



Security Council

Distr.: General
24 December 2020

Original: English

Letter dated 23 December 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council

I have the honour to enclose herewith a copy of the briefing provided by Judge Abdulqawi Ahmed Yusuf, President of the International Court of Justice, as well as the statements delivered by the representatives of Belgium, China, the Dominican Republic, Estonia, France, Germany, Indonesia, the Niger, the Russian Federation, Saint Vincent and the Grenadines, South Africa, Tunisia, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Viet Nam, in connection with the video-teleconference on “The promotion and strengthening of the rule of law in the maintenance of international peace and security: strengthening the cooperation between the Security Council and the International Court of Justice”, convened on Friday, 18 December 2020.

In accordance with the understanding reached among Council members for this video-teleconference, the following delegations and entities submitted written statements, copies of which are also enclosed: Austria, Bangladesh, Brazil, Denmark, Japan, Liechtenstein, Mexico, Morocco, Myanmar, Peru and Portugal.

In accordance with the procedure set out in the letter dated 7 May 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council (S/2020/372), which was agreed in the light of the extraordinary circumstances caused by the coronavirus disease pandemic, the attached briefing and statements will be issued as a document of the Security Council.

(Signed) Jerry Matthews **Matjila**
President of the Security Council



Annex 1**Statement by the President of the International Court of Justice,
Abdulqawi Ahmed Yusuf**

Allow me at the outset to congratulate you, Sir, and the Republic of South Africa on your presidency of the Security Council during the month of December. I am grateful for the opportunity to brief the Council one more time before the end of my term as President of the International Court of Justice. Among the various questions that were suggested for our discussion today, I wish to examine the leading one: “How can we strengthen the partnership between the Council and the Court to uphold the rule of law at the international level?”

In my view, that partnership is already strong, but I have no doubt that it can be further strengthened. Council members may recall that in my most recent briefing to the Security Council on 28 October, I referred to the fact that the Council has only once exercised its powers under Article 36, paragraph 3, of the Charter of the United Nations to recommend that disputing parties settle their dispute through the Court — in the case of *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)*. The Council has also only once requested an advisory opinion from the International Court of Justice under Article 96 of the Charter — in the case of *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*. One may therefore ask: how can the partnership be characterized as strong if the Council has relied so sparingly on its powers under the Charter to make use of the functions of the Court? My answer is that the vitality of the relationship between the two principal organs cannot be evaluated by the quantity, but rather by the quality, of our collaboration.

Let me start with the Corfu Channel case. As some may know, the Corfu Channel case was the very first case brought before the Court. It could therefore be said that the Council helped to kick-start the judicial activities of the Court in 1947. Moreover, the referral of the Corfu Channel case to the Court helped avoid a dispute that could have degenerated into a full-blown war involving several protagonists, just a couple of years after the end of the Second World War. That case demonstrated that the Charter’s system of cooperation between the Court and the Council, which the drafters had designed in 1945, could produce results. It reinforced faith in the Charter’s framework vis-à-vis the maintenance of international peace as a whole.

At the international level, the Corfu Channel case also contributed to the rule of law, as it provided the opportunity for the Court to reaffirm that the “policy of force” had no place whatsoever in the Charter era. The Court’s judgment also clarified the scope of some of the most fundamental principles of the contemporary legal order. For instance, the Court reaffirmed that between independent States, respect for territorial sovereignty is an essential foundation of international relations. The Court also laid down the principle of States’ responsibility for illegal acts committed on their territory, a topic that is still very relevant today, especially in relation to the fight against terrorism, cyberattacks and transboundary environmental damage.

At the same time, the Corfu Channel case gave the Court the opportunity to test some of its procedural tools for the first time, when it exercised jurisdiction based on *forum prorogatum*, that is to say, consent to the jurisdiction of the Court given by the respondent after the initiation of proceedings. The basis for that jurisdiction of the Court, which is not mentioned in its Statute, was later codified in article 38, paragraph 5, of the Rules of Court. In addition, the Corfu Channel case remains one of the few instances in which the Court appointed experts, under Article 50 of its Statute, to provide it with their opinion on issues of a technical or scientific character.

The same may be said about the 1971 advisory opinion on the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*. As the Council may recall, that case arose from the decision of the apartheid regime in South Africa to maintain its presence and authority in the territory of South West Africa (Namibia) despite the termination of South Africa's mandate by the General Assembly. Similar to the Corfu Channel judgment, the Namibia advisory opinion also contributed significantly to the rule of law at the international level, as it was the Court's first opinion to fully take into account the fundamental principle of equal rights and the self-determination of peoples enshrined in the United Nations Charter. The Court noted in the advisory opinion, among other things, that an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation. It also stated that "the subsequent development of international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all of them", including the territory of South West Africa (Namibia).

The clarification by the Court of the applicability of the right to self-determination to the people of Namibia, together with the identification of the legal consequences that attached to resolution 276 (1970) of the Security Council, paved the way for concrete actions that later facilitated the access of Namibia to its independence.

There are also less visible ways in which the Court and the Council contribute to each other's work and thus cooperate with each other — mainly through their respective contributions to the development of international law and, hence, to the strengthening of the international rule of law. A few examples here will suffice.

For instance, the Security Council has increasingly used international law as a parameter to identify threats to international peace and security. That was the case with resolution 1296 (2000), in which the Council made the link between violations of international law and threats to international peace and security. Some may recall that, in that resolution, the Security Council held that

"the deliberate targeting of civilian populations or other protected persons and the committing of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security" (*resolution 1296 (2000) para. 5*).

In addition to using international law as a parameter for determining the existence of threats to peace, the Council has also used it to address such threats. For instance, the Security Council expanded the scope of the rules of international law to non-State actors in order to maintain international peace and security.

The Court has consistently supported the Security Council's mission to maintain international peace and security. I will mention here only a few examples, starting with the confirmation by the Court, in its advisory opinion on *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, that the Security Council could establish peacekeeping forces that were to be funded by the general budget of the Organization as part of the "expenses of the Organization" under Article 17, paragraph 2, of the United Nations Charter.

Similarly, the Court has clarified how to interpret and determine the binding character of Security Council resolutions in its advisory opinions on the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)* and

on *Accordance with international law of the unilateral declaration of independence in respect of Kosovo*, respectively. Those two opinions have contributed to the effectiveness of Council resolutions by removing any doubts that the addressees of such resolutions may have had with regard to their legal value or their interpretation, which must be resolved if they are to be appropriately implemented.

In this second part of my statement, I would like to make some specific suggestions that could further reinforce cooperation between our two organs.

I will start with the appeal I made to the Council at the end of my last briefing on 28 October. As members may recall, I made an appeal to the Security Council to resume its past tradition of recommending the referral of legal disputes to the Court and to again make use of the Court's advisory function on legal questions. I said that the United Nations Charter allows the Council to do so. That is true. However, allow me to make a distinction between the two possibilities.

I can understand the reluctance of the Council to recommend the referral of a dispute by the parties concerned to the Court unless it is clear that both parties are ready for it. After all, the wording of Article 36, paragraph 3, of the Charter refers to "recommendations" by the Council, which would be legally non-binding. The Council cannot, therefore, establish the jurisdiction of the Court over a dispute without the consent of the parties. As such, it might be difficult for the Council to make such a recommendation without first ascertaining the consent of the parties to the Court's jurisdiction.

However, the request for an advisory opinion is a different matter. Such an opinion would not be binding and would not be directly addressed to States, but rather would be rendered for the benefit of the Council to clarify a specific legal issue. The Security Council would then be free to do whatever it wished with that opinion.

The General Assembly, in its resolution 43/51, of 5 December 1988, entitled "Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field", declared that

"the Security Council, if it is appropriate for promoting the prevention and removal of disputes or situations, should, at an early stage, consider making use of the provisions of the Charter concerning the possibility of requesting the International Court of Justice to give an advisory opinion on any legal question" (*General Assembly resolution 43/51, annex, para. 15*).

Much has been said since then by United Nations organs, including the Security Council, about preventive diplomacy and the need to resolve disputes or diffuse situations at an early stage. The General Assembly was of the view that a request for an advisory opinion from the Court could play an important role in the Council's work on the prevention of situations or disputes from becoming a threat to international peace and security. I share that view, and I believe that the Council could consider that possibility more often.

My second suggestion relates to the possibility of expanded dialogue between the Court and the Security Council. I therefore suggest that, in addition to the annual briefing of the President of the Court to the Security Council, the Security Council could include in its schedule a visit to the Court once every three years, following the triennial change in the composition of the Court, in which the Council participates through the election or re-election of judges. That would allow the Council to see, at first hand, the work of the Court and discuss issues of common interest with all 15 members of the Court. In that regard, I wish to recall that the last visit of the Council to the Court took place on 11 August 2014, six years ago.

My third, and last, suggestion concerns the jurisdiction of the Court. The Security Council issued presidential statements in 2006, 2010 and 2012 (S/PRST/2006/28, S/PRST/2010/11 and S/PRST/2012/1), in which it called upon States to consider accepting the jurisdiction of the Court in accordance with its Statute.

In its 19 January 2012 presidential statement, the Council emphasized

“the key role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work. To this end the Council calls upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.”

However, in the last eight years, no further presidential statements have been issued by the Council. We believe that such statements contribute to strengthening the relationship between our two organs, as well as the international rule of law. They could be made periodically — every three to five years — starting from today. As the Council knows, to date only 74 Member States have made declarations accepting the compulsory jurisdiction of the Court. It is my view that accepting the jurisdiction of the Court means adhering to and strengthening the rule of law at the international level. Without a court of law to which disputes can be referred for peaceful resolution, the existence of international rule of law may be called into question.

I submit those three modest suggestions to the consideration of the Council, and I remain at its disposal for any questions or clarifications.

Annex 2**Statement by the Permanent Representative of Belgium to the United Nations, Philippe Kridelka**

[Original: French]

I would like to thank South Africa for organizing this open debate, and Mr. Abdulqawi Ahmed Yusuf, President of the International Court of Justice, for his excellent and enlightening briefing to the Security Council.

Belgium particularly appreciates the convening of this open debate, which makes it possible to include all States Members of the United Nations in a comprehensive discussion on cooperation between two of the principal organs of the United Nations whose mandates focus on respect for international law.

I will address three points in particular: first, the central role of the International Court of Justice in an international order based on the rule of law; secondly, our desire to see the Security Council cooperate more with the Court; and, lastly, the need to ensure the inclusiveness of the international legal order.

First of all, it should be recalled that international law is the cornerstone of our multilateral system. Seventy-five years ago, at the end of the Second World War, 51 of us signed the Charter of the United Nations. We made the clear choice for an international order based on the rule of law as a key element of international stability, democracy and prosperity. The United Nations family has almost quadrupled since then. That illustrates the very essence of international cooperation, which, through the establishment of common rules and institutions, is an essential tool for the prevention and resolution of conflicts. In that regard, both the International Court of Justice and the Security Council play an important role by contributing to the development of international law and its implementation.

That brings me to my second point. The number of new cases submitted to the International Court of Justice, the geographical diversity of the States concerned and the range of issues on which it is called on to rule attest to its universal character and the fundamental role that it plays in the application and interpretation of international law. While 74 States accepted its compulsory jurisdiction, nevertheless it is regrettable that only five current members of the Council, including only one of its permanent members, have made a declaration to that effect.

