



# General Assembly

Seventy-fifth session

**19**<sup>th</sup> plenary meeting  
Monday, 2 November 2020, 3 p.m.  
New York

Official Records

*President:* Mr. Bozkir . . . . . (Turkey)

*In the absence of the President, Ms. Kadare (Albania), Vice-President, took the Chair.*

*The meeting was called to order at 3 p.m.*

## Agenda item 75 (continued)

### Report of the International Criminal Court

**Note by the Secretary-General (A/75/324 and A/75/324/Corr.1)**

**Reports of the Secretary-General (A/75/321 and A/75/323)**

**Draft resolution (A/75/L.5)**

**Mr. Hwang** (Republic of Korea): At the outset, I would like to express my sincere appreciation to President Chile Eboe-Osuji, President of the International Criminal Court (ICC), for his comprehensive presentation of the report (see A/75/324). My delegation also commends the joint efforts of the Presidency, Chambers, Office of the Prosecutor and Registry of the Court in helping to end the impunity of the perpetrators of the most serious crimes despite the challenges posed by the coronavirus disease pandemic.

We cannot overemphasize the significant role that the ICC has played in sustaining the three pillars of the United Nations, namely, peace and security, development and human rights. Ensuring criminal justice for the perpetrators of heinous crimes is part and parcel of the rule of law, which provides a solid basis for the successful implementation of Sustainable Development Goal 16. Recognizing the remarkable progress that the

ICC has made, I would like to discuss some points on which my delegation places great emphasis.

First, as an international court, the ICC cannot sustain itself without the active cooperation of multiple stakeholders, especially the States parties to the Rome Statute, at each and every step of the process. In that regard, the Republic of Korea welcomes the execution of the ICC arrest warrant and transfer this year with the cooperation of the related States and entities. It demonstrates the accomplishment of the general efforts to strengthen cooperation and reduce non-cooperation with the ICC.

Secondly, as we all recognize the necessity to further strengthen the cooperation between the ICC and the States parties, the Republic of Korea would like to underscore that the ICC itself should be represented from a geographically balanced perspective. The efforts for a balanced geographical representation not only are an initiative for individual underrepresented States, but also form the basis for strengthening cooperation with related States parties from all over the world.

Thirdly, the success of our fight against impunity hinges not only on adequate cooperation but also on the universal application of the Rome Statute. The wider participation of States in the Rome Statute would undoubtedly lead to stronger support for the Court. New ICC members would be investing not only in the protection of their territories and their people but also in the protection of future generations and the creation of a more just world. In that regard, we also need to raise awareness with regard to the fact that the

This record contains the text of speeches delivered in English and of the translation of speeches delivered in other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-0506 (verbatimrecords@un.org). Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org>).

20-29476 (E)



Accessible document

Please recycle



ratification of the Rome Statute does not equate to a concession of sovereignty in the light of the principle of complementarity of the Rome Statute.

Last November, we all welcomed the accession of Kiribati to the Rome Statute, and we hope that new members will continue to join our common efforts for global justice. The Republic of Korea has been, and will continue to be, committed to enhancing the universality of the Rome Statute, especially in the Asia-Pacific region. Moreover, my delegation looks forward to more efforts by the ICC to enhance its efficiency. In that regard, my delegation would like to note with appreciation the Group of Independent Experts' report on the review of the ICC presented in September. The report could serve as a starting point for efforts to improve the ICC from various perspectives.

Last but not least, we have an important election to choose the next ICC Prosecutor. The consultation process, led by Mr. O-Gon Kwon, President of the Assembly of States Parties, in consultation with the Bureau, is being undertaken to identify a consensus candidate among States parties and civil society. The Republic of Korea hopes that close cooperation among the States parties, under Mr. O-Gon Kwon's leadership, ahead of the nineteenth session of the Assembly of States Parties will lead to the election of a highly competent Prosecutor by consensus. We would once again like to emphasize the importance of consensus in the election of a new Prosecutor. Consensus is indispensable in order to enable the new Prosecutor to address all the challenges ahead.

In conclusion, the Republic of Korea has been a staunch supporter of the ICC since its inception. We will continue to be an important part of the concerted efforts of the international community to ensure that the ICC as a responsible, universal and efficient institution for ending impunity for the perpetrators of the most serious crimes against humanity.

**Mr. Vitrenko** (Ukraine): I would like to deliver this statement on behalf of Mr. Anton Korynevych, member of the delegation of Ukraine and Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, Ukraine.

My country aligns itself with the statement delivered by the observer of the European Union (see A/75/PV.18). We would like to add a few remarks in our national capacity.

At the outset, I would like to thank the President of the International Criminal Court (ICC) for the comprehensive presentation of the Court's annual activities (see A/75/324). We note that, despite the challenges caused by the restrictions on travel and physical meetings related to the coronavirus disease, the Court made important progress during the reporting period, including in preliminary examinations conducted by the Office of the Prosecutor.

We note with appreciation the fact that following the activation of the Court's jurisdiction over the crime of aggression, States parties continue to ratify that amendment. It is important that, in these extraordinary times, the Court continue to receive cooperation from the United Nations on a wide range of issues. However, let me underline the direct linkage between the cooperation, assistance and support of States parties and the effectiveness of the Court's activities, from ongoing investigations to judicial activities. Providing that cooperation is an additional contribution to preventing the most serious crimes and combating impunity for them.

As one of the first States to support the idea of establishing a permanent treaty-based international criminal tribunal, Ukraine actively participated in the Preparatory Committee on the Establishment of an International Criminal Court and became a signatory to the Rome Statute in 2000. Ukraine was also among the first non-State parties to ratify the Agreement on the Privileges and Immunities of the ICC.

In its firm belief in this court of last resort, on 17 April 2014 the Government of Ukraine lodged a declaration under paragraph 3 of article 12 of the Rome Statute accepting the ICC's jurisdiction over crimes committed on its territory between 21 November 2013 and 22 February 2014. Furthermore, on 8 September 2015, the Government of Ukraine lodged a second declaration under the same article of the Statute accepting the exercise of the ICC's jurisdiction in relation to crimes committed on its territory as of 20 February 2014, that is, from the beginning of the Russian military aggression against Ukraine and onwards, with no end date. Let me reiterate that the second declaration was made for an indefinite duration. The ICC will therefore be able to exercise its jurisdiction over the crimes committed on the territory of Ukraine since 21 November 2013.

The ICC will also therefore be able to exercise its jurisdiction over such crimes regardless of the nationality of their perpetrators, even if they are citizens of third States.

We appreciate the fact that during the reporting period, the Office of the Prosecutor continued to focus its analysis on crimes in Crimea and eastern Ukraine with a view to defining potential cases for investigation. For its part, the Government of Ukraine continues to submit further information to the Court and cooperate with the Office of the Prosecutor with regard to the preliminary examination, both through consultations at the Court and during its missions to Ukraine, including its ninth mission, which took place from 17 to 21 February. In particular, Ukrainian law-enforcement agencies, in cooperation with civil-society organizations and human rights defenders, have continued to document and provide the Court with additional information, facts and evidence related both to the nature of the existing armed conflict in Ukraine as an international armed conflict caused by a foreign armed aggression and to the numerous war crimes and crimes against humanity committed by the aggressor State's armed forces and its occupation authorities, personnel and proxies in the temporarily occupied territories of Ukraine. We appreciate the work done by the Office of the Prosecutor and look forward to the ICC report on preliminary examination activities in 2020 and the finalization of the admissibility assessment within the preliminary examination of the situation in Ukraine and the opening of an investigation.

The demands of the people of Ukraine for justice and for the prosecution and holding to account of all perpetrators of grave crimes committed in Ukraine remain unwavering, as does our support in general for the ICC.

**Mr. Iteboje** (Nigeria): My delegation appreciates the reports of the Secretary-General (A/75/321 and A/75/323) submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (ICC). We are also grateful to Judge Chile Eboe-Osuji, President of the International Criminal Court, for the report before us for consideration today (see A/75/324). We applaud the Court for its ability to cope with the heavy workload during the reporting period, especially at a time when the world is grappling with the deadly coronavirus disease pandemic.

Nigeria commends the United Nations on the fifteenth anniversary of the entry into force of the Relationship Agreement on 4 October 2019. My delegation hopes that the United Nations will continue to work closely with the Court in order to further strengthen its relationship with the Court and to ensure the effective implementation of the Agreement.

Furthermore, my delegation supports the continued efforts made by the United Nations to refrain from any actions that would frustrate the activities of the Court and its various organs, including the Office of the Prosecutor, or undermine the authority of their decisions. Nigeria is appreciative of the tireless efforts of the Court in carrying out its mandate as an independent judicial institution, charged with investigating and prosecuting individuals for the most serious crimes of international concern, namely, genocide, crimes against humanity and war crimes.

We are deeply committed to the ICC, whose establishment we recognize as one of the great advances of international law. The Court's function of ensuring accountability for grave crimes is vital to the maintenance of lasting international peace and security. To strengthen its ability to effectively discharge that most important responsibility, the Court relies on the cooperation of States, international organizations and civil society, in accordance with the Rome Statute and international agreements concluded by the Court. That cooperation is critical to ensuring proper investigations, the execution of outstanding arrest warrants, the surrender of persons, the protection of witnesses, the enforcement of sentences and the enhancement of the Court's credibility as an effective tool for ending impunity and helping to prevent future crimes.

The Nigerian delegation considers victims a critical component of the justice system and believes that efforts must be made to bring about healing if they are to have the necessary closure. In that regard, Nigeria continues to commend the Trust Fund for Victims, which was created in 2004 by the Assembly of States Parties pursuant to article 79 of the Rome Statute to support and implement programmes that address harm resulting from genocide, crimes against humanity, war crimes and crimes of aggression.

A cursory look at the Court's journey since its establishment unquestionably shows that the Court has come a long way. It has also endured numerous difficult times and challenges, many of which have threatened

its existence as an international court. However, we commend the Court and its States parties for their capacity to weather all the storms that the Court has gone through during those years and for the fact that it has recorded such tremendous achievements despite all the odds. Those achievements include the number of cases that the Court has handled and is still handling, the number of high-profile convictions that it has recorded to date and the recourse to justice that it has provided for victims of atrocity crimes worldwide.

Also worthy of commendation is the reminder that the Court has consistently sent to States parties that so many of the ugly events of the twentieth century, including those that took place during the two World Wars, no longer have a place in the international legal order and that those who ignore the warnings and stubbornly perpetrate evil with impunity will have nowhere to hide. Indeed, the fight against impunity and the commission of atrocity crimes is still far from being won. The sanctity of human life is still being desecrated and banned weapons are still being used to commit mass murder, while perpetrators go unpunished. Meanwhile, victims' lives are ravaged and their peaceful communal coexistence is truncated.

