United Nations A/67/PV.29

General Assembly

Sixty-seventh session

Official Records

29th plenary meeting
Thursday, 1 November 2012, 10 a.m.
New York

President: Mr. Jeremić . . . . . (Serbia)

The meeting was called to order at 10.30 a.m.

Agenda item 71

Report of the International Court of Justice

Report of the International Court of Justice (A/67/4)

The President: It is now my great honour to welcome to the United Nations Headquarters His Excellency Mr. Peter Tomka, President of the International Court of Justice, and to give him the floor.

Mr. Tomka, President of the International Court of Justice (*spoke in French*): At the outset, I wish to take this opportunity to congratulate Mr. Vuk Jeremić upon his election to preside over the General Assembly at its sixty-seventh session. I wish him the greatest of success in the discharge of his important functions.

Following a well-established tradition reflecting the Assembly's interest in the Court and its support of the Court, I would like to present a succinct report of the judicial activity of the court over the past 12 months. During this period, the Court continued to fulfil its role as the privileged forum of the international community of States for the peaceful settlement of all sorts of international disputes that it has the jurisdiction to address. It made every effort to meet the expectations of the international parties appearing before it in a timely manner. It should be noted in this regard that as the Court has been able to clear its backlog of cases, States that are contemplating submitting cases to the principal judicial organ of the United Nations can be confident that, as soon as they are finished their written exchanges, the Court will be able to proceed without delay to oral hearings.

During the reporting period, as many as 15 contentious cases and one advisory procedure were pending before the Court. On 31 July, 11 contentious cases remained before the Court. During the same period, one new contentious case was submitted to the Court by Nicaragua, concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*.

During the same period, the Court held a series of public hearings on the following three cases: *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*; *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*; and *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. The Court is at present deliberating this last case and intends to deliver its judgment in the course of the next month. It also recently held, from 8 to 17 October, hearings in the case concerning *Frontier Dispute (Burkina Faso/Niger)* and has begun its deliberations. Lastly, hearings will begin in the case concerning the *Maritime Dispute (Peru v. Chile)* on 3 December.

During the reporting period, the Court delivered four judgments in the following cases: *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece)*; *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*; *Ahmadou Sadio Diallo*

(Republic of Guinea v. Democratic Republic of the Congo), on the question of compensation owed to Guinea; and *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*. The Court also delivered an advisory opinion concerning Judgment No. 2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development.

As I usually do, I will report briefly on the four Judgments and the advisory opinion delivered by the International Court of Justice under the period under review. I shall deal with these decisions in chronological order.

On 5 December 2011, the Court delivered its Judgment in the case concerning *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece)*, which had been brought in November 2008 by the former Yugoslav Republic of Macedonia against Greece for what is described as the "flagrant violation of [that country's] obligations under Article 11" of the Interim Accord signed by the parties on 13 September 1995. After asking the Court in its application to

> "protect its rights under the Interim Accord and to ensure that it is allowed to exercise its rights as an independent State acting in accordance with international law, including the right to pursue membership of relevant international organizations",

the former Yugoslav Republic of Macedonia requested the Court to order Greece to "immediately take all necessary steps to comply with its obligations under Article 11, paragraph 1" and to

> "cease and desist from objecting in any way, whether directly or indirectly, to the Applicant's membership of the North Atlantic Treaty Organization and/or of any other 'international, multilateral and regional organizations and institutions' of which [Greece] is a member".

Greece, for its part, considered that the case brought by the applicant did not fall within the jurisdiction of the Court and that in any case the applicant's claims were inadmissible. It argued in the alternative that were the Court to find that it had jurisdiction and that the claims were admissible, those claims were without foundation.

With regard to the respondent's objections as to the jurisdiction of the Court and the admissibility of the applicant's claims, the Court ruled that it not only had jurisdiction to entertain the application filed but also that the application was admissible.

As for the second part of the applicant's claims, the Court found that the Hellenic Republic, by objecting to the admission of the former Yugoslav Republic of Macedonia to NATO, had violated its obligation under article 11, paragraph 1, of the Interim Accord. The Court rejected all other submissions made by the applicant.

On 3 February, the Court rendered its Judgment in the case concerning *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*. On 23 December 2008, Germany filed an application instituting proceedings against Italy, whereby it requested the Court to find that Italy had failed to respect the jurisdictional immunity enjoyed by Germany under international law by allowing civil claims to be brought against it in the Italian courts seeking reparations for injuries by violations of international humanitarian law committed by the German Reich during the Second World War. Germany also requested that the Court find that Italy had also violated Germany's immunity by taking enforcement measures against Villa Vigoni, German State property situated in Italian territory, and that Italy had further breached Germany's jurisdictional immunity by declaring enforceable in Italy decisions of Greek civil courts rendered against Germany for acts similar to those which had given rise to the claims brought before Italian courts.

Consequently, Germany requested the Court to adjudge and declare that Italy's international responsibility was triggered; that Italy must, by means of its own choosing, take any and all necessary steps to ensure that all the decisions of its courts and other judicial authorities infringing Germany's sovereign immunity be without effect; and that Italy must take any and all necessary steps to ensure that in the future Italian courts do not entertain legal actions against Germany founded upon the aforementioned occurrences.

In its ruling, the Court found that Italy had violated its obligation to respect the immunity that Germany enjoys under international law by allowing civil claims to be brought against it based on violations of international humanitarian law committed by the German Reich between 1943 and 1945; that Italy had violated its obligation to respect the immunity which Germany enjoys under international law by taking

enforcement measures against Villa Vigoni; and that Italy had violated its obligation to respect the immunity that Germany enjoys under international law by declaring enforceable in Italy decisions by Greek courts based on violations of international humanitarian law committed in Greece by the German Reich. The Court also found that Italy must, by enacting appropriate legislation or by resorting to other methods of its choosing, ensure that the decisions of its courts and those of other judicial authorities infringing the immunity which Germany enjoys under international law cease to have effect.

In September, the Italian Minister for Foreign Affairs and Minister of Justice of Italy, in agreement with the Minister of Economy and Finance, presented draft legislation to the Italian Chamber of Deputies providing for the authorization of ratification by Italy of the United Nations Convention on Jurisdictional Immunities of States and Their Property and its implementation. Furthermore, the draft legislation also addresses the effect in the Italian legal system of the judgment of the Court in the aforementioned case so as to ensure compliance with that decision.

On 19 June, the Court delivered its third ruling during the period under review in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*. That ruling concerned the question of compensation owed by the Democratic Republic of the Congo to Guinea. It should be recalled that, in the ruling on the merits of 30 November 2010, the Court had found, inter alia, that the Democratic Republic of the Congo had violated certain international obligations as a result of Mr. Diallo, a Guinean national, having been continuously detained in Congolese territory for 66 consecutive days between November 1995 and January 1996, and of his having been detained for a second time between 25 and 31 January 1996, for a total of 72 days.

