

**SPEECH BY H.E. MR. ABDULQAWI AHMED YUSUF, PRESIDENT OF THE  
INTERNATIONAL COURT OF JUSTICE, AT THE 71ST SESSION OF  
THE INTERNATIONAL LAW COMMISSION**

**11 July 2019**

Mr. Chairman,

Ladies and gentlemen,

Colleagues and friends,

I am delighted to be able to address the International Law Commission on the occasion of its seventy-first session. I take this opportunity to congratulate you, Mr. Chairman, on behalf of the International Court of Justice, and to congratulate the newly elected Officers of the Commission.

I would like, at the outset, to share the sentiment expressed by former Presidents of the Court regarding the great value to be placed on this annual exchange of views between our two institutions. It is an honour for me to continue the tradition today, just as it was a distinct honour for me to address the Commission last year, in celebration of its seventieth anniversary.

Today, I would like to provide you, first, with a brief update on cases submitted to the Court and decisions it has rendered. This will complete for you the overview of the Court's caseload that my predecessor, President Ronny Abraham, gave in July 2017 in his address to the ILC. Secondly, I will take you to some specific legal issues which the Court recently addressed in some of these cases and which may be of particular interest and relevance to your work.

With regard to the cases before the Court in general, I am pleased to inform you that since July 2017, seven new cases have been added to the Court's docket. During that period, the Court has rendered five Judgments and an Advisory Opinion. It also issued three Orders on requests for the indication of provisional measures and one Order on counter-claims. Two of the five Judgments were on the merits (including a Judgment in two joined cases), one Judgment was on compensation and two on preliminary objections. The Court is currently deliberating on two cases relating to disputes between, on the one hand, Ukraine and the Russian Federation, and on the other, India and Pakistan.

What is remarkable is the sheer breadth and diversity of the cases brought to the Court and the importance of the legal issues lying at the heart of these cases. The current docket of the Court contains cases involving various regions of the world, including the Americas, Asia, Africa and Europe. It is thus clear that countries from all over the globe continue to place their trust and confidence in the Court to settle their disputes, including disputes that raise particularly thorny issues in a politically sensitive context.

As I said, I will not go into a description of all these cases which you are most probably already acquainted with. I would rather prefer to talk to you about specific legal issues which the Court was called upon to elucidate and which are, to some degree, of particular relevance to the work of the ILC. I will address three such issues. The first one relates to the determination of the existence of an international legal obligation arising from exchanges between two States; the second is on the role of resolutions of the United Nations General Assembly in the formation of rules of customary international law; and the third concerns the obligation of reparation for environmental damage. These issues have been addressed by the Court respectively in the case concerning the *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*; in the recent Advisory Opinion on the *Legal Consequences of the Separation of the Chagos Archipelago from*

*Mauritius in 1965*; and finally in its Judgment last year on reparations in the case concerning *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*.

### **I. The determination of the existence of legal obligations in international law**

Let me start therefore with the case concerning the *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, in which the Court addressed the determination of the very existence of obligations arising from inter-State negotiations over a long period of time. More specifically, the Court was asked to determine whether Chile had an obligation, which resulted from its exchanges with Bolivia, to negotiate with the latter an agreement granting it sovereign access to the Pacific Ocean.

I recall that the dispute between these two countries finds its historical origins in the War of the Pacific in the late 1800s. Under the terms of the Treaty of Peace and Friendship of 20 October 1904, which officially ended the War of the Pacific as between Bolivia and Chile, Bolivia lost its access to the Pacific Ocean. The dispute that Bolivia brought before the Court did not, however, focus on the question of the validity of the 1904 Treaty. Nor did Bolivia ask the Court to declare that it had a right to sovereign access to the sea. The dispute was centred on whether the exchanges and negotiations that had taken place between the Parties since the 1904 Treaty had led to the existence of an obligation to negotiate Bolivia's sovereign access to the sea.

This was not the first time that the Court had to deal with questions relating to the obligation to negotiate under international law. In some cases, the Court was called to interpret existing legal obligations to negotiate under specific treaty provisions and more particularly to ascertain their meaning and scope. For example, in its 2011 Judgment in the case concerning *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece)*, the Court had to consider whether the Applicant had violated its obligation to negotiate in good faith. This was required by Article 5, paragraph 1, of the Interim Accord which provided for, *inter alia*, the establishment of diplomatic relations between the Parties. The Court, referring to the jurisprudence of the Permanent Court of International Justice in *Railway Traffic between Lithuania and Poland*, and to its own jurisprudence in *North Sea Continental Shelf*, confirmed that an obligation to negotiate did not imply an obligation to reach an agreement. For the Court, the test to be applied in such circumstances is whether the Parties had conducted themselves in such a way that negotiations were meaningful.