It is understandable that the tasks ahead of the Court are enormous and daunting. Nigeria renews its unwavering commitment to cooperating unconditionally and continually with the Court to ensure that the perpetrators of heinous crimes have no hiding place and are expeditiously brought to justice. It is on record that Nigeria has fully cooperated, and will continue to cooperate, with the Court in its efforts to unravel the alleged conduct of members of Boko Haram and the Nigerian security forces, in line with the principle of complementarity. Nigeria has demonstrated beyond an iota of doubt that it is capable and willing and indeed is arresting, investigating, prosecuting and convicting perpetrators of heinous crimes, where the facts of the cases warrant it, in fulfilment of our primary national jurisdiction over crimes under the Rome Statute.

Several meetings have been held between officials of the federal Government of Nigeria and the team from the Office of the Prosecutor of the ICC, where questions were asked and answered and documents, including classified documents, were submitted in line with our obligation under the Rome Statute's article 86, on cooperation. Consequently, Nigeria will continue to work to safeguard the integrity of the Rome Statute and its cornerstone principles. Nigeria also commits

to strengthening and defending the ICC's judicial and prosecutorial independence, including by ensuring a proactive, fair, informed and transparent search and selection process for the next ICC Prosecutor. In that connection, the July 2018 visit of the President of the Federal Republic of Nigeria to The Hague to take part in celebrations of the twentieth anniversary of the adoption of the Rome Statute, as well as our unprecedentedly formidable delegation, which included senior military officers, to the seventeenth session of the Assembly of States Parties, are testimony to the importance that Nigeria attaches to the Court.

Nigeria is still battling with terrorism. It should be noted that the fight against terrorism anywhere in the world is unconventional and asymmetrical, unlike conventional warfare, in which enemies can be easily distinguished by their uniforms. Many members of the Nigerian military have made, and are still making, the supreme sacrifice in that fight due to its difficult nature.

Nevertheless, the Nigerian military has strict rules of engagement, and its armed forces are adequately briefed on them. The Government takes all allegations of human rights and other violations against military personnel extremely seriously and thoroughly investigates them, and, when they are credible, has brought some members of the military to trial. We therefore wish to reassure the Court and States parties that we remain fully committed to our obligations under the Rome Statute.

In conclusion, as the 2018 African Union Anti-Corruption Champion in Africa, Nigeria was called on to champion the course of exploring the possibility of subsuming cross-border corruption within the ambit of article 5 to make it a crime under the Rome Statute. The proponents of the idea argue that cross-border corruption is as serious a crime as genocide, crimes against humanity, war crimes and the crime of aggression. They argue that more people have probably been killed by cross-border corruption than as a result of the other crimes mentioned in articles 5, 6, 7 and 8 of the Rome Statute. This idea is in line with the Nigerian President's speech on the issue at the twentieth-anniversary celebration of the adoption of the Rome Statute in The Hague in July 2018, and Nigeria takes it very seriously. That request deserves to be properly examined, since it has the potential to stem the tide of cross-border corruption.

**Mr. Mavroyiannis** (Cyprus): My remarks today are complementary to the statements delivered this morning by the observer of the European Union and by the representative of Germany on behalf of the States parties to the Rome Statute (see A/75/PV.18).

I would like to thank President Eboe-Osuji for presenting the report of the International Criminal Court (ICC) (see A/75/PV.18) and to express our appreciation and recognition for the Court's important progress in its investigative, prosecutorial and judicial activities during the reporting period despite the practical challenges caused by the coronavirus disease pandemic at a time when the Court was seized of more than 10 cases at different stages of proceedings. We would also like to welcome the final report of the Independent Expert Review, which is an important development and a significant step in enhancing the performance and effectiveness of the ICC.

The very existence of international criminal justice is predicated on the urgent need to eradicate impunity for the perpetrators of the most serious crimes of concern to the international community. As we celebrate the seventy-fifth anniversary of the United Nations, we should recall the first international criminal tribunals at Nuremberg and Tokyo seven decades ago, which laid the groundwork for modern international criminal law and for the international legal order that we have today, as well as for the notion of supranational criminal justice. Twenty-two years after the establishment of the Rome Statute of the ICC, the Court has established itself as a mature institution and, with 123 States parties from all around the globe, today it represents the organized international community's stance against impunity for genocide, crimes against humanity, war crimes and the crime of aggression. Furthermore, under the Rome Statute, a referral by the Security Council to the Court remains the best means of ensuring accountability for persons accused of the gravest crimes.

Cyprus has always been a strong supporter of the Court, and, along with other States parties, we have been striving to consolidate it as an independent and impartial judicial institution of the highest quality. We add our voice to those of the Member States that today expressed their commitment to defending and preserving the integrity of the Rome Statute, undeterred by any measures or threats against the Court, its officials and those cooperating with it. Despite the persistent external challenges that the ICC has faced, the Court remains a mechanism of great value to humankind, since it is

the only permanent international judicial institution that ensures criminal accountability for individuals and that can deliver justice to the victims of the most serious crimes when all other avenues fail. However, we should also recall that the Court unavoidably depends on the States themselves for the implementation of its functions, including the arrest and surrender of suspects, and we all need to always assume our own responsibilities and assist the Court to the best of our abilities. We further stress the importance of steadily enhancing the invaluable relationship between the ICC and the United Nations, based on their Relationship Agreement and their mutually reinforcing mandates. Effective cooperation between the two organizations is critical to the Court's ability to fulfil its functions.

This is an important year for the Court for the additional reason that six new judges and the Court's new Prosecutor will be elected at the nineteenth session of the Assembly of States Parties. We welcome the efforts and achievements of the Court to date, and we acknowledge that coping with the challenges ahead requires hard work and a sustained effort. If we genuinely believe that international criminal justice and the promotion of the rule of law at the international level are an attainable goal, all States parties, as well as the broader international community, must do their part to support the Court in fulfilling its mandate, including through the United Nations.

**Mr. Wenaweser** (Liechtenstein): In commemorating the seventy-fifth anniversary of the United Nations, we have shown a strong and unequivocal commitment to multilateralism and the rule of law, with the Charter of the Organization as one of its most important pillars. Today's debate gives us the opportunity to include one of the finest achievements of multilateral treaty-making in our commitment to the rule of law — the Rome Statute of the International Criminal Court (ICC). The negotiations resulting in its adoption were commenced at the United Nations. The project found strong support from the United Nations system, whose Secretary-General serves as the depositary of the Rome Statute, and the conclusion of the Relationship Agreement between the United Nations and the International Criminal Court was one of the first big steps taken by the Court after the treaty entered into force. The ICC has since worked in support of some of the key purposes of the United Nations and has been joined by almost two thirds of the membership of the General Assembly. For more than two years, its jurisdiction has

also complemented the Charter's provisions prohibiting the use of force between States.

In two instances, the Security Council has referred situations to the Court. In the case of Darfur, the Court's activities have proved to be essential to reconcile the principles of peace and justice in the Sudan despite the Council's failure to enforce cooperation with the Court and the fact that many years have elapsed since the Court issued its indictments. Resolutions of the General Assembly and of the Human Rights Council routinely and frequently reference the ICC and its important role with respect not only to various situations, but also to thematic areas. For victims of mass atrocity crimes worldwide, the ICC has stood out as a beacon of hope as the first-ever permanent independent international court with jurisdiction over the most serious crimes under international law. Through its sheer existence, the ICC has changed the dynamic with respect to the role of accountability in international affairs. It stands in the most powerful manner possible for the message that there can be no impunity for the worst crimes known to humankind. That has increased the pressure on national justice systems to fulfil their domestic responsibility in accordance with the principle of complementarity and has had a strong impact on national peace processes, such as in Colombia. It has also helped the Assembly to become active and innovative with respect to accountability, most prominently through the creation of the International, Impartial and Independent Mechanism four years ago.

That is not to say that the ICC is a perfect institution — it is not. We share frustration with aspects of its work: lengthy and cumbersome procedures, management deficiencies and inconsistencies in its jurisdiction. The Court does need fresh impulses to make meaningful change, to become more effective and more persuasive in its central role in the international fight against impunity.

We are grateful to the independent group of experts, guided very ably by Justice Richard Goldstone, who have authored the report of the Independent Expert Review of the International Criminal Court and the Rome Statute System, which offers a rich menu of recommendations for how to bring about such meaningful change. This opportunity comes at the right moment — for the Court itself where it has independent authority and for States parties where improvement measures require action by them. We have to carry the positive momentum created

by the Independent Expert Review report forward and do our part to make the Court a stronger institution.

The ICC is the institution that stands for accountability and equality before the law. The Rome Statute states in unequivocal terms that nobody is beyond the reach of the law, irrespective of official function. At a time when international organizations and their independence are undermined in furtherance of national political agendas, a strong message in support of accountability is bound to be met with resistance.

We were among the States who joined the earlier statement read out by Germany that rejects the unprecedented measures taken against the Court. Those attacks are in stark violation of the most basic notions of the rule of law and are therefore aimed at multilateralism as a whole, not just the ICC. For everyone who is willing to stand up for multilateralism, that should be enough reason to join the calls for those measures to be revoked. For ICC States parties in particular though, this must serve as a wake-up call and make us come together in a manner that takes us beyond making joint statements.

We are encouraged by steps under consideration by States parties, in particular the host State of the Court, as well as regional organizations, to explore possible avenues to support the Court, including measures to shield it from the effects of measures they consider to be contrary to international law.

Our biggest challenge, however, remains the upcoming decisions that are essential for the future of the Court — be it our choices on the future leadership of the Court or the decisions in follow-up to the Independent Expert Review. Our work must be done together with the Court, with full respect for its judicial and prosecutorial independence and the integrity of the Rome Statute and through a dialogue that is based on a genuine common purpose. We expect those discussions to be transparent and inclusive and respectful of the views of all States parties and civil society.

We need to get these important decisions right, as seldom since the founding of the United Nations itself has such a globally recognized institution been established to carry forward the principles of peace, justice and human rights. The ICC is more necessary than ever and we are committed to making it stronger and more effective as it enters its third decade.

I have the honour to deliver the following joint message on behalf of Austria, Belgium, Costa Rica, Cyprus, the Czech Republic, Estonia, Finland, Ireland, Luxembourg, Portugal, Sierra Leone, Slovenia, Spain, Switzerland, Sweden and my own country, Liechtenstein — States parties to the Rome Statute that are strong supporters of the ICC and its mission to end impunity for the worst crimes known to humankind.

Our support for the ICC as an independent and impartial judicial institution is unwavering. We stand by our obligation to cooperate with the ICC and are committed to defending and preserving the integrity of the Rome Statute undeterred by any measures or threats against the Court, its officials and those cooperating with it.