In that regard, the Court had found that Guinea had failed to demonstrate that Mr. Diallo had been subjected to inhuman or degrading treatment during his detentions. In addition, it was found that Mr. Diallo had been expelled by the Democratic Republic of the Congo on 31 January 1996 and that he had received the notification of his expulsion on the same day. Accordingly, the Court had stated that the Democratic Republic of the Congo was required to compensate Guinea for breaches of its obligations under certain human rights conventions, namely the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. Under the terms of the ruling on the merits, it followed that the amount of compensation to be paid by the Democratic Republic of the Congo had to be set for any damages resulting from the wrongful detention and expulsion of Mr. Diallo, including the resulting loss of his personal belongings.

In the final stage of the proceedings, Guinea sought compensation amounting to $11,590,148, not including statutory default interest on four counts of damages: one non-material count referred to by Guinea as "psychological and moral damage" and three counts of material damage for alleged loss of personal property, alleged loss of professional remuneration suffered by Mr. Diallo during his detentions and after his expulsion, and alleged deprivation of potential earnings. Guinea also requested the Court to order the Democratic Republic of the Congo not only to pay all the costs, but also to pay it the amount of $500,000 for costs it had been forced to incur in the proceedings. The Democratic Republic of the Congo, for its part, requested the Court to adjudge that compensation in an amount of $30,000, payable within a time limit of six months from the date of the Court's ruling, was due to Guinea to make good on the non-material harm suffered by Mr. Diallo as a result of his wrongful detentions and expulsion in 1995 and 1996. The Democratic Republic of the Congo rejected all other claims by Guinea.

In ruling on the non-material harm alleged by Guinea, the Court considered that the amount of $85,000 would provide appropriate compensation for the damage suffered by Mr. Diallo. With regard to the compensation for material damage, the Court, relying on the jurisprudence of regional human rights courts, awarded the sum of $10,000 for the loss of Mr. Diallo's personal property. Having then found that Guinea had not proven to the satisfaction of the Court that Mr. Diallo had suffered a loss of professional remuneration during his detentions and following his expulsion, the Court decided to award no compensation for that injury. Lastly, the Court decided to award no compensation to Guinea in respect of its claim relating to potential earnings of Mr. Diallo, insofar as that claim, which was beyond the scope of those proceedings, amounted to a claim relating to the injuries alleged to have been caused to Africom-Zaire and Africontainers-Zaire, while the Court had already declared those claims inadmissible.

After fixing 31 August 2012 as the deadline for the payment of compensation owed by the Democratic Republic of the Congo to Guinea with post-Judgment interest accruing at an annual rate of 6 per cent in the event of late payment, the Court decided that each party should bear its own procedural costs. The Court was informed that the compensation was duly paid by the Democratic Republic of the Congo within the time limit fixed for that purpose.

(*spoke in English*)

I now come to the Judgment granted by the Court in the case concerning *Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*. In that case, which it submitted to the Court by means of an application dated 19 February 2009, Belgium complained that Senegal, where the former Chadian President Hissène Habré had been living in exile since 1990, had taken no action on its repeated requests to ensure that the latter be brought to trial in Senegal, failing his extradition to Belgium, for acts characterized as torture, crimes against humanity, war crimes and the crime of genocide, allegedly committed while he was President of Chad between 1982 and 1990.

Belgium contended that Senegal was in breach of its obligations under article 5, paragraph 2; article 6, paragraph 2; and article 7, paragraph ,1 of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its obligations under customary international law. Senegal, for its part, submitted that there was no dispute between the parties with regard to the interpretation or application of the Convention against Torture or any other relevant rules of international law. According to the respondent, the Court therefore elected jurisdiction in the case.

Arguing in particular that none of the alleged victims of the acts attributed to Mr. Habré was of Belgian nationality at the time the acts were committed, Senegal also objected to the admissibility of Belgium's claims because, in its view, the latter was not entitled to invoke the international responsibility of Senegal for the alleged breach of its obligation to submit the case of Hissène Habré to its competent authorities for the purpose of prosecution, failing his extradition.

Given that the existence of a dispute was a condition of the jurisdiction of the Court on both bases of jurisdiction invoked by Belgium — namely, article 30, paragraph 1 of the Convention against Torture and the declarations made by the parties under Article 36, paragraph 2, of the Statute of the Court — the Court began by considering that question. It found that, in view of the legislative and constitutional reforms carried out in Senegal in 2007 and 2008, any dispute that might have existed between the parties with regard to the interpretation or application of article 5, paragraph 2 of the Convention — which requires a State party to the Convention to take such measures as may be necessary to establish its jurisdiction over acts of torture in cases where the alleged offender is present in any territory under its jurisdiction if it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of the same article — had ended by the time the application was filed.

As regards Belgium's claims relating to Senegal's duties to comply with its obligations under article 6, paragraph 2, and article 7, paragraph 1 of the Convention against Torture, which respectively require a State party to the Convention to immediately make a preliminary inquiry into the facts when a person who has allegedly committed an act of torture is found on its territory and, if it does not extradite him, to submit the case to its competent authorities for the purpose of prosecution, the Court, after analysing the diplomatic exchanges between the parties, found that they had conflicting views concerning the interpretation and application of the aforementioned provisions at the time of the filing of the application. However, the Court considered that the dispute which had thus arisen did not relate to breaches of obligations under customary international law.

After recalling that, in the words of its preamble, the object and purpose of the Convention against Torture is to make more effective the struggle against torture throughout the world, the Court found that Belgium, as a State party to the Convention, had standing to invoke the responsibility of Senegal for the alleged breaches of its obligations *erga omnes partes* under article 6, paragraph 2, and article 7, paragraph 1. The claims of Belgium based on those provisions were thus declared admissible.

After assessing questions relating to the merits, the Court found that Senegal had violated its obligations under the two aforementioned provisions of the Convention and that its international responsibility had been triggered. Noting the continuing nature of those violations, it declared that Senegal was required to cease them by taking without further delay the necessary measures to submit the case to its competent

authorities for the purpose of prosecution if it does not extradite Mr. Habré.

I shall now turn to the Court's advisory opinion concerning the Judgment of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development (IFAD). In that case, the Court was asked to examine the validity of a judgment granted by the Administrative Tribunal of the International Labour Organization concerning the employment contract of Ms. Saez Garcia. It should be recalled that the latter had accepted from the International Fund for Agricultural Development an offer of a two-year fixed term contract serving as a programme officer in the Global Mechanism, an institution housed at the Fund. The employment contract had been renewed on two occasions.

The Tribunal was seized of a dispute concerning the decision of the President of the Fund to reject the recommendations of the Joint Appeals Board of the Fund following several internal procedures relating to the non-renewal of the contract of the individual concerned and the abolition of her post. In its judgment, the Court set aside the President's decision and ordered the Fund to pay damages and expenses. In the course of the advisory proceedings before the Court, the Fund asserted in particular that Ms. Saez Garcia was a staff member of the Global Mechanism and not of IFAD, and that her employment status had to be assessed in the context of the arrangement for the housing of the Global Mechanism made between the Fund and the Conference of the Parties to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.

