



INTERNATIONAL COURT OF JUSTICE

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Press Release

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The International Court of Justice pays tribute to Judge Manfred Lachs (Poland), former President of the Court

THE HAGUE, 4 April 2014. On Wednesday 2 April, the International Court of Justice (ICJ) unveiled a bust of Manfred Lachs, former Member (1967-1993) and former President (1973-1976) of the Court, at the Peace Palace in The Hague where the Court has its seat.

The bust was presented to the principal judicial organ of the United Nations by Poland to mark the centenary of Mr. Lachs' birth on 21 April 1914. The unveiling of the bust was followed by a seminar on his life and work, which concluded with the screening of excerpts from a documentary on the same subject.

The event, which was attended by some 60 guests, including ambassadors, professors of international law and people who had known the eminent Polish jurist, was organized jointly by the Court and the Embassy of the Republic of Poland in the Netherlands.

In his opening speech, the President of the Court, H.E. Mr. Peter Tomka, said that Manfred Lachs "was one of the most notable and influential international lawyers of the second half of the 20th century . . . [and] played a pioneering role in the development of international law for what was then a new field, the activities of States in outer space". Mr. Tomka recalled that "at the age of 52, in 1966, [Lachs] was elected to the International Court of Justice . . . Subsequently, [he] was twice re-elected, on both occasions in the first ballot, in 1975 . . . and then in 1984."

Judge Tomka went on to note that "Lachs was an influential Judge on the Bench; during his almost 26 years in the Court, [he] participated in 29 cases and 8 advisory proceedings". He added that "Manfred Lachs, as President, not only skilfully led the Court in deciding several important cases during his Presidency, but also discussed with the Dutch authorities the conditions for the Court's work in The Hague".

H.E. Mr. Artur Nowak-Far, Undersecretary of State at the Ministry of Foreign Affairs of the Republic of Poland, said that it seemed "that it was the desire to make the world a fairer place that drove Judge Lachs' professional and life mission". Mr. Nowak-Far explained that "[w]hen [Lachs] became the president of the ICJ the world and international law were going through a critical period", adding that "[d]ecolonisation brought about a change of the ICJ's approach to international law. Judge Lachs was an advocate of opening up to legal systems from outside Europe and North America. He believed that the ICJ should represent legal systems from different parts of the world, while international law had a special role to play: that of preserving civilisation."

H.E. Mr. Jan Borkowski, Ambassador of the Republic of Poland to the Netherlands, recounted Manfred Lachs' "extraordinary life" and the different stages of his career, pointing out in particular Lachs' faith in multilateral diplomacy and his major contribution to the work of the United Nations General Assembly from 1947 to 1966, especially within the Sixth Committee.

Ambassador Borkowski expressed the hope that "the bust of Professor Manfred Lachs, along with the bust of yet another exceptional Polish Judge of the International Court of Justice, namely Professor Bohdan Winiarski, will symbolize Poland's unwavering commitment to international justice".

H.E. Judge Mohamed Bennouna, Member of the Court, in turn pointed out that "besides his outstanding abilities as a practitioner and judge at this Court... Manfred Lachs taught international law with the passion that is characteristic of those who lovingly devote themselves to transmitting knowledge to the younger generations and developing their analytical skills".

Judge Bennouna remarked that he "shares the late Manfred Lachs' view on the need for an interdisciplinary approach to international law, one capable of integrating social realities, in much the same way as the great pioneers Charles de Visscher, Philippe Jessup, Taslim O. Elias or Mohammed Bedjaoui did". Moreover, he added: "the advice which [Manfred Lachs] gave to teachers and thinkers in international law is still relevant today, particularly when he urges them to be armed with imagination and reason, while relying on true social humanism".

H.E. Mr. Philippe Couvreur, Registrar of the Court, recalled Judge Lachs' efforts "to take the Court out of the relative isolation to which it was subject at the end of the 1960s" and to defend "its special status among the organs of the United Nations".

The Registrar also evoked the principles which inspired Manfred Lachs during the revision of the Rules of Court in the 1970s, of which he was one of the main architects, and Judge Lachs' concern "to make the Court's functioning and procedure more compatible with the needs and realities of its time", as well as with the requirements of its universal character. Mr. Couvreur concluded by saying that "Manfred Lachs managed, as few others have, to combine a knowledge of the most fundamental issues of international law with an awareness of the practical challenges of international life, leaving us with an invaluable legacy of teachings".

The original language version of the texts of the speeches given at the seminar are appended to this press release.

Photos of the event are available on the Court's website under the heading "Press Room / Multimedia" (they appear at the bottom of the page).

Photos of Judge Lachs from the Court's archives are available from the Court's Registry. Requests should be sent by e-mail to the Information Department.

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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**Opening speech by H.E. Mr. Peter Tomka at the seminar
on the life and work of Manfred Lachs**

We meet here today to commemorate the centenary of a great Polish lawyer, diplomat, scholar and teacher, former judge and President of this Court, the International Court of Justice, Manfred Lachs.

He was one of the most notable and influential international lawyers of the second half of the twentieth century. He was born in Stanisławów (Stanislaw) in eastern Galicia, then part of the Austro-Hungarian Empire, on 21 April 1914. In late 1918 it became part of the newly re-established independent Poland. After the outbreak of WWII it became part of the Soviet Union and is now part of the Ukraine, known under the name Ivano-Frankivs'k. He studied law at the University of Kraków where he received not only his LLM but also, in 1937, the degree of Doctor iuris. He pursued his legal education in Vienna, in France, where he received a doctorate from the University of Nancy in 1939, and in London. He was there in England when Poland was attacked by Germany and the war started. He luckily escaped the tragic fate of his family who became victims of the holocaust.

War crimes was the subject of his first book published in 1945. He was one of the delegates of the Polish government-in-exile to the United Nations War Crimes Commission that had been meeting in London between 1944 and 1946. He also took active part in the Nuremberg War Crimes Tribunal, having been attached to the prosecutor's office. There he participated in the drafting of the indictments regarding Nazi criminal acts in Poland. He also advised the Polish delegation at the Paris Peace Conference.

