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CR 2005/20 (traduction)

CR 2005/20 (translation)

Vendredi 8 juillet 2005 à 10 heures

Friday 8 July 2005 at 10 a.m.

8 Le PRESIDENT : Veuillez vous asseoir. La séance est ouverte. La Cour siège aujourd'hui pour entendre le second tour de plaidoiries du Congo sur les questions de compétence et de recevabilité.

Avant de donner la parole au Congo, je souhaiterais dire que la Cour a appris avec beaucoup de tristesse la pénible nouvelle de la série d'explosions qui a eu lieu hier à Londres. Au nom de la Cour, je souhaiterais exprimer ma profonde sympathie et mes condoléances aux victimes et à leurs familles, ainsi qu'au peuple et au Gouvernement du Royaume-Uni.

Je donne maintenant la parole à M. Ntumba.

Mr. NTUMBA: Mr. President, Honourable Members of the Court, please allow me, before beginning my statement, also to express my compassion to the British people, who have been the victims of these unspeakable, inadmissible acts.

1. Mr. President, anxious to use my time wisely, while reconfirming all of the arguments already presented and elaborated by the Democratic Republic of the Congo in the Application instituting proceedings, in the Counter-Memorial and during the first round of oral argument, I am going to confine myself to a few points on the following subjects:

— the withdrawal and lapsing of Rwanda's reservations;
— the nature of some of Rwanda's reservations as violations of the *jus cogens* guaranteed by the 1969 Vienna Convention on the Law of Treaties;
— the obvious facts of the attempts at negotiation, unfortunately fruitless, and of the manifest lack of good faith on the part of Rwanda;
— the absence of any obligation to negotiate in the case of some of the treaties, notably the Constitution of the World Health Organization.

I. The withdrawal and lapsing of Rwanda's reservations

2. Mr. President, Rwandan positive law is clear on the question of reservations. There can be no doubt as to the credibility of the authors of "*Introduction au droit rwandais*" (pub. Yvon Blais Inc., Quebec, Canada, 1999), Martin Imbleau, professor and lawyer, and William Schabas, professor. They benefit from having taught law at the University of Butare in Rwanda and having

lived there for several years. The soundness of the book is such that even the library of the
9 International Court of Justice believed it important to acquire it and it is among the few works on Rwandan law found in the Court's library.

3. Moreover, the English version is not some other authors' work which Imbleau and Schabas simply translated.

4. After publishing the English version, entitled "Introduction to Rwandan Law", they felt the need to publish a French translation, in response to the interest shown by a number of people as result of the paucity of written material on the subject.

5. What it has to say about the Rwandan reservations is very clear and requires no interpreting:

> "When Rwanda ratified the *Convention on the Prevention and Punishment of the Crime of Genocide*, in 1975, it formulated a reservation to article IX, which grants jurisdiction to the International Court of Justice for the adjudication of disputes arising from the *Convention.* Rwanda later undertook, in the Arusha Peace Agreement, to withdraw its reservations to international human rights treaties (Arusha VII, art. 15), and in 1996 it adopted legislation authorizing this (D-L 014/01) of February 15, 1995)" (*op. cit.*, p. 189).

They go on to say that Rwanda has not made a declaration recognizing the Court's jurisdiction

> "and may only litigate matters before the Court with its express consent. Certain treaties also specify a role for the Court in dispute settlement. This is the case with the *Convention for the Prevention and Punishment of the Crime of Genocide*, but Rwanda has made a reservation to the provision in question" (*op. cit.*, p. 201.) [Translator's note: The last sentence of the French quotation ("*[c]ette réserve est maintenant retirée*" ["this reservation has now been withdrawn"]) has no equivalent in the English text.]

That is their conclusion and that is what is now taught to law students at the University of Butare in Rwanda.

There is at present no written material disputing this statement of fact and this assertion.

6. I believe that Professor Christopher Greenwood, an eminent colleague, was capable of checking not only the English version, which served as the basis, but also the French version, which is very clear. And no one here can entertain any doubt as to his talent in speaking French, since he has flaunted it repeatedly before the Court. Mr. President, what more can I say, Professor Greenwood informs us that this is not part of positive law. He goes so far as to make an amalgam of the Arusha Peace Agreement of 4 August 1993 and Decree-Law 014/01 of

15 February 1995 in an attempt to convince the Court that one of them is an internal political agreement between belligerent groups and the other was not approved by the Transitional National Assembly at its first session, without making clear whether that Decree-Law was abrogated or lapsed.

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7. In truth, the Decree-Law was approved by the Fundamental Law of the Republic of Rwanda adopted by the Transitional National Assembly in Kigali on 26 May 1995; the Assembly was thus formed and sitting well after the 1994 genocide.

8. Article 1 of the Rwandan Fundamental Law states: "The Fundamental Law of the Republic of Rwanda consists indissolubly of the Constitution of June 10, 1991, the Arusha Peace Accord, the RPF Declaration of July 17, 1994 concerning the Establishment of Institutions . . ."

9. The Arusha Agreement is thus part of the constitutional bloc of Rwandan law. Moreover, the Declaration by the Rwandese Patriotic Front of 17 July 1994 on the Establishment of Institutions refers to it in the following terms: "The RPF recognizes the Constitution of June 10, 1991 and the Peace Agreement as indissolubly forming the Fundamental Law which governs the country . . ." I think it is clear: this is not a mere internal political agreement between belligerent groups, but indeed a text which is part of Rwandan positive law.

10. The Arusha Peace Agreement, a constituent part of the Rwandan Fundamental Law, imposes an obligation, in the Protocol on Miscellaneous Issues and Final Provisions, more specifically in Article 15, entitled "Ratification of International Instruments on Human Rights", on the Broad-Based Transitional Government to "ratify all International Conventions, Agreements and Treaties on Human Rights, which Rwanda has not yet ratified. It shall waive all reservations entered by Rwanda when it adhered to some of those international instruments." That is the justification for the adoption and promulgation of Decree-Law 014/01 of 15 February 1995.

11. Mr. President, if reliance is to be placed on the refusal by the Transitional National Assembly to approve the Decree-Law in question, proof of that cannot be based on a mere night-time chat with the Rwandan Minister of Justice, Ms Mukabawiza, a chat at which no one among us was present.

