pronouncements of a court of limited jurisdiction on matters of law falling within its competence will be considered weighty, as the Court's use of statements of the Tribunal on international criminal law show, but any pronouncements on matters falling outside its specific competence will be accorded less weight. And so it should be—deference should be given to the views of a specialist but strictly to the extent that those views are within the ambit of the specialist's expertise. The relationship is confirmed through the Tribunal's use of Court jurisprudence on matters of general international law as well as international humanitarian law and genocide.[87]

D. Conclusion

Regardless of the slight quarrels commentators may have with the judgment of the Court, it is an important one. It confirmed the view of the ICTY that the atrocities at Srebrenica amounted to genocide, a view not universally shared; it held that a state may commit genocide; and it may aid regional reconciliation, though the extent to which it will is yet to be seen.[88]

The case took 14 years from application to judgment. Despite the rather protracted proceedings, which may be characterised by the extension of time limits and the use of near every form of incidental proceeding, the judgment remains timely as post-judgment discussion shows. Ironically for the Applicant, had the case been heard earlier, the Court would not have had the benefit of the work of the Tribunal and a very different judgment may have been handed down. Similarly, had the case been heard later, the Court may have had the benefit of further findings from the Tribunal, for example relating to the paramilitary group, the 'Scorpions', and its relationship with Serbia.[89] The long running saga of the *Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide* may not be over. The possibility of a request for revision remains.

SANDESH SIVAKUMARAN*

II. CASES BEFORE THE COURT

1. Gabčíkovo-Nagymaros Project (*Hungary/Slovakia*)

On 2 July 1993, in pursuance of a Special Agreement of 7 April 1993, Hungary and

before going on to depart from the relevant reasoning or finding. See eg *Prosecutor v Mucic et al* Judgment IT-96-21-A (20 Feb 2001) para 24 (on *Nicaragua*); *Sanchez-Llamas v Oregon* 126 S Ct 2669, 2683 following *Breard v Greene* 523 US 371, 375 (on *Avena and other Mexican Nationals (Mexico v United States of America)* [2004] ICJ Rep); *Mara'abe v Prime Minister of Israel* HCJ 7957/04 para 56 (on *Legality of the Construction of a Wall in the Occupied Palestinian Territory* [2004] ICJ Rep).

[87] See eg *Prosecutor v Mucic et al* (n 86) paras 76–7 citing the judgments in *Certain German Interests in Polish Upper Silesia* and *Nottebohm*; *Prosecutor v Kupreškić et al* Judgment IT-95-16-T (14 Jan 2000) para 524 citing the judgments in *Nicaragua, Nuclear Weapons* and *Corfu Channel*.

[88] For one view, see M Glenny 'The greater of two goods' Guardian Unlimited (26 Feb 2007) available at <http://commentisfree.guardian.co.uk/misha_glenny/2007/02/the_greater_of_two_goods.html>.

[89] *Prosecutor v Stanišić* and *Simatović* IT-03-69; this was recognized by the Court at para 395.

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Slovakia requested the Court to determine certain issues arising out of the implementation and termination of a 1977 Agreement on the construction and operation of the Gabčíkovo-Nagymaros barrage system. In its judgment of 25 September 1997[90] the Court found both States to be in breach of their obligations and called on them to negotiate a settlement in good faith.[91] On 3 September 1998 Slovakia filed a request for an additional judgment, arguing that Hungary was unwilling to implement the judgment[92] and it was subsequently agreed that Hungary would file a written statement of its position regarding this request by 7 December 1998.[93]