For some 20 years he served in the Polish Foreign Ministry, first as Director of the Legal and Treaties Department (1947-1960) and then as Legal Adviser to the Minister for Foreign Affairs (1960-1966). He represented Poland in numerous international conferences and in 20 sessions of the United Nations General Assembly, in particular its Sixth (Legal) Committee. He was a popular, highly-respected and influential figure in that body. No other person has served as Chairman of the Sixth Committee for three sessions. Manfred Lachs was given that honour and elected to chair the United Nations General Assembly Legal Committee in 1949, 1951 and 1955, having also served as its Vice-Chairman in 1952.

He played a pioneering role in the development of international law for what was then a new field, the activities of States in outer space. The First Sputnik was launched to orbit the earth in 1957, and Jurij Gagarin flew into outer space in 1961. Manfred Lachs chaired between 1962-1966 the newly established Legal Sub-Committee on the Peaceful Uses of Outer Space. He was a skilful negotiator and effective chairman, as demonstrated by the fact that the General Assembly adopted, first, in 1963 the Declaration, and then in December 1966, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

In 1961, he was elected to the International Law Commission and actively participated in its work between 1962 and 1966 when the Commission finalized its draft articles on the Law of Treaties. He not only actively contributed to that outstanding project but also played a critical role in outlining the future work of the Commission on the issues relating to Succession of States, having served as Chairman of its Sub-Committee for that topic.

Manfred Lachs, while being very active in diplomatic and international legal practice, pursued in parallel his academic interests and vocation. He gave lectures as a Professor at the Academy of Political Sciences in Warsaw and from 1952 as a Professor of International Law at the University of Warsaw. Between 1961 and 1966 he also served as Director of the Institute of Legal Sciences in the Polish Academy.

Very few international lawyers and academics have been given the honour of giving lectures at the Hague Academy of International Law on four occasions. Manfred Lachs was one of those few. In 1957, he gave lectures, in French, on “Le développement et les fonctions des traités multilatéraux”, which were published in the well-known Recueils. A monograph, based on these lectures, was published a year later in Polish, and later in Russian, Hungarian and Spanish translations. In 1964, he was invited to lecture at the Academy again, then on a highly topical issue, the International Law of Outer Space. Twelve years later, in 1976, and already as a Judge of the Court, he gave lectures on “Teachings and Teaching of International Law”. These lectures provided a basis for a book entitled “The Teacher in International Law”, published in 1982 and for which he received the Award of the American Society of International Law. Finally, in 1980 he gave a general course under the title “The Development and General Trends of International Law in Our Time”.

Manfred Lachs had been for many years (in fact for a quarter of a century) a Member of the Curatorium of the Hague Academy, later, from 1977, serving as its Vice-President.

At the age of 52, in 1966, he was elected to the International Court of Justice. This was not an easy election. It was held shortly after the Court’s Judgment in the South-West Africa cases, a decision which elicited a lot of disappointment and criticism within the United Nations. Although Manfred Lachs’ predecessor on the Bench, another Polish judge, named Winiarski, was among those seven Judges who — with the casting vote of President Percy Spender of Australia — dismissed the case for lack of standing on the part of the Applicants, Liberia and Ethiopia, Lachs was luckier in the election than the Australian candidate, another well-known figure in the United Nations corridors, Sir Kenneth Bailey. Lachs was elected in the first ballot, having received 103 votes out of 119 cast in the General Assembly and 14 out of 15 in the Security Council. Bailey failed to be elected after 23 rounds of voting in the Security Council and 11 in the General Assembly. Subsequently, Lachs was twice re-elected, on both occasions in the first ballot, in 1975 with 102 votes out of 140 in the General Assembly and 13 votes out of 15 in the Security Council and then in 1984 with 99 votes out of 159 in the General Assembly and 13 out of 15 in the Security Council.

As a newly elected judge, Lachs entered a divided Court. The vote was split in the 1966 South-West Africa cases, when seven judges dismissed the case, an outcome that many of those judges had wanted, but failed to achieve in 1962, when the Court by eight votes to seven upheld its jurisdiction in the case. That division affected the election of the President in 1967. For some two months, between 6 February, when the term of office of the previous President expired (and he retired) and early April, the Court failed to elect a new President. In the end, a compromise candidate appeared in the judge from Peru (and former President of that country), José Bustamante y Rivero. Lachs was deeply concerned about the standing of the Court as the principal judicial organ of the United Nations. He was one of those who strived to establish closer relations with, and better awareness of the Court’s work by, the United Nations organs sitting in New York, in particular the General Assembly. It was on the initiative of Lachs and several of his colleagues that the Court decided to submit regularly a report to the United Nations General Assembly on its activities.

In 1973 he was elected by his peers as President of the Court, while the Court was still experiencing the post South-West Africa divisions. The candidate favoured by the then conservative minority bore with difficulty the election of Lachs, younger not only in terms of age (then 58), but also in terms of seniority, to the Presidency of the Court. This affected their relationship. Even 10 years later, the other candidate, already for some six years in retirement, wrote with some bitterness in an article on 40 years of the Court, that “the best were excluded”.

