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President: Mr. Ashe . . . . . (Antigua and Barbuda)

In the absence of the President, Ms. Picco (Monaco), Vice-President, took the Chair.

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

Agenda item 72

Report of the International Court of Justice

Report of the International Court of Justice (A/68/4)

Report of the Secretary-General (A/68/349)

The Acting President (*spoke in French*): It is my great honour to welcome to United Nations Headquarters His Excellency Peter Tomka, President of the International Court of Justice, and to invite him to take the floor.

Mr. Tomka, President of the International Court of Justice (*spoke in French*): It is a great pleasure for me to introduce the report on the activities of the International Court of the Justice (A/68/4) to the General Assembly today. The President of the Assembly at the current session demonstrated his competent leadership two years ago, when he so brilliantly chaired the Assembly's Legal Committee (Sixth Committee).

(*spoke in English*):

I would like to thank the General Assembly for continuing the practice of allowing the President of the Court to present a review of its judicial activities over the previous judicial year. This practice reflects the interest in and support for the Court shown by the General Assembly.

During the past 12 months, the Court has continued to fulfil its role as the forum of choice of the international community of States for the peaceful settlement of every kind of international dispute over which it has jurisdiction. As illustrated in the report that I have the honour to introduce to the Assembly today, the Court has made every effort to meet the expectations of the parties appearing before it in a timely manner. It should be emphasized once again in that regard that, since the Court has been able to clear its backlog of cases, States thinking of submitting cases to the principal judicial organ of the United Nations can be confident that as soon as they have completed their written exchanges, the Court will move to the hearings stage without delay.

During the period under review, as many as 11 contentious cases were pending before the Court, which held public hearings in the following three in turn: the case concerning *Maritime Dispute (Peru v. Chile)*, the request for interpretation of the Judgment of 15 June 1962 in the case concerning *Temple of Preah Vihear (Cambodia v. Thailand)*, and the case concerning *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*. The Court is now deliberating in two of those cases. In the third, having completed its work, the Court will deliver its judgment in early November. During the reporting period, the Court also delivered two judgments — the first in *Territorial and Maritime Dispute (Nicaragua v. Colombia)* and the second in *Frontier Dispute (Burkina Faso/Niger)* — and six orders.

As is traditional, I shall now report briefly on the main decisions of the Court from the past year.

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I shall deal first with the judgment delivered in the case concerning *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, before turning to the judgment rendered in the case concerning *Frontier Dispute (Burkina Faso/Niger)* and then to certain orders issued in the cases concerning *Whaling in the Antarctic (Australia v. Japan)*, *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*. Lastly, I shall refer to an order made in the case concerning *Aerial Herbicide Spraying (Ecuador v. Colombia)*.

The first judgment delivered by the Court during the period under review was given on 19 November 2012, in the case concerning *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. The proceedings had been instituted by Nicaragua against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean. A first decision was adopted in the case on 13 December 2007, since the Court had been called upon to rule on preliminary objections raised by Colombia. At that time, the Court found that the issue of sovereignty over certain islands — namely, those of San Andrés, Providencia and Santa Catalina — had been settled, within the meaning of article VI of the Pact of Bogotá, by a treaty concluded between Nicaragua and Colombia in 1928, and that therefore the Court had no jurisdiction to rule on that point.

However, it considered that it had jurisdiction to adjudicate the dispute concerning sovereignty over the other maritime features claimed by the parties, as well as the dispute concerning the delimitation of the maritime spaces appertaining to each of them in the region. In particular, the Court considered that the 82nd meridian, which under the 1930 Protocol of Exchange of Ratifications of the 1928 Treaty "fixes the western limit of the San Andrés Archipelago", did not mark the maritime boundary between the two States, as originally claimed by Colombia.

In its judgment of 19 November 2012, the Court first dealt with the question of sovereignty over the maritime features claimed by Nicaragua and Colombia. After considering not only the 1928 agreement between the two parties and various historical documents, but also the arguments put forward on the basis of *uti possidetis juris* and *effectivités*, the Court found that for many decades Colombia had acted continuously and consistently *à titre de souverain* in respect of the maritime features in dispute. Also taking into account the practice of third States and the existing maps — while emphasizing that the latter are not evidence of sovereignty — the Court concluded that Colombia, and not Nicaragua, has sovereignty over those features.

With that issue resolved, the Court addressed Nicaragua's request asking it to delimit a continental shelf beyond 200 nautical miles. After finding that request to be admissible, the Court examined the merits. In that regard, it recalled its statement in its 2007 judgment in the case concerning the *Territorial and Maritime Dispute* between Nicaragua and Honduras in the Caribbean Sea, namely, that "any claim of continental shelf rights beyond 200 miles" by a State party to the 1982 Convention on the Law of the Sea (UNCLOS) "must be in accordance with article 76 of UNCLOS and reviewed by the Commission on the Limits of the Continental Shelf".

The Court made it clear that, given the object and purpose of the Convention on the Law of the Sea as stipulated in its Preamble, the fact that Colombia is not a party thereto did not relieve Nicaragua of its obligations under article 76 of that instrument. The Court noted that Nicaragua had submitted to the Commission only preliminary information, which fell short of meeting the requirements for the Commission to be able to make a recommendation. As the Court was not presented with any further information, it found that, in the case in question, Nicaragua had not established that it had a continental margin that extended far enough to overlap with Colombia's 200-nautical-mile entitlement to the continental shelf, measured from Colombia's mainland coast. The Court thus declared that it was not in a position to delimit the boundary between the extended continental shelf claimed by Nicaragua and the continental shelf of Colombia, and therefore concluded that Nicaragua's claim could not be upheld.

In the light of that decision, the Court considered what maritime delimitation should be effected. It observed that in its final submissions, Nicaragua had requested that the Court not only delimit the continental shelf between the mainland coasts of the two parties, but also adjudge and declare that the islands of San Andrés and Providencia and Santa Catalina should be enclaved and accorded a maritime entitlement of 12 nautical miles, and that the equitable solution for any cay that might be found on the Colombian side was to delimit

a maritime boundary by drawing a three-nautical-mile enclave around it. The Court also noted that Colombia, for its part, had requested that the delimitation should be effected by a single maritime boundary, constructed as a median line between Nicaraguan fringing islands and the islands of the San Andrés Archipelago.

The Court concluded that notwithstanding its aforementioned decision regarding Nicaragua's request that it delimit an extended continental shelf, it was still called on to effect a delimitation between the overlapping maritime entitlements of Colombia, based on its sovereignty over the islands forming the San Andrés Archipelago, and Nicaragua, within 200 nautical miles of the Nicaraguan coast. To that end, it applied its standard methodology, a method that it set out clearly in its seminal 2009 judgment in the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, a methodology that consists of three stages.

The Court first determines base points and constructs a provisional median line between the relevant coasts of the parties, namely, those coasts whose projections overlap. In the case at hand, the Court found that for Nicaragua the relevant coast was its whole coast projecting into the area where the claims of the two parties overlap. Since the mainland coast of Colombia does not generate any entitlement in that area, the Court considered that it could not be regarded as part of the relevant coast for the purposes of the case. The Court found that the relevant Colombian coast was confined to the coasts of the islands under Colombian sovereignty. Since the area of the overlapping claims of the parties extended well to the east of the Colombian islands, the Court considered that it was the entire coastline of those islands, not merely the west-facing coasts, that had to be taken into account.

In the second stage, the Court considers whether there are any relevant circumstances that may call for an adjustment or shift of the provisional line so as to achieve an equitable result. In the present case, the Court noted that the substantial disparity between the relevant coast of the Colombian islands and that of Nicaragua, a ratio of approximately 1 to 8.2 — that is, the coast of Nicaragua being more than eight times longer than that of Colombia — as well as the need to avoid cutting off either party from the maritime spaces into which its coasts project, were both relevant circumstances. The Court further observed that while legitimate security considerations had to be borne in mind in determining what adjustment to make to the provisional line or in what way that line should be shifted, the conduct of the parties, issues of access to natural resources and delimitations already effected in the area were not relevant circumstances in the case.

With respect to the latter two points, the Court first recalled that although both parties had raised the question of equitable access to natural resources, neither had offered evidence of particular circumstances that should be treated as relevant. It considered that the case did not present issues of access to natural resources so exceptional as to warrant the Court's treating them as a relevant consideration. In regard to delimitations already effected in the area, the Court then indicated that the agreements concluded by Colombia with some other States in the region were without legal effect with regard to Nicaragua, in accordance with the well-established principle of *res inter alios acta*. In the light of all those findings, the Court proceeded to shift the provisional median line.

In the third stage, the Court ascertains whether the effect of the line, once it has been shifted, is that the maritime areas attributed to each of the parties in the relevant zone — that is to say, the portion of the maritime area in which the parties' claims overlap — are markedly disproportionate to their respective relevant coasts. In the case in question, the Court noted that the boundary line had the effect of dividing the relevant zone between the parties in a ratio of approximately 1:3.44 in Nicaragua's favour. As indicated previously, since the ratio between the relevant coasts was approximately 1:8.2, the question arose as to whether, given the circumstances of the case, that disproportion was so great as to render the result inequitable.

The Court concluded that, taking account of all the circumstances of the case, the result achieved by the maritime delimitation did not entail such disproportionality as to create an inequitable result. Accordingly, it unanimously fixed the definitive course of the boundary between Nicaragua and Colombia, a decision that included the judges ad hoc chosen by Nicaragua and Colombia, respectively. I regret that it was not possible to display here some of the maps depicting those boundaries, as that would have facilitated better understanding of the Court's judgment and visualizing the final result.

Finally, the Court considered that Nicaragua's request, asking it to adjudge and declare that

> "Colombia [wa]s not acting in accordance with her obligations under international law by stopping and otherwise hindering [it] from accessing and disposing of her natural resources to the east of the 82nd meridian"

was unfounded in the context of the proceedings regarding a maritime boundary that had not been settled prior to the decision of the Court.

It should be stressed that, in accordance with Article 59 of the Statute of the Court, the Court's judgment in the case has no binding force except between the parties and in respect of that particular case. This judgment addresses only Nicaragua's rights as against Colombia and vice versa; it is without prejudice to any claim by a third State or any claim that either party may have against a third State. Moreover, as it expressly recalled in this decision and in the judgments rendered on 4 May 2011 in respect of the applications by Costa Rica and Honduras for permission to intervene, the Court always takes care not to draw a boundary line that extends into areas where the rights of third States may be affected.

(*spoke in French*)

During the reporting period, the Court delivered a second judgment, on 16 April 2013, in the case concerning the *Frontier Dispute (Burkina Faso/Niger)*. The proceedings had been instituted in July 2010 by a special agreement under which the two parties agreed to submit to the Court the frontier dispute between them concerning a section of their common boundary.

The frontier between Burkina Faso and Niger consists of three main sectors. The northern sector, which runs from the heights of N'Gouma to the astronomic marker of Tong-Tong, and the southern sector, which runs from the beginning of the Botou bend to the River Mekrou, had been demarcated by a joint commission before the case was brought. There remained to be delimited only the central sector, running from the Tong-Tong astronomic marker to the beginning of the Botou bend. However, under the special agreement, the Court was asked not only to determine the course of the frontier between Burkina Faso and Niger in the central sector, but also to place on record the parties' agreement on the results of the work of the Joint Technical Commission on Demarcation.

