**Statement by H.E. Judge Peter Tomka, President of the International Court of Justice, at the Plenary Session of the St. Petersburg International Legal Forum**

**15 May 2013**

**Competition and co-operation between legal systems: the role of law in ensuring the development of society, the State, and the economy**

Excellencies,

Distinguished guests,

I am pleased to address the Plenary Session of the St. Petersburg International Legal Forum.

The ideals underlying the United Nations Charter and its accompanying apparatus significantly contributed to establishing the pre-eminence of law — especially the rule of law — as one of the cornerstones of the modern international system. As a result, these developments have had a vast and lasting impact on the development of society, the modern State and the economy. For one thing, one would be hard pressed to deny that the values enshrined in the United Nations Charter helped build more equitable and democratic societies. That instrument's commitment to certain core beliefs and values is eloquent: one has to look no further than its preamble to see the consecration of "fundamental human rights" and "faith . . . in the dignity and worth of the human person, in the equal rights of men and women". Further, the text also encourages the use of the "international machinery for the promotion of the economic and social advancement of all peoples". As a result, the international rule of law, which unquestionably forms part of the United Nations landscape and architecture — to which should be added the maintenance of international peace and security — has fomented an international community geared towards bettering the lives of individuals across the globe.

Undoubtedly, this objective is best achieved (or pursued) by strengthening the international rule of law on the international plane, which in turn facilitates the transition to more equitable and just societies. In fact, the Charter itself points out the symbiotic relationship between those ideals and the importance of upholding international legal principles, by striving "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained" and "to promote social progress and better standards of life in larger freedom". In large part because of the Charter, international law has now become increasingly important: it is no longer wholly irrelevant in most States' decisions with respect to international affairs; it often informs domestic policy-making; it is often actively considered in domestic judicial settings, particularly in cases involving international human rights standards or some international dimension; it is often referred to in mainstream political discourse; it is increasingly brandished to justify upholding certain rights by members of civil society and other stakeholders; and so on. While the Charter has paved the way for the formulation of substantive standards and principles in international law, an equally important dimension of the role of law in ensuring the development of international society, the State and the economy is evidenced by the multiplication of pacific dispute settlement mechanisms. In other words, subjects of the international rule of law must have fora in which they can formulate claims with a view to having their rights upheld: the creation of dispute resolution mechanisms in various sectors of the international arena is a welcome development and a reliable means to ensure compliance with those legal standards and values that we hold valuable as an international community.

For its part, the International Court of Justice — commonly referred to as the "World Court" — is vested with a unique mandate under the United Nations Charter as the principal judicial organ of the United Nations. In short, the Court discharges the principal responsibility for

delivering international justice under the United Nations system by peacefully settling the bilateral disputes submitted to it by States. In so doing, it always acts within the confines of its jurisdiction and strives to attain well-reasoned and just outcomes on the basis of the evidence submitted to it, the legal arguments put forward by the parties and in accordance with the relevant rules and principles of international law. Moreover, its judicial function remains subject to the overarching objective envisaged for it in the United Nations Charter, that is, "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace". This objective effectively mirrors the expectation enshrined in the same instrument, applicable to all United Nations Members, that they "shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered". On an immediate level, the work of the Court helps strengthen the role of law in international relations by settling the disputes submitted to it, but the reach and impact of its jurisprudence is much more pervasive: it has a direct influence on the development of international law. The Court's well-reasoned decisions are widely perceived as authoritative statements of international law and are studied meticulously by legal scholars, legal advisers to foreign ministries, international organizations and other States. They may also sometimes serve as a benchmark against which the legality of international conduct can be measured and assessed. The Court's jurisprudence has also been as influential in the work of arbitral tribunals and other international courts — which rely rather liberally on the World Court's pronouncements in developing their own reasoning — as it has been illuminating for the codification projects undertaken by the International Law Commission.

