

**ADDRESS BY H. E. JUDGE SHI,
PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE,
ON THE OCCASION OF THE VISIT BY
THE PRESIDENT OF THE SWISS CONFEDERATION,
H. E. MR. JOSEPH DEISS**

25 MAY 2004

Your Excellency,

It is a great pleasure for me to welcome you here today on behalf of the International Court of Justice. We greatly appreciate your visit, a testament to Switzerland's commitment to the cause of international justice and the advancement of the rule of law.

Your Excellency, may I begin by congratulating you on your election as President of the Swiss Confederation for the 2004 term. I have no doubt that you will carry out the duties of your presidency with the same high level of dedication that you have shown in the fulfilment of your previous posts. I recall in this context that it was when you were in charge of Switzerland's foreign policy as Head of the Federal Department of Foreign Affairs that Switzerland became the 190th United Nations Member State. Mr. President, you represent a humane and noble country, which has played, and continues to play a remarkable role in affirming the principles of law and justice in international relations. Indeed, Switzerland has produced a long line of eminent jurists, philosophers and humanitarian activists whose contributions in their respective fields have earned them a well-deserved place in the annals of history.

As far back as 1758, Emmerich de Vattel, one of the founders of the international law doctrine, published his most influential work entitled "Le droit de gens" which was met with extraordinary success — particularly in Europe. Vattel's success was largely attributed to his departure in form and substance from the traditional works on the law of nations and his desire to merge the doctrines of state sovereignty and natural law, each of which more or less represented opposing schools of thought. Remembered today as one of the pioneers of international law, Emmerich de Vattel has played a crucial part in the history of international legal thought.

Switzerland can also take pride in one of its sons whose writings on international law firmly established him as an authority on the subject. Mr. President, the individual I am talking about is Mr. Joaann Kaspar Bluntschli. In 1866, Bluntschli published his leading work entitled "Das moderne Kriegerrecht" (The Modern Law of War) which served as one of the sources for the codification of the laws of war that were enacted at the Hague conferences of 1899 and 1907. Bluntschli's other major work entitled "Das moderne Völkerrecht der zivilisierten Staaten" (The Modern International Law of Civilized States) presented a comprehensive code that was translated into several languages and became a widely used reference book for diplomats. Bluntschli was also an active participant in the founding of the Institute of International Law, which seeks to provide a forum for the study of the fundamental principles of international law. As the author of several other major works, Bluntschli is remembered today as one of the greatest jurists of the nineteenth century.

Your Excellency, while there have been a number of Swiss pioneers who have underscored the importance of humanitarian issues, I am sure that everyone will agree with me when I say that Henry Dunant can be singled out as an individual who has succeeded in creating an awareness of the need for international co-operation for the sake of humanity and has directly contributed to the development of international humanitarian law. Indeed it was Dunant's proposal which led to the

adoption of the initial Geneva Convention of 1864, followed in turn by a series of subsequent Conventions, including the Conventions of 1906, 1929 and 1949. Dunant's vision also led to the creation of a vast humanitarian organization of international scope known to all as the International Committee of the Red Cross (ICRC). This movement represents one of the greatest ideals realized in the nineteenth century, and from the idea planted by Dunant, many other movements have grown. Inspired by the goals of the ICRC, millions of people, irrespective of their political, racial or religious background, are now joined in a common purpose. Dunant's supreme humanitarian achievement was recognized with a Nobel Peace Prize on 10 December 1901. He is rightly often referred to as one of the mid-nineteenth century's staunchest advocate for the cause of humanity and the promotion of international peace.

With reference to Switzerland as the home of world humanitarian affairs, I cannot fail to mention that as far back as 1864, the Swiss Government convened the first Diplomatic Conference on International Humanitarian Law, where the plenipotentiaries of 12 States met together in the city of Geneva and adopted the ten Articles of the First Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, prepared by Henry Gustav and Gustave Moynier. In 1949, representatives of 64 States gathered once again in Geneva upon the invitation of your Government as depositary of the Geneva Conventions to sign the fundamental charters of humanity, which are today known as the four Geneva Conventions. Indeed the Geneva Conventions are today one of the major sources of international humanitarian law and have become the most universal of all international treaties: as of February 2004 the Conventions were binding on 191 states. Twenty-eight years after the adoption of the four Geneva Conventions, another diplomatic conference aimed at adapting humanitarian law to the present day demands of armed conflict was held in Geneva and culminated in the adoption of the two Additional Protocols to the Geneva Conventions. Mr. President, in the light of Switzerland's strong humanitarian tradition, it comes as no surprise that international humanitarian law is known as the "Law of Geneva".

