STATEMENT ON BEHALF OF THE AFRICAN GROUP
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Mr President

My delegation has the honour to deliver this statement speaking on behalf of the African Group. At the outset, the African Group would like to thank the President of the International Court of Justice, Judge Peter Tomka, for his presentation and also for the report. The African Group continues to consider the International Court of Justice to be the pre-eminent mechanism for the peaceful settlement of disputes at the international level. It should be kept in mind that the Court, as a court of justice and, moreover, the principal judicial organ of the United Nations, occupies a special position. Everything the World Court does is aimed at promoting the rule of law. The World Court hands down judgments and give advisory opinions in accordance with its Statute, which is an integral part of the Charter of the United Nations, and thus contributes to promoting and clarifying international law. The African Group welcomes the reaffirmed confidence that States have shown in its ability to resolve their disputes. In particular, we are pleased to see that states continue to refer disputes to the ICJ. The number of cases currently pending on the ICJ docket is a reflection of the esteem with which the states hold the ICJ.

Mr President

Notwithstanding the proliferation of international judicial settlement of disputes mechanisms on specialised or regional basis, the ICJ continues to attract a wide range of cases, covering many areas. The list of cases before the Court includes cases pertaining to the demarcation of boundaries, such as Peru v Chile case. On 16 January 2008, Peru filed an application instituting proceedings against Chile concerning a dispute in relation to “the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean. On 27 January 2014, the Court decided that the starting point of the single maritime boundary delimiting the respective maritime areas between the Republic of Peru and the Republic of Chile is the intersection of the parallel of latitude passing through Boundary Marker No. 1 with the low-water line.

Mr President

The African Group appreciates the fact that the Court sets itself a particularly demanding schedule of hearings and deliberations, in order that it may consider several cases at the same time and deal as
promptly as possible with incidental proceedings, which are tending to grow in numbers including requests for the indication of preliminary and provisional measures. In this regard, on 3 March 2014, the ICJ issued its Order on the request for the indication of provisional measures submitted by Timor-Leste in December 2013 in the case concerning 'Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v Australia). The Court found that it had prima facie jurisdiction to rule on the merits of the case in light of the declarations made by both Parties in terms of Article 36(2) of the ICJ Statute. The Court also found that there was a link between the rights claimed and the provisional measures that were requested by Timor-Leste. Such measures were aimed at preventing Australia’s further access to seized material. The Court concluded that the conditions required by the ICJ Statute had been met for it to indicate provisional measures because there was “still a risk of irreparable prejudice”.

Mr President

The African Group is of the view that the Australia v Japan case contributes to the body of law governing the environment particularly in respect of the law of the sea. Australia commenced the proceedings on 31 May 2010. On 31 March 2014, the ICJ delivered its judgment and as far as the Court’s jurisdiction was concerned, the Court found that since there was no maritime delimitation dispute between the Parties in the Antarctic Ocean and since the current dispute was only about the compatibility or not of Japan’s whaling activities with its obligations under the Convention, it concluded that Japan’s objection to the Court’s jurisdiction could not be upheld. The Court further found that Japanese Whale Research Program under Special Permit in the Antarctic involved activities that could broadly be characterised as scientific research, but that “the evidence does not establish that the programme’s design and implementation are reasonable in relation to achieving its stated objectives”. To this end, the Court therefore concluded that the special permits granted by Japan for the killing, taking and treating of whales in connection with Japanese Whale Research Program under Special Permit in the Antarctic were not “for purposes of scientific research” pursuant to Article VIII, paragraph 1, of the International Convention for the Regulation of Whaling.

Mr President

An interesting procedural development was that, by an order of 6 February 2013, the Court authorized New Zealand to intervene in the
Whaling in the Antarctica (Australia v Japan) case. As such, on 20 November 2012, New Zealand filed in the Registry a declaration of intervention in the case. In order to avail itself of the right of intervention conferred by Article 63 of the Statute of the Court, New Zealand relied on its "status as a party to the International Convention for the Regulation of Whaling". It contended that "as a party to the Convention, it has a direct interest in the construction that might be placed upon the Convention by the Court in its decision in these proceedings". New Zealand underlined in its declaration "that it did not seek to be a party to the proceedings" and "confirmed that, by availing itself of its right to intervene, it accepted that the construction given by the judgment in the case would be equally binding upon it".

Mr President

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

I thank you for your attention.