Despite the increased trust among States in the International Court of Justice, the Security Council has nevertheless largely refrained from using it in discharging its mandate. The Charter unambiguously grants it three powers for cooperation with the Court. That can be done at the outset by recommending that disputes be submitted to the Court or by requesting an advisory opinion. It can also be done subsequently by making recommendations, or even taking measures to enforce a decision of the Court, without which the Court cannot be truly effective.

In addition to those three specific functions, the Security Council could also innovate by, for example, as suggested in the concept note (S/2020/1194, annex) for this debate, inviting the President of the International Court of Justice to brief it when non-compliance with Court decisions could threaten international peace and security.

A particular area in which the Security Council could also be more involved is on follow-up to provisional measures specified by the International Court of Justice to safeguard the respective rights of either party pending the final ruling. The Council could clearly benefit from confidential access to the information provided in the compliance reports that are increasingly requested by the Court. That could

assist the Council in monitoring the implementation of the provisional measures notified to it by the Court and then, if it deems it necessary, make recommendations or decide on measures to be taken to enforce the Court's decision.

In conclusion, I would like to highlight the specific role that the Court can play in capacity-building. Last Monday, the General Assembly unanimously adopted resolution 75/129, which establishes a trust fund to make the Judicial Fellowship Programme of the International Court of Justice more accessible to talented young lawyers from the South. That is the result of President Yusuf's efforts to encourage greater inclusiveness in the way in which the Court works and contributes to the development of international law. Belgium welcomes that initiative and will consider how it can contribute to that.

Annex 3**Statement by the Deputy Permanent Representative of China to the United Nations, Dai Bing**

[Original: Chinese and English]

China thanks President Yusuf for his briefing on behalf of the International Court of Justice. This year coincides with the seventy-fifth anniversary of the adoption of the Charter of the United Nations and the centenary of the Statute of the Permanent Court of International Justice. It is timely and highly relevant for us to discuss how to strengthen the cooperation between the Security Council and the International Court of Justice.

The 75 years of the United Nations has seen the rapid development of multilateralism and the continued advancement of the international rule of law. As principal organs of the United Nations, the Security Council and the International Court of Justice have made important contributions to maintaining international peace and security and promoting global equity and justice. Strengthening the cooperation between the Security Council and the International Court of Justice under the Charter is conducive to maintaining the United Nations-centred international system and the international order underpinned by international law. China wishes to make the following points.

First, it is imperative to defend the purposes and principles of the United Nations Charter and firmly safeguard the central role of the United Nations in international affairs. We must uphold the cardinal principles of international law and the basic norms governing international relations, such as sovereign equality, non-interference in internal affairs, the peaceful settlement of disputes and non-use of force, advocate multilateralism, implement the international rule of law and preserve the centrality of the United Nations in global governance.

Secondly, we must safeguard the international collective security mechanism, with the Security Council at its core, and steadfastly defend the mission and authority of the Council. In fulfilling the mandate to maintain international peace and security, the Council represents the will of all States Members of the United Nations. The international community should support the Council in resolving regional hotspot issues, responding to security threats and promoting multilateral security cooperation, in accordance with the United Nations Charter, through political means and constructive dialogue.

Thirdly, we must remain committed to the peaceful settlement of international disputes and fully leverage the important role of the International Court of Justice. In recent years, the numbers of cases submitted and the advisory opinions issued by the Court of Justice has continued to increase, which is a testament to the international community's growing trust in the International Court of Justice. The International Court of Justice should faithfully perform its duties pursuant to the United Nations Charter, strictly abide by the principle of State consent, ensure the equal and uniform application of international law and oppose double standards and exceptionalism.

Fourthly, we must strengthen the interaction between the Council and the International Court of Justice and work together to make international relations more democratic and rules-based. The Council should respect and support the independent work of the International Court of Justice. The Court should use international law to help maintain international peace and security. The two organs should perform their respective duties and collaborate with each other under the United Nations Charter to ensure that all countries abide by international law and the basic norms

of international relations, reject unilateralism and bullying and oppose unilateral coercive measures in contravention of international law.

Seventy-five years ago, China was the first country to sign the Charter of the United Nations. As the largest developing country and a permanent member of the Security Council, China will continue to be a builder of world peace, a contributor to global development and a defender of the international order. As always, China will support the work of the Council and the International Court of Justice, work hand in hand with all parties, embrace multilateralism and the international rule of law, promote a new kind of international relations based on mutual respect, fairness, justice and win-win cooperation and build a community with a shared future for humankind.

Annex 4**Statement by the Permanent Mission of the Dominican Republic to the United Nations**

[Original: Spanish]

After the most brutal political and military event of the twentieth century, the political leaders of a group of countries, full of determination and still shaken by the terrible effects of a war filled with totalitarian and anti-Semitic ideologies, decided to establish an organization in order to unite in fellowship to fight for peace and security in the world. A number of States soon joined the Organization, which today has a total of 193 members out of the 194 nations recognized as independent States. In other words, almost all the political authorities of the world converge in that association of nations. Those authorities, executed through their leaders, can generate well-being in humankind, but can also bring about its destruction.

Political powers therefore cannot be exercised in an authoritarian and unlimited way. They are limited by the rule of law, where laws govern and regulate their exercise, based on principles such as legality, legitimacy, democracy, equality and due process.

The Charter of the United Nations states that one of the objectives 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”.

We have previously stated before the Council that there can be no peace where there is no justice. That means that for there to be peace, the principles of the rule of law and international norms must be respected and implemented fairly. Therefore, the spirit of the drafters of the Charter of the United Nations was clearly that the International Court of Justice should have a leading role alongside the Security Council in the maintenance of peace. However, the relationship between the two organs has remained largely inactive and minimal over the years.

On several occasions, the Dominican Republic has highlighted and promoted the importance and necessity of strengthening conflict prevention. We therefore believe that the Security Council should increase opportunities for cooperation with the Court in that area as a peaceful mechanism for the settlement of disputes.

Emperor Justinian is quoted as having said: “Justice is the constant and perpetual will to render each his due.” The International Court of Justice is necessary and instrumental in strengthening the rule of law. It is therefore indispensable to fulfilling the mandate of maintaining peace.

I am pleased to note that most of the border disputes that arose in Latin America in recent decades were submitted to the jurisdiction of the Court. History has well told us that many of the armed conflicts that took place in the past had their origin in territorial disputes. Let us take such cases as good examples, where the parties found in the Court a peaceful, albeit adversarial, setting for the settlement of disputes. It is pleasing to think of the wars that this has prevented.

We urge the members of the Council to enhance the jurisdiction of the Court and to explore new forms of cooperation, particularly in the areas of peacekeeping operations and transitional justice.

Finally, the Dominican Republic reaffirms its commitment to peace and expresses its support for the International Court of Justice. We urge the international community to advocate for a present and a future where peaceful coexistence is the rule and war the exception.

Annex 5**Statement by the Permanent Representative of Estonia to the United Nations, Sven Jürgenson**

We thank South Africa for organizing today's open debate on an important topic. We also thank His Excellency Judge Abdulqawi A. Yusuf for his insightful briefing.

The Charter of the United Nations is of irreplaceable importance to a rules-based international order. It has created a system of values, legal principles and political tools that help to stabilize the world. The Charter provides a framework for multilateral negotiations, conflict prevention and conflict resolution. It carried forward a valuable system for the settlement of disputes.

The International Court of Justice contributes significantly to multilateralism by upholding and promoting the rule of law at the international level. Estonia remains a strong supporter of the role of the International Court of Justice in the peaceful settlement of disputes in accordance with the Charter of the United Nations. We recognize that, while the Court's judgments are binding upon the parties concerned, its jurisprudence has a broader impact, including as guidance in the interpretation of international law.

The seventy-fifth anniversary of the Charter, and the United Nations system more broadly, offers us the momentum to consider the role that the Security Council plays, and could play, in the peaceful settlement of disputes — a role that is complementary to the role of the International Court of Justice.

The mandate of the Security Council in relation to the International Court of Justice is manifold. In accordance with the Charter, and as has repeatedly been mentioned, the Security Council can request the International Court of Justice to provide an advisory opinion, may recommend that parties to a legal dispute refer it to the International Court of Justice and can proactively take measures to ensure compliance with a judgment of the Court.

It is also not hard to see that those comprehensive tools have been far too rarely used by the Security Council during the past 75 years of its existence. There is indeed scope for improvement and further cooperation between the Security Council and the International Court of Justice and among Member States. Estonia believes that more frequent recourse to the International Court of Justice by the Council could provide a useful avenue for the clarification of legal issues that contribute to resolving disputes and thereby promote international peace and security.

We hope that the exchange today will contribute to further consideration of a stricter application of paragraph 3 of Article 36 of the Charter of the United Nations, namely, that legal disputes should, as a general rule, be referred to the International Court of Justice.

At the same time, in order to enhance the upholding of the rule of law and a rules-based international order, we emphasize the need for members of the Council to apply initiatives that seek to deter the use of the veto in cases related to the commission of atrocity crimes.

Another crucial step would be for a party to a dispute to recuse itself from voting in the Council, in accordance with the Charter. We also echo the plea not to use the votes of other members to block any recommendations regarding the judicial settlement of disputes by the Council.

Estonia would also like to take this opportunity to call on all Member States that have not yet done so to accept the compulsory jurisdiction of the Court.

Currently, only five countries out of the Security Council's membership of 15 States, including Estonia, and a total of only 74 States Members of the United Nations have accepted that jurisdiction.

Finally, while the coronavirus disease pandemic continues to put our societies and economies under exceptional strain, it is clear that multilateralism and respect for democracy, human rights and the rule of law remain essential to coming out of the crisis stronger.

Estonia is ready to support creating more space for the International Court of Justice and the Security Council to work more closely in striving towards those aims.

Annex 6**Statement by the Minister Counsellor of France to the United Nations,
Diarra Dime Labille**

[Original: English and French]

I would like to thank President Yusuf for his briefing, and South Africa for putting this public debate on our agenda. At this time of challenges for multilateralism and international law, the Security Council must reaffirm how essential the International Court of Justice, the principal judicial organ of the United Nations, remains as a major institution for peace and the international legal order.

The mandates of the Court and the Council are complementary for the maintenance of international peace and security. The Court's decisions contribute to the pacification of relations between States and help them to reach a solution when other means of peaceful settlement of disputes fail. While there have been many examples over the past 75 years, we can recall the decisive contribution of the Court to the resolution of border disputes, particularly on the African continent.

For its part, the Security Council adopts resolutions that are binding on States. It exercises its functions within the framework of the Charter of the United Nations, the summit of an international order based on law. That is the case when we establish peacekeeping operations, fight against impunity by referring situations to the International Criminal Court, authorize the delivery of humanitarian aid or decide on measures against proliferation. The Court has had the opportunity to clarify the law on several of those issues.

The Charter enshrines not only the missions but also the links between the two organs. First of all, the Security Council must take into account the fact that parties to a legal dispute should generally submit it to the Court in accordance with its Statute. Once the Court has rendered a decision, the Council can then intervene to ensure its full implementation. In that regard, the absence of a referral to the Council under Article 94, paragraph 2, of the Charter tends to demonstrate the authority of the Court's judgments. The binding scope of decisions also applies to orders.

Finally, the Council, like the General Assembly, may refer matters to the Court when legal questions arise in the course of its work that require clarification. Those opinions are intended to provide a better understanding of international law and are not a substitute for judgments in resolving bilateral disputes.

