

**SPEECH BY H.E. JUDGE ROSALYN HIGGINS,
PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE,
AT THE 58TH SESSION OF THE INTERNATIONAL LAW COMMISSION**

25 July 2006

Mr. Chairman,

Ladies and Gentlemen,

Friends and Colleagues,

I am delighted to address the International Law Commission, whose work I admire and among whose number I have so many friends, on the occasion of its fifty-eighth session.

Since 1997, the International Law Commission has invited the President of the International Court of Justice to come to Geneva to address the plenary meeting and engage in an exchange of views with the Commission. The Court greatly appreciates these exchanges between our two institutions and it is good that they have become an annual event.

Today I plan, as is traditional, to report on the Judgments rendered by the International Court over the past year. But I thought it might be of particular interest if I especially drew attention to aspects of our recent case law that have a special relevance for the work of the ILC – ILC work that is completed or is ongoing.

I begin with the Benin/Niger Chamber case, under the Presidency of Judge Ranjeva.

Territorial disputes invariably involve many of the same elements, whatever the case. They concern an analysis of colonial instruments, the study of acts claimed as legal effectivités, and there

is also frequently the question of uti possidetis to be factored in, which has a critical date function to play in the long history to independence and the long subsequent history. So much, so usual. And yet each dispute over title to territory, or the fixing of a boundary, has its own special elements, which provide instruction in history and challenges in law.

So it was in the Chamber case of Benin/Niger, decided on 12 July 2005, the day after my predecessor, President Shi Jiuyong, addressed you last year.

To understand who at the time had the authority to determine or change a frontier required reliance on national law. But then, as in other such cases, it was important for the Court to be able to identify which authorised colonial acts were purely intra-colonial or whether they could have the effect of altering a frontier for purposes of international law.

The Chamber of the Court, created at the request of the Parties, in that case was charged with determining the course of the entire boundary between Benin and Niger and to specify which State owns which island in the River Niger sector, with a particular emphasis being put by the Parties on the island of Lété, the largest of them all.

The parties asked the Chamber to use the principle of uti possidetis for its decision. The interesting challenge was to have this doctrine play its important role, without ignoring, temporally speaking, all that had occurred in real life subsequently. The Court confirmed that it would look at maps and other data subsequent to the critical date, but to see if they evidenced an agreement to alter the uti possidetis line.

Beginning with the Niger River sector, the Chamber of the Court found that the boundary between Benin and Niger followed the “main navigable channel of the river”. Having determined the exact course of that main navigable channel (deepest soundings) at the time of independence of the two countries, the Chamber then found that the islands lying East of that channel (the island of

Lété and fifteen others) belonged to Niger, while the islands located West of the channel (nine of them) belonged to Benin.

In the Mekrou River sector, the Chamber had to decide whether, as Benin argued, the Mekrou River itself formed the border, or, as Niger claimed, the boundary was a straight line between the Atakora Mountain Range and the confluence of the Mekrou and Niger rivers. Relying notably on a 1927 decree of French colonial authorities, the Chamber ruled that the Mekrou River formed the common border when both countries gained independence and, consistent with uti possidetis, still formed the current border. The Chamber then held that the Mekrou River was not navigable, and found consequently that the median line of the river constituted the appropriate boundary.

This case represents an interesting example of a dispute between African states being brought to the Court by special agreement. The option chosen by the Parties to submit the case to the Court in this manner proved of particular significance for the organisation of the proceedings. Not only did the Parties agree to have the case heard by a Chamber of five judges, but they themselves fixed relatively short time-limits for the filing of their respective written pleadings and agreed to use solely the French language in their written and oral pleadings, thereby simplifying their own work as well as that of the Court, and limiting their expenses.