Consequently, the Democratic Republic of the Congo requests the Court to consider that Rwanda's reservation to the jurisdictional clause found in Article IX of the Convention for the

11 Prevention and Punishment of the Crime of Genocide has been withdrawn and to draw all the inferences from that concerning its jurisdiction. The other reservations of the same type should be considered as lapsed or fallen into abeyance as a result of the undertaking, enshrined in the Rwandan Fundamental Law, to "waive all reservations entered by Rwanda when it adhered to some of those international instruments". This is true in particular of the reservations or the reservation entered in connection with the Convention on the Elimination of All Forms of Racial Discrimination.

12. Mr. President, it is in the same spirit that the Republic of Rwanda has come before the Court of Justice seeking an imprimatur of universal impunity and the guarantee of total immunity, which is why we are asking the eminent Court to safeguard *jus cogens*.

II. The nature of some of Rwanda's reservations as violations of the *jus cogens* guaranteed by the Vienna Convention

In respect of reliance on the Vienna Convention on the Law of Treaties of 23 May 1969, I shall not return to the earlier discussion; I reconfirm, Mr. President, Honourable Members of the Court, as you will have observed, that the argument put forward by the Congo remains fully apt.

During the second round of oral argument, on Wednesday 6 July 2005, Rwanda, without refuting the substance of the Congo's argument, nevertheless raised, for the first time, the irrelevant question of the non-retroactivity of its undertaking pursuant to the Vienna Convention as far as application of the Genocide Convention is concerned. In so doing, Rwanda cites Article 4 of the 1969 Vienna Convention and seeks to sway the Court to accept the erroneous reasoning which follows:

> "The Vienna Convention on the Law of Treaties entered into force vis-à-vis Rwanda in 1980. The 1948 Genocide Convention has been binding on Rwanda since 1975. Therefore, the 1969 Vienna Convention, on the basis of Article 4 thereof, does not have retroactive effect in respect of the Genocide Convention and does not apply to it."

Mr. President, this reasoning disregards a major development in the understanding and application of international law. The Congo insists that Rwanda's reservation, relied on with **12** respect to the Genocide Convention, is to be considered null and void when examined in relation to the Convention on the Law of Treaties, because the supremacy and mandatory force of the norms

referred to in this Convention (Articles 53 and 64) mean that States are bound without respect to any temporal consideration or any treaty-based link. The rule can therefore have retroactive effect in the overriding interest of humanity.

Did the Court not consider, in its Judgment of 27 June 1986, that:

> "there is an obligation on the United States Government, in the terms of Article 1 of the Geneva Conventions, to 'respect' the Conventions and even 'to ensure respect' for them 'in all circumstances', since such an obligation does not derive only from the Conventions themselves, but from the general principles of humanitarian law to which the Conventions merely give specific expression"? (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America), I.C.J. Reports 1986*, p. 114, para. 220)

By extension of the Court's reasoning, the same is true for the other human rights and international humanitarian law instruments.

Similarly, in its Advisory Opinion on *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, the Court pointed out that:

> "The object and purpose of the Genocide Convention imply that it was the intention of the General Assembly and of the States which adopted it that as many States as possible should participate. The complete exclusion from the Conventions of one or more States would not only restrict the scope of its application, but would detract from the authority of the moral and humanitarian principles which are its basis." (*Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 24.)

We are asking the Court to safeguard these moral and humanitarian principles by finding that it has jurisdiction.

Rwanda cannot therefore claim, on the basis of Article 4 of the 1969 Convention, that the principles evoked in that Convention do not apply to the Genocide Convention. Those principles cannot be susceptible of any variation in their application, whether in time or in space. Peremptory norms *(jus cogens)* can suffer no reservation.

Mr. President, the Congo thus confirms that, in keeping with the spirit of Article 53 of the 1969 Vienna Convention, Rwanda's reservation to Article 9 of the Genocide Convention is null and void, because it prevents the Court from honouring its noble duty to protect inviolable peremptory norms, here the prohibition on genocide, trafficking in human beings, racial discrimination.

13 Thus, the reservation entered to Article 22 of the Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 must also be considered as violating *jus cogens* and inoperative.

III. The obvious facts of the negotiations and the manifest lack of good faith on the part of Rwanda

13. Mr. President, Rwanda, speaking through its counsel and advocate Professor Christopher Greenwood, no longer disputes the reality of negotiations, or rather the attempts at negotiation, because he said that, ultimately, in this area content matters more than form, substance far outweighs form. Therefore, we are in agreement as to these attempts at negotiation. Unfortunately however, Rwanda has never been willing to carry through with this means of peaceful dispute settlement. Rather, it seizes on form by raising preliminary objections in order to prevent us from proceeding to the merits. It has never wished to address, together with the Democratic Republic of the Congo, all of the questions regarding violations of international human rights instruments and international humanitarian law instruments, employing delaying tactics and refusing to respond to some proposals simply because it was at the time busy either attacking Congolese territory or preparing to do so, or looting the Congo's resources.

14. In a document dated 18 October 2000 and entitled "Responses and Preliminary Objections by the Republic of Rwanda", submitted on 24 October 2000 to the African Commission on Human and Peoples' Rights by the Ministry of Justice and Institutional Relations, in response to communication-complaint No. 227/99 filed by the Democratic Republic of the Congo, Rwanda clearly states as follows:

> "We would like to seize the opportunity here to recall the fundamental reason for the presence of Rwandan forces in the Democratic Republic of the Congo. Since the end of the genocide in Rwanda in 1994, the security of our territory was not assured. The international community had proved unable to anticipate this genocide, in which more than a million innocent people were slaughtered . . . Since Rwanda's military engagement in the Congo, the general security situation is now under control and peace reigns even in the north-west, on the border with the Democratic Republic of the Congo." *[Translation by the Registry]* (Paras. 17 and 18.)

But what kind of peace is this? The peace of the graveyard. The presence of Rwandan troops in Congolese territory was not just an outing for some fresh air. This presence destroyed millions and

14 millions of human lives. It resulted in the rape and other sexual abuse of women, it resulted in the conscription en masse of child soldiers.