As a permanent member of the Security Council, France attaches paramount importance to the Court. France has consented to the Court's jurisdiction by concluding numerous treaties that include arbitration clauses to that effect. That is, for example, the case of the Protocol to the Vienna Convention on Diplomatic Relations, which established the Court's jurisdiction in the case relating to immunities and criminal proceedings that gave rise to the judgment of 11 December. France is also the only State to date to have agreed in practice the procedure for accepting a request made by another State, also known as *forum prorogatum*.

Moreover, France supports the Court's operations. In that regard, we welcome the adoption this week by the General Assembly of resolution 75/129, co-sponsored by France, which establishes a trust fund for the Judicial Fellowship Programme. That initiative will enhance the geographical and linguistic diversity of the participants in the programme, who will be selected solely on the basis of merit and talent. France will make a financial contribution to the fund as soon as it is set up, which we hope will happen quickly.

I would also like to reiterate the importance that France, like many partners, attaches to the proper representation of the principal legal traditions and respect for the Court's language regime, which contribute to the quality of its work and the legitimacy of its decisions. We congratulate the five judges elected this fall, who reflect that valuable diversity.

France hopes that the Court and the Council will continue to work together, within the framework defined by the Charter, to provide responses to today's challenges, which are also potential sources of conflict in future. There is no shortage of topics — health, the use of the Internet for terrorist purposes, and, of course, environmental protection and the fight against climate change. That is to be expected.

In conclusion, I would like to reiterate to the Court and all its members and staff our gratitude for the work it has done.

Annex 7**Statement by the Permanent Representative of Germany to the United Nations, Christoph Heusgen**

I would like to thank you, Mr. President, for putting the promotion of the rule of law on the agenda of the Security Council during your presidency. I would like to commend Judge Yusuf for his speech; I will come back to the concrete proposals he made.

First, I would like to repeat what many if not most of the participants have said — the Security Council and the International Court of Justice are essential for guiding Member States on how to act in accordance with international law. With the Charter of the United Nations at its core, respect for international law is the basis for our multilateral cooperation. Effective multilateralism works only if the international order is based on rules applicable to all.

Germany, as a member of the Security Council, has always shown determination to uphold respect for, and adherence to, international law, including human rights and humanitarian law. It is imperative that all of us accept and implement legally binding decisions delivered by international courts and tribunals, including, and in particular, when those institutions rule within their own competency to decide on a specific case, even if, and when, those decisions go against immediate national interests. We are convinced that in the long term a rules-based order itself lies in the national interest of all.

With regard to the statement by Judge Yusuf, he said it very simply, but it is very true — the policy of force has no place in the United Nations order that we all live in. I found it remarkable that he also clearly said that the violation of international humanitarian law and international human rights law constitutes a threat to international peace and security. I think that is a very important position that we have always held. I thank him for that confirmation.

I think it would be good if disputes were referred to the Court more often — we only have that one case. We believe also that it could be valuable for the Security Council to invite the President of the International Court of Justice to provide briefings when instances of non-compliance with decisions of the Court might threaten international peace and security. What Judge Yusuf also highlighted was the use of advisory functions with regard to conflict prevention. He pleaded for the Council to use that possibility more often. Germany totally subscribes to that.

Judge Yusuf referred to one very important advisory opinion, which I would like to recall because we are commemorating the tenth anniversary of the advisory opinion on *Accordance with international law of the unilateral declaration of independence in respect of Kosovo*. The Security Council may remember that, at the time, Serbia launched an initiative by the General Assembly to ask the Court to determine if the declaration of independence of Kosovo was legal or not. The judgment came 10 years ago and clearly stated that the declaration of independence of Kosovo was in compliance with international law. I think it would help if everybody read that again and followed the outcome — a recognition of Kosovo — because that would resolve a lot of problems that we still have in that region.

In addition to the briefings by Judge Yusuf, we are very much in favour of the possibility of the Security Council visiting the Court. Unfortunately, if the Security Council decides to do that, my delegation will not be part of it. However, if Council members travel to The Hague, they will meet a German judge there. I would like to use this occasion to express our gratitude for the strong support that the Security Council gave to Professor Georg Nolte a few weeks ago. We consider the election of

that outstanding German international law expert as Judge of the International Court of Justice as of February 2021 to be a validation of Germany's commitment to the rules-based international order. At the same time, it is an obligation to continue our efforts to promote international law.

Germany has subscribed to the acceptance of the compulsory jurisdiction of the Court. There are 74 countries that have subscribed to it. We fully back that and are working on a draft presidential statement. We should respond to the request of Judge Yusuf and, in our presidential statement, should include the request that more countries accept the compulsory jurisdiction, as we did in 2012.

We believe that the application of the Charter of the United Nations needs to evolve over time to ensure continued authority and legitimacy. The purposes and principles enshrined in the Charter, such as the call to maintain international peace and security and the prohibition of the use of force in international relations, are the timeless and enduring core of international law, but their application is subject to contemporary challenges. The coronavirus disease pandemic is only one striking reminder of those challenges. The international community is jointly confronted with a multitude of global and existential questions for the future of humankind, such as climate change, the protection of our environment, pandemics and respect for human rights.

The evolution of international law is reflected in both the practice of the Security Council and the jurisdiction of the International Court of Justice. Therefore, cooperation between the Security Council and the Court of Justice is needed more than ever. The Security Council determines any threat to, or breach of, peace or act of aggression and decides on measures to maintain or restore international peace and security. But in doing so the Council has demonstrated the adaptability, pragmatism and creativity. It must do better when it comes to dealing with new challenges.

We commend the recent decision by the General Assembly to establish a trust fund for the Judicial Fellowship Programme of the Court. That will increase opportunities for law students from a wide range of geographic and linguistic backgrounds to familiarize themselves with the work of the Court, develop their skills in the field of the peaceful settlement of international disputes through law and become supporters of the rules-based international order themselves. Again, I thank you, Sir, very much for having put this important item on the agenda.

Annex 8**Statement by the Permanent Representative of Indonesia to the United Nations, Dian Triansyah Djani**

I thank you, Sir, for convening this important debate in the wake of the seventy-fifth anniversary of the International Court of Justice and the hundredth anniversary of the Statute of the Permanent Court of International Justice on 23 December 2020. I would also like to thank Judge Yusuf, President of the International Court of Justice, for his comprehensive briefing. We also welcome the draft presidential statement on cooperation between Security Council and the International Court of Justice.

Indonesia firmly believes that, while the Court and the Security Council have different powers and roles, both organs strive in their respective capacities to promote and advance the fulfilment of the basic principles and objectives of the Charter of the United Nations.

Having said that, let me make three brief points.

First, with regard to a mutually beneficial relationship between the Council and the International Court of Justice, from our interactions with the Court during Council meetings, we share the common view that international peace and security, as envisaged by the drafters of the Charter of the United Nations, also rests on effective cooperation between both organs. It is beyond question that the Court is a fundamental part of the international system for maintaining peace and security; therefore, it stands to reason that strengthening the relationship between both organs could indeed advance and promote the achievement of that objective. Indonesia therefore believes that the Council must be encouraged to engage in more dialogue and interaction with the Court in the exercise of its mandate. We are separate organs, but we are complimentary one to another and need to take advantage of the best of each organ.

That leads to my second point, which concerns the essential role of international law in the maintenance of international peace and security. International law plays a critical role in promoting stability and order in international relations. For the drafters of our founding Charter of the United Nations, justice and law are the fundamental conditions for international peace and security. They wanted to see an international community grounded in law. As we are living in a challenging time when disputes are unfortunately on the rise in various parts of the world, it is important to prevent the escalation of such disputes and to try, wherever possible, to resolve them following appropriate legal procedures. That is exactly what the Council, in close cooperation with the Court, must strive for.

Rest assured that the attitude of Indonesia towards international law, particularly with respect to the peaceful settlement of disputes, including through the Court, has been and will always be supportive. Indonesia and its neighbour Malaysia chose to accept the jurisdiction of the International Court of Justice in 1997, and both countries have remained bound by its decisions.

That brings me to my final point, which is the interaction between both principal organs of the United Nations. The Charter of the United Nations provides tools to the Council to peacefully settle disputes between States by making use of the Court's jurisdiction in such cases or requesting its advisory opinions on legal questions that arise in the Council's work. However, facts and figures have shown for many years that the Council has to some extent refrained from making use of that provision. That should not be the case. The Council needs to be encouraged to make use of those Charter tools.

Indonesia believes that stronger relations with the Court will assist the Council in its work. We should continue to explore ways and means to reinvigorate and reinforce the relations between both organs. We are fully convinced that is in the interest of peace between and among nations. To that end, Indonesia calls on all members of the Council to remain united in their support of the work of the Court.

Annex 9**Statement by the Deputy Permanent Representative of the Niger to the United Nations, Niandou Aougi**

[Original: French]

At the outset, I would like to congratulate South Africa for holding today's debate and thank the President of the International Court of Justice for his briefing. My delegation also commends the members of the Court for their work in the service of international justice through the peaceful settlement of disputes between States.

The Niger, in accordance with the ideals of the Charter of the United Nations, which it joined in 1960, has always favoured the peaceful settlement of disputes with its neighbours, through referral to the International Court of Justice. We remain convinced of the primary importance of the role of the Court as the principal judicial organ of the United Nations for the pursuit of international justice.

We therefore welcome the excellent relations that have always existed between the Security Council and the Court, in keeping with the Charter of the United Nations, in particular the briefings by the President of the Court, which keep the Council informed about the activities of the Court.

The ability of the Court to issue decisions, pursuant to the Charter, on matters relating to the maintenance of international peace and security, which is the primary responsibility of the Security Council, is an extremely important aspect of its jurisdiction that we must continue to promote with a view to strengthening the complementarity between the two organs.

With regard to the Council's prerogative under the Charter to request advisory opinions from the Court whenever necessary, my delegation would like to see greater involvement with the Court by the Security Council, as has happened in the past, through the referral of legal disputes to the Court, in accordance with Article 36, paragraph 3, of the Charter.

My delegation encourages the Court to continue to issue its decisions objectively and impartially, as it has always done, in order to encourage States with disputes to avail themselves of the path of peaceful settlement through justice.

Even if it requires great efforts, we must take measures to further encourage States with disputes to submit them to the Court and to ultimately comply with its decisions. That would only strengthen the rule of law at the national and international levels and ensure the maintenance of international peace and security.

We also welcome the practice whereby the Court enables students from a range of geographic and linguistic regions to become familiar with the work of the Court and develop their skills in the field of the peaceful settlement of international disputes. We believe that such a practice could be considered by the Council in order to allow such young people to familiarize themselves with this organ; if done in a coordinated manner, it would also encourage them to do comparative research and analysis on the Council and the International Court of Justice.

With regard to the capacity of national judicial institutions to fully grasp and better manage conflict situations, the Court could initiate relations with such institutions in general, and with those of countries in conflict or post-conflict situations in particular, with a view to building their capacity to take charge of certain matters.

In conclusion, my delegation would like to reiterate its thanks to the President of the Court and call on the two institutions to continue exchanging information through such meetings with a view to maintaining dialogue and strengthening peace and security in the world.

Annex 10**Statement by the Deputy Permanent Representative of the Russian Federation to the United Nations, Gennady Kuzmin**

[Original: Russian]

We thank you, Sir, for organizing this debate and welcome the participation of the President of the International Court of Justice, Judge Abdulqawi Ahmed Yusuf.