Manfred Lachs, as President, not only skilfully led the Court in deciding several important cases during his Presidency, but also discussed with the Dutch authorities the conditions for the Court’s work in The Hague. It may be of interest to note how his talks were recalled by the late Pieter Kooijmans, the then 40-year old State Secretary in the Foreign Office, later Professor of International Law at Leiden University, Foreign Minister, and ultimately himself a judge of this Court. Let me quote him from his reminiscences:

“The World Court was considering the possibility of moving out of The Hague as a number of its members were dissatisfied with the conditions under which they had to carry out their function; relations between the Court and the host-government had been strained for some years and the possible transfer of the Court’s seat had been placed on the agenda of the General Assembly. Those who know Manfred Lachs also know that strained relations were not much to his liking. But — and that is even more important — he was of the opinion that moving the Court from its long-established base would ultimately damage the Court. It should not be forgotten that the Court had barely recovered from the profound loss of esteem it had suffered as the result of its decision in the South-West Africa case of July 18, 1966. This esteem had been regained to a certain extent by the famous obiter dictum in the Barcelona Traction case on obligations erga omnes and by the advisory opinion on Namibia but, nevertheless, the Court’s reputation was still vulnerable. Moving the Court away from The Hague could entail various risks for the Court, which he all discussed with me. If there was one thing which mattered in this world for Manfred Lachs, professionally speaking, it was the Court and at that moment he was President of that Court and that gave an extra dimension to his concern.

Together with the then Foreign Minister we were able to solve all problems and the Court stayed at The Hague. But as the present Minister of Foreign Affairs of The Netherlands, I wish to say that it is to a great extent due to Manfred Lachs that these problems could be solved and that the item of the seat of the World Court could be removed from the General Assembly’s agenda. His straightforwardness, his openness, his integrity and his fairness were of great help. Although he loved The Hague and The Netherlands, it was not his love for this country but his deep love for the Court which prompted him to try to keep the Court in The Hague.”

During his Presidency, the Court dealt with several cases, some of them with significant implications. Particularly delicate were two cases brought by Australia and New Zealand respectively, against France in connection with French nuclear tests in the Pacific. To some relief, perhaps, for a good number of Members of the Court, in the end it was not necessary to rule on the applications, the cases having become moot (or without any object) following the issuance of a communiqué by the Office of the French President on 8 June 1974 stating that “in view of the stage reached in carrying out the French nuclear defence program France will be in a position to pass on to the stage of underground explosions as soon as the series of tests planned for this summer is completed”.

The other two judgments which Lachs signed as the Court's President were the Judgments in the Fisheries jurisdiction cases between the United Kingdom and Germany, respectively as the Applicants and Iceland (as the non-appearing) Respondent.

The Judgments were delivered in the period when the international law of the sea was going through a process of dynamic evolution, in particular within the framework of the Third United Nations Conference on the Law of the Sea, which culminated in the adoption of the so-called new constitution for the ocean, the UNCLOS. That Convention firmly established new concepts, in particular the exclusive economic zone. In view of that development, the two Judgments are now rather part of legal history than a frequently invoked jurisprudence.

Under his Presidency, the Court delivered two advisory opinions. The first one, of a rather "technical nature" on the Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal case (Fasla case), the second one on a much more important matter, on Western Sahara.

Lachs was an influential judge on the Bench; during his almost 26 years in the Court, having participated in 29 cases and eight advisory proceedings, he dissented only twice, the first time being in his first case, the North Sea Continental Shelf joined cases, where he advocated equidistance as a guiding principle for maritime delimitations. Subsequent developments, in particular the jurisprudence of this Court in the last two decades, has gone in that direction. The other dissent he attached to an advisory opinion concerning the Application for Review of Judgment No. 273 of the UNAT (Mortished case). As his colleague on the Bench at that time, Judge Schwebel, wrote in a tribute to Manfred Lachs, "[h]is opinion opposing the according of repatriation grants to members of the United Nations Secretariat who never repatriated themselves remains persuasive".

I met Manfred Lachs only briefly on two occasions: in 1986 in Salzburg at a Seminar for young diplomats on international co-operation and peaceful uses of outer-space and in September 1990 in The Hague at a Conference organized by the Academy of International Law, on the peaceful settlement of disputes in Europe.

Unfortunately, I cannot claim that I knew him personally well. But let me conclude with a quote from his colleague on the Bench for some 12 years, Sir Robert Jennings, who was the Court's President when Manfred Lachs passed away:

"Being our senior Judge, his interventions were usually made late, when everything seemed to have been said. Yet, time after time, in a short, economical, even terse intervention, he would redefine the problem in a way that enabled us all to see it in a new and clearer light. . . .

Lachs was a wonderful friend and colleague. A private and even rather shy man, he nevertheless had great presence: always courteous, with perfect manners, always well and correctly dressed with just a touch of the dashing about it; . . . [with] the glint of his eye when he sighted some intellectual problem to be wrestled with. Many recollect his generous hospitality, his supportive wisdom unfailingly offered, his infectious cheerfulness and good humour; his help to those in trouble; and his frequent almost casual acts of generosity and kindness with which he enriched the lives of so many . . . who had the good fortune to know him."

**Address by H.E. Mr. Artur Nowak-Far, Undersecretary of State at the Ministry
of Foreign Affairs of the Republic of Poland, on the occasion
of the unveiling of the bust of Manfred Lachs**

Distinguished Presidents and Judges of International Courts,
Dear Professor Fitzmaurice,
Excellencies,
Ladies and Gentlemen,

I am very happy to be among such eminent persons who have gathered here today to unveil the bust of Judge Manfred Lachs. Judge Lachs truly deserves this special distinction. He spent over a quarter of a century serving as a judge of the International Court of Justice, including three years as its president. During this time, Judge Lachs actively promoted the development of international law by being involved in the arbitration of some of the most complex legal disputes of his time. He is one of those Polish lawyers who have done a great service to the international community.

According to the 15th-century Italian thinker Leon Battista Alberti, a Renaissance man is someone who “can do all things if he will.” This definition seems tailored-made for Manfred Lachs – a teacher of international law, legal counsellor, creator of international law, diplomat, judge and, last but not least, a sensitive and wise man. During his lifetime, these roles would intertwine and complement one another, giving in effect the picture of an outstanding person. He would not only apply but also write law, all the time strongly believing in the need to make the world a more humane place. Manfred Lachs put his analytical mind and imagination to the service of international law.