An area where tensions between States may escalate into an open conflict, should the underlying disagreement not be referred to the Court, undoubtedly resides in land and maritime boundary disputes. Given its track record on that front, the Court has developed a particularly strong reputation in adjudicating those types of contentious proceedings, with parties invariably putting their confidence in the prospect of the Court reaching an equitable solution that will in turn normalize relations between them. The Court's docket is replete with such examples: just in the very recent past, the Court delivered a Judgment resolving a boundary dispute between Burkina Faso and Niger, which both Parties have praised and which no doubt contributed to further strengthening their mutually respectful and harmonious relations. Another case, namely that of the *Maritime Dispute* opposing Peru and Chile, is currently under deliberation: the Court will render its Judgment later this year, which will settle a long-standing dispute over the maritime frontier between the two States and, one hopes, appease the tensions that have arisen between them as a result of their conflicting maritime claims. We are now witnessing the proliferation of competing claims that transcend more conventional conceptions of disputes as envisaged at the time of the adoption of the United Nations Charter, at least with respect to the substantive legal issues they raise. This is particularly so in the environmental sector. It should be stressed that the World Court has not taken a backseat in the development of this type of litigation. Quite to the contrary, it appears that the Court is increasingly resorted to as a forum for the adjudication of environmental disputes — particularly those that involve transboundary harm — and other disagreements affecting the conservation of living resources, the protection of the environment or engendering potentially adverse effects on human health. Such concerns were central in the Court's adjudication of the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*, in which it delivered its Judgment in 2010. The Court's current docket also follows suit as public hearings will be held later this year in two cases with similar implications, and in which scientific evidence will play a key role: the case concerning *Whaling in the Antarctic (Australia* v. *Japan: New Zealand intervening)* and the case concerning *Aerial Herbicide Spraying (Ecuador* v. *Colombia).*

Nowadays, there is no question that a broader conception of the maintenance of international peace and security, which may involve several institutional actors and processes — be they judicial, diplomatic or political — now forms part of the security fabric initially envisaged by the framers of the United Nations Charter. Consequently, peaceful and creative solutions must be developed to respond to massive humanitarian and human rights violations, boundary disputes,

environmental degradation and subversive non-State actors. Undoubtedly, both international law and the Court have a role to play in making the world a safer place. As I have emphasized, the pacific judicial settlement of disputes by the Court can prevent further aggravation or escalation of those disagreements between States, while promoting the international rule of law and restoring international peace and security. However, while it is true that the United Nations Charter carves out an exceedingly important judicial function for the Court in adjudicating international disputes — plainly, by making it the principal judicial organ of the United Nations system — it should be stressed that the jurisdiction of the Court remains based on the consent of States appearing before it. One of the ways in which the Court can secure jurisdiction over disputes is by States making unilateral declarations by which they accept as compulsory the jurisdiction of the Court, with reciprocal effects on other States. Currently, only slightly over a third of United Nations Members have made or maintained such declarations.

The United Nations Secretary-General has attempted to strengthen the Court's ability to adjudicate disputes. In particular, he has recently launched a campaign aiming to enhance the number of States making such unilateral declarations recognizing as compulsory the jurisdiction of the Court, an initiative that should be commended heartily. This constitutes a welcome and forward-looking campaign, as it should encourage United Nations Member States to envisage the peaceful judicial settlement of their disputes as a fruitful resolution model, thereby also furthering the objectives of the United Nations Charter.

Excellencies,

Distinguished guests,

At the end of the day, the picture that emerges is one where new legal challenges abound but where there is a genuine desire — and need — among various international actors to subject their disputes to peaceful resolution mechanisms. This encouraging trend is corroborated by the multiplication of dispute settlement mechanisms in various fora on the international plane. All these mechanisms share the common merit of striving to reduce unilateral action taken by States in conflict settings, appeasing tensions between disputing States, and favouring peaceful settlement options, grounded in law. Under this light, international law can no doubt be equated with a tool for shaping State behaviour towards better patterns of compliance, steering policymakers and Governments towards more just and democratic inclinations and, ultimately, bettering the fate of individuals across the globe. The World Court will continue to do its part towards the objectives I have outlined by adjudicating disputes submitted to it with dedication, in utmost impartiality, independence, in conformity with international law and within the jurisdictional bounds that govern its work.

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