In another set of cases on negotiations, the Court had to determine the legal significance and scope of the requirement to resort to negotiations before submitting a case to the Court. Such a requirement is included in some compromissory clauses and optional clause declarations under Article 36, paragraph 2, of the Statute. This was, for instance, the case in the Court's 2011 Judgment on preliminary objections in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*. Here, the Court was called upon to examine the nature of the precondition of negotiations for the seisin of the Court under Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination. You may recall that it is in this case that the Court clarified that the undertaking of "negotiations" and the existence of a "dispute" are distinct as a matter of principle, and that negotiation requires — at the very least — a genuine attempt by one of the disputing parties to engage in discussions with the other disputing party, with a view to resolving the dispute. Accordingly, the Court held that "in the absence of evidence of a genuine attempt to negotiate, the precondition of negotiation is not met" (*Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011, pp. 132-133, paragraphs 158-159*).

While these earlier cases may therefore be distinguishable from *Bolivia v. Chile*, the Court based itself, in the first instance, on this established jurisprudence and then used the opportunity to expand on it. The Court noted, at the outset, that the existence of an obligation to negotiate has to be ascertained in the same way as that of any other legal obligation. Negotiation is part of the usual practice of States in their bilateral and multilateral relations. However, the fact that a given issue is negotiated at a given time is not sufficient to give rise to an obligation to negotiate. In particular, for there to be an obligation to negotiate on the basis of an agreement, the terms used by the parties, the subject-matter and the conditions of the negotiations must demonstrate an intention of the parties to be legally bound. This intention, in the absence of express terms indicating the existence of a legal commitment, may be established on the basis of an objective examination of all the evidence.

In terms of the methodology followed, the Court adopted an approach similar to that used in earlier cases, which though wholly different in subject-matter, had required the Court to carefully review all the evidence adduced by the Parties in order to make a determination as to the Parties' intention to be legally bound. Thus, in the case concerning the *Maritime Dispute (Peru v. Chile)*, the Court had to deal with a situation where there was no shared understanding of the Parties concerning the course of their maritime boundary. The Court thus considered each evidentiary element in the case file, including agreements, understandings, fishing activities and other relevant practice, to determine whether and to what extent the Parties had agreed on a maritime boundary.

In *Bolivia v. Chile*, the Court also proceeded in a systematic and meticulous manner, reviewing and considering what weight, if any, should be given to the facts and information advanced in support of each Party's arguments. As mentioned earlier, a particularity of this case was that Bolivia cited various examples of practice, such as unilateral declarations and bilateral instruments, which it argued had created legal obligations. The Court first looked at whether any of the instruments invoked by the Applicant gave rise to an obligation to negotiate Bolivia's sovereign access to the Pacific Ocean. I shall refer to just one example, for the sake of illustration, namely, the Joint Declaration signed at Charaña by the Presidents of Bolivia and Chile on 8 February 1975. In the relevant section of this Declaration, both Heads of State,

“within a spirit of mutual understanding and constructive intent, have decided (*translated by Chile as “have resolved”*) to continue the dialogue, at different levels, in order to search for formulas (*translated by Chile as “seek formulas”*) to solve the vital issues that both countries face, such as the landlocked situation that affects Bolivia, taking into account the mutual interests (*translated by Chile as “their reciprocal interests”*) and aspirations of the Bolivian and Chilean peoples”.

Having carefully reviewed the provenance, context, language and purpose of the Charaña Declaration, the Court concluded that it could not be characterized as a treaty establishing a specific legal commitment to negotiate Bolivia's sovereign access to the Pacific Ocean. It rather possessed the nature of a political document, stressing the spirit of solidarity between the two States. In short, the Court found that the wording of the Declaration did not convey the existence or the confirmation of an obligation to negotiate Bolivia's sovereign access to the Pacific Ocean.

The Court, in a second step, carefully reviewed the other legal bases invoked by the Applicant, namely acquiescence, estoppel and legitimate expectations, which according to Bolivia may be sources of an obligation to negotiate Bolivia's sovereign access to the sea. The Court thirdly addressed the arguments based on the Charter of the United Nations and on the Charter of the Organization of American States. In the view of the Court, no instrument, act or conduct thus examined provided a legal basis for Chile's obligation to negotiate Bolivia's sovereign access to the sea.