After examining the texts defining the respective powers of and relations between IFAD and the Global Mechanism, the Court came to the conclusion that the Global Mechanism, which is devoid of any international legal personality, had no power and had not purported to exercise any power to enter into contracts, agreements or arrangements internationally or nationally. With respect to Ms. Saez Garcia's employment status, the Court found that there was an employment relationship between her and the Fund, given that the staff regulations and the rules of the Fund were applicable to her. Accordingly, the Court unanimously found that the Administrative Tribunal was competent under article 2 of its Statute to hear the complaint introduced against IFAD by Ms. Saez Garcia and that the decision given by the Tribunal in its judgment was valid.

In the light of its concern about the inequality of access to the Court arising from the review procedure provided for in article XII of the annex to the statute of the Administrative Tribunal of the International Labour Organization, the Court examined the principle of equality before the Court of the Fund and Ms. Saez Garcia. It declared that the principle of equality must now be understood as including access on an equal basis to available appellate or similar remedies unless an exception can be justified on objective and reasonable grounds. In that regard, the Court questioned whether the system established in 1946 allows for the implementation of the modern-day concept of the principle of equality and access to justice, stating however that it did not fall to it to reform the current system.

While the United Nations reformed its system of administrative justice some time ago, it nevertheless remains impossible to request review of a judgment of the Administrative Tribunal of the International Labour Organization. In fact, the opportunity to challenge a judgment of the Tribunal is available only to international organizations duly authorized to do so under the statute of the Administrative Tribunal, and not to any staff member affected by such a decision. In that regard, the question arises as to whether the time has come for the International Labour Organization to also consider initiating a reform of the current system, such as that already being carried out by the United Nations.

Turning to more practical matters, I am delighted to tell the Assembly that the Court is refurbishing the Great Hall of Justice at the Peace Palace.

That project, which has received the support of the Carnegie Foundation, is the first major renovation of the Hall in a hundred years. In the past, minor work was carried out to extend the bench to accommodate the enlarged composition of the Court's predecessor, the Permanent Court of International Justice. However, no renovation on the scale of the current project has previously been envisaged. Furthermore, the newly renovated Great Hall of Justice will also be equipped with improved modern technical facilities offering a wide range of possibilities. I am therefore very pleased to assure the Member States that not only do we hear and shall continue to hear cases to submitted to the Court faithfully and impartially as required by the

noble judicial mission entrusted to the United Nations, but that we are also modernizing the setting in which we exercise that function. We have thus been able to put the funds mobilized by the General Assembly to good use in the refurbishment and renovation project.

I hope I have conveyed to the General Assembly the extent to which the Court seeks to meet the expectations of the international community as a whole, including, as in the last decision that I reviewed, in relation to particular aspects of the law of international organizations. That is why the Court has already discussed the schedule of its judicial work for 2013 and 2014 with a view to fixing several series of hearings. I have already mentioned that hearings will begin in the case concerning *Maritime Dispute (Peru v. Chile)* in December. In addition, the Court envisages holding hearings in April in the case concerning the request for interpretation of the Judgment of 15 June 1962 in the case concerning *Temple of Preah Vihear (Cambodia v. Thailand)*, and in early summer next year, in the case concerning *Whaling in the Antarctic (Australia v. Japan)*.

Of course, the Court must do its utmost to serve the noble purposes and goals of the United Nations using limited resources, since the Member States allocate less than 1 per cent — exactly 0.8 per cent — of the Organization's regular budget to it. Nevertheless, I hope that I have shown that the Court's recent contributions are not to be measured in terms of the financial resources that sustain it, but against the great progress made by it in the advancement of international justice and the peaceful settlement of disputes between States.

I want to thank the Assembly for giving me this opportunity to address it today. I wish it every success in its sixty-seventh session.

The President: I thank the President of the International Court of Justice.

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

The Non-Aligned Movement attaches great importance to agenda item 71, "Report of the International Court of Justice", and takes note of the report, contained in document A/67/4, regarding the activities of the Court between 1 August 2011 and 31 July 2012, as requested by the General Assembly last year in resolution 66/102. I would also like to thank the President of the International Court of Justice for his presentation of the report to the Assembly.

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

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

With regard to advisory opinions of the Court, the NAM urges the Security Council to make greater use of the International Court of Justice, the principal judicial organ of the United Nations, as a source of advisory opinions and interpretation of relevant norms of international law, and on controversial issues. It further requests the Council to use the Court as a source of interpretation of relevant international law, and urges the Council to consider allowing its decisions to be reviewed by the Court, bearing in mind the need to ensure that they adhere to the United Nations Charter and international law. The Movement also invites the General Assembly, other organs of the United Nations and the duly authorized specialized agencies to request advisory opinions of the International Court of Justice on legal questions arising within the scope of their activities.

The Non-Aligned Movement reaffirms the importance of the Court's unanimous conclusion issued on 8 July 1996 on the question concerning the *Legality of the Threat or Use of Nuclear Weapons*. On this, the International Court of Justice concluded that

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

The Non-Aligned Movement continues to call for full respect by Israel, the occupying Power, Member

States and the United Nations of the 9 July 2004 advisory opinion of the International Court of Justice on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and that they consider the possibility of requesting a further advisory opinion from the Court regarding the prolonged Israeli occupation of the Palestinian territory since 1967.

Mr. Rowe (Australia): On behalf of Canada, New Zealand and my own country, Australia — the CANZ group — I would like to thank the President of the International Court of Justice, Judge Tomka, for his informative report on the work of the Court for the period 1 August 2011 to 31 July 2012 (A/67/4).

CANZ continues to strongly support the Court in its role as the principal judicial organ of the United Nations. The sustained caseload of the Court, covering a diversity of subject matter and geographic circumstance, demonstrates the universal appeal of the International Court of Justice and the vital role it plays in the promotion of the rule of law.

As we review the Court's work over the reporting period, we see that cases before the Court are increasing in factual and legal complexity and continue to include issues at the forefront of international justice. We commend the Court for its ongoing efforts to increase its efficiency and sustain its increased workload. In that regard, we welcome President Tomka's statement to the States Members of the United Nations in September this year that the Court has more than doubled its work rate since 1990.

During the period under review, the Court has, as President Tomka mentioned, handed down four judgments, one advisory opinion and three orders, and it has now successfully cleared its backlog of cases. Nevertheless, we know that the agenda of the Court in the year ahead will remain heavily charged, as countries continue to affirm their confidence in the Court and its primary role in the peaceful settlement of international disputes.

CANZ also welcomes the increased public accessibility to the work of the Court and the Court's efforts to ensure the greatest possible public awareness through the Court's publications, multimedia and website, which now features the full body of the Court's jurisprudence.

CANZ strongly believes that wider acceptance of the compulsory jurisdiction of the Court would enable it to fulfil its role more effectively by permitting the Court to move beyond jurisdictional issues and to the substance of disputes more quickly. Accordingly, we continue to urge Member States that have not done so to deposit with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction.

Finally, Canada, New Zealand and Australia would like to express their appreciation for the tremendous contributions of Judges Koroma, Simma and Al-Khasawneh to the development of international law through their work as members of the Court, and we wish them all well in their future endeavours. We also congratulate Judges Bhandari, Gaja and Sebutinde on their recent election to the Court.