15. Mr. President, this statement makes clear that Rwanda prefers the law of force to the force of the law. It is for the Court, upon conclusion of these hearings, to restore the law and pacific settlement to their rightful place in relations between States, notably between Rwanda and the Democratic Republic of the Congo.

16. In the same document filed with the African Commission on Human Rights (para. 14), Rwanda acknowledges that

> "the acts recounted . . . (acts constituting violations of numerous international human rights and/or international humanitarian law instruments) have repeatedly been brought by the Democratic Republic of the Congo to the attention of international organs, *including*:
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> — meetings of the United Nations General Assembly;
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> — meetings of the Security Council;
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> — sessions of the United Nations Commission on Human Rights." *[Translation by the Registry]*

Similarly, Rwanda states in the same document that "Communication 227/99 must be declared inadmissible on the basis of the fact that the allegations in question have been the subject of intense discussions and negotiations before the competent organs of the United Nations and the Organization of African Unity" *[translation by the Registry]*. This is how Rwanda acknowledges that there have been many talks and negotiations, but what did they produce?

17. By saying "*including*", Rwanda itself states that the listing is not exhaustive. And since that time the Democratic Republic of the Congo has continually urged Rwanda, in various international fora, to cease its bellicose behaviour in violation of human rights. Thus, the Security Council, in resolution 1468 (2003) from its meeting on 20 March 2003 (4723rd meeting), not only "[d]emands that all governments in the Great Lakes region immediately cease military and financial support to all the parties engaged in armed conflict in the Ituri region" (all States, including Rwanda obviously), but the Security Council also

> "Expresses its deep concern at the rising tensions between Rwanda and Uganda and their proxies on the territory of the Democratic Republic of the Congo, and stresses that the governments of these countries must . . . settle their concerns through

15 peaceful means, and without any interference in Congolese affairs, and must refrain from any action that could undermine the peace process."

18. There are therefore no grounds for claiming that the Pretoria Agreement entered into by Rwanda and the Democratic Republic of the Congo on 30 July 2002 established a climate of peace.

Need I add other Security Council resolutions, such as resolution 1484 (2003) of 30 May 2003, which "[d]emands that all Congolese parties [that is, obviously, armed groups] and all States in the Great Lakes region respect human rights".

19. Thus, in resolution 2002/14 of 19 April 2002 (47th meeting), the United Nations Commission on Human Rights

> "Expresses its concern:
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> . . . . . .
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> *(b)* At the situation of human rights in the Democratic Republic of the Congo, particularly in areas held by armed rebels or under foreign occupation, and at the continuing violations of human rights and international humanitarian law, including atrocities against civilian populations generally committed with complete impunity, while stressing in this context that occupying forces should be held responsible for human rights violations in territory under their control."

Rwanda is therefore responsible for the human rights violations which occurred in that part, a large part, of the DRC which it controlled and over which, I would say, it continues to exert an influence which is not always for the good.

20. Further, in the third section of that resolution, the Commission on Human Rights:

> 3. Urges all parties to the conflict in the Democratic Republic of the Congo:
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> *(a)* To facilitate the re-establishment, without delay, of the sovereignty and territorial integrity of the Democratic Republic of the Congo . . .;
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> *(b)* To protect human rights and to respect international humanitarian law, in particular, as applicable to them, the Geneva Conventions of 12 August 1949 for the protection of victims of war and the Additional Protocols thereto of 1977, the Hague Convention of 18 October 1907 concerning the Laws and Customs of War on Land, the Convention on the Prevention and Punishment of the Crime of Genocide and other relevant provisions of international humanitarian, human rights and refugee law, and in particular to respect the rights of women and children and to ensure the safety of all civilians, including refugees and internally displaced persons within the territory of that country, regardless of their origin."

Rwanda has itself recognized in a statement that we held intense discussions and negotiations, including on those United Nations premises, at the United Nations Commission on Human Rights.

16 Accordingly, it cannot here claim that the instruments violated have never been specified.

21. Mr. President, the resolutions of the United Nations Commission on Human Rights concerning violations of human rights and international humanitarian law are many in number. I shall confine myself to this single example. However, please allow me to return to the statement made by the Rwandan Minister of Justice to the Sixty-first Session of the United Nations Commission on Human Rights and to its true significance.

22. That statement, made in Geneva on 17 May 2005, gave material form in the international arena to the wise decision taken by the Rwandan Government to withdraw all reservations to human rights treaties, including the Genocide Convention of 9 December 1948. The statement was nothing other than the expression of the genuine will of the Rwandan State to remove from its legal arsenal the impediments to the appropriate implementation of peremptory norms.

23. The objection to the effect that the President of the Republic and the Minister for Foreign Affairs alone have the authority to commit the State internationally, and that a Minister of Justice cannot bind his country, does not stand up.

24. In the case concerning *Legal Status of Eastern Greenland* of 5 April 1933, Norway versus Denmark, the Permanent Court of International Justice held that an oral declaration made by the Norwegian Minister for Foreign Affairs Ihlen to the Danish Ambassador in 1919 was binding on his country, Norway (*Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53*, p. 69).

25. Nguyen Quoc Dinh, Patrick Daillier and Alain Pellet confirm that: "Although Article 38 of the Statute of the Court does not refer to it, the existence of acts by which a State, acting alone, expresses its will, and which have effect under international law, is indisputable."

They add — and this is also relevant and noteworthy in respect of the Arusha Peace Agreement, the Rwandan Fundamental Law and Decree-Law 014/01 of 15 February 1995 concerning the withdrawal of the Rwandan reservation — that "international courts . . . have accepted that unilateral State acts can issue from the legislative authority or the executive, can be

17 destined for States but also for national public opinion, can take more or less solemn form" (Nguyen Quoc Dinh *et al*., *Droit international public*, Paris, *LGDJ*, 2002, p. 360).

26. Mr. President, in its own jurisprudence the Court has taken account of manifestations ranging from a note from the French Embassy in New Zealand, a communiqué from the President

of the French Republic, a speech by the Minister for Foreign Affairs to the United Nations General Assembly, a press conference held by the Head of State and the Minister of Defence (*Nuclear Tests (New Zealand* v. *France), Judgment, I.C.J. Reports 1974*, pp. 268 *et seq.*).

