



INTERNATIONAL COURT OF JUSTICE

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Questions of Interpretation and Application of the 1971 Montreal Convention
arising from the Aerial Incident at Lockerbie
(Libyan Arab Jamahiriya v. United Kingdom)
(Libyan Arab Jamahiriya v. United States of America)

United Kingdom and United States to file Counter-Memorials
by 30 December 1998

THE HAGUE, 1 April 1998. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and of the United States of America in the cases concerning the aerial incident at Lockerbie brought against them by Libya.

The Court made this decision by way of Orders dated 30 March 1998, taking into account the views of the Parties.

In two separate Judgments handed down on 27 February last, the Court declared that it had jurisdiction to deal with the merits of the disputes between Libya and the United Kingdom, and between Libya and the United States. It based its jurisdiction on Article 14, paragraph 1, of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed in Montreal on 23 September 1971, concerning the settlement of disputes on the interpretation or application of the provisions of that Convention. The Court also found the Libyan claims admissible and stated that it was not appropriate, at this stage of the proceedings, to make a decision on the arguments of the United Kingdom and the United States that resolutions of the United Nations Security Council have rendered these claims without object.

Libya contends that the United Kingdom and the United States do not have the right to compel it to surrender two Libyan nationals suspected of having caused the destruction of Pan Am flight 103 over the town of Lockerbie, Scotland, on 21 December 1988, in which 270 people died (all 259 passengers and crew and 11 people on the ground). Libya argues that the Montreal Convention enables it to try the suspects itself.

Any contentious proceedings before the Court consist of two parts: written and oral. During the written phase, written pleadings are exchanged. In both the above-mentioned cases, the Applicant (Libya) has already filed a Memorial on the merits and consequently, the Court had to fix a time-limit for the filing of Counter-Memorials by the Respondents (the United Kingdom and the United States). Upon the closure of the written proceedings, hearings are organized. It is only after these that the Court starts considering its Judgment on the merits.

History of the dispute

On 3 March 1992, Libya filed in the Registry of the Court two Applications instituting proceedings against the United Kingdom and the United States of America concerning disputes on the interpretation or application of the Montreal Convention.

Libya referred to charges made by the Lord Advocate of Scotland and an American Grand Jury against two Libyan nationals suspected of being involved in the Lockerbie incident. Following these charges, the United Kingdom and the United States had demanded that Libya surrender the suspects for trial either in Scotland or in the United States.

In its Applications, Libya argued that there was no extradition treaty between itself and the United Kingdom, nor between itself and the United States, and that according to the Montreal Convention, it was entitled to try the suspects itself.

On 3 March 1992, Libya also asked the Court to indicate provisional measures to prevent further action by the United Kingdom and the United States to compel it to surrender the accused before any examination of the cases on the merits. By Orders dated 14 April 1992, the Court nonetheless found that the circumstances were not such as to require the exercise of its power to indicate such measures.

After Libya filed its written pleadings, the United Kingdom and the United States raised objections to the Court's jurisdiction and the admissibility of the Libyan claims, matters which were determined by the Court in two Judgments on 27 February 1998.

After the Lockerbie incident, the Security Council of the United Nations adopted three resolutions (731, 748 and 883, two of which imposed sanctions) urging Libya "to provide a full and effective response" to the requests of the United Kingdom and the United States "so as to contribute to the elimination of international terrorism".

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