

PART IV

CORRESPONDENCE

QUATRIÈME PARTIE

CORRESPONDANCE

I. THE AMBASSADOR OF THE UNITED STATES OF AMERICA TO THE NETHERLANDS TO THE REGISTRAR

August 22nd, 1958.

Sir,

Upon the instruction of my Government, I transmit to you herewith, in accordance with the Statute and Rules of the International Court of Justice, an application¹ to the Court instituting proceedings on behalf of my Government against the Government of the Union of Soviet Socialist Republics. My Government has appointed Mr. Loftus E. Becker, the Legal Adviser of the Department of State, as its agent in this case. I certify that the signature on the application transmitted herewith is the signature of Mr. Becker. The address for service to which all communications relating to the applicant should be sent is this Embassy.

For the purposes of the provisions of the Statute and the Rules of Court, particularly Article 40 (2) and (3) of the Statute and Article 33 (1) and Article 34 of the Rules of Court, I transmit with the original of this application one hundred printed copies which I certify to be correct copies of the original.

Very truly yours,

(Signed) Philip Young,

Ambassador of the United States of America.

Enclosures :

1. One original application.
2. One hundred printed copies of the application.

2. THE REGISTRY TO THE SECRETARY-GENERAL OF THE UNITED NATIONS
(tel.)

August 22nd, 1958.

With reference Article 40 paragraph 3 Statute have honour inform you that United States Government filed August twentysecond application instituting proceedings against Union of Soviet Socialist Republics alleging certain acts committed by military aircraft of Soviet Government on September fourth 1954 over Sea of Japan against a United States Navy Neptune type aircraft and crew Stop Am airmailing for your information one copy application Stop Certified true copies application in bilingual edition follow.

3. LE PRÉMIER SECRÉTAIRE FAISANT FONCTION DE GREFFIER A L'AMBASSADEUR DE L'U.R.S.S. AUX PAYS-BAS

22 août 1958.

Monsieur l'Ambassadeur,

J'ai l'honneur de porter à la connaissance de Votre Excellence que le Gouvernement des États-Unis d'Amérique a déposé ce jour au Greffe

¹ See p. 8.

de la Cour internationale de Justice une requête (avec annexes) introduisant une instance contre le Gouvernement de l'Union des Républiques socialistes soviétiques. Cette requête fait état de certains actes qui auraient été commis par l'aviation militaire du Gouvernement soviétique le 4 septembre 1954 au-dessus de la Mer du Japon.

Sept exemplaires de cette requête dans l'édition qui a été déposée au nom du Gouvernement des États-Unis sont joints à la présente lettre. Je vous en ferai prochainement parvenir d'autres exemplaires, certifiés conformes, dans l'édition anglaise et française qui sera établie par les soins du Greffe aux fins des communications à effectuer en conformité de l'article 40, paragraphes 2 et 3 du Statut.

A cette occasion, j'attire votre attention sur l'article 35 du Règlement de la Cour qui dispose (paragraphe 3) que la partie contre laquelle la requête est déposée et à laquelle elle est communiquée doit, en accusant la réception de cette communication ou sinon le plus tôt possible, faire connaître à la Cour le nom de son agent et qu'aux termes du paragraphe 5 de cet article, la désignation de l'agent doit être accompagnée de l'indication du domicile élu au siège de la Cour et auquel seront adressées toutes les communications relatives à l'affaire en cause.

Veillez agréer, etc.,

4. THE ACTING REGISTRAR TO THE AMBASSADOR OF THE UNITED STATES
OF AMERICA TO THE NETHERLANDS

22nd August, 1958.

Sir,

I have the honour to acknowledge receipt of Your Excellency's letter dated August 22nd, 1958, and handed to me on that date, transmitting an Application, together with its annexes, instituting proceedings on behalf of the Government of the United States of America against the Government of the Union of Soviet Socialist Republics.

I have duly noted that the Government of the United States of America has appointed Mr. Loftus E. Becker, the Legal Adviser of the Department of State, as its Agent in this case, and that you certify that the signature on the Application is the signature of Mr. Becker.

I also note that the address for service to which all communications relating to the applicant should be sent is the American Embassy at The Hague.

