The subject of the panel of the Conference held on 23 September 2013 to which this presentation contributed was “The International Court of Justice and the International Legal System”. Some may believe that the manner in which the second element of this relationship is expressed—‘international legal system’—is merely a somewhat more elaborate and elegant way of referring to our own discipline, international law. However, these two formulations may be used indistinctly only if one considers that international law amounts to a system. This is what I think, and I believe the Court thinks so too, not only because this was the title chosen for this session, but above all because of the contribution it has made throughout the existence of the Hague Courts.

Let us briefly consider the notion of ‘system’. To borrow this notion from the great Geneva linguist Ferdinand de Saussure, a system constitutes an organic whole whose elements can only be defined in relation to one another and according to their respective positions within it. Contrary to what some—for fortunately, a minority—affirm, international law is not an aggregate or juxtaposition of scattered rules. As the Court has said:

[...] a rule of international law, whether customary or conventional, does not operate in a vacuum; it operates in relation to facts and in the context of a wider framework of legal rules of which it forms only a part.1

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1 Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, ICJ Reports 1980, p. 76, para. 10.
The Court employed the expression ‘legal system’ in its 1949 advisory opinion on *Reparation for Injuries*, to refer to the plurality of the types of subjects of international law, and again in its 1971 opinion on *Namibia*, in respect of the interpretation of treaties through time.

For a system to exist, three elements must be present. *First*, completeness. There must always be some means of settling legal disputes, even in the absence of specific rules. This is what the authors of the Statute of the Court had in mind by including, at letter (c) of the first paragraph of Article 38 of the Statute, general principles of law. This is also what the Permanent Court may have had in mind in formulating what later became known as the ‘Lotus principle’ (though often improperly invoked). This is above all what the Court has put into practice by incorporating the notion of equity into its decision-making tools, which is consubstantial to the idea of law and justice, as the Court noted in, among others, the *North Sea Continental Shelf* and *Frontier Dispute (Burkina Faso/Mali)* judgments.

*Second*, coherence. This means that if two rules which both appear applicable to the same issue lead to contradictory results, either there must be some conflict of norms rule in order to settle such a conflict, or the rules concerned must be interpreted harmoniously. This is what the Court has generally done, including through the use of rules such as ‘*lex specialis derogat legi generali*’. It is true that, when confronted with taking politically sensitive positions in the *Nuclear Weapons* advisory opinion requested by the General Assembly, the Court chose not to choose. But this should rather remain an exception.

7 *Frontier Dispute (Burkina Faso/Republic of Mali)*, Judgment, ICJ Reports 1986, p. 633, para. 149.