Our delegations have joined consensus on draft resolution A/75/L.5 because it includes many important points that correspond to our strong belief in the work of the ICC and because we wish to clearly express our commitment to the Rome Statute system at a time when the fight against impunity is more important than ever. As the Court enters its third decade, it remains the centrepiece of the international effort to ensure accountability for the most serious crimes under international law and to upholding the rule of law — a vision it shares with the Charter of the United Nations.

On this basis, in 2004, the Court and the United Nations concluded a Relationship Agreement, under which the ICC and the United Nations recognize each other's mandates and status and agree to cooperate and consult with each other on matters of mutual interest.

We wish to place on the record our regret that it was not possible to make factual updates to that text, while we understand the need for a technical rollover this year due to the extraordinary circumstances related to the coronavirus disease pandemic. We therefore wish to highlight a number of relevant developments that have taken place in recent years and are not reflected in the text before us.

Since 17 July 2018, the ICC has been able to exercise jurisdiction over the crime of aggression, a competence that complements the prohibition of the Charter of the United Nations on the use of force. States parties have also decided, by consensus, to add several new war crimes to the Rome Statute, including on the intentional starvation of civilians in non-international armed conflicts.

We would also have liked to see references to the important cooperation between the ICC and recently established United Nations accountability mechanisms reflected in the text. Such progress in the area of the international criminal justice illustrates the value of the Rome Statute, which close to two thirds of the United Nations membership have ratified — far more than the number of States that have accepted the International Court of Justice's compulsory jurisdiction.

Again, we understand that the exceptional circumstances related to the pandemic this year made a technical rollover of this resolution largely unavoidable, but we expect the text to include the necessary updates next year.

Having said that, my delegation, Liechtenstein, would also like to co-sponsor draft resolution A/75/L.5, entitled "Report of the International Criminal Court".

**Mr. Arrocha Olabuenaga** (Mexico) (*spoke in Spanish*): Mexico thanks the President of the International Criminal Court (ICC), Judge Chile Eboe-Osuji, for briefing the General Assembly on the annual report on the activities of the Court (see A/75/324). We also acknowledge his leadership and assure him of Mexico's full support.

As a State party to the Rome Statute since 2006, Mexico is an active participant in different forums promoting the work of the Court and the effective consolidation of the criminal justice system created by the Statute. Within the Organization, for example, my country has co-sponsored the draft resolution we will be adopting today (A/75/L.5) and is a member of the Group of Friends of the ICC. In addition, we are a member of the Bureau of the Assembly of States Parties and we chair the Working Group on Amendments, which as mentioned by other delegations, has produced good results in recent years.

At the regional level, in the Organization of American States, Mexico is the penholder of the resolution presented and adopted biennially by the General Assembly of that organization to encourage States of the Americas to ratify the Rome Statute, implement its provisions at the national level and cooperate with the International Criminal Court.

Mexico's support for the Court has not diminished over time. On the contrary, the new challenges facing the Rome Statute system demand a steadfast commitment to international criminal justice, the fight against

impunity and the protection and respect of human rights. Mexico notes with satisfaction the efforts undertaken at the institutional level to strengthen the capabilities of the Court, especially in a year when decisions that are so important for its future will be taken.

At the Assembly of States Parties, which will take place at the end of the year, we will conclude two processes, which are worth mentioning: the election of the next prosecutor and the election of six judges.

The smooth functioning of the Court requires that its members have excellent credentials in criminal law and relevant areas of international law, given the challenges of analysing both the political and media-related aspects of the situations brought before them. Moreover, the Court's judgments not only determine specific legal outcomes but also establish significant precedents for the development of international criminal law, in terms of substance and procedure. Therefore, the election of the members of the Court has an impact beyond their term of office.

Mexico is proud of the fact that it has a female candidate with a stellar record and qualifications who is able to assume that important responsibility.

The International Criminal Court is not alone in its mandate. It is appropriate to recall that, in accordance with the Rome Statute and the intention of the States that negotiated it, the work of the Court is essentially complementary. The primary obligation to pursue and sanction those responsible for committing the crimes outlined in the Rome Statute continues to rest with States through their sovereign jurisdictions.

The agenda of the Court, moreover, coincides in several areas with that of other organs and agencies of the United Nations, whose purposes are essentially the same as those of the Organization. The rule of law at the national and international levels, the protection of human rights and the existence of clear and humane legislation to reduce human suffering in times of war are some of the issues on which the International Criminal Court and the United Nations can work together to strengthen their capacities and avoid overlap.

With regard to States parties, we must close ranks around the Court. The conduct of its work and its success in fulfilling its mandate depend on its ability to act, in both investigations and legal proceedings, with independence and impartiality. The States that are parties to the Rome Statute must defend those conditions

and build confidence that the Court can complete its work without interference from either States parties or non-State parties.

In conclusion, war crimes, genocide, crimes against humanity and the crime of aggression affect humankind as a whole. Unfortunately, we live in a world in which such atrocities continue to be committed. We take this opportunity to call on all States that have not yet done so to join in the Franco-Mexican initiative to restrict the use of the veto by the permanent members of the Security Council in situations where mass atrocities have been committed, which already has 105 signatories. Moreover, we call on the international community to redouble its support for the criminal justice system based on the Rome Statute, while always bearing in mind that we must remain accountable to the victims of those crimes.

**Mr. Aung** (Myanmar): At the outset, I would like to state that my delegation dissociates itself from draft resolution A/75/L.5, entitled "Report of the International Criminal Court". I am obliged to reiterate my delegation's rejection of the continued illegitimate action to assert the jurisdiction of the International Criminal Court (ICC) over citizens of States which are not parties to the Rome Statute, including Myanmar.

No provision in the Rome Statute stipulates that the Court has jurisdiction over a non-State party. Paragraphs 43 to 48 of the ICC report contained in document A/75/324 provide an account of the illegitimate exercise of the Court's jurisdiction over Myanmar through an investigation into alleged deportation.

The Government of Myanmar strongly rejects the Pre-Trial Chamber III decision of 14 November 2019 to commence an investigation into the Rakhine issue and the ICC's ruling of jurisdiction over Myanmar as a whole. The ICC Prosecutor's attempt to exercise the Court's jurisdiction over the Rakhine issue is a blatant contravention of established international law principles, including the Rome Statute and the 1969 Vienna Convention on the Law of Treaties. The attempt is also contrary to the principles ensured in the Charter of the United Nations. Moreover, it is a deliberate act to override the principles of respect for national sovereignty, territorial integrity and non-interference in the internal affairs of States and to act in contravention of the principles of the Charter of the United Nations, which are recalled in the preamble of the charter of the Rome Statute.

It is also vital that the principles and legal essence enshrined in the Rome Statute should not be hijacked or abused by a State or group of countries for their political agenda or interests. Such actions will only jeopardize the legitimacy and integrity and tarnish even further the image of the ICC within the international community.

Myanmar will never recognize the discriminatory, selective, biased, politically motivated and illegitimate ruling of the ICC concerning its jurisdiction. We will never lend our support or cooperation or confer any form of legitimacy to the ICC. Instead, my delegation strongly protests the ICC's unjust prosecution, which is directly challenging and threatening Myanmar's sovereignty, territorial integrity and the interests of its entire people.

The humanitarian crisis and the displacement of people from Rakhine are the result of massive, coordinated armed attacks on Myanmar's security forces by the Arakan Rohingya Salvation Army (ARSA) terrorist group in October 2016 and August 2017. We must not forget or ignore the well-documented brutal killings and atrocities committed by the ARSA terrorists on its own Muslim people, as well as other ethnic minorities, including hundreds of innocent Hindus, in Rakhine state.

Unfortunately, the ARSA terrorist presence is not only a threat to security but also a hindrance to the bilateral repatriation process. They have been trying to hamper the repatriation process through killings, abductions, threats and intimidation, violence and harassment against those willing to return to Myanmar.

Recently, Bangladesh sent more troops to the refugee camps owing to the fighting between rival drug gangs. The Dhaka Tribune, on 7 October, published an Agence France-Presse news article in which one activist from the camp was quoted as saying, "ARSA has claimed responsibility for the killing of four people, who are relatives of a Rohingya gang leader." Another youth leader also said, "ARSA is behind all the killings over the past week. They want to impose their total control over the camps."

While Bangladesh handed over the list of 7,883 displaced persons for the first batch and 22,432 displaced persons for the second batch to be repatriated to Myanmar, a total of 180 persons were found to be terrorists. Myanmar's side shared details of these terrorists with Bangladesh between March and November 2018 and September 2019.

The Government of Myanmar has repeatedly stated that it will not condone violations of human rights. We believe in the rule of law and stand firm on the principles of international law. Any allegations supported by sufficient evidence will be investigated and legal actions will be taken against transgressors according to the law. The Union Attorney General is investigating allegations against civilian perpetrators contained in the report of the Independent Commission of Enquiry.

On the military side, the Office of the Judge Advocate General had completed two court martials for the two incidents. A third court martial has been set up to investigate another incident contained in the report. The domestic legal process must be allowed to take its course without outside interference, intervention or politicization. The integrity of those independent investigations should not be compromised by international actors' interests or political manipulation.

In conclusion, I wish to firmly state that my delegation's participation in this meeting and the comments made herein shall not in any way be construed as Myanmar's recognition of the International Criminal Court or of the Court's jurisdiction over my country, Myanmar, which is not a party to the Rome Statute. Moreover, my delegation strongly deplores and firmly rejects unlawful calls for Myanmar's referral to the ICC by some States Members of the United Nations.

**Mr. Costa Filho** (Brazil): Brazil thanks the President of the International Criminal Court (ICC) for his presentation of the annual report to the United Nations (A/75/324). Brazil commends the judges of the ICC for their role in fighting impunity and contributing to the rule of law. As one of the founders of the ICC, Brazil recognizes its value as the first permanent tribunal conceived to fight impunity for the most serious international crimes. Ensuring that those accused before it are judged with fairness and full respect for their rights, the Court is an instrument for justice and peace.

The establishment of the International Criminal Court more than 20 years ago epitomized the impact that values and ideas can have in the real world. Based on notions of human dignity, the fight against impunity and international justice, nations from all regions worked together to build an institution aimed at investigating and punishing the most serious international crimes.

Like any human endeavour, the ICC has experienced both accomplishments and shortcomings. Let us celebrate the achievements — such as the granting of reparations to victims and the successful outreach activities — and at the same time reflect on how we may overcome current challenges.

The ICC has maintained a heavy workload in the reporting period, despite all the limitations caused by the pandemic. It has been seized of more than 10 cases, with continued judicial activity. Brazil welcomes the fact that the Court has managed to quickly implement arrangements to mitigate the effects of the coronavirus disease on its operations. We also note with satisfaction that one suspect, whose first arrest warrant has been outstanding for more than 13 years, has been transferred to the custody of the Court.