In its judgment, the Court examined, as a preliminary issue, a request by Burkina Faso regarding the two sectors of the frontier that were already demarcated. In particular, Burkina Faso asked the Court to include their course in the operative part of its judgment, so that the parties would be bound in that respect in the same way that they would be bound with regard to the frontier line in the central sector.

The Court first recalled that, when it is seized on the basis of a special agreement, any request made by a party in its final submissions can fall within the jurisdiction of the Court only if it remains within the limits defined by the provisions of that special agreement. In this case, however, the Court considered that the request made by Burkina Faso did not correspond to the terms of the special agreement, since Burkina Faso was not requesting it to place on record the parties' agreement regarding the delimitation of the frontier in the two demarcated sectors, but rather to delimit itself the frontier according to a line that corresponded to the conclusions of the Joint Technical Commission.

The Court pointed out that, while it has the power to interpret the final submissions of the parties in such a way as to maintain them within the limits of its jurisdiction, that is not sufficient for it to entertain such a request; it would still have to be verified that the object of that request falls within the Court's judicial function, which is to decide in accordance with international law such disputes as are submitted to it. In this case, neither of the parties had ever claimed that a dispute existed between them concerning the delimitation of the frontier in the two sectors in question on the date when the proceedings were instituted, nor, indeed, that such a dispute had subsequently arisen. Accordingly, the Court considered that Burkina Faso's request exceeded the limits of its judicial function.

That being established, the Court addressed the question of the course of the section of the frontier remaining in dispute. To that end, it first determined the applicable law.

After recalling that article 6 of the special agreement highlighted the principle of the intangibility of boundaries inherited from colonization and the Agreement between the two States of 28 March 1987, the Court noted that the latter instrument specified the acts and documents of the French colonial administration that must be used to determine the delimitation line that existed when the two countries gained independence. Those acts and documents were the Arrêté of 31 August 1927 adopted by the Governor-General ad interim of French West Africa with a view to fixing the boundaries of the colonies of Upper Volta and Niger, as clarified by its Erratum of 5 October 1927. The Court further

observed that the 1987 Agreement provided for the possibility of the Arrêté and Erratum not sufficing and established that, in that event, the course should be that shown on the 1:200,000-scale map of the Institut géographique national de France, 1960 edition. It was therefore in the light of those elements that the Court determined the course of the frontier between the Tong-Tong astronomic marker and the beginning of the Botou bend. I should like to point out that that judgment was adopted unanimously, including by the ad hoc judges chosen by Burkina Faso and Niger, respectively.

Once that course had been established, the Court was lastly required to rule on one final request of the parties, which had asked it to nominate three neutral experts to assist them in the demarcation of their frontier in the area in dispute. The Court did so by means of an order dated 12 July 2013.

As I have already mentioned, during the period under review the Court also handed down five other orders. I shall now refer to them briefly in chronological order.

The first order was handed down on 6 February 2013 in the case concerning *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*. That order followed a declaration whereby New Zealand availed itself of the right conferred on it by Article 63, paragraph 2, of the Statute to intervene as a non-party in the proceedings before the Court. According to that provision, whenever the interpretation of a convention is in question, States that are not parties to the proceedings but are parties to that convention may intervene for the sole purpose of addressing to the Court their observations on the interpretation of the said convention. The interpretation given by the Court is then binding upon them. New Zealand's declaration of intervention was directed to questions of interpretation arising in the case, relating in particular to article VIII, paragraph 1, of the International Convention for the Regulation of Whaling, which lies at the heart of the dispute between Australia and Japan.

In its decision, the Court pointed out that the fact that intervention under Article 63 of the Statute is based on a right is not sufficient for the submission of a "declaration" to that end to confer ipso facto on the declarant State the status of intervener, and that such right to intervene exists only when the declaration concerned falls within the provisions of Article 63 of the Statute. After considering whether it fell within those provisions and whether it met the requirements set out in article 82 of the Rules of Court, the Court concluded that New Zealand's declaration of intervention was admissible.

Accordingly, the Court authorized New Zealand to submit written and oral observations on the subject-matter of its intervention, and the Parties to comment on those observations. New Zealand participated in the hearings on the merits held in the case by the Court between 26 June and 16 July 2013.

Subsequently, the Court handed down four orders in two cases between Costa Rica and Nicaragua, namely the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and the case concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*.

First of all, the Court, in conformity with the principle of the sound administration of justice and with the need for judicial economy, considered it appropriate to join the proceedings in the two cases by two separate orders dated 17 April 2013.

The Court then handed down an order on 18 April 2013 regarding four counter-claims submitted by Nicaragua in its counter-memorial filed in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*. The Court first found, unanimously, that there was no need for it to adjudicate on the admissibility of Nicaragua's first counter-claim, since that claim had become without object by reason of the fact that the proceedings in the *Costa Rica v. Nicaragua* and *Nicaragua v. Costa Rica* cases had been joined by the aforementioned order.

The Court further found, unanimously, that the second and third counter-claims, which concerned, respectively, the status of the Bay of San Juan del Norte and the right to free navigation on the Colorado River, were inadmissible as such and did not form part of the current proceedings, since there was no direct connection, either in fact or in law, between those claims and the principal claims of Costa Rica. The Court lastly found, unanimously, that there was no need for it to entertain the fourth counter-claim, which related to alleged breaches of the order indicating provisional measures made by the Court on 8 March 2011. It specified that the question of compliance by both parties with the provisional measures indicated in the case might be considered by the Court in the principal proceedings, irrespective of whether or not

the respondent State raised that issue by way of a counter-claim.

In the same cases, which are now joined, the Court was lastly called upon to rule on two requests, submitted respectively by Costa Rica in late May 2013, and Nicaragua in mid-June 2013, for the modification of the order of 8 March 2011 indicating provisional measures in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*.

By an order dated 16 July 2013, the Court stated that the same general conditions governed the modification and indication of provisional measures, and that the circumstances, as they then presented themselves to the Court, were not such as to require the exercise of its power to modify the measures indicated in its order of 8 March 2011. The Court nevertheless reaffirmed those measures, and in particular the requirement that the parties should "refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve", noting that the actions thus referred to could consist of either acts or omissions.

I would also like to mention that, by an order which I made on 13 September 2013, the case concerning *Aerial Herbicide Spraying (Ecuador v. Colombia)* was removed from the Court's list at the request of Ecuador. The hearings in that case had been scheduled to take place between 30 September and 18 October of this year. By a letter dated 12 September 2013, Ecuador, referring to article 89 of the Rules of Court and to an agreement between the parties dated 9 September 2013, notified the Court that it wished to discontinue the proceedings in the case. By a letter of the same day, Colombia then informed the Court, pursuant to article 89, paragraph 2, of the Rules of Court, that it made no objection to that discontinuance.

The agreement in question fully and finally resolves all of Ecuador's claims against Colombia in the dispute concerning Colombia's aerial spraying of toxic herbicides at locations near its border with Ecuador, in order to eradicate coca plantations. It establishes, among other things, an exclusion zone in which Colombia will not conduct aerial spraying operations; creates a Joint Commission to ensure that spraying operations outside that zone have not caused herbicides to drift into Ecuador; and, so long as they have not, provides a mechanism for the gradual reduction in the width of the said zone.

The agreement sets out operational parameters for Colombia's spraying programme, records the agreement of the two Governments to carry out ongoing exchanges of information in that regard, and establishes a dispute settlement mechanism. The agreement also stipulates that Colombia will provide a financial contribution to Ecuador for the economic and social development of its provinces located near the northern border. I would add that both parties expressed their gratitude to the Court for its efforts and praised the role it had played in enabling them to achieve a settlement.

Having thus recalled the principal decisions rendered by the International Court of Justice during the past year, I shall now turn to two new cases that have been submitted to it.

The first case was brought before it on 24 April 2013 by the Plurinational State of Bolivia, which instituted proceedings against the Republic of Chile concerning a dispute in relation to Chile's obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean.

The second case was brought on 16 September 2013. Nicaragua informed the Court of a dispute with Colombia concerning the delimitation of the boundaries between, on the one hand, the continental shelf of Nicaragua beyond the 200-nautical-mile limit from the baselines from which the breadth of the territorial sea of Nicaragua is measured, and on the other hand, the continental shelf of Colombia.

There are, therefore, currently 10 cases on the Court's General List. On 11 November 2013, the Court will deliver its judgment in the case concerning the *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the* Temple of Preah Vihear (Cambodia v. Thailand) *(Cambodia v. Thailand)*.

Finally, I would like to point out that the Court held public hearings in mid-October on a new request for the indication of provisional measures **s**ubmitted by Costa Rica in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*. As this is an urgent procedure, the Court will hand down its order on this request as soon as possible. The Court has also decided to hold hearings some time next week on the request for the indication of provisional measures submitted by Nicaragua in the case concerning the *Construction of a road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*.

I should also like to mention that the Court is now working in the renovated and modernized Great Hall of Justice, thanks, in large part, to the contributions provided by the General Assembly and the Carnegie Foundation. The renovation project, which coincided with the centenary of the Peace Palace, was unparalleled in the history of the Peace Palace. While minor refurbishment work had been done in the past, such as extending the Bench in view of the enlarged composition of the Court's predecessor, the Permanent Court of International Justice, no major reconfiguration of this magnitude had been carried out in the Great Hall. The Court met for the first time in the renovated Great Hall in April, and henceforth it will have access to improved technical facilities offering a wide range of possibilities. Therefore, the Court will be able to hear the cases submitted to it faithfully and impartially — as it always does by virtue of its noble judicial mission — but it will do so in a more modern setting.

In fact, the Great Hall of Justice was the venue for speakers and guests on the occasion of a recent conference organized by the Court to celebrate the centenary of the Peace Palace on 23 September. In that context, the Court hosted eminent guests and brought together panels of very distinguished speakers. That resulted in a conference programme that was as rich as it was balanced in engaging the past and present of international justice, while also contemplating the opportunities that will arise in the future, including at the Court.

In conclusion, I should like to recall that the Court must do its utmost to serve the noble purposes and goals of the United Nations using limited resources, since the Member States award it less than 1 per cent of the Organization's regular budget. Nevertheless, I hope that I have shown that the recent contributions of the Court are not to be measured in terms of the financial resources that sustain it, but against the great progress made in the advancement of international justice and the peaceful settlement of disputes between States.

The Acting President (*spoke in French*): I thank the President of the International Court of Justice.

Mr. Dehghani (Islamic Republic of Iran): I have the honour to deliver this statement on behalf of the Non-Aligned Movement (NAM).

The Non-Aligned Movement attaches great importance to agenda item 72, "Report of the International Court of Justice" and takes note of the report contained in document A/68/4, regarding the activities of the Court between 1 August 2012 to 31 July 2013, as requested by the decision of the Assembly last year. I would also like to thank the President of the International Court of Justice for introducing the report to the Assembly.

The Non-Aligned Movement reaffirms and underscores its principled positions concerning the peaceful settlement of disputes and the non-use, or threat of use, of force. The International Court of Justice has a significant role to play in promoting and encouraging the settlement of international disputes by peaceful means, as reflected in the Charter of the United Nations, and in such a manner that international peace and security, and justice are not endangered.