27. Accordingly, it is clear that the statement by the Rwandan Minister of Justice, made within one of the most representative forums of the international community, the United Nations Commission on Human Rights, concerning the withdrawal of the reservations does indeed bind the Rwandan State.

28. To conclude on this point, I wish to say a word about Rwanda's patent bad faith and to remind Professor Greenwood that the term bad faith, far from being one of abuse, is rather a legal concept taught in all law schools. It is the exact opposite of good faith *(bona fides)*, a principle of customary law recalled in the 1969 Vienna Convention on the Law of Treaties (Arts. 26 and 31, para. 1), a principle also upheld in the jurisprudence of the Court (*Nuclear Tests*, Judgment of 20 December 1974, *I.C.J. Reports 1974*, p. 278, para. 46; *Border and Transborder Armed Actions (Nicaragua* v. *Honduras), Jurisdiction and Admissibility*, Judgment of 20 December 1988, *I.C.J. Reports 1988*, p. 105, para. 94), a principle also recalled in Declaration 2625 (XXV) of 24 October 1970 of the United Nations General Assembly on principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, which states: "Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States."

29. As Jean Salmon and other authors note, good faith is often linked with an obligation to negotiate. The Court itself, in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, speaks of "negotiations conducted in good faith and with the genuine intention of achieving a positive result" (*Order of 30 March 1984, I.C.J. Reports 1984*, p. 299). That has never been the case for Rwanda in any of the contacts in any of the international fora. Given the impossibility of opening or progressing in negotiations with Rwanda, how could it be imagined for even an instant that it would have been possible to move from negotiations to arbitration, whether in the framework of the ICAO or that of the Convention on the Elimination of All Forms of Discrimination against Women. But if the expression shocked our distinguished colleague, instead of speaking of bad faith, I will speak of a manifest absence of good faith.

30. Mr. President, the proof of this lies in the fact that before the African Commission on Human and Peoples' Rights, just as before the Court today, Rwanda has always pleaded inadmissibility and has never wished to open genuine and positive negotiations with the Democratic Republic of the Congo.

31. Mr. President, please allow me to turn to the last point, which concerns the absence of an obligation to negotiate in the case of the Constitution of the World Health Organization (WHO); I shall also have a word to say about the Convention on the Elimination of All Forms of Discrimination against Women.

IV. The absence of an obligation to negotiate in the case of the Convention on the Elimination of All Forms of Discrimination against Women and the WHO Constitution

32. Mr. President, Members of the Court, in respect of the jurisdictional clause contained in Article 29, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, its wording is obviously clear:

> "Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

A short while ago I showed how Rwanda has hampered any possibility of negotiations which could have subsequently led to arbitration.

33. And we believe that Judge Rosalyn Higgins is correct in her view that it is well established in international human rights law that it is not necessary, for the purpose of establishing
19 the Court's jurisdiction, to identify which specific provisions of the treaty providing a basis for jurisdiction have been violated and the facts alleged to establish its jurisdiction constitute violations of various provisions of the treaties, particularly the Convention on the Elimination of All Forms of Discrimination against Women, the instrument relied on by the Congo to establish the jurisdiction of the Court (see the declaration annexed to the Order of 10 July 2002).

34. Members of the Court, concerning the WHO Constitution — and I shall end with this —, the situation is also crystal clear, even if Professor Greenwood has a tendency to pass over it too quickly.

Let us recall that Article 75 of that Constitution provides as follows:

> "Any question or dispute concerning the interpretation or application of this Constitution which is not settled by negotiation or by the Health Assembly shall be referred to the International Court of Justice in conformity with the Statute of the Court, unless the parties concerned agree on another mode of settlement."

It is clearly impossible to agree with Rwanda on another mode of settlement.

35. This article imposes no requirement that the question or dispute first be settled by negotiation and by the Health Assembly. *This is not a two-fold condition.* Through the use of "or", the wording clearly indicates that the parties have the option of choosing between direct negotiation and proceeding by way of the Assembly of the World Health Organization. The Congo has already shown the impossibility of conducting successful negotiations with Rwanda, or even beginning them. Mr. President, the Congo preferred the option of turning directly to the Court.

36. Mr. President, it has been argued that the obligations set out in the WHO Constitution concern only the WHO itself. The Democratic Republic of the Congo is not at all convinced of this, far from it.

As stated in Article 1 of that Constitution: "The objective of the World Health Organization . . . shall be the attainment by all peoples of the highest possible level of health". This means that all its member States must be able to work towards this.

37. As it is stated in Article 2 of the Constitution of the World Health Organization that the Organization, in order to achieve its objective, exercises the following functions, to name only a few:

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> "*(g)* to stimulate and advance work to eradicate epidemic, endemic and other diseases;
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> . . . . . .
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> *(l)* to promote maternal and child health and welfare . . .;
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> *(m)* to foster activities in the field of mental health, especially those affecting the harmony of human relations",

it is difficult to accept that member States, including Rwanda, are not under an obligation to contribute to the accomplishment of those functions by the World Health Organization. In any event, to refrain from any action or measure which could be detrimental to the achievement of that objective and of the functions assumed by the World Health Organization.

38. This is a general principle the basis of which is to be found in international customary law and which is confirmed by other constituent instruments of international organizations. I would like to quote in particular Article 2, paragraph 2, of the United Nations Charter which provides: "All Members . . . shall fulfil in good faith the obligations assumed by them in accordance with the present Charter." Similarly, the 1969 Vienna Convention on the Law of Treaties states: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." (Art. 26).

In resorting to the rape of women and even men, the spreading of AIDS, as instruments of war, in indulging in slaughter and butchery on a wide scale on Congolese territory, has Rwanda in good faith carried out the Constitution of the WHO, which aims at fostering the highest possible level of health for all peoples of the world? Has it not hindered the accomplishment by the World Health Organization of its objective and its functions? And here one would have us believe that the obligations in the WHO Constitution concern only the WHO itself.

39. Mr. President, Members of the Court, please allow me to conclude by paraphrasing Jean Racine, the well-known French author, in *Andromaque* (Act III), because human suffering knows no border, colour, ethnicity, or race. It is painful and unbearable wherever it is found. Thus, allow me to say, with Andromache, for more than three million Congolese dead: "Can I
21 forget (my people), unburied, dragged in dishonour round our walls? . . . Remember the cries of the victors, remember the cries of the dying."

