Ethiopia vs. Egypt: The likelihood of a case before the International court of justice.

Is it too late to protect Ethiopia's vital national interest from the looming court case by submitting Declaration, reservations under the optional clause of the International Court of Justice? Will the Minister of foreign affairs of Ethiopia visit this remedy as an option?

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The initial idea of writing this article grew out of a desire to respond to a commentary by an individual named Zak Sai who wrote in The Reporter online edition dated December 25, 2013 and said I quote "**Egypt can take us to the International Court of Justice (*ICJ*) but all relevant norms of International Law are on our side."**[1] Zak I would assume the individual is an Ethiopian national**.**

The aim of this article is to check and verify the validity and accuracy of the above mentioned assertion and to discuss further, albeit briefly, what specific, if any, "customary international law" or '' "relevant norms of International law" is the individual referring in relation to trans-boundary water law. Customary law focuses on past conduct of states and comes into existence if a practice is both extensive and virtually uniform and additionally, it must always be supported by a sense of legal obligation. Do we really have that kind of norm, rule, or custom which is consistently and uniformly practiced and widely recognized and accepted by all the Nile basin riparian states? Given the relatively recent nature of collaboration in basin wide management of the Nile River is it possible to argue that there is no uniform customary norm which is extensively practiced by the riparian states? Will it be wrong to say that customary International law in this area is fragmentary and unsettled? All of these questions demand specific answers. Since the premise contains two distinct elements namely: the International Court of Justice(ICJ) and the other dealing with customary international law, I will examine and address each of these issues in relation to the simmering dispute over the use and utilization of the waters of the Nile in the following two sections. Before dealing with the main theme of this article, however, it seems necessary to provide a brief explanation on the implications of various assertions made by Egyptian government advisors and so called "independent water experts" to get a flavor of their position and to predict where they are aiming next in relation to the current controversy over the right to use the waters of the Nile. The following is a representative

sampling and compilation of some of their statements claims and indications made officially and unofficially by Egyptian institutions, the media and individuals:

"The Egyptian presidency published a summary of a final report issued over the weekend by a tripartite commission – including Egyptian, Sudanese and Ethiopian representatives – tasked with studying the potential impact on downstream states of Ethiopia's controversial Renaissance Dam project…… the negative environmental and social impacts that might come as a result of the dam's construction, including the negative impact on Ethiopia's ecosystem and Egyptian agriculture."[2]

"Why is Ethiopia ignoring the report by the 10-member committee (two representatives from Egypt, Sudan, and Ethiopia, one expert from the UK, France, Germany, and South Africa) about the need for further studies on the ecological and other repercussions of the dam? Experts have pointed out that the dam is likely to lead to the desertification of Egypt, which means that Mediterranean water will inundate the Delta. If the dam is built Egypt's water supply will drop drastically preventing power generation in the High Dam. Lake Nasser will become irrelevant since Egypt will have no extra water to store."….. "What if the dam collapsed, a scenario of which a German expert warned? There is a 90 per cent chance that the dam will collapse within the first 10 years of its construction. Is this something Ethiopia is capable of dealing with? Is it offering Egypt — and Sudan — any guarantees against damages?"[3]

"Egypt state information Service released a statement relying on information from Egypt's, Interim Presidential Adviser for Scientific Affairs Essam Heggy who held several meetings with Egyptian and American scientists concerned with water and climate change studies in the Nile basin states said "the Ethiopian Renaissance Dam poses "a potential threat" to the water level of the Nile River which would affect the fertility of the agricultural lands."(Paraphrased) [4]

"According to Dia El-Quosy, the former chairman of Egypt's National Water Research Centre, the dam will reduce water flow anywhere from 1,300 billion gallons to 6,600 billion gallons per year. El-Quosy also argues that the reduction in water flow would increase pollution in the river and harm the fisheries in Egypt, as well as making it difficult for ferries and other boats to navigate the river. Another serious concern, el-Quosy says, is the possible reduction in fertility for farmland along the banks of the river that could be caused by the dam holding back nutrient-rich salts. He claims that every 260 billion gallon reduction in water flow created by the dam will mean half a million farmers lose their farms. "So if we lose 30bn kilolitres (8,000 billion gallons) in water flow that would mean losing 25% of Egypt's cultivated land"[5]