The Benin/Niger case also presented the Court with a small delimitation question that had never been addressed by an international court or tribunal until then: that of the delimitation of the boundary on bridges over international watercourses in the absence of any bilateral agreement between the two neighbouring States. Of course, this was not in your sights during your pioneering work on watercourses – which was not, in reality, directed at boundary matters. The Court found that in such circumstances (the absence of bilateral agreement), the solution was to extend vertically the line of the boundary on the watercourse. The Court noted that, and I quote, “This solution accords with the general theory that a boundary represents the line of separation between areas of State sovereignty, not only on the earth’s surface but also in the subsoil and in the

superjacent column of air. Moreover, the solution consisting of the vertical extension of the boundary line on the watercourse avoids the difficulties which could be engendered by having two different boundaries on geometrical planes situated in close proximity to one another.”, end of quotes (para. 124).

The Court had this past year to deal with a very different type of inter-African case, raising issues of a wholly grimmer character. I refer, of course, to the case concerning Armed activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda).

As you will remember, the Congo v. Uganda case involved very grave allegations relating inter alia to the unlawful use of force, violation of territorial sovereignty, occupation, human rights and humanitarian law violations, as well as the illegal exploitation of natural resources. This was by no means an easy or ordinary case for the Court, if only because when the deliberations on the merits started, the armed conflict was not entirely settled on the ground. Indeed, the conflict was threatening to flare up again according to news reports at the time. I don't need to remind you, either, of the extreme complexity of the history of this conflict in the Great Lakes Region and of the difficulty in untangling the sequence of events and in identifying the numerous actors involved. The number of specific violations alleged by the parties and the amount and variety of material submitted in support of these allegations were furthermore unprecedented.

In its judgement of 19 December 2005, the Court ruled essentially in favour of the Congo although it did follow Uganda on one of its counter-claims. The Court found :

“that the Republic of Uganda, by the conduct of its armed forces, which committed acts of killing, torture and other forms of inhumane treatment of the Congolese civilian population, destroyed villages and civilian buildings, failed to distinguish between civilian and military targets and to protect the civilian population in fighting with other combatants, trained child soldiers, incited ethnic conflict and failed to take measures to put an end to such conflict; as well as by its failure, as an occupying Power, to take measures to respect and ensure respect for human rights and international humanitarian law in Ituri district, violated its obligations under international human rights law and international humanitarian law;”

It also found:

“that the Republic of Uganda, by acts of looting, plundering and exploitation of Congolese natural resources committed by members of the Ugandan armed forces in the territory of the Democratic Republic of the Congo and by its failure to comply with its obligations as an occupying Power in Ituri district to prevent acts of looting, plundering and exploitation of Congolese natural resources, violated obligations owed to the Democratic Republic of the Congo under international law;”

As regards Uganda’s claim, the Court then found:

“that the Democratic Republic of the Congo, by the conduct of its armed forces, which attacked the Ugandan Embassy in Kinshasa, maltreated Ugandan diplomats and other individuals on the Embassy premises, maltreated Ugandan diplomats at Ndjili International Airport, as well as by its failure to provide the Ugandan Embassy and Ugandan diplomats with effective protection and by its failure to prevent archives and Ugandan property from being seized from the premises of the Ugandan Embassy, violated obligations owed to the Republic of Uganda under the Vienna Convention on Diplomatic Relations of 1961;”

The Court decided consequently that both countries were under an obligation to make reparation for the injury caused by their violations of international law.

The questions, legal and factual, that the Court had to answer to reach these findings are numerous and important and I cannot today recount them all, even in summary form. Let me just point out a couple of aspects of the case which I think are of particular interest, as well as those parts of the reasoning of the Court which have a direct relevance to the work of the International Law Commission.

The Court extensively dealt with important issues relating to the principle of non-use of force and non-intervention. Issues relating to consent of the parties to the presence of foreign troops, and claims that certain actions were to be deemed self-defence by Uganda were examined. Detailed findings of fact preceded the findings of law. The Court also stated that, as in the Nicaragua v. United States case, the facts did not warrant any pronouncement on whether self-defence would be available in the light of an imminent attack. Uganda had made it clear that it

believed an armed attack had occurred, through a series of attacks, and that it was not responding to an imminent attack.