The Movement endeavours to generate further progress towards achieving full respect for international law and, in that regard, commends the role of the Court in promoting the peaceful settlement of international disputes, in accordance with the relevant provisions of the Charter of the United Nations and the Statute of the Court, in particular, Articles 33 and 94 of the Charter.

In regard to the advisory opinions of the Court, noting the fact that the Security Council has not sought any advisory opinion from the Court since 1970, NAM urges the Security Council to make greater use of the International Court of Justice, the principal judicial organ of the United Nations, as a source of advisory opinions and the interpretation of relevant norms of international law, and on controversial issues. It further requests the Council to use the Court as a source for interpreting relevant international law and also urges the Council to consider having its decisions be reviewed by the Court, bearing in mind the need to ensure their adherence to the Charter of the United Nations and international law.

The Movement also invites the General Assembly, other organs of the United Nations and the duly authorized specialized agencies to request advisory opinions of the International Court of Justice on legal questions arising within the scope of their activities.

The Non-Aligned Movement reaffirms the importance of the unanimous advisory opinion issued by the International Court of Justice on 8 July 1996 on the *Legality of the Threat or Use of Nuclear Weapons*. In that opinion, the Court concluded that

> "there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control".

The Non-Aligned Movement continues to call on Israel, the occupying Power, to fully respect the 9 July 2004 advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and calls upon all States to ensure respect for the provisions therein for the realization of the end of the Israeli occupation that began in 1967 and the independence of the State of Palestine with East Jerusalem as its capital.

Mr. McLay (New Zealand): Australia, Canada and New Zealand thank the President of the International Court of Justice, Judge Tomka, for introducing the report on the work of the Court over the past year (A/68/4).

Universal adherence to the international rule of law is crucial for the peaceful settlement of disputes and the avoidance of conflict. As countries that are firmly committed to the rule of law, Australia, Canada and New Zealand have always been, and will continue to be, strong supporters of the Court as the principal judicial organ of the United Nations. The Court is central to ensuring that the rule of law is maintained and strengthened at the international level and, for that reason, deserves our continuing support. Australia, Canada and New Zealand therefore welcome the Court's efficient handling of the cases before it and the steps it continues to take to improve its overall working methods.

We are pleased that, during the 2012-2013 reporting period, the Court finalized a range of complex cases addressing a diversity of legal issues, subject matters and geographical regions — as evidenced by Judge Tomka's statement — thereby contributing greatly to the development and clarification of international legal principles. The increased willingness of States to turn to judicial settlement for the resolution of their disputes is welcome and is testimony to the confidence of the international community in the work of the Court.

We have taken note of then-President Judge Owada's paper (A/66/726, annex) setting out the Court's response to the Secretary-General's report on the comprehensive review of the pension scheme of the members of the Court. In our view, it is highly important to strike the right balance between the principles of equality of the members of the Court and the fiscal responsibilities of the United Nations.

The delegations of our three countries have tremendous respect both for the work of the International Court of Justice and for the quality and dedication of the judges who sit on that important body. Our confidence in the Court and in its ability to render considered judgments on complex international legal issues is reflected in our acceptance of the Court's compulsory jurisdiction. We encourage other Members of the United Nations who have not yet done so to deposit with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction. There could be no more affirmative way of declaring confidence in the Court and in the fair and impartial application of the international rule of law.

Ms. Orosan (Romania): Romania is a strong supporter of the role played by the International Court of Justice in the promotion of the rule of law in international relations and is grateful to the President of the Court for the comprehensive report on the intensive activity of the Court over the past year (A/68/4).

The role of the International Court of Justice in promoting the rule of law by applying the principles and norms of international law, thus contributing to friendly relations among States and to international peace and security, is undisputed. The increasing number of cases on the docket of the Court and the referral of disputes involving numerous conventions of universal application to the international court's jurisdiction stand as proof.

The influence of the Court in international relations is thus felt increasingly broadly. In our view, that is a positive development indicating that the Court's judgments are perceived as free of bias and as fully reflecting international law and contributing to its development.

Romania has some experience in relation to proceedings before the Court, namely, the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, which was settled by the Court in a judgment rendered unanimously on 3 February 2009, and the proceedings relating to the advisory opinion on the question of the accordance with international law of the unilateral declaration of independence in respect of Kosovo. Our experience has been thoroughly positive, serving as a significant impetus in our decision to

initiate a process leading to the eventual acceptance of the compulsory jurisdiction of the Court.

A year ago, on the occasion of the High-level Meeting on the Rule of Law at the National and International Levels (see A/67/PV.3), which took place under the auspices of the United Nations on 24 September 2012, the Romanian Minister for Foreign Affairs announced Romania's intention to initiate an internal debate on the acceptance of the compulsory jurisdiction of the International Court of Justice.

The public debate was launched on 4 February 2013, with the organization in Bucharest of a conference on the compulsory jurisdiction of the International Court of Justice and the four years since the Court's judgment in the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*. The event had two-fold significance: recalling the execution of the Court's judgment in the case concerning the delimitation of the continental shelf and the exclusive economic zones of Romania and Ukraine in the Black Sea, and the formal launching of the public debate on the acceptance by Romania of the Court's jurisdiction.

The connection between the two issues is obvious. The 2009 judgment of the Court represented undeniable proof of the impartiality and professionalism of the International Court, thus strongly advocating in favour of the acceptance by Romania of its jurisdiction. Other public conferences on the subject were organized in several important legal studies centres in Romania, which were all well attended, in particular by representatives of academia.

That internal process was concluded by an event that took place on 14 June at the Faculty of Law of the University of Bucharest. President Tomka attended the event and delivered a very eloquent speech explaining the significance of accepting the compulsory jurisdiction of the International Court of Justice and why it would be advantageous for Romania, as well as for any other State, for that matter, to take such a step. I avail myself of the opportunity to thank President Tomka again for kindly accepting our invitation to visit Romania and take part in the conference.

Following the internal debate, the meaning of accepting the compulsory jurisdiction of the Court became clearer — for both the practitioners of international law in Romania and the general public — in terms of what was involved from a legal perspective and, perhaps more significantly and more broadly, in the context of Romania's overall foreign policy. The public discussion evinced general support for the initiative of accepting the compulsory jurisdiction of the Court, an approach shared by the Romanian authorities, specialists in the fields of international law and the general public. We can therefore envisage that Romania will soon join the group of States that have accepted the compulsory jurisdiction of the Court.

The Court is the highest judicial organ of the United Nations and has an acknowledged body of the most prominent professionals in the legal field. We think the United Nations and its Member States must do everything to assist the Court in fulfilling its noble mandate, to maintain and consolidate its highest professional status and to improve the procedures of the Court, while complying with its Statute.

Mr. Meza-Cuadra (Peru) (*spoke in Spanish*): On behalf of my delegation, I thank Judge Peter Tomka, President of the International Court of Justice, for introducing to the Assembly the comprehensive report on the work of the Court during the judicial year from 1 August 2012 to 31 July 2013 (A/68/4).

In 1970, the General Assembly, in its resolution 2625 (XXV), developed the principle of peaceful settlement of international disputes as one of the main tenets of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations. Some years later, that principle was ratified by the Manila Declaration, accepted by the General Assembly in 1982 as resolution 37/10. It highlights the worked carried out by the International Court of Justice as the principal judicial organ of the Organization and states that legal disputes should, in general, be submitted to the Court.

In 2012, in adopting the Declaration of the High-level Meeting on the Rule of Law at the National and International Levels (resolution 67/1), the General Assembly recognized the positive contribution to peace and international security made by the International Court of Justice through, among other things, its decisions on disputes between States and its promotion of international law. Consequently, the Assembly reaffirmed the obligation of all States to comply with its decisions in cases to which they are parties, and urged those States that had not yet done so to consider accepting its jurisdiction.

Peru, pursuant to its tradition of full respect for international law, has accepted the compulsory

jurisdiction of the Court in contentious cases and strongly supports the campaign launched by the Secretary-General aimed at extending that jurisdiction to all States.

States must also ensure that the Court has adequate resources to do its job. We therefore agree with the recommendation made in the report on the need to establish three new posts, which would strengthen the management of the workload of the Court.

We are pleased to note in the report that the workload is ever more intense and that cases submitted to the Court are increasingly complex. That accounts for the growing number of States placing their trust in its serious and impartial character, in its viability as a peaceful option and in its capacity to promote the rule of law at the international level. We note that half of the disputes currently before the Court relate to Latin American countries, which reinforces peace and stability in our region.

As President Tomka mentioned, the past year saw the holding of the oral phase of the maritime delimitation process involving my country and Chile. For the first time in its history, the Court allowed unofficial simultaneous interpretation into Spanish. As a result of that and of the use of audiovisual technology on its website, mass public opinion in both countries was able to follow the hearings in their entirety and form a comprehensive understanding of the controversy in question and the functioning of the Court.

At the conclusion of the oral phase, we were able to commend the decorous, harmonious and respectful conduct of both parties. In keeping with that the Assembly said more than 30 years ago in the Manila Declaration, it was found that recourse to the Court is an opportunity for States to promote the mutual confidence in which to pursue the peace and security that our people yearn for and deserve.

In that spirit, at the opening of the general debate of this session of the Assembly (see A/68/PV.8), the President of the Republic of Peru, Ollanta Humala Tasso, said that it is a matter of pride for our country that we have dealt with our maritime boundary dispute with Chile in a constructive and cooperative manner. My delegation therefore understands very well that the seventieth anniversary of the Court, to be observed in 2016, is an important opportunity to raise greater awareness of its contributions to the international community in its advisory and dispute settlement capacities. We therefore support the report and the 2014-2015 budget.

Ms. Natividad (Philippines): We thank President Peter Tomka and his team at The Hague for the comprehensive report on the work of the International Court of Justice over the past year (A/68/4).

The Philippines associates itself with the statement delivered by the representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement.

The Court continues to play a vital role in international relations. As the principal judicial organ of the United Nations, the Court resolves disputes which cannot otherwise be resolved by or through the political organs of the United Nations. Under Article 38 of the Statute of the Court, these are disputes that can be settled through the application of the sources of international law — treaties, international custom, general principles of law and, as subsidiary sources, judicial decisions and the teachings of the most highly qualified authors.

Last year, for the first time ever, the General Assembly held the High-level Meeting on the Rule of Law at the National and International Levels. We adopted an outcome document as resolution 67/1. That document recognizes that, within the United Nations system and beyond, we have the institutions, working methods and relationships needed to make the rule of law relevant to peace and security, human rights and development.

One of those institutions is none other than the Court. In paragraph 31 of the outcome document of the High-level Meeting, we recognized the Court's positive contribution to promoting the rule of law. We also affirmed our duty to comply with its decisions in contentious cases. We are reminded of Article 1, paragraph 1, of the Charter of the United Nations and our duty

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

This is the very rationale for the 1982 Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10), the thirtieth anniversary of the adoption of which we celebrated in November last year. The Manila Declaration was negotiated and

adopted by the General Assembly during the Cold War, when non-aligned countries were seeking to consolidate their political and economic independence. The Declaration supported their aspirations by articulating the norms for the peaceful settlement of disputes, as outlined in Chapter VI of the Charter of the United Nations.

