

## ***Agenda Item 13: Report of the International Court of Justice***

***Statement by Hon'ble Mr. Vaiko, MP on October 26, 2000***

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Mr. President,

I thank the President of the International Court of Justice, Judge Gilbert Guillaume, for his detailed and comprehensive presentation of the report of the Court as contained in document A/55/4.

The UN was established to save succeeding generations from the scourge of war. The founding fathers of the UN sought to achieve this objective by the twin approach of prohibiting the use of force in Article 2(4) of the Charter and by promoting the peaceful settlement of international disputes under Article 33 of the Charter. As a central element to the promotion of international peaceful settlement, departing from the model of the League of Nations, the UN Charter, through article 92, established the International Court of Justice as its principal judicial organ. Further, in the case of disputes under consideration of the UN Security Council, Article 36(3) directs the Security Council to recommend to the parties to refer all legal disputes to the International Court of Justice. Finally Article 92 of the Charter makes the Statute of the ICJ an integral part of the Charter.

The above clearly indicates the respect and the central role assigned to the ICJ within the UN Charter system. This is a status which is unique to the ICJ not enjoyed by any other tribunal established since 1945.

The recent period has seen the creation of a number of specialised regional and international courts. The political process connected with the establishment of special international judicial bodies has been on occasion, perceived as diminishing the role of the ICJ in the field of international peaceful settlement of disputes. Moreover, it may be noted that legitimate questions have been raised about the legal basis of the establishment by the Security Council of the above *ad hoc* international criminal tribunals established for the Former Yugoslavia and Rwanda.

However, even after all these developments, the International Court of Justice still remains the only judicial body with legitimacy derived directly under the Charter, enjoying general jurisdiction and available to all States of the international community on all aspects of international law. All other international judicial institutions, established as they are with competence over specified fields, are confined to their limited areas of jurisdiction, and lack general jurisdiction of an universal nature. We could not agree more with the statement of the then President of the ICJ, Judge Schwebel, in his address to the 53rd General Assembly, that the World Court is the father of the family of international judicial bodies created in the past decades.

Over the last fifty years, the Court has dealt with a variety of legal issues. Its judgements covered disputes concerning sovereignty over islands, navigational rights of States, nationality, asylum, expropriation, law of the sea, land and maritime boundaries, enunciation of the principle of good faith, equity and legitimacy of use of force. The issues presently before it are equally wide ranging, and its judgements have played an important role in the progressive development and codification of international law. Despite the caution it exhibited and the sensibility it showed to the political realities and sentiments of States, the Court has asserted its judicial functions and consistently rejected arguments to deny it jurisdiction on the ground that grave political considerations were involved in a case in which it otherwise found proper jurisdiction for itself. Thereby the Court clearly emphasized the role of international law in regulating inter-state relations which are necessarily political.

Mr. President, the phenomenal docket explosion of the Court during the 1990s stands testimony to the Court's high standing and authority not only in the UN system but in the international community itself. It also indicates the increased relevance of and respect for due process of law which States exhibit, and is an affirmation of faith in the Court. From being in a situation where, in the early 1970s, it was called the court without a case, it is now faced with the problem of plenty and finds itself in a position of being unable, within its existing resources, to respond effectively and in time, to the demands made on it by its increasing workload.

As emphasized in its Report, even after taking various measures to rationalize the work of its Registry, making greater use of information technology, improving its working methods and securing greater collaboration from the Parties to reduce the time taken for individual cases, the Court will be unable to cope with the increase in its workload without a significant increase in its budget. Accordingly, the decision of the Heads of State and Government taken at the Millennium Summit "to strengthen the International Court of Justice, in order to ensure justice and the rule of law in international affairs" must be implemented urgently by providing the Court with adequate resources to enable it to carry out its designated functions as the principal judicial organ of the United Nations.