The Court also examined the question of the legal definition of belligerent occupation. To summarize, the Congo argued that Ugandan troops had set up a very large occupation zone, which it administered both directly and indirectly. For the Congo, it didn't matter whether Ugandan troops were present or not in specific locations in that zone. The defining criterion for establishing a situation of occupation was, according to the Congo, Uganda's ability to assert its authority over the territory concerned. Uganda claimed, on the other hand, that with a maximum of 10.000 troops on the territory of the Congo, it just could not have occupied that swathe of territory. It maintained furthermore that most of the territories alleged to be occupied were controlled and administered by Congolese rebel groups not subservient to them.

In its judgment, the Court started by recalling that according to Article 42 of the 1907 Hague Convention, which reflects customary law on the matter, "territory is considered to be occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised" (see para. 172). The Court thus went on to examine whether there was sufficient evidence to demonstrate that the said authority was in fact established and exercised by Uganda; it specified in this regard that it was not sufficient to prove that armed forces were stationed in a particular location. It had to be proved that these armed forces had substituted their own authority for that of the Congolese Government in that location. The Court had no difficulty in concluding that Uganda established and exercised authority in Ituri as an occupying Power. It found however that the Congo had not provided any specific evidence to show that that authority was exercised by Ugandan armed forces in other areas. As a consequence, the Court had to deal with two separate areas to which different legal regimes applied. In Ituri, Article 43 of the 1907 Hague Regulations imposed on Uganda a duty to restore and ensure public order and safety while respecting the laws of the Congo. Uganda could thus be held responsible not only for its own acts and omissions in that region but also for any lack of vigilance in preventing violations of human rights and humanitarian law by other actors in that

territory and more specifically rebel groups. On the rest of the Congolese territory invaded by Uganda, not qualified as occupied, that specific duty of vigilance did not apply and Uganda could thus only be held responsible for the acts and omissions of its own forces.

There was the interesting and difficult question of whether, when a State agrees to a ceasefire and a phased withdrawal of foreign troops, a “consent” has been given pro tem for the presence of those troops. Looking at a series of such agreements, the Court found that they did not constitute consent by the DRC to the presence of Ugandan troops on its territory “in the sense of validating that presence by law”. I am sure this matter will have a wider resonance.

The Congo also placed considerable emphasis on the claim that the exploitation by Uganda of its diamonds constituted a violation of the DRC’s permanent sovereignty over its natural resources. The Court was not persuaded. To be sure, the concept of permanent sovereignty over natural resources is a concept that continues to have legal relevance today. But this contemporary relevance did not lie in the factual complex before the Court. The Court explained that nowhere in any of the resolutions recognizing that principle, could any mention be found of plundering and looting by invading forces. But that was the reality of what had been occurring. Plundering and looting by armed forces are just that, even if what was looted was a natural resource. The concept of permanent sovereignty over natural resources was directed to another situation.

I turn now to aspects of the case connected to the work accomplished by the International Law Commission. The Court had occasion, once more, to rely in its reasoning on the ILC Articles on Responsibility of States for internationally wrongful acts.

Congo claimed that Uganda had created the “Mouvement de Libération du Congo” and should thus be held responsible for the violations of international law committed by this rebel movement. The Court referred to articles 4, 5 and 8 of the Articles to address this claim. Basing itself on these texts, the Court decided that the conduct of the MLC was not that of an organ of Uganda nor that of an entity exercising elements of governmental authority on its behalf, and that

there was no evidence that the MLC was acting under the instructions of, or under the direction or control of Uganda.