The International Court of Justice is one of the primary instruments for the practical implementation of the key principle of modern international relations: the commitment to the peaceful settlement of disputes. That principle — enshrined in Article 33 of the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)) — is the very *raison d'être* of our Organization.

A key element of that principle is each State's freedom to choose its own peaceful means of settlement, including those set out in the Charter of the United Nations. No solution must be preordained. Each State must be free to choose the means of settlement most appropriate to any given situation. Neither the difficulty of negotiations, nor the complexity of mechanisms nor time constraints should serve as a reason to forego that principle. The most important thing is the readiness to engage in dialogue and seek mutually acceptable solutions and compromises.

The peaceful settlement of disputes is a prerequisite for the inviolability of another profound maxim of the Charter of the United Nations — the principle of the non-use of force. The Charter was a hard-won achievement for humankind following the horrors of the Second World War. It is important to remember that during the seventy-fifth anniversary of the founding of the United Nations.

People realized both the need to resolve disputes by peaceful means and the practicability of establishing an international judicial body long before the Charter of the United Nations was adopted. The peace conferences initiated by Emperor Nicolas II of Russia and convened in The Hague in 1899 and 1907 marked important steps in that process.

The devastating consequences of the First World War led to the establishment of a standing judicial body — the Permanent Court of International Justice. However, it was the International Court of Justice that would eventually be endowed with the status of the main judicial organ of the United Nations. As such, it is independent and guided by international law. Even its geographical remoteness from the political battles of New York is full of legal symbolism.

Each within its respective mandate, the International Court of Justice and the Security Council interact with one another and contribute to the peaceful settlement of disputes. Since the Court came into being, 178 cases have been referred to it. That figure alone shows what a significant role the Court plays in settling disputes between States. It is noteworthy that the very first of those cases was referred to the Court upon the recommendation of the Security Council.

Russia firmly supports the stance that respect for the norms and principles of international law, including the peaceful settlement of disputes, is the central pillar of sustainable peace and security. We have unwavering respect for the International Court of Justice and its mandate. In order to maintain the global legal order, it is vital to faithfully make use of legal procedures to resolve legal disputes. Using judicial procedures to incite political discord is unacceptable.

Over its many decades of work, the Court has managed to maintain high standards of justice. We have the highest confidence in the wisdom of its judges.

Annex 11**Statement by the Permanent Representative of Saint Vincent and the Grenadines to the United Nations, Inga Rhonda King**

I welcome President Yusuf and thank him for his briefing.

There exists a well-established link between justice and peace, and it has long been recognized that neither one is able to thrive in isolation from the other. In this new era of international disputes, which now encompass complex contemporary issues such as terrorism and climate change, a comprehensive, pragmatic, whole-of-system approach across the various organs of the United Nations is now more critical than ever. Seventy-five years since its establishment, the International Court of Justice, as the guardian of the rule of law, remains an integral and relevant component of the maintenance of international peace and security.

The Charter of the United Nations, in Chapter VI, envisioned a symbiotic relationship between the Security Council and the International Court of Justice. It considered that the Security Council would effectively fulfil its critical mandate not on its own but bolstered by the valuable contributions of the Court. Yet in that regard, the Security Council has not taken full advantage of the Court's well-established jurisprudence, grounded in robust decisions and advisory opinions. Consequently, where the Court has jurisdiction, the Security Council ought to encourage Member States to utilize the principal judicial organ of the United Nations in the pursuit of the peaceful settlements of disputes.

Member States have an obligation to engage constructively with the Court. Political will is needed to ensure that the decisions of the Court are not reduced to ceremonial pieces of paper. They must be fully respected and effectively enforced to promote and uphold the enduring principles of international law and strengthen the rule of law. Failure to do so serves to undermine the multilateral system and deters efforts aimed at conflict prevention, peacekeeping, conflict resolution and peacebuilding. As such, in instances where judgments are disregarded, it is imperative that the Security Council consider making recommendations to give effect to the Court's directions, in line with the Charter's guidance as set out in Article 94.

We welcome President Yusuf's continued efforts to ensure that the Court's Judicial Fellowship Programme is inclusive and fully representative of all geographic regions and legal traditions. Indeed, the Programme is essential to capacity-building and can have a long-term positive impact on systems of justice globally. Saint Vincent and the Grenadines therefore firmly supports the establishment of a voluntary trust fund in support of the Programme to provide more legal practitioners, particularly from the global South, with an invaluable opportunity to enhance their knowledge at the world Court.

The use of force, provocative rhetoric and other escalatory actions, such as unilateral coercive measures, should always be rejected in favour of rational and principled settlements of disputes. Similarly, we call on parties to disputes to pursue dialogue and mediation, including through suitable regional mechanisms and without prejudice to their rights to seek a judicial settlement. In that vein, the Court and the Security Council must seek to continuously revitalize their complementary partnership to build and sustain peace.

We reaffirm our unwavering support for the Court and recognize its irrefutable contribution to peace and security through the ongoing development of the norms of international law, as well as its reinforcement of the principle of the sovereign equality of States.

In conclusion, we congratulate Judges Yuji Iwasawa of Japan, Georg Nolte of Germany, Julia Sebutinde of Uganda, Peter Tomka of Slovakia and Xue Hanqin of China on their election to the Court. We have full confidence in their abilities and are certain that their contributions will be immense.

Annex 12**Statement by the Permanent Representative of South Africa to the United Nations, Jerry Matthews Matjila**

I would like to thank Judge Abdulqawi Ahmed Yusuf, President of the International Court of Justice, for his interesting and thought-provoking briefing.

Since the establishment of the Permanent Court of Arbitration in The Hague in 1899, which provided for dispute settlement by arbitration, the settlement of disputes by peaceful means, rather than by resorting to the use of force, has been one of the cornerstones of international law and diplomacy.

While disputes are an inevitable part of international relations, international law knows no system of compulsory jurisdiction. The peaceful settlement of disputes, by whatever means, remains voluntary, but its importance can never be overestimated.

Therefore, as we celebrate the hundredth anniversary of the establishment of the first permanent international institution for the judicial settlement of disputes — the International Court of Justice's predecessor, the Permanent Court of International Justice — and the seventy-fifth anniversary of the adoption of the Charter of the United Nations, South Africa once again reflects on the significance of the International Court of Justice as the principal judicial organ of the United Nations.

Living the legacy of Nelson Mandela, it is no coincidence that throughout South Africa's two-year term on the Security Council it has focused, *inter alia*, on the promotion of the peaceful settlement of disputes. We maintain that, while the Security Council plays a significant role in ensuring international peace and security, the role of the International Court of Justice in settling disputes before they escalate into threats to international peace and security remains one of the most important cornerstones of the international system. It is therefore very timely to reaffirm our commitment to upholding and strengthening the rule of law in the conduct of international relations.

With regard to the potential of the Court, if utilized fully and in a timely manner, to contribute to international peace and security, we submit that those ideals could be served by strengthening cooperation between the Court and the Security Council.

Over the years, the Security Council and Member States have, unfortunately, not often enough made use of the potential of the Court to settle disputes peacefully and thereby contribute to the maintenance of international peace and security. Member States could gain innumerable benefits by utilizing such an important tool at their disposal. Peace and silencing the guns can be sustainable only if they go hand in hand with justice. Therefore, when appropriate, the Security Council should encourage Member States involved in a situation that threatens international peace and security to resolve their disputes by referral to the Court.

Furthermore, the Security Council could also utilize its authority to request advisory opinions from the Court on legal questions that may arise in the fulfilment of its mandate. The members of the Security Council, in their consideration of thematic agenda items and country-specific situations alike, should bear in mind the provisions of the Charter of the United Nations concerning the interaction of the Security Council with the International Court of Justice and the possible role the Court could play in assisting the Security Council in the execution of its mandate. The Security Council could also invite the President of the International Court of Justice to brief it when instances of non-compliance might threaten international peace and security. It is therefore clear that those two organs — the Council and the

Court — have an important complementary role to play in the settlement of disputes, the resolution of conflicts and the maintenance of international peace and security.

Turning to capacity-building in developing countries: as a developing African country, for South Africa it is also important to highlight the role of capacity-building in the legal field with respect to the settlement of disputes and to express appreciation for the Court's efforts to expose young women and men to training and thereby assist developing countries, in particular to develop their capacities to resolve conflict.

We once again draw attention to the extremely worthy Judicial Fellowship Programme of the Court, which was established in 1999, formerly known as the University Traineeship Programme, which allows law graduates to gain experience by working at the International Court of Justice and helps to enhance their understanding of international law and the Court's procedures. That is done by practically involving them in the work of the Court under the supervision of a judge.

Admirable as that Programme is, it is unfortunately not accessible to most law graduates from developing countries and deprives those worthy young law practitioners of an opportunity to benefit from the wealth of knowledge and practice that resides in the Court. The main reason for this is, as in most cases, the lack of resources available to universities in developing countries that would like to sponsor their law graduates.

In that regard, we would again like to express our support for President Yusuf's enthusiasm for giving more law graduates from developing countries an opportunity to access and participate in the Judicial Fellows Programme. We have done so by adding our support to General Assembly resolution 75/129, which aims to address this shortcoming by creating a voluntary trust fund to allow more young law graduates from developing countries to gain experience by working at the International Court of Justice.

In 2012, South Africa, as a non-permanent member of the Security Council, initiated a presidential statement (S/PRST/2012/1) that was agreed by the Council. Our views then and now were informed by the need to resolve conflicts peacefully, as reflected in Chapter VI of the Charter of the United Nations, the seventy-fifth anniversary of which we are celebrating.

Today Africa accounts for most of the conflicts in the world. Millions have lost their lives, millions are internally displaced and millions are refugees in foreign lands. Those destructive conflicts and wars have torn some of our countries apart and denied children an education and the right to grow up in an environment of peace. It has also delayed African development, and some countries may not even be able to realize the 2030 Agenda for Sustainable Development. That has made reconciliation difficult and nation-building even more so. We therefore welcome and thank Judge Yusuf for the three recommendations that he made.

That is also why South Africa has drafted and placed before the Council for its kind consideration a draft presidential statement addressing the aforementioned issues and what all members have just restated in their national statements. We are hopeful and look forward to reaching agreement on this text, which will help us to advance the peaceful resolution of conflicts and to put an end to violent conflicts.

Annex 13**Statement by the Permanent Representative of Tunisia to the United Nations, Tarek Ladeb**

I thank the President of the International Court of Justice, Judge Abdulqawi Yusuf, for his insightful remarks on how best to strengthen the cooperation between the Security Council and the International Court of Justice. I would also like to express my appreciation to South Africa for having brought this timely debate to the Council in the context of the seventy-fifth anniversary of the International Court of Justice and the hundredth anniversary of the Statute of the Permanent Court of International Justice.

The Charter of the United Nations established the International Court of Justice as the principal judicial organ of the United Nations, with the primary function of adjudicating inter-State disputes. The Court was further envisaged as a jurisdiction that is voluntary in character, exercised solely over consenting States, in accordance with the Statute of the International Court of Justice and the Charter of the United Nations.

The sustained caseload of the Court, with a geographically diverse spread of cases referred to it, is illustrative of its universal reach.

After a century of adjudication, the Court continues to be relevant as a mechanism for the peaceful settlement of disputes and a key component of the contemporary international peace and security architecture. The Court's relevance is best seen against the backdrop of the wide-ranging spectrum of subjects over which it has exercised jurisdiction and developed ground-breaking international jurisprudence, especially on the principles of the self-determination of peoples and equal rights, as well as on the environment, the protection of human rights and others.