I shall just take a moment to refer back to two other arguments advanced by Bolivia, *firstly*, “legitimate expectations” and, *secondly*, the “cumulative effect” of declarations, joint statements

and exchanges between the Parties. As far as the argument based on “legitimate expectations” is concerned, Bolivia claimed that Chile’s representations through its multiple declarations and statements over the years had given rise to the expectation that Bolivia’s sovereign access to the sea would be restored. Thus, Chile’s alleged denial of its obligation to negotiate, according to Bolivia, frustrated its legitimate expectations. This was the first time that the Court was called upon to pronounce on the applicability of “legitimate expectations” in establishing the existence of obligations in international law. The Applicant had relied on what it termed the “doctrine of legitimate expectations”, as applied in investment arbitration. The Court, in responding to this line of argument, acknowledged that references to legitimate expectations may be found in awards concerning disputes between a foreign investor and the host State in the context of the application of fair and equitable treatment clauses contained in bilateral investment treaties. The Court could not, however, conclude from those references that there exists in general international law a principle that would give rise to an obligation on the basis of what could be considered a legitimate expectation. The Court thus clarified that the notion of “legitimate expectations” belongs to the special domain of investor-State arbitration and cannot be transposed to general international law.

Concerning the “cumulative effect” argument, Bolivia claimed that even if there is no instrument, act or conduct from which, if taken individually, an obligation to negotiate Bolivia’s sovereign access to the Pacific Ocean arises, all these elements may cumulatively have “decisive effect” for the existence of such an obligation. In other words, for Bolivia, the historical continuity and cumulative effect of these elements should be taken into account. For the Court, however, Bolivia’s argument was predicated on the assumption that an obligation may arise through the cumulative effect of a series of acts even if it does not rest on a specific legal basis. Having found that no obligation to negotiate Bolivia’s sovereign access to the Pacific Ocean has arisen for Chile from any of the invoked legal bases taken individually, the Court was of the view that a cumulative consideration of the individual claimed bases, which were found not to have given rise to an obligation, cannot add to the overall result.

Despite its general finding that no obligation to negotiate Bolivia’s sovereign access to the Pacific Ocean existed between Bolivia and Chile, the Court recalled that the Parties have had a long history of dialogue, exchanges and negotiations aimed at identifying an appropriate solution to the landlocked situation of Bolivia following the War of the Pacific and the 1904 Peace Treaty. For the Court, these periodic exchanges and statements of the Parties reflected attempts made in good faith to address the landlocked situation of Bolivia. In concluding, the Court thus encouraged the Parties to continue their dialogue and exchanges, in a spirit of good neighbourliness, to address the issues relating to the landlocked situation of Bolivia, the solution to which they have both recognized to be a matter of mutual interest. This recognition by the Parties of the importance of the issue, paired with their willingness to resolve it, may provide the basis for a meaningful solution to be identified in the future.

## **II. The formation of rules of customary international law**

I now turn to the second topic of my presentation, which relates to the formation of rules of customary international law. In this regard, I commend the ILC for its work on the topic, especially the Draft conclusions on the identification of customary international law that it adopted at its seventieth session in 2018 ((A/73/10) 2018 *YILC* 2018, Vol. II, Part Two). In this regard, the ILC’s *Draft conclusion 12* concerns the role that resolutions adopted by international organizations or at intergovernmental conferences may play in the formation of rules of customary international law. On this issue, *Draft conclusion 12* states that, while such resolutions, of themselves, can neither constitute rules of customary international law nor serve as conclusive evidence of their existence and content, they may have value in providing evidence of existing or emerging law and may contribute to the development of a rule of customary international law.

In the Advisory Opinion rendered by the Court on 25 February 2019 on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, the Court had to deal with the same issue. I recall that the two questions on which the advisory opinion of the Court was requested were set forth in resolution 71/292 adopted by the General Assembly of the United Nations on 22 June 2017. The first question read as follows:

“Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected in General Assembly resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967?”

In order to pronounce on whether the process of decolonization of Mauritius was, having regard to international law, lawfully completed at the moment of its independence, the Court had to determine, among other issues, when the right of self-determination had become a rule of international law binding on all States.