Ms. Heptulla (India): I extend my sincere gratitude to Judge Peter Tomka, President of the International Court of Justice, for his comprehensive and detailed report (A/67/4) covering the judicial activities of the Court over the past year. I also thank him and Vice-President Judge Bernardo Sepúlveda-Amor for their leadership of the Court over that period.

India attaches the highest importance to the Court as the principal judicial organ of the United Nations. The foremost purpose of the United Nations is the maintenance of international peace and security. The peaceful settlement of international disputes is fundamental to achieving that objective. The Court has fulfilled admirably the task of resolving disputes peacefully since its establishment.

The Court remains the only judicial body with legitimacy derived from the United Nations Charter and enjoying universal character with general jurisdiction, whereas other international judicial institutions have competence and jurisdiction in specific areas only. The Statute of the International Court of Justice is an integral part of the Charter. This is a unique status enjoyed by the Court among the international courts and tribunals.

As stated in the Preamble to the Charter, one of the primary goals of the United Nations is to establish conditions under which justice and respect for the obligations of international law can be maintained. The International Court of Justice, as the only international court with general international law jurisdiction, is uniquely placed to fulfil that role. The report of the Court clearly illustrates the confidence that States have reposed in it, as shown by the number and scope of cases entrusted to it and the Court's growing specialization

in complex aspects of public international law. This clearly establishes the universality of the Court.

During the past year, the Court has handed down four judgments and one advisory opinion. The Court has in one judgment highlighted the significance of the principle of the sovereign immunity of States. In another judgment, the Court has confirmed the relevance of the principle of either prosecute or extradite. The Court's docket of pending cases has grown consistently in factual and legal complexity. Presently, the number of pending contentious cases stands at 11, involving States all over the world.

Since its inception, the Court has dealt with a variety of complex legal issues. The subject matter of cases before the Court has varied widely, including territorial and maritime disputes, environmental damage, violation of territorial integrity, violation of international humanitarian law and human rights, genocide, and the interpretation and application of international treaties.

The Court has remained highly sensitive in respecting the political realities and sentiments of States, while acting within the provisions of the United Nations Charter, its own Statute and other applicable international law. The Court has contributed significantly towards settling legal disputes between sovereign States, thus promoting the rule of law in international relations. Through its second function of providing advisory opinions on legal questions referred to it by organs of the United Nations and specialized agencies, the Court continues to fulfil the important role of clarifying key international law issues.

I am glad to note that the Court has taken significant steps in recent years to enhance its own efficiency in order to be able to cope with the steady increase in its workload. We are happy to note that, accordingly, the Court has successfully cleared its backlog of cases, which further strengthens the confidence of States in the Court's competency and efficiency.

I wish to reiterate in my concluding remarks the great importance the international community attaches to the work of the International Court of Justice, and to draw the Assembly's attention to the importance of strengthening the functioning of the Court by providing all necessarily required means.

Mr. Galea (Romania): Romania is a strong supporter of the role played by the International Court of Justice in the promotion of the rule of law in international relations. My country has been involved twice in the recent past in proceedings before the International Court of Justice. I have in mind the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, which was settled by the Court by a Judgment rendered unanimously on 3 February 2009, and the proceedings of the advisory opinion on the question of the accordance with international law of the unilateral declaration of independence in respect of Kosovo. We have thus had the opportunity to convince ourselves of the efficiency and the professionalism, as well as the full impartiality, of the Court. We are confident that the submission of disputes to international adjudication is preferable to protracted bilateral talks and is capable of removing sensitive issues from the political agenda.

The increasing number of cases on the docket of the Court and the reference to the jurisdiction of the International Court of Justice in numerous conventions of universal application stand as proof of the expanding role of the Court.

The judgments and the advisory opinion issued in the past year gave, in our opinion, important clues about the current stage of certain issues of customary international law. In particular, the judgment in the case concerning *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)* offered guidance with respect to the customary international norms concerning an issue that we consider to be important — the immunity of States. Moreover, we note that the judgment in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* not only provided for the interpretation and application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but also made a clear statement on the fact that the prohibition of torture has become part of peremptory norms of international law, or *jus cogens*.

The Court is the highest judicial organ of the United Nations and has an acknowledged body of pre-eminent professionals in the legal field. We think that the United Nations and its Member States must do everything to maintain and consolidate its high professional status and to improve the procedures before the Court, while complying with its Statute. We acknowledge some recent debates related to an International Court of Justice bar meant to improve the quality of legal representation before the Court.

Given our firm support for the International Court of Justice, we intend to start a national debate concerning the possibility of accepting the compulsory jurisdiction of the Court.

Mr. Bonifaz (Peru) (*spoke in Spanish*): I would like to thank the President of the International Court of Justice, Judge Peter Tomka, for being here this morning and for his interesting presentation on the intensive work carried out by the Court from 1 August 2011 to 31 July 2012.

The establishment of the International Court of Justice as a principal organ of the United Nations sought to create a universal system allowing States to resolve their differences peacefully. This year, we celebrate the thirtieth anniversary of the Manila Declaration on the Peaceful Settlement of International Disputes, which was adopted by consensus on 15 November 1982, in resolution 37/10. In this regard, it is always worth recalling that the Manila Declaration reiterates that legal disputes should, as a general rule, be submitted by the parties to the International Court of Justice and that this submission should not be considered an unfriendly act by States.

Moreover, this session of the General Assembly is of particular significance for the work of the Court, since the President of the General Assembly himself, during his statement at the general debate of the sixty-seventh session of the Assembly, invited all States to speak under the theme of "Bringing about adjustment or settlement of international disputes or situations by peaceful means". That is why the Minister for Foreign Affairs of Peru, during his statement in the general debate, stated that:

> "Peru reaffirms its full respect for the work of the Court and calls on States to turn to it to resolve their differences and to respect and comply with its decisions, pursuant to Chapter XIV of the United Nations Charter." (*A/67/PV.14, p. 37*)

Likewise, on 24 September, the High-level Meeting on the Rule of Law at the National and International Levels was held and a Declaration (resolution 67/1) adopted, recognizing the positive contribution of the International Court of Justice and the importance of its work in promoting the rule of law. The Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels reaffirms, among other things, the obligation of States to respect and comply with the decisions of the Court — an obligation that arises specifically and directly from Article 94 of the Charter.

Consequently, Peru believes it extremely important that the jurisdiction of the International Court of Justice be universally accepted by all States. According to the Court's latest report (A/67/4), to date 67 States have accepted it, pursuant to paragraph 2 of article 36 of its Statute. In that regard, Peru calls urgently on States that have not yet done so to accept the Court's compulsory jurisdiction over contentious issues and encourages the Secretary-General to pursue his efforts to promote this cause.

We reiterate our full support for the work of the Court in its adjudicating and consulting roles, and highlight the high-profile work of its judges as first-rate legal officials whose effective management has enabled the Court to fulfil its mandate as the principal judicial organ of the United Nations system. It behoves Member States to ensure that the Court enjoys the resources adequate to performing its work. In that regard, we believe that the positive response to the request mentioned in paragraph 24 of the report for an associate legal officer within the Department of Legal Matters would strengthen the Court's ability to manage its workload. In that context, we note with concern the observations made by the President of the Court in his explanatory memorandum (A/66/726, annex), in which he refers to the need for the correct balance to be struck in order to ensure that budgetary limitations in no way impair the Court's important work.

