the Court, namely, ending impunity for the perpetrators of the most serious crimes of concern to the international community, will be realized.

For its part, the International Criminal Court should be faithful to its Statute and general international law. That having been said, the Court cannot ignore international rules relating to the immunity of State officials, as recognized under article 98 of the Rome Statute. Likewise, the referral of cases to the Court should not be based on political motivation or selectivity. The Court should cautiously take into account the consequences that its decisions might have on the advancement of peace and stability in such cases.

In that respect, I draw the Assembly's attention to the concerns raised by the African Union, the Non-Aligned Movement and the Organization of the Islamic Conference, as well as many other countries, concerning the recent decisions of the Court on the Darfur situation.

Mr. Touray (Sierra Leone): We join other delegations in expressing our sincere condolences and sympathies to the Governments and people of Barbados and Argentina as they mourn the loss of their esteemed and dear departed leaders.

At the outset, allow me to express my thanks and the appreciation of my delegation to the President of the Assembly for convening this debate on the report of the International Criminal Court contained in document A/65/313 and to the President of the International Criminal Court, Judge Sang-Hyun Song, for presenting the comprehensive report of the Court. My delegation aligns itself with the statement delivered by the Permanent Representative of Zambia on behalf of the African States parties to the International Criminal Court and would like to make a few comments from a national perspective.

Sierra Leone welcomes the annual report of the International Criminal Court and the significant judicial progress made by the Court. My delegation also congratulates the Government of Uganda, the Bureau of the Assembly of States Parties to the Rome Statute, States parties and other States, non-governmental organizations, civil society organizations and all those who in diverse ways contributed immensely to the successful outcome of the Review Conference of the Rome Statute held in Kampala from

31 May to 11 June. The historic achievements made in Uganda, including the adoption of the definition of the crime of aggression and the conditions for the exercise of jurisdiction regarding such crimes, form a major milestone in the development of international criminal justice.

The universality of the Rome Statute is critical in the fight against impunity. In that vein, my delegation welcomes the ratification of the Rome Statute by Seychelles, Bangladesh, Saint Lucia and the Republic of Moldova. We encourage States that are not parties to consider becoming members of the Rome Statute. As is the case for other international courts and tribunals — such as the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia and the Special Court for Sierra Leone — cooperation continues to be the main challenge facing the International Criminal Court. With regard to the diversity in the situations of the various courts in terms of mandate, local situations, political will and methods of funding, to mention a few areas applicable to each of those ad hoc tribunals, specific lessons learned in terms of cooperation as experienced in each case could be of tremendous significance to the International Criminal Court. We therefore underline the need for each and every State to do everything within its power to cooperate with and provide support for the Court in the implementation of its judicial mandate. We should always remember that the Court's potential for deterrence lies mainly in the likelihood of the threat of prosecution being carried out. Any dilution of that threat makes the worldwide fight against impunity and the role of the Court within that process much more difficult and the risk of failure greater.

As we all know, the International Criminal Court does not have the advantage of being focused only on one situation. It operates in situations that can be volatile and where the security situation can vary from day to day. It operates in situations where there are difficulties in spreading information and where the infrastructure is usually challenging at best. We know that type of situation very well; not so long ago that was the situation facing my country. Just one decade ago we were in a state of crisis, but as of now we have peace, we have justice and we have a functioning democratic system. Many challenges await us, but we are in a good position to meet those challenges. One reason for our success is that we faced the need for

accountability head-on and took steps to address that need.

Of course, the Special Court for Sierra Leone cannot and does not claim sole responsibility for our change of fortune. That credit may be claimed by the good men and women of Sierra Leone and the existing political will backed by the support and assistance of the international community and our good bilateral partners. Nevertheless, the Special Court has in its own way made an important contribution to the restoration of the rule of law, which has helped us to move forward. It has done so by being present in the everyday life of our country, by not interfering in politics or internal matters and by being there and making an effort to be known and understood and to engage with all Sierra Leoneans. Here we want to reaffirm and acknowledge the support and cooperation of the international community, the people of Sierra Leone and civil society organizations.

In the area of complementarity, we recognized the fact that the role of national jurisdictions is crucial in the prosecution of the perpetrators of war crimes, crimes against humanity and genocide. Because of that, our Government has drafted a bill for the domestication of the Rome Statute and is currently collaborating with the Special Court for Sierra Leone on the establishment of a witness and victim support unit within the national judiciary. Thus, all actions and activities through potential partner countries aimed at supporting national jurisdictions in meeting their obligations under the Rome Statute — including related activities, like those of the Rule of Law Unit of the United Nations, aimed at strengthening the rule of law and domestic systems — are pivotal in the fight against impunity.

Justice must be protected, as justice is a critical component of peace. Without justice, there can be no peace, and without peace the lives of hundreds of thousands of people are put in jeopardy, right now and for future generations. We must not allow a weakening of international criminal justice processes; we must, instead, support them, promote them, protect them and defend them. This is the only way forward to lasting peace and a prosperous future for all.

To conclude, my delegation reiterates its support for the Court as a key element in the restoration of peace and international rule of law. To maximize its potential, we must continue our efforts towards the

universal ratification and implementation of the Rome Statute, we must provide the Court with clear and steady cooperation and, above all, we must assist the Court by providing it with clear guidance and constructive support. We recognize the fact that capacity-building is the key to the realization of that objective.

Mr. Morejón (Ecuador) (*spoke in Spanish*): The delegation of Ecuador is pleased, Sir, to see you presiding and with the way you are conducting this portion of the debate.

