

COUR INTERNATIONALE DE JUSTICE
MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE DE CERTAINES TERRES
À PHOSPHATES À NAURU

(NAURU c. AUSTRALIE)

VOLUME III

Contre-mémoire de l'Australie; procédure orale;
réponses aux questions; correspondance; document



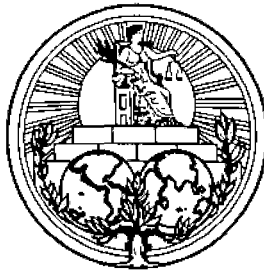
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CASE CONCERNING
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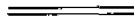
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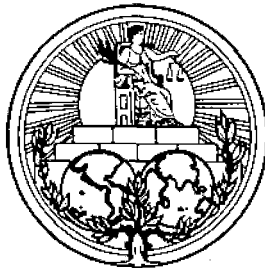
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L'affaire de *Certaines terres à phosphates à Nauru (Nauru c. Australie)*, inscrite au rôle général de la Cour sous le numéro 80 le 19 mai 1989, a fait l'objet d'un arrêt rendu le 26 juin 1992 (*Certaines terres à phosphates à Nauru (Nauru c. Australie)*, exceptions préliminaires, arrêt, *C.I.J. Recueil 1992*, p. 240). Elle en a été rayée par ordonnance de la Cour du 13 septembre 1993, à la suite du désistement par accord des Parties (*Certaines terres à phosphates à Nauru (Nauru c. Australie)*, *C.I.J. Recueil 1993*, p. 322).

Les pièces de procédure relatives à cette affaire sont publiées dans l'ordre suivant :

Volume I. Requête introductive d'instance de Nauru ; mémoire de Nauru.

Volume II. Exceptions préliminaires de l'Australie ; exposé écrit de Nauru sur les exceptions préliminaires.

Volume III. Contre-mémoire de l'Australie ; procédure orale sur les exceptions préliminaires ; réponses écrites aux questions ; choix de correspondance ; document présenté à la Cour.

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Au sujet de la reproduction des dossiers, la Cour a décidé que dorénavant, quel que soit le stade auquel aura pris fin une affaire, ne devront être retenus à fin de publication que les pièces de procédure écrite et les comptes rendus des audiences publiques, ainsi que les seuls documents, annexes et correspondance considérés comme essentiels à l'illustration de la décision qu'elle aura prise. En outre, la Cour a demandé expressément que, chaque fois que les moyens techniques le permettraient, les volumes soient composés de fac-similés des pièces déposées devant elle, en l'état où elles ont été produites par les parties.

De ce fait, certaines des pièces reproduites dans la présente édition ont été photographiées d'après leur présentation originale.

En vue de faciliter l'utilisation de l'ouvrage, outre sa pagination continue habituelle, le présent volume comporte, en tant que de besoin, entre crochets sur le bord intérieur des pages, l'indication de la pagination originale des pièces reproduites et occasionnellement, entre parenthèses, la pagination du document original.

S'agissant des renvois du Greffe, les chiffres romains gras indiquent le volume de la présente édition ; s'ils sont immédiatement suivis par une référence de page, cette référence renvoie à la nouvelle pagination du volume concerné. En revanche, les numéros de page qui sont précédés de l'indication d'une pièce de procédure visent la pagination originale de ladite pièce et renvoient donc à la pagination entre crochets de la pièce mentionnée.

En ce qui concerne les exposés oraux, la pagination originale est précédée du numéro d'ordre des comptes rendus distribués sous forme multicopiée provisoire sous la cote CR 91/-- et, pour les renvois, c'est aussi à la pagination correspondante placée entre crochets sur le bord intérieur des pages qu'il faudra se reporter.

Ni la typographie ni la présentation ne sauraient être utilisées aux fins de l'interprétation des textes reproduits.

The case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, entered on the Court's General List on 19 May 1989 under Number 80, was the subject of a Judgment delivered on 26 June 1992 (*Certain Phosphate Lands in Nauru (Nauru v. Australia)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 1992*, p. 240). The case was removed from the List by an Order of 13 September 1993, following discontinuance by agreement of the Parties (*Certain Phosphate Lands in Nauru (Nauru v. Australia)*, *I.C.J. Reports 1993*, p. 322).

