

MEMORANDUM TO CABINET BY THE HON. PRIME MINISTER AND  
MINISTER OF COMMONWEALTH AND FOREIGN AFFAIRS

Chapter XIV of the Charter of the United Nations sets up the International Court of Justice as the principal judicial organ of the United Nations and makes all members of the United Nations ipso facto parties to the Statute of the International Court of Justice.

Article 36 of the Statute of the International Court of Justice says that member states may at any time declare that they recognise as compulsory the jurisdiction of the Court in legal disputes concerning:

- a) the interpretations of a treaty;
- b) any question of international law;
- c) the existence of any fact which, if established, would constitute a breach of an 'international obligation';
- d) the nature or extent of the reparation to be made for the breach of an international obligation.

Article 36 states further that such declarations may be made unconditionally or on condition of reciprocity on the part of several or certain states or for a certain time.

Speaking before the United Nations Disarmament Commission on 4th May, 1965, the Permanent Representative of Malta to the United Nations said: "For this reason (that in the present world situation a formal agreement on disarmament might not have great practical value) my Government feels that discussion of the disarmament proposals of the United States and of the Soviet Union could usefully be supplemented by exploring the establishment of some universally accepted and respected avenue whereby States may hope peacefully to change situations endangering peace and seriously at variance with justice. We would suggest that a possible way of achieving this aim would be to link the study of disarmament with study of the possibility of an extension of the compulsory jurisdiction of the International Court of Justice to include the adjudication of all questions endangering peace between nations."

Since the suggestion to extend the compulsory jurisdiction of the Court has been made by the Representative of Malta, it is felt that Malta is bound, at least morally, to declare its recognition of the Court's compulsory jurisdiction on the four counts enumerated above. A draft of the declaration, which has been approved by the Crown Advocate General, and which is largely based on the formula used by the United Kingdom, has therefore been prepared and Hon. Ministers are invited to recommend that the declaration be made.

17th December, 1965.

DM 1408/65

I hereby declare on behalf of the Government of Malta that Malta accepts as compulsory ipso facto and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:-

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;
- (v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;
- (vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a party;
- (vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(viii) disputes

- (viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserve the right at any time, by means of a notification addressed to the Secretary General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Minister of Commonwealth  
and Foreign Affairs

Valletta

1965.