40. The Democratic Republic of the Congo, in referring this case to the International Court of Justice, wishes to bring an end to all these cries in Africa, particularly in Central Africa and in its territory: the clamour of the occupants and the throes of death inflicted on the occupied.

41. In upholding its obvious jurisdiction on the basis of all the arguments advanced, the International Court of Justice, in this Peace Palace, will undertake a work of justice and peace in the Great Lakes area, thereby inciting States to renounce war and its ravages.

42. Mr. President, I would like now to ask you to grant my colleagues leave to add to what I have said, but very briefly; in particular, I request that you give the floor to Professor Pierre Akele Adau. Thank you.

Le PRESIDENT : Je vous remercie, Monsieur Ntumba. Je donne maintenant la parole à M. Akele.

Mr. AKELE: Mr. President, Members of the Court,

SUBMISSIONS AND OBSERVATIONS

1. Rwanda asserted the day before yesterday in this Chamber that there was not a shred of evidence to support the allegations put forward by the Democratic Republic of the Congo. That did not, however, prevent it from dwelling at length on certain aspects of our argument, while failing to address what we consider to be the essential points.

2. I should like, therefore, for my part, to refocus attention on the following three points:

1. there is not the shadow of a doubt that Rwanda has in fact consented to the Court's jurisdiction;
2. the objection to jurisdiction raised by Rwanda in this case is bound up with the merits;
3. the Court must act boldly and creatively in this case.

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I. There is not the shadow of a doubt that Rwanda has in fact consented to the Court's jurisdiction

3. Mr. President, Members of the Court, irrespective of any argument raised by Rwanda or the DRC, your august Court remains the arbiter of its jurisdiction. Of course, it determines jurisdiction primarily in terms of the formal expression of the will and consent of the parties to submit to its jurisdiction. However, where there is some doubt as to whether such will or consent to the optional jurisdiction of the Court has in fact been formally expressed, and the Court does not therefore consider itself to be manifestly lacking in jurisdiction, it needs to look at the question more closely in order to form a more precise view.

4. It is no longer a question of merely accepting what, in formal terms, appears to be the will of the party claiming not to recognize the Court's jurisdiction; the Court must ascertain whether its words match its thinking, that is to say, whether its statements reflect its actual intentions.

5. From this standpoint, the lengthy analysis to which we were treated the day before yesterday on the question of the maintenance or withdrawal of Rwanda's reservation to Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide shows the extent of the contradiction between Rwanda's statements and its true intentions.

6. The famous Decree-Law No. 014/01 of 15 February 1995 was adopted less than a year after the 1994 genocide and after the assumption of power by the Rwandan Patriotic Front. This was a period when the dramatic circumstances of Rwanda's regime change could certainly have produced a new state of mind favourable to full recognition of the mechanisms for prevention and punishment of the crime of genocide. However, we are given to understand that, some months later, as the new Parliament failed to ratify the Decree-Law, it lapsed or was rendered null and void.

7. So be it! I note, however, that two years later, two Canadian professors, who had studied post-genocide Rwandan law over a long period of time, stated — in what may be considered the first introductory textbook on Rwandan law after the events of 1994 — not only that Rwanda had undertaken to withdraw all reservations in respect of the protection of human rights, but that it had even adopted a law to that effect.

8. This work enjoyed such success that, two years later, in 1999, it was reissued in French. And until the day before yesterday, no one ever challenged that textbook or accused its authors of a

23 lack of perspicacity. Our distinguished colleague Professor Greenwood reproaches us for not having presented this text to the Court earlier. It seems to us that he himself was deliberately left in the dark as to the existence of this book, or in any case of the decree; so much so that he was obliged to make a night-time telephone call to the Rwandan Minister of Justice in order to extricate himself from this awkward situation.

9. Mr. President, if a State expresses such an intention in a legislative text, whether or not it notifies that text to the United Nations Secretary-General, it can hardly rely on such non-notification as a defence against third States. If the Rwandan Parliament did not confirm the Decree-Law, without, however, leaving any trace of this abrupt *volte-face*, that is neither more nor less than what in private law is termed a "wrongful act". And it is a universal principle of law that "no one may profit by his own wrongdoing". Rwanda is therefore in no position to defend itself

against a State which cites its own, Rwandan, law in evidence against it, acknowledging the existence of that law but being incapable of proving that it has lapsed or been repealed.

10. Mr. President, it is clear that the actual or real intention of Rwanda, or to be more precise, the reality of Rwanda's intention, is not what we have been told here, but what is contained in the Decree-Law, which all concerned are today seeking to challenge or reject.

11. This, combined with the fact that Rwanda, throughout the proceedings before this Court, did not refuse to appear or to argue its case, is sufficient to establish its acquiescence in your jurisdiction.

II. The objection to jurisdiction raised by Rwanda in this case is bound up with the merits

12. Mr. President, Members of the Court, the numerous rules of international law deliberately violated by Rwanda, whether directly by its armed forces or indirectly by the rebel forces that it supports or has supported, naturally engage its responsibility as was stated earlier. That said, we shall not enter into the substance of the dispute, the reality of which has been categorically denied by Rwanda throughout these proceedings. We are not unaware of the principle frequently underscored by the Court, the principle of the separability of the merits and the preliminary phase (*I.C.J. Reports 1972*, p. 56, para. 18; *Fisheries Jurisdiction*, *I.C.J. Reports 1973*, p. 7, para. 11).

24

13. It is necessary:

> "however to qualify this principle, since the objection raised is sometimes not one of a strictly preliminary nature. Quite to the contrary, it may raise issues affecting the merits of the case, a situation likely to make it impossible for the Court to rule on the question of jurisdiction without addressing the merits. Thus, in the case concerning the American hostages, the Court found itself obliged to rule on jurisdiction and merits in the same judgment, so intertwined was the objection to jurisdiction with issues relating to the merits."[1]

14. The Court is therefore well within its rights, Mr. President, to recognize its jurisdiction to dispense justice.

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[1]Philippe Sabourin, *La contestation de la compétence de la Cour internationale de justice dans les affaires contentieuses récentes*, Paper presented under the direction of Professor Bretton, with a view to the award of the Advanced Diploma in General Public Law, Orléans Faculty of Law and Economics, 1984-1985, p. 35.