Beginning with the *Corfu Channel* case in 1947 until the adoption in 1982 of the Manila Declaration, over the span of 35 years the Court disposed of 49 contentious cases. Since 1982, however, the caseload of the Court has increased, and the Court disposed of 78 contentious cases in a comparatively shorter period.

The 10 contentious cases currently on the Court's docket come from all over the world: half from Latin America, two cases involving States from the Asia-Pacific region, and others from Africa. That increasing confidence, especially among developing countries, in the capabilities, credibility and impartiality of the Court to settle disputes exclusively by peaceful means is not unrelated to the norms, values and aspirations articulated in the Manila Declaration. The most fundamental of them is the non-use or threat of use of force. The Manila Declaration reflects the international community's increasing reliance on the rule of law as a cornerstone not only of the peaceful settlement of disputes, but also of the maintenance of international peace and security.

Only the strong rule of law at the international level can guarantee the respect, order and stability that we desire and deserve. That is how we contribute to the progressive development of international law. The mandate and jurisdiction of the Court have become sharper than ever. The creation of the International Criminal Court and specialized mechanisms for settling disputes, such as the International Tribunal for the Law of the Sea and the Appellate Body of the World Trade Organization, do not make the Court any less important in the twenty-first century. On the contrary, the new international legal architecture strengthens the Court as the only forum for resolving adjudicable disputes between States in the vast field of general international law. In fact, the Court is still seized of disputes concerning territorial and maritime issues, environmental damage and the conservation of living resources.

If there is anything that the Charter of the United Nations, together with the Statute, jurisprudence and experience of the International Court of Justice, can teach us, it is that if their cause is just, the weak should have no fear of the mighty. It is through the work of the Court that the rule of law in international relations has a chance to prevail. In accordance with the provisions of resolutions 67/1 and 67/97, the Philippines renews its call on Member States that have not yet done so to accept the compulsory jurisdiction of the Court.

Finally, we also call on the Security Council to take Article 96 of the Charter of the United Nations into serious consideration, and to make greater use of the Court as a source of advisory opinions and of interpretation of the relevant norms of international law, particularly on the most current and controversial issues affecting international peace and security.

Mr. Diener Sala (Mexico) (*spoke in Spanish*): The delegation of Mexico wishes to express its deep appreciation to the International Court of Justice for its hard work this year and to welcome its annual report (A/68/4). Mexico would also like to commend the Secretary-General for his hard work and commitment to the peaceful resolution of disputes, in accordance with the spirit of the Charter of the United Nations, through the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, created in 1989 to facilitate States' applications to the Court to resolve their differences.

My country reaffirms its confidence in the Court as the principal international organ of justice and in its commitment to the purposes and principles of the Charter of the United Nations, particularly the duty of States to resort to peaceful means to settle their disputes and comply with international law and the principle of justice. My delegation also congratulates the Court on the judgments it has produced during the past year. Mexico stresses the confidence that States have in the Court's ability to improve understanding of the cases brought before it as well as the commitment of the countries on both sides to abide by their obligation to settle disputes peacefully.

My country reaffirms its respect for and recognition of the value of the Court's decisions for the development of international law regardless of their source, as laid down in article 38 of its Statute. As has been expressed in various forums, Mexico is convinced that the work of the International Court of Justice in the resolution of disputes is crucial to the promotion of and respect for the rule of law in the international arena. Mexico

would like to commend the Secretary of the Court for doing three high-level jobs — in the legal, diplomatic and administrative arenas — in carrying out his work.

Finally, Mexico urges those States that have not yet done so to accept the compulsory jurisdiction of the International Court of Justice as soon as possible, in keeping with paragraph 2 of article 36 of the Statute, in order to fulfil their duty to settle disputes peacefully, with respect for international law and the principle of good faith.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): We would also like to thank the President of the International Court of Justice, Mr. Peter Tomka, for his detailed briefing on the work of the Court.

Russia is traditionally committed to the principle of the peaceful resolution of disputes, and the rule of law. We consider the International Court of Justice to be very important as a key organ dealing with settling disputes between States and ensuring the primacy of the rule of law in international relations.

We have been closely monitoring the progress of the judicial proceedings of the Court, whose current phase is one of the most active in its entire history. During the most recent reporting period it issued two judgments on highly complex territorial disputes and held substantive hearings on four cases. The Court has also maintained a broad range of subject matter in the cases before it, confirming its universality and popularity among States. In our view, the energy of the Court's proceedings is a not insignificant factor in creating confidence in it. Moreover, it has continued to maintain the quality of its decisions, which not only respond to the issues that States present it with but also lay a foundation for the development of modern international law, at the same high level.

Russia has had the opportunity through its own experience to be convinced of the Court's high standards in its legal proceedings. In that regard, the Court should be an example to other international judicial bodies, particularly the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, whose low level of effectiveness has long been a subject of discussion in the Organization.

We believe that in order to develop the potential of the International Court of Justice, it must have help in addressing its practical and material problems. We are confident that the Court will be a model of objective, independent international justice, whose authoritative opinion on highly complex disputes will continue to contribute to strengthening international law.

Mr. Joyini (South Africa): I would like to thank the President of the International Court of Justice, Judge Peter Tomka, for his presentation and for the Court's report (A/68/4).

At the outset, I associate myself with the statement delivered by the representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement.

My delegation continues to consider the International Court of Justice to be the pre-eminent mechanism for the peaceful settlement of disputes at the international level. It should be kept in mind that the Court, as a court of justice and, moreover, the principal judicial organ of the United Nations, occupies a special position. Everything it does is aimed at promoting the rule of law. It hands down judgments and gives advisory opinions in accordance with its Statute, which is an integral part of the Charter of the United Nations, and thus contributes to promoting and clarifying international law.

My delegation welcomes the report of the International Court of Justice and the reaffirmed confidence that States have shown in its ability to resolve their disputes. In particular, we are pleased to see that States continue to refer disputes to the Court.

The number of pending cases on the Court's docket is a reflection of the esteem in which the States hold it. We note with particular appreciation the information provided by the Court that the parties to the case of *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v. Uganda)* are making progress in the implementation of the Court's judgment of 19 December 2005. That case also technically remains pending in the sense that the parties could again turn to the Court, as they are entitled to do under the judgment, to decide the question of reparation if they are unable to agree on that point.

Notwithstanding the proliferation of mechanisms for the international judicial settlement of disputes on a specialized or regional basis, the International Court of Justice continues to attract a wide range of cases, covering many areas.

The list of cases pending before the Court includes those pertaining to the demarcation of boundaries, such as *Frontier Dispute* (*Burkina Faso/Niger),* wherein a joint

letter of notification dated 12 May 2010 was transmitted to the Registrar as a special agreement, whereby both countries agreed to submit to the Court the frontier dispute between them over a section of their common boundary. In the Court's judgment dated 16 April 2013, the Court settled that long-standing border dispute between the two countries by demarcating territory that spans an area of 380 kilometres, which is over half the length of the border. By an order dated 12 July 2013, the Court nominated three experts who would assist the parties in the demarcation of their common frontier in the disputed area, pursuant to article 7, paragraph 4, of the special agreement concluded between the parties on 24 February 2009 and to paragraph 113 of the judgment delivered by the Court on 16 April 2013.

My delegation appreciates the fact that the Court sets itself a particularly demanding schedule of hearings and deliberations in order to consider several cases at the same time and to deal as promptly as possible with incidental proceedings, which are tending to increase, including requests for the indication of provisional measures, preliminary measures, counterclaims, applications for permission to intervene and declarations of intervention.

We keenly await the Court's judgment in the *Aerial Herbicide Spraying (Ecuador v. Colombia)* case and hope that it will contribute to the relevant principles. We have also noted that another environmental case — that concerning *Whaling in the Antarctic (Australia v. Japan)* — has been added to the Court's docket. We look forward to the Court's decision in that case, which we hope will similarly contribute to the body of law governing the environment, particularly in respect to the law of the sea.

My delegation has also noted that through an order of 6 February 2013, the Court authorized New Zealand to intervene in the case concerning *Whaling in the Antarctic (Australia v. Japan)*. On 20 November 2012, New Zealand filed with the Registry a declaration of intervention in the case. In order to avail itself of the right of intervention conferred by Article 63 of the Statute of the Court, New Zealand relied on its status as a party to the International Convention for the Regulation of Whaling. It contended that as a party to the Convention, it had a direct interest in the construction that might be placed upon the Convention by the Court in its decision in these proceedings. New Zealand underlined in its declaration that it did not seek to be a party to the proceedings and confirmed that, by availing itself of its right to intervene, it accepts that the construction given by the judgment in the case will be equally binding upon it.

The importance of advisory opinions on legal questions referred to the International Court of Justice cannot be overstated in the pursuit of the peaceful settlement of disputes in accordance with the Charter of the United Nations. It is therefore rather disappointing that during the period under review, no requests for advisory opinions were made.

Mr. Gálvez (Chile) (*spoke in Spanish*): Allow me to convey my country's greetings to the President of the International Court of Justice, Judge Peter Tomka, who introduced a comprehensive report covering the period from 1 August 2012 to 31 July 2013 (A/68/4).

We value the lofty responsibilities of the International Court of Justice and its work as the principal judicial organ of the United Nations. The report introduced by the Court's President clearly reflects that tradition and deserves our gratitude.

As members of the international community, we share with other nations respect for the Court's institutional structure, its mission and its work reflecting the pre-eminence of international law. We add our voice to those that have highlighted the fundamental advisory function entrusted to the Court by the Charter of the United Nations, which it has performed with exemplary clarity and commitment, providing, through its findings and rulings, guidelines and counsel to the United Nations and to the States in general. We particularly emphasize the contribution of the Court to relations between States by applying international law and contributing to its effectiveness.

This year we celebrate the centennial anniversary of the Peace Palace, which is the headquarters of the International Court of Justice and the Permanent Court of Arbitration and which once housed the Permanent International Court of Justice. The 100 years of existence of the Peace Palace illustrate the determination of peoples to resolve their disputes on the basis of international law by peaceful means and thereby to promote international peace and security. My country cannot fail to highlight the contribution to the legacy of international law, especially Latin American law, made by Chilean legal expert Alejandro Álvarez, among the earliest Judges of the Court.

The Court is an essential component of the international legal system, and our States acknowledge

and appreciate its leading role and the guarantees provided to all members of the international community under its sphere of competence. Through its decisions, the Court has facilitated the establishment of an international legal order designed to strengthen the peaceful coexistence of peoples. As President Tomka stated, the jurisdiction of the Court arises from multilateral and bilateral treaties and from the unilateral declaration of States, all in conformity with the system prescribed in the Rome Statute.

The system of judicial settlement of disputes identified by the Court embodies one of the essential goals of the international legal order concerning the stability of relations among States and the solidity of the rules in force. We are convinced that, in the framework of international peace and security, the Court helps to enhance relations between countries and to impose on the international legal order a sense of respect for the law, the concept of the rule of law and human rights, combining the fundamental principles of the Charter of the United Nations with the requirements of modern life.

We join with others in the General Assembly in expressing respect and support for the Court as the principal judicial organ of the United Nations system in the conviction that the Organization will continue to give it the autonomy and to provide it with the human and material resources necessary, commensurate with its caseload and lofty functions.

