SPEECH OF HE MR IWASAWA YUJI, PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE, AT THE SEVENTY-SIXTH SESSION OF THE INTERNATIONAL LAW COMMISSION

8 May 2025

Mr Chair,

Ladies and gentlemen,

Colleagues and friends,

It is a distinct honour for me to address the International Law Commission today, and to do so for the first time in my capacity as President of the International Court of Justice. At the outset, may I take this opportunity to congratulate Mr Mārtiņš Paparinskis on his election as Chair of the Commission for the Seventy-sixth Session and to congratulate all the newly elected officers as well.

In my speech to you this morning, in keeping with custom, I will focus on providing an update on the cases submitted to the Court over the last year and the decisions it has rendered since President Salam's address to you in July 2024. I know I speak on behalf of all of my fellow Members of the Court when I say that we place great value on this annual exchange of views between our two institutions.

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There are at present 25 cases on the Court's docket, 22 of which are contentious cases and three of which are advisory proceedings. The inter-State disputes cover diverse and wide-ranging legal issues, such as land and maritime delimitation, jurisdictional and State immunities, and alleged breaches of obligations under an array of bilateral and international conventions. Two of the requests for an advisory opinion were submitted by the General Assembly. They relate to the Occupied Palestinian Territory and to climate change. The third request was submitted by the International Labour Organization and relates to the right to strike under ILO Convention No. 87.

Since July 2024, and my predecessor's speech to you, two new contentious cases have been added to the Court's docket, involving States in Africa, Asia, Europe, and North America, as well as a new request for an advisory opinion from the General Assembly[1]. The most recent contentious case was brought by Iran against Canada, Sweden, Ukraine and the United Kingdom on 17 April 2025, and constitutes an appeal of a decision by the ICAO Council. Prior to that, on 5 March 2025, Sudan instituted proceedings against the United Arab Emirates concerning alleged violations by the latter of its obligations under the Genocide Convention in relation to the Masalit group in Sudan, most notably in West Darfur.

The Court has held hearings on requests for the indication of provisional measures and on the merits in two contentious proceedings, as well as hearings on the two requests submitted by the

[1] December 2024: *Obligations of States in respect of Climate Change* and *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*.

General Assembly for an advisory opinion by the Court[2]. In the same period, the Court has rendered decisions in four cases and it has rendered one advisory opinion, the details of which I shall set out shortly. Three cases are currently under deliberation. In particular, in regard to its advisory function, the Court is deliberating on the question of the *Obligations of States in respect of Climate Change* and the *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*. As for contentious cases, the Court is deliberating on the case between Gabon and Equatorial Guinea concerning *Land and Maritime Delimitation and Sovereignty over Islands*.

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In reviewing the decisions rendered by the Court, I shall begin with the judgments and the advisory opinion before turning to the substantive orders issued in the course of the reporting period.

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On 12 November 2024, the Court issued its Judgment on the preliminary objections raised by Azerbaijan in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia* v. *Azerbaijan)*. In response to Armenia's Application against Azerbaijan concerning alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) on 16 September 2021, Azerbaijan had raised preliminary objections to the jurisdiction of the Court with respect to certain claims contained in the Application. Azerbaijan contended, first, that the Court lacked jurisdiction under Article 22 of CERD because the precondition of negotiation had not been satisfied, and second, that some of Armenia's claims were not within the Court's jurisdiction *ratione materiae*.

With respect to Azerbaijan's first preliminary objection, the Court noted in its Judgment that the Parties had begun exchanging written correspondence relating to the present dispute under CERD in November 2020, with specific references to the Convention, which shows that the subject-matter of these exchanges related to the subject-matter of CERD. It also observed that, over the subsequent months, the Parties had engaged in multiple written exchanges and two rounds of virtual meetings on the modalities, scope and timing of negotiations regarding the substance of alleged violations of CERD. In the Court's view, all these exchanges formed part of the negotiations between the Parties relating to a possible settlement of the dispute. The Court further noted Azerbaijan's proposals which had been presented to Armenia at a meeting held in August 2021 and had been communicated again by letter in October 2021. These proposals concerned certain joint actions that Azerbaijan and Armenia might take and were not proposals capable of resolving the dispute under CERD. Against this background, the Court was not persuaded by Azerbaijan's argument that these proposals proved that negotiations had only just begun and that further negotiations could still lead to a settlement.