Mr. Schaper (Netherlands), Vice-President, took the Chair.

Lastly, Peru wishes to point out that recourse to the International Court of Justice is a commitment to peace whereby States emphatically reaffirm their commitment to the rule of law and the well-being of their peoples, fully consistent with the principles and purposes enshrined in the United Nations Charter.

Mr. Song (Singapore): My delegation would like to express its thanks to the International Court of Justice for the comprehensive and informative report on its work from 1 August 2011 to 31 July 2012 (A/67/4). It is evident that the Court has had an extremely busy year dealing with a myriad of legal issues. It is therefore a testament to the leadership of President Peter Tomka and former President Hisashi Owada that the Court has been able to discharge its duties with the highest level of competence, efficiency and professionalism.

It is Singapore's firmly held view that international relations must be governed by the rule of law in order to preserve international peace and stability. Fundamental to the rule of law is the notion that disputes must be resolved by peaceful means. Where disputes fail to be resolved through informal processes such as negotiations or mediation, serious consideration should be given to having them adjudicated by a neutral third party.

Needless to say, the Court plays a vital role in that regard. Under international law, there is no formal hierarchy among the various judicial mechanisms and international tribunals, but the Court unquestionably commands immense prestige and authority. First, it is the only international court of a universal character with general jurisdiction. Secondly, it is the principal judicial organ of the United Nations and draws on a heritage dating back to the Permanent Court of International Justice. Its judgments have been and continue to be extremely influential, and have a deep impact on the development of international law. The Court therefore plays a fundamental role in ensuring that the rule of law in international relations is maintained and strengthened.

During the period covered by the report, there were a number of jurisprudential developments of particular interest to my delegation. We note that the Court has taken the opportunity to clarify the jurisprudence relating to its jurisdiction in response to requests to adjudicate and render advisory opinions. Such clarifications are useful in this developing area of international law, and given the growing number of cases where such arguments are being made, we anticipate that in future there will be other occasions for further elaboration and development.

We also note the increasing number of disputes involving issues of environmental law being brought before the Court. We look forward to hearing the Court's views on such issues, given the dynamic growth of this area of law and their relevance to the global community.

We also keenly followed the Court's deliberations in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*. The interpretation of this obligation concerns the international community as a whole, given the prevalence of such clauses in a whole range of international treaties, including those on counter-terrorism. It is no coincidence that the International Law Commission is also in the process of examining this issue and has in fact specifically noted that an in-depth analysis of the case will be conducted in order to fully assess its implications for the topic.

With regard to the Court's administration, my delegation applauds the Court for successfully clearing its backlog of cases. We share its confidence that States considering coming to the principal judicial organ of the United Nations can now be assured that as soon as the written phase of the proceedings has come to a close, the Court will be able to move to the oral proceedings in a timely manner. We are also encouraged to read that work is proceeding on modernization of the Great Hall of Justice, including the introduction of information technology resources on the judges' bench, and we look forward to its speedy completion.

Singapore notes the Court's request for the creation of an associate legal officer post (P-2) within the Department of Legal Matters in its budget submission for the biennium 2012-2013, which was not granted. My delegation's view is that the request was not made lightly, given the efforts of the Court to increase its efficiency, including holding deliberations on several cases simultaneously. Considering the central role the Court plays and the range of issues which it has to deal with, including those of a highly complex and controversial nature, it is only right that we support this request.

In conclusion, Singapore reiterates its belief that the Court plays a vital role in ensuring the existence and maintenance of the rule of law in international relations. We continue to hold the Court in highest regard and pledge our continued support for its work. We wish it every success in meeting its future challenges and in discharging its duties for the year ahead.

Mr. De Vega (Philippines): At the outset, the Philippines aligns itself with the statement made earlier by the representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement.

We thank President Peter Tomka and his team at The Hague for their comprehensive report (A/67/4) on the work of the International Court of Justice in the past year. After perusing that report, my delegation has a few recollections, reflections and hopes to express.

The first recollection is the very basis for the Court. Article 92 of the Charter of the United Nations defines the Court as the principal judicial organ of the United Nations.

The second recollection is the purpose of the Court. It resolves disputes that cannot otherwise be resolved by or through the political organs of the United Nations. In other words, it resolves legal or justiciable disputes. Under Article 38 of the Statute of the Court, those are disputes capable of settlement through the application of the sources of international law: treaty, international custom, general principles of law and, as subsidiary sources, judicial decisions and the teachings of the most highly qualified publicists.

The third recollection is the relevance of the Court. On September 24, for the first time since international law created the United Nations 67 years ago, we finally devoted a high-level meeting to the rule of law at the national and international levels (A/67/PV.3). We adopted resolution 67/1, which recognizes that, across and beyond the United Nations system, we have the institutions, the working methods and the relationships to make the rule of law relevant to peace and security, to human rights and to development.

One of those institutions is none other than the Court. In paragraph 31 of the Declaration, we recognized its positive contribution in promoting the rule of law. We also affirmed our duty to comply with its decisions in contentious cases. The Philippines approaches the rule of law at the international level from the prism of Article 1, paragraph 1 of the United Nations Charter, which lays down that one purpose of the Organization is

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

Guided by that inspiration, the Philippines reiterates its categorical support for the President's overriding priority for his presidency, as reflected in his choice for the theme of this session. That is the very rationale for the 1982 Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10, annex), whose thirtieth anniversary we will commemorate on 15 November.

May I now share our first reflection. There is no doubt that the Court continues to play a vital role in international relations. I shall explain. The Manila Declaration was negotiated and adopted by the General Assembly during the Cold War, when non-aligned countries were seeking to consolidate their political and economic independence. The Declaration supported their aspirations by articulating the norms of the peaceful settlement of disputes as outlined in Chapter VI of the United Nations Charter. Of the eight means for the peaceful settlement of disputes outlined in part I, paragraph 5, of the Manila Declaration, judicial settlement, specifically through the Court, is the most formal and perhaps the most rules-based means. May I therefore emphasize that if a party to a dispute moves for a judicial settlement of the dispute by the Court, that is not an unfriendly act and should not be taken as such by the other party to the dispute.

Our second reflection builds on the continuing relevance of the Court. There is now a greater need for its services. Beginning with the case of *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)* in 1947 until the adoption in 1982 of the Manila Declaration — a span of 35 years — the Court disposed of 49 contentious cases. Since 1982, however, the caseload of the Court has increased, and it disposed of 76 contentious cases in a comparably briefer period.

This apparently increasing confidence in the capabilities, credibility and impartiality of the Court, particularly among developing countries, is not wholly unrelated to the norms, values and aspirations articulated by the Manila Declaration on the Peaceful Settlement of International Disputes. After all, the Declaration reflects the international community's increasing reliance on the rule of law as a cornerstone not only of the peaceful settlement of disputes, but also of the maintenance of international peace and security.