2. Ahmadou Sadio Diallo (*Republic of Guinea v Democratic Republic of the Congo*)
Guinea instituted proceedings against the Democratic Republic of Congo on 28 December 1998 alleging grave breaches of international law perpetrated upon a national of Guinea. By an order of 25 November 1999[94] the following time limits were set for the submission of written pleadings: Republic of Guinea, memorial, 11 September 2000; Democratic Republic of the Congo, counter-memorial, 11 September 2001. By an order of 8 September 2000[95] these were extended to: Republic of Guinea, memorial, 23 March 2001; Democratic Republic of the Congo, counter-memorial, 4 October 2002. On 3 October 2002 the Democratic Republic of the Congo filed preliminary objections to the admissibility of the Application and in an order of 7 November 2002[96] the Court fixed 7 July 2003 as the time limit for submission of written observations by the Republic of Guinea. On 18 July 2006, the Court set 27 November 2006 as the date for the opening of public hearings on preliminary objections in relation to the case.[97] The public hearings concluded on 1 December 2006 at which time the Court commenced its deliberations.[98] The Court gave its decision in the case on 24 May 2007.[99]

3. Application of the Convention on the Prevention and Punishment of the Crime of Genocide *(Croatia v Serbia and Montenegro*)
Croatia instituted proceedings against Yugoslavia on 2 July 1999, alleging violations of the 1949 Genocide Convention and seeking reparations. In an order of 14 September 1999[100] the following time limits were set for the submission of written pleadings: Croatia, memorial, 14 March 2000; Yugoslavia, counter-memorial, 14 September 2000. In an order of 10 March 2000[101] these were extended to: Croatia, memorial, 14 September 2000, Yugoslavia, counter-memorial, 14 September 2001. By an order of 27 June 2000[102] these were further extended to: Croatia, memorial, 14 March 2001; Yugoslavia, counter-memorial, 16 September 2002. On 11 September 2002 Yugoslavia filed preliminary objections to the jurisdiction and admissibility of the Application and in an order of 14 November 2002[103] the Court fixed 29 April 2003 as the time limit the submission of written observations by Croatia.

[90] ICJ Rep 1777, 7.
[91] See PN Okowa, Case Note, (1998) 47 ICLQ 688.
[92] ICJ Press Communiqué No 98/28.
[93] ibid No 98/31.
[94] [1999] ICJ Rep 1042.
[95] [2000] ICJ Rep 146.
[96] [2002] ICJ Rep 607.
[97] ICJ Press Communiqué No 2006/30.
[98] ibid No 2006/41.
[99] ibid No 2007/12.
[100] [1999] ICJ Rep 1015.
[101] [2000] ICJ Rep 3.
[102] [2000] ICJ Rep 108.
[103] [2002] ICJ Rep 610.

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4. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (*Nicaragua v Honduras*)
Nicaragua instituted proceedings against Honduras on 8 December 1999 regarding a dispute concerning the delimitation of maritime zones between them in the Caribbean Sea and requesting that the Court determine the course of a single maritime boundary between their respective areas of territorial sea, continental shelf and exclusive economic zone. In an order of 21 March 2000[104] the following time limits were set for the submission of written pleadings: Nicaragua, memorial, 21 March 2001; Honduras, counter-memorial, 21 March 2002. In an order of 13 June 2002[105] a further round of written pleadings was authorized and the following time limits set: Nicaragua, reply, 13 January 2003; Honduras, rejoinder, 13 August 2003. On 19 July 2006 the Court set 5 March 2007 as the date for the opening of public hearings on the merits of the dispute.[106] The public hearings concluded on 23 March 2007 at which time the Court commenced its deliberations.[107]

5. Territorial and Maritime Dispute (*Nicaragua v Colombia*)
Nicaragua instituted proceedings against Colombia on 6 December 2001 with regard to 'legal issues subsisting' between Nicaragua and Colombia 'concerning title to territory and maritime delimitation' in the western Caribbean.[108] By an order of 26 February 2002[109] the following time limits were set for the submission of written pleadings: Nicaragua, memorial, 28 April 2003; Colombia, counter-memorial, 28 June 2004. On 27 July 2003 (and thus within 3 months of the submission of the memorial), Colombia filed preliminary objections to the jurisdiction of the Court and in an order of 24 September 2003[110] the Court fixed 26 June 2004 as the time limit for the submission of written observations and submissions by Nicaragua. On 15 November 2006 the Court set 4 June 2007 as the date for the commencement of public hearings on preliminary objections in relation to the case.[111] The public hearings concluded on 8 June 2007 at which time the Court commenced its deliberations.