In its pleadings, Congo had further raised an objection to the admissibility of a part of the counter-claim of Uganda which concerned events that had allegedly taken place under the Mobutu regime, that is to say prior to May 1997. The DRC argued that Uganda's conduct following these events had amounted to an implied waiver of whatever claims it might have had against the DRC at the time. In its reasoning, the Court referred to article 45 of the ILC Articles, which points out that:

“[a]lthough it may be possible to infer a waiver from the conduct of the States concerned or from a unilateral statement, the conduct or statement must be unequivocal” (ILC report, doc. A/56/10, 2001, p. 308).

The Court held in casu that nothing in the conduct of Uganda in the period after May 1997 could be considered as implying an unequivocal waiver of its right to bring a counter-claim.

Another interesting point raised in relation with the counter-claim concerned the difference between the invocation of the Vienna Convention on Diplomatic Relations to protect diplomats and diplomatic premises and the invocation of a right to exercise diplomatic protection for nationals – another topic under consideration by the ILC. Uganda claimed that some of its diplomats and nationals residing in the Congo had been maltreated by Congolese soldiers in the days leading to the opening of hostilities. The Congo argued that these claims were inadmissible as Uganda had not fulfilled the conditions for the exercise of diplomatic protection. The Court recalled first that the Vienna Convention on Diplomatic Relations continued to apply notwithstanding the existence of an armed conflict. The Court then explained that claims based on violations of the Vienna Conventions were brought by Uganda in its own right, and not in the exercise of diplomatic protection. Only those claims of Uganda relating to nationals not enjoying diplomatic status and not present on the premises of the diplomatic mission were brought in the exercise of diplomatic

protection and for those alone had Uganda to demonstrate that the conditions for such actions were fulfilled.

The judgment in the Congo v. Uganda case is also noteworthy for its very specific and fact-based findings. Let me give you just one example of the detailed evaluation of the evidence that the Court undertook in the Congo v. Uganda case. In concluding that Uganda had not produced sufficient evidence to show that the Zairean authorities were involved in providing political and military support for specific attacks against Ugandan territory, the Court noted:

The bulk of the evidence submitted consists of uncorroborated Ugandan military intelligence material and generally fails to indicate the sources from which it is drawn. Many such statements are unsigned. In addition, many documents were submitted as evidence by Uganda, such as the address by President Museveni to the Ugandan Parliament on 28 May 2000, entitled “Uganda’s Role in the Democratic Republic of the Congo”, and a document entitled “Chronological Illustration of Acts of Destabilization by Sudan and Congo based Dissidents”. In the circumstances of this case, these documents are of limited probative value to the extent that they were neither relied on by the other Party nor corroborated by impartial, neutral sources. Even the documents that purportedly relate eyewitness accounts are vague and thus unconvincing. (...) The few reports of non-governmental organizations put forward by Uganda (...) are too general to support a claim of Congolese involvement rising to a level engaging State responsibility. (para. 298)

The Court’s docket increasingly includes fact-intensive cases in which the Court must carefully examine and weigh the evidence. No longer can it focus solely on legal questions. Such cases have raised a whole swathe of new procedural issues for the Court. In the run-up to the Bosnia and Herzegovina v. Serbia and Montenegro case, the Court anticipated, in particular, many issues likely to arise concerning witness evidence and examination. The Court made preparatory proposals on, inter alia, whether witness examination should be preceded with affidavits, how to organize the cross-examination, how to secure the confidentiality of the testimony during the hearings, what type of translation to provide for the witnesses and for the Court, etc. Very particular arrangements had to be made with the Press. The Court put in place plans to deal with the huge, but unequal, number of witnesses originally listed – without totally blocking progress on

the rest of its docket. In the event, the number of witnesses called dwindled to entirely manageable dimensions.

The challenges raised by cases like the Congo v. Uganda and the Bosnia and Herzegovina v. Serbia and Montenegro cases are however not only procedural. These cases indeed constitute also exemplary material for the topic of the “Fragmentation of International Law” which is being studied by the International Law Commission under the leadership of Professor Koskenniemi.