Continuing with the arc of peace, law and justice in international relations, our third reflection is that the mandate and jurisdiction of the Court are sharper than ever before. The creation of the International Criminal Court and specialized dispute-settlement mechanisms, such as the International Tribunal for the Law of the Sea and the Appellate Body of the World Trade Organization, do not make the Court any less important in the twenty-first century. On the contrary, the new international legal architecture only strengthens the Court as the only forum for resolving justiciable disputes between States concerning the vast field of general international law.

This brings us to our fourth reflection. Through the work of the Court, we appreciate even more why States choose to put a limit on their sovereignty by agreeing to customary and novel rules of international law. Quite simply, it is in our national interest to do so. International

law is even more important for developing or, if you will, less powerful countries. Only a strong rule of law at the international level can guarantee the respect, order and stability that we desire and deserve. That is how we contribute to the progressive development of international law.

If there is anything that the United Nations Charter and the Statute, jurisprudence and experience of the Court all teach us, it is that the weak, if their cause is just, should have no fear of the mighty; it is that, through the work of the Court, the rule of law in international relations has a chance to prevail; it is that, through the rule of law, we can demonstrate that right is might.

The Philippines welcomes the recent election of five new members of the Security Council. They are friends who have a strong record on peace and security, as well as the rule of law at the international level. With that development, I end my statement by expressing the hope that was expressed earlier on behalf of the Non-Aligned Movement. We hope that the Security Council will consider Article 96 of the Charter of the United Nations by making greater use of the Court as a source of advisory opinions and of interpretation of relevant norms of international law, particularly on the most current and controversial issues affecting international peace and security.

Mr. Nishida (Japan): At the outset, I would like to congratulate President Peter Tomka on his election as President of the International Court of Justice and to thank him for his comprehensive and detailed report (A/67/4) on the praiseworthy work of the Court over the past year. His report highlights the important role that the Court plays in inter-State conflict resolution by peaceful means. Japan would like to take this opportunity to commend the work of the Court under the leadership of President Tomka.

At no time in history has the Court occupied such a preponderant role in the international legal system as it does at this present time. Our delegation welcomes the growing trend towards a greater use of the Court by Member States in all corners of the world. The wide variety of the subject matters of the disputes referred to the International Court of Justice, from territorial and maritime boundary questions to rights of individuals, further testifies to the confidence that Member States place in the vigorous judicial work achieved by the Court.

My Government fully appreciates that the Court is also at its busiest time in its history, particularly over the last few years, and that its work schedule has reached its maximum level.

As President Tomka mentioned in his statement at the High-level Meeting on the Rule of Law at the National and International Levels, held on 24 September (see A/67/PV.3), the Court has rendered 60 judgments since 1990, as compared to the 52 delivered during its first 44 years. That achievement is all the more remarkable in the light of the fact that the Court maintained high-quality work through the judicial rigour of the members of the Court, with the support of the highly dedicated Registry. That is an element that truly places the Court as the principal judicial organ of the United Nations. Japan commends the Court for continuing to make efforts to re-examine its procedures and working methods in order to conduct its activities in a sustainable manner while assuming the challenging task of warranting impartiality against political pressure and maintaining respect for equality between parties to a dispute.

As the recently held High-level Meeting made very clear, the enhancement of the rule of law has now become a common priority agenda of the international community. Indeed, again at no time in history have we heard daily of the mounting expectations across the globe for international law to serve as a device for disentangling heated controversies and difusing tensions by providing actors with a common language. My Government strongly believes that the international community must seize this moment to make international law play a more important role in international relations. The threat or use of force are prohibited under international law and should no longer be resorted to as a means to resolve conflicts. But the reality is that more needs to be done. The international community as a whole needs to recommit itself to establishing the primacy of international law, as well as to settling disputes through peaceful means, including by judicial mechanisms. Japan is committed to upholding the rule of law in international relations. As my Government has reiterated on many occasions, the universal acceptance of the Court's jurisdiction by Member States is a key step forward in enabling the enhancement of the rule of law at the international level. Japan itself has steadfastly accepted the compulsory jurisdiction of the Court since 1958. Our delegation

calls upon all Member States that have not yet done so to accept the jurisdiction of the Court.

Finally, we cannot overemphasize the importance of strengthening the functioning of the Court. Japan will continue to contribute to the efficient and effective work of the International Court of Justice and wishes the Court every success in its endeavours.

Mr. Ragaglini (Italy): It is a privilege for me today to address the General Assembly on its consideration of the annual report of the International Court of Justice (A/67/4). I wish to congratulate Judge Peter Tomka on his election as the President of the International Court of Justice. I am certain that, under his able leadership, the world Court will continue to meet the expectations and the needs of the international community. I would also like to thank President Tomka for his comprehensive report, which illustrates very well the renewed pivotal role of the Court at the present juncture in international relations.

On 3 February, the Court issued a Judgment on a dispute between Germany and Italy relating to *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*. Just a few weeks after the Judgment, Italy's domestic courts provided for its implementation in accordance with Article 94 of the Statute of the International Court of Justice. Currently, the adoption of specific legislation to further strengthen compliance with the Court's Judgment is under way. The prompt response both by the judiciary and the Government and Parliament of Italy shows the strong commitment of the entire Italian legal system to the rule of law.

On a more general note, President Jeremić has chosen "Bringing about adjustment or settlement of international disputes or situations by peaceful means" as the theme for the sixty-seventh session of the General Assembly. We think that the choice is very appropriate.

States have an obligation under the Charter of the United Nations to settle their disputes peacefully. That obligation not only entails the peaceful resolution of disputes but also indicates that international disputes must be settled. Any policy of protracted non-compliance with international law or any attempt to delay the execution of obligations flowing from international rules creates tensions and fosters unfriendly relations. In some areas, it may be to the detriment of common battles to combat crime and strengthen the rule of law.

At the opening of the sixty-seventh session of the General Assembly, on the occasion of the High-level Meeting on the Rule of Law at the National and International Levels, on 24 September (see A/67/PV.3), States made solemn pledges relating to the rule of law. In that framework, among other things, Italy announced its readiness to accept the compulsory jurisdiction of the International Court of Justice under Article 36 of its Statute. Even in the absence of that declaration, Italy had already agreed to submit disputes to the Court on a number of occasions. By accepting the compulsory jurisdiction of the Court, Italy is now determined to take a further step towards strengthening the foundations for an age of accountability. It is also reaffirming its commitment to the rule of law as a pillar of its foreign policy.

The broader the acceptance of the compulsory jurisdiction of the Court is, the stronger the chances are for a more just and peaceful world. Respect for international law is to be achieved in practice through compliance with the law and its enforcement.

Mr. Fife (Norway): I would like to start by thanking the International Court of Justice, the principal judicial organ of the United Nations, for its annual report (A/67/4) to the General Assembly. I would also like to express my gratitude to its President, Judge Peter Tomka, for his able presentation.

As one of the principal organs of the United Nations and the only international court of a universal character with general jurisdiction, the Court occupies a special position. It plays a significant role in the promotion of the rule of law through its judicial activities in contentious cases and through its advisory opinions. That was also duly noted at the plenary High-level Meeting on the Rule of Law at the National and International Levels, held here in New York on 24 September (see A/67/PV.3).