Another encouraging development relates to the work of the Trust Fund for Victims, whose reparations mandate is instrumental to promoting victim's rights to justice. Aiming at reconciling retributive and restorative justice, the Rome Statute contains an innovative set of provisions on victims' rights, which allows them to both participate in proceedings and apply for reparations. It is encouraging to see reports about ongoing projects and the Fund's engagement with victims, their families and affected communities.

Brazil also welcomes that, as reported, the Registry and the Office of the Prosecutor have continued their efforts to assist with national proceedings. Indeed, complementarity stands as a cornerstone of the Rome Statute. States have the primary responsibility to investigate and prosecute perpetrators of international crimes and enabling them to do so remains an essential component of the fight against impunity.

Positive complementarity activities may also give meaning to an integral view of the Rome Statute system, which is built upon a positive relationship between the Court and States parties. It goes beyond punishing individuals and rests on empowering victims and affected communities in order to allow them to establish their priorities and generate their own mechanisms for accountability, thereby helping to ensure that the crimes punishable by the Rome Statute never happen again.

All States parties have the responsibility to work continuously for the improvement of the Rome Statute system, addressing challenges and extending their support when needed. One important challenge

relates to universality, which is instrumental to overcome perceptions of selectivity in the application of international criminal justice. I am pleased to recall not only that all South American countries are parties to the Rome Statute, but also that Latin American and Caribbean States represent the second-largest regional group among States parties, after the African Group.

Another challenge relates to the relationship between the ICC and the United Nations. Brazil reiterates its long-standing concern about the financing of Security Council referrals. The greater involvement of the United Nations with the ICC should be accompanied by greater responsibility of the United Nations in providing the means for the work of the Court.

We reiterate our call for the implementation of article 13 of the Relationship Agreement and of subparagraph (b) of article 115 of the Rome Statute, so that costs from Security Council referrals are met, at least partially, by funds provided by the United Nations. As laid out in article 17 of the Charter of the United Nations, the General Assembly has the exclusive responsibility to consider and approve the budget of the Organization. The proper funding of Security Council referrals would enhance the credibility of both the Court and the United Nations. The current situation is neither fair nor sustainable.

Perhaps the most pressing challenge to the ICC and its States parties is to adopt the necessary changes to the Rome Statute system to bring it closer to the ideals of its founders. The report of the group of independent experts warrants serious consideration and should not be taken lightly.

In moving forward, Brazil stresses the need to conduct open, inclusive and transparent negotiations on the framework in order to discuss and potentially implement the recommendations contained in the report. If created, a standing coordination or working group to follow up the report should have clear procedures and be open to all States parties and organs of the Court.

The upcoming Assembly of States Parties happens at a critical juncture for the International Criminal Court. The Assembly will be responsible for electing six new judges, a new Bureau and the next Prosecutor. At a moment when the Court needs the utmost support, it is crucial to ensure that the decision-making processes of the Assembly are legitimate and in full compliance with the Rome Statute and its rules of procedure. The challenging environment for organizing the next

Assembly calls for flexibility from all stakeholders, but cannot serve as an excuse to set aside the transparency and inclusiveness needed in the preparations for the meeting.

The quest for peace and justice is always challenging and this challenge is inherent to the search for a more just and cooperative world order. Let us not fall into the trap of operating with false dichotomies that seem to oppose peace to justice, as both values complement each other. They form part of the shared values that have made the first permanent, treaty-based International Criminal Court a reality. Brazil remains firm in its commitment to the Rome Statute system and the values that motivated its creation.

**Mr. Guerra Sansonetti** (Bolivarian Republic of Venezuela) (*spoke in Spanish*): The Bolivarian Republic of Venezuela is grateful for the report of the International Criminal Court (ICC) (see A/75/324), presented by Judge Chile Eboe-Osuji's. We are grateful to him for his leadership of the Court.

We take note of the Court's judicial activities, as evidenced by the cases currently in process, the conclusion of some cases and the start of new investigations, all of which reflect the fulfilment of its mandate and the consolidation of the principle of international criminal justice.

Venezuela is committed to the fight against impunity regarding the most serious crimes of international concern, because this is without a doubt an important step in the maintenance of peace and the rule of law at the international level. For that reason, we will continue to respect our obligations to cooperate with the Court pursuant to the Rome Statute, and we urge all States to do the same so that the Court can discharge its important mandate to ensure justice for the victims of the most serious crimes of international concern.

Let us not forget that the ICC is a court of last instance. Indeed, this establishes a system of justice for serious international crimes that have come up from national courts. National authorities have the primary responsibility for investigating and prosecuting crimes covered by the Rome Statute, and the Court intervenes only when States are unwilling or unable to undertake national procedures.

The Bolivarian Republic of Venezuela referred to the Court the situation of the unilateral coercive measures that were imposed primarily by the United

States of America, which have had an impact on the people of our country. Those measures contravene the provisions of international law that protect States from foreign interference in their internal affairs. Consequently, those measures have done tremendous harm to the people of our country and have contributed to significantly increasing child mortality for both boys and girls as well as adults. They have also undermined a wide range of other human rights, including the right to food, health care and education.

Those unilateral coercive measures are of an unprecedented scale and constitute a widespread, systematic attack on the civilian population, which in itself constitutes one of the most serious crimes of international concern enshrined in the Rome Statute. A similar crime is the crime of extermination, classified in article 7, paragraph 1, of the Rome Statute.

Venezuela, as a State party to the Rome Statute of the International Criminal Court, reaffirms its unwavering support for the Court as an independent and impartial judicial institution and reiterates its commitment to upholding the principles and values enshrined in its norms. We will also seek to preserve its integrity without allowing ourselves to be intimidated by any measure or threat against the Court, its officials or those who cooperate with it.

We condemn the unilateral coercive measures imposed by the Government of the United States of America against the International Criminal Court and its members, which constitutes a grave attack on multilateralism and the independence of the international judiciary.

Moreover, we reject the preliminary investigation undertaken by the Prosecutor of the Court against the Constitutional President of the Bolivarian Republic of Venezuela. That investigation was opened at the request of a number of countries that have through various channels stated that they seek to overthrow the Constitutional President of our country. The argument put forward was one of supposed systematic violations of the human rights of protesters during the violent opposition protests staged in April 2017.

We believe that that investigation represents a legal overstep because it attempts to undermine the work of national courts in investigating, prosecuting and condemning those allegedly responsible for crimes committed during the protests. Nevertheless, our country reaffirms its commitment to cooperating

with the Prosecutor by providing the information that she requires in order that she can see that our judicial system has been investigating these facts since they came to its attention.

Venezuela supports the work of the Court and endorses its activities so long as these strictly adhere to the Rome Statute, which will prevent it from being instrumentalized for purposes that run counter to its work. The application of justice must be depoliticized, transparent and non-selective on the part of any Power or its subordinates.

In conclusion, we reiterate our support for the Court and recognize it as the only international tribunal that can combat impunity and prosecute those who commit the most serious crimes when a State cannot or does not act within its own jurisdiction. Moreover, we support the universalization, independence, integrity and transparency of the Court in order to ensure that those responsible for such crimes are prosecuted regardless of their nationality.

**Mr. Braun** (Luxembourg) (*spoke in French*): Luxembourg fully aligns itself with the statement made on behalf of the European Union and that of the States parties to the Rome Statute of the International Criminal Court (ICC). I also align myself with everything said by the representative of Liechtenstein a few minutes ago.

I shall be brief. This year we celebrate the seventy-fifth anniversary of the establishment of the United Nations, which gave rise to a rules-based international order. The International Criminal Court is the first permanent international criminal court and represents one of the most important steps forward in the development of international criminal justice and in the fight against impunity for the most grave crimes: the crime of genocide, crimes against humanity, war crimes and crimes of aggression. The International Criminal Court is one of the main pillars of this multilateral system based on rules and the rule of law. However, this global order, of which the Court is a crucial component, is being sorely tested.

Luxembourg is deeply concerned by the imposition of sanctions against the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, and a member of her Office. These measures could compromise the independence of the Court and make its job more difficult or even impossible. It is in that context of the continued and unacceptable attacks against the Court that Luxembourg would like to underscore once again

its unwavering support for the Court and its staff. Attacks against the independence of the Court are attacks against the multilateral system itself.

Luxembourg supports the crucial work of the ICC to put an end to impunity and deliver justice for the victims of the most serious crimes of international concern. The fight against impunity is not only a question of justice and accountability but is also a key element that contributes to social and political reconstruction in post-conflict situations.

I shall conclude by saying that Luxembourg will continue to work towards the universal promotion of the Rome Statute.

**Mr. Caballero Gennari** (Paraguay) (*spoke in Spanish*): Paraguay is grateful for the presentation of the annual report of the International Criminal Court (ICC) (see A/75/324) and commends the Court and the Prosecutor on the work done during the period 2019-2020.

Traditionally, our delegation co-sponsors the draft resolution on the report of the International Criminal Court (A/75/L.5) as a demonstration of its confidence in the system that the international community agreed to in its attempt to strengthen international justice.

For Paraguay, the existence of the International Criminal Court represents a crucial milestone in the collective efforts undertaken to eradicate impunity in the cases of the most heinous crimes and to ensure justice and redress for the victims of international crimes within the framework of international law and of the Charter of the United Nations.

Paraguay's Constitution accepts the fundamental principles of international law; it recognizes a supranational legal order that, just as it does in other States, guarantees the relevance and respect and enforcement of human rights; it also declares that the crimes of torture, genocide, the forced disappearance of persons, kidnapping and homicide for political reasons are not subject to statutes of limitations.

Paraguay believes that the Court is a cornerstone of efforts to combat impunity and deliver justice for the victims of violations of international law, bearing in mind the complementarity of the Rome Statute system. It is important to remember that the ICC is a court of last instance that establishes a system of justice for grave international crimes that have come up from national

courts. It intervenes only when States are unwilling or unable to undertake national procedures.

Paraguay supports the strengthening the principle of the judicial independence and impartiality of the Court. That is one of the pillars of the rule of law at both the national and international levels.

That principle, according to which the work of the judges of the Court must not be obstructed in any way, is crucial for the prosecution of individuals guilty of the most serious crimes of international concern, just as it is for the smooth functioning of the ICC.

For that reason, we appeal to all States, regardless of whether they are parties to the Rome Statute or its amendments or not, and all actors of the international community to cooperate with the International Criminal Court to ensure its independence and impartiality and to facilitate its investigations and enforce its decisions regarding the prosecution of those accused.

Finally, we value the work of non-governmental and civil-society organizations and those of the academic world in order to raise awareness about the virtues of a multilateral international criminal justice system.

**Mrs. Van Vlierberge** (Belgium) (*spoke in French*): Belgium aligns itself, as it does each time, with the statement made by the European Union in the framework of this debate (see A/75/PV.18). My delegation also aligns itself with the statements made by the representatives of Germany (*ibid.*) and Liechtenstein, respectively, on behalf of several States parties to the Rome Statute of the International Criminal Court (ICC).

