



Mr. Philippe Gautier

Registrar

International Court of Justice

Peace Palace

The Hague

11th April 2025

Re: Case concerning Application of the Crime of Genocide on the Prevention and Punishment of the Crime of Genocide in Sudan (Sudan v. United Arab Emirates).

Excellency,

I have the honour to refer to the oral pleadings on the Applicant's Request for the indication of provisional measures in *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Sudan (Sudan v. United Arab Emirates)*, at the conclusion of which two questions were put to the United Arab Emirates concerning its reservation to Article IX of the Genocide Convention, and to the response of the United Arab Emirates (the "UAE") to those questions contained in its letter dated 11 April 2025.

Comment on the UAE's reply to Judge Tomka's Question

"[...] Which version of the translation of the reservation does the Respondent rely on?"

The UAE states that it "relies on its own [unofficial] translation of its instrument of accession" in Judges' Folder, Tab 2, which was evidently prepared for the purpose of the hearing. It is unclear, but it appears that the UAE's position is that the Court should in effect prefer this translation and place no reliance on the UN's official English and French translations of its reservation contained in the "Depository

Notification on the Accession of the United Arab Emirates to the Convention on the Prevention and Punishment on the Crime of Genocide" (UAE Judges' Folder, Tab 3) (the "Depository Notification").

Sudan makes three points.

First, the UAE appears to accept that the official translation of its reservation contained in the Depository Notification was "submitted by the United Arab Emirates", although it confusingly also refers to this document as "the United Nations' translation". Sudan queries whether the English and French translations of the UAE's reservation contained in the Depository Notification could have been circulated to member states without the UAE's consent.

Second, in any event, what is known is that: (a) the Depository Notification contains the longstanding official English translation that has appeared on the UN website for over 20 years, alongside the official French translation; and (b) no objection has ever been made to those official translations by the UAE. Sudan's position is that the unchallenged Depository Notification is the document from which the Court – the principal judicial organ of the UN – should be working.

Third, the UAE's attempt to push to one side the longstanding official translations of its reservation in the Depository Notification and instead to rely on a new unofficial translation of its reservation only serves to highlight the obvious point that – unlike in the two *Legality of Use of Force* cases brought by Yugoslavia against Spain and the United States,¹ unlike in *Congo v. Rwanda*,² and unlike in the Order of 5 June 2023 in *Ukraine v. Russia*³ – at the provisional measures stage in this case, the Court is faced with a dispute as to the interpretation of the UAE's reservation. That dispute

¹ See CR 2025/1, para. 23 (Wordsworth). The UAE did not engage with this point.

² See CR 2025/1, paras. 16-17 (Wordsworth). The UAE did not engage with this point.

³ See CR 2025/1, paras. 14-15 (Wordsworth). The UAE did not engage with this point.

continues to exist regardless of whether the Court takes any account of the UAE's new unofficial translation. Thus, the Court is in the same position as in *Nuclear Tests*, in which it found that it did have *prima facie* jurisdiction and went on to indicate provisional measures.⁴

Finally, for completeness, Sudan notes that the UAE the document contained in Tab 1 of the UAE's Judges' Folders was neither referred to at the hearing nor in the UAE's reply. Prior to the hearing, Sudan had never seen this document; it is not in the public domain so far as Sudan has been able to find out. In any event, the document does not add materially, and Sudan notes that it no longer appears to be relied upon by the UAE.

Comment on the UAE's reply to Judge Simma's Question

"What are the reasons that made the UAE enter its reservation to Article IX of the Genocide Convention?"

The UAE simply (without any evidence) asserts that: "It entered into its reservation because it did not wish to be bound by Article IX of the Genocide Convention". Sudan makes two comments.

First, looking at the actual words used, unlike the Rwandese reservation at issue in *Congo v. Rwanda*, the UAE's reservation does not say that it "does not wish to be bound by Article IX".⁵ If it was truly the UAE's intention to use such language, it could (and would) have done so. Instead, the UAE elected to use vague and non-specific wording, making "a reservation with respect to Article 9" and then omitting from what follows the key wording on "the responsibility of a State for genocide".⁶

⁴ See CR 2025/1, para. 9 (Wordsworth). The UAE did not engage with this point.

⁵ See CR 2025/1, paras. 16-17 (Wordsworth). The UAE did not engage with this point.

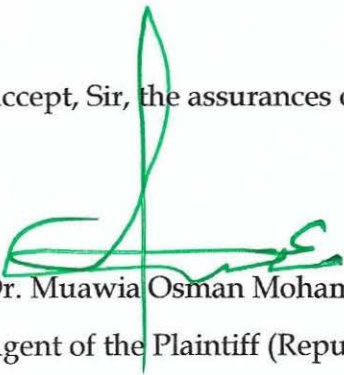
⁶ See CR 2025/1, para. 12 (Wordsworth). The UAE did not engage with this point.

The UAE is now seeking to rewrite the terms of its reservation some 20 years after the event.⁷

Second, there is no disagreement that the different words that the UAE did in fact use are to be interpreted in accordance with the ILC's Guideline 4.2.6, which requires that account be taken of:⁸

- (a) "the object and purpose" of the Genocide Convention, i.e., the accomplishment of those unique "high purposes" which are the *raison d'être* of the Convention;⁹ and
- (b) "the circumstances in which the UAE's reservation was formulated" in 2005, which include the fact that the UAE evidently chose not to adopt the language used by any extant reservation, or any such reservation previously considered by the Court, which unambiguously sought to exclude the Court's jurisdiction under Article IX.¹⁰ For example, Rwanda, Algeria, Viet Nam, China, Yemen and Serbia all had extant reservations using precisely the unambiguous language that the UAE now claims that it intended to use.¹¹

Accept, Sir, the assurances of my highest consideration.



Dr. Muawia Osman Mohamed Khair

Agent of the Plaintiff (Republic of the Sudan)

⁷ See CR 2025/1, para. 26 (Wordsworth). The UAE did not engage with this point.

⁸ See CR 2025/1, para. 11 (Wordsworth). The UAE did not engage with this critical point.

⁹ See CR 2025/1, paras 19-21 (Wordsworth). The UAE did not engage with this point.

¹⁰ See CR 2025/1, paras. 24-25. The UAE did not engage with this point.

¹¹ See Sudan's Judges' Folder, Tab 21.