It seems that it was the desire to make the world a fairer place that drove Judge Lachs’ professional and life mission. You can see this drive in all that he did. For Manfred Lachs international law became a means to achieving it. When he became the president of the ICJ the world and international law were going through a critical period. Decolonisation brought about a change of the ICJ’s approach to international law. Judge Lachs was an advocate of opening up to legal systems from outside Europe and North America. He believed that the ICJ should represent legal systems from different parts of the world, while international law had a special role to play that of preserving civilisation.

Manfred Lachs was a proponent of peaceful cooperation and co-existence around the world. He was convinced that the ICJ’s overriding aim in settling international disputes should be to resolve them amicably. The end was more important to him than the means of achieving it. Consequently, he favoured non-adversarial dispute resolution methods, e.g. informal negotiations. Judge Lachs also believed that the ICJ’s authority itself can play a conciliatory role. The Professor advocated close and complementary cooperation among chief UN agencies, which is why he believed that the ICJ should respect binding decisions taken by the Security Council. He introduced the practice of the ICJ’s annually reporting on its work to the UN General Assembly, which continues to this day and benefits both institutions.

Manfred Lachs’ curiosity about the world led him to study many aspects of international law. You could even say that outer space was the limit of his interest. Sea bed and outer space, environmental protection and peaceful cooperation across the world, North and South, East and West – such was the range of Judge Lachs’ interests. What does him special credit, though, is his willingness to share this knowledge with other people. Isn’t it one of those human skills that make the world a fairer place?

Great humanism would manifest itself not only in Lachs’ professional career, but also in his day-to-day contacts with people, whom he would always deeply impress with his kindness and

openness. The Professor's lectures at The Hague Academy of International Law, which would often end with a long ovation and stir great emotions in students and the Teacher alike, are now legendary. Small wonder that people who met Lachs remembered him for life.

Manfred Lachs has also done outstanding service to Poland. At the Polish foreign ministry he served as director of the Legal and Treaty Department, and was legal counsellor to the foreign minister. He left his mark on many international agreements that were signed by Poland. He was also a Warsaw University professor, and once he moved abroad, he acted as a patron of Polish academic researchers. Of all the roles he fulfilled during his lifetime it was probably the role of teacher that Lachs loved the most. After all, the book he wrote titled The Teacher in International Law: Teachings and Teaching was entirely devoted to that subject.

Let me quote a fragment where Manfred Lachs writes about the Teacher in international law, but actually seems to be writing about himself:

“[. . .] By ‘teaching’ in and outside university walls, he [teacher] has done much to pave the way for his students and successors; by his writings but also by advising Governments, by whispering into their ears, by his proposals and drafts he can do much more for the clarification and the improvement of the law; he can do so at the bar and on the bench. By sensing the needs of his time and trends towards the future he can project many new ideas which may bear fruit before long.”

Ladies and Gentlemen,

On behalf of Poland's foreign minister, I would like to express my gratitude to everyone who has contributed to commemorating judge Manfred Lachs in the Peace Palace. I wish to extend my special thanks to the author of the sculpture, the outstanding artist Robert Sobociński. Let me also thank the staff of the International Court of Justice and the Embassy of the Republic of Poland in The Hague. From now on, the Court judges will arbitrate international disputes under the watchful eye of Manfred Lachs who will be looking at them from his pedestal.

**Speech by H.E. Mr. Jan Borkowski, Ambassador of the Republic of Poland
to the Netherlands, on the occasion of the unveiling of
the bust of Manfred Lachs**

President Tomka,
Judges of the International Court of Justice,
Deputy Minister of Foreign Affairs Professor Artur Nowak-Far
Excellencies,
Ladies and Gentleman,

It is an honour and a great privilege for me to unveil – in the presence of such distinguished persons — the bust of professor Manfred Lachs, the former Polish judge and president of the International Court of Justice. This bust is primarily a symbol and recognition of professor Lach's activities as a judge of the International Court of Justice but professor Lachs is also remembered as a dedicated scholar and a professional diplomat.

Professor Manfred Lachs's extraordinary life began on 21 April 1914 in Stanisławów. So in nineteen days we will be celebrating the 100th anniversary of his birth. He began his education at the Cracow Jagiellonian University where he obtained a Doctorate in Laws in 1937. Subsequently, he completed his postgraduate studies at the Consular Academy of Vienna and the London School of Economics, where he found himself at the outbreak of the Second World War. During these

difficult times professor Lachs was actively involved in helping refugees and in 1943 he joined the Polish troops stationed in the United Kingdom earning the rank of second lieutenant.

After the end of the Second World War, Manfred Lachs was appointed as the Polish delegate to the Paris Peace Conference and attended many other conferences related to the consequences of that war and the establishment of the new world order embodied by the creation of United Nations. In 1947 professor Lachs returned to Poland where he began work at the Ministry of Foreign Affairs as the Director of the Legal and Treaty Department. Today we have with us his successor – Ambassador Janusz Stańczyk. During this time professor Lachs had to face the reality of functioning in a politically divided World with two hostile military blocks (NATO and the Warsaw Pact). This situation made him realize that the accumulation of so many nuclear weapons in Europe could lead to tragic consequences not only for Poland but for the whole World. He was therefore actively involved in the disarmament process, which unfortunately at that time did not lead to the expected results.

As a professional diplomat professor Manfred Lachs was a great believer in multilateral diplomacy and especially in the United Nations system. From 1947 to 1966 he actively participated in all of the United Nations General Assembly sessions. He was the only person to be elected three times as Chairman of the Sixth (legal) Committee of the United Nations (in 1949, 1951 and 1955). Along with another famous Polish lawyer namely Rafael Lemkin, (who at that time represented the United States delegation to the United Nations), professor Lachs initiated the adoption by the General Assembly of the United Nations of the Convention on the prevention and punishment of the crime of genocide in December 1948.

From 1962 to 1967 professor Manfred Lachs chaired the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space. During his chairmanship professor Lachs was an instrumental figure in the negotiation and development of the Treaty Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, which is considered to be the foundational treaty upon which all of the international space law rests.