As you know, the new International Criminal Court is currently investigating alleged crimes committed in the Democratic Republic of the Congo and in Uganda. Arrest warrants have been issued and a first prisoner was transferred to that Court in March of this year in relation to events in the Congo. The ICC will certainly want to use the findings of international law made by the Court in the Congo v. Uganda case as a framework within which to accomplish their work as regard international criminal law. Of course, the ICC has currently a particular focus on events arising from the Lord Resistance Army’s activities which was not one of the groups within the ambit of the Court’s judgment. There are nonetheless findings of law and facts in our judgment that we trust will be of use to the ICC. Conversely, the written and oral pleadings of Bosnia and Herzegovina in the Genocide case currently under deliberation relied very much on ICTY case law for both evidence as to facts and claims as to law. The ICTY undoubtedly has had occasion to go in these matters very deeply and carefully. An interesting legal question for us will be to ascertain what type of categories of findings made by the ICTY seem to fall within our notion of “safe evidence” for purposes of determinations of particular facts. And certainly, it can only be helpful for the Court, when wrestling with the ample legal issues relating to the Genocide Convention, to be able to study various findings of law already made in the different ICTY Chambers.

A further case decided by the Court over the last year again entailed litigation between two African States. 2005-2006 turned out to be very much an African year for the Court. On 3 February 2006, the Court concluded the proceedings between the Democratic republic of Congo and Rwanda in the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) by

finding that it had no jurisdiction to entertain the Application filed by the Congo. But the case turned out to be rather absorbing, legally speaking.

The Congo had invoked no less than 11 bases of jurisdiction in this case. The Court's deliberations mainly turned on the interpretation of particular jurisdictional provisions and on the analysis of requirements contained in these provisions. The case appeared at first hand as really straightforward. After all, the Court had already pronounced prima facie on most of these jurisdictional provisions in its Order on provisional measures of 2002. A series of very interesting questions arose however during the proceedings. I will address just two of them today in relation with the line of argumentation developed by the Congo à propos the Rwandan reservation to Article IX of the Genocide Convention conferring jurisdiction to the International Court of Justice. The Congolese strategy was two-pronged: it argued first that Rwanda had withdrawn its reservation (a new argument introduced at the oral stage), and second that Rwanda's reservation was invalid.

As regard the withdrawal of the reservation, the Congo claimed that Rwanda had undertaken on various occasions to withdraw all reservations made by it when it became party to treaty instruments on human rights. It invoked in particular the Arusha Peace Agreement of 1993, a Rwandan décret-loi of 1995 and a statement made by Rwanda's Minister of Justice in 2005 in front of the United Nations Commission on Human Rights. Rwanda contended on the other hand that it had never taken any measure to withdraw its reservation to Article IX of the Genocide Convention.

Taking all these elements into consideration, the Court explained that a "clear distinction had to be drawn between a decision to withdraw a reservation to a treaty taken within a State's domestic legal order and the implementation of that decision by the competent national authorities within the international legal order, which can be effected only by notification of withdrawal of the reservation to the other States parties to the treaty in question" (see para. 41). In the Court's view, the question of the validity and effect of the décret-loi, in particular, was different from that of its effect within the international legal order. Recalling the provisions of Article 22, paragraph 3 and Article 23, paragraph 4, of the Vienna Convention on the Law of Treaties, the Court stated that "it

is a rule of international law, deriving from the principle of legal security and well established in practice, that, subject to agreement to the contrary, the withdrawal by a contracting State of a reservation to a multilateral treaty takes effect in relation to the other contracting States only when they have received notification thereof” (idem). The Court further observed that the Secretary-General of the United Nations was the depositary of the Genocide Convention and that “although the Convention [did] not deal with questions of reservations, Article XVII thereof confere[d] particular responsibilities on the . . . Secretary-General in respect of notifications to States parties to the Convention or entitled to become parties” (see para. 43) It was “thus in principle through the medium of the Secretary-General that such States must be informed both of the making of a reservation to the Convention and of its withdrawal” (see para. 43). In casu, the Court had not received any evidence that Rwanda had notified the Secretary-General of the withdrawal of its reservation to Article IX of the Genocide Convention.

