

**SPEECH BY HE JUDGE IWASAWA YUJI, PRESIDENT OF THE INTERNATIONAL
COURT OF JUSTICE, BEFORE THE SIXTH COMMITTEE
OF THE GENERAL ASSEMBLY**

30 October 2026

Madam Chair of the Sixth Committee,
Excellencies, Ladies and Gentlemen,

It is a great honour for me to address the Committee. I welcome this opportunity to celebrate and strengthen the ties between this Committee and the International Court of Justice, two institutions that perform complementary duties in upholding and strengthening the rule of law.

I would like to begin by congratulating Her Excellency Ms Trishala Persaud on her election as Chair of the Sixth Committee for the eighty-first session of the General Assembly.

In my remarks to the Committee last year, I spoke about what happens after the International Court of Justice has rendered a decision: how judgments and advisory opinions acquire a life beyond the walls of the Peace Palace and assume significance within domestic legal systems.

Today, I would like to turn back the clock and consider what happens before that point. More particularly, I would like to speak about the many ways in which State engagement helps the Court fulfil its role as the principal judicial organ of the United Nations.

I know that many of the delegates gathered here today are entrusted by their respective States to provide expert legal advice covering a wide range of issues that arise as part and parcel of international relations. I have therefore deliberately sought to approach my subject today from a practical perspective, covering aspects of the interrelationship between the Court and States, that will no doubt be familiar to you in your professional experience.

As a starting point, let me refer to the most common way in which a State interacts with the Court, namely in the context of the institution of proceedings, be that as an applicant or as a respondent State.

The Court's contentious function is, of course, central to its mandate. But it is far from the whole picture.

As you are well aware, there are many other circumstances in which legal advisers and other government officials involved in international legal matters may be called upon to consider the role of the Court. They may be asked to advise as to whether a treaty under negotiation should contain a clause conferring jurisdiction on the Court, or to review a State's declaration accepting the Court's compulsory jurisdiction. Their guidance may be sought as to whether a dispute should be submitted jointly with another State by special agreement, or whether it may be appropriate to consider options available to a State to intervene in a pending case. They may have received instructions to participate in negotiating a request for an advisory opinion in the General Assembly, or once such a request has reached the Court, to prepare a written statement or to appear as counsel in oral proceedings.

It is therefore useful to view the relationship between States and the Court as extending beyond individual cases to encompass a much broader range of interactions. In this context, for many governments, the legal adviser plays a key role by providing continuity across these varied forms of engagement.

Today, I propose to examine these different forms of State engagement with the Court.

I. Before proceedings are instituted before the Court

Let me begin with a point at which no proceedings have been instituted and, in some instances, no dispute has yet arisen.

The relationship between a State and the Court is shaped in important respects by decisions taken well before litigation is contemplated: in particular, decisions relating to jurisdiction.

As the members of this Committee well know, the jurisdiction of the Court in contentious cases rests upon the consent of States. That consent may be expressed in different forms, each reflecting a choice concerning the part that judicial settlement may play in relations between States.

One important avenue for expressing such consent is through an express provision in a treaty providing that should a dispute arise with another State party concerning the interpretation or application of that treaty, the dispute may, subject to the terms of the clause, be submitted to the Court. These are known as compromissory clauses. At present, more than 300 treaties contain such clauses.

The precise formulation of these clauses is important. Some provide for direct recourse to the Court; others establish prior requirements. For example, the compromissory clause contained in the International Convention on the Elimination of All Forms of Racial Discrimination provides that the Court may be seized of a dispute regarding the interpretation or application of the Convention “which is not settled by negotiation or by the procedures expressly provided for in this Convention”. The formulation of the clause determines in what circumstances and under what conditions jurisdiction is conferred upon the Court. It circumscribes the scope of the Court’s jurisdiction.

Compromissory clauses allow States to engage in multilateralism while keeping some control over the jurisdictional reach of a treaty. In the case concerning the *Application of the International Convention on the Elimination of All Forms of Racial Discrimination* between Georgia and the Russian Federation, the Court concluded in its 2011 Judgment on preliminary objections that the procedural requirements set out in the compromissory clause had not been fulfilled before the institution of proceedings, and that it therefore lacked jurisdiction to entertain the case¹.

General treaties for the peaceful settlement of disputes contain one particular form of compromissory clause, providing for the submission of a dispute to the Court as one of the means of peaceful settlement available to the parties.