On 6 February 1967 professor Manfred Lachs became the judge of the International Court of Justice, where he served for a record among judges 26 years until his untimely passing on 14 January 1993.

During his tenure as judge and president of the of the International Court of Justice professor Manfred Lachs was not only involved in the delivery of judgments and advisory opinions brought before the Court, but also initiated the drafting of new Rules of procedure of the Court in order to make them more compatible with the requirements of a modern international court. These new rules of procedure were adopted in 1978 when professor Lachs held the position of Chairman of the Committee for the Revision of the Rules of the Court.

Besides the judicial activity at the Court, I would also like to recall that thanks to professor Lachs's diplomatic skills in contacts with the Dutch Authorities a new wing of the Peace Palace was constructed. This new wing is the building we are currently in.

Parallel to his diplomatic and judicial career professor Manfred Lachs was a devoted scholar. In fact, on many occasions professor Lachs when asked how he would like to be remembered stated: primarily as a teacher. Professor Lachs was indeed a remarkable teacher. His students recall that his lectures at the University of Warsaw and the Hague Academy of International Law were passionate, lively and full of interesting anecdotes. In addition to teaching every year professor Lachs funded one scholarship for a participant of the Hague Academy of International Law. He supported the Telders Law Moot Court Competition and the moot court devoted to space law issues, which as of 1993 is called the Manfred Lachs Space Law Moot Court Competition.

Last but not least, I would like to recall one very important gesture professor Lachs made towards strengthening Polish-Dutch friendship. In 1992 just before his passing Professor Lachs donated his own villa in an elegant part of Warsaw to a Foundation called Dom Holenderski (Dutch House). This Dutch House became the seat of the Polish-Dutch Friendship Association, which gathers influential politicians, artists, scientists, writers, and journalists in Poland and The Netherlands. It is also a symbol of great sympathy professor Lachs had towards the Dutch People and The Netherlands where he spent the last 26 years of his life.

Professor Lachs was definitely one of the greatest lawyers of the 20th Century. I am confident that during the seminar on "The life and legacy of Professor Manfred Lachs" we will have the opportunity to hear in greater detail about his remarkable life from people who knew him personally and had the privilege of working with him.

Allow me therefore to conclude by saying that we, the Polish People and the Polish Authorities are proud to have had such a remarkable jurist who contributed so much to international peace and the promotion of international law. I hope that the bust of professor Manfred Lachs along with the bust of yet another exceptional Polish judge of the International Court of Justice, namely professor Bohdan Winiarski, will symbolize Poland's unwavering commitment to international justice.

Thank you for your attention.

**Address by H.E. Judge Mohamed Bennouna, Member of
the International Court of Justice**

Manfred Lachs, the Teacher in International Law
Mohamed Bennouna

Mesdames, Messieurs,

Je voudrais rendre hommage à la mémoire du regretté président Manfred Lachs en évoquant un aspect important de sa vie, de sa personnalité et de son œuvre.

Il s'agit de son engagement dans l'enseignement et la recherche en droit international.

En effet, en dehors de ses grandes qualités de praticien et de magistrat dans cette Cour, ainsi que vient de le rappeler le président Tomka, Manfred Lachs a enseigné le droit international avec cette passion qui caractérise ceux qui, avec amour, se consacrent à la transmission des connaissances aux nouvelles générations et à la formation de leurs capacités d'analyse. C'est ce qui l'a amené à écrire son ouvrage de référence intitulé «The Teacher in International Law», dans les années quatre-vingt, traduit plus tard en français sous l'intitulé «le monde de la pensée en droit international». Ce titre me paraît plus adapté à un ouvrage qui a fait le point de l'état de la doctrine en droit international dans ces années-là et dans son évolution historique.

Je me souviens, lorsque j'étais jeune professeur en droit international à l'université de Rabat et que je suis intervenu pour la première et dernière fois devant la CIJ, c'était devant Manfred Lachs, qui en était le président.

Après que la Cour ait donné son avis consultatif en octobre 1975 sur le Sahara occidental, il s'est trouvé que j'ai rencontré Manfred Lachs à New York, lors de la session de l'Assemblée générale, à la fin de ce mois d'octobre ; où il allait présenter le rapport habituel de la Cour à l'Assemblée.

Il était curieux de savoir quelle était la place que nous accordions au droit international dans notre université, nos méthodes d'enseignement et les domaines dont nous traitions. Nous en avons parlé. Il était proche de mon ancien professeur et maître, le professeur Charles Chaumont, en particulier ils ont fréquenté le Comité sur le droit de l'espace extra-atmosphérique et ont produit d'importantes recherches sur le sujet.

Je partage l'approche, qui était celle de Manfred Lachs, le droit international ne peut être réduit à une simple technique, il y manquerait à coup sûr la musique, soit le sens et la raison d'être de l'ensemble de l'exercice. On attend, en effet de l'interprète d'une composition musicale non seulement la maîtrise de la technique instrumentale mais aussi et surtout l'adhésion à l'esprit qui sous-tend cette composition, l'expression du message du compositeur, de sa musique.

Pour en revenir au droit international, si la maîtrise de la technique est nécessaire, notamment en ce qu'elle dote la discipline de ses outils conceptuels et favorise sa diffusion universelle, elle n'est cependant pas suffisante pour véhiculer le message. Le droit doit s'acquitter des fonctions qui lui sont dévolues par la société internationale.

Manfred Lachs avait rappelé, à juste titre, que la première approche du droit international était par essence eurocentrique et que ce n'est que dans la deuxième partie du XXème siècle que cette discipline a évolué vers le corpus universel que nous connaissons aujourd'hui. Il en a été de même de la doctrine qui a intégré progressivement les vues des professeurs représentant toutes les formes de civilisation et tous les systèmes juridiques du monde.

Enfin, je partage avec le regretté Manfred Lachs, la nécessité d'une approche interdisciplinaire du droit international qui puisse intégrer les réalités sociales, comme l'ont fait les grands pionniers, Charles de Visscher, Philippe Jessup, Taslim O. Elias ou Mohammed Bedjaoui.