III. The Court must act boldly and creatively in this case

15. Mr. President, Members of the Court, the Court should act boldly and creatively in this case. The decision to be taken by your eminent tribunal, composed of representatives of all the great legal systems of the world, will strengthen the legal role it traditionally plays in the international community, in its capacity as the supreme judicial organ of the United Nations system, supplementing or supporting the political role of the Security Council.

16. Rwanda, like the Congo, belongs to the African legal system, the framework for expression of African legal thinking. There are no doubt still some narrow-minded people who are quick to contend that African legal thinking and the African legal system are vacuous. I need only refer them to the increasing number of textbooks and treatises which happily seek to address the matter in a positive spirit. I shall confine myself here to citing the textbook *Introduction aux systèmes juridiques africains [Introduction to African Legal Systems]* by Professor Charles Ntampaka, former Deputy Head of the Faculty of Law at the University of Rwanda, and currently a teaching professor in the Namur Law Faculty and the Strasbourg Law Faculty, which was published last year by the *Presses universitaires de Namur*.

17. Speaking of the legal systems in black African countries, with particular emphasis on Burundi, the Congo and Rwanda, this eminent professor writes as follows:

25 18.

> "These different legal systems share a number of common principles, including the restoration of social harmony as an aim of the legal order . . ." (p. 6).

19.

> "The existing rules are not meant to be applied strictly, they are designed to contribute to the maintenance of good relations between living persons, they serve to settle disputes, but with greater emphasis on the need to restore social harmony than on the application of the rules per se. Most African societies make no distinction between civil and criminal law, or between private and public law [or, I would add, between domestic public law and public international law]. Any violation of a rule is perceived as a social detriment which must be remedied . . ." (P. 9.)

20.

> "Generally speaking, Africans are afraid of the courts, because they tend to nurture disputes rather than settle them. Thus, bringing someone before a court constitutes a serious affront, inasmuch as it is interpreted as a rejection of the principle of conciliation. Instead of aiming at social harmony, legal proceedings harden the positions of the parties, giving each of them a right which may be asserted against his social group, his family, or his State. But legal proceedings also perpetuate the

> grievances of the parties to the dispute, because they determine a winner and a loser and establish the extent of the reparations that may be claimed.
>
> A gulf is thus created between the law followed by the people and the law imposed by the legislature; the latter is regarded as an extrinsic element that could undermine social cohesion. The incorporation of western law in domestic systems thus falls foul of obstacles that are not only technical but also psychological, because it does not always represent fairness or the desired ideal of justice." (P. 6.)

21. Mr. President, Members of the Court, the decision you are to take in this case is not merely a technical exercise giving expression to a disembodied form of international law, but one which should be relevant to at least 50 million people, the population of a black African country. People whose basic legal thinking favours substantive law over formal law, when vital rights cannot be protected otherwise. If, therefore, you decide that you have no jurisdiction to entertain this case on the ground that Rwanda does not recognize your jurisdiction, there is no formal technical argument that could really win the belief and confidence of the people living to west and east of the lakes and hills that divide and unite Rwanda and the Congo. And the "Pascalian model of force in the service of the law, without which justice would be impotent" would be nothing less than an empty shell.

26 22. This case places us in a situation where the operation of the rule of law — a function vested in the Court — must be forcefully affirmed in order to combat barbarity. The Court, as guarantor of the rule of law at a global level, continues, in the last resort, to serve as the repository and inspiration of the legal conscience of civilized peoples.

23. This, Mr. President, is the fundamental and novel significance of the decision your Court will have to take in this case.

24. The massive, flagrant, deliberate violations of rights as fundamental as those at issue in this case require treatment based on sound legal foundations which only your Court has the capacity to construct, by way of a lesson in humanity and civilization.

25. We have no doubt as to the complexity and difficulty of the present case, which painfully reminds each of us of the "non-assistance to persons in danger" of which the international community was guilty with regard to the Rwandan people who, in 1994, fell prey to genocidal horrors which will be a perpetual burden on the memory and history of mankind. But there is no

justification for the victim of the past, through moral torpor or the legal inertia undoubtedly created by the ghastly events of 1994, to become today's perpetrator of genocide.

26. Then, as now, the same values are at issue. We must today prevent the passive behaviour of the past from forever jeopardizing the real desire of the international legal community to deal effectively with the grave violations that continue to be perpetrated in the eastern part of the Democratic Republic of the Congo.

27. The International Court of Justice was unfortunately not requested to intervene in the case of the Rwandan genocide in 1994. It cannot, therefore, be accused of a denial of justice in that instance. It would be disastrous if it were left open to such accusation in a case where it could play a strong and timely role.

28. Your Court, Mr. President, has the legal resources to undertake that role, on the basis of Article 41 of its Statute and Articles 73 to 78 of the Rules of Court. I should like to refer also to

27 what Judge Raymond Ranjeva[2], in his outstanding contribution to the *Liber Amicorum* offered to Mr. Mohammed Bedjaoui, describes as your "positive daring" which, in a number of circumstances, has enabled you to give effect to your "catalytic function".

29. It is on the basis of that "positive daring" that we expect from your august Court a decision which achieves a balance, a harmonious and acceptable linkage, between, on the one hand, the question of the Court's jurisdiction based primarily on the consensual principle and the authority to determine its own jurisdiction and, on the other hand, the question of the compatibility of States' acts with international law, and particularly with human rights, even where national interests might oppose the interests of the international community.

30. It is also by virtue of this daring that we expect this distinguished international Court not to forget that the peoples of Rwanda and the Democratic Republic of the Congo belong to a specific legal system which qualifies for inclusion in the great family of the international legal system; peoples who nurture a heartfelt desire for a decision on your part that is attuned to their basic legal philosophy, in harmony with the common heritage of mankind represented by international law.

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[2]Raymond Ranjeva, "La prescription par la Cour internationale de Justice de mesures conservatoires à portée militaire", *Liber Amicorum Mohammed Bedjaoui*, Emile Yakpo and Tahar Boumedra (dir. pub), pp. 449-459.