As noted in the report of the Court, almost as an understatement, the subject matter in the cases referred to the Court has varied widely. Moreover, those cases are growing in factual and legal complexity. Also for those reasons, the Court is particularly well placed to provide guidance, through its judicial activities, on how to counter difficulties arising from the diversification and expansion of international law, which is sometimes referred to as the fragmentation of international law. We are convinced that the cohesion of international law is actively promoted notably through a coherent

interpretation of treaties on the basis of the principles and rules contained in the Vienna Convention on the Law of Treaties.

The reporting period was marked by a number of significant decisions on the part of the Court. We would also like to commend the Court for the steps it has taken to enhance its efficiency and to cope with the steady increase in its workload.

We note with appreciation that it has successfully cleared its backlog of cases, as explained in the report.

It is also against that background that Norway notes that the potential for the active use of the Court as a key organ for the peaceful settlement of disputes, in conformity with the Charter, actually surpasses the number of States — 67 so far — that have made a declaration recognizing the jurisdiction of the Court as compulsory. In that regard, we welcome the national debate just announced by Romania to that effect. Thus, some 300 international agreements also provide for the jurisdiction of the Court. Moreover, States may decide to agree on the referral of cases to the Court after the negotiation of special agreements, where the parties may agree on the specific issues they wish to submit to the Court.

The costs related to dispute settlement before the Court should not discourage States from submitting their disputes for settlement. States that are able to do so should therefore consider contributing to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established by the Secretary-General, from which States may apply for financial support in order to finance their dispute settlement or to comply with the Court's judgments. In that regard, I am pleased to announce that Norway has decided to contribute $80,000 to the Trust Fund and will proceed promptly with the transfer.

The International Court of Justice plays a crucial role, not only in the resolution of contentious cases and through its advisory role but also in the clarification and development of international law at large. We welcome the Court's seminal contributions in various fields, including with regard to the development of the modern law of the sea, and in particular its role in consolidating and refining principles of maritime delimitation. In doing so, the Court has provided invaluable guidance to States engaged in the negotiation of treaties on the delimitation of their continental shelves and economic zones.

We are also pleased to note that in its first delimitation Judgment in the *Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, delivered in March, the International Tribunal for the Law of the Sea also confirmed the cohesive body of law developed by the Court, thus contributing to further consolidation and preventing the fragmentation of international law in that field. That comes in addition to similar contributions made by ad hoc arbitral tribunals established to resolve maritime delimitation issues in the recent past.

I would like to conclude by reiterating Norway's long-standing and unwavering support for the International Court of Justice as a cornerstone of the international legal order.

The Acting President: We have heard the last speaker in the debate on this item for this meeting. As announced at the beginning of the meeting, we shall hear the remaining speakers at a later date to be announced.

May I take it that the General Assembly takes note of the report of the International Court of Justice (A/67/4)?

It was so decided.

The Acting President: The General Assembly has thus concluded this stage of its consideration of agenda item 71.

Agenda item 74

Report of the International Criminal Court

Report of the Secretary-General (A/67/378 and A/67/378/Add.1)

Note by the Secretary-General (A/67/308)

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

Mr. Sang-Hyun Song (International Criminal Court): I am honoured to take the floor before the Assembly for the fourth time to deliver the annual report of the International Criminal Court's (ICC) to the United Nations (A/67/308).

Coming to the General Assembly on behalf of the ICC gives me the feeling of a grown-up child returning to his parental home once a year to talk about his

studies, work and life. At 10 years old, the ICC is a thriving, independent organization with broad support. It is the centrepiece of a new justice paradigm that has been joined by 121 States that have decided to bolster their national jurisdictions with an international court of last resort in order to prevent impunity for the gravest crimes known to humankind.

That achievement would not have been possible without the formative role of the United Nations and, specifically, the General Assembly, in the history of the International Criminal Court. The Assembly is where the seed of the ICC was first planted, with the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide and the early work of the International Law Commission. That is where the process was revived in 1989, following the proposal by Trinidad and Tobago. It was the General Assembly that established the Preparatory Committee on the Establishment of an International Criminal Court. As the Assembly knows, the Rome Statute of the International Criminal Court was adopted under the auspices of the United Nations on 17 July 1998.

On 1 July 2002, the Rome Statute entered into force. Since then, the ICC has stood on its own feet, separate from but closely connected to the United Nations through our Relationship Agreement. During its first decade, the ICC has firmly established its role in a multilateral system that aims to end impunity. I welcome the General Assembly's recognition of that role in the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (resolution 67/1), held on 24 September. On behalf of the ICC, its elected officials and staff, I thank the General Assembly for all the support we have received from it.

The ICC's written report provides a comprehensive update on the Court's judicial proceedings covering the period from 1 August 2011 to 31 July 2012. Today I will only highlight the most important developments that have taken place since I last appeared before the Assembly (see A/66/PV.44).

There have been some important institutional developments. Ms. B. Fatou Bensouda was sworn in as the second Prosecutor of the ICC, six new judges were elected, and the new President of the Assembly of States Parties took office. The ICC has continued investigations in seven situations — the Democratic Republic of the Congo; Uganda; the Central African Republic; Darfur, the Sudan; Kenya; Libya; and, finally, Côte d'Ivoire. Furthermore, the ICC has been seized of an eighth situation following the Mali Government's referral to the ICC Prosecutor of the situation in Mali since January 2012 on 18 July. The Prosecutor is currently conducting a preliminary examination to determine whether the criteria for opening an investigation have been fulfilled.

Let me briefly address the state of judicial proceedings in each of the seven active situations.

The situation in the Democratic Republic of the Congo was the first investigation opened by the ICC Prosecutor in 2004, following a referral by that country's Government. The ICC's first trial of Mr. Thomas Lubanga Dyilo arose from that situation. On 14 March 2012, Trial Chamber I rendered its verdict in the case, finding Mr. Lubanga guilty of the enlistment, conscription and use of children under the age of 15 to participate actively in hostilities in the Ituri district between September 2002 and August 2003. On 10 July, the Trial Chamber sentenced Mr. Lubanga to 14 years' imprisonment. On 7 August, the Chamber issued the ICC's first decision on reparations for victims, establishing principles relating to reparations and tasking the Trust Fund for Victims to collect proposals for reparations from victims. Let me stress that the verdict, sentence and reparations decision in the case of Mr. Lubanga are all under appeal and therefore not yet final.

The second trial relating to the conflict in Ituri against Mr. Katanga and Mr. Ngudjolo Chui concluded in May with closing statements. The Trial Chamber is expected to issue its judgment in the coming months.

The ICC's third case relating to Ituri is against Mr. Bosco Ntaganda, who has evaded justice for the past seven years. A second arrest warrant was issued for Mr. Ntaganda in July, expanding the allegations against him from the use of child soldiers to murder, rape, sexual slavery and other crimes.

In other developments related to the Democratic Republic of the Congo, Mr. Callixte Mbarushimana was released from custody on 23 December 2011, following the Pre-Trial Chamber's ruling that there was not sufficient evidence to substantiate the charges against him. In the meantime, a new arrest warrant has been issued on the basis of allegations related to the Kivus region against Mr. Sylvestre Mudacumura, who currently remains at large.