Les conseils qu'il a donnés aux professeurs et aux penseurs en droit international sont toujours d'actualité, en particulier lorsqu'il leur demande d'être armés d'imagination et de raison, en se fondant sur un véritable humanisme social. Il était lui-même un grand humaniste, cultivant l'ouverture à l'autre dans une pleine affirmation de soi-même. «Je est un autre» «I is someone else» s'était exclamé le grand poète de la modernité, Arthur Rimbaud, affirmant ainsi l'apport des autres dans la constitution de soi.

Cette culture humaniste devrait être un élément central de la formation et de la vie de tous les juristes de droit international, qui devraient veiller à être à la fois rigoureux, imaginatifs et constamment à l'écoute de la diversité. C'est vers Francisco Goya que Manfred Lachs s'est tourné pour illustrer cette exigence, l'artiste, confronté à ses démons, disait : «l'imagination, désertée par la raison, engendre des monstruosités ; jointe à la raison, elle donne naissance à de grandes merveilles et à l'art véritable». Mesdames, Messieurs,

**Address by H.E. Mr. Philippe Couvreur, Registrar
of the International Court of Justice**

Excellences,
Mesdames, Messieurs,

C'est pour moi un grand honneur de pouvoir m'associer à la célébration aujourd'hui de la mémoire du juge Manfred Lachs, né il y a cent ans presque jour pour jour, et disparu il y a un peu plus de vingt ans déjà.

Compte tenu du temps qui m'est imparti, je me limiterai à évoquer, de façon nécessairement très sommaire, deux aspects particuliers, mais pour moi significatifs, du souvenir du juge Lachs : en premier lieu, son engagement afin de sortir la Cour du relatif isolement dont elle a fait l'objet à

la fin des années 1960 ; et, en second lieu, les réflexions qu'il a menées et les travaux qu'il a conduits en vue d'adapter la procédure et le mode de fonctionnement de la Cour aux réalités de son temps.

Je commencerai donc par le juge Manfred Lachs et la place de la Cour dans son environnement institutionnel et politique.

Le juge Lachs, fort de son expérience de diplomate et de conseiller juridique, s'est toujours montré extrêmement soucieux de la place de la Cour dans son environnement institutionnel et politique.

Manfred Lachs a ainsi exprimé à plusieurs reprises sa conviction que la Cour devait, par tous les moyens offerts par son Statut, apporter sa contribution ou son assistance au règlement pacifique des différends entre États, conformément au but premier des Nations Unies.

Pour le juge Lachs, le règlement judiciaire devait demeurer un «succédané» au règlement direct et amiable des conflits internationaux, selon les termes du fameux dictum de la Cour permanente de Justice internationale. Il n'oubliait cependant jamais de préciser que la Cour permanente, dans son ordonnance du 19 août 1929 en l'affaire des Zones franches, avait ajouté «qu'il appartient à la Cour de faciliter, dans toute la mesure compatible avec son Statut, pareil règlement direct et amiable». C'est en écho à ce dictum que la Cour internationale de Justice, alors présidée par Manfred Lachs, a dit, dans une formule non moins célèbre, dans les affaires des Essais nucléaires, que «si le règlement judiciaire peut ouvrir la voie à l'harmonie internationale lorsqu'il existe un conflit, il n'est pas moins vrai que la vaine poursuite d'un procès compromet cette harmonie».

Pour Manfred Lachs, et comme la Cour le reconnaîtra dans plusieurs décisions de principe au tournant des années 1970 et 1980, «tous les moyens de règlement pacifique énumérés à l'article 33 de la Charte des Nations Unies sont compatibles et complémentaires».

Dans l'opinion individuelle qu'il a jointe aux ordonnances sur les demandes de mesures conservatoires dans les affaires Lockerbie, Manfred Lachs exprima ainsi sa vision des relations entre la Cour et les autres organes principaux de l'Organisation des Nations Unies compétents en matière de règlement des différends :

«Les rédacteurs de la Charte, en créant plusieurs organes principaux, n'ont pas établi de séparation complète des pouvoirs ... [L]'intention des fondateurs n'était pas d'encourager ces organes à exercer leurs fonctions parallèlement, comme avec des œillères, mais plutôt d'avoir entre eux une interaction fructueuse» [et qu'ils agissent dans l'harmonie].

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On sait que les convictions du juge Lachs sur tous ces sujets se sont traduites par plusieurs initiatives très concrètes, dès son arrivée à la Cour à la fin des années 1960, à une époque où la Cour était confrontée aux plus vives controverses quant à son rôle, à la suite notamment de la décision qu'elle avait rendue dans les affaires du Sud-Ouest africain. Il fut ainsi personnellement à l'origine de la reprise de la visite annuelle du président de la Cour à l'Assemblée générale des Nations Unies, ainsi qu'au développement de contacts plus étroits et plus réguliers avec le Secrétaire général des Nations Unies.

Pour Manfred Lachs, les contacts qu'il s'agissait de prendre ne devaient bien évidemment pas avoir pour but de recueillir des demandes d'avis ou des affaires ou de se livrer à des actions de

publicité peu compatibles avec le prestige de la Cour. Ses propositions s'inscrivaient dans le contexte plus large de la place de la Cour dans la communauté des Nations Unies, du rôle qu'elle peut jouer pour renforcer la cause du droit et de l'image que l'on se fait d'elle aux Nations Unies. Le juge Lachs était convaincu que la Cour doit avoir une place à part parmi les organes des Nations Unies, sans toutefois que cela implique son «isolement». Il s'inquiétait en particulier que certains des organes intéressés ignorent la place qui doit revenir à la Cour dans la hiérarchie des organes des Nations Unies : Ce n'est, disait-il, qu'en se rattachant davantage au monde extérieur et au courant de la vie tout en gardant son indépendance que la Cour peut raffermir son rôle dans un univers caractérisé par l'interdépendance. On ne saurait dire mieux aujourd'hui.