The 1948 American Treaty on Pacific Settlement, commonly known as the Pact of Bogotá, is a prominent example. In Article XXXI, the States parties recognize the jurisdiction of the Court as compulsory — without the need for a special agreement — in respect of broad categories of legal disputes between them. The Pact has provided the jurisdictional basis for a number of cases before the Court². A similar clause can be found in the 1957 European Convention for the Peaceful Settlement of Disputes³.

A notable characteristic of these general treaties for the peaceful settlement of disputes is that they establish a broader framework through which the States parties accept in advance recourse to the Court as one of various means of resolving a dispute peacefully.

¹ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Preliminary Objections, Judgment, I.C.J. Reports 2011 (I), p. 139. para. 181.

² See e.g. *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1988, p. 78, para. 20.

³ See e.g. *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*, Judgment, I.C.J. Reports 2012 (I), p. 118, para. 41.

What is more, the Statute of the Court provides a powerful tool for States to express their consent to the judicial settlement of their disputes. Under Article 36, paragraph 2, of the Statute, known as the optional clause, States may recognize as compulsory, in relation to any other States accepting the same obligation, the jurisdiction of the Court over legal disputes, through unilateral declarations. At present, 75 States have such declarations in force.

The Statute preserves the freedom of States to define the scope of their acceptance of the Court's jurisdiction through reservations and conditions. The preparation and the periodic review of such declarations are important steps for States to take before any particular proceedings are instituted. Legal advisers assume significant roles in this regard.

Although optional clause declarations are unilateral acts, they form a series of bilateral engagements between States accepting the same obligation. The extent of the Court's jurisdiction in a particular case may consequently depend upon the interaction between the declarations of the States concerned, through the operation of reciprocity. The reservation that a State makes may also be used against it in future proceedings.

Finally, States may confer jurisdiction on the Court in relation to a particular dispute by concluding a special agreement. This option differs from the ways of expressing advance consent that I have just described, because a special agreement is concluded once a dispute has arisen. A special agreement allows the parties to delineate the exact contours of their disagreement and to formulate the precise questions that they wish the Court to determine.

An example of this form of consent to the Court's jurisdiction is the Special Agreement concluded by Gabon and Equatorial Guinea as a result of negotiations conducted under mediation by the United Nations Secretary-General. These negotiations allowed the Parties to carefully define the matters to be settled by the Court concerning the delimitation of their common maritime and land boundaries and sovereignty over certain islands. The Court delivered its Judgment in that case in 2025⁴.

These various bases of jurisdiction demonstrate that the relationship between States and the Court often begins long before proceedings are instituted. Decisions taken when negotiating treaties, establishing broader mechanisms for peaceful settlement, preparing optional clause declarations, or concluding special agreements all help to shape the framework within which the Court may ultimately be called upon to exercise its judicial function.

II. Once proceedings are instituted before the Court

Once a dispute has arisen and the prospect of proceedings becomes concrete, the nature of a State's engagement with the Court changes.

At this stage, the jurisdictional avenues I have just described must be considered in relation to the particular dispute. A State contemplating the institution of proceedings will need to identify the possible basis for the Court's jurisdiction and determine whether there are convincing legal grounds to argue that the dispute falls within its scope.

The State will need to carefully consider which claims it seeks to advance against the other State and what steps it should take or has already taken in this regard. Procedural requirements may be particularly important if reliance has been placed on a compromissory clause calling for prior negotiations or recourse to another procedure before the institution of proceedings.

⁴ *Land and Maritime Delimitation and Sovereignty over Islands (Gabon/Equatorial Guinea)*, Judgment, I.C.J. Reports 2025 (I), p. 89.

A State against which proceedings have been instituted will need to address corresponding questions, including the jurisdictional basis invoked by the applicant, the claims advanced, and any potentially relevant prior exchanges between the parties.

Once proceedings have commenced, the relationship between the State and the Court also assumes a more structured form.

For the sake of completeness, let me run through the salient aspects of the Court's procedure, which I know will be familiar to members of this Committee.

Each party appoints an agent, who represents the State before the Court and serves as the formal channel of communication with the Registrar. Agents may be assisted by co-agents, and a team of counsel, advocates, advisers, and experts.