All of the above statements and assertions have one single theme in common. Each speaker has said something about Environmental harm. Their differences are, while some spoke about possible damage to the ecology, Flora and Fauna ex. Fisheries others said something about the human environment, loss of agricultural income and desertification etc. The individuals making the assertions did not provide any evidence or justification to support their contentions. The reason why I brought up these assertions is, I believe that Egypt is preparing to submit a claim against Ethiopia at the ICJ based on some kind of theory of environmental harm.[6] Egyptian officials recently bragged about having many "cards" to use against Ethiopia. It is only a matter of time before Egypt decides to take Ethiopia to The International Court of Justice either because of the ongoing construction work to build the Renaissance hydroelectric Dam or the inability of the parties to resolve differences through negotiations and the diplomatic process. I predict that the Egyptians are in all likelihood waiting the release of the final report or recommendation from the International Experts. Should the experts come up with some kind of recommendations favorable to Egypt saying the construction of the dam does indeed have environmental and social impact on the ecosystems of downstream riparian states or on Egyptian agriculture in particular, that will certainly be a trigger for them to file an application at the International Court of Justice. If, on the other hand, the final report does not contain any such findings or recommendation, Egypt will in all likelihood base its claims on its own "independent fact finding" report and possibly relying on compilation of witness statements collected either from Egyptian or Sudanese farmers or other publications and data favoring Egypt's claims and narratives. Whatever the timing or type of evidence or strategy, Egypt is nevertheless poised to make that move.

Egypt's claim at the ICJ in all likelihood would be based on issues concerning the definitions of Trans boundary environmental harm as it relates to Trans Boundary Rivers rather than on its historical rights, allocation of water or sovereignty. Egypt will be arguing a case based on: (a) customary International law,

(b)The convention on Biological diversity, [7]

(c) The United Nations Framework convention on Climate change [8]

(e) The 1992 Helsinki convention on the protection and use of Trans boundary watercourses.[9] To this list, they may also add the decisions of ICJ on trans boundary state liability. Ethiopia is a party to the convention on Biological diversity and United Nations framework convention on climate change. Egypt would probably base its arguments on alleged breach of customary International law and treaty obligations by failing to prevent the harm and attaching state responsibility in the mix of its claims. From the statements and assertions, this is

the course of action that Egypt is most likely to follow instead of a claim based on the traditional riparian right theory or on the much talked about existing colonial -era treaties.

Whatever the case, a decision by a state to take legal action or to appear as a respondent in ICJ proceedings will always have its own risks and consequences and must be weighed very carefully. States frequently arrive at such decision relying on the assessment and advice of International lawyers. Many legal scholars agree that successes in outcome are not always guaranteed. There is always a possibility of one side losing the case. In contrast to other forms of dispute resolution, adjudication at the International court of Justice may ultimately comedown to a zero-sum game which implies that for every winner there will always be a corresponding number of losers. The uncertainty of success always raises the question, is the action worth it? Professor Patrick Kelly of Windner law school who has written extensively on ICJ cases explains:

" Nations are unwilling to limit their sovereignty through participation in International adjudication for two reasons: first, the inflexible zero-sum nature of adjudication is unattractive method of settling disputes between sovereign states because significant international disputes have political as well as legal aspects, most nations prefer to take part in face-saving negotiations or to temporize. Nations can avoid legal defeat simply by not submitting to the court's jurisdiction or by declining to appear or comply if the court asserts jurisdiction. Second, there are fundamental disagreements among nations across broad substantive areas, about the governing principles of international law and their appropriate application. Nations are reluctant to risk committing themselves to judgments based upon principles they regard as incorrect."[10]