31. I do not doubt for a single moment that Rwanda, in its core, is aware of the vital need for all of us to cultivate this state of mind, which is essential to re-establishing solidarity between the countries and peoples of the Great Lakes region.

32. Mr. President, I thank you for having allowed me to speak and ask you now to give the floor to Professor Lwamba Katansi.

Le PRESIDENT : Je vous remercie, Monsieur Akele. Je donne maintenant la parole à M. Katansi.

28 Mr. KATANSI:

SUBMISSIONS AND OBSERVATIONS REGARDING THE JURISDICTION OF THE COURT AND THE ADMISSIBILITY OF THE APPLICATION

1. Mr. President, Members of the Court, we have reached the second round of this oral phase of the written pleadings on the objections. But the second is also the last round in the objections phase.

2. As these proceedings are drawing to a close, therefore, Mr. President, I should like once again to say what an honour it has been for me to plead before this august Court.

3. This privilege has been made all the greater by the pleasure and honour of meeting and crossing swords with my distinguished colleagues Christopher Greenwood and Jessica Wells, whom I had previously known only by their writings.

4. The other writings, Mr. President, which inspired me when I was studying for my doctorate at the University of Paris, in 1973, are those of Judge Higgins.

5. I remember that, in the first draft of my thesis, on page 17, I wrote: "according to Rosalyn Higgins . . .". When my director of doctoral studies, Paul Reuter, an eminent jurist if ever there was one, gave me back my manuscript, I noticed that on that page, page 17, he had added the title "Madame" to "Rosalyn Higgins".

6. This notation, which was in fact an observation, Mr. President, taught me a lesson not only in courtesy, but also chivalry, to use a medieval term.

7. But I shall now leave the Middle Ages, Mr. President, in order to say that I listened with scrupulous attention to the reply given the day before yesterday by counsel for Rwanda.

8. I expected him to make my task more difficult, just as dawn intensifies the darkness.

9. Great was my surprise to find that he refuted none of my arguments. He was unable to do so with regard to the concept or "theory" of the " absence of a manifest lack of jurisdiction", which not only has the great virtue of enabling the Court to settle disputes between States peacefully, but also serves as a barrier, if I may use that term, to the increasingly vehement challenges of States which dispute the Court's jurisdiction, challenges whose end result, according to many scholars, is to undermine the authority of the Court.

29

10. Nor was my distinguished colleague, Mr. Greenwood, able to defeat my argument concerning the compromissory clauses of the conventions invoked by the Democratic Republic of the Congo in order to found your jurisdiction.

11. On the contrary, I was astonished when counsel for Rwanda proclaimed that the Democratic Republic of the Congo must take what Rwanda says on trust. On that basis, the case should be considered to be closed.

12. But there is no way that this can be so, since we no longer live in an era of papal bulls or decrees of the kind *"Roma locuta, causa finita"* — "Rome has spoken, the case is closed".

13. As the present case is neither closed nor moving towards closure, I shall now explain why the Rwandan objection based on the reservation to Article IX of the Genocide Convention is still not valid, despite the new arguments developed by counsel for Rwanda with regard to the famous Decree-Law 014/01 of 15 February 1995, which provided for the withdrawal of that reservation.

14. Thus, in a last-ditch attempt to right the helm, Rwanda relied on three arguments which are legal only in appearance:

(1) Decree-Law 014/01 of 15 February 1995 falls within the scope of domestic Rwandan law, implying that the DRC is not entitled to bring it up in these proceedings;

(2) Decree-Law 014/01 of February 1995 is or was null and void, because it was never approved by the Rwandan Parliament;

(3) the Decree in question was never notified to the United Nations Secretary-General.

Mr. President, Members of the Court, a number of legal facts and considerations will suffice to clarify your understanding and thereby enable you to reject the Respondent's objection, an objection based on the reservation to the Genocide Convention.

16. The first fact is that, having become a trusteeship territory in the aftermath of the Second World War, pursuant to the relevant provisions of the United Nations Charter of 1945, Rwanda had been placed under the administrative authority of the Kingdom of Belgium, thus joining the Congo, that is the DRC, which had been a Belgian colony since 1908.

30 17. Thus, the compendia of laws and regulations common to the colony of the Belgian Congo and the other two trusteeship territories, namely Rwanda and Urundi, the present-day Burundi, were entitled in successive editions: *"Codes et lois du Congo-Belge et du Rwanda-Urundi"* (Codes and Laws of the Belgian Congo and of Rwanda-Urundi).

18. As a result, more or less 90 per cent of Congolese jurists, Rwandan jurists and Burundian jurists, having graduated from Lovanium University, today the University of Kinshasa, continued to speak with nostalgia, if not pride, of the famous codes and laws of the Belgian Congo and Rwanda-Urundi, devised by the eminent Belgian jurists Louwers and Piron.

19. A third and final remark, Mr. President: because of its legal nature, a decree-law, under Congolese law and — I am convinced — under the laws of Rwanda and Burundi, is a measure enacted by the executive branch, usually the President of the Republic, subject to the following two mandatory conditions: that the Parliament is in recess, i.e. on holiday, and that enactment of the measure is a matter of urgency.

20. On this definition, a decree-law is not subject to the procedure of approval by Parliament. A very different decree-law, with special characteristics, is the so-called "constitutional decree-law" which, in provisionally assigning constitutional powers to one person, contains an indication of its duration, normally six or twelve months, and the possibility of its approval by Parliament, if it needed to be extended.

21. Mr. President, the points I have just raised provide a basis for assessment of the validity of Rwanda's arguments concerning its 1995 Decree-Law on withdrawal of its reservation to the Genocide Convention.

22. Let me say first of all that the Rwandan Decree-Law of 15 February 1995, inasmuch as it is not a constitutional decree-law, did not or does not have to be approved by the Parliament of Rwanda, and consequently has not lapsed by virtue of a purported absence of parliamentary approval.

23. My second contention is that, having not lapsed, the Rwandan Decree-Law terminated the Rwandan reservation to Article IX to the 1948 Genocide Convention.

24. I conclude, Mr. President, that the failure to notify that Decree-Law to the United Nations Secretary-General has no relevance in this case, inasmuch as it is not the act of notification

31 to any international organization, even the United Nations, which gives effect, i.e. validity, to a domestic administrative enactment, but rather its promulgation and/or publication by the competent national authority.