At the same time, the Court had been prepared to accept that a statement made by the Minister of Justice to the Committee on Human Rights could bind a State (a matter perhaps of some interest for your work on unilateral acts). But this statement – that all reservations to human rights treaties would be withdrawn – gave no time frame. And the international acts necessary for withdrawal had not occurred.

The Congo had also argued that, in accordance with the spirit of Article 53 of the Vienna Convention on the Law of Treaties, Rwanda’s reservation to Article IX of the Genocide Convention should be considered as null and void because it sought to “prevent the Court from fulfilling its noble mission of safeguarding peremptory norms” (see para. 56). It added that the reservation was incompatible with the object and purpose of the Convention since its effect was “to exclude Rwanda from any mechanism for the monitoring and prosecution of genocide, whereas the object and purpose of the Convention [were] precisely the elimination of impunity for this serious violation of international law” (see para. 57).

The Court did not accept the argument of the Congo in the case at hand. It explained first that the ius cogens character of a norm and the rule of consent to jurisdiction are two different things, and that the fact that a dispute related to a norm of ius cogens could not in itself provide a basis for the jurisdiction of the Court to entertain that dispute. Jurisdiction was always based on the consent of the parties. In the case of a treaty containing a compromissory clause, jurisdiction existed only in respect of the parties to the treaty who were bound by that clause. The Court recalled next that, in 1950, it had already found, at least by implication, that reservations were not prohibited under the Genocide Convention. The Court did not simply look at whether the Congo had protested Rwanda's reservation at the time. The question of the validity of a reservation to the Genocide Convention depended rather on the compatibility of that reservation with the object and purpose of the Convention, which the Court itself proceeded to assess. In this regard, the Court found as follows:

Rwanda's reservation to Article IX of the Genocide Convention bears on the jurisdiction of the Court, and does not affect substantive obligations relating to acts of genocide themselves under that Convention. In the circumstances of the present case, the Court cannot conclude that the reservation of Rwanda in question, which is meant to exclude a particular method of settling a dispute relating to the interpretation, application or fulfilment of the Convention, is to be regarded as being incompatible with the object and purpose of the Convention. (para. 67)

This is not to be read as a statement that procedural obligations can in no circumstances be contrary to the object and purpose of a Convention.

I imagine that the paragraphs of the Judgment on the reservation issues may be of some interest in the context of the work of the ILC on this topic.

I assume that none of you will have failed to notice that this part of the judgment of the Court also contains the first explicit and direct recognition by the Court of the existence of rules of ius cogens, with the specification that the prohibition of genocide is such a rule. This development has already attracted a certain attention.

Less than two weeks ago, the Court handed down its Order for the indication of provisional measures in the case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay). Early in May of this year, Argentina had initiated proceedings against Uruguay regarding alleged violations of the Statute of the River Uruguay, a treaty signed by the two States on 26 February 1975. Argentina argued in particular that Uruguay had not respected the procedures organized by the Statute when authorizing the construction of two pulp mills and that the construction and the commissioning of these mills would result in pollution and damage the environment of the River Uruguay. In its Order of 13 July 2006, the Court found that the circumstances of the case, as they presented themselves to the Court at that moment, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

Although the content of the Court's order is restricted to the analysis of the conditions required for the indication of provisional measures, it contains some matters of interest. The case between Argentina and Uruguay raises important questions relating to both environmental law and the right to economic development. The Statute of the River Uruguay, whose provisions are at the centre of the dispute, should further be of particular interest to the ILC. That Treaty, concluded, I remind you, in 1975, was considerably in advance of its time in terms of watercourse law and environmental law. It actually was even ahead of the Convention on the Law of the Non-navigational Uses of International Watercourse adopted in 1997 following the pioneering work of the ILC. In addition to the usual notifications and consultations mechanisms provided for into the 1997 Treaty and in most international watercourse treaties, the 1975 Statute addresses indeed the issue of what happens when such mechanism fails, by giving jurisdiction to the International Court of Justice. It establishes furthermore a monitoring body and has very detailed requirements as to information exchanges.