In that connection, we value the participation of experts and the specialized technical knowledge that they contribute. My country highly values the Court's public dissemination of its work and the access it provides to its teachings and activities. We hope that it will receive the resources to pursue those efforts with the requisite means and technologies. We know how hard the Court strives to disseminate its work and to support the work of those who consult its documents. International law is undoubtedly strengthened by that effort. We want to do our part to ensure that this stance continues to prevail among our countries.

To conclude, I recall that recognition of the praiseworthy work of the Court over which Judge Tomka presides goes hand in hand with respect for international law and makes a vital contribution to its effectiveness and application.

Ms. Patil (India): At the outset, I would like to thank Judge Peter Tomka, President of the International Court of Justice, for introducing the comprehensive report covering the judicial activities of the Court over the past year (A/68/4). I also thank him and Vice-President Bernardo Sepúlveda-Amor for guiding the work of the Court.

As the principal judicial organ of the United Nations, the Court is entrusted with the task of promoting the peaceful resolution of disputes between States, which is fundamental to the fulfilment of one of the purposes of the United Nations, namely, the maintenance of international peace and security. We acknowledge the fact that the Court has fulfilled that task admirably since its establishment and that it has acquired a well-deserved reputation as an impartial institution maintaining the highest legal standards in accordance with its mandate under the Charter of the United Nations, of which the Statute of the Court is an integral part.

One of the primary goals of the United Nations, as stated in the Preamble to the Charter, is to establish conditions under which justice and respect for international obligations can be maintained. The International Court of Justice, as the only Court with general international law jurisdiction, is uniquely placed to fulfil that role.

The Court's report illustrates the importance that States attach to the Court and the confidence they place in it, as is clearly evident from the number, nature and variety of cases it deals with and through its ability to address the complex aspects of public international law. The cases before the Court involve a wide variety of subjects, including territorial and maritime disputes, environmental damage, the conservation of living resources, violations of territorial integrity, violations of international humanitarian law and human rights, genocide, the interpretation and application of international conventions and treaties, and the interpretation of the Court's own judgments.

The judgments delivered by the International Court of Justice have played an important role in the interpretation and clarification of the rules of international law, as embodied in the progressive development and codification of international law. In the performance of its judicial functions, the Court has remained highly sensitive to political realities and sentiments of taste by acting in accordance with the provisions of the Charter of the United Nations, its own Statute and other applicable rules of international law.

During the 2012-2013 judicial year, the Court delivered two judgments, held public hearings in four cases and handed down six orders. The number of continuing cases presently on the Court's docket stands at 10. Among the cases before the Court, there are five from Latin American States, two from Europe, one each from African and Asian States and one of an intercontinental character, which shows the universality of the Court.

The Court's second function of providing advisory opinions on legal questions referred to it by the organs and specialized agencies of the United Nations adds to its important role of clarifying key international legal issues. The Court's report rightly points out that everything the Court does is aimed at promoting the rule of law, in particular through its judgments and advisory opinions.

It is worth mentioning that the Court ensures the greatest possible global awareness of its decisions through its publications, multimedia offerings and its website, which now features the Court's entire jurisprudence as well as that of its predecessor, the Permanent Court of International Justice. Those sources provide useful information for States wishing to submit a potential dispute to the Court.

We are glad to note that the three posts sought by the Court in different service categories have been filled pursuant to the approval of the General Assembly, which will help to strengthen the Court's security-related aspects and will expedite the publication of the Court's work. It is also a matter of satisfaction that the Great Hall of Justice, in which public hearings are held, has been refurbished with modern equipment.

Finally, India wishes to reaffirms its strong support to the Court and acknowledges the importance that the international community attaches to its work.

Mr. Ishikawa (Japan): At the outset, I would like to thank President Peter Tomka for introducing the comprehensive report on the work of the International Court of Justice (A/68/4). His report highlights the ever-increasing need for the peaceful settlement of disputes between States and the crucial role that the Court plays in resolving them by applying international law. Allow me to take this opportunity to commend the work of the Court under the leadership of President Tomka.

As the President's report clearly points out, the use of the International Court of Justice as the forum of choice for the settlement of disputes in the international community continues to increase. Cases referred to the Court involve a wide variety of subjects, including territorial and maritime disputes, environmental disputes and violations of international humanitarian law and human rights law.

While the issues on which Member States file claims with the Court are growing more complex in factual and legal terms, Japan is confident that the Court will maintain the high quality of its work through the judicial rigour of its members and with the support of its highly dedicated Registry, an element that truly makes the Court the principal judicial organ of the United Nations. Japan commends the Court for its continuing efforts to examine its procedures and working methods in order to conduct its work in a sustainable manner, while assuming the challenging task of guaranteeing its impartiality against political pressures and maintaing its respect for equality between the parties to disputes.

As Prime Minister Shinzo Abe said from this rostrum during the general debate of the current session (see A/68/PV.12), Japan attaches great importance to enhancing the rule of law at the international level. Indeed, there are rising expectations across the globe for international law to serve as a means for resolving heated controversies and diffusing tensions by providing those involved with a common language. My Government strongly believes that the international community must seize this moment to make international law play a more important role in international relations. The universal acceptance of the Court's jurisdiction by Member States would enable the enhancement of this function by the Court. Japan itself has accepted the compulsory jurisdiction of the International Court of Justice since 1958. Our delegation calls upon all Member States that have not done so to follow suit.

I would also like to take this opportunity to refer to Japan's experience in the peaceful of settlement of disputes through the international judicial process. This year has been an important one for Japan as it has participated in all the proceedings of Japan's first Court case in its history concerning the legality of Japan's special whaling permit in the Antarctic. As Japan's agent stated in his concluding remarks, the oral proceedings gave Japan the opportunity to thoroughly present its case about the Japanese research whaling to the Court and, by extension, to the entire world. In that sense, Japan demonstrated, based on law and facts, that its special whaling permit was in full accordance

with the International Convention for the Regulation of Whaling. Japan trusts that the Court will arrive at its conclusion based on the clearly presented legal arguments and factual evidence.

Finally, I wish to reiterate Japan's unwavering support for the Court.

Ms. Bagley (United States of America): We would like to thank President Tomka for his leadership as President of the International Court of Justice, and for the Court's recent report regarding its activities over the past year (A/68/4). We are struck by the continuing forward momentum of the Court reflected in the report.

Over the past year, the Court has issued two judgments related to the demarcation of boundaries both on land and in the sea and six orders, and held hearings open to the public in four complex cases. In addition, the Court has 10 more contentious cases in its pipeline spanning the gamut of issues including border disputes — again, territorial and maritime — environmental matters and the interpretation of treaties among multilateral parties, to reference just a few. Five of the pending cases are between Latin American States, two between European States, one between African States and one between Asian States, while one is intercontinental in character. Truly, the caseload of the Court is global and mirrors the work of the General Assembly itself in this regard.

The International Court of Justice is the principal judicial organ of the United Nations. The preamble of the Charter underscores the determination of its drafters

> "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained".

This goal lies at the core of the Charter system, and in particular the role of the Court. Taking stock today of approximately 70 years of the Court's jurisprudence, it is clear that the Court has made a significant contribution to establishing legal norms and clarifying legal principles in multiple areas of international law.

We see an increased tendency among States — reaffirmed again this past year — to take disputes to the Court and to vigorously advocate on behalf of their interests before it. In turn, the Court has continued to become more responsive to them in multiple ways, including through measures to enhance its efficiency to cope in a timely way with the increase in its workload and its commitment to continually review and refine its procedures and working methods to keep pace with the rapidly changing times. By working to resolve some disputes up front, helping to diffuse other disputes before they escalate, and providing a trusted channel for States to address and resolve disputes about legal issues, the Court is fulfilling its Chapter XIV mandate. We hope the Court will continue to receive appropriate resources for carrying out its important functions.

We also want to commend the Court's continued public outreach to educate key sectors of society — law professors and students, judicial officials, Government officials and the general public — on the work of the Court and to increase understanding of the work of the International Court of Justice. From a transparency standpoint, we note in particular that the Court's proceedings are now available to watch live and on demand on United Nations Web TV. All these efforts complement and expand the efforts of the United Nations to promote the rule of law globally and a better understanding of public international law.

In closing, we want to express our appreciation for the hard work of President Tomka, the other judges who currently serve on the Court, and all of the members of the Court's staff who contribute on a daily basis to the continuing productive work of that institution.

Mr. Gata Mavita wa Lufuta (Democratic Republic of the Congo) (*spoke in French*): My delegation takes note of the report submitted to the General Assembly by the International Court of Justice (A/68/4), covering the period from 1 August 2012 to 31 July 2013. We note that during the reporting period, 12 contentious cases were brought before the Court, which delivered two judgments and eight orders.

My delegation attaches great importance to the work of the International Court of Justice because it recognizes that, as the principal body of the United Nations, its role is to bring about by peaceful means, and in conformity with the principles of justice and internatinoal law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. My delegation appreciates the outstanding role played by the Court in promoting the rule of law and encourages it to pursue its efforts in this direction.

We must recognize the skill with which the Court has conducted its deliberations in the cases before it

in recent years. It has not only managed an increasing number of cases, but has further established itself as the main judicial body of the United Nations mandated to settle legal disputes that States have submitted to it, in accordance with international law. Seeking to deliver impartial justice, it has also established its independence vis-à-vis the Security Council, which is a political body of the United Nations, as occurred in its judgment of 24 May 1980 in the case concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran),* following the events of 4 November 1979.

Regarding recourse to the use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, referred to in Article 2, paragraph 4, of the Charter of the United Nations, I refer to the 19 December 2005 Judgment rendered by the Court in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, cited in paragraph 31 of the report of the International Court of Justice. As the eminent Congolese jurist Sayeman Bula-Bula once said, this case surpassed the case concerning *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)* of 1949, the case concerning *Border and Transborder Armed Actions (Nicaruaga v. Honduras)* of 1986, and the case concerning *Oil Platforms (Islamic Republic of Iran v. United States of America)* of 2003. While the Court's observations could have been more clearly expressed in its decision, as some have rightly said, they still stand regardless of their semantics. In that regard, it is important to closely read the entirety of the judgment, in particular paragraphs 153, 304 and 345.

In his report on this subject, the President of the Court lays out the development of the negotiations held by parties to settle the question of reparations. Given the friendly relations and climate of cooperation that have progressively been re-established between the former belligerent parties, my delegation hopes that the issue of reparations will find a just, prompt and fair solution through the means stipulated in the judgment of 19 December 2005.

The Democratic Republic of the Congo has made a valuable contribution to the development of international law and to what is known today as "the return to international law". Our enormous contribution has allowed us to adhere to the rule of law, respectful of international law, both as an applicant and as a respondent State. Indeed, it is no fantasy to claim that for more than a decade the Democratic Republic of the Congo has been one of the main applicant countries submitting cases to the International Court of Justice, five of which appear on the current docket and are close to being decided.

My delegation supports the activities of the Court and encourages States to refer their disputes to it in order to promote peace through the rule of law and facilitate peaceful coexistence. It is alarmed to note that barely one third of the States Members of the Organization have made declarations with respect to Article 36, paragraph 2, of the Statute of the Court, that

> "they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes".