The relevance of the Court is additionally seen in its strengthening of the rule of law through judicial capacity-building. In that regard, we welcome the adoption early this week by the General Assembly of resolution 75/129, co-sponsored by Tunisia, establishing a United Nations trust fund to facilitate access to the Judicial Fellows Programme of the Court for the benefit of bright students from across the world, particularly from universities in developing countries, to enhance their skills in the field of the peaceful settlement of disputes.

The most recent contentious case with which the Court was seized, concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide, is yet another illustration of the contribution of the Court, as a compulsory jurisdiction through clauses in multilateral treaties, to the maintenance of international peace and security and the protection of human life through provisional measures.

By indicating provisional measures, the Court is viewed as an instrument of preventive diplomacy, based on early warning and information-gathering, which seeks to protect human life, prevent irreparable harm and preserve the rights of the parties that constitute the subject matter of a dispute.

Turning to the relational perspective and the cooperation between the Security Council and the Court, Tunisia, in spite of scarce practice, continues to see merit in the two organs being separate yet complementary and mutually reinforcing, having different yet related competencies in the settlement of international disputes, within the framework of the Charter of the United Nations.

Tunisia calls for enhanced interaction and coordination between the Security Council and the Court within their respective mandates by making full use of

the relevant international legal provisions, with the aim of defusing tensions and securing peace through law at the international level.

The Security Council should therefore consider referrals to the Court and requests for the Court to issue advisory opinions on any legal questions, as provided for under Article 36, paragraph 3, and Article 96, paragraph 1, of the Charter, in order to resolve international disputes and contribute to the clarification and further development of international law.

We also acknowledge the role of the Court in spurring the Security Council to action as provided for under Article 94 of the Charter.

The Security Council, being the primary organ for the maintenance of international peace and security, has the political mandate and the political responsibility for ensuring compliance and upholding the rule of law by giving effect, where appropriate, to judicial decisions after the Court has allocated rights and responsibilities and assessed competing legal claims among States parties.

Appraising the relationship between the Security Council and the International Court of Justice invites a reckoning with the past and present of the international system in order to enable fresh engagement with the future.

Seventy-five years after the establishment of the United Nations, we are witnessing adversarial times in which the international community is being faced with complex and unconventional threats and evolving challenges to global peace and security, such as terrorism, pandemics, climate change, cybercrime and piracy.

The coronavirus pandemic has proved to be a particularly challenging test not only for humankind but also for multilateralism and for the structure and functioning of the system of international relations as established in 1945.

Tunisia believes that it is essential that cooperation and multilateralism continue to prevail, that the Security Council be reformed and expanded, and that creative legal thinking be enabled within the boundaries of the Charter of the United Nations in order to develop norms and instruments governing orderly relations between States and effectively counter the emerging threats of the twenty-first century.

The codification and progressive development of international law along with cooperation and multilateralist action should be allowed to continue hand in hand through recourse to international organizations, tribunals and courts, and within a genuinely representative international system, in order to bring about a fairer, more orderly and more prosperous world and continue to live up to the purposes and principles of the Charter.

Annex 14**Statement by the Minister Counsellor of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland, Chanaka Wickremasinghe**

I would like to thank the South African presidency for arranging this important discussion today. I would also like to thank President Yusuf for his enlightening briefing.

Article 1, paragraph 1, of the Charter of the United Nations makes clear that the first purpose of the Organization is the maintenance of international peace and security. And it further provides that this purpose is to be achieved through both the Organization's system of collective security and the peaceful settlement of disputes in accordance with the principles of justice and international law. The International Court of Justice, as the principal judicial organ of the United Nations, has a key role in the peaceful settlement of disputes between States.

The basis of the Court's jurisdiction in contentious cases is the consent of the parties. The new cases initiated by States before the Court in recent years underline both the confidence that States have in the Court as a forum for dispute resolution and support for the Court as the venue in which the legal aspects of difficult political issues can be adjudicated. The range of current cases also illustrates that the International Court of Justice is truly a world court dealing with a diverse geographical spread of cases and with a wide variety of subjects, including maritime disputes, diplomatic and consular matters, interpretation and application of international treaties and environmental protection.

Several of the cases currently on the Court's docket have an impact on issues of peace and security and underscore the importance of the Court's role in assisting States in resolving their disputes peacefully, in accordance with the purposes and principles set out in the Charter, potentially avoiding altogether the need for the Security Council to become engaged. However, the rule of law at the international level and the role played by the Court would be further enhanced if more States were to accept its compulsory jurisdiction.

The United Kingdom continues to be one of the Court's strongest supporters. We have accepted the compulsory jurisdiction of the Court and its predecessor, the Permanent Court of International Justice, since 1929. We continue to hope that more States will accept the Court's jurisdiction as compulsory, further enhancing the Court's standing and effectiveness.

The United Kingdom welcomes the annual closed meeting between the Security Council and the Court, held only six weeks ago, as a forum for discussion and an example of the cooperation between the Council and the Court. We look forward to further exchanges.

Annex 15**Statement by the Deputy Permanent Representative of the United States of America to the United Nations, Richard Mills**

We are pleased that South Africa has organized today's debate. The Security Council receives an annual briefing from the President of the International Court of Justice and exchanges views about issues of common interest, but those meetings by custom are held in private. In this seventy-fifth anniversary year of the International Court of Justice, it is fitting that we have a second opportunity to highlight the crucial role of the Court and to do so at a public meeting.

I would first like to extend our congratulations to those candidates recently elected or re-elected to the Court, as well as our deep gratitude to all of the candidates for their dedication to the field of international law. We appreciate the opportunity to address the relationship between the Court and the Security Council and the complementary role these principal organs play in the maintenance of international peace and security. The International Court of Justice plays a vital role in promoting and preserving the rule of law and in advancing international peace and security through the peaceful resolution of disputes.

The increasing workload of the Court demonstrates a recognition by States Members of the United Nations that accept its jurisdiction that it is preferable to resolve disputes peacefully through the Court rather than to allow them to fester and possibly lead to conflict. That these disputes may, as a result, never reach this Chamber reinforces the effectiveness of the United Nations framework. As situations develop into matters requiring the Security Council's attention, we must, of course, remain mindful of where the Court might play a role while preserving the fundamental principle of State consent to judicial settlement of disputes enshrined in the Statute of the Court.

We are also mindful that, in Article 33, the Charter of the United Nations, as we have heard, provides that parties to a dispute that is likely to endanger international security and peace shall first seek a solution through the peaceful means of their choice, which can run from negotiation, mediation, conciliation, arbitration or judicial settlement. Many disputes are successfully resolved through other means of dispute settlement, so that they never need to reach the Security Council or the International Court of Justice. And with the multiplicity of available dispute-settlement mechanisms, such as regional courts and international tribunals, parties to a dispute have a range of avenues to consider for the resolution of their disputes. And it is gratifying to know that for those Member States that accept its jurisdiction, the Court stands ready to adjudicate their disputes.

We should not forget, on this seventy-fifth anniversary, that there once was a day when territorial disputes, and even trade matters, were resolved, almost routinely, through military means. We should not take for granted how transformative the United Nations Charter and the Statute of the International Court of Justice were when they were adopted, including in their advancement of the peaceful resolution of disputes in accordance with international law. On this seventy-fifth anniversary of the United Nations and of the Court, we celebrate their contribution to the promotion of the rule of law and the preservation of international peace and security.

Finally, let me also add a few words about the trust fund to support participation in the International Court of Justice's Judicial Fellowship Programme. The programme was founded in 1999, through an initiative of a very prominent law school in our host city: the New York University School of Law. The programme has expanded over the years so that dozens of law school graduates have benefited

from this worthy, valuable opportunity to work with and learn from the Judges of the Court.

We certainly agree that recent law school graduates from developing countries should also have an opportunity to participate in the Court's Judicial Fellowship Programme. Increasing opportunities for future practitioners of international law to learn about the Court and learn from its esteemed judges will itself serve to strengthen the rule of law and help to spread awareness of the valuable role the Court can play in the promotion of international peace and security. Accordingly, we were very pleased to co-sponsor and join consensus on resolution 75/129, establishing the trust fund, which the General Assembly adopted on Monday of this week (see A/75/PV.44).

Annex 16**Statement by the Permanent Representative of Viet Nam to the United Nations, Dang Dinh Quy**

It is with great pleasure that I welcome and thank Judge Yusuf, President of the International Court of Justice, for his second insightful briefing to the Security Council within two months (see S/PV.8653).

Viet Nam attaches great importance to the crucial role of the International Court of Justice in promoting and strengthening the rule of law at the international level. In discharging its mandate as the principal judicial organ of the United Nations, including in particular through its adjudicative and advisory functions, the Court has contributed significantly to reducing tension, preventing conflicts, restoring friendly relations and facilitating lasting peace and stability.

As two central institutions in the robust post-war structure to ensure international peace and security, the Security Council and the International Court of Justice have separate but complementary roles. We believe there is still much space for strengthening the coordination and cooperation between these two principal organs. In this regard, we welcome today's important open debate allowing for an open exchange on a very important topic.

First, Viet Nam supports enhanced cooperation between the Council and the Court in accordance with the established institutional framework. The Charter of the United Nations empowers the Council to recommend to the relevant parties procedures for the settlement of their dispute, and in doing so the Council may take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court. Yet the Corfu Channel case is the first and only case in which the Council recommended to the parties to refer their dispute to the Court.

We further take note that, among the 28 advisory opinions issued by the Court, only one was made upon request of the Security Council, which was in the 1970 advisory opinion on the legal consequences for States of the continued presence of South Africa in Namibia. We believe that the Security Council can build on its good past practices to promote the peaceful settlement of disputes in accordance with international law as a conflict prevention tool.

Secondly, we see necessity in strengthening dialogue between the two organs on more substantive matters. Often a dispute involves aspects of law and politics. The Council retains the primary responsibility for the maintenance of international peace and security. The Court has been in many instances called upon to deal with cases that relate to the same sets of events that are part of a situation of armed conflict before the Security Council. Furthermore, the Court, through its jurisprudence, applies, interprets, clarifies or otherwise reinforces the purposes and principles enshrined in the United Nations Charter and other rules of international law. We believe that the judicial expertise of the Court will make a significant contribution to the work and activities of the Security Council in dealing with burning international legal issues that might arise in thematic agenda items and in the context of conflict or post-conflict situations.

Thirdly, the peaceful settlement of disputes is one of the most important fundamental principles of international law embodied in the United Nations Charter and many international and regional instruments. It is in our common interests that more efforts could be made to build capacity in effectively using international judicial and arbitration bodies as means of peacefully settling disputes. In this regard, we commend the efforts of the International Court of Justice to engage young law

graduates through its Judicial Fellowship Programme. We believe that familiarizing young academics with the work of the Court and the settlement of international disputes through law is a legitimate investment that will bear long-term fruits.

It is Viet Nam's consistent policy to support the peaceful settlement of disputes and the non-use of force or the threat of force, enhancing the role of international legal bodies in the promotion of friendly relations among nations and the maintenance of international peace and security. Viet Nam has high regard for the work of judicial bodies, including the International Court of Justice. We have participated in and contributed to the work of the Court in several legal processes.