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[2] October 2024: *Land and Maritime Delimitation and Sovereignty over Islands (Gabon/Equatorial Guinea)* (Merits); December 2024: *Obligations of States in respect of Climate Change* (advisory proceedings); April 2025: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Sudan (Sudan* v. *United Arab Emirates)* (provisional measures); April and May 2025: *Obligations of States in respect of Climate Change* and *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory* (advisory proceedings).

The Court was of the opinion that Armenia had made a genuine attempt to engage in discussions with Azerbaijan with a view to resolving the dispute, as required by Article 22 of CERD.

Furthermore, the Court was of the view that these negotiations had become futile by the date on which Armenia filed its Application. For these reasons, the Court concluded that the precondition of negotiation under Article 22 of CERD had been satisfied in the circumstances of the case. Accordingly, the Court concluded that the first preliminary objection raised by Azerbaijan must be rejected.

Concerning Azerbaijan's second preliminary objection, the Court noted that Azerbaijan did not object to the Court's jurisdiction *ratione materiae* over most of Armenia's claims under CERD. The second preliminary objection was limited to claims by Armenia that Azerbaijan had breached its obligations under Articles 2 (1), 4 *(a)* and 5 *(b)* of CERD by engaging in the murder, torture and inhumane treatment of ethnic Armenians, and claims that Azerbaijan had breached its obligations under Articles 2 and 5 *(a)* of CERD by engaging in practices of arbitrary detention and the enforced disappearance of ethnic Armenians during the 2020 conflict and subsequent hostilities.

Regarding the applicability of CERD in situations of armed conflict, the Court noted that the prohibition of racial discrimination, an essential part of international human rights law, is also a fundamental element of international humanitarian law. It recalled its previous jurisprudence whereby it had acknowledged that allegedly discriminatory acts taking place in the context of armed conflict "appear to be capable of contravening rights provided for by CERD, even if certain of these alleged acts might also be covered by other rules of international law, including humanitarian law" (*Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008*, p. 387, para. 112). It also recalled that the protection offered by human rights conventions does not cease in case of armed conflict. Accordingly, the Court concluded that the protection against racial discrimination provided by CERD continued to apply in armed conflict. In the Court's view, acts of murder, torture, inhuman treatment, arbitrary detention and enforced disappearance allegedly carried out on the basis of the national or ethnic origin of the victim are capable of constituting violations of obligations under CERD, including in an armed conflict.

Ascertaining whether the specific acts complained of by Armenia were capable of establishing discriminatory treatment based on the victims' Armenian national or ethnic origin, the Court concluded that the acts alleged by Armenia were capable of constituting discrimination against members of the armed forces and civilians "based on" their Armenian national or ethnic origin, carried out with the purpose or effect of interfering with rights protected under Articles 2 (1), 4 *(a)* and 5 *(b)* of CERD. The Court observed that the consequence of Azerbaijan's submissions would be the exclusion of a claim from the Court's jurisdiction *ratione materiae* under CERD if some alternative explanation of the harm alleged by Armenia were available. At the jurisdictional stage, however, the Court need only determine whether the acts alleged are capable of constituting violations of CERD and thus fall within the scope of the Convention. Accordingly, the Court concluded that Armenia's claims of alleged racially motivated murder, torture and inhuman treatment of ethnic Armenians fell within the scope of Articles 2 (1), 4 *(a)* and 5 *(b)* of CERD. As for the acts alleged by Armenia in relation to the arbitrary detention and enforced disappearance of ethnic Armenian civilians, the Court was of the view that they were capable of constituting discriminatory treatment "based on" Armenian national or ethnic origin, carried out with the purpose or effect of interfering with rights protected under Articles 2 and 5 *(a)* of CERD.

The Court thus concluded that Azerbaijan's second preliminary objection to the Court's jurisdiction must be rejected.

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On the same day, 12 November 2024, the Court also issued its Judgment on the preliminary objections raised by Armenia in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan* v. *Armenia)*, a case parallel to the one I have just described.

This case was brought by Azerbaijan against Armenia concerning alleged violations of CERD. On 21 April 2023, Armenia raised preliminary objections to the jurisdiction of the Court and the admissibility of the Application with respect to certain claims made by Azerbaijan. Armenia requested the Court to adjudge and declare that it lacked jurisdiction over certain claims made by Azerbaijan and that such claims were inadmissible. Specifically, Armenia submitted, first, that the Court lacked jurisdiction *ratione temporis* with respect to Azerbaijan's claims concerning events that transpired prior to the entry into force of CERD as between the Parties on 15 September 1996, or that such claims were inadmissible. Second, Armenia submitted that the Court lacked jurisdiction *ratione materiae* with respect to Azerbaijan's claims concerning the alleged placement of landmines and booby traps. Third, Armenia submitted that the Court lacked jurisdiction *ratione materiae* with respect to Azerbaijan's claims concerning alleged environmental harm.