The delegation of Ecuador has taken due note of the report by the President of the International Criminal Court, Judge Sang-Hyun Song, contained in document A/65/313, and we thank him.

Ecuador is happy to note an increase in the number of States parties to the Rome Statute, with the accession of four new States, Bangladesh, Seychelles, Saint Lucia and the Republic of Moldova. The current total of 114 States parties to the Statute confirms the trend within the international community to take decisive action to counter impunity.

Ecuador attended and actively participated in the Review Conference of the Rome Statute that took place in May and June 2010 in Kampala. We take this opportunity to reiterate to the people and Government of Uganda our thanks for the hospitality that we enjoyed during the Review Conference. The subjects discussed during the Conference are of critical importance, and support for the objectives of that historic event will ensure that progress is made in fine-tuning the international criminal justice system.

In Ecuador's view, the principle of combating impunity is of absolute importance; it is even written into Ecuadorian law. Indeed, my country's Constitution itself states in article 80 that no statute of limitations shall apply to crimes of genocide, crimes against humanity, war crimes and crimes of aggression. Ecuador opposed article 124 of the Statute, because we cannot condone the inclusion of a measure that might open the way to impunity for a given State perpetrating one of the crimes identified in Ecuador's Constitution.

Along those lines, when it comes to taking stock of international criminal justice, and specifically on the theme of peace and justice, we must remain realistic. Although the International Criminal Court has not existed for very long, experience has shown us that

impunity cannot be accepted, even in the interests of peace, and that undertakings like truth and reconciliation commissions will only be effective if they go hand in hand with punishment of the guilty.

We would like to echo what was said by the representative of Argentina, namely, that the Secretary-General must be urged to submit to States parties the amendments adopted in the Kampala Review Conference and to urge those States to ratify them as soon as possible.

In any case and to conclude, Ecuador, as an active member of the Rome Statute, reiterates its support for the International Criminal Court. We agree with the President of the Court, Judge Sang-Hyun Song, that the Review Conference provided an impetus to disseminate and strengthen the influence of the Rome Statute in national jurisdictions. Furthermore, we agree that the United Nations is the only forum in which to carry that process forward.

Mr. Nickels (United States of America): We wish to join others who have expressed condolences to the people of Barbados on the death of Prime Minister David John Howard Thompson. We also wish to express our condolences to the people of Argentina on the death of former President Néstor Kirchner.

We would also like to thank President Song for his report contained in document A/65/313 and for his service to the International Criminal Court (ICC). Although the United States is not a party to the Rome Statute, we too have an abiding interest in seeing the Court successfully complete the prosecutions it has begun. As President Obama's national security strategy states, "the end of impunity and the promotion of justice are not just moral imperatives; they are stabilizing forces in international affairs".

The United States remains steadfastly committed to promoting the rule of law and to helping to bring violators of international humanitarian law to justice, and will continue to play a leadership role in righting wrongs of that type. As we have emphasized, we cannot ignore the terrible crimes that have been perpetrated, wherever they might have occurred, and the massive human suffering that the world has witnessed. The International Criminal Court plays a key role in bringing perpetrators of the worst atrocities to justice.

The United States was pleased to participate as an observer at the Review Conference of the Rome Statute

in Kampala and at the meetings of the Assembly of States Parties in The Hague and New York that preceded it. We sent a large observer delegation to Kampala and participated actively in the stocktaking exercise, in the many important and stimulating side events and in the substantive discussions of amendments to the Rome Statute. The United States Government co-sponsored a side event on positive complementarity in the Democratic Republic of the Congo, which has provided an important foundation for our work on the issue since Kampala. Moreover, we were the only non-party State to make pledges. We hope that our active and principled engagement has helped to enhance the discussions and to improve the outcomes of Kampala, including the outcome regarding the crime of aggression.

We recognize that the amendments adopted at Kampala were a compromise that few if any delegations consider perfect. My delegation's concerns, in particular about the possibility of investigations and prosecutions under article 15 bis, in cases where the Security Council has not determined that an act of aggression has occurred, are well known. We believe that it was wise for the States parties to subject the exercise of ICC jurisdiction under that provision to a decision to be taken after 1 January 2017. That will provide breathing space in which measures that require attention can be considered and in which progress on other issues facing the international community — the effort to ensure accountability for perpetrators of war crimes, crimes against humanity and genocide — can be consolidated.

We note that the resolutions under which both the aggression amendments and the amendments under the so-called Belgian amendment were adopted in Kampala state that the amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute. As such, the provisions do not provide authority for the Court to exercise jurisdiction regarding those crimes when committed by the nationals of a State that does not ratify them or on the territory of such a State.

In conclusion, the United States would like to again extend our thanks to the States parties to the Rome Statute for the gracious way that our participation has been received over the past year after such a long absence from the Assembly of States Parties meetings. We would also in particular like to

thank the Government of Uganda for its warm hospitality at the Review Conference.

We look forward to continued engagement with the States parties to the Rome Statute.

The Acting President: We have heard the last speaker on agenda item 73, entitled “Report of the International Criminal Court”.

I would like to once again welcome the new accessions to the International Criminal Court, namely, Saint Lucia, the Republic of Moldova,

Bangladesh and Seychelles. Allow me also to express sympathy and extend condolences to the Government and people of Barbados on the passing of their Prime Minister, Mr. David Thompson. I would also like to express sympathy and extend condolences to the Government and people of Argentina on the passing of former President Néstor Kirchner.

The General Assembly has thus concluded this stage of its consideration of agenda item 73.

The meeting rose at 6.10 p.m.