Nowadays, the international system and international law have come under various forms of stress. Instances of violations of international law abound. Challenges to international peace and security keep evolving and proliferate. In that context, promoting adherence to the United Nations Charter and international law is more critical than ever. My delegation takes this opportunity to reiterate our commitment to upholding the United Nations Charter, respecting international law and contributing to the maintenance of international peace and security.

Annex 17

Statement by the Permanent Mission of Austria to the United Nations

Austria has the honour of delivering this statement on behalf of the following members of the Group of Friends of the Rule of Law: Argentina, Belgium, Cabo Verde, Canada, Croatia, the Czech Republic, Denmark, Finland, Guatemala, Italy, Japan, Latvia, Liechtenstein, Mexico, the Philippines, the Republic of Moldova, Romania, Slovenia, Sweden, Switzerland, the European Union, and my own country, Austria. In addition, Cyprus aligns itself with this statement.

As we reflect on the 75 years that have passed since the founding of the United Nations and the establishment of the International Court of Justice, it is very timely to reaffirm our commitment to international law and the rule of law as well as to seeking ways to strengthen cooperation between the Court and the Security Council in this field. We very much welcome today's open debate, organized by South Africa. We also thank the President of the Court for his briefing.

We reaffirm our commitment to the purposes and principles enshrined in the Charter, which set out the three pillars on which the United Nations is built: peace and security, development and human rights. Firmly based on the universal values of equality, justice, freedom and the dignity and worth of the human person, the Charter gives the same importance to universal respect for human rights and fundamental freedoms as it does to such fundamental principles of international law as the prohibition of the threat or use of force, the territorial integrity of States and the peaceful settlement of disputes.

The Security Council has often confirmed that the rule of law and justice are fundamental building blocks of conflict prevention and resolution as well as for sustainable peace. As we reflect on the lessons from our past full of wars, conflict and human suffering, we recognize that peace and security and respect for human rights and the rule of law are intrinsically linked. And as we face new and more complex threats and challenges to international peace and security, atrocities, brutality and suffering, we would do well to recall the foundations and principles embodied in the Charter. Our collective response to threats to international peace and security must be guided by the rule of law both at the national and international levels. Both are inherently linked and intertwined, for, as set forth in the report of the Secretary-General entitled "In larger freedom: towards development, security and human rights for all",

"every nation that proclaims the rule of law at home must respect it abroad and ... every nation that insists on it abroad must enforce it at home." (*A/59/2005, para. 133*)

We call on all States to abide by all their obligations under international law, including human rights law and international humanitarian law. We firmly believe that respect for and compliance with international law is the very foundation of a functioning, just rules-based international system. We reiterate the call on States to ratify and implement multilateral treaties and to settle their disputes peacefully, in particular through the International Court of Justice.

Respect for the Court's decisions, judgments and advisory opinions is crucial to upholding the Charter and international law and to consolidating the success of the international justice system. The increasing number of submissions by Member States from around the world demonstrates their trust in the Court.

All the Court's activities are aimed at promoting and strengthening the rule of law. Through its judgments and advisory opinions, the Court contributes to clarifying international law as well as its further development. We would like to emphasize our

appreciation for the Court's work and its important role as the principal judicial organ of the United Nations. We encourage all Member States to consider accepting, without reservations, the compulsory jurisdiction of the International Court of Justice in accordance with Article 36 of the Charter.

In the same vein, we encourage the Security Council to make more use of the Court's expertise and use all the tools provided by the Charter in that regard. Where appropriate, the Council should encourage States to refer legal disputes to the International Court of Justice in its resolutions. When considering situations that constitute a threat to international peace and security, the Council should always examine whether the International Court of Justice should be seized of the matter.

As members of the Group of Friends of the Rule of Law, we reaffirm the fundamental importance of the rule of law at the national and international levels to the maintenance of international peace and security.

Annex 18

Statement by the Permanent Representative of Bangladesh to the United Nations, Rabab Fatima

I thank the South African presidency for convening today's open debate. We appreciate the focus of South Africa on the rule of law during its earlier and current presidencies. I also thank the President of the International Court of Justice for his insightful remarks (annex 1).

Over the past 75 years, the International Court of Justice has played a crucial role in upholding the rule of law at the international level and promoting the pacific settlement of international disputes, as stipulated in the Charter of the United Nations.

The sustained confidence of the international community in the Court is well manifested through the broad range of subjects and cases being invoked under its general jurisdiction. The jurisdiction *ratione materiae* of the International Court of Justice in the resolution of disputes among parties to more than 300 bilateral and multilateral treaties and conventions further reinforces the authority and credibility of the Court in matters of international peace and security.

The pacific settlement of international disputes prevents such disputes from turning into deadly conflicts. It can also end conflict at any stage and prevent its escalation and recurrence. We therefore believe that the Security Council, as the principal organ of the United Nations responsible for the maintenance of international peace and security, could make more use of the International Court of Justice as an instrument or tool in exercising its mandate. The Court is indeed one of the most cost-effective solutions for upholding the rule of law at the international level and ensuring the effectiveness of the United Nations framework for the maintenance of international peace and security.

As a nation with an unequivocal commitment to the peaceful settlement of disputes, including through recourse to international law, Bangladesh recognizes the judgments, advisory opinions, orders of provisional measures and other ongoing work of the International Court of Justice regarding various international disputes and compliance with international law.

We settled our four-decade-long maritime boundary dispute with our neighbour through the international adjudication system, which thwarted threats of conflict between neighbours. As a host country to the victims of atrocity crimes committed against the Rohingya minorities in Myanmar, we take an interest in the ongoing proceedings at the International Court of Justice between the Gambia and Myanmar under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. We note the provisional measures announced by the Court in January this year and call for the Council's attention to the parties' compliance with the order.

Cooperation between the Council and the Court could contribute to upholding the purposes and principles of the United Nations to serve humankind. Under Article 36, paragraph 3, of the Charter of the United Nations, the Council can recommend that the conflicting parties refer their disputes to the International Court of Justice, which has unfortunately not been done much. The Council can also make appropriate use of Article 96, paragraph 1, of the Charter and refer questions of international law and other legal questions pertaining to ongoing or emerging conflicts that arise in the Council's work to the International Court of Justice to seek its advisory opinions.

Non-compliance with the orders and judgments of the International Court of Justice poses a serious threat to international peace and security. Article 94, paragraph 2, of the Charter gives the Council the power to "make recommendations or decide"

on measures to be taken to give effect to a judgment if a request is made by one of the parties to the dispute, which can assist the Council's efforts to address peace and security in relevant contexts. The Council should take a proactive approach in applicable cases to help uphold the sanctity of the Court's orders by taking measures to implement the Court's judgments.

There should be more open discussions and exchange of views between the Council and the Court on issues pertaining to international peace and security. Although the Council and the Court currently engage in an annual private meeting, the frequency of interaction could assist the Council in understanding the legal aspects of disputes that threaten international peace and security or clarify the legal standing of certain Council actions. In that regard, we would welcome more debates in the Council that are open to the participation of all States Members of the United Nations, particularly the countries affected.

Annex 19

Statement by the Permanent Mission of Brazil to the United Nations

Brazil commends South Africa for the pertinent topic chosen for this open debate and for its exceptional concept note (S/2020/1194, annex). In times of increasing challenges to international law, we must pay tribute to the institution that has been upholding it for 75 years. The International Court of Justice has been a beacon of stability and justice, and it continues to play an instrumental role in advancing the goals of the United Nations.

The International Court of Justice and the Security Council have different, albeit complementary, functions in pursuing the purposes of the United Nations. As the Court highlighted in the past, there is no competition or hierarchy between itself and the Security Council, each exercising its own competence. In situations simultaneously dealt with by both organs, the world court was able to resolve legal questions and thereby contribute to a peaceful outcome.

The world court contributes to the maintenance of international peace and security by providing a reliable venue for the peaceful settlement of disputes. It has promoted and encouraged respect for human rights throughout its case law and facilitated cooperation among nations in resolving disputes related to a variety of topics, including those of an economic, social, cultural and humanitarian character.

The Charter of the United Nations envisages a plethora of means for cooperation between the Council and the Court, which should be further explored. Brazil wishes to emphasize four such ways.

The first potential area for increased cooperation is the advisory jurisdiction of the International Court of Justice. To date, the Security Council has seldom taken advantage of the Court's expertise in clarifying legal issues related to both country-specific situations and thematic agenda items. In exercising its power to request advisory opinions, the Council would not only signal its commitment to working within the parameters of international law but also pre-empt potential questions as to the legality of its decisions, including by regional and domestic courts. Until now, the Namibia advisory opinion is regarded as a landmark in clarifying core legal issues related to the working methods of the Council. Should the need arise for additional legal guidance, including on tackling conflicting obligations and adapting to new rules, the International Court of Justice would be well placed to assist through its advisory functions.

The second potential avenue of cooperation is the continued dialogue and mutual consideration of each organ's views on issues of common interest. The Court often refers to Security Council resolutions in its decisions. Judges rely on the outcome of the Council's discussions in developing their reasoning. Likewise, when drafting a resolution or deciding on matters related to peace and security, the Council should also take into account the views of the International Court of Justice, which has already developed a solid foundation with regard to issues such as the definition of armed attack, the scope and limits of self-defence and the law of armed conflict, including aspects of the protection of civilians.

The third aspect of a revitalized relationship regards the possibility to recommend that conflicting States submit their dispute to the International Court of Justice. We have often heard in the Council that prevention is generally better than reaction. Promoting the peaceful settlement of a dispute through institutionalized and reliable means goes to the core of prevention, and should therefore be considered more often.

The fourth area where more could be done lies in the enforcement of the Court's decisions. It is no secret that there have been only a few instances when States in dispute attempted to resort to the Council to address instances of non-compliance. On the one hand, that is evidence of the high level of implementation of the Court's decisions. On the other hand, the scarce results of past attempts to bring such matters to the attention of the Council might suggest the existence of institutional difficulties in giving practical effect to Article 94 of the United Nations Charter. One should reflect, for instance, on whether issues of non-compliance fall under Chapter VI, thus requiring that a party to a dispute abstain from voting on that matter.

In conclusion, Brazil welcomes the fact that important international issues are increasingly being brought before the International Court of Justice. That is an acknowledgement of the commendable work of the Court in responding to the requests of Member States for legal advice on difficult questions. The willingness of the Court to tackle challenging international matters and shed light on their legal aspects is one of the factors that make it so relevant today and reinforce the argument for increased cooperation between the Security Council and the International Court of Justice.

Annex 20

Statement by the Permanent Representative of Denmark to the United Nations, Martin Bille Hermann

I have the honour to submit this written statement on behalf of Finland, Iceland, Norway, Sweden and my own country, Denmark. The Nordic countries would like to thank the Security Council for this opportunity to address it on the seventy-fifth anniversary of the United Nations and the centenary of the Statute of the Permanent Court of International Justice.

As the Security Council Report's fourth report on the rule of law concluded, strengthening the relationship between the Security Council and the International Court of Justice could further promote international peace and security. The Charter of the United Nations envisages a close relationship between the Council and the Court. The Charter therefore provides the two organs with ample opportunities for intensive cooperation.

At a time when the rules-based order is increasingly under pressure, the Security Council and the Court should use their Charter prerogatives and play vital and mutually complementary roles in promoting the rule of law, including with regard to human rights and peace and security.