On the first issue, the Court upheld the preliminary objection of Armenia. Armenia became bound by CERD on 23 July 1993, while CERD did not enter into force for Azerbaijan until 15 September 1996. The Court found that it lacked jurisdiction *ratione temporis* to entertain Azerbaijan's claims based on alleged acts that had occurred between 23 July 1993 and 15 September 1996. The Court considered that the temporal scope of the Court's jurisdiction under a compromissory clause is determined by the scope of the temporal application of the substantive provisions of a treaty between the parties concerned. Thus, in that case, the temporal scope of the Court's jurisdiction under Article 22 of CERD must be linked to the date on which obligations under CERD took effect between the Parties, namely 15 September 1996, not the date on which Armenia became bound by the Convention, namely 23 July 1993. The Court observed that, during the interval period between 23 July 1993 and 15 September 1996, since Azerbaijan was not yet a party to CERD, there were no treaty relations between the Parties under CERD. If Azerbaijan were permitted to make claims against Armenia for Armenia's alleged acts that had occurred during that interval period, while Armenia was not able to exercise such a right against Azerbaijan for Azerbaijan's conduct during the same period because of its non-party status, there would be no reciprocity and equality between the Parties. During that period, Armenia, as a party, owed its obligations under CERD to all other States parties, but not to States that were not parties to the Convention. Since Armenia did not owe obligations under CERD to Azerbaijan between 23 July 1993 and 15 September 1996, Azerbaijan had no right to invoke Armenia's responsibility for the alleged acts that had occurred during that period.

In the alternative, Azerbaijan argued that, even if 15 September 1996 was defined as the critical date by the Court, its claims involving continuing or composite acts that had begun between 23 July 1993 and 15 September 1996 and continued after the critical date nevertheless fell within the scope of the Court's jurisdiction *ratione temporis*. As regards this alternative assertion by Azerbaijan, the Court noted that violations of certain obligations under CERD may be committed through acts of a continuing or composite nature. To decide on Azerbaijan's claim, the Court needed first to determine whether there was sufficient evidence to establish that there existed a systematic campaign of ethnic cleansing launched by Armenia against Azerbaijan during the relevant period and, if so, whether there were continuing or composite wrongful acts for which Armenia should be held responsible under CERD. For the Court, these issues are for the merits. The Court made it clear that it would not be precluded from taking into consideration facts that occurred before 15 September 1996, in so far as they were relevant to its examination of Armenia's subsequent conduct which falls within its jurisdiction.

Turning to Armenia's second preliminary objection, the Court observed that Azerbaijan had put forward evidence on landmines and booby traps in support of its claim that Armenia had used military means as part of a policy of ethnic cleansing. Armenia did not contest the Court's jurisdiction

ratione materiae relating to its alleged policy of ethnic cleansing. The Court considered that Azerbaijan had not requested the Court to find that the laying of landmines and booby traps constitutes in itself a violation of Armenia's obligations under CERD.

Accordingly, the Court concluded that Armenia's second preliminary objection was without object and must be rejected. The Court will consider the evidence submitted by Azerbaijan in support of its submissions concerning alleged acts of ethnic cleansing at the merits stage.

Concerning Armenia's third preliminary objection relating to alleged environmental harm, the Court noted that it was limited to Azerbaijan's claims that Armenia had breached its obligations under Articles 2 and 5 of CERD by causing environmental harm targeted at Azerbaijanis on the basis of their national or ethnic origin. The Court recognized that conduct leading to harm to the environment may, in some cases, constitute an act of racial discrimination under CERD. In that case, however, the Court noted that, according to Azerbaijan itself, the alleged degradation of forests and destruction of trees in the districts formerly populated mainly by ethnic Azerbaijanis had taken place in pursuance of agricultural and industrial activities and a failure to mitigate wildfires. In the Court's view, Armenia's alleged actions and omissions concerning deforestation and overexploitation of mineral resources were either commercially motivated or due to neglect and mismanagement of the environment. Thus, even if established and attributable to Armenia, they would not constitute a differentiation of treatment based on a prohibited ground under Article 1, paragraph 1, of CERD. The Court further observed that persons of Azerbaijani national or ethnic origin were not present on the territories affected by the alleged environmental harm when those territories were under Armenia's control. Moreover, nothing indicated that, at the time the alleged harm took place, ethnic Armenians did not intend to continue living there. Accordingly, in those circumstances, the Court was not convinced that the alleged harm to the environment resulted from acts capable of constituting racial discrimination against persons of Azerbaijani national or ethnic origin within the meaning of Article 1 of CERD. Even if the alleged acts that had caused the environmental harm were established and attributable to Armenia, the Court considered that they fell outside the scope of CERD, since they were neither capable of constituting a differentiation in treatment based on national or ethnic origin, nor capable of nullifying or impairing, by their purpose or by their effect, the enjoyment or exercise, on an equal footing, of the human rights of ethnic Azerbaijanis within the meaning of Article 1, paragraph 1, of the Convention.