Ses efforts ont manifestement porté leurs fruits. Comme il l'écrivait en 1991, «l'image de la Cour vivant dans son «splendide isolement» a pratiquement disparu, et l'absence de communication entre la Cour et la communauté internationale a été progressivement comblée».

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Et j'en viens à présent au second aspect de la contribution du juge Lachs à l'évolution de la Cour, que je souhaitais évoquer brièvement aujourd'hui. Il s'agit de son apport décisif au bon fonctionnement de la Cour et à l'adaptation de ses procédures aux besoins de son temps. Manfred Lachs a été membre (et président) du Comité chargé de la révision du Règlement de la Cour, entre 1967 et 1978, puis président du Comité — devenu permanent — du Règlement, créé en 1979, et cela sans interruption jusqu'à son décès en 1993. A ces divers titres, et prenant la suite des travaux initiés avant lui par sir Gerald Fitzmaurice, Manfred Lachs peut être considéré comme l'un des principaux architectes de l'unique révision d'ensemble du Règlement de la Cour opérée par celle-ci depuis 1946.

Dans sa grande sagesse, le président Lachs savait pertinemment que des modifications apportées à la procédure de la Cour ou à son mode de fonctionnement ne pouvaient constituer une panacée contre la désaffection dont elle faisait l'objet au cours des années 1970. Mais il ne méconnaissait pas pour autant l'importance essentielle des questions de procédure pour la bonne administration de la justice. Le droit procédural n'est jamais un simple instrument au service de l'application des règles matérielles. Il constitue, observait-il, une branche de droit autonome, qui obéit à certains principes fondamentaux et vise à assurer la protection des sujets de droit contre l'arbitraire.

Manfred Lachs était en outre très attentif aux exigences particulières imposées en ces matières à la Cour du fait de sa nature de juridiction internationale permanente et à vocation universelle. Il était bien conscient des influences exercées à l'origine par les divers systèmes nationaux de procédure dans l'élaboration des règles contenues dans le Statut ou le Règlement de la Cour. Il ne perdait cependant pas de vue le fait, à l'heure où la Cour entamait la révision de son Règlement, que la composition de la société internationale s'était enrichie et que de nombreux États ne partageaient pas nécessairement l'une ou l'autre des traditions qui prévalaient au début des années 1920. Il en retirait la conviction qu'il était nécessaire de renforcer l'autonomie des règles de la procédure judiciaire internationale, en gage de respect de la diversité des États se présentant devant la Cour comme de la diversité des différents systèmes juridiques du monde dont les membres de la Cour doivent être les représentants.

En même temps, le président Lachs était soucieux des dangers du formalisme et d'une procédure trop sophistiquée, entièrement détachée des changements du droit matériel et des évolutions de la société. Il rappelait que les questions de procédure revêtent une importance considérable en pratique. De leur solution, insistait-il, peut dépendre le sort réservé au différend soumis au juge.

Pour le président Lachs, le Règlement de la Cour devait en conséquence constituer avant tout un instrument, un guide destiné à faciliter l'administration de la justice. Il soulignait l'importance du Règlement comme un outil destiné, dès l'origine, à poser les droits des parties et le cadre général des relations entre celles-ci et la Cour. Il rappelait, comme il avait été indiqué du temps de la Cour permanente, que le Règlement «ne prétendait pas être un code de procédure plus ou moins complet, mais [devait viser] seulement à fournir les indications indispensables, notamment aux parties éventuelles ; la Cour[, soulignait-il,] [avait] entendu combler les lacunes par sa jurisprudence, non par voie législative».

Ce sont là des principes que le juge Lachs considérait comme fondamentaux, et qu'il n'avait de cesse de me rappeler de façon aussi didactique que bienveillante — je m'en souviens aujourd'hui avec beaucoup d'émotion —, lorsque nous préparions les séances du Comité du Règlement. Le Règlement devait ainsi offrir aux parties la sécurité juridique nécessaire et à la Cour une marge de manœuvre suffisante pour pouvoir faire face au mieux à tous les cas de figure, par définition imprévisibles.

On sait que les principales modifications qui furent apportées au Règlement, en 1972 et 1978, visaient à accélérer la procédure, ou du moins à en éviter l'allongement injustifié et à en diminuer ainsi le coût, à simplifier la solution de certaines questions délicates (telles que la «jonction au fond» des exceptions préliminaires, à la suite de l'affaire de la Barcelona Traction), à reconnaître à la Cour des prérogatives plus importantes en matière de direction du procès, ou encore à offrir des possibilités nouvelles aux États afin de rendre la Cour plus attractive (par exemple en ce qui concerne la composition des Chambres ad hoc ; le juge Lachs fut directement à l'origine de la modification du Règlement sur ce point). Nombre de ces modifications sont le fruit de propositions du président Lachs ou ont bénéficié de ses vues éclairées. Il s'est parfois montré déçu que tout le profit n'ait pas été tiré de ces modifications dans la pratique ultérieure des parties ou de la Cour elle-même. Il n'en poursuivit pas moins ses efforts incessants comme membre de la Cour, et comme président du Comité du Règlement, pour que la procédure et le fonctionnement de la Cour fassent l'objet d'un réexamen critique régulier.

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Pour conclure, je rappellerai combien Manfred Lachs mesurait, comme il l'indiquait dans son opinion individuelle en l'affaire des Activités militaires [Activités militaires et paramilitaires au Nicaragua et contre celui-ci (Nicaragua c. États-Unis d'Amérique)], la lourde responsabilité pesant sur les épaules des juges, ainsi que l'humilité et la prudence qu'elle requiert d'eux.