25. For the above reasons, Mr. President, Members of the Court, may it please the Court,

(a) after dismissing all the preliminary objections to the Court's jurisdiction and the admissibility of the Application,

(i) to find that the Court has jurisdiction;

(ii) secondly, to find that the Application is admissible as submitted;

(iii) lastly, to decide to proceed with the case;

(b) to render justice.

Before leaving the podium, Mr. President, I would ask you to call my colleague Mukadi to supplement what I have just said.

Le PRESIDENT : Je vous remercie, Monsieur Katansi. Je donne maintenant la parole à M. Bonyi.

Mr. BONYI:

SUBSIDIARY SUBMISSIONS AND OBSERVATIONS ON THE ADMISSIBLITY OF THE APPLICATION BY THE DEMOCRATIC REPUBLIC OF THE CONGO

1. Thank you, Mr. President, for giving me the floor. Mr. President, Members of the Court, after listening to Rwanda's reply on the subject of the admissibility of the new DRC Application,

as presented by Professor Greenwood at the hearing of 6 July 2005, I shall confine myself to a single observation.

I. The new DRC Application does not constitute an abuse of process which would render it inadmissible

2. Rwanda has argued on this subject that the Application contains no new grounds for jurisdiction. This contention is without foundation. A reading of the new Application shows that
32 new grounds of jurisdiction have been invoked. These new grounds concern *inter alia* the compromissory clauses contained in several conventions and treaties ratified by the two Parties, as well as in the Vienna Convention on the Law of Treaties of 23 May 1969, by virtue of the norms of *jus cogens* (see Application of 28 May 2002, pp. 18-30).

3. Mr. President, in this case, the DRC had clearly informed the Court that it reserved the right to file a new application. Consequently, *the use of this right in accordance with the established rules cannot be interpreted as an abuse of process*.

4. The Court's case law confirms this point. Thus, in the *Nauru* v. *Australia* case (*Preliminary Objections, Judgment, I.C.J. Reports 1992*, p. 255, para. 38), the Court acknowledged that the conduct of a State which has properly submitted an application to the Court in the framework of the remedies open to it *does not amount to an abuse of process*.

5. The Court will also note that, in the new Application, the DRC reserved the right to "supplement and elaborate upon this request in the course of the proceedings". It did so not only with regard to the grounds of jurisdiction but also with regard to the new grounds, including:

1. recourse by the DRC to parliamentary diplomacy as a means of negotiation;
2. the invalidity of Rwanda's reservations to the Genocide Convention by virtue of Article 53 of the Vienna Convention of 23 May 1969;
3. evidence of withdrawal of the reservations to Article IX of the Genocide Convention;
4. the alternative (and non-cumulative) nature of the preconditions laid down in Article 75 of the WHO Constitution;
5. the demonstration of the absence of a manifest lack of jurisdiction on the part of the Court;
6. the fact there was no obligation to resort to arbitration as a precondition for seisin of the Court;

7. and lastly, the effect of the discontinuance of the proceedings on the admissibility of the Application.

6. Mr. President, Members of the Court, Rwanda therefore cannot raise an objection of inadmissibility on grounds of abuse of process based on the content of the new Application. The Court will apply its own case law in this matter: "according to established practice, States reserve the right to present additional facts and legal considerations at a later stage, provided however that the result is not to transform the dispute brought before the Court" (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984,* p. 427, para. 80; *Cameroon* v. *Nigeria,* cited by
33 G. Hercezgh, "*Les exceptions préliminaires à la lumière de la jurisprudence de la Cour Internationale de Justice* (1994-2000)" [*Preliminary Objections in the light of the Case Law of the International Court of Justice* (1994-2000)], in *Man's Inhumanity to Man*, L.C. Vohrah *et al* (ed.), International Humanitarian Series, Vol. 5, Kluwer Law International, The Hague, 2003, p. 419).

7. In the instant case, the dispute remains the same, and the Court must find that the objection to admissibility raised by Rwanda is unfounded.

Mr. President, I shall close with that point and would ask you kindly to give the floor to His Excellency Ambassador Jacques Masangu, Agent of the DRC, to present our final submissions.

Le PRESIDENT : Je vous remercie, Monsieur Bonyi. Je donne maintenant la parole à S. Exc. M. Masangu, agent du Congo.

Mr. MASANGU: Mr. President, Members of the Court, in my capacity as Agent of the Democratic Republic of the Congo in the case concerning *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo* v. *Rwanda),* I hereby present the submissions of the Democratic Republic of the Congo at the close of the oral proceedings on the question of the Court's jurisdiction and the admissibility of the Application.

May it please the Court,

1. to find that the objections to jurisdiction and admissibility raised by Rwanda are unfounded;

2. consequently, to find that the Court has jurisdiction to entertain the case on the merits and that the Application of the Democratic Republic of the Congo is admissible as submitted;
3. to decide to proceed with the case on the merits.

These, Mr. President, Members of the Court, are the submissions of the delegation of the Democratic Republic of the Congo. Thank you.

Le PRESIDENT : Je vous remercie, Excellence. La Cour prend acte des conclusions finales que vous venez de lire au nom de la République démocratique du Congo sur les questions de
34 compétence et de recevabilité, tout comme elle a pris acte, le mercredi 6 juillet, des conclusions finales présentées par le Rwanda.

Voilà qui met un terme à une semaine d'audiences consacrées aux plaidoiries orales en l'espèce.

Je tiens à adresser mes remerciements aux agents, conseils et avocats qui sont intervenus.

Conformément à la pratique, je prierai les agents de bien vouloir rester à la disposition de la Cour pour tous renseignements complémentaires dont celle-ci pourrait avoir besoin. Sous cette réserve, je déclare close la procédure orale en l'affaire des *Activités armées sur le territoire du Congo (nouvelle requête : 2002) (République démocratique du Congo c. Rwanda)*.

La Cour va maintenant se retirer pour délibérer. Les agents des Parties seront avisés en temps utile de la date à laquelle la Cour rendra son arrêt.

La Cour n'étant saisie d'aucune autre question aujourd'hui, la séance est levée.

The Court rose at 11.30 a.m.

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