In light of those considerations, the Court concluded that it lacked jurisdiction *ratione materiae* to entertain Azerbaijan's claims relating to alleged environmental harm. The third preliminary objection raised by Armenia was therefore upheld.

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I will now give an overview of the Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, which was given by the Court on 19 July 2024, in response to the request by the General Assembly set out in resolution 77/247 and adopted on 30 December 2022. These proceedings were followed closely by the international community. A total of 54 States participated in the written proceedings, and 50 States presented oral statements. The League of Arab States, the Organisation of Islamic Cooperation and the African Union also took part in both phases of the proceedings.

The General Assembly put two questions to the Court. First, it asked the Court to consider "[w]hat are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption

of related discriminatory legislation and measures"? Second, it asked the following: "How do the policies and practices of Israel referred to . . . above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?"

With regard to the question of the prolonged occupation of the Occupied Palestinian Territory, the Court observed that the fact that an occupation is prolonged does not in itself change its legal status under international humanitarian law. In order to be permissible, an occupying Power's exercise of effective control must at all times be consistent with the rules concerning the prohibition of the threat or use of force, including the prohibition of territorial acquisition resulting from the threat or use of force, as well as with the right to self-determination. As regards Israel's settlement policy, the Court reaffirmed what it had stated in its 2004 Advisory Opinion on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* that the Israeli settlements in the West Bank and East Jerusalem, and the régime associated with them, had been established and were being maintained in violation of international law. As regards the question of the annexation of the Occupied Palestinian Territory, the Court expressed the view that to seek to acquire sovereignty over an occupied territory is contrary to the prohibition of the use of force in international relations and its corollary principle of the non-acquisition of territory by force.

Having established that Israel had adopted discriminatory legislation and measures, the Court found that this régime of comprehensive restrictions imposed on Palestinians in the Occupied Palestinian Territory constituted systemic discrimination based on race, religion or ethnic origin, in violation of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and CERD.

The Court then addressed the effects of Israel's policies and practices on the exercise of the Palestinian people's right to self-determination. Having considered the negative consequences of these policies and practices, which resulted in the Palestinian people being deprived of its right to self-determination over a long period, the Court found that Israel's unlawful policies and practices are in breach of its obligation to respect the right of the Palestinian people to self-determination.

Turning to the second question, the Court's approach was to consider the manner in which Israel's policies and practices affect the legal status of the occupation, and thereby the legality of the continued presence of Israel, as an occupying Power, in the Occupied Palestinian Territory. In this context, the Court expressed the view that Israel's assertion of sovereignty and its annexation of certain parts of the territory constitute a violation of the prohibition of the acquisition of territory by force. It considered that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation. The Court further observed that the effects of Israel's policies and practices, and its exercise of sovereignty over certain parts of the Occupied Palestinian Territory, constitute an obstruction to the exercise by the Palestinian people of their right to self-determination.

According to the Court, the breach of the Palestinian people's fundamental right to self-determination has a direct impact on the legality of Israel's presence, as an occupying Power, in the Occupied Palestinian Territory. That occupation cannot be used in such a manner as to leave the occupied population indefinitely in a state of suspension and uncertainty, denying them their right to self-determination while integrating parts of their territory into the occupying Power's own territory. The Court observed that the sustained abuse by Israel of its position as an occupying Power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel's presence in the Occupied Palestinian Territory unlawful.

In the concluding part of its Advisory Opinion, the Court addressed the legal consequences arising from Israel's policies and practices and the illegality of Israel's continued presence in the Occupied Palestinian Territory. With regard to the legal consequences for Israel, the Court stated that

Israel is under an obligation to bring to an end its unlawful presence in the Occupied Palestinian Territory "as rapidly as possible"; that it must cease immediately all new settlement activities, and evacuate all settlers from the Occupied Palestinian Territory; and that it has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the Occupied Palestinian Territory.