The rule of law at the national and international levels is fundamental to peace and security. It is an important tool for preventing and resolving conflicts and is critical to building sustainable peace and protecting human rights in the aftermath of conflict. It is therefore not surprising that the 2030 Agenda for Sustainable Development, in particular Goal 16, seeks to promote peaceful, just and inclusive societies, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

The peaceful settlement of disputes forms an integral part of the rule of law. Therefore, the Nordic countries would welcome intensified cooperation between the Security Council and the International Court of Justice in order to uphold the rule of law.

The large volume of cases indicates the trust and confidence that States place in the Court by referring disputes to it for resolution. The Court's many contributions to the peaceful settlement of maritime and land boundary disputes have been decisive in maintaining international peace and security.

We would like to highlight the vital role of young people, especially young women, when it comes to promoting the rule of law in developed and developing countries alike. We therefore welcome the efforts of the Court, as well as the Council, to engage young people — for example, by giving students from various backgrounds a chance to familiarize themselves with international law and the judicial settlement of disputes.

Since its establishment in 2000, the Judicial Fellowship Programme of the International Court of Justice has enabled 193 law graduates to enhance their knowledge of international law. We welcome the recent establishment of a trust fund to grant fellowship awards to selected candidates who are nationals of developing countries, thereby guaranteeing the geographic and linguistic diversity of the participants in the Programme.

The International Court of Justice is the principal judicial organ of the United Nations. The Security Council has the primary responsibility for the maintenance of international peace and security. Together, they have the potential to be a powerful force for upholding the rule of law at the international level. In particular, the Nordic

countries would like to recall that, in accordance with Article 33, paragraph 2, and Article 96, paragraph a, of the Charter of the United Nations, respectively, the Security Council may call upon States parties to any dispute to settle such disputes by peaceful means and request advisory opinions from the Court on legal matters.

We urge all States to engage actively and constructively in international cooperation to support the rules-based international order, of which the peaceful settlement of disputes and international peace and security form integral and crucial parts. We call upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.

Annex 21**Statement by the Deputy Permanent Representative and Chargé d'affaires a.i. of Japan to the United Nations, Osuga Takeshi**

I would like to begin by thanking the South African presidency for organizing this open debate. I also commend President Abdulqawi Yusuf of the International Court of Justice for his in-depth briefing (annex 1).

Japan associates itself with the statement submitted by Austria (annex 17) on behalf of the countries that attach great importance to the rule of law. Allow me to add a few points in my national capacity.

Japan deems Security Council discussions on the rule of law to be of the utmost importance. Therefore, Japan welcomes this open debate on strengthening cooperation between the Council and the International Court of Justice and expects the discussions on the topic to continue in the Council.

Japan holds in high regard the work of the International Court of Justice, as the principal judicial organ of the United Nations. The international community today enjoys the benefit of numerous peaceful means of dispute settlement other than the Court, but the Court undoubtedly plays a special and central role among them. It has delivered many important judgments and advisory opinions since its first meeting in 1946, taking on a diverse range of cases requiring thorough legal examination. In recent years, the Court has seen increasing demand for legal solutions and opinions on complex questions. We expect that the legal wisdom of the Court, with its highly qualified judges and their dedication, will continue to attract the respect and support of all Member States.

Faced with the unprecedented challenge of the coronavirus disease pandemic, the International Court of Justice has made concerted efforts to review its procedures and working methods in order to continue discharging its judicial functions. Japan commends the Court for its unwavering commitment to its work, including on issues related to peace and security and the peaceful settlement of disputes; its flexibility in deciding to hold hearings and readings of judgments by video link; and the adoption of relevant amendments to the Rules of Court.

The International Court of Justice, as the principal judicial organ of the United Nations, needs to continue rendering judgments and advisory opinions of the highest quality. At the same time, the Security Council should duly respect the role and function of the Court in its consideration of the maintenance of international peace and security. The Member States of the United Nations should also respect and comply with the decisions of the Court.

Japan became a State party to the Statute of the Court in 1954, two years before it joined the United Nations. Japan has accepted the compulsory jurisdiction of the Court since 1958, in the firm belief that disputes should be settled by law. Japan is confident that conviction is shared by a large majority of Member States. However, to date only 74 States have made the “optional clause” declaration under Article 36, paragraph 2, of the Statute. Japan fully supports General Assembly resolution 74/191, which, in its seventh preambular paragraph, calls on “States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute”. We encourage all States Members of the United Nations to do so.

In conclusion, Japan reiterates its unwavering support for the essential role the International Court of Justice plays in maintaining stable, rules-based international relations by applying international law in its respected judgments and advisory opinions.

Annex 22**Statement by the Permanent Representative of Liechtenstein to the United Nations, Christian Wenaweser**

We welcome this opportunity to offer reflections on the interplay between the Security Council and the International Court of Justice. Given the central importance of the rule of law at the international level, the importance of the role of the Court cannot be overstated. The Court's work has been remarkably successful. Its judgments and advisory opinions are widely respected and represent one of the most important sources of the development of international law. There is, however, much room to expand the Court's work. The most obvious point is that only 74 States Members of the United Nations have made a declaration under Article 36, paragraph 2, of the Statute to accept the compulsory jurisdiction of the Court. Given the important relationship that the Council has with the Court, we believe that all States serving on it, in particular its permanent members, should show their commitment to the rule of law by making the relevant declaration.

The Security Council also has the competence to ask for advisory opinions from the Court on questions of public international law. We welcome the significant increase in the number of requests for advisory opinions in recent years, some of which have led to landmark opinions by the Court — such as the advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons*. At the same time, that increase is due to the increased engagement of the General Assembly. The Council has used its important power in that respect only once in its history, as far back as 50 years ago. That is very surprising given that there is no lack of examples of Council members differing, at times sharply, on questions of public international law, and they certainly could have benefited from an advisory opinion on more than one occasion. If two thirds of the lifespan of the Council have been spent without resorting to an important legal tool, it can come as no surprise that the option is not even discussed anymore. But that can also change, and perhaps today's debate can be the beginning of a new conversation on that. We encourage all Council members dedicated to the rule of law to contemplate the option when it has the potential to inform the decision-making of the Council and resolve differences in legal interpretation that impede effective Council action.

The most important contribution by the Council to the rule of law is in enforcing international law, beginning with its very own decisions. In that respect the Council certainly must do better. When permanent members take policy decisions that clearly violate Council resolutions, the authority of the Council as a whole is undermined significantly. The same is the case when they commit flagrant violations of international law, in particular the most serious forms of the illegal use of force against another State. We have witnessed all of that in the recent past. Those are actions that further remove the Council from its task to be a guardian of international law — be it the Charter of the United Nations or its very own decisions. As a consequence, the Council undermines its own authority and the obligation Member States have to implement its decisions.

We are particularly concerned about recent trends concerning the application of international law with respect to the use of force, including Article 51 of the Charter of the United Nations. Excessively expansive and unchecked interpretations of Article 51 undermine the regulatory system set up by the drafters of the Charter 75 years ago and embraced by all of us when we joined the United Nations. In addition to its other powers reflected in the Charter of the United Nations, the Council also now has the option of referring situations of manifest violations of the prohibition of the illegal use of force provision for investigation by the International Criminal

Court, an additional tool with which the Council can live up to its obligation to ensure the relevant parts of the Charter of the United Nations.

Finally, the use of the veto is a key element of every discussion on the relationship of the Security Council with the rule of law. We share the view of those who believe that the veto power given to the permanent members in the Charter of the United Nations is a responsibility. In particular, they must ensure that no veto be cast that obviously contradicts the purposes and principles of the United Nations. As we all know, we have seen far too many vetoes in recent years that have not stood that test. We are of the view that any decision aimed at ending and preventing atrocity crimes should find the support of every Security Council member and never be subject to a veto. We welcome the fact that 122 States, including 10 Security Council members, have signed on to the code of conduct of the Accountability, Coherence and Transparency group regarding Security Council action against genocide, crimes against humanity and war crimes. We hope that many others will join the code of conduct soon and work with Council members who are committed to its application in practice.

Annex 23**Statement by the Permanent Mission of Mexico to the United Nations**

[Original: Spanish]

Mexico thanks the South African delegation for organizing this open debate and fully agrees with the fundamental role played by the Security Council in strengthening the rule of law, in particular through cooperation with the International Court of Justice.

As noted in the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted on 24 September 2012, we reiterate our call to the Council to

“continue to ensure that sanctions are carefully targeted, in support of clear objectives and designed carefully so as to minimize possible adverse consequences, and that fair and clear procedures are maintained and further developed” (*General Assembly resolution 67/1, para. 29*).

The work of the International Court of Justice is critical to the peaceful settlement of disputes and preventing the escalation of conflicts. Mexico advocates a preventive approach by the Security Council, for which cooperation with the Court may be key. In that regard, we highlight the following considerations.

First, it remains a concern that, despite the Court being the principal judicial organ of the United Nations, less than half of the Organization’s Member States have accepted the compulsory jurisdiction of the Court, including only one of the five permanent members of the Council. We take this opportunity to urgently call on those that have not yet done so to make a statement in that regard as a show of support between two principal organs.

Secondly, we believe that the Security Council can take greater advantage of its ability to request advisory opinions from the Court in order to obtain an impartial, legal and technical view of certain situations, thereby helping to depoliticize certain items on its agenda and to seek negotiated and peaceful solutions to conflicts, in full compliance with international law.

The Council should also fully support the Court’s decisions, especially in cases involving threats or breaches of international peace and security. One example is the *sub judice* case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*. The judgment that the Court will issue in due course may be fundamental to the treatment of that crisis, and the Security Council should be attentive to it and ensure that its eventual consideration is in harmony with the corresponding ruling.

Thirdly, we stress the role of the Security Council in the execution of the Court’s judgments under Article 94, paragraph 2, of the Charter of the United Nations. The success of the Court’s preventive work is directly related to the enforcement of its judgments. Without it, the Court’s preventive and adjudicative role will fail, putting international stability at risk. Unfortunately, my country has experienced at first hand the frustration that generates, even after having submitted several notes to the Security Council at the time concerning repeated non-compliance with a judgment. In that regard, we take this opportunity to endorse the content of General Assembly resolution 73/257, of 20 December 2018.

In conclusion, Mexico reaffirms its support for the International Court of Justice and reiterates that strengthening and promoting the rule of law throughout the Organization is one of our country’s priorities, and will also be promoted by the Council through Mexico’s participation during the 2021-2022 biennium.

Annex 24**Statement by the Permanent Mission of Morocco to the United Nations**

[Original: French]

First of all, I would like to thank you, Mr. President, for organizing this open debate on a very important topic: the promotion and strengthening of the rule of law, including the strengthening of cooperation between the Security Council and the International Court of Justice.

As we celebrate the seventy-fifth anniversary of the United Nations this year, the Kingdom of Morocco reaffirms its commitment to the purposes and principles set forth in its founding text, the Charter of the United Nations, which enshrines the three pillars that continue to shape the essence of its action: peace and security, development and human rights.

The Charter confers on the Security Council the primary responsibility for the maintenance of international peace and security, which makes an essential contribution to the peaceful settlement of disputes, the prevention of the outbreak of conflicts and the preservation of peace and security throughout the world. To that end, the Council must ensure respect for the territorial integrity of States, the prohibition of the threat or use of force and the promotion of the peaceful settlement of disputes.