If Egypt files a claim against Ethiopia at the ICJ, it will be the first time that Ethiopia will be appearing as a respondent in an ICJ adjudication proceeding. In 1962, Ethiopia and Liberia each filed claims at the ICJ against the apartheid regime of South Africa regarding the continued occupation or mandate system of south West Africa as it is then known[11]. (Now known as The Republic of Namibia) In that case, the court ruled that it was not sufficient for one of the parties to affirm or deny the existence of a dispute, "it must be shown that the claim of one party is positively opposed by the other."[12]Should the new case go forward, we are going to see a marked distinction between the South West Africa case and the case against Ethiopia over the utilization and use of the Blue Nile. At the national level, any dispute involving a natural resource of Ethiopia will undoubtedly be looked at differently in comparison to the South West Africa case which concerns providing political support for a foreign country. Ethiopia attaches huge significance to the construction of the Renaissance dam and the Blue Nile /Abbay River. In

other words, the case will have paramount and national significance and could attract considerable attention and publicity. A recent survey concerning people's attitude towards the construction of the Dam is revealing. Some respondents equated the success of the Renaissance Hydroelectric Dam project as "a pathway out of poverty."[13] Therefore, any comparison of these two ICJ cases on the same level, may lead to an erroneous conclusion.

Section one

The International Court of Justice

(a) Introduction and Background

The International court of Justice (ICJ) is the primary judicial organ of the United Nations. It was established in 1945 by the United Nations charter. The court began its work in 1946 as a successor to the Permanent court of International Justice[14]. (PCIJ) The statute of the International court of justice is the principal document regulating the activities of the court. It is annexed to the UN charter and has 70 articles. Each and every decision of the ICJ has significant repercussions beyond the state parties to the dispute. Its decisions are authoritative. The contribution of ICJ to the International law making is considerable. Through its jurisprudence it has clarified the contents of unwritten laws whether custom or general principles. By refining and interpreting all manner and sources of laws, it has made significant impact on the development and formation of International law.

The ICJ is composed of fifteen judges elected for nine year term by the UN General assembly and the Security Council.[15]Article 31 of the statute provides the situation where the nationalities of each of the parties sit before the court in contentious cases and on an ad-hoc basis. The system allows as many as seventeen judges to sit in one case.[16] The consent of the parties to adjudicate a specific dispute is the basis of the court's jurisdiction. It is a well-established principle in international law that no state can without its consent, be compelled to submit its disputes with other states to mediation, arbitration, or any other form of dispute settlement. Consent is always the guiding principle.[17] Article 36(1), article 36(2), article 36(5), or article 37of the court's statute outlines the basis on which the court's jurisdiction is derived. States being sovereign are always free to choose the methods of resolving disputes. States may manifest their consent in any of the following three ways:

- By a special Agreement: two or more states in a dispute on a specific issue may agree to submit it jointly and conclude an agreement for this purpose. These are known as Compromis clauses. It is provided in article 36(1)of the statute,[17]
- Provision in a treaty referring disputes concerning that treaty to the court. Article 36(1) also gives the Court jurisdiction over "matters specifically provided for... in treaties and conventions in force". Many treaties contain compromisory clauses which may say like "any such dispute which cannot be settled ... shall be referred, at the request of any one of the States Parties to the dispute, to the International Court of Justice for decision".
- Compulsory Jurisdiction via the optional clause. Acceptance of the compulsory jurisdiction of the court may also be made by a unilateral declaration pursuant to article 36 paragraph 2 of the statute recognizing "as compulsory ipso facto and without special agreement the Jurisdiction of the court". The consent of the state to adjudicate specific dispute is established on the basis of a unilateral declaration it has made. Such consent has to be established both with respect to the claimant and with respect to the defendant states. Therefore, the compulsory jurisdiction is derived from article 36(2) is based on the consent of the parties which is expressed in their unilateral declarations. Article 36(2) allows states to make declarations accepting the Court's jurisdiction as compulsory ("optional clause declarations"). For example, Australia accepts compulsory ICJ jurisdiction "with reservations".[18]