6. Certain Criminal Proceedings in France (*Republic of the Congo v France*)
On 9 December 2002 the Republic of the Congo presented an application against France regarding proceedings for crimes against humanity and torture commenced, inter alia, against the Congolese Foreign Minister, and also as regards warrants for the witness hearing of the President of the Republic of the Congo. A request for provisional measures was also made.[112] The applicant sought to base the Court's jurisdiction on the consent of the respondent under Article 38 (5) of the ICJ Statute (*forum prorogatum*) which was given on 11 April 2003.[113] In an order of 17 June 2003[114] the Court rejected the request for provisional measures and in an order of 11 July 2003[115] set the following time limits for the submission of written pleadings: Republic of Congo, memorial, 11 December 2003; France, counter-memorial, 11 May 2004. In an order of 17 June 2004[116] the Court authorized a further round of written pleadings and set the following

[104] [2000] ICJ Rep 6.
[105] [2002] ICJ Rep 216.
[106] ICJ Press Communiqué No 2006/31.
[107] ibid No 2007/9.
[108] ICJ Press Communiqué No 2001/34.
[109] [2002] ICJ Rep 189.
[110] [2003] ICJ Rep 158.
[111] ICJ Press Communiqué No 2006/37.
[112] ibid No 2002/37.
[113] ibid No 2003/14.
[114] [2003] ICJ Rep 102. See D Turns, Case Note (2004) 53 ICLQ 775.
[115] [2003] ICJ Rep 143.
[116] [2004] ICJ Rep 130.

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time limits: Republic of the Congo, reply 10 December 2004; France, rejoinder, 10 June 2005. These were extended by an order of 8 December 2004[117] to: Republic of the Congo, reply 10 January 2005; France, rejoinder, 10 August 2005 and again by an order of 29 December 2004[118] to: Republic of the Congo, reply 11 July 2005; France, rejoinder, 11 August 2005. A further order of 12 January 2006 extended the deadlines to: Republic of the Congo, reply 11 July 2006; France, rejoinder, 11 August 2008.[119]

7. Sovereignty over Pedro Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (*Malaysia/Singapore*)

On 24 July 2003, in pursuance of a Special Agreement of 6 February 2003 (in force 9 May 2003), Malaysia and Singapore seised the Court of a dispute concerning sovereignty over Pedro Branca/Pulau Batu Puteh, Middle Rocks and South Ledge. In an order of 1 September 2003[120] the following time limits were set for the submission of written pleadings by both parties: memorials, 25 March 2004; counter-memorials, 25 January 2005. In an order of 1 February 2005[121] the time limit for the submission of a reply by both parties was set as 25 November 2005. On 19 November 2006 the Court set 6 November 2007 as the date for the commencement of public hearings on the merits of the dispute.[122]

8. Maritime Delimitation in the Black Sea (*Romania v Ukraine*)

Romania instituted proceedings against Ukraine on 16 September 2004 in a dispute concerning the establishment of a single maritime boundary between them in the Black Sea. In an order of 19 November 2004[123] the following time limits were set for the submission of written pleadings: Romania, memorial, 19 August 2005; Ukraine, counter-memorial, 19 May 2006. In an order of 30 June 2006, the court set 22 December 2006 as the time limit for the filing of a Reply by Romania and 15 June 2007 for a Rejoinder by Ukraine.[124]

9. Dispute regarding Navigational and Related Rights (*Costa Rica v Nicaragua*)

On 29 September 2005 Costa Rica instituted proceedings against Nicaragua in a dispute concerning navigational and related rights of Costa Rica in the San Juan River. In an order of 2 December 2005 the following time limits were set for the filing of initial proceedings: Costa Rica, memorial, 29 August 2006; Nicaragua, counter-memorial, 29 May 2007.[125]