The pleadings in the case are being published in the following order :

- Volume I. Application instituting proceedings of Nauru; Memorial of Nauru.
- Volume II. Preliminary objections of Australia; written statement of Nauru on the preliminary objections.
- Volume III. Counter-Memorial of Australia; oral arguments on the preliminary objections; written replies to questions; selection of correspondence; document submitted to the Court.

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Regarding the reproduction of case files, the Court has decided that henceforth, irrespective of the stage at which a case has terminated, publication should be confined to the written proceedings and oral arguments in the case, together with those documents, annexes and correspondence considered essential to illustrate its decision. The Court has also specifically requested that, whenever technically feasible, the volumes should consist of facsimile versions of the documents submitted to it, in the form in which they were produced by the parties.

Accordingly, certain documents reproduced in the present volume have been photographed from their original presentation.

For ease of use, in addition to the normal continuous pagination, wherever necessary this volume also contains, between square brackets on the inner margin of the pages, the original pagination of the pleadings reproduced and occasionally, within parentheses, the pagination of the original document.

In references by the Registry, bold Roman numerals are used to refer to Volumes of this edition; if they are immediately followed by a page reference, this relates to the new pagination of the Volume in question. On the other hand, the page numbers which are preceded by a reference to one of the pleadings relate to the original pagination of that pleading and accordingly refer to the bracketed pagination of the document in question.

In the case of the oral arguments, the original pagination is preceded by the number of the verbatim records as issued in a provisional duplicated form and carrying the reference CR 91/-- and it is also to the corresponding pagination between square brackets on the inner margin of the pages that one should refer for all cross-references.

Neither the typography nor the presentation may be used for the purpose of interpreting the texts reproduced.

The Hague, 2004.

DOCUMENT PRÉSENTÉ À LA COUR
DOCUMENT SUBMITTED TO THE COURT

AGREEMENT BETWEEN AUSTRALIA AND THE REPUBLIC OF NAURU
FOR THE SETTLEMENT OF THE CASE
IN THE INTERNATIONAL COURT OF JUSTICE
CONCERNING *CERTAIN PHOSPHATE LANDS IN NAURU*

THE REPUBLIC OF NAURU AND AUSTRALIA,

Wishing to strengthen the existing friendly relations between the two countries, and

Wishing to settle amicably the application brought by the Republic of Nauru against Australia in the International Court of Justice,

Have agreed as follows:

Article 1

(1) Australia agrees that, in an effort to assist the Republic of Nauru in its preparations for its post-phosphate future, it shall pay the Republic of Nauru a cash settlement of one hundred and seven million dollars (\$A107 million) as follows:

- (a) The sum of ten million dollars (\$A10 million) on or before 31 August 1993.
- (b) The sum of thirty million dollars (\$A30 million) as soon as it may lawfully be paid and not later than 31 December 1993.
- (c) The sum of seventeen million dollars (\$A17 million) on 31 August 1994.
- (d) An amount of fifty million dollars (\$A50 million) to be paid at an annual rate of \$2.5 million dollars, maintained in real terms by reference to the Australian Bureau of Statistics' non-farm GDP deflator, for twenty years commencing in the financial year 1993-94.

The above payments are made without prejudice to Australia's long-standing position that it bears no responsibility for the rehabilitation of the phosphate lands worked out before 1 July 1967.

(2) At the end of the 20 year period referred to in paragraph (1) (d) the Republic of Nauru shall continue to receive development co-operation assistance from Australia at a mutually agreed level.

Article 2

In consequence of the undertakings by Australia in Article 1, the parties agree that they shall take the action necessary to discontinue the present proceedings brought by the Republic of Nauru against Australia in the International Court of Justice.

Article 3

The Republic of Nauru agrees that it shall make no claim whatsoever, whether in the International Court of Justice or otherwise, against all or any of Australia, the United Kingdom of Great Britain and Northern Ireland and New Zealand, their servants or agents arising out of or concerning the administration of Nauru during the period of the Mandate or Trusteeship or the termination of that administration, as well as any matter pertaining to phosphate mining,

including matters pertaining to the British Phosphate Commissioners, their assets or the winding up thereof.

Article 4

This Agreement shall enter into force on the date on which the parties have notified each other that the constitutional requirements of each party for the entry into force of this Agreement have been complied with.

DONE in two originals at Nauru this 10th day of August 1993.

For Australia,

(Signed) Paul KEATING,
Prime Minister.

For the Republic of Nauru,

(Signed) Bernard DOWIYOGO,
President.