



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

Seminar on the International Court of Justice

“Links between the Court and the other principal organs of the United Nations”

Organized as a part of the annual informal legal advisers’ meeting

Opening and Closing statements

by

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**Trusteeship Council Chamber
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Opening statement

President Tomka,
Professor Zimmermann,
Distinguished guests,
Ladies and Gentlemen,

I am pleased to welcome you to this seminar on links between the International Court of Justice and the other principal organs of the United Nations.

I am also pleased to welcome our distinguished panelists, President Tomka of the International Court of Justice and Professor Zimmermann, Professor of International and European Law at the University of Potsdam.

Professor Zimmermann will already be known to many of you as one of the editors of a major commentary on the Statute of the International Court of Justice, a second edition of which was published last year.

You may recall that my predecessor had proposed to conduct a series of three seminars over a period of three years with the aim of making the role of the Court better known and understood.

Two seminars were successfully held in 2010 and 2011 as part of the annual informal meetings of Legal Advisers: one on the “Contentious Jurisdiction of the Court, Exploring the Various Forms of Consent and the Limits upon the ICJ’s Jurisdiction”; and the other on “The Contribution of the Court to the Development of International Law through its Jurisprudence”.

These seminars provided an opportunity to hold interesting discussions on some key aspects of the work of the Court, and were greatly appreciated, I believe, by Legal Advisers.

This is the third and last of the series of seminars. This seminar was originally scheduled for the 2012 annual informal meeting, but due to the severe weather conditions, the meeting had to be cancelled. I am pleased that we are finally able to hold this important seminar.

Before I give the floor to President Tomka, by way of introduction, I wish to highlight the key provisions in the Charter of the United Nations. In particular, I wish to highlight the provisions that deal with the relationship between the Court and the other principal organs of the United Nations.

First, there are two key provisions dealing with the relationship between the Court and the Security Council.

Article 36, paragraph 3, provides that, in making recommendations for appropriate procedures for the settlement of disputes, the Security Council should take into consideration that legal disputes should as a general rule be referred by the parties to the Court.

If a party to a case before the Court fails to implement the Court’s judgment, the other party may have recourse to the Security Council. This is provided in Article 94, paragraph 2 of the Charter. When the matter is referred to the Security Council, and the Council may make recommendations or decide upon measures to be taken to give effect to the judgment of the Court. This provision of the Charter has been invoked only five times in the history of the Organization, it seems. And the Council has not, to date, taken any concrete action of the kind that it contemplates. Its potential, however, is clear.

More broadly, Article 96 of the Charter is highly significant since it allows the General Assembly and the Security Council to request an advisory opinion on any legal question. It also empowers the General Assembly to

grant the same faculty to other organs of the United Nations and to the Organization's specialized agencies, though only with respect to legal questions arising within the scope of their activities.

Article 96 has been invoked by the General Assembly and the Security Council to seek the Court's advice on a number of highly sensitive legal issues through the years. Such advice includes advisory opinions that played a major role in clarifying the meaning of certain key provisions of the Charter and in developing the law of the Organization.

Finally, the Secretary-General discharges various important responsibilities under the Statute of the Court. Pursuant to Article 36, paragraph 4, of the Statute, he receives in deposit declarations made by States recognizing the compulsory jurisdiction of the Court. Pursuant to Article 65, paragraph 2, of the Statute, where an advisory opinion is sought from the Court by an organ of the United Nations, the Secretary-General submits documents likely to throw light upon the question posed to the Court.

Finally, I would be remiss if I were not to mention the roles that the Secretary-General, the Security Council and the General Assembly all play pursuant to the Statute in connection with the election of the members of the Court.

I believe that these provisions and the practice under them give us ample materials to have a stimulating discussion on the topic in question: the links between the Court and the other principal organs of the United Nations.

I look forward to hearing from President Tomka and Professor Zimmermann on the topic, and look forward to a lively discussion.

President Tomka, the floor is yours.

Closing statement

Thank you.

We are now approaching the end of this seminar. Thank you for the stimulating discussion, and thank you, President Tomka and Professor Zimmermann, for your thought-provoking and informative presentations.

This series of three seminars was launched with the aim of making the role of the Court better known and better understood. I think that you will agree that they have succeeded in that aim.

In the first seminar, the “Contentious Jurisdiction of the Court, Exploring the Various Forms of Consent and the Limits upon the ICJ’s Jurisdiction” was discussed.

As of today, 66 States have accepted the compulsory jurisdiction of the Court — an increase of four since this series began. While this increase is most certainly welcome, the number of States that have recognized the compulsory jurisdiction of the Court is just a little over a third of the membership of the United Nations. 60 years ago, in 1953, it was more than half of the membership of the United Nations. Much work remains to be done if we are to ever realize the vision of the great international lawyers and diplomats of the early Twentieth Century. They envisaged an international system founded on the rule of law, guaranteed by a world court with universal compulsory jurisdiction, and the competence to hand down binding judgments.

The second seminar discussed the “Contribution of the Court to the Development of International Law through its Jurisprudence”. That contribution has been a major one. Since the seminar, the Court has continued to make a substantial contribution to the clarification and development of international law, with its landmark judgments in the *Jurisdictional Immunities* and *Prosecute or Extradite* cases and its two judgments on land and maritime boundaries. We can be confident that the Court will continue to play a central role in the development of the international legal order in the future.

In today’s seminar, the importance of the links between the Court and the other Principal Organs of the United Nations was highlighted. The seminar

was a timely one, as the role of the Security Council in securing compliance with the Court's judgments has recently been the subject of some attention.

If you may recall, the crucial role played by the International Court of Justice was once again reaffirmed in a declaration that was adopted by the General Assembly last year. The declaration was adopted during the high-level meeting on the rule of law at the national and international levels which was held in September 2012. As the declaration is very much relevant to our seminars, I thought it appropriate to recall the relevant parts of the declaration by way of conclusion.

In the declaration, Heads of State and Government and heads of delegation first recognized "the positive contribution of the International Court of Justice...including in adjudicating disputes among States, and the value of its work for the promotion of the rule of law".

They further reaffirmed "the obligation of all States to comply with the decisions of the International Court of Justice in cases to which they are parties". States were also called upon "to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute" if they had not yet done so.

And finally, they recalled "the ability of the relevant organs of the United Nations to request advisory opinions from the International Court of Justice."

I believe that the declaration highlighted some of the key provisions in the Charter and the Statute of the Court which are fundamental for upholding the rule of law at the international level.

I am confident that Member States will continue to support the Court and to value the vital role that it plays in the peaceful settlement of disputes.

Thank you all for your participation.