Il insistait aussi, dans la même opinion, sur la «diversité d'origine des juges qui fait certainement la force de la Cour. Elle est un élément essentiel de la confiance que tous les États peuvent éprouver devant l'équilibre des décisions rendues par la Cour et la grande variété d'opinions juridiques qu'elles représentent». Il estimait, pour cette raison, que la Cour ne devait pas s'estimer liée par les arguments des parties et refuser d'entreprendre ses propres recherches en disant le droit (jura novit curia), mais au contraire s'appuyer sur les connaissances de ses membres. À ce titre, Manfred Lachs attachait une importance cruciale au mode de délibération de la Cour. Il s'intéressa bien sûr de très près à l'adoption, en 1968, puis à la révision, en 1976, de la résolution de la Cour concernant sa pratique judiciaire interne, et aux moyens de renforcer le dialogue entre les juges et de faciliter la compréhension mutuelle entre eux. Manfred Lachs était convaincu, une fois encore, que les plus nobles objectifs de la Cour ne pouvaient être poursuivis sans une attention précautionneuse pour les réalités de la vie et les règles pratiques de fonctionnement de l'institution.

Comme il l'écrivait dans son opinion dissidente en l'affaire du Plateau continental de la mer du Nord, «le droit est destiné à résoudre les problèmes posés par [les] faits et c'est en cela que le lien entre le droit et les réalités de la vie est manifeste. Ce n'est pas la théorie juridique qui offre une réponse à ces problèmes ; elle[, la théorie juridique,] ne fait que choisir et adapter [la solution] qui sert le mieux ses fins et l'intégrer dans le cadre du droit [positif]».

En somme, Manfred Lachs a su allier, comme peu d'autres, une connaissance des problèmes les plus fondamentaux du droit international et une sensibilité aux enjeux pratiques de la vie internationale. Il nous a ainsi légué les plus précieux enseignements.

**Address by Mrs. Tanja Masson-Zwaan, President at the
International Institute of Space Law**

Excellencies, ladies and gentlemen,

Judge Manfred Lachs was a pioneer of space law, just as he was a pioneer in many other fields of law. I am honoured to have been invited by ambassador Borgowski of the Republic of Poland and President Tomka of the International Court of Justice to address a few words to you about the impact Judge Lachs had on the law governing outer space activities.

I worked with Judge Lachs during the last three years of his life, from 1990 to 1993, in his capacity as President of the International Institute of Space Law. The IISL is an international association of space lawyers, committed to promoting the rule of law in the peaceful use and exploration of outer space. The Institute was established ad hoc in 1958 and then as a permanent institution in 1960. Manfred Lachs became its 5th President as the Institute celebrated 30 years of existence, and I became the Secretary. We regularly had meetings to discuss matters concerning the institute, but often these evolved into spirited discussions on the law of outer space, a field that was dear to him and that he shaped to a large extent.

Indeed, Judge Lachs was, like no other space law pioneer, instrumental in the drafting of space law as it still stands today. He was the first Chairman of the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space. He was the father of the 1963 Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space and the 1967 Outer Space Treaty, both of which he presented to the UN General Assembly. These instruments might not have seen the light of day without his diplomatic skills in reaching consensus on matters regarding the peaceful use of outer space in a Cold War era filled with conflict, tension and mutual distrust. A chapter about Judge Lachs as a pioneer of space law is included in a new book of the IISL, titled 'Pioneers of Space Law', published this year by Brill/Nijhoff. The chapter about Judge Lachs written by Prof. Francis Lyall gives an excellent overview of his impact in this field.

One of the main legacies of Judge Lachs in the field of space law, besides his famous 1964 Lectures at the Hague Academy of International Law, published in the *Recueil des Cours*, is his 1972 book, 'The Law of Outer Space: an Experience in Contemporary Law-Making'. The book was no longer available for sale and had become a rarity. So in 2010, as the IISL celebrated its 50th anniversary, we republished it, and are proud that current space law students can again consult this book, brilliant for its foresight and simplicity.

Judge Lachs was able to express in a few simple words the most complex legal issues, and his clear legal mind is a joy for every scholar. He understood the importance of regulating space activity and of the need to adapt the speed of international law making. He wrote in the introduction of the 1972 book: "mankind is only partly aware of the far-reaching consequences of its entry into space". How true this still is. Judge Lachs also recognised that space law from its

beginning was a part of international law; a “new chapter of international law”. Unfortunately, the book could only cover the first phase of international space law, involving traditional state-oriented space activities. It would have been interesting to know his views on the second phase, involving private entities planning a myriad of commercial space activities. In any case, I believe that he would have enjoyed to know that his book is still motivating students from all over the world to further their knowledge about space law.

Indeed, Judge Lachs was particularly sensitive to the need of educating bright young scholars. This was exemplified by the fact that he served on the bench, with Judges Guillaume and Schwebel, of the first space law moot court competition organised by the IISL in 1992 in Washington, D.C. The competition was renamed the “Manfred Lachs Space Law Moot Court Competition” in his honour after his passing in 1993. Today, we are in the 23rd year of this event and it continues to grow. The competition involves some 65 student teams from North America, Europe, the Asia Pacific and Africa. The World Finals are traditionally judged by sitting judges of the International Court of Justice. This unique feature makes the Manfred Lachs Moot Court one of the most prestigious moot court competitions in the world. I want to put on record here my deep appreciation to so many members of this court who have and are judging the world finals. Judges Guillaume, Vereshchetin and Koroma honoured us with their presence for many years, and many others continue to do so today. Thank you, President Tomka, for making this possible. In this way, we can continue to honour Manfred Lachs by involving young bright minds from all over the world in this fascinating field of law, that he so loved. We are also proud that the original of our Manfred Lachs Trophy has found a permanent place outside the President’s office, in the prestigious setting of the International Court of Justice, where now also his bust has found a place today.

Let me end with a phrase about Judge Lachs from our moot court brochure: “He may never have imagined that after his death his name would be used, with the permission of his family, for the space law moot court competition of the IISL and thus be remembered by so many space law students . . .”

I am convinced that Manfred Lachs’ wisdom and scholarship will continue to inspire us for a long time. At the personal level, the twinkle in his eyes and his wit will remain with me forever.

Thank you for your kind attention.