I would also like to draw your attention to some arguments made by the Parties during the proceedings. Counsel for Uruguay relied heavily on the definition of "grave and imminent peril" given by the ILC in the commentary of its draft article 25 on "Necessity" and on the use the Court made thereof in the Gabcikovo-Nagymaros judgment, to prove that the conditions of imminent

threat of irreparable prejudice required for the indication of provisional measures were not fulfilled. For its part, Argentina contested that the said conditions were virtually the same.

As you will remember, in the Gabcikovo-Nagymaros case, the parties had debated whether the grounds for suspension and termination of treaties established by the 1969 Vienna Convention were exclusive or whether the notion of state of necessity as developed by the International Law Commission in its Articles on State Responsibility could provide an extra basis for such suspension and termination. Although different, the argument made by Uruguay in the present case relies on the same logic. Here the suggestion is that the state of necessity is interchangeable with the condition of imminence belonging to provisional measures proceedings. In the Gabickovo-Nagymaros case, the Court noted that suspension and termination of treaties were regulated by the law of treaties, while the evaluation of the extent to which the suspension or termination of a convention, seen as incompatible with the law of treaties, involved the responsibility of the State which proceeded to it, was to be made under the law of State responsibility. The Court did not further dwell upon the question of the relationship between the law of treaties and the law of State responsibility. In its order of 14 July 2006, the Court similarly did not find it necessary to resolve the issue of the relationship between the law of State responsibility and the requirements for the indication of provisional measures. Considering how often such arguments are made, it may someday find it useful to make clear its conclusions on such contentions.

Mr. Chairman, Ladies and Gentleman,

This concludes my summary of the judicial activities of the Court over the past year.

As you know, the International Court of Justice celebrates its sixtieth anniversary this year. A solemn sitting of the Court, in the presence of the Queen of the Netherlands, of the Secretary General of the United Nations and of the President of the General Assembly, was organised in May to mark the occasion. The Court itself is being more widely used than ever before. Some 59 States have come before it over just the past ten years. They have participated as applicants and

respondents in contentious cases or have submitted written or oral statements in advisory opinion proceedings. The regular clientele of the Court today is comprised of states from Latin America, Africa, Asia, Western Europe and America, what used to be called Eastern Europe and the Middle East.

Of the twelve cases on the current docket of the Court, there are four between European States, four between Latin American States, two between African States, one between Asian States and one of an intercontinental nature. This regional diversity illustrates the Court's universality. The subject matter of these cases is also very diverse. Next to "classic" territorial and maritime delimitation disputes and disputes relating to the treatments of nationals by other States, the Court is seized today of cases concerning more "cutting-edge" issues like allegations of massive human rights violations including genocide, the use of force, or the management of shared natural resources.

The Court recognises that the quality of its decisions and the global confidence in the conclusions it reaches come from the collegiate way in which its members work and the fact that every judge is involved throughout the life of a case. At the same time, we must strive, within these parameters, to meet the expectations of those States who place their trust in us to find a solution for them in a timely fashion. This must be a prime objective for the Court.

The Court is currently deliberating in the Bosnia and Herzegovina v. Serbia and Montenegro case and will be holding other hearings in the autumn. Following a meeting held with the Agents of the Parties in the case concerning Pulp Mills on the River Uruguay, directly after the issuance of the Court's Order, the Court has indicated relatively short time limits for the filing of the Memorial and Counter Memorial in that case.

The agenda for your Commission is also a crowded one. Many of the topics you are examining are of the highest relevance for the Court, and I assure you that we will continue to

follow your work with great interest. On behalf of the Court, I wish the best to the Commission for its work on its fifty-eighth session.

Thank you Mr. Chairman.