In that regard, my delegation encourages States that have not yet done so to adhere to the declaration accepting the Court's compulsory jurisdiction, pursuant to Article 36, paragraph 2, of the Statute and in accordance with the provisions of resolution 67/1, of 24 September 2012, and of resolution 67/97, of 14 December 2012, by which the General Assembly calls upon States that have not yet accepted the compulsory jurisdiction of the Court on that basis to consider doing so.

My delegation considers this to be an effective method of referral to the Court that allows States parties to the Statute to recognize as compulsory ipso facto and without special agreement, with respect to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes. The report of the President tell us that, of the 194 States Members that make up this universal Organization, only 70 States, including the Democratic Republic of the Congo, have accepted the Court's compulsory jurisdiction pursuant to Article 36 of the Statute.

Finally, the fact that many of the statements made by the representatives of Member States contain reservations or limitations that exclude certain dispute categories or require certain conditions to be met in order to accept the Court's competence in the matter of a dispute represents a practice that my delegation cannot support.

Mr. Llorentty Solíz (Plurinational State of Bolivia) (*spoke in Spanish*): On behalf of the Plurinational State

of Bolivia, I extend our warm welcome and thanks to Judge Peter Tomka, President of the International Court of Justice, for introducing the extensive report detailing the work of the Court from 1 August 2012 to 31 July 2013 (A/68/4).

The International Court of Justice represents the primary embodiment of universal justice as understood by the international community. It serves above all as a mechanism for the peaceful and just settlement of disputes based on legal agreement, which is considered to be the civilized way to address differences among States.

Progress in international law made it possible to banish old practices, such as unilateral acts to assert power by strong nations over weak ones, the prohibition of the threat or use of force and the unilateral imposition of power by strong nations over weak, the prohibition of the threat or use of force, and the elimination of the right of States to territorial conquest.

The indisputable guarantor has been the International Court of Justice as the main judicial body of the United Nations system charged with protecting the interests of the parties concerned, as well as those of any State affected by a dispute. In that context, it is important to highlight the resolutions of the United Nations that crystallize the principles of international law and have served as the basis for the judgments of the Court.

Bolivia therefore reiterates its adherence to the Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10). The current tendency of States to refer their disputes to that mechanism is a clear and healthy sign that they acting in accordance with the most up-to-date legal practices of the international community, which, instead of deepening antagonism, reduce controversies and maintain friendly relations that are not tainted by aggression.

It is the keen desire of the great majority of the members of the international community that the mechanism for the judicial settlement of disputes, the responsibility for which falls to the International Court of Justice, will be accepted in a comprehensive manner in such a way that, each day, increasing numbers of States will accept the Court's jurisdiction with a view to recognizing its role as a protagonist in the maintenance of international peace. In that context, we urge the States Members of the United Nations to recognize the jurisdiction of the International Court of Justice and to accept its rulings in order to reaffirm respect for international law and the quest for peace, international security and justice.

Mr. Ulibarri (Costa Rica) (*spoke in Spanish*): It is an honour to participate once again in the annual meeting of the General Assembly to consider the report on the work of the International Court of Justice, which is the only international tribunal of a universal character with general jurisdiction. My delegation thanks Judge Peter Tomka, President of the Court, for his introduction of the report on the work of the Court (A/68/4) and for his important appearance before the Assembly.

The peaceful settlement of international disputes is an essential purpose of the United Nations. The role of the Court in maintaining peace and security is therefore critical, giving rise to the responsibility of the United Nations and its Member States to support the Court in fulfilling its duties and to scrupulously implement its decisions, as well as the importance of ensuring its legal and procedural independence.

To that end, the Court must, inter alia, enjoy the necessary resources to fulfil its mandate, in view of the substantial increase in its workload. In that matter, and thanks to the support of the Organization and the efforts of the Court, we welcome the elimination of the case-processing backlog and the fact that the conclusion of the written phase can now lead seamlessly to the oral proceedings.

A basic minimum requirement of strengthening respect for the rule of law and the Court itself is the respect and compliance of States with it decisions, including orders, opinions or even precautionary measures imposed on parties to a dispute. Such measures, as the Court has pointed out, are "binding ... and therefore, create international ... obligations". There must be full compliance based on good faith to ensure the integrity of each process and consolidate the undisputed role of the Court in ensuring justice, peace and the peaceful settlement of disputes. Costa Rica believes that the time has come to provide a procedure to follow up the Court's decisions and to reflect cases of non-compliance in order to avoid situations that violate the rule of law.

Although 193 countries are party to the Statute of the Court, only 67 have recognized its compulsory jurisdiction in accordance with Article 36, paragraphs 2 and 5, of of the Statute. Costa Rica has accepted its

jurisdiction since 1973, but we note with concern that in recent years the number of countries recognizing the compulsory jurisdiction of the Court has not grown. Although this has not affected the legal activities of the Court, we would respectfully invite States that have not as yet done so, to consider using the mechanism provided in Article 36 of the Court's Statute.

For a number of years the Court has made significant contributions to the development of international law through its judgments and advisory opinions since it setted its first case concerning *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)*. In that regard, we applaud the statement made by the President during the centennial anniversary of the Peace Palace:

> "[T]he Court will continue to work hard to meet these challenges as they arise, always careful to settle the disputes submitted to it faithfully and impartially, as dictated by the noble judicial mission entrusted to it under the Charter of the United Nations."

Costa Rica reaffirms its absolute respect for the instruments and organizations of international law and its commitment to respecting and complying faithfully with all decisions handed down by them. We reiterate our full trust that the Court it will continue to strengthen peace and justice through the exercise of its duties.

The Acting President (*spoke in French*): May I take it that the General Assembly takes note of the report of the International Court of Justice (A/68/4)?

It was so decided.

The Acting President (*spoke in French*): The General Assembly has thus concluded its consideration of agena item 72.

It was so decided.

Agenda item 75

Report of the International Criminal Court

Note by the Secretary-General (A/68/314)

Reports of the Secretary-General (A/68/364 and A/68/366)

The Acting President (*spoke in French*): It is now my great honour to welcome to the United Nations His Excellency Mr. Sang-Hyun Song, President of the International Criminal Court. I now give him the floor.

Mr. Sang-Hyun Song (International Criminal Court): It is an honour to appear for the fifth time before the Assembly to introduce the annual report of the International Criminal Court (see A/68/314). As members are aware, the International Criminal Court (ICC) is an independent institution, but it was born under the auspices of the United Nations. The two organizations engage in practical cooperation under the Relationship Agreement concluded in the spirit of the purposes and principles of the Charter of the United Nations.

I would like to take this opportunity to express the ICC's deep gratitude for the United Nations steadfast support of the Court in the context of global efforts to strengthen the rule of law and to promote peace, security and human rights everywhere.

Since I last addressed the Assembly (see A/67/PV.29), Côte d'Ivoire has become the 122nd State party to the Rome Statute. Nine further States parties have ratified the amendments to the Rome Statute on the crime of aggression, and 10 States parties have ratified the amendment, which makes the use of chemical weapons in non-international conflicts a war crime punishable by the International Criminal Court. I congratulate those countries on strengthening the international fight against impunity through the Rome Statute system. I also encourage all States to consider ratifying these instruments if they have not already done so.

Allow me to recall that the International Criminal Court does not have universal jurisdiction. The Court can prosecute crimes committed on the territory of a State party or by a national of a State party. The only exception is that the Security Council can decide to refer a situation to the ICC Prosecutor under Chapter VII of the Charter of the United Nations.

In the past year, the ICC has continued to work very hard on the mandate that States have given it. The Prosecutor has opened an eighth investigation, in Mali. The Court has issued its first judgement of acquittal, which is now on appeal. Two arrest warrants were unsealed and one suspect surrendered to the Court. Three trials are continuing and another is set to start very soon. Several important decisions have been issued, breaking new legal ground in the Court's jurisprudence.

In institutional developments, Mr. Herman von Hebel has been sworn in as the new International

Criminal Court Registrar and Mr. James Stewart as the new Deputy Prosecutor.

I will give a brief overview of the main judicial developments in the eight situations before the International Criminal Court.

To date, four State parties to the Rome Statute — Uganda, the Democratic Republic of the Congo, the Central African Republic and Mali — have referrred situations occurring on their territories to the Court. In the two situations in Kenya and the Côte d'Ivoire, the previous Prosecutor commenced investigations on his own initiative, with the knowledge and support of the Governments concerned. In addition, the Security Council referred the situations in Darfur, the Sudan, and in Libya, both of which are non-States parties.

In the situation in Uganda, regrettably, the arrest warrants against Mr. Joseph Kony and three other alleged leaders of the Lord's Resistance Army remain outstanding. Once again, I implore all States to cooperate in bringing those persons before justice to face the very serious charges against them.

In the situation in the Democratic Republic of the Congo, the Appeals Chamber is currently considering appeals against last year's conviction, sentence and reparations decision in the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

On 21 November 2012, the first judgement of acquittal at the ICC was issued when Trial Chamber II found Mr. Mathieu Ngudjolo Chui not guilty of crimes against humanity and war crimes. The Prosecutor's appeal against that judgment is also under consideration by the Appeals Chamber. The trial of Mr. Germain Katanga has ended and the Trial Chamber is expected to issue its judgment in the near future.

In a very welcome development, Mr. Bosco Ntaganda, charged with the use of child soldiers, murder, rape, sexual slavery and other crimes, was transferred to the ICC on 22 March. He is the first person subject to an ICC arrest warrant to have voluntarily surrendered to the Court. I would like to express the ICC's gratitude to the countries that facilitated his transfer. Following a process of disclosure, the hearing on the confirmation of charges against Mr. Ntaganda is set to commence on 22 February 2014. An arrest warrant against Mr. Sylvestre Mudacumura remains outstanding. He is charged with alleged war crimes committed in the Kivus region of eastern Democratic Republic of the Congo.

In the situation in the Central African Republic, the trial of Mr. Jean-Pierre Bemba has continued, with the presentation of defence evidence expected to conclude shortly.

In the situation in Darfur, the Sudan, the trial of Mr. Abdallah Banda is set to commence on 5 May 2014. The proceedings against his co-accused, Mr. Saleh Jerbo, were terminated on 5 October on the basis of information indicating that he had died earlier this year. Regrettably, arrest warrants remain pending against four persons suspected of having committed very grave crimes in the Darfur situation. The active support of the Security Council will be essential in ensuring that those persons are brought before the Court to face the charges against them in compliance with the Council's original resolution 1593 (2005).

In the situation in Libya, questions of admissibility have featured significantly in the proceedings during the past year. As members are aware, the Rome Statute gives primacy to national jurisdictions under the principle of complementarity, and if a Government can demonstrate that it is genuinely investigating or prosecuting the person before the ICC for the same crimes, the ICC will step back, declaring the case inadmissible. On 31 May, Pre-Trial Chamber I rejected Libya's admissibility challenge with respect to Mr. Saif Al-Islam Al-Qadhafi in light of the specific circumstances of that case. Libya has appealed against that decision, but remains under a legal obligation to transfer Mr. Al-Qadhafi to the ICC.

On the other hand, on 11 October the Pre-Trial Chamber declared the case of Abdullah Al-Senussi inadmissible before the ICC, again in light of the specific circumstances of the case, opening the way for proceedings against Mr. Al-Senussi to continue at the national level. That was the first decision of this kind issued by a Chamber of the ICC. However, I should stress that the decision has been appealed by Mr. Al-Senussi and is therefore not final.