Belgium would, however, like to once again express its firm and unwavering support for the International Criminal Court, which is a pillar of the fight against impunity and, more generally, of the rule of law. It is vital to reiterate our support whenever possible, especially when the Court is under threat, so fundamental is its mission.

Is it even still necessary to recall that its primary mission is to ensure justice for the victims of the most heinous crimes, who deserve their cases to be heard and merit reparation to the extent possible. That mission complements the work of national criminal jurisdictions, which have the main responsibility for prosecuting grave crimes under international law. It is a mission that should unite us all, not divide us.

Belgium deplores the imposition of sanctions on the Court, specifically on its Prosecutor and the members of her Office, and the ongoing threats on the part of the American authorities. Those attacks hinder the proper functioning of the Court, undermine its integrity and threaten its independence. To attack the International Criminal Court is to attack our core values and interests. That is unacceptable.

Along with our partners, we stand ready to respond and to come to the assistance of the Court in order to counter the effects of those measures in a concrete and practical manner, and we call on the United States to lift them.

**Ms. Flores** (Honduras) (*spoke in Spanish*): The Government of the Republic of Honduras, as a State party to the Rome Statute, reiterates its support for the International Criminal Court (ICC) within the framework of its remit and within the boundaries delineated by the Statute, which is in line with the legal model established by the International Court of Justice, where, in accordance with the jurisprudence, doctrine and practice of the Court, the Court has jurisdiction only over States that have expressly or tacitly accepted its compulsory jurisdiction.

The Government of the Republic of Honduras supports the Declaration of the Parties to the Rome Statute in support of the International Criminal Court made today, on the occasion of the ICC's report to the General Assembly (see A/75/PV.18). However, we wish to issue a reservation on one paragraph of that declaration in which an attempt is made to openly stigmatize a State that is not a party to the Rome Statute.

In accordance with article 4, paragraph 2, of the Rome Statute,

“The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State”.

Pursuant to that provision, it is inappropriate to criticize and internationally condemn a State that is not party to the Rome Statute and that is simply exercising its sovereign competencies on its own territory, in accordance with international law.

The Government of the Republic of Honduras believes that in addition to the United States of America, there are other States that zealously exercise their sovereign competencies with relation to treaties to

which they are not a party, including the Rome Statute. That position must be respected so long as they do not accede to the Rome Statute or allow the Court to exercise its functions on their territory. Those States include three permanent members of the Security Council.

Against that backdrop, the Government of the Republic of Honduras issues a reservation on the paragraph of the Declaration of the Parties to the Rome Statute in which inappropriate attempts are made to stigmatize a State that is not party to the Rome Statute; this is clearly not in line with the provisions of the Vienna Convention on the Law of Treaties, articles 29 and 34.

**Mr. Ugarelli (Peru)** (*spoke in Spanish*): I would like to begin by expressing my gratitude for the report of the International Criminal Court outlining its activities in 2019/20 (see A/75/324), as well as for the report on the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court.

Peru, as a State party to the Rome Statute of the International Criminal Court, wishes to reaffirm its commitment to international law, the promotion and protection of human rights and fundamental freedoms. Moreover, we are committed to the rule of law, because we believe that those are basic precepts for achieving peaceful and inclusive societies.

We firmly believe in a rules-based international order, and we are aware that access to justice and accountability are vital to the maintenance of international peace and security. That is why my country supports all initiatives aimed at ensuring that the perpetrators of grave violations of human rights and of international humanitarian law are held accountable.

Against a backdrop characterized by conflict and humanitarian emergencies, the Court, as the first and only permanent international criminal court in the world, requires the strong support of the international community and determined cooperation on the part of the States parties.

At a time when a number of States are questioning the role of the Court, Peru firmly believes in its relevance and acts in a manner that makes that position very clear. The institutions of the International Criminal Court must be strengthened, as must its legitimacy. It is imperative to prevent the norms established by the Rome Statute from being undermined. Consequently,

Peru endorsed the joint declaration championed by Germany in support of the Court in the framework of this debate (see A/75/PV.18). We urge all States parties to continue to cooperate with the Court in order to ensure its smooth functioning.

Moreover, we acknowledge the fact that the Court has continued its work even in the current context of the coronavirus disease. We underscore the fact that the Court has continued to hear cases and hold hearings by video-teleconference in order to ensure respect for human rights and fundamental freedoms. My delegation takes note of the important judicial progress made by the Court under the current unprecedented circumstances.

We reiterate the importance of the proper financing of the Court. We must find ways of ensuring that the Court has predictable financing, which will enable it to give adequate consideration to all cases submitted to its jurisdiction. This is a vital aspect of the quest for the promotion of justice within the international community.

Ensuring the appointment of a new Prosecutor is also of utmost importance to ensuring the smooth functioning of the Court. In that respect, we are prepared to work to garner consensus regarding the candidate who will have to continue the work of the current Prosecutor. The appointment of a new Prosecutor means that we must be united in the process of finding an official with recognized experience and an outstanding record at a time at which it is so vital to defend the proper functioning of the Rome Statute system and ensure its effectiveness.

I wish to conclude by reiterating our belief that the International Criminal Court plays a crucial role in preventing impunity and in supporting the prosecution of those responsible for the worst atrocities committed throughout the world. Peru has learned first-hand that the enforcement of accountability mechanisms is the best way of preventing the recurrence of grave violations of human rights and of international humanitarian law, as well as of achieving lasting peace.

**The Acting President:** I now give the floor to the observer of the Observer State of Palestine.

**Mr. Bamyia (Palestine):** Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/75/324) and the President of the ICC for presenting the main points in the report as well as highlighting the history that underlies the establishment of this important Court. We

also express our appreciation to the Secretary-General for his report and for the efforts to coordinate with the Court and facilitate its work. We salute the Court for pursuing its important work despite the challenges posed by the pandemic.

In the wake of the horrors of the Second World War, including the Holocaust, humankind elaborated the United Nations Charter, the Universal Declaration of Human Rights and the Geneva Conventions. However, it was not able to live up to the fundamental idea that beyond formulating principles and rules for States to observe, it was necessary to hold accountable those who commit the gravest breaches of those rules when States are unwilling or unable to do so. We certainly all can agree that the gravest breaches of these rules are crimes of aggression, genocide, crimes against humanity and war crimes.

When it became obvious that there were certain crimes that were so horrendous that impunity for their perpetrators would be unbearable, the victors decided to create the first international criminal courts; however, unfortunately, they made sure that only the vanquished would be punished for their crimes. That meant, for example, that nobody was ever held accountable for the horrific bombings of Hiroshima and Nagasaki — a selective justice based on the outcome of the war. Decades later, confronted with new horrors, humankind recalled that important and fundamental idea and once again created international criminal courts, but only for particular conflicts — a selective justice based on geography and the protagonists of a given conflict. How do we justify denying justice to victims based on where crimes took place, or because their country was on the losing side of a war?

True justice demanded the creation of a permanent and universal criminal court that would act whenever States failed to against all perpetrators of crimes, without distinction. The ICC was the first attempt at honouring that idea and establishing a court with a true universal calling. It is a path full of challenges, and some are quick to highlight the Court's shortcomings, but that should be an argument for more efforts to ensure its success, not serve as a pretext to precipitate its doom.

It was only a matter of time until a non-State party would consider that it enjoyed immunity, ignoring the fact that if crimes were committed on the territory of a State party, it had always been foreseen that the Court

would be competent, regardless of the nationality of the perpetrators. But the United States not only criticized the Court, it decided to enact sanctions against its officials with the stated objective of deterring the Court from fulfilling its mandate. It is appalling to see such measures, usually adopted against terrorists and those allegedly responsible for grave violations of international law, used against those entrusted with upholding international law. It is appalling to see such actions, which are aimed at deterring justice instead of deterring crimes. It is appalling to see the ICC Prosecutor and judges attacked and war criminals shielded.

We stand by the Prosecutor, the judges and all Court officials and reiterate, as stated today in the statement delivered by the representative of Germany on behalf of 71 States parties (see A/75/PV.18), our commitment to upholding and defending the principles and values enshrined in the Rome Statute and to preserving its integrity and independence, undeterred by any measures or threats against the Court, its officials or those cooperating with it.

*The President took the Chair.*

Those sanctions reflect a misplaced sense of superiority, whereby justice can be delivered as long as it spares the powerful. But justice that suffers double standards is no justice at all. We oppose denied justice. How could it be otherwise? Palestinian victims have been denied justice for more than 70 years. We oppose delayed justice. How could it be otherwise, when our people still await, seven years after joining the Court, the opening of investigations? We oppose selective justice. How could it be otherwise, when the situation in Palestine is one of the rare cases in front of the Court where some States parties called on the Court to consider itself incompetent, even when that means that Palestinians would remain the victims of recurrent crimes and that their perpetrators continue to enjoy immunity?

The State of Palestine is informed by its own experience and its own ordeal when it speaks of the cost of impunity, and that is why it is a firm believer in accountability.

We call on the Prosecutor, in line with her own assessment of the situation in the State of Palestine and of her mandate as per the Rome Statute, to immediately open investigations into the crimes committed on our territory against our people.

We call on States parties to stand united against all efforts to obstruct or politicize the work of the Court, and to pursue accountability, regardless of the identity of the victims and of the identity of the perpetrators.

We need to continue acting collectively to ensure accountability, providing justice for the victims of past crimes but also, and as importantly, sparing possible victims of future crimes. In that regard, the State of Palestine calls on all States to join the Rome Statute and to cooperate with the Court. The ICC is a court of last resort, delivering justice where and when no one else can. We also call on all States parties that have not yet done so to ratify the Kampala Amendments on the crime of aggression.

Finally, the State of Palestine supports the elaboration of a convention on crimes against humanity based on the recommendations of the International Law Commission.

In closing, the Court has a primary responsibility not to us, the States parties, but to victims everywhere. It has a duty to advance justice, relentlessly. It has the obligation to be a power to hold perpetrators accountable and to be a force for deterrence. The State of Palestine, including as a member of the ICC bureau, will continue to support it in delivering on that sacred mandate.

**The President:** We have heard the last speaker in the debate on this item.

The Assembly will now take a decision on draft resolution A/75/L.5, entitled "Report of the International Criminal Court".

I give the floor to the representative of the Secretariat.

**Mr. Nakano** (Department for General Assembly and Conference Management): I should like to announce that since the submission of the draft resolution and in addition to those delegations listed in the document, the following countries have also become sponsors of draft resolution A/75/L.5: Albania, Andorra, Australia, Austria, the Plurinational State of Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Cyprus, Ecuador, France, the Gambia, Georgia, Ghana, Japan, Latvia, Liechtenstein, Lithuania, Mexico, Montenegro, Nigeria, North Macedonia, Palau, Paraguay, Peru, Poland, Samoa, San Marino, Serbia, Slovenia, Trinidad and Tobago, Tunisia, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay.