Declarations may take two different forms: conditions and reservations .Conditions restrict the period of creation, duration, or extinction of the legal force of the declaration. For example British declaration accepting Jurisdiction is limited only for 3 years. Reservation on the other hand, limit the scope and substance of the obligation assumed in the declaration.[19] Reservation may limit the subject matter (rationale materie), the period in which dispute may arise (ratione temporis),or the state that may assert jurisdiction(rationae personae).[20]The following are concrete examples for each of the above three classifications. In selecting examples I have given priority to Nile riparian states unless, I encountered a situation where either there is no declaration because it has expired or it is nonexistent ab initio.

Examples of reservation for Rationale materie

In 1958 Sudan submitted a declaration to the international court of Justice excluding disputes relating to hostilities, armed conflicts ,individual and collective self-defense, resistance to aggression and occupation, fulfillment of obligation imposed by international bodies. It relates

to any disputes arising after the date the declaration was submitted. It excludes disputes arising out of events occurring during any period in which Sudan is engaged in hostilities as belligerent.[21]

In 1957Egypt submitted a declaration accepting disputes only concerning the Suez Canal and the arrangement for its operation.[22]

Examples of reservation ratione temporis

In 1957 Egypt submitted a declaration with reference excluding "any future" disputes. In 1958 Sudan also excluded disputes arising to facts or situations.[23]

Examples of reservation Ratio personae

In 1969 The United Kingdom filed a declaration saying the declaration of the other party should be deposited no less than twelve months prior to the filing of the application or the other party should not have accepted the compulsory jurisdiction exclusively for the purpose of the dispute.[24]

Conditions: These are instances where states terminate their own declaration prior to filing of an application by an opposing state. The ICJ has made a ruling saying that it will not lose jurisdiction if the termination occurs after the court is seized on the case. However, termination prior to the filing of an application withdraws a state consent to the compulsory jurisdiction[25]. Article 36(3) allows declaration to be made "unconditionally "or "for a certain time" The practice of states is very different and varies from one state to the other. Some are made for a period of time with or without a condition for a renewal or prolongation. Some declarations are made without any reference for duration or for unlimited period. In this regard, the principle of reciprocity is inapplicable.[26] It was confirmed by the court's own ruling in the Nottebohm case.[27] In that case the application of Liechtenstein was filed shortly before the declaration of the respondent, Guatemala was due to expire. Guatemala raised a preliminary objections to the court's jurisdiction on the basis that after the expiry of its declaration. The court had no power to hear the case against it, i.e., the expiry of the declaration terminated the court's power to administer Justice. The court rejected that argument and ruled that it does not lose jurisdiction if the termination occurs after the court is seized on the case. However, termination prior to filing an application withdraws states consent to compulsory jurisdiction.

Professor Patrick Kelly argues conditions are transforming the compulsory jurisdiction system from a binding process to a system in which states decide on a case by case basis whether to subject themselves to the court's jurisdiction.[28] The case of Nicaragua vs the United States have led to a situation where the United States terminated its consent to the

International Court of Justice[29] A number of countries have submitted declarations which contain no reference to duration or are made for unlimited period they include Egypt(1957),Uganda (1967),Togo(1979),Swaziland(1967), Senegal(1985), Nigeria(1965),. Malawi (1966), Botswana (1977), Cyprus (1988), Estonia (1991).[30]

Some states are constantly refining the tools in anticipation of a certain dispute reaching the court. Engaging in such exercise is not only lawful but also a task that must be done diligently to protect vital national Interest. The national interest is always paramount. In this regard, there are precedents Professor J.G. Merills of Sheffield University mentions three examples: in 1954 Australia modified its declaration in view of their dispute with Japan over pearl fisheries. In 1955 the United Kingdom entered a reservation to prevent proceedings in respect of the Buraiini Arbitration. In 1970 Canada added a reservation regarding the enactment of the arctic waters Pollution Prevention Act. Again in 1994 Canada modified its declaration for the second time.[31]