To this end, the Court sought, first, to indicate the relevant period where it should place itself to determine when the right of self-determination had become a rule of international law. The Court recalled that the process of decolonization of Mauritius was situated by the General Assembly in the period between the separation of the Chagos Archipelago from its territory in 1965 and its independence in 1968. This time frame did not however prevent the Court from considering the evolution of the law on self-determination since the adoption of the Charter of the United Nations and of resolution 1514 (XV) of 14 December 1960. In the Court’s view, State practice and *opinio juris* are consolidated and confirmed gradually over time. The Court was therefore of the opinion that it may rely on legal instruments which post-date the period in question, when those instruments confirm or interpret pre-existing rules or principles.

With reference to the determination of the rules of international law applicable to the process of decolonization of Mauritius, the Court first looked at the normative context in which the right of self-determination emerged. The Court recalled that the Charter consecrates the respect for the principle of equal rights and self-determination of peoples as one of the purposes of the United Nations. The Charter also includes provisions that would enable non-self-governing territories to ultimately govern themselves. In its *Namibia* Advisory Opinion, the Court had already observed that: “the subsequent development of international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all of them.” (*Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, *I.C.J. Reports 1971*, p. 31, para. 52.)

It was therefore these normative developments that occurred from the adoption of the United Nations Charter that the Court had to examine in order to determine with certainty when the right to self-determination crystallized as a rule of customary international law binding on all States. Already in 1971 in the *Namibia* Advisory Opinion, the Court had stressed that another important stage in the development of international law was the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) of 14 December 1960), which embraces all peoples and territories which “have not yet attained independence”.

In the *Chagos* Advisory Opinion, the Court had to elaborate further on this statement to determine the role of resolutions of the General Assembly in the emergence of the right of self-determination as a rule of customary international law, and in particular, that of resolution 1514 itself. As you may recall, the Court had already explained in the *Nicaragua* case that *opinio juris* may, with all due caution, be deduced from, *inter alia*, the attitude of the Parties

and the attitude of States towards certain General Assembly resolutions. The effect of consent to the text of such resolutions may be understood as an acceptance of the validity of the rule or set of rules declared by the resolution (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment on the merits of 27 June 1986). However, it was in its 1996 Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, that the Court further clarified this possibility, by explaining that:

“General Assembly resolutions, even if they are not binding, may sometimes have normative value. They can, in certain circumstances, provide evidence important for establishing the existence of a rule or the emergence of an *opinio juris*. To establish whether this is true of a given General Assembly resolution, it is necessary to look at its content and the conditions of its adoption; it is also necessary to see whether an *opinio juris* exists as to its normative character.” (*Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, pp. 254-255, para. 70.)

In this regard, the Court found that resolution 1514 (XV), passed in 1960, represented a defining moment in the consolidation of State practice on decolonization, in so far as it clarified the content and scope of the right to self-determination. The Court further emphasized that the resolution had a declaratory character with regard to the right to self-determination as a customary norm, in view of its content and the conditions of its adoption.

Looking at the period after the independence of Mauritius, the Court observed that the nature and scope of the right to self-determination of peoples were reiterated in the “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations” (resolution 2625 (XXV) of 24 October 1970). By recognizing the right to self-determination as one of the “basic principles of international law”, that Declaration confirmed its binding character under customary international law.

After recalling that the right to self-determination of the people concerned is defined in resolutions 1514 (XV) and 2625 (XXV) by reference to the entirety of a non-self-governing territory, the Court noted that both State practice and *opinio juris* at the relevant time confirm the customary law character of the right to territorial integrity of a non-self-governing territory as a corollary of the right to self-determination. Consequently, in the view of the Court, the peoples of non-self-governing territories were entitled to exercise their right to self-determination in relation to their territory as a whole, the integrity of which must be respected by the administering Power. It followed that any detachment by the administering Power of a part of a non-self-governing territory, unless based on the freely expressed and genuine will of the people of the territory concerned, is contrary to the right to self-determination.

The Court arrived at the conclusion that, in terms of the applicable law, the right to self-determination was a customary rule of international law at the moment of the independence of Mauritius. This finding enabled the Court to declare that “having regard to international law, the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago”.