With regard to the legal consequences for other States, the Court observed that all States are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory and not to render aid or assistance in maintaining that situation.

Finally, turning to the legal consequences for international organizations, the Court stated that such organizations, including the United Nations, are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory; and that the United Nations, and especially the General Assembly, which had requested the opinion, and the Security Council should consider the precise modalities and further action required to bring to an end as rapidly as possible the unlawful presence of Israel in the Occupied Palestinian Territory.

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I shall now move on to some of the significant orders issued by the Court in the relevant period.

Presidents Donoghue and Salam have already had occasion in the past to emphasize the marked increase in the number of incidental proceedings being submitted to the Court, in particular requests for the indication of provisional measures, which are given priority over other cases. While the Court understands the importance and value of this expedited procedure, which aims to offer urgent interim relief to parties when there is a risk of escalation, it also wishes to stress that this procedure should not be used as a litigation tactic to advance arguments on the merits.

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Turning to the orders issued during the period under review, I will start by referring to the suspension of the proceedings pending notification from one of the Parties in the case concerning *Questions of Jurisdictional Immunities of the State and Measures of Constraint against State-Owned Property (Germany* v. *Italy)*. This case was brought on 29 April 2022 by Germany against Italy for alleged violation by Italy of its obligation to respect Germany's sovereign immunity. On 10 December 2024, Germany sent a request to the Court to suspend the proceedings pending the completion of certain domestic proceedings in Italy, which could, depending on their outcome, lead to the discontinuance of the case before the Court. Italy informed the Court that, following consultations between the Parties, it did not oppose Germany's request. Taking into account the agreement of the Parties, the Court decided by an Order dated 17 December 2024 to suspend the proceedings in the case pending notification from one of the Parties.

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I now turn to the Order relating to provisional measures rendered on 1 May 2025 in the case concerning *Arbitral Award of 3 October 1899 (Guyana* v. *Venezuela)*. The case was brought on 29 March 2018 by Guyana against Venezuela with regard to a dispute concerning "the legal validity and binding effect of the Award regarding the Boundary between the Colony of British Guiana and the United States of Venezuela, of 3 October 1899". On 6 March 2025, Guyana, referring to Article 41 of the Statute of the Court and Articles 73, 74 and 76 of the Rules of Court, filed a Request for the indication of provisional measures. By a letter dated 10 March 2025, the Agent of Venezuela stated that it did not recognize the jurisdiction of the Court to entertain Guyana's Request.

The Court considered that Guyana's Request was a request for the modification of the Court's previous Order of 1 December 2023. Accordingly, the Court ascertained whether, taking account of the information that the Parties had provided with respect to the current situation, there was reason to conclude that the circumstances that warranted the decision set out in its Order of 1 December 2023 had since changed. If so, it would consider whether such a change justified a modification of its earlier decision concerning provisional measures. Any such modification would be appropriate only if the general conditions laid down in Article 41 of the Statute of the Court were also met.

The Court observed that following its Order of December 2023, Venezuela had held a consultative referendum on 3 December 2023 concerning the territory in dispute and its population. After the referendum, on 8 December 2023, the President of Venezuela had signed six decrees aimed at acquiring and exercising control and administration over the territory in dispute. The Court noted that on 21 March 2024, the National Assembly of Venezuela had adopted an "Organic Law for the Defense of Guayana Esequiba", which, *inter alia*, creates the state of "Guayana Esequiba" within the territorial and political organization of Venezuela; vests Venezuela with executive, legislative and judicial prerogatives over "Guayana Esequiba"; orders that every map of Venezuela include the territory of the state of "Guayana Esequiba" as an integral part of its national territory; authorizes the President of Venezuela to prohibit the conclusion of contracts with legal entities that operate, or collaborate in operations, in the territory of "Guayana Esequiba" based on concessions or authorizations unilaterally granted by Guyana in violation of the Geneva Agreement and international law; and authorizes the President of Venezuela to adopt the necessary reciprocal measures, in accordance with international law, to guarantee the rights of Venezuela over the territory of "Guayana Esequiba".

The Court further observed that on 7 January 2025, the President of Venezuela had announced that elections would be organized in which "the people of Guayana Esequiba" would elect the "Governor of Guayana Esequiba state". Those elections for a governor, along with the legislative council and deputies for "Guayana Esequiba", initially planned for 27 April 2025, are now scheduled on 25 May 2025.