**The President:** May I take it that it is the wish of the General Assembly to adopt draft resolution A/75/L.5?

*Draft resolution A/75/L.5 was adopted (resolution 75/3).*

**The President:** Before giving the floor for explanations of position after adoption, I would like to remind delegations that explanations are limited to 10 minutes and should be made by delegations from their seats.

**Mr. Mills** (United States of America): The United States has historically been and will continue to be a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate and legitimate mechanisms. Perpetrators of atrocities must face justice, but we must also be careful to recognize that there is a right and effective tool for each situation.

The United States reiterates its continuing, long-standing principled objection to any attempt to assert the jurisdiction of the International Criminal Court (ICC) over nationals of States that are not parties to the Rome Statute, including the United States and Israel, absent a Security Council referral or the consent of such a State.

The United States Government seeks to protect United States personnel from unjust and illegitimate prosecution by the ICC, which threatens United States sovereignty, purports to judge our highly robust and transparent national judicial system without our consent and, we believe, poses a danger to the United States and our allies and partners.

The ICC's past conduct, including its disregard for the sovereignty of non-parties to the Rome Statute and its ingrained institutional weaknesses, have led the United States to conclude that major changes are needed, such as an amendment to the Rome Statute regarding jurisdiction.

I have heard the remarks of fellow representatives with interest, frustration and sadness. Let me tell everyone that the United States remains a leader in the fight to end impunity and supports justice and accountability for international crimes, including war crimes, crimes against humanity and genocide. The United States respects the decision of those nations that have chosen to join the ICC. In turn, we expect and demand that our own national decision not to join and not to place our citizens under the Court's jurisdiction also be respected.

Since the ICC has flagrantly disregarded our position, the United States disassociates itself from consensus on this resolution.

**Mrs. Zabolotskaya** (Russian Federation) (*spoke in Russian*): Our delegation does not support the technical rollover of the text of resolution 75/3 on the report (A/75/324) of the International Criminal Court (ICC) and dissociates itself from consensus.

The frozen state of the text for yet another year does not reflect the woeful situation within and around the ICC. In that connection, a legitimate question arises: what is the objective of an annual ICC report to the General Assembly? In any case, this structure is not a part of the United Nations system, nor is the Organization responsible for it.

We are currently seeing attempts by States parties to the Rome Statute to reform the ICC. It was decided to engage auditors to analyse its work. From their report, we can see that its investigations are being conducted by people who do not understand the specificities of countries and situations that they have been tasked to consider. They have never visited the territories of the countries concerned and do not have sufficient legal training, nor are they familiar with the provisions of the Rome Statute.

Moreover, independent experts describe the situation at the staff level of the ICC, including the Office of the Prosecutor and the Trial Chambers, as a culture of fear. References have been made to bullying and harassment, including by judges who flaunt their privilege. From the report, we can see that judges do not always participate in the process of preparing rulings, instead farming the process out to ordinary staff.

This state of affairs at the Court is no surprise; it could have been foreseen upon consideration of the judicial investigations of this body. It is our impression that the ICC is not delivering justice but rather executing political agendas. One of the most egregious examples of that is Libya, where the ICC is focusing its work on some of the forces in the conflict and ignoring others. The work of the ICC in the Sudan also raises more questions than it answers. Similarly, the decision of the ICC on the immunity of heads of State runs counter to the practice of *opinio juris* of States, which is formed by customary law.

The ICC is groundlessly broadening its jurisdiction by dragging into its orbit States that are not party to

the Rome Statute. A case in point is the situation of the alleged deportation of the Rohingyas, in which the Trial Chamber peremptorily authorized the start of an investigation. At the same time, the investigation of the situation in Afghanistan has again been halted, with an evident link to the restrictions imposed by the United States authority concerning several staff members in the Office of the Prosecutor.

Our country was one of the main initiators and founders of the Nuremberg tribunal, the father of international justice. On 20 November, the international community will note the seventy-fifth anniversary of the adoption of the Charter of the International Military Tribunal and the start of its work. The Tribunal made an enormous contribution to justice following the horrors of the Second World War.

The contribution of contemporary international judiciary bodies to the fight against impunity is a matter of dispute. The time for romanticizing and idealizing them — largely due to the activities of the ICC — has passed. These institutions have become instruments for exerting pressure on the Governments of selected countries and interfering in their internal affairs.

We have observed how some countries welcome the activities of the ICC but gloss over instances of unprofessionalism, politicization and bias in its work. However, when the fight against impunity affects their own direct interests, reforms of the Court are launched and sanctions are applied to its staff. A clear example of this double standards policy may be observed in the consideration of the Afghanistan case.

With regard to today's discussion in the General Assembly, I would like to make two points. Many delegations today have opposed sanctions for Court officials, citing the need for them to work independently. At the same time, many of those same countries have supported unilateral sanctions or imposed them on States. Clearly, they do not see the need for the same type of independence for States in their actions. The question of when these sanctions are legitimate is therefore rhetorical, because every State judges for itself. And now we are leaving aside the question of the legitimacy of unilateral sanctions as a whole.

In addition, a number of States have used our discussion to express their political statements, including with regard to our country, which have no bearing on reality. We would advise those delegations to focus their efforts on establishing the real picture

before the Court. The numerous crimes committed in Odessa and the Donbas by the Government of Ukraine, as well as crimes committed in South Ossetia by the Saakashvili regime, clearly demand the attention of the justice system.

**Ms. Ma'udi** (Israel): As in previous years, Israel has decided to disassociate itself from the consensus on this resolution — not because we do not support the noble goals for which the International Criminal Court (ICC) was founded, but rather because we do.

Israel was an early advocate of the establishment of an international criminal court that would hold accountable the perpetrators of the mass atrocities that have deeply shocked the conscience of humankind. Our position today is a way to give voice to growing concerns, which we know are widely shared today by many States parties and non-State parties, regarding the ICC and the crisis of legitimacy it faces.

We note that some of those concerns were highlighted in the recent report of the group of independent experts established to review the work of the ICC. That report underlined that the Court faces key problems that require fundamental reform, including mismanagement; inefficiency; inconsistent and sometimes incoherent jurisprudence; and other disturbing findings related to the workplace culture within the Court.

The findings in the report reflect a dramatic gap between the expectations of the international legal institution and the way that it is performing in practice. They are a call to action for anyone who wishes to see the Court succeed and be true to its calling — to serve as a judicial institution with broad legitimacy that lives up to its original mandate, does not misuse its resources and is not exploited for political ends.

Granting the Court uncritical and unwavering support in the light of that situation only harms the ideals underpinning the Court's establishment rather than advance them. As many supporters of the ICC have themselves stated, the Court needs more international legitimacy, not more controversial and politicized cases. That is not selective justice; it is the proper and correct functioning of the Court, in line with the jurisdictional requirements of its own statute.

We urge States, especially those that are strong supporters of the Court, as well as other key stakeholders, to recognize that the ICC's legitimacy

and future depend on engaging in a critical process of reform. Such reform is essential in order to ensure the Court's proper administration within the terms of its original mandate and end the legally unsustainable overreach that squanders its resources and opens its charges of politicization.

Without aligning the ICC's actual functioning with the principles, objectives and scope determined by its founders, the Court cannot have a claim to the international legitimacy and judicial integrity that is so central to advancing the important goals for which the Court was established.

**The President:** We have heard the last speaker in explanation of position after adoption.

Two delegations have requested to speak in exercise of the right of reply. I would like to remind members that statements in exercise of the right of reply are limited to 10 minutes for the first statement and five minutes for the second, and should be made by delegations from their seats.

**Mr. Uddin** (Bangladesh): Bangladesh is taking the floor in exercise of its right of reply with regard to the statement made by Myanmar. Bangladesh strongly rejects the allegation of Myanmar regarding the presence of terrorist elements inside the territory of Bangladesh. Such claims are totally baseless, false and fabricated. They are intended solely to divert attention from Myanmar's own failure to fulfil its State obligations.

The internal security elements of Myanmar are Myanmar's own creation. They have been fighting their own people for decades. It is Myanmar's own policy of exclusion and discrimination that turned its ethnic and persecuted people towards terrorism and extremism.

Bangladesh would like to reiterate that we maintain a zero-tolerance policy against terrorism and do not allow any terrorist or foreign dissident groups to use our soil for subversive activities against neighbouring countries, including Myanmar. Bangladesh has shown exemplary success in countering terrorism through effective counter-terrorism operations carried out by its law enforcement agencies. Bangladesh is also addressing violent extremism and radicalization through effective preventive measures.

On the other hand, Myanmar's track record in countering terrorism has been confined to uprooting hundreds and thousands of civilians from their homes

and blaming other countries for their own failures. Bangladesh is currently hosting more than 1.1 million Myanmar nationals, the Rohingyas, who are the victims of Myanmar's policy of persecution. Accountability is critical to ensuring a sustainable solution to this problem. In that respect, we welcome the investigation of the Prosecutor of the ICC.

As a party to the Rome Statute, Bangladesh remains fully committed to the mandate and authority of the International Criminal Court and continues to fully support the Court and its officials in discharging their responsibilities.

We would like to emphasize once again that the Rohingya problem originated in Myanmar and its solution lies in Myanmar. By virtue of being Myanmar's neighbour, we have become victims of their internal policies and actions, resulting in more than 1 million of their nationals taking shelter in our land, Bangladesh.

Credible international and media reports have disclosed why the Rohingya took shelter in Bangladesh — they fled for their lives in the face of the carnage unleashed by the Myanmar junta in August 2017, in the name of a clearance operation. Tens of thousands of innocent Rohingyas, a large majority of whom are women and children, fled to escape burning homes and villages, rapes and murders.

In the face of such savagery, we remain steadfastly committed to a peaceful solution. Within three months of the exodus of the Rohingya people to Bangladesh, we entered into bilateral agreements with Myanmar for the safe and sustainable return of the Rohingya to their homes in Myanmar.

Three years have elapsed and not a single Rohingya has volunteered to return under the bilaterally agreed mechanism. Myanmar is currently under control of the far right. The Rohingya want to return home and see the perpetrators held accountable through an open and credible mechanism. It is Myanmar's responsibility to ensure that justice is served for the Rohingya victims.

We therefore ask Myanmar to abandon its policy of shifting the onus and burden onto others and, instead, to take responsibility and cooperate with the Office of the Prosecutor of the International Criminal Court in its investigation. That would be a first step in that direction.