### **III. Compensation for environmental damage**

Let me now turn to the third — markedly different — topic, namely compensation for environmental damage, which represents a key element in the quest to protect the environment for humankind. As the Court observed in its Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, to which I referred earlier, the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn. I am therefore pleased to note that the current programme of work of the ILC includes three topics directly related to the protection of the environment in international law. I am referring

here to the “Protection of the environment in relation to armed conflicts”, the “Protection of the atmosphere”, and the “Sea-level rise in relation to international law”. I also note that Draft principle 9 of the *Text and titles of the draft principles provisionally adopted by the Drafting Committee on first reading on the “Protection of the environment in relation to armed conflicts”* reaffirms the principle of “full reparation [for environmental damage in the context of armed conflict], including damage to the environment in and of itself”.

As you may recall, the “principle of full reparation” for damage caused by internationally wrongful acts was first consecrated by the Court’s predecessor, the Permanent Court of International Justice, in the *Chorzów Factory* case. It was subsequently endorsed and applied by the Court, and was later codified by the International Law Commission in Article 31 of the *Articles on the Responsibility of States for Internationally Wrongful Acts (2001)*. However, no international tribunal ever had the opportunity to pronounce itself on the applicability and concrete application of the “principle of full reparation” to environmental damage caused by an internationally wrongful act. The case concerning *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* provided the Court with the opportunity to take the lead and clarify the principles of international law governing the very question of the compensability of environmental damage, as well as the methods for the assessment of such compensation.

To offer some context, I recall that in its earlier 2015 Judgment, the Court had found that sovereignty over a “disputed territory” of some three square kilometres along the border area between the neighbouring countries belonged to Costa Rica and that consequently Nicaragua’s activities in that territory in the period between 2010 and 2013, including the excavation of three “caños” (small channels) and the establishment of a military presence, were in breach of Costa Rica’s sovereignty. As a consequence, the Court held that Nicaragua had incurred the obligation to make reparation for the damage caused by its unlawful activities and that Costa Rica was entitled to receive compensation for material damage caused by Nicaragua. The Court also decided in 2015 that, failing an agreement between the Parties within 12 months, the Court would settle the compensation issue in a subsequent procedure. When such an agreement between the Parties failed to materialize, it duly fell to the Court to address the question of compensation.

To this end, the Court went back to general international law in order to ground the principles governing compensability for environmental damage. It thus recalled that compensation may be an appropriate form of reparation, particularly in those cases where restitution is materially impossible or unduly burdensome, a general principle already mentioned in Article 35 of the ILC Articles on State responsibility.

Starting with the principle, the Court stated without any ambiguity that: “damage to the environment and the consequent impairment or loss of the ability of the environment to provide goods and services, is compensable under international law”. Detailing the scope of the compensation for environmental damage, the Court explained that such compensation may include two types of reparation: (1) indemnification for the impairment or loss of environmental goods and services in the period prior to recovery; and (2) payment for the restoration of the damaged environment. With respect to this second category of compensation, the Court clarified that since natural recovery may not always suffice to return an environment to the state in which it was before the damage occurred, active recovery measures may be required in order to return the environment to its prior condition, as far as that is possible.

The Court then turned to the methods for the valuation of environmental damage. First, the Court observed that international law does not prescribe any specific method of valuation for the purposes of compensation for environmental damage. Thus, with respect to compensability of environmental damage, the Court, in line with the ILC’s Draft principle 9 mentioned above, concluded that it is consistent with the principles governing the consequences of internationally wrongful acts, including the principle of full reparation, that compensation is due for damage

caused to the environment, in and of itself, in addition to the expenses incurred by an injured State as a consequence of such damage.

Thus, while the Court was of the view that compensability as such should be grounded on the existing principles of international law governing internationally wrongful acts, including the principle of full reparation, the Court clearly preferred to base the methods for the valuation of such damage on the specificities of the case at hand.

Secondly, the Court reaffirmed the requirement of a direct and causal nexus between the damage and the internationally wrongful act. In other words, in order to award compensation, the Court would have to establish, with respect to each head of damage claimed by Costa Rica, that there was a sufficiently direct and certain causal nexus between the wrongful act and the injury suffered by Costa Rica. However, the Court remained fully aware of the particular features that compensation for environmental damage may possess. One such feature is that the causal link between the wrongful act and the damage may often be uncertain in environmental cases, either because the damage has several concurrent causes or because there is a lack of scientific evidence to prove that link. Nonetheless, the Court affirmed that the absence of adequate evidence on the extent of the material damage will not automatically preclude an award on damages. As the Court had already held with respect to human rights violations in *Ahmadou Sadio Diallo*, when the nature of an injury is such that assessing damages with certainty is impossible, compensation can be determined based on equitable considerations or just and reasonable inferences.