In the situation in Uganda, arrest warrants against Mr. Joseph Kony and three other alleged leaders of the Lord's Resistance Army have remained outstanding since 2005. I find that unacceptable and an affront to all those affected by the conflict in northern Uganda. Once again, I strongly urge all relevant States to cooperate in order to reach the goal of bringing those persons to justice without delay.

In the situation in the Central African Republic, the ICC's third trial, of Mr. Jean-Pierre Bemba Gombo, has moved to the defence phase. The trial proceedings will continue well into next year.

In the situation in Darfur, the Sudan, one case is in the trial preparation phase — that of Mr. Banda and Mr. Jerbo, who are accused of crimes allegedly committed during an attack on African Union peacekeepers. Last week, the Trial Chamber rejected the defence request for a stay of proceedings and requested submissions on the date for the commencement of the trial. A new arrest warrant was issued in the Darfur situation on 1 March against Mr. Abdel Raheem Muhammad Hussein. Regrettably, Mr. Hussein remains at large, and arrest warrants also remain outstanding in relation to three other persons in the Darfur situation. I call upon all States to cooperate, with a view to executing those arrest warrants in order that the suspects may face the grave allegations asserted against them.

The two cases in the situation in Kenya have progressed from the pre-trial to trial phase. Of the six suspects, the Pre-Trial Chamber confirmed the charges relating to post-election violence against four of them, while releasing the two others. Two trials, each involving two accused, are set to start next April.

Significant developments have occurred in the situation in Côte d'Ivoire since I last addressed the Assembly. An arrest warrant was issued in relation to the former President of the country, Mr. Laurent Gbagbo, and he was turned over to the ICC on 30 November 2011. The case is currently in the pre-trial stage.

I now come to the situation in Libya. The two suspects subject to the ICC arrest warrants, Mr. Saif Al-Islam Al-Qadhafi and Mr. Abdullah Al-Senussi, are in the custody of Libyan authorities. An admissibility challenge made by Libya is currently pending before the Pre-Trial Chamber. In the context of the Libya situation, last summer the ICC experienced a serious crisis when four of our staff members were detained in Zintan, Libya, in the course of the exercise of their official duties. I would like to extend the ICC's sincere gratitude to the United Nations and the many Member States that helped the Court to secure the release and safe return of our colleagues.

Without the assistance of States the ICC cannot perform its mandate effectively. I fully agree with the emphasis that the Assembly's Declaration of 24 September placed on cooperation with the ICC (resolution 66/102). Cooperation is not merely a question of discharging obligations contained in the Rome Statute. The international community, including the General Assembly, has on multiple occasions declared its determination to end impunity for the gravest crimes. Cooperation with the ICC is a concrete way to give effect to that objective.

A historic first debate on the ICC's role, held in the Security Council on 17 October (see S/PV.6849), was a useful reminder of the specific challenges that cooperation poses in situations referred by the Council, namely, those of Darfur and Libya. In those situations, the ICC is exercising its mandate on behalf of the United Nations membership as a whole in that they were referred to the ICC by the Security Council on the basis of the Charter of the United Nations.

By way of resolutions adopted under Chapter VII, the Security Council has urged all States to cooperate with the ICC in the context of the Darfur and Libya situations. The question of expenses incurred by the ICC in the context of the referred situations was also discussed during the Security Council debate. In that respect, I am grateful that the General Assembly, in its resolution 66/262, of 29 May 2012, invited all States to consider making voluntary contributions towards such expenses.

The Rome Statute empowers victims in multiple ways — as participants in judicial proceedings, as recipients of reparations following a conviction and as beneficiaries of victims' assistance provided by the Trust Fund for Victims that is associated with the ICC. In that regard, the Rome Statute system has unprecedented potential to bring retributive and restorative justice closer to each other. Through its engagement in situation countries, the Trust Fund for Victims is able to give a human face to the process of international criminal justice. It has continued its important work with victims in northern Uganda and the Democratic Republic of the Congo. Furthermore, it has officially notified the Pre-Trial Chamber of its

intention to undertake programmes in the Central African Republic, initially focusing on victims of sexual and gender-based violence.

The assistance that the Trust Fund for Victims is able to provide to victims depends upon voluntary donations, which are also needed to fund reparations when a convicted person is indigent. As we get closer to the implementation of the first reparations orders, the Trust Fund is in greater need of financial support than ever before. I would like to thank those States that have already generously supported the Trust Fund's important work. I call upon others to join them in doing so, for the benefit of the victims of unspeakable crimes.

The Rome Statute system has changed the way that the world looks at grave crimes under international law. With the advent of a permanent international court to prosecute such crimes, national jurisdictions have simultaneously been encouraged and empowered to prevent impunity. As the Secretary-General said in that same Security Council debate,

> "justice is crucial for breaking cycles of violence and fragility. Even the possibility of ICC engagement in a given situation can create an incentive to set up local mechanisms to deliver justice".

I suffered the horrors of war as a small child. I would not want anyone to experience what I went through in my childhood. By enforcing norms of international law and by protecting those most vulnerable, with special attention to the needs of children and women, the ICC represents a giant leap in humankind's efforts to ensure lasting peace and security for everyone.

The ICC is independent, but at the same time it is still the world's court. The community of nations created it out of the desire to protect the most fundamental values of concern to humankind as a whole. I wholeheartedly endorse the Assembly's call upon States not yet party to the Rome Statute to consider joining the ICC.

Preventing grave crimes and combating impunity is a shared interest of the entire international community. As the ICC enters its second decade, it remains firmly committed to upholding the rule of law and the principles of judicial and prosecutorial independence, guided by the Rome Statute and inspired by the common goals of humankind — values that we share with the United Nations and the Assembly.

The Acting President: The debate on this agenda item will take place on Tuesday, 6 November, following the continuation of the debate on agenda item 71.

The General Assembly has thus concluded this stage of its consideration of agenda item 74.

Agenda item 8 (*continued*)

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

Letter dated 29 October 2012 from the Chair of the Committee on Conferences addressed to the President of the General Assembly (A/67/352/Add.1)

The Acting President: Members are aware that, pursuant to section I, paragraph 7, of resolution 40/243, no subsidiary organ of the General Assembly may meet at United Nations Headquarters during a regular session of the Assembly unless explicitly authorized by the Assembly.

Authorization is thus sought for the United Nations Appeals Tribunal to hold one meeting in New York during the main part of the sixty-seventh session of the General Assembly, on the strict understanding that the meeting would be allocated conference services on an as-available basis from within existing resources and in such a way that the work of the General Assembly and its main Committees is not impeded.

May I take it that it is the wish of the General Assembly to authorize the United Nations Appeals Tribunal to meet during the main part of the sixty-seventh session of the General Assembly?

It was so decided.

Programme of work

The Acting President: I would like to inform members that the Assembly will consider agenda item 109 (b), "Election of eighteen members of the Economic and Social Council", on Thursday, 8 November. The item was previously scheduled to take place on Wednesday, 31 October.

The meeting rose at 12.30 pm.