

THE ICJ IN THE SERVICE OF PEACE AND JUSTICE

Words of welcome by President Tomka

Excellencies,
Dear Guests and friends,

It is with great pleasure that I greet you this morning — on behalf of the International Court of Justice — on the occasion of the Conference organized by the Court to celebrate the centenary of the Peace Palace. We are particularly pleased to welcome such eminent guests on this occasion, and are similarly delighted that our invitation to this Conference has been met with a very positive response. As a result, we were able to bring together a roster of very distinguished speakers in today's panels, for which we are very grateful.

We are privileged to host this Conference in the recently renovated Great Hall of Justice, with its improved, modern working facilities. In many ways, this renovation and the centennial festivities not only provide a propitious moment to reflect upon the great past and history surrounding this Hall, the Palace and its occupants, but also they present us with the opportunity to look forward and embrace a future in which international peace, justice and modernity can work in concert. Thus, today we not only celebrate the Palace, but also the great advances that have been made inside its walls towards creating a safer and more peaceful world.

In this regard, the Conference programme is equally rich as it is balanced in engaging the past and present of international justice, while also entertaining future prospects and challenges for the work of the Court and beyond. Thus, the past, present and future will very much be reflected in the various themes addressed today, be they “A Century of International Judiciary and Prospects for the Future”, “The International Court of Justice and the International Legal System”, “The Role of the International Court of Justice for Enhancing the Rule of Law”, and “The International Court of Justice and the United Nations: Relationship of the ICJ with other UN Organs”.

After the inauguration of the Peace Palace, which opened its doors in August 1913, the Great Hall of Justice was first used by the Permanent Court of Arbitration. In 1922, the Peace Palace became the home of the first standing universal international court for States, the Permanent Court of International Justice (“PCIJ”). In that setting, the present-day Court's predecessor dealt with various disagreements between States, contributing both to the peaceful settlement of disputes and to the broader objectives of peace and justice.

In so doing, it also contributed greatly to developing and clarifying international legal principles, particularly in the field of international customary law. The figures are eloquent: in its 18 years in operation, until late 1939, the Permanent Court left an enduring legacy, having delivered 32 judgments settling disputes between States, and also provided 27 advisory opinions upon the request of organs of the League of Nations. The Permanent Court also developed an important corpus of procedural law, which still provides solid foundations for the proper administration of international justice.

Furthermore, the jurisprudence developed by the Permanent Court not only constitutes a source of inspiration for parties appearing before the present-day Court in crafting their legal arguments, but it also illuminates the work of the Court itself. This reality is no doubt attributable to the fact that the Permanent Court of International Justice operated primarily in an era when international law was largely uncodified, which prompted it to clarify relevant international legal principles in fundamental areas, such as the law of treaties or the law of State responsibility, to name only two. By way of example, the famous *Chorzów Factory* case decided by the Court touched upon both these areas, and remains oft-cited by parties appearing before the World Court, even in recent proceedings. Thus, admirable coherence and consistency have characterized the

respective jurisprudential canons of the Permanent Court and its successor, the International Court of Justice, despite the institutional discontinuity that occurred in the transition between these two courts.

In 1945, the adoption of the United Nations Charter consecrated this jurisprudential continuity by modelling the present-day Court's Statute after that of its predecessor, and the International Court of Justice made this Great Hall its permanent courtroom in 1946. As a result, the Court not only inherited the Permanent Court of International Justice's jurisprudence, but also further developed it, having been entrusted with the primary responsibility of delivering international justice by settling disputes between sovereign States in its role as the principal judicial organ of the United Nations. Consequently, over the decades following the inception of the Permanent Court and, later, that of the International Court of Justice, countless eminent agents and counsel have appeared before these institutions; ground-breaking legal arguments have been advanced by the parties; peaceful solutions and settlements of international disputes have been articulated while upholding the rules and principles of international law; and greater adherence to the international rule of law has been continuously promoted.

The rich contributions of these two institutions should not be measured only by their 90 years of accumulated experience in the settlement of inter-State disputes. They must also be assessed in the light of their importance in terms of law and international justice. It should be recalled that this room has been the breeding ground for some of the most seminal and important decisions in the field of international law during the last 90 years. The Permanent Court, ever at pains to promote the rule of law through the peaceful settlement of disputes, contributed significantly to the clarification of important legal issues, notably in the cases concerning the *S.S. "Wimbledon"*, the *Mavrommatis Palestine Concessions*, the *"Lotus"*, the *Free Zones of Upper Savoy and the District of Gex* and *Phosphates in Morocco*, among others.