The Court considered that the presidential decrees of 8 December 2023, the adoption of the "Organic Law for the Defense of Guayana Esequiba" and the announcement of the preparation for and conduct of elections in the territory in dispute, which Guyana currently administers and over which it exercises control, represent grave developments which constitute a change in the situation within the meaning of Article 76 of the Rules of Court. The Court was also of the view that this change in the situation justified modifying the decision concerning provisional measures set out in its Order of 1 December 2023, by further specifying its scope.

The Court then examined whether the general conditions laid down in Article 41 of the Statute of the Court were met. The Court had previously found, in its 2020 Judgment on jurisdiction, that it has jurisdiction to entertain the Application filed by Guyana on 29 March 2018 in so far as the Application concerns the validity of the 1899 Award and the related question of the definitive settlement of the land boundary dispute between Guyana and Venezuela. The Court then found that the current situation arising from Venezuela's planned elections in the territory in dispute entailed a risk of irreparable prejudice to the plausible right claimed by Guyana and that there is urgency, in

the sense that there is a real and imminent risk that such prejudice will be caused to those rights before the Court gives its final decision on the merits.

In these circumstances, the Court modified the decision concerning provisional measures as follows.

First, the Court reaffirmed the provisional measures indicated in its Order of 1 December 2023, stating that they should be immediately and effectively implemented.

Second, the Court indicated the following provisional measure:

> "Pending a final decision in the case, the Bolivarian Republic of Venezuela shall refrain from conducting elections, or preparing to conduct elections, in the territory in dispute, which the Cooperative Republic of Guyana currently administers and over which it exercises control."

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I now turn to the Order on provisional measures delivered by the Court on 5 May 2025 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Sudan (Sudan* v. *United Arab Emirates)*. Sudan instituted these proceedings on 5 March 2025, alleging that the UAE had violated its obligations under the Genocide Convention in relation to the Masalit group in Sudan, most notably in West Darfur. The Application was accompanied by a Request for the indication of provisional measures. Sudan stated that "there can be no doubt that irreparable prejudice could be caused to the rights which are subject of judicial proceedings". In Sudan's view, there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision on the merits.

In its Order of 5 May 2025, the Court expressed its deep concern about the unfolding human tragedy in Sudan that forms the backdrop to this dispute. However, the Court recalled that the legal proceedings before it are necessarily circumscribed by the basis of jurisdiction invoked in the Application. It may indicate provisional measures only if the provisions relied on by the applicant appear, *prima facie*, to afford a basis on which its jurisdiction could be founded. It need not satisfy itself in a definitive manner that it has jurisdiction as regards the merits of the case.

In this case, Sudan sought to found the jurisdiction of the Court on Article IX of the Genocide Convention. The Court noted that the UAE, when acceding to the Convention, had formulated a reservation to Article IX of the Convention as follows:

> "The Government of the State of the United Arab Emirates, having considered the aforementioned Convention and approved the contents thereof, formally declares its accession to the Convention and makes a reservation with respect to article 9 thereof concerning the submission of disputes arising between the Contracting Parties relating to the interpretation, application or fulfilment of this Convention, to the International Court of Justice, at the request of any of the parties to the dispute."

For the Court, this reservation bears on the jurisdiction of the Court and does not affect substantive obligations relating to acts of genocide themselves under the Convention. The Court stated that it cannot conclude that the reservation by the UAE, which is meant to exclude a particular method of settling a dispute relating to the interpretation, application or fulfilment of the Convention, is to be regarded as incompatible with the object and purpose of the Convention. Accordingly, the Court concluded that, having regard to the UAE's reservation to Article IX of the Convention, this

Article cannot constitute, prima facie, a basis for the jurisdiction of the Court. Lacking prima facie jurisdiction to entertain Sudan's Application, there was no need for the Court to address whether other conditions for the indication of provisional measures had been met. For these reasons, the Court concluded that it could not indicate the provisional measures requested.

The Court further considered that, in light of the reservation made by the UAE to the compromissory clause contained in Article IX of the Convention and in the absence of any other basis of jurisdiction, it manifestly lacked jurisdiction to entertain Sudan's Application. It consequently ordered that the case be removed from the General List.

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Mr Chair, this concludes my brief account of the recent decisions of the Court during a year of intense judicial activity. It has been a privilege for me to address you today for the first time since my election as President of the Court.

I now look forward to engaging in an enriching discussion with the members of the Commission. I am convinced of the importance of these exchanges between our two institutions for the promotion of international law and the consolidation of the international rule of law.

I thank you for your kind attention.

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