10. Proceedings instituted by the Commonwealth of Dominica (*Dominica v Switzerland*)

The Commonwealth of Dominica brought a case against Switzerland on 26 April 2006 alleging violations of the Vienna Convention on Diplomatic Relations and other international instruments and rules with respect to a diplomatic envoy of Dominica to the United Nations in Geneva.[126] By a letter dated 15 May 2006 the Prime Minister of the Commonwealth of Dominica, referring to Article 89 of the Rules of Court, informed

[117] ICJ Press Communiqué No 2004/38.
[118] ibid No 2005/1.
[119] ibid No 2006/2.
[120] [2003] ICJ Rep 146.
[121] ICJ Press Communiqué No 2005/3.
[122] ibid No 2006/38.
[123] ibid No 2004/34.
[124] ibid No 2006/24.
[125] ibid No 2005/24.
[126] ibid No 2006/16.

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the Court that the Commonwealth of Dominica '[did] not wish to continue with the proceedings issued against Switzerland' and requested the Court to make an Order removing the case from the General List. By order of 9 June 2006 the Court removed the case from the List.[127]

11. Pulp Mills on the River Uruguay (*Argentina v Uruguay*)
On 4 May 2006, Argentina instituted proceedings against Uruguay alleging breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty dated 26 February 1975 between Argentina and Uruguay.[128] Public hearings concerning Argentina's request for provisional measures took place on 8 and 9 June 2006.[129] By order of 13 July 2006, the Court found that the circumstances as presented to it were not such as to require the exercise of its power to indicate provisional measures.[130] By a further order of the same date, the Court set the following time limits for submission of written pleadings: Argentina, memorial, 15 January 2007; Uruguay, counter-memorial, 20 July 2007.[131] On 29 November 2006, Uruguay submitted a request for the indication of provisional measures.[132] Public hearings on this request took place on 18 and 19 December 2006.[133] By order of 23 January 2007, the Court found that the circumstances as presented to it were not such as to require the exercise of its power to indicate provisional measures.[134]

12. Certain Questions of Mutual Assistance in Criminal Matters (*Djibouti v France*)
On 10 January 2006, the Republic of Djibouti seised the jurisdiction of the Court in a dispute with France relating to the alleged violation by France of its international obligations in respect of mutual assistance in criminal matters. The Republic of Djibouti based its action on Article 38, paragraph 5 of the Rules of Court. [135] By a letter dated 25 July 2006 the French Republic consented to the jurisdiction of the Court to entertain the Application and the case was entered on the General List.[136] By order of 15 November 2006 the following time limits were set for submission of written pleadings: Djibouti, memorial, 15 March 2007; France, counter-memorial, 13 July 2007.[137]

III. OTHER DEVELOPMENTS

1. On 8 February 2007 the Court re-elected Mr. Philippe Couvreur as Registrar of the International Court of Justice for a term of seven years.[138]

2. On 18 April 2007 the Republic of Rwanda applied to the Court in a dispute with the Republic of France concerning the issuing of international arrest warrants by the judicial authorities of France against three Rwandan officials and in relation to a request by France sent to the United Nations Secretary-General that President Paul Kagame, President of Rwanda should stand trial at the International Criminal Tribunal for Rwanda. Rwanda seeks to found the jurisdiction of the Court on Article 38, paragraph 5 of the Rules of Court. To that end, the application has been forwarded to France and no further action will be taken unless and until France consents to jurisdiction of the Court in the matter.[139]

[127] ibid No 2006/23.
[128] ibid No 2006/17.
[129] ibid No 2006/22.
[130] ibid No 2006/28.
[131] ibid No 2006/29.
[132] ibid No 2006/40.
[133] ibid No 2006/44.
[134] ibid No 2007/2.
[135] ibid No 2006/1.
[136] ibid No 2006/32.
[137] ibid No 2006/39.
[138] ibid No 2007/5.
[139] ibid No 2007/11.

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