Similarly, the International Court of Justice has made a significant contribution to the development of international law through its judgments and advisory opinions from the first dispute it decided in the *Corfu Channel* case onwards. In the following decades, successive cases brought to the Court have enabled it to consider various questions of international law and to clarify the applicable legal principles. One need only think of cases such as *Nottebohm*, *Monetary Gold Removed from Rome in 1943*, *Barcelona Traction*, the *North Sea Continental Shelf*, *United States Diplomatic and Consular Staff in Tehran*, *Military and Paramilitary Activities in and against Nicaragua*, the *Gabčíkovo-Nagymaros Project*, *Armed Activities on the Territory of the Congo* and *Maritime Delimitation in the Black Sea*. These decisions — and many others — are reflected in the oral arguments of the parties before the Court and are the topic of academic discussions, and at the same time they provide inspiration for international tribunals and States.

In all these instances, in both contentious and advisory proceedings, the deliberations and pronouncements of the Court have invariably provided fertile ground for the search for peaceful solutions and for the promotion of the rule of law. I would like to take this opportunity to emphasize that the Manila Declaration on the Peaceful Settlement of International Disputes, and several other similar instruments, specify that referral of disputes to the International Court of Justice should not be considered an unfriendly act between States, but more akin to a desire to promote international peace, justice and security.

Moreover, we are already seeing an increased willingness on the part of several States to submit to the jurisdiction of the international courts in order to resolve their disputes through impartial and objective institutions. In this regard, the invitation made by the Secretary-General with a view to increasing the number of States having made declarations of acceptance of the compulsory jurisdiction of the Court bears eloquent testimony to this desire further to develop the role of the principal judicial organ of the United Nations.

One need only recall that the Court enjoys a leading reputation in the settlement of frontier and maritime delimitation disputes, having often defused tensions that had arisen between States, in particular in the cases concerning the *Continental Shelf* between Tunisia and the Libyan Arab Jamahiriya, as well that between the Libyan Arab Jamahiriya and Malta, the *Frontier Dispute* between Burkina Faso and Mali, the *Land and Maritime Boundary between Cameroon and Nigeria*, the *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea* and, more recently, the case concerning the *Frontier Dispute* between Burkina Faso and Niger.

It is to be hoped that this Peace Palace, which has served for a century as a bastion of international peace and justice and as an incubator for the peaceful settlement of disputes, will continue to be of value in promoting and strengthening the international rule of law. The Court will certainly be increasingly faced with disputes raising complex factual issues and in which the question of the burden of proof will prove to be a thorny one, as happened for instance in the *Armed Activities on the Territory of the Congo* and the *Genocide in Bosnia* cases. It will also have to deal with cases involving scientific questions and which may have consequences for the environment, as occurred for example in the *Pulp Mills on the River Uruguay* case and in the case concerning *Aerial Herbicide Spraying*.

It should be noted that this last case, in which public hearings were due to begin on 30 September, was amicably settled by the Parties just two weeks ago. The Parties have, however, expressed their gratitude to the Court for the time, attention and resources it had devoted to the case, acknowledging that it would have been difficult if not impossible to achieve a settlement of the dispute but for the availability of the Court.

Needless to say, these developments in jurisprudence arise in part from the new challenges facing us at the international level in, amongst others, the fields of human rights, the jurisdiction of tribunals, transnational co-operation, evidence in international law, cross-border pollution, global governance, and which at times result from the increasingly important role of non-State actors in today's world and its political realities. Of course, the Court will continue to work hard to meet these challenges as they arise, always careful to settle the disputes submitted to it faithfully and impartially, as dictated by the noble judicial mission entrusted to it under the Charter of the United Nations. It will thus continue the tradition firmly established by its predecessor, ensuring that its jurisprudence remains fair and coherent in the future.

In the meantime, I would again like to express my warm thanks — on behalf of the Court — to all our guests and speakers. Your presence in this Hall today bears emphatic witness to the importance that we all place on the promotion of the rule of law and the peaceful settlement of disputes. It is clear that these goals will remain of the utmost importance in the work of the Court.