**Mr. Aung (Myanmar):** My delegation is compelled to take the floor to respond to the intervention made

by the representative of Bangladesh with regard to the displaced persons in Rakhine state and the humanitarian situation there. During my earlier intervention on the report (A/75/324) of the International Criminal Court (ICC), I clearly stated that the current humanitarian situation took place due to massive, coordinated armed attacks on Myanmar's security forces by the Arakan Rohingya Salvation Army terrorist group in October 2016 and August 2017.

Our Government shares the concerns of the international community about the situation in Rakhine. In order to resolve the issue, the Government of Myanmar has focused on the humanitarian situation, repatriation, resettlement, reconciliation and development in Rakhine state. Those efforts were highlighted in the statements made by Myanmar's Union Minister for the Office of the State Counsellor at the general debate of the General Assembly (see A/75/PV.14).

We signed a bilateral agreement with Bangladesh in November 2017 for the repatriation of the displaced persons and we are ready to receive verified displaced returnees in a voluntary, safe and dignified manner, in accordance with the bilateral agreement.

Our Government is also engaging with various stakeholders in order to create a conducive environment in Rakhine state for the prospective returnees from Bangladesh. Our Government extended the trilateral agreement with the United Nations Development Programme and the United Nations High Commissioner for Refugees until June 2021 so as to facilitate the implementation of our bilateral agreement with Bangladesh.

It is disappointing to witness the approach pursued by Bangladesh at the various forums regarding the issue of displaced persons. Instead of solving the problem bilaterally in an amicable manner, as a neighbour, Bangladesh consistently seeks international punitive action against Myanmar. That kind of attitude towards Myanmar will not contribute to our agreed objective of solving the issue of displaced persons in a peaceful and sustainable manner. We wish to see the sincere political will of Bangladesh to cooperate fully by adhering to the terms of the bilateral agreement. It is the only way to effectively commence the repatriation. Pressuring Myanmar will not solve the problem.

Meanwhile, I wish to reiterate our Government's policy to maintain friendly relations with all its

neighbours, including Bangladesh. As the world faces unprecedented challenging circumstances due to the coronavirus disease (COVID-19) pandemic, the adverse socioeconomic effects have increased and further aggravated the structural and economic weaknesses of all developing countries. It is therefore of paramount importance that our actions and expressions not undermine our much-needed collective efforts to foster greater international cooperation and engagement, especially in this time of the COVID-19 pandemic, during which efforts should aim to unite rather than divide.

**The President:** May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 75?

*It was so decided.*

#### **Agenda item 74**

#### **Report of the International Court of Justice**

##### **Report of the International Court of Justice (A/75/4)**

##### **Report of the Secretary-General (A/75/313)**

**The President:** The General Assembly will consider agenda item 74, entitled “Report of the International Court of Justice”. In connection with this item, the Assembly has before it the report of the International Court of Justice, covering the period from 1 August 2019 to 31 July 2020, contained in document A/75/4, and the report of the Secretary-General, circulated in document A/75/313.

I will now make a statement in my capacity as President of the General Assembly.

As we reflect on the 75 years of existence of the United Nations, I would like to recognize the significant role that the International Court of Justice (ICJ) — the principal judicial organ of the United Nations — has played, including through its contribution to the maintenance of international peace and security, by settling disputes peacefully and strengthening the international rule of law.

The Court is the only principal organ of the United Nations that is not based here, in New York. The physical distance between the General Assembly and the Court has been overcome by solid exchanges throughout the years, including the ICJ report that has been submitted to the General Assembly every year since 1968.

A founding principle of the United Nations is to save succeeding generations from the scourge of war, including through the peaceful settlement of disputes. The Court has played a crucial role in that area. Since 1945, the increasing number and breadth of dispute submissions from Member States from around the world, including throughout the period under review, clearly demonstrates the trust that Member States have placed in the Court to settle the legal disputes submitted to it in accordance with international law.

I warmly welcome the Court’s continued operation throughout the coronavirus disease pandemic, thus ensuring the continuity of its mandate and the discharge of its judicial functions. Respect for the Court’s decisions, judgments and advisory opinions is critical to upholding the Charter of the United Nations and international law and to consolidating the success of the international justice system built after the Second World War.

Currently, 74 States have made a declaration to accept the jurisdiction of the Court as compulsory. Through its resolutions, the General Assembly has repeatedly encouraged States that have not yet done so to consider accepting the jurisdiction of the Court, in accordance with its statute.

In addition to supporting the maintenance of international peace and security, the Court’s judgments and advisory opinions contribute to the development and clarification of international law and reinforce the rule of law across the world. The impact of the Court on the progressive development of international law cannot be overstated, particularly through its efforts to develop a greater understanding of rules and principles at various levels.

This year, the General Assembly and the Security Council will elect five judges to the Court. It is important that, despite the challenges that we still face with regard to in-person meetings here in New York, we find solutions to ensure that the election is not delayed. As President of the General Assembly, I am collaborating with the Security Council and the Secretariat to that end.

Strengthening the role of multilateralism is a priority for me at this session and the international legal order underpins the multilateral system. I therefore pledge my strong support at this session to the International Court of Justice as part of the international legal order.

My team and I stand ready to work closely with one and all in that regard.

In accordance with General Assembly decision 75/506 of 13 October 2020, I now introduce the pre-recorded statement of Judge Abdulqawi Ahmed Yusuf, President of the International Court of Justice.

*A pre-recorded video statement was shown in the General Assembly Hall (see A/75/613).*

**Ms. Wronecka** (Poland): On behalf of the Visegrád Group, comprising the Czech Republic, Hungary, Slovakia and my own country, Poland, I would like to thank the President of the International Court of Justice, Judge Abdulqawi Ahmed Yusuf, for presenting the Court's report (A/75/4) for the year from 1 August 2019 to 31 July 2020. I have the honour to present our common position with respect to the Court.

The Visegrád Group supports the International Court of Justice as the principal judicial organ of the United Nations. We commend the Court for its role in the peaceful settlement of international disputes and its contribution to the maintenance of international peace and security. The Court is an important component of the rule of law at the international level. The Visegrád Group acknowledges with appreciation the contribution of the Court, through its adjudicatory and advisory role, to upholding respect for international law.

During the reporting period, the Court delivered three judgments as well as orders on provisional measures. Currently 15 cases remain on the Court's List, which engages States from all regions of the world. We notice the diversity of issues that are to be adjudicated by the Court, ranging from territorial and maritime disputes to human rights protection. That demonstrates that the Court is a truly universal judicial body.

In that context, we would like to highlight the significance of cases concerning human rights law. As there is no world human rights court, we commend recourse to the Court for disputes concerning the observance of human rights treaties. The inter-State disputes currently before the Court, which concern, inter alia, the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 and the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, provide yet another opportunity for the Court to contribute, through its interpretation, to a better understanding of those fundamental instruments.

In the difficult times of the fight against the coronavirus pandemic, we commend the Court for amending the rules of procedure to enable it to continue operating through virtual meetings.

The mission of the Court cannot be entirely fulfilled without the full commitment of all United Nations Member States to comply with their obligations concerning the peaceful settlement of disputes. Respect for and compliance with the Court's decisions — both judgments and orders — are the fundamental prerequisites for the effectiveness of the system of international justice. The obligation of the parties to a dispute to implement in good faith the Court's decisions is crucial to the concept of the peaceful settlement of international disputes.

**Ms. Maille** (Canada) (*spoke in French*): I have the honour to speak today on behalf of Australia, New Zealand and my own country, Canada (CANZ).

As the United Nations celebrates its seventy-fifth anniversary, it is important to remember that a rules-based international order is our best hope to bring about peace and security. The CANZ countries strongly believe that respect for international law is the foundation of that order. International law provides rules agreed and developed by States for our mutual and collective benefit, in support of the goals set out 75 years ago in the Preamble to the Charter of the United Nations: to save succeeding generations from the scourge of war; reaffirm faith in fundamental human rights and the dignity and worth of the human person and of nations large and small; promote social progress and better standards of life; and establish the necessary conditions to maintain justice and respect for the obligations arising from treaties and other sources of international law.

The CANZ group is convinced that, as the principal judicial organ of the United Nations and the only international court with general jurisdiction in international law, the Court of International Justice is the most appropriate forum to promote those objectives, which remain relevant today.

On behalf of the CANZ group, I thank the President of the International Court of Justice, Judge Abdulqawi Ahmed Yusuf, for presenting his report (A/75/4) on the work of the Court over the past year.

Our countries support the initiative, discussed in the report to establish a trust fund for the Judicial Fellows

Programme of the Court. The programme, which enables its fellows to gain professional experience at the Court, would promote the geographic and linguistic diversity of the legal practitioners participating in it.

The CANZ countries have always fully supported the Court and its independent role in resolving legal disputes submitted to it by States, as well as in providing advisory opinions on the legal questions placed before it. Moreover, our countries' acceptance of its compulsory jurisdiction attests to our confidence in it.

Our three countries also support the calls of the General Assembly on those States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute. We believe that, if more States accept its jurisdiction, the Court will be able to better fulfil its role, as that will reduce the number of jurisdictional issues and thereby enable it to deal more quickly with the merits of disputes.

We would also like to emphasize that the enforcement of the Court's decisions is essential to the final resolution of disputes and the strengthening of the judicial system for the benefit of all Member States. We look forward to the contributions of the judges that the General Assembly and the Security Council will appoint, or reappoint, to the International Court of Justice later this year.

We also take this opportunity to thank the members of the Court for their dedication and commitment to the institution. Our countries recognize the challenges that the coronavirus disease pandemic has placed on the Court's regular operations.

*(spoke in English)*

We commend the resilience of the Court and its ability to mitigate disruption by adopting measures to contain the spread of the virus and safeguard the health and the well-being of its judges, staff and their families, while ensuring the continuity of activities within the Court's mandate.

We expect that the work programme of the Court in the year ahead will remain full as States continue to demonstrate their confidence in the institution. We are aware that the Court's caseload continues to be demanding and are grateful for its continued contribution to the peaceful settlement of international legal disputes.

Meeting our international obligations is behind many of our great successes — both nationally and globally. We underline that the willingness of States to turn to the International Court of Justice to resolve their differences must be encouraged as an important means to ensure our continued support for the rules-based international order.

As we turn to the future to tackle challenges that were not necessarily envisioned 75 years ago, we remain committed to multilateralism and its institutions, such as the International Court of Justice. Bringing people together is at the heart of international law and the work of the Court.

**Mr. Fialho Rocha** (Cabo Verde): I have the honour to deliver this statement on behalf of the States members of the Community of Portuguese-speaking Countries (CPLP): Angola, Brazil, Guinea-Bissau, Equatorial Guinea, Mozambique, Portugal, Sao Tome and Principe, Timor-Leste and my own country, Cabo Verde.

I want to highlight the relationship between the CPLP and United Nations dating back to 1999, which is periodically reviewed, most recently in resolution 73/339. The CPLP is governed, among others, by the principles that have enshrined the primacy of peace, democracy, the rule of law, human rights and social justice. The rule of law plays an important role in the Constitution and progress of the CPLP and the Community and its member States remain committed to those principles.