Thirdly, the Court decided not to follow the valuation methods proposed by the Parties, but to take an approach to the valuation of environmental damage “from the perspective of the ecosystem as a whole”, which should include an “overall assessment of the impairment or loss of environmental goods and services prior to recovery, rather than attributing values to specific categories of environmental goods and services and estimating recovery periods for each of them”.

In its overall valuation, the Court took into account four categories of environmental goods and services: trees felled by Nicaragua in the process of digging the *caños*, other raw materials removed as part of the clearance of the channels, gas regulation and air quality services lost as a result of such removal, and biodiversity impaired or lost due to the felling of the trees, the clearing of the area and the removal of other raw materials. In order to compensate for the damage to the environment, the Court fixed a first amount that it considered “to reflect approximately the value of the impairment or loss of environmental goods and services” until recovery. Additionally, the Court granted a second sum for the restoration costs claimed by the Republic of Costa Rica in respect of the internationally protected wetland.

Fourthly, the Court distinguished between the damage to the environment per se, and the costs incurred by the State in relation to such damage. Thus, in addition to the damage to the environment itself, the Court held that costs and expenses incurred by Costa Rica could be reimbursed if a sufficiently direct and certain causal nexus was established between the internationally wrongful conduct and the heads of expenses for which compensation is sought. The Court identified specific categories of costs to be considered, such as remediation expenses and monitoring costs.

With this Judgment, the Court laid down a solid framework for the reparation of environmental damage in inter-State disputes. In the process, the Court has given concrete meaning to the principle of compensation for damage to the environment per se. It has also established a clear approach to the valuation of environmental damage from the perspective of the ecosystem as a whole, by including an overall assessment of impairment or loss of environmental goods and services until full recovery can be attained.

Of course, much remains to be done in this area. The Court will increasingly face cases in which it will be required to quantify various environmental damages. A number of questions are

yet to be resolved, since the calculation of the damages and costs were tailored to the specificities of the case between Costa Rica and Nicaragua. For instance, the valuation of environmental damage may raise questions regarding the use by the Court of its power under Article 50 of its Statute to appoint experts.

However, I believe that this case demonstrates that the Court stands ready and willing to assist States in dealing with new legal issues that divide them, whatever the legal nature of the dispute and whatever the level of technical complexity involved. Moreover, in a world in which environmental protection is becoming an increasingly critical issue, it is hoped that the Court's ruling will serve to dissuade States from engaging in acts that damage the natural world.

\*

Mr. Chairman,

Ladies and gentlemen,

It has been a real pleasure for me to have the opportunity to talk about some of the varied and challenging legal issues that the Court had to address in some of the recent cases it has been called upon to decide. The Court currently has 17 cases on its docket, raising multifaceted legal issues ranging from maritime delimitation, to reparations for breaches of international law, to alleged violations of obligations under multilateral and bilateral treaties on diplomatic, consular, human rights, and foreign property issues. The most recent case was brought before the Court on 7 June 2019 by Guatemala and Belize by means of a Special Agreement and concerns a territorial and maritime dispute between the two countries. One interesting aspect about this case is the "democratic" and participative approach adopted by Guatemala and Belize in deciding to bring their dispute before the Court. Indeed, in accordance with the Special Agreement, before seising the Court, both countries first held national referendums in order to assess whether their respective populations were in favour of submitting the dispute to the International Court of Justice for final settlement. Following a positive response in both referendums, Guatemala officially notified the Court of the Special Agreement and its Protocol on 22 August 2018, and Belize did so on 7 June 2019. With these two official notifications, the Court is now seised of the matter. It is the first time in the history of the Court that the peoples of two States in dispute express such trust in the Court through a popular referendum.

The Court's busy docket bears testimony to the fact that the international community continues to place great reliance on the principal judicial organ of the United Nations in terms of finding peaceful solutions to disputes on the basis of international law. I trust that my presentation has shown, in concrete terms, that the Court, though often dealing with complex legal and technical issues raised in contentious and advisory proceedings before it, always aims to offer tangible practical solutions, based on sound legal principles, to assist all States and international organizations coming before it. This assistance may be provided in a variety of ways: through the exercise of the Court's advisory function or through its contentious jurisdiction. In each case, and at every step of the way, the Court strives to ensure peace and stability among nations by settling their disputes on the basis of international law, to which your commission is also tasked to contribute.

I thank you for your kind attention.

---