Constituting and supporting such a team often require substantial co-ordination across government. In order to define the legal strategy that the State will adopt before the Court, the agent may have to engage officials from different ministries. The documentation relevant to the case may further be dispersed among various ministries, diplomatic missions, and national archives. To present a solid case before the Court, the legal team must be able to collect and organize the documentation as part of the preparation of the legal submissions. Defending a case requires thorough legal expertise which may be found in different parts of the government, or may require the support of external counsel from law firms or academia.

The written proceedings require the preparation of pleadings within the time-limits fixed by the Court after the views of the parties have been ascertained.

Incidental procedures may also arise, including requests for provisional measures and preliminary objections to jurisdiction or admissibility.

This brief survey serves to illustrate the important co-ordinating role that government legal advisers may be called upon to play throughout proceedings: ensuring continuity in the State's legal position, bringing together relevant parts of government, and maintaining a close connection between the conduct of a case and the broader legal interests of the State in question.

III. Participation of third States

A case before the Court may be of direct interest to States even when they are not a party to the original proceedings. In this regard, the Statute of the Court provides two principal mechanisms for intervention by third States.

Under Article 62 of the Statute, a State which considers that it has an interest of a legal nature that may be affected by the decision in a case may submit a request for permission to intervene.

Territorial and maritime disputes provide a useful illustration. In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*, Equatorial Guinea was permitted to intervene because of the possibility that the maritime delimitation being requested by the Parties might extend into areas over which it claimed sovereign rights and jurisdiction⁵. In the *Jurisdictional*

⁵ *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Application for Permission to Intervene, Order of 21 October 1999, I.C.J. Reports 1999 (II)*, p. 1034, para. 13.

Immunities proceedings between Germany and Italy, Greece was permitted to intervene in relation to an aspect of the case regarding the enforceability of judgments rendered by Greek courts⁶.

Article 63 allows for a different form of participation, based on the right of a State to intervene in a case if it is a party to a multilateral convention whose construction is in question before the Court.

When such a scenario comes about, the Registrar notifies all States parties to that convention. If a State decides to submit a declaration of intervention, the Court will examine the admissibility of the declaration and, if found admissible, the State may file observations on the interpretation of the given convention with the Court.

This mechanism is particularly significant in cases involving multilateral conventions, where a dispute may formally concern two States but raise questions of treaty interpretation that may be relevant to a wider group of States.

The current proceedings in the case concerning *Allegations of Genocide under the Genocide Convention* between Ukraine and the Russian Federation provide a notable example. At the preliminary objections stage, 33 States sought to intervene under Article 63. The Court found the declarations of intervention submitted by 32 States to be admissible⁷. In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* between The Gambia and Myanmar, in two Orders rendered in 2024 and 2025, the Court found the declarations of intervention submitted by 11 States to be admissible⁸.

These forms of intervention demonstrate the importance for States of maintaining an awareness of the Court's docket, even when they are not parties to pending proceedings. Indeed, it is no surprise that the remit of diplomatic missions in The Hague invariably includes case monitoring of ongoing proceedings before the Court. Expertise of government legal advisers is relied upon to navigate the various time-limits for intervention established by the Rules of Court. Under the amendments to Articles 81 and 82 adopted in 2024, interventions must generally be initiated no later than the date fixed for the filing of the Counter-Memorial, although different time-limits may apply where further written pleadings or preliminary objections are involved.

In short, the significance of proceedings before the Court may extend well beyond the States whose names appear in the title of a case.

IV. State engagement in the process leading to a request for an advisory opinion

Let me now turn to the forms of State engagement that are particular to the Court's advisory function.

As the members of this Committee well know, under Article 96 of the Charter, the General Assembly and the Security Council may request an advisory opinion on any legal question. Other United Nations organs and specialized agencies authorized by the General Assembly may request opinions on legal questions arising within the scope of their activities. While States do not

⁶ *Jurisdictional Immunities of the State (Germany v. Italy)*, Application for Permission to Intervene, Order of 4 July 2011, I.C.J. Reports 2011 (II), pp. 501-502, paras. 25-26.

⁷ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Admissibility of the Declarations of Intervention, Order of 5 June 2023, I.C.J. Reports 2023 (II), p. 370, para. 69.

⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Admissibility of the Declarations of Intervention, Order of 3 July 2024, I.C.J. Reports 2024 (II), p. 741, para. 49; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Admissibility of the Declarations of Intervention, Order of 25 July 2025, para. 64.

themselves submit requests for advisory opinions, they play an important role before a request reaches the Court.