The members of the CPLP could not agree more with statement made by Judge Yusuf at the celebration of the seventy-fifth anniversary of the United Nations,

“With the establishment of the United Nations in 1945, a decision was made by States participating at the San Francisco Conference to replace the rule of force by the rule of law. That decision has made all the difference for humanity in the past 70 years” (A/75/PV.3).

I would like to express our gratitude to the President of the International Court of Justice for the comprehensive report (A/75/4) on the work of the Court during the judicial year from 2019 to 2020. The CPLP countries also recognize the important role played by the Court during the past 70 years in promoting the rule of law and the peaceful settlement of disputes at the international level. In that regard, I would like to make the following points.

First, the importance of the International Court of Justice stands on its universal character, empowerment with general jurisdiction and the crucial role that it plays as the judicial body of the international legal system, which has been increasingly recognized and accepted.

Secondly, the Court has often recalled that everything it does is aimed at promoting the rule of law. This is indeed so. It is worth mentioning the outstanding contribution of the International Court of Justice to the development and clarification of international law, including on topics concerning the use of force, territorial and maritime disputes, international responsibility, compensation for harm, self-determination and the immunity of States and their agents, among others.

The high rate of compliance with the Court's judgments throughout its history is very encouraging, as it demonstrates the respect and trust of States in the independence, credibility and impartiality of the world court. We acknowledge that there is frequently tension between law and power. The obligation of States to settle their disputes in a peaceful manner and the need for sovereign consent to resort to such mechanisms are sometimes hard to harmonize. However, it is our firm belief that the Court is an institutional pillar of international society that is capable of working towards a more balanced and peaceful future.

Thirdly, the heavy workload and wide range of subjects that the Court has ruled upon over the years only confirm its success and vitality. Indeed, the Court's cases come from all over the world, relate to a great variety of matters and have a high level of factual and legal complexity, which reaffirms the universal character of the Court, the expansion of the scope of its work and its growing specialization.

Fourthly, we welcome the widening scope and cooperation of international law, as the Court's judgments and advisory opinions have inspired other international decision-making bodies. Similarly, it is commendable that the Court is also paying due regard to the work of other international courts and tribunals. That positive trend should be encouraged, as it lends greater coherence and legal certainty to the international system as a whole and enhances the international legal order through dialogue and cross-fertilization.

The States members of the CPLP have pledged their strong support for the Court in continuing to play a fundamental role in settling disputes among

States and strengthening the international rule of law for justice and peace, taking into consideration the situation of peoples and individuals. The CPLP member States remain confident that the Court will continue to overcome the challenges and meet the expectations that will increasingly have an impact on it. The diversity, complexity and relevance of the cases submitted to the Court confirm the trust that States place in it.

Lastly, on behalf of the nine States members of the CPLP, I would like to convey our sincere appreciation and thanks for the work of the International Court of Justice.

**Mr. Jensen** (Denmark): I have the honour to speak on behalf of Finland, Iceland, Norway, Sweden and my own country, Denmark. The Nordic countries would like to thank the President of the International Court of Justice for his report (A/75/4) on the Court's work over the past year and his presentation today. The large amount of cases indicate the trust and confidence that States place in the Court by referring disputes to it for resolution.

The Nordic countries would in particular like to note the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gambia v. Myanmar)*, in which the Court indicated provisional measures on 23 January. In addition to its importance owing to the gravity of the issues that the Gambia's application seeks to address, the case is also an opportunity for the Court to develop its jurisprudence regarding obligations erga omnes and erga omnes partes. All States parties share an interest in compliance with the obligations under the Genocide Convention by all States parties.

We applaud the Court and its personnel for continuing to discharge its judicial functions, as described by the President in his report, despite the difficult circumstances following the outbreak of the coronavirus disease pandemic.

As the President notes in his report, the Court is a key part of the mechanism for the peaceful settlement of inter-State disputes and of the system for maintaining international peace and security. Furthermore, as he notes, everything the Court does is aimed at promoting and reinforcing the rule of law. Indeed, the Court, as the principal judicial organ of the United Nations, stands as the cornerstone of the rules-based international order. That role has, in our view, never been more important than today, when multilateralism faces new challenges.

We urge all States to engage actively and constructively in international cooperation to support the rules-based international order, of which the Court forms an integral part.

The Nordic countries look forward to the upcoming election of five new judges. We encourage all States to cast their votes based on merit. It is our view that ensuring gender balance, as well as the representation of diverse legal systems, cultures and languages, contributes significantly to the quality and acceptance of the Court's work.

In closing, we would like to highlight the vital role that young people play in promoting the rule of law in developed and developing countries alike. In line with our commitment to the rules-based international order, we therefore welcome the particular interest that the Court takes in young people, giving students from various backgrounds a chance to familiarize themselves with the Court.

**Mr. Musayev** (Azerbaijan): It is an honour for the Republic of Azerbaijan to take the floor on behalf of the Movement of Non-Aligned Countries in connection with the consideration of agenda item 74, entitled "Report of the International Court of Justice", to which we attach great importance.

At the outset, allow us to thank the President of the International Court of Justice for his presentation of the report (A/75/4) to the General Assembly on the activities of the International Court from 1 August 2019 to 31 July 2020, as requested by this body last year, of which we have taken due note.

The Non-Aligned Movement reaffirms and underscores its principled positions concerning the peaceful settlement of disputes and the non-use or non-threat of use of force. In that context, 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, as well as justice, are not endangered.

At their eighteenth Summit, held in Baku in October 2019, the Heads of State or Government of the Non-Aligned Movement agreed to endeavour to generate further progress to achieve full respect for international law and, in that regard, commend the role of the International Court of Justice in promoting

the peaceful settlement of international disputes in accordance with the relevant provisions of the Charter and the Statute of the Court, in particular Articles 33 and 94 of the Charter.

Noting the fact that the Security Council has not sought any advisory opinion from the International Court since 1970, the Non-Aligned Movement urges the Security Council to make greater use of the Court, the principal judicial organ of the United Nations, as a source of advisory opinions and interpretation of international law.

In that regard, at the ministerial meeting of the Coordinating Bureau of the Non-Aligned Movement, held in Caracas in July 2019, the Ministers of the Movement decided to encourage those in a position to do so to make greater use of the International Court of Justice and to consider holding consultations among the States members of the Movement, as and when appropriate, with a view to requesting advisory opinions of the Court, including in cases in which unilateral coercive measures that are not authorized by relevant organs of the United Nations and are inconsistent with the principles of international law or the Charter may undermine international peace and security.

The Non-Aligned Movement takes this opportunity to invite the General Assembly, other organs of the United Nations and the specialized agencies that are duly authorized by the General Assembly to request advisory opinions of the International Court of Justice on legal questions arising within the scope of their activities. Moreover, the States members of the Movement reaffirm the importance of the Court's advisory opinion issued on 8 July 1996 on the *Legality of the threat or use of nuclear weapons* (A/51/218, annex). In that matter, the International Court of Justice concluded unanimously 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.

In conclusion, we continue 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* (A/ES-10/273). We call on all States to respect, and 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 with East Jerusalem as its capital.

**Mr. Pedroso Cuesta** (Cuba) (*spoke in Spanish*): Cuba welcomes the statement made on behalf of the Movement of Non-Aligned Countries by the representative of Azerbaijan, and I am making the following statement in my national capacity.

Cuba reiterates its commitment to the strict application of international law and the peaceful settlement of international disputes. In recognizing the work of the Court of International Justice since its establishment, we believe that its decisions and advisory opinions have been of special importance, not only with regard to the cases submitted for its consideration, but also for the development of international law. In that regard, the Republic of Cuba is thankful for the presentation of the report (A/75/4) of the International Court of Justice for the period from 1 August 2019 to 31 July 2020.

The volume of cases brought before the Court, many of which deal with issues in Latin American and the Caribbean, demonstrates the importance that the international community attaches to the peaceful settlement of disputes. Cuba values the peaceful settlement of disputes in accordance with Article 33.1 of the Charter of the United Nations and has voluntarily submitted to the Court's jurisdiction.

Cuba regrets the fact that the judgments of the Court have not been enforced, in clear violation of Article 94 of the Charter, which provides that each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

In that regard, we are concerned that the effectiveness and implementation of Court judgments are being undermined because some countries disregard judgments that are unfavourable to them. The refusal of those countries to comply with the judgments made and their defiance of the United Nations mechanisms responsible for enforcing them, by resorting to the veto privilege in the Security Council, demonstrates the imperfection of the Court's mechanisms for implementing its decisions.

Cuba believes that there is a need for a serious review by the Court to examine its relations with the organs of the United Nations, in particular the Security Council. That situation also demonstrates the necessity

of moving ahead with the reform of the United Nations system so as to provide greater guarantees to developing countries, which would then be extended to the International Court of Justice.

All the work of the International Court of Justice plays a vital role in strengthening the rule of law at the international level. Through its rulings and advisory opinions, the Court helps to clarify international law.

Cuba would like to thank the Court for the publications made available to the States Members of the United Nations and for its online resources, which provide valuable material for the dissemination and study of public international law, above all for developing countries, some of which often find themselves deprived of information on the progress made in international law. This is especially the case for my country, given the obsolete and absurd policy of the economic, trade and financial blockade imposed by the United States despite its overwhelming rejection by the international community.

We reiterate once again that the Republic of Cuba is a peaceful country that respects international law and we have always firmly upheld our international obligations under the treaties to which we are party.

Several relevant cases have been heard by the International Court of Justice. Cuba believes that advisory opinion issued unanimously on 8 July 1996 on *Legality of the threat or use of nuclear weapons* is crucial. Furthermore, Cuba urges full respect for the advisory opinion of 9 July 2004 on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* and calls on all States to respect and guarantee respect for the decisions of the Court on that important issue.

Lastly, Cuba also draws attention to the importance of adhering to the advisory opinion issued by the Court on the 22 April 1988 on *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*. The Court concluded that the United States, as a party to the Headquarters Agreement, must comply with Section 21 of the Agreement and submit to arbitration to resolve disputes between that country and the United Nations. It also recalls the fundamental principle that international law supersedes domestic law.

Cuba also attaches considerable importance to the allocation of the necessary budgetary resources to

the Court to enable it to adequately conduct its work towards the peaceful resolution of conflicts under its jurisdiction. Cuba calls on States to ensure the timely and adequate disbursement of those resources to the Court.

Lastly, my delegation wishes to underscore the fact that events in recent years clearly demonstrate the

Court's importance as an international judicial body, acting peaceably and in good faith in accordance with international law, to resolve disputes with the greatest impact on the international community.

*The meeting rose at 6.05 p.m.*