For its part, when the International Court of Justice is applied to, it rules on legal disputes submitted to it by States and may give advisory opinions on legal questions that may be submitted to it by the two principal organs of the United Nations and the specialized agencies of the United Nations that are duly authorized to do so, in accordance with the mandate conferred on it both by the Charter and its Statute, whose seventy-fifth anniversary we are also celebrating.

The action of those two organs in the exercise of their respective functions is complementary and distinct. The strengthening of the existing cooperation between the Security Council and the International Court of Justice, within the institutional framework provided by the Charter of the United Nations and with full respect for their respective mandates, as envisaged by the Charter, contributes positively to the work of the Council.

The Security Council has often confirmed that the rule of law and justice are fundamental elements of both conflict prevention and the peaceful settlement of disputes and are the cornerstones of sustainable peace. Drawing lessons from the bellicose past of humankind, from conflicts and from human suffering, we recognize that peace and security, respect for territorial integrity and respect for human rights and the rule of law are intrinsically linked.

Far from being a legal issue in the strict sense, strengthening the rule of law is closely linked to various political, economic and social factors. Strengthening the rule of law should be an integral part of the political process and should be coordinated with such processes, and not separated from them, so that they can reinforce each other.

The Kingdom of Morocco's commitment to good governance is unwavering. That commitment is guaranteed by the Moroccan Constitution, which clearly enshrines it in title XII. The rule of law does not arise out of circumstances; rather, it is the fruit of a long-term and lasting commitment that is realized through continuous efforts and concrete actions.

The coronavirus disease pandemic has brought about unprecedented global challenges. As a result, the response, which can only be collective, will have to be based on international cooperation and solidarity. Efforts must be redoubled to maintain the primacy of the rule of law, and the pandemic must not be used as a pretext for allowing progress to be eroded, particularly in the field of human rights and humanitarian law. Morocco remains willing to continue to be part of any United Nations effort to effectively and universally strengthen the rule of law.

We wish to commend the responsiveness of the Court, which has taken commendable steps to ensure the continuity of its action and fulfil its judicial function, in particular by adapting its working methods, amending its rules of procedure and using technology to hold meetings and convene hearings by video-conference. Similarly, we welcome the adoption by the General Assembly of its resolution 75/129, entitled “Trust Fund for the Judicial Fellowship Programme of the International Court of Justice”, which our Mission co-sponsored, and we hope that initiative will contribute to effective capacity-building in developing countries.

Finally, we thank the President of the Court for his tireless efforts throughout his mandate and congratulate him for an outstanding presidency in these unique and exceptional circumstances that we have all come to know and continue to experience.

Annex 25**Statement by the Permanent Representative of Myanmar to the United Nations, Kyaw Moe Tun**

Myanmar strongly believes that the rule of law is a foundation for relations among nations. Multilateralism can succeed only if inter-State relations are based on rules and the law. A rules-based international order could be the key platform for bringing peace, harmony and development to our world today.

The United Nations was established to strengthen the rule of law at the international level so as to govern States' behaviour under the principles enshrined in the Charter of the United Nations. International peace and security cannot be maintained without full compliance with international law and adherence to the letter and spirit of the Charter, as well as respect for the rule of law.

One of the leading objectives of the United Nations since its inception has been to strengthen the rule of law with a view to governing the conduct of States in accordance with the principles set forth in the Charter. My delegation therefore attaches great importance to the role the United Nations and its agencies play in promoting and strengthening the rule of law. We also believe that the promotion of the rule of law shall be in accordance with such universally established principles and norms as respect for sovereign equality and territorial integrity, non-interference in the internal affairs of other States, prohibition of the use or threat of use of force and the peaceful settlement of disputes.

This year marks the seventy-fifth anniversary of the International Court of Justice, the sole and principal judicial organ of the United Nations, which has played an essential role in maintaining global peace and stability since it was established in 1945. Through its jurisprudence, the Court has solidified the role of international law and strengthened the rule of law so that peace and stability in a rules-based global order shall prevail. In addition, the Court contributes fundamentally to promoting and strengthening the rule of law through its judgments and advisory opinions on the legal questions brought before it. Accordingly, the international community has been able to enjoy the availability of numerous means of peaceful dispute settlement over the past 75 years thanks to the Court.

In that regard, the Court is a linchpin to the implementation of Article 1, paragraph 1, of the United Nations Charter, which articulated a first purpose for the Organization, namely,

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

The relationship between the Court and the other principal organs of the United Nations, including the Security Council and the General Assembly, is therefore fundamental to promoting and strengthening the rule of law at the international level. However, we believe that the legal framework set out in the United Nations Charter for cooperation between the Court and the other principal organs of the United Nations, especially the Security Council, needs to be complementary and should not allow for encroachment of each other's courses of action.

Therefore, when we consider revitalizing the relationship between the Court and the other principal organs of the United Nations, we should not — indeed must not — overlook the legal limits set forth in the United Nations Charter to safeguard the Court's independent status. In addition, the term “principal judicial organ”, stipulated in Article 92 of the United Nations Charter, mirrors the independent status of the Court in the sense that, when exercising its judicial functions, it is not

subordinate or accountable to any external authority, including the other principal organs of the United Nations. Therefore, any attempt to influence the course of an ongoing case before the International Court of Justice by another principal organ of the United Nations may more than jeopardize the independent status, legitimacy and credibility of the Court; indeed, it may set a dangerous precedent and foment uncertainty in the existing international legal order.

In recent years, we have witnessed abusive applications of the notion of the rule of law. Some States Members of the United Nations have exploited international legal institutions, including the United Nations, for their own political interests. As such actions could undermine the established rules and principles of international law, as well as the principles enshrined in the United Nations Charter, my delegation would therefore like to express our serious concern at those illegal actions. We call upon all Member States to work together to prevent such actions and defend the United Nations Charter.

Annex 26**Statement by the Permanent Mission of Peru to the United Nations**

[Original: Spanish]

Peru welcomes the holding of today's open debate and appreciates the enlightening briefings and statements by all the speakers, who agree on the crucial importance of strengthening cooperation between two of the principal organs of the United Nations — the Security Council and the International Court of Justice. As a country committed to multilateralism, international law and the principle of the peaceful settlement of disputes, Peru can testify to the relevance and effectiveness of both organs. On five occasions as a non-permanent member of the Security Council, we have closely monitored the substantive contributions and commitment of that organ to the maintenance of international peace and security. Similarly, we have in the past resorted to the contentious jurisdiction of the International Court of Justice, which has led to the resolution of disputes and given our relations greater stability, to the benefit of our populations and those of other States.

To that end, we recognize the capacity and competence of the eminent judges who make up the Court, as well as the representativeness of the various legal traditions that they stand for. Those attributes undoubtedly enhance the prestige and legitimacy of the highest international court, which is reflected in its sustained level of activity. The diversity of the geographical distribution of the cases it hears confirms the universal nature of its jurisdiction.

We note, however, that the Security Council has historically not taken advantage of the full potential offered by its interaction with the Court. The practice indicates infrequent contact, which contravenes the organic and synergic relationship that both organs should maintain, in accordance with the provisions of the United Nations Charter. The Security Council is empowered, at any stage of a dispute, to make recommendations within the framework of its functions. In that respect, in accordance with Article 36, paragraph 3, of the United Nations Charter,

“legal disputes should as a general rule be referred by the parties to the International Court of Justice”.

In line with that provision, we consider it essential that the Council recommend on a more regular basis that situations between States that jeopardize international peace and security be referred to the Court.

Similarly, in accordance with Article 94, paragraph 2, of the Charter, if one of the parties to a dispute fails to comply with the obligations arising from a ruling of the Court, it is essential that the Security Council take a more active role, discussing the matter in depth and dictating the necessary measures to ensure its implementation. All that is in keeping with the unequivocal defence we believe it is up to the Security Council to exercise in order to preserve the prestige and credibility of the Court.

We also recall that the Court is called upon to serve the international community and contribute in particular to the maintenance of international peace and security by issuing advisory opinions at the request of the Security Council, in accordance with Article 96, paragraph 1, of the Charter. In that regard, we encourage the members of the Council to promote the effective use of that prerogative because of the benefits it can bring to resolving a dispute that threatens international peace and security or to clarifying the legal basis of certain decisions of the Council.

Recourse to the means for the peaceful settlement of disputes under Chapter VI of the Charter is an underutilized tool with a real capacity to offer positive alternatives for action before, during and after conflicts. Among those, the submission of legal disputes to the Court on the recommendation of the Security Council, as a visible element of a rules-based international system, is certainly worth emphasizing.

Annex 27**Statement by the Permanent Mission of Portugal to the United Nations**

At the outset, Portugal would like to congratulate South Africa for convening today's open debate on such an important topic. We would also like to thank the President of the International Court of Justice for his briefing.

The International Court of Justice is the principal judicial organ of the United Nations. Its mission is devoted to the pursuit of the Organization's purposes, including in matters related to the maintenance of international peace and security. My country, Portugal, has strongly advocated the importance of peacefully settling disputes and the Court's role in fulfilling that purpose. For that reason, in the past, Portugal asked the International Court of Justice to rule on disputes it had with other States on the application of international law in two specific cases — *Right of Passage over Indian Territory (Portugal v. India)* and *East Timor (Portugal v. Australia)*.

Portugal values the fundamental role the Court plays in contributing to peace and security through the judicial settlement of disputes between States. In addition, and of no less importance, the Court has helped through its jurisprudence to clarify the law applicable on a multitude of aspects related to sovereignty, *jus ad bellum* and *jus in bellum*, human rights, natural resources and boundary delimitations, to name just a few. Such clarification undoubtedly helps in the prevention of conflicts.

It is also worth noting that, under Article 94, paragraph 2, of the Charter of the United Nations, the Security Council may be called on to take action to enforce a judgment of the Court. Furthermore, the Council is directly involved in the election of the judges of the Court. It is therefore clear that the respective operations of the Security Council and the Court are complementary in nature. Their political and judicial approaches to a conflict are in fact mutually reinforcing, albeit independent.

The strengthening of the cooperation between the Security Council and the International Court of Justice would without a doubt reinforce the noble tasks that the Charter confers to the United Nations, its States Members and specifically those two organs. Among the concrete steps already provided for in the Charter that could serve progress in that direction are the Council considering more often to recommend the submission of a dispute to the Court pursuant to Article 36, paragraph 3, of the Charter, which states that the Council should take into consideration that legal disputes should be referred by the parties to the Court; the Council revisiting its power to ensure compliance with Court judgments, pursuant to Article 94 of the Charter; the Council taking a more proactive role and establishing an overview procedure, together with the Court, to monitor compliance; and the Council requesting with greater frequency advisory opinions of the Court, pursuant to Article 96, paragraph 1, of the Charter, as it has done so only once, in 1970, in relation to the situation in Namibia, which contrasts with the practice of the General Assembly.

The foregoing steps, although essential, are not without difficulties. Members have different views on the relationship between the Council and the Court and on the role of the Court in settling disputes between States. That has had the effect of the Council not having the custom or practice of using all the mechanisms available to it with respect to its relations with the Court. Portugal therefore encourages the Council to dedicate more attention and effort to that matter. A first step forward could be the drafting of a road map on specific ways to implement the tools that the Charter makes available to the Council.

In conclusion, we would like to renew our appreciation for the South African leadership on a very important topic. We hope that its efforts and the Council's deliberations will bring about tangible results. For its part, Portugal will continue

to closely follow the matter and join efforts aimed at fulfilling the Council's and the Court's respective mandates in the maintenance of international peace and security.