When an advisory opinion is contemplated within an intergovernmental organ such as the General Assembly, States will often participate in identifying the legal issue on which clarification is sought, consider whether recourse to the Court's advisory function is appropriate, and negotiate the resolution by which an opinion is requested, including the formulation of the question to be submitted.

The formulation of the question is important. Issues of international concern that capture the attention of the United Nations may have political, institutional and practical dimensions. A request for an advisory opinion requires the legal dimension to be identified and the question to be formulated as a legal one.

The history of the Court's advisory function provides a font of examples.

One early example arose in connection with reservations to the Genocide Convention. Differences had emerged among States concerning the legal consequences of reservations and objections to them. The matter was considered in the General Assembly before it ultimately submitted three questions to the Court⁹.

More recently, the advisory proceedings concerning *Obligations of States in respect of Climate Change* followed a different path but one that nonetheless involved the input of many States¹⁰. A group of States from various regional groups developed the request, while consultations expanded to the wider United Nations membership. The formulation of the questions formed an important part of that process. The General Assembly ultimately adopted the resolution requesting the advisory opinion by consensus.

Although separated by more than 70 years, these examples reveal two common features of the advisory process. State engagement frequently begins well before a request reaches the Court, and such engagement is pivotal in terms of assessing whether an advisory opinion should be sought, identifying the legal issue, and formulating the question to be submitted to the Court.

V. State engagement in advisory proceedings

Once a request for an advisory opinion reaches the Court, State participation assumes a different form.

Article 66 of the Statute establishes the framework within which States and international organizations may furnish information to the Court.

Written statements provide participating States with an opportunity to set out their legal positions. Where the Court provides for a second round of written pleadings, States may also submit written comments on the statements of other participants, allowing them to engage with different positions and further develop their own views.

States may also participate in oral proceedings. Oral statements allow them to focus upon the issues they regard as particularly significant, and Members of the Court may put questions to participants.

⁹ *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 15.

¹⁰ *Obligations of States in respect of Climate Change, Advisory Opinion of 23 July 2025*.

Advisory proceedings therefore require decisions within governments as to whether to participate in the written and oral phase, the legal position to be advanced, the aspects of the question of particular relevance to the State, and the kind of supporting materials that may usefully be placed before the Court.

Recent advisory proceedings demonstrate how States have made use of these possibilities.

In the aforementioned proceedings concerning *Obligations of States in respect of Climate Change*, 91 written statements were submitted, followed by 62 written comments. During the oral proceedings, 96 States and 11 international organizations addressed the Court.

This unprecedented level of participation is particularly noteworthy. None of those States participated as an applicant or a respondent, as would be the case in contentious proceedings. Yet each State was able to put its views before the principal judicial organ of the United Nations on a legal question of global concern.

Advisory proceedings thus demonstrate the breadth of engagement between States and the Court. That engagement may begin within the requesting organ, as the question is considered and formulated, and then continue in The Hague, through written and oral participation in advisory proceedings.

VI. A continuing relationship

Madam Chair, I hope that this overview of the many and varied ways in which States engage with the International Court of Justice and contribute to its successful functioning has provided abundant food for thought. My aim has not been to suggest that every government legal adviser should envisage inter-State litigation before the Court.

The point I have sought to make is that the interaction between States and the Court is considerably broader than the institution and conduct of contentious proceedings.

Across the various forms of engagement that I have discussed, government legal advisers occupy a central and multifaceted position. They contribute to the jurisdictional arrangements that States may choose to establish in advance, advise governments when disputes arise, assist in the conduct of proceedings, follow cases that may engage the interests of their States, consider questions of intervention, participate in the formulation of advisory requests, and articulate national legal positions in advisory proceedings.

These forms of engagement demonstrate that States perform an indispensable role within the system of peaceful settlement of disputes established by the Charter and the Statute.

Moreover, the relationship between States and the Court should be understood neither as episodic nor as confined to occasions on which a State appears as an applicant or a respondent. It is a continuing engagement — one that may begin long before a case reaches the Peace Palace and may involve States that never actually become parties to contentious proceedings. But the importance of laying the groundwork for a cohesive system of international dispute settlement through the United Nations family of organizations cannot be overstated. In ensuring that the Court is able to meet the expectations of the international community and deliver on its mandate to contribute towards peaceful outcomes, it relies on the continued engagement of States and commends the key functions played by government legal advisers in working towards this noble objective.

Thank you for your attention.