In the situation in Côte d'Ivoire, the only suspect currently in the custody of the ICC is Mr. Laurent Gbagbo. Following a hearing on the confirmation of charges, the Pre-Trial Chamber requested the Prosecutor to consider providing further evidence and gave her until 15 November to do so. Arrest warrants against two other suspects, Mrs. Simone Gbagbo and Mr. Charles Blé Goudé, were unsealed during the

reporting period, but the requests for their arrest and surrender to the ICC remain outstanding.

In the situation in Kenya, the trial of Mr. William Samoei Ruto and Mr. Joshua Arap Sang commenced on 10 September, and the presentation of prosecution evidence is currently under way. That is the first criminal trial hearing before any international court in which the accused are not in custody, but appear as free men, having voluntarily complied with the summons to appear issued by the ICC. In the light of recent submissions by the parties to the other trial in the Kenya situation, that of Mr. Uhuru Kenyatta, the Chamber earlier today issued a decision postponing the start of the trial until 5 February.

A legal question that has recently attracted considerable attention in the Kenya situation is the requirement of an accused person's presence at trial. The relevant provision of the Rome Statute is article 63, which provides in its first paragraph that "[t]he accused shall be present during the trial". Last week, the ICC Appeals Chamber issued its first-ever ruling on the interpretation of that provision, finding that the absence of an accused from trial is permissible under exceptional circumstances when strictly necessary and if a number of specific criteria are fulfilled, including the prior exploration of other possible solutions.

On 16 January, the Prosecutor formally opened an investigation into alleged crimes committed on the territory of Mali since January 2012, following the Mali Government's referral of the situation to the Prosecutor last year. Based on her preliminary examination, the Prosecutor initially focused her investigation on three northern regions of Mali and on allegations concerning intentional attacks on buildings dedicated to religion and historic monuments, including those with World Heritage status. The Prosecutor has accordingly cooperated with UNESCO and has sought cooperation with a number of other United Nations agencies present in Mali.

Indeed, United Nations logistical and other types of assistance are of crucial importance to the ICC's ability to conduct effective investigations and other operations in the situation countries. The ICC is extremely grateful for the continuing cooperation with the United Nations in that respect.

In addition to the investigations related to the eight situations I have just discussed, the ICC Prosecutor is conducting another eight preliminary examinations around the world with a view to determining whether the opening of a formal ICC investigation is warranted. Those examinations concern Afghanistan, Colombia, Georgia, Guinea, Honduras, the Republic of Korea, Nigeria and, finally, a situation referred by the Union of the Comoros concerning crimes allegedly committed on 31 May 2010 aboard vessels reportedly registered in Comoros, Greece and Cambodia that formed part of a flotilla bound for the Gaza Strip.

Fairness is a cornerstone of ICC judicial work. The internationally recognized rights of the accused are meticulously respected. No one can be convicted unless his or her guilt is proved beyond a reasonable doubt. The Registry of the ICC makes legal aid available to the accused and to victims if they cannot afford legal representation. The legal aid extended to victims assists them in asserting their rights under the Rome Statute to present their views in the context of cases against the suspects and the accused and to seek reparations for harm suffered. Thus far, the ICC has provided legal assistance to more than 7,000 victims who have participated in the proceedings.

Parallel to the judicial proceedings at the Court, the ICC Trust Fund for Victims provides a very concrete response to the urgent needs of numerous victims and their families who have suffered from the worst crimes under international law. The Trust Fund currently supports 28 projects that reach an estimated 110,000 victims and their families in northern Uganda and the eastern part of the Democratic Republic of the Congo. Of those beneficiaries, over 5,000 are survivors of sexual and gender-based violence.

The Trust Fund considers the empowerment of women and girls to be a fundamental requirement of any justice, reparation, assistance, reconciliation and peacebuilding process. The assistance that the Trust Fund is able to provide to victims depends upon voluntary donations, which are also needed to fund reparations when a convicted person is indigent. Once again, I thank those States that have already generously supported the ICC Trust Fund for Victims, and I call on others States to consider doing so for the benefit of the victims of atrocious crimes.

The ICC has attracted considerable international attention in the past months, especially with respect to Africa. Some voices have urged the Court to show flexibility on certain issues. I would like to underline that while the ICC will naturally try to find practical

solutions to the challenges it faces, such solutions must be consistent with the legal framework set by States under the Rome Statute. That is also what I ask of the other stakeholders in the ICC system — to uphold the integrity of the Rome Statute and to respect the roles assigned to each entity under the Statute. Whereas the Assembly of States Parties to the Rome Statute of the International Criminal Court can consider legislative issues and discuss political questions, the ICC must remain an independent judicial institution that relies on the States for enforcement and cooperation.

In the words of the preamble to the Rome Statute, the grave crimes under ICC jurisdiction "threaten the peace, security and well-being of the world". It is not difficult to see why. Mass murder, the use of armed force against civilians, the deportation of populations, the use of child soldiers, and rape used as a weapon of war are atrocious acts that inflict irreparable suffering, often across generations. The issues that fall under the ICC mandate have tremendous societal and political significance in the countries concerned. ICC decisions will often be welcome to some and disappointing to others, but the reasons driving the Court's decisions are always legal, not political.

In five years' time, many ad hoc courts and tribunals will have closed their doors. The role of the ICC in global efforts for peace, security and the prevention of mass atrocities will be even more pronounced than it is today. Let us work together to further enhance that system. The ICC can properly deliver its mandate only if States cooperate in accordance with the obligations they have accepted under the Rome Statute. I also appeal to those States that have not yet joined the Statute to give active consideration to doing so. Ultimately, the success of the ICC in suppressing impunity depends upon the support of Member States.

The Acting President (*spoke in French*): I now give the floor to the observer of the European Union.

Mr. Marhic (European Union): I have the honour to speak on behalf of the European Union (EU) and its member States. The candidate countries the former Yugoslav Republic of Macedonia, Montenegro and Serbia; the countries of the Stabilization and Association Process and potential candidates Albania and Bosnia and Herzegovina; as well as Ukraine and Georgia, align themselves with this statement.

At the outset, we thank President Song for his presentation and the International Criminal Court (ICC) for its ninth annual report to the United Nations (see A/68/314), covering the period from 1 August 2012 to 31 July 2013, detailing what is described as another increasingly busy year for the ICC.

We welcome the ratification of the Rome Statute by Côte D'Ivoire on 15 February, which brought the number of States parties to 122.

We are firm supporters of the ICC. We note that with eight situations under investigation and a further eight under preliminary examination, the ICC is facing an increasing workload. The Prosecutor is currently investigating more allegations involving more suspects than ever before. We acknowledge, in that regard, the opening in January of investigations concerning allegations of crimes occurring in Mali since January 2012. The Court has given hope to victims of the most serious crimes, and more than 110,000 victims have already benefitted from the concrete assistance programmes of the ICC Trust Fund for Victims.

The recent report of the ICC describes the efforts that the Court has made in fulfilling its mission. It also describes the challenges that the ICC is facing. The universality of the Rome Statute, which continues to be one of the main challenges faced by the ICC, is essential for ensuring accountability for the most serious crimes of concern to the international community. The perpetrators of such crimes, regardless of their status, must be held accountable for their actions. A key element of the Rome Statute is its equal application to all persons, without distinction based on official capacity.

We need to continue to work tirelessly to make the Rome Statute truly universal and to extend the participation to the Agreement on the Privileges and Immunities of the ICC. In that regard, the EU and its member States reiterate their call upon all States Members of the United Nations not yet parties to the Rome Statute and the Agreement on the Privileges and Immunities of the ICC to ratify or accede to both agreements, as well as upon all States parties that have not yet done so to implement them under their national legal order.

Another fundamental challenge remains in the necessity to ensure cooperation with the ICC, and in particular how to react to instances of non-cooperation of States that are in violation of their obligations with regard to the ICC. Cooperation with the Court and the enforcement of its decisions are indeed equally essential

if the Court is to be able to carry out its mandate. That applies to all States parties to the Rome Statue, as well as when the Security Council has referred a situation to the Court in accordance with Chapter VII of the Charter of the United Nations.

We note with concern that arrest warrants issued by the Court — some dating back to 2005 — remain outstanding. A total of 13 persons are currently subject to outstanding arrest warrants. We recall that non-cooperation with the Court in respect of the execution of arrest warrants constitutes a violation of international obligations and stifles the ICC's capacity to deliver justice. We therefore call upon all States to take consistent actions to encourage appropriate and full cooperation with the Court, including the prompt execution of arrest warrants. We also reiterate the crucial importance for all States to refrain from helping to shelter or hide the perpetrators of the most serious crimes and to take the necessary steps to bring those perpetrators to justice in order to end impunity.

We note that on 11 October, Pre-Trial Chamber I of the ICC decided that the case against Mr. Al-Senussi was inadmissible before the Court, in accordance with the principle of complementarity. The primary responsibility for bringing offenders to justice lies with States themselves, in conformity with the relevant provisions of the Rome Statute. Complementarity is a core principle of the Rome Statute; in order to make it operational, all States parties need to prepare and adopt effective national legislation to implement the Rome Statute in national systems.

We welcome the actions undertaken by States, international organizations and civil society to increase their cooperation with and assistance to the ICC. We particularly praise the ongoing cooperation of the United Nations with the Court, which is acknowledged in the report. We also welcome the guidance issued by the Secretary-General earlier this year on contacts with persons who are the subject of arrest warrants or summonses issued by the International Criminal Court and the practice of informing the Prosecutor and the President of the Assembly of States Parties to the Rome Statute beforehand of any meetings with persons who are the subject of arrest warrants issued by the Court that are considered necessary for the performance of United Nations-mandated tasks. The European Union and its member States undertake, on their part, to pursue their efforts in the area of the fight against impunity, notably by giving the Court full diplomatic support.

It is essential that concerns about the ICC and its proceedings are presented within the framework of the Rome Statute. Our common goal to further strengthen the Court to fulfil its mandate is clear. There are States parties to the ICC across all parts of the world, and they all share ownership of the Statute. We will continue to encourage the widest possible participation in the Rome Statute and are dedicated to preserving the Statute's integrity, supporting the independence of the Court and ensuring cooperation with the Court. We are also committed to fully implementing the principle of complementarity enshrined in the Rome Statute by facilitating effective and efficient interplay between national justice systems and the ICC in the fight against impunity.

Mr. Ronquist (Sweden): I have the honour to speak on behalf of the five Nordic countries: Denmark, Finland, Iceland, Norway and my own country, Sweden.

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/68/314). I would also like to thank Judge Song, President of the ICC, personally, for providing a thorough presentation of the main issues in the report.

The Nordic countries would like to express their sincere appreciation to the Court for its significant contribution to the fight against impunity worldwide. From the report and President Song's introduction, it is evident that the caseload of the Court has continued to increase. In addition to the eight ongoing proceedings or investigations, the Office of the Prosecutor continued its preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, the Republic of Korea and Nigeria, and opened a preliminary examination on registered vessels of the Union of the Comoros, Greece and the Kingdom of Cambodia. The activities of the Court therefore reach worldwide.