On April 8 1970 the then Canadian Prime Minister in a speech before the House of Commons said the following:

"Canada is not prepared however to engage in litigation with other states concerning vital issues where the law is inadequate or non- existent and thus does not provide a firm basis for judicial decision. We have therefore submitted this new reservation relating to those areas of the law of the sea which are undeveloped or inadequate"[32]

This remark explains clearly how states use reservation to address and achieve a vital national objective and at the same time avoid national humiliation as a consequence of defeat in court proceedings when there were other remedies and options available in the first place.

B) **What is the position of Ethiopia in relation to the optional clause under article 36(2) of the statute of the International court of Justice?**

The optional clause or compulsory jurisdiction has its historical roots which goes back to the era of the League of Nations. (The organization that preceded the United Nations) Identical provisions were incorporated under the statute of the Permanent Court of International Justice. It seems to me that the Ethiopian Foreign ministry during that era- was more engaged compared to the period that subsequently followed. With the exception of Ethiopia's consent to South West Africa case where I have made some reference earlier, there is no evidence to suggest that any declaration was submitted to Ethiopian parliament for any ratification. As a consequence we have not done much in this regard anticipating various scenarios where

Ethiopia's national Interest may be at stake. Most states big and small developed or undeveloped have submitted amended declarations, and reservations from time to time. Ethiopia is not in that list. For the Current declaration list Click here. (http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3) My research led me to three older declarations which were submitted to the Permanent Court of International Justice filed in 1926, 1932, and in 1934. Ethiopia has filed these declarations specifying or excluding certain matters.[34] and these include:

- The declaration explicitly specifies the principle of reciprocity.
- The declaration reserves the right to add, amend, and withdraw reservations as well as the declaration itself.
- The declaration consents only in relation to any other state accepting the same obligation
- The declaration specifies acceptance is made " in conformity with article 36(2) under PCIJ statute"
- Reservations ratione materae : specifies recourse to other methods of peaceful settlement
- In 1926 a declaration was submitted valid for a fixed period, 50 years.
- The 1932 and 1934 Declarations remained valid for two years.

All of the above Declarations later expired and they were not replaced by another set of declaration that addresses subsequent realities.

(C) Specific Recommendations:

- Review and examine the decisions of the ICJ especially rulings that relate to preliminary objections, ICJ pleadings, ICJ Year books and communiques.
- Study the history of specific experience especially the Canadian, Australian, Belgium, The United Kingdom, and the German models and adapt and incorporate them to fit the Ethiopian situation.
- Declarations never come into force unless the required ratification is done. Follow-up to make sure such declarations are ratified swiftly and check expiry dates where there are such stipulations,
- Replace and modify old declarations as appropriate especially abandoning the reservation in question.
- **Reserve the right to exclude at any time any given category or categories of disputes. Exclude particularly Environmental Harm related claims connected to water issues.**
- Specify in the declaration that the other party's declaration should be deposited no less than twelve months prior to the filing of the application

- Exclude disputes with a state which, at the time of occurrence facts and situations giving rise to the dispute, had not accepted the compulsory jurisdiction of the court. And
- Reserve the right to add, amend, and withdraw reservations as well as the declaration itself at any time.

