



INTERNATIONAL COURT OF JUSTICE

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The International Court of Justice has more than doubled its work rate since 1990, the President of the Court declares before the Member States of the United Nations

THE HAGUE, 28 September 2012. “[B]ringing a dispute before the Court usually contributes to defusing tensions between States, in particular in situations of competing claims to sovereignty or maritime zones”, declared H.E. Judge Peter Tomka, President of the International Court of Justice (ICJ), the principal judicial organ of the United Nations Organization. The President of the Court was addressing representatives of the United Nations Member States who were gathered in New York on the occasion of the “high-level meeting on the rule of law”, on 24 September 2012.

“If the Parties are unable to resolve such matters through negotiation to their satisfaction or find a creative solution, such as joint management and exploitation régimes, the Court remains available to assist them by adjudicating the dispute on the strength of their legal arguments and evidence in accordance with international law”, President Tomka stated.

Recalling that, in 1946, the present Court (ICJ) succeeded the Permanent Court of International Justice (PCIJ) — established in 1922, also at the Peace Palace in The Hague — , President Tomka pointed out that “[t]he international community now has over 90 years of experience with the judicial settlement of disputes”. “The key role in this regard has been assigned by the Charter to the International Court of Justice, which is one of the six main organs of the Organization and its principal judicial organ”, he observed.

“[U]nder Article 36 (3) of the Charter of the United Nations, the Security Council could recommend to the Parties to refer a legal dispute to the International Court of Justice”, President Tomka added.

In his address, President Tomka emphasized that the Court had more than doubled its work rate since 1990: “In the last 22 years of its activities, since 1990, the Court has rendered more judgments than during the first 44 years of its existence; 60 as compared to 52”. The average number of judgments rendered each year by the Court between 1990 and 2012 (2.72) is thus twice as high as that recorded for the period 1946-1989 (1.18).

“Just this year, in addition to one advisory opinion, the Court has rendered three judgments and has advanced its work on the fourth one, and is planning to hold hearings in two further important cases, one concerning a boundary dispute between two African States and the other one regarding a maritime dispute involving two countries from Latin America,” President Tomka said.

“The Court — through its activities — is an important agent for upholding and promoting the rule of law at the international level, in relations between States. It has the important and noble role of determining existing law and rendering justice between States”, the President continued, noting that the Court had only “rather limited resources, its budget representing some 0.8 per cent of the United Nations’ regular budget”. The Court’s annual budget for the biennium 2010-2011 was in fact US\$23.3 million.

Lastly, recalling that the jurisdiction of the Court is based on consent of the States involved in a dispute before it, President Tomka noted that only 34 per cent of the current United Nations Member States (67 States, including only one of the five permanent members of the Security Council, out of 193 Member States) had made a declaration under Article 36, paragraph 2, of the Statute, recognizing “as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes”, compared to 59 per cent in 1948 (34 out of 58, including four out of five permanent members of the Security Council). “[N]o reason to be satisfied”, President Tomka said, before welcoming the decision of the Secretary-General to “launch a campaign to increase the number of Member States that accept as compulsory the jurisdiction of the International Court of Justice”.

It should be noted that, in addition to the unilateral declarations which enable States to accept the jurisdiction of the Court as compulsory, with reciprocal effect, States may also consent to the Court’s jurisdiction in three other ways: (1) by virtue of a “Special Agreement” concluded between them, with the express purpose of submitting their dispute to the Court; (2) by virtue of treaties which provide for the seisin of the Court in the event of disputes concerning the interpretation or application of those treaties (currently, more than 300 treaties and conventions contain such jurisdictional clauses); and (3) by virtue of the rule known as forum prorogatum, which allows a State that has not recognized the jurisdiction of the Court at the time when an application instituting proceedings is filed against it to accept such jurisdiction subsequently to enable the Court to entertain the case.

“[T]he Court will continue in its efforts to adjudicate disputes which may be submitted to it in the future, with dedication, in utmost impartiality, independence, and in accordance with international law within the bounds of the jurisdiction conferred upon it”, continued President Tomka, who concluded his speech by expressing the hope that the principal judicial organ of the United Nations will have “further opportunities to contribute, through its activities, to the strengthening of the Rule of Law at the international level”.

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The full text of this address and the texts of the President of the Court’s main speeches are available online (www.icj-cij.org) under the heading “The Court” (click on “Presidency”, then on “Statements by the President”).

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations.

Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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