The expanding peace movement prior to World War I saw a notable display of international interest in the promotion of peace. And while there have been many who have contributed to the development of modern international law, the work of one particular man stands out. Dr. Max Huber, a Swiss delegate who participated in the Second Hague Conference of 1907 and who was entrusted by the Swiss Federal Council with the preparatory work for a Third Peace Conference, was an individual who has undoubtedly helped shape the course of international law and international dispute resolution. During his long career dedicated to international law, Dr. Huber published a number of works, including his thesis on State succession, which offered an original perspective on this subject at the time. Huber's achievements and qualifications found international recognition when he was elected Judge of the Permanent Court of International Justice during the first election of the Court in 1921. In 1924, Huber was elected President of the PCIJ and served as President of the Court from 1925-1927 and as Vice-President from 1928-1930. I am sure that my colleagues will agree with me when I say that Huber has indeed left a deep and lasting imprint on the PCIJ. Huber also served as Member of the Permanent Court of Arbitration from 1923-1940. He was selected by the parties to sit as sole arbitrator in the *Island of Palmas* case of 1928, and his classic dicta in this case constituted an important landmark on the concept of sovereignty and the means for the acquisition of territory in international law. In 1928, Huber was elected President of the International Committee of the Red Cross, and had the task of presiding over the ICRC almost throughout the Second World War. Huber's ability to lead the ICRC through this dark period was recognized, when in 1944, during Huber's presidency, the ICRC was awarded with the Nobel Peace Prize. Dr. Huber stands out as a forerunner in the struggle for humanitarian rules and as an exceptional international jurist and scholar — his work continues to serve as a powerful inspiration to both lawyers and humanitarian activists alike.

As a staunch proponent of the peaceful settlement of disputes in accordance with international law, Switzerland first appeared before the Permanent Court of International Justice in the *Free Zones of Upper Savoy and the District of Gex (France/Switzerland)* case. On 25 July 1921, Switzerland deposited its declaration recognizing as compulsory the jurisdiction of

the Court under Article 36, paragraph 2, of the Statute of the Permanent Court. While Switzerland chose not to join the United Nations after the Second World War for reasons of neutrality, this position has not affected its support for the work of the International Court of Justice. On 28 July 1948, Switzerland became a party to the Statute of the Court and on the same day its declaration recognizing as compulsory the jurisdiction of the Court under Article 36, paragraph 2, of the Court's Statute took effect. Since that time, Switzerland has appeared before the Court in the *Interhandel (Switzerland v. the United States of America)* case. Switzerland has also participated in advisory proceedings before the Court. Moreover, some of Switzerland's most eminent jurists have sat as judges *ad hoc* at the Court. Professor Paul Carré sat as judge *ad hoc* in the *Interhandel* case and Professor Paul Guggenheim sat as judge *ad hoc* in the *Nottebohm (Liechtenstein v. Guatemala)* case. Guggenheim has indeed distinguished himself as a jurist of great repute, and his scientific works form part of the great tradition of international law for which Switzerland has distinguished itself for over two centuries. As the successor of Vattel, Bluntschli and Huber, and like his illustrious predecessors, Guggenheim acquired worldwide authority, thus contributing substantially to Switzerland's intellectual and academic profile.

Your Excellency, as I'm sure you are aware, Switzerland has also for long been one of the most sought after countries in which to conduct international arbitration proceedings. Indeed Switzerland's geographic location in the centre of Europe, together with its neutrality and political stability has ensured that it has become the natural choice for hosting international arbitration. It therefore comes as no surprise that Switzerland has a longstanding history as a pioneer in the field of arbitration — arbitration in relation to the status of citizens can even be traced back to the Middle Ages. Centuries later, in 1871, the city of Geneva was chosen as the location for the sessions of the tribunal in the well-known *Alabama Arbitration*, which is considered to be at the foundation of modern public arbitration and is often referred to as the most important international arbitration of the nineteenth century. Following the *Alabama Arbitration*, Switzerland has been the natural choice for hosting a number of other major arbitration proceedings resolving international and commercial trade disputes, including among others the *Hellenic Railways v. The Government of Greece Award of 18 March 1930*, the *Beagle Channel Dispute Award of 1977 between Argentina and Chile* and the *Taba arbitration of 1988 between Egypt and Israel*.

Mr. President, Switzerland's commitment to the development of peaceful co-operation between States through co-ordinated activities is evident by the fact that for almost 150 years Switzerland has hosted a number of international organizations in her territory, the oldest of these being the International Telecommunication Union (then called the "International Telegraph Union"), the Secretariat of which was established in Berne in 1868. We should also not forget the city of Geneva, which hosted the headquarters of the League of Nations and is today the seat of a vast United Nations Office.

Today, there are 20 intergovernmental organizations based in the city of Geneva alone, eight of which are part of the United Nations System. Since the time of the first Diplomatic Conference on International Humanitarian Law in 1864, Switzerland has been the chosen venue for numerous international conferences on humanitarian law, human rights, disarmament, health, development, environment, trade etc. A number of international organizations of a non-state character, including the ICRC, also have their headquarters in Geneva. Indeed the city of Calvin has become known as "International Geneva" and has without a doubt become one of the most important centres of international co-operation in the world. It is today one of the world's busiest centres of multilateral diplomacy and has been the setting of many historic negotiations.

Turning now to other aspects of Switzerland's involvement in the construction of international peace, may I say that such involvement is clearly evident by Switzerland's actions in the international arena. I cannot conclude this rapid general survey of Switzerland's contribution to international justice without recalling that, on 12 October 2001, Switzerland ratified the Rome Statute of the International Criminal Court.

Mr. President, the International Court of Justice, as the principal judicial organ of the United Nations, plays an important role in the prevention and resolution of international disputes. We are proud of the Court's contribution to the advancement of the rule of law and to the promotion of justice among nations. In recent times in particular, the Court has never been busier, with 21 cases currently on its docket. Your presence among us today, Mr. President, bears witness to your country's attachment to the cause of law and to the supreme values of peace and justice. It encourages us in the accomplishment of our mission. For this we offer you, Mr. President, our warmest thanks.