(D) Concluding remarks

If Ethiopia had any declaration in place it can forestall any claim from any state rather than facing the Humiliation of defeat participating in adjudication in an area of law where the legal principles are inadequate, lack settled jurisprudence and certainty. Ethiopia should and must decline any request by the tripartite international experts to submit disputes to a compulsory dispute settlement forum especially to the international Court of Justice. In the past, an incident has occurred, in Gabakovo –Nagymoros projec$_{t33}$ where a tripartite fact –finding commission similar to the one engaged on the Renaissance Dam added a provision to commit the parties to a binding International arbitration and to the International court of Justice. This should never be allowed to happen in the Nile case. The Ethiopian government must not give a mandate to the tripartite experts to insert any clause or recommendation regarding dispute settlement or selecting or imposing forums of dispute settlement in their terms of reference. Their task and responsibilities of the experts should be limited only to fact –finding mission. **In the meantime, Ethiopia must submit its new declaration under the optional clause before the experts complete and release their final report and accordingly exclude particularly environmental harm related claims connected to water issues in the declaration.** If, on the contrary, the experts are allowed to engage in this matter, it would not only prevent and contradict the effective use of the declaration, it will also amount to bypassing and a backdoor intrusion contradicting the very purpose of the declaration itself. Using the optional clause, Ethiopia should be able to exclude a given category of disputes as in the present looming case where Ethiopia's vital national interest is in question. Ethiopia must also pursue diplomatic negotiation or other forms of dispute settlement mechanism to resolve differences with Egypt but must not submit to the compulsory jurisdiction of the international Court of Justice via the tripartite forum or from any recommendation emanating from their final report. Instead, Ethiopia must submit a new Declaration to ICJ ahead of times including an exclusion particularly on Environmental harm claims related to water issues. **Missing this opportunity will be detrimental to Ethiopia's vital national interest**.

Keep in mind, the author of this article is not against the peaceful settlement of international disputes nor am I advocating total avoidance of all judicial forums be it adjudication, mediation or International arbitration. What I am suggesting is, Ethiopia must recognize that there are some areas of law especially trans boundary environmental harm and the determination of state liability linked to trans boundary rivers has very little jurisprudence and case law and it is insufficiently developed .This uncertainty of legal principles will create an element of unpredictability and discretion in interpretation of key principles. In other words, the substantive law in the area of environmental harm as it relates to trans boundary rivers is inadequate and Ethiopia must not commit itself to adjudication in any future dispute where there is such uncertainty. Consequently, Ethiopia need to recognize and face this reality and decide as early as possible by filing a declaration in order to avoid any embarrassment that may follow in the absence of timely inaction with respect to the use of the reservation system under the optional clause of the statute of The International Court of Justice. Ethiopia needs to be proactive and prepare for such contingency and explore this particular option before it is too late. This is a decision that has to be made in abundance of caution. Finally, as a country, has Ethiopia learned any lessons from The Algiers Agreement and The Boundary commission regarding mistakes made in respect of dispute settlement mechanism, Legal principles (law) and facts applied in the Boundary dispute between Ethiopia and Eritrea? For Ethiopian statesmen and diplomats this is precisely a moment of reflection to step back and review issues very calmly and methodically. Ethiopia must vow not to make any mistake this time around. In section two of this paper I will address the uncertainties prevailing in substantive areas and Customary International law as it relates to trans boundary water disputes.

NOTES

1. Ethiopian Reporter.com Accessed December 25,2013 at: http://www.ethiopianreporter.com/index.php/news/item/4491-ኢትዮጵያ-ከግብፅ-ጋር-የተስማማችባቸውና-ያልተስማማችባቸው-ነጥቦች-ይፋ-ተደረጉ
2. Ahram online June 3, 2013. Accessed at: http://english.ahram.org.eg/News/73064.aspx
3. "Tough talk: Ethiopia fails to see the reason over the Nile": Al-Ahram weekly 20-11-2013 available at: http://weekly.ahram.org.eg/News/4736/17/Tough-talk.aspx
4. "Egypt's scientific advisor discuses with US scientists Ethiopian Dam impacts", All africa.com December 21 ,2013 available at: http://allafrica.com/stories/201312220197.html
5. "Ethiopia's Plan to Dam the Nile Has Egypt Fuming", George, W. Time Magazine, June 13, 2013. Available at: :http://world.time.com/2013/06/28/ethiopias-plan-to-dam-the-nile-has-egypt-fuming/#ixzz2osZjR2fl
6. There is no settled definition as to what constitutes "environmental harm" or what level or threshold triggers state liability. Trans boundary environmental harm has different meaning