Victims' issues are key for the Nordic countries, especially regarding those suffering from sexual and gender-based crimes, as well as other vulnerable persons. We encourage States to contribute to the ICC Trust Fund for Victims. Increased resources for the Fund will enable victims to truly enjoy their rights.

The Nordic countries warmly welcome Côte D'Ivoire as a new State party during the reporting period. The quest for universal adherence to and implementation of the Rome Statute continues and should be intensified. We also stress the need for all States parties, as well as non-State parties that have not

yet done, so to ratify and fully observe the Agreement on the Privileges and Immunities of the ICC as a matter of priority.

States have the primary responsibility to investigate and prosecute crimes falling under ICC jurisdiction. The ICC is a court of last resort. Ideally, it should have no cases. We must, however, acknowledge that many States lack the resources and capacity to exercise criminal law proceedings for such complex and large-scale crimes as genocide, crimes against humanity and war crimes. The Nordic countries are prepared to assist those States parties that are willing to enhance their national legal capacities in that field.

A substantial achievement for the cause of justice during the reporting period was that Congolese war crimes suspect, Bosco Ntaganda, became the first person subject to an arrest warrant of the ICC to surrender himself to the Court. It was also positive to see that the United States of America and Rwanda — two non-State parties — cooperated with the Court on the matter.

Despite such successes, it is a cause for concern that the number of outstanding arrest warrants remains high. Progress has to be made. States' cooperation with the Court, including the Office of the Prosecutor, must improve. States parties have a legal obligation under the Rome Statute to cooperate fully with the Court. Therefore, we urge all States parties to strengthen their efforts to execute the orders of the Court and to abstain from inviting and receiving suspects that are under an arrest warrant of the ICC.

All States must also fully comply with their obligations under the Charter of the United Nations and Security Council resolutions 1593 (2005) and 1970 (2011), concerning the situations in Darfur and in Libya. The Government of the Sudan and all other parties to the conflict in Darfur, as well as the Libyan authorities, respectively, must cooperate fully with the Court and the Prosecutor.

In addition to the execution of arrest warrants, there are other ways for States and international organizations to engage in proactive measures that strengthen the Court. The Nordic countries commend the Secretary-General for his very clear guidelines, issued in April, on contacts with persons who are the subject of arrest warrants or summonses issued by the ICC. The guidelines provide that:

> "Contacts between United Nations officials and persons who are the subject of warrants of arrest issued by the International Criminal Court should be limited to those which are strictly required for carrying out essential United Nations mandated activities." (*A/67/828, annex, p. 2*)

The Nordic countries, as well as the European Union, apply a similar contact policy. By mainstreaming our ICC policy into regular bilateral diplomacy, we enhance the reach and relevance of the Court.

Being independent does not mean that the Court stands alone. We are heartened by the detailed description in the report of multifold communication and interaction between the United Nations and the ICC. Particularly, we welcome the first open debate in the Security Council on 17 October 2012 on peace and justice, with a special focus on the role of the International Criminal Court (see S/PV.6849). We look forward to regular follow-up on the topic, in particular on how the Council can lend stronger support to the Court in cases of non-cooperation with the ICC. The Security Council must do its part to ensure accountability when gross violations of international humanitarian law and human rights law have occurred.

We believe that the Court has delivered upon, if not exceeded, our high expectations of 15 years ago, when we adopted the Rome Statute. The Court has become the most important international actor in efforts to fight impunity and develop international criminal law. We recognize, however, that scepticism has been expressed about the Court's situations and indictments. That concern is mainly raised by a number of African Governments, questioning why the eight situations currently under the Court's jurisdiction are all from Africa. It is important, however, to bear in mind that although the current proceedings before the ICC concern African situations, the largest numbers of such situations have been referred to the Court by States themselves. Furthermore, the Office of the Prosecutor is conducting preliminary examinations relating to countries in all parts of the world. On that note, let me refer to former Secretary-General Kofi Annan's words in a speech this month in Cape Town:

> "Let me stress that it is the culture of impunity and individuals who are on trial at the International Criminal Court, not Africa."

To give a fair reflection of the perception of the ICC in Africa, we should also recognize the general support of Governments, civil society and victims in Africa, which remains strong. In that regard, the Nordic

countries welcome the Court's intention to increase its presence in the field. In our view, that is crucial for showing our commitment to the victims and the execution of justice under the Rome Statute system. The ICC must be an institution that is both visible and accessible to the people on the ground.

African countries were instrumental in the negotiations of the Rome Statute that led to the creation of the ICC. Today, the African continent is the continent that boasts the highest number of States parties — 34 — to the Rome Statute. Africa's present and future commitment to the ICC will remain critical to the global success of the Court and to its effectiveness and its legitimacy.

All me to take a step back to the drafting of the Rome Statute and the main reason for which the ICC was established. I would like to quote the second preambular paragraph of the Statute:

> "Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity".

Victims of war crimes, crimes against humanity and genocides, wherever they are found, deserve justice. But we must do our best to encourage all States to live up to their obligations to investigate and prosecute. The International Criminal Court was created to take up the cases that States were not able or willing to take up. I am sure that we all aim for a world where the ICC has become obsolete. But in today's reality, an effective and independent ICC is needed and should be fully supported by all States.

Let me conclude by renewing our pledge that the Nordic countries will remain principal supporters of the ICC. We are committed to continue working for the Court's effectiveness, professionalism, independence and integrity.

Ms. Orosan (Romania): I would like to start my intervention by thanking President Song for the ninth annual report of the International Criminal Court (see A/68/314), submitted to the United Nations in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court. At the outset, I would like stress that we fully subscribe to the statement delivered on behalf of the European Union.

Romania continues to strongly support the International Criminal Court in accomplishing its crucial role in the promotion of the rule of law at the international level and in the fight against impunity for the most serious crimes. We are pleased that the International Criminal Court is today not only a community of States and ideals but a fully functioning institution.

The report reveals the progress in the judicial proceedings both in substance and in volume. We commend the efforts of the Office of the Prosecutor, and we regard the new strategic plan released publicly this month as an important step to increase the quality of its investigations and prosecutions. At the same time, we acknowledge the growing caseload of the Court and we will carefully consider proposals to augment its resources in order to meet the needs of a highly performing justice body. We congratulate Mr. Von Hebel on his appointment as the new Registrar of the Court, and we would like to assure him of Romania's support as he undertakes his activities and efforts to achieve better coordination and coherence between the different organs of the Court.

The International Criminal Court relies heavily on the cooperation of the international community. As a matter of fact, the Court will always rely on the cooperation of the States since there is no special police authority available to it. From that perspective, States should be aware of their important role in the realization of the international judicial act and adopt measures to ensure full and prompt cooperation with the Court, including with respect to the execution of the outstanding arrest warrants listed in the 2013 report, in accordance with the legal obligations stemming from the Rome Statute and/or relevant Security Council resolutions.

Non-cooperation is not only a violation of international obligations, but it also has the effect of undermining the efforts of the Court to deliver justice and ensure respect for the rule of law. It could also affect the Court's credibility by failing to meet victims' expectations for justice. Therefore, an important responsibility in seeing to the success of the Court lies with States parties, which must act consistently and persistently to support the Court's activity and preserve its independence. At the same time, States parties should creatively join efforts in fostering the willingness of third States to cooperate. In that respect,

the dialogue between the ICC and the United Nations should also be enhanced.

We welcome Côte d'Ivoire's joining the Rome Statute in February as its 122nd party. We strongly consider that the quest for universality should continue and, in that respect, we encourage all States that have not yet done so to become parties to the Rome Statute. It is also our belief that strengthening the ICC by achieving its universality is the most powerful preventive approach, reducing the risk of impunity and ensuring the compliance with the most important norms of international law.

Romania, as a focal point for achieving universality of the Rome Statute, makes every effort to assist parties in joining the Rome Statute and will remain engaged in those efforts even beyond that capacity. Throughout the reporting period, Romania organized a series of events in Bucharest and New York. The event we organized this summer in New York, in collaboration with the International Organization of la Francophonie, was attended by officials from the Office of the Prosecutor of the ICC. The most recent event that we organized as focal point was a regional conference that took place in Bucharest on 17 October. The conference was dedicated to three key areas relating to the Rome Statute and the International Criminal Court, namely, universality, the Kampala Amendments and the issue of cooperation with the International Criminal Court. President Song and the President of the Assembly of States Parties, Ambassador Intelmann, were keynote speakers at the event, and I would like to thank them again for accepting our invitation and for their tireless efforts within and beyond the ICC.

I would like to conclude by reiterating Romania's full support to the International Criminal Court and by endorsing the conclusion of the report on the need for strong, consistent and continuous support for the ICC from States and the international community, support that would permit that unique international body to fulfil the mandate we have entrusted to it.

Mr. Pírez Pérez (Cuba) (*spoke in Spanish*): The Cuban delegation takes note of the report of the International Criminal Court (ICC) (see A/68/314) and wishes to express before the plenary once again its commitment to fighting impunity against crimes that affect the international community.

My delegation believes that the fight against impunity should be based on the establishment of a criminal jurisdiction that is impartial, non-selective, efficient, just and complementary to national systems of justice, truly independent and therefore exempt from subordination to political interests that might strip it of its essence.

Cuba notes with concern that certain events of the past year highlight ongoing problems with the lack of autonomy of the International Criminal Court as a result of the provisions set forth in article 16 of the Rome Statute and the broad powers granted to the Security Council with regard to the Court's work. Beyond stripping the Court of its jurisdiction, this issue violates the principle of independence of legal bodies, as well as transparency and impartiality in the administration of justice. Unfortunately, problems concerning this matter were not resolved in the outcome of the Review Conference on the Rome Statute held in Kampala from 31 May to 11 June 2010, and the Court, as a body of international criminal jurisdiction, remains bound by decisions of other bodies.

The delegation of Cuba reiterates that the International Criminal Court should not ignore international treaties and the principles of international law. The Court should respect the principle of law relative to the consent of a State to be bound by a treaty, as set forth in article 11 of the Vienna Convention on the Law of Treaties. Cuba reiterates its serious concern over the precedent set by the decisions of the Court in which it initiated judicial proceedings against nationals of States that are not party to the Rome Statute and that have not accepted its jurisdiction in accordance with article 12 of the Statute. We must not lose sight of the fact that the jurisdiction of the ICC should be kept independent of the political bodies of the United Nations and always work in a complementary manner to national criminal jurisdictions.

The people of Cuba have been victims of the most diverse forms of aggression for 50 years. As a result of the various types of aggression against our country, we have suffered the deaths of thousands of Cubans, with hundreds of families losing their children, parents and siblings, in addition to untold economic, financial and material losses. However, the definition of the crime of aggression reached in the Review Conference in Kampala in no way includes such violations in that category of crime.

The definition of the crime of aggression should be established along generic lines to include all forms of

aggression that arise in international relations between States and that affect sovereignty, territorial integrity and political independence of States. It should not be limited to the use of armed force. Our country reaffirms its resolve to fight against impunity and upholds its commitment to international criminal justice and its attachment to the principles of transparency, independence and impartiality, and the unrestricted application of and respect for international law.

The Acting President (*spoke in French*): We have heard the last speaker in the debate on this agenda item for this meeting.

The meeting rose at 1 p.m.