for different experts. Those who define it in light of the multilateral conventions such as the UN Convention on Climate change, Agenda 21 and The Rio Declaration use an expansive definition to encompass harm against the biological diversity, Flora and Fauna, the Human environment. The traditionalists define it restrictively in terms of air pollution, pollution of a trans boundary water courses, or trans boundary shipment or dumping of wastes. The ICJ will have to revisit this issue de novo and it may lean in one way or the other or may combine everything together.

7. The convention on Biological diversity, see the data base on treaties. Available at: https://treaties.un.org/Pages/CTCTreaties.aspx?id=27&subid=A
8. The United Nations Framework convention on Climate change adopted in 1992. Ethiopia signed and ratified the treaty on June 10, 1992 and April 5, 1994 respectively. Available at:https://treaties.un.org/Pages/ViewDetailsIII.aspx?&src=TREATY&mtdsg_no=XXVII~7&chapter=27&Temp=mtdsg3&lang=en
9. The convention on the protection and use of trans boundary watercourses and international lakes was adopted march 17, 1992 in Helsinki. Available at: https://treaties.un.org/doc/Treaties/1992/03/19920317%2005-46%20AM/Ch_XXVII_05p.pdf
10. "The International Court of Justice: crisis and reformation", Kelly, Patrick, Yale Journal of International Law vol 12. No.2 p.342, 1987.
11. South West Africa cases (Ethiopia v. South Africa, Liberia v. South Africa), Judgment of December 21, 1962 (preliminary objections), 1962 ICJ reports319, 328.
12. Id.
13. "Water: cooperation or conflict? The Human dimension of Dam Development: The Grand Ethiopian Renaissance Dam" By Veilleux, Jennifer, summer/autumn 2013 Available at:http://www.transboundarywaters.orst.edu/publications/publications/Veilleux_GLOBAL%20DIALOGUE_V15_GERD.pdf
14. See the homepage of The International court of Justice available at: http://www.icj-cij.org/court/index.php?p1=1
15. Id.
16. Id.
17. See the statute of the International court of Justice and all the basic documents available here at: http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0
18. See the home page. Available at: http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3&code=AU
19. See Kelly note10 supra at 351
20. See Kelly note 10 supra at 351
21. "Reservations in Unilateral Declarations Accepting the compulsory jurisdiction of the International court of Justice." Martin Nijhoff Publishers,Alexandrov,A.Stanimir,1995 page 150, Annex II
22. Ibid .at page 151
23. Ibid at page 151

24. Ibid at page 153
25. See Kelly note 10 supra at 352
26. See Stanimir note 21 supra at page 59
27. Nottebohm case(Liechtenstein v Guatemala),Judgment of November 18,1953 (preliminary objections),1953 ICJ Reports p.111,112
28. See Kelly note 10 supra at 365
29. Case of Military and paramilitary activities in and against Nicaragua (Nicaragua v United States),judgment of june27, 1986,ICJ Reports p.14
30. See Stanimir note 21 supra at 356
31. JG Merrils " The optional Clause today", British Y. B. Int'L L.vol.50, (1979) , p.94
32. Quoted by Judge Kooijmans in his dissenting opinion in the fisheries jurisdiction case. " The new Canadian declaration of acceptance of the compulsory Jurisdiction of the International court of justice" Canadian year book of International Law,vol.8,1970.p.3
33. On October 28, 1992 Hungary and Czechoslovakia agreed to set upa trilateral fact finding commission composed of experts from Slovakia, Hungary and the European commission. The experts on their initiation negotiated an agreement to submit the dispute to a binding International arbitration or automatic submission to the International Court of Justice jurisdiction. See the London Agreement on Gsbakovo-Nagyamoros project..30 ILM,1291(1993).