I have the further honour to acknowledge receipt of one hundred printed copies, which you certify to be true copies of the original document and which have been handed to me for the purposes of the provisions of the Statute and the Rules of Court, particularly Article 40, paragraphs 2 and 3, of the Statute, and Article 33, paragraph 1, and Article 34 of the Rules of Court.

I have, etc.

5. THE ACTING REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

22nd August, 1958.

Sir,

I have the honour to acknowledge receipt of the Application, dated July 25th, 1958, which was handed to me on August 22nd, 1958, together with its annexes, by a representative of the American Embassy at The Hague and by which the Government of the United States of America institutes proceedings against the Government of the Union of Soviet Socialist Republics.

In accordance with the provisions of the Statute, this Application has been transmitted to the Government of the Union of Soviet Socialist Republics.

Note has been taken of the fact that you have been appointed by the Government of the United States of America as its Agent for the purpose of this Application and all proceedings thereon.

I have, etc.

6. THE ACTING REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

22nd August, 1958.

Sir,

With reference to my telegram of today's date, a copy of which is enclosed herewith, I have the honour to confirm that on August 22nd, 1958, the United States Government filed an Application instituting proceedings against the Government of the Union of Soviet Socialist Republics, alleging certain acts committed by military aircraft of the Soviet Government on September 4th, 1954, in the international air space over the Sea of Japan against a United States Navy P2-V-type aircraft, commonly known as a Neptune type, and against its crew.

For your information, I am sending you herewith an advance copy of this Application and its annexes.

I should be grateful if, in accordance with Article 40, paragraph 3, of the Statute of the Court, you would be good enough to notify the Members of the United Nations of the filing of this Application. For this purpose I shall forward to you as soon as possible 100 certified true copies of the Application marked: "Attention Director, General Legal Division".

I have, etc.

7. THE ACTING REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

29th August, 1958.

Sir,

With reference to my letter of August 22nd, 1958, I have the honour to forward to you, under separate cover (by air) (marked: Attention

Director, General Legal Division), one hundred certified true copies of the Application filed on August 22nd, 1958, by the Government of the United States of America instituting proceedings against the Government of the Union of Soviet Socialist Republics in the case concerning the aerial incident of September 4th, 1954.

I have, etc.

**8. LE PREMIER SECRÉTAIRE DE LA COUR FAISANT FONCTION DE GREFFIER
A L'AMBASSADEUR DE L'U.R.S.S. AUX PAYS-BAS**

29 août 1958.

Monsieur l'Ambassadeur,

Me référant à ma lettre du 22 août 1958, j'ai l'honneur de transmettre ci-joint à Votre Excellence sept exemplaires, dont deux certifiés conformes, de l'édition bilingue établie par le Greffe de la requête du Gouvernement des États-Unis d'Amérique introduisant devant la Cour l'affaire relative à l'incident aérien du 4 septembre 1954.

Veuillez agréer, etc.

**9. LE PREMIER SECRÉTAIRE FAISANT FONCTION DE GREFFIER AU MINISTRE
DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN ¹**

29 août 1958.

Monsieur le Ministre,

Le 22 août 1958, l'ambassadeur des États-Unis d'Amérique aux Pays-Bas a déposé au Greffe de la Cour internationale de Justice une requête datée du 25 juillet 1958 par laquelle le Gouvernement des États-Unis a introduit devant la Cour contre l'Union des Républiques socialistes soviétiques une instance relative à un incident aérien survenu le 4 septembre 1954.

J'ai l'honneur, à toutes fins utiles, de transmettre ci-joint à Votre Excellence un exemplaire de cette requête.

Veuillez agréer, etc.

**10. LE PREMIER SECRÉTAIRE FAISANT FONCTION DE GREFFIER AU MINISTRE
DES AFFAIRES ÉTRANGÈRES DE LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE ²**

29 août 1958.

Monsieur le Ministre,

Le 22 août 1958, l'ambassadeur des États-Unis d'Amérique aux Pays-Bas a déposé au Greffe de la Cour internationale de Justice une requête

¹ La même communication a été adressée à tous les autres États Membres des Nations Unies ainsi qu'aux États non Membres qui sont Parties au Statut de la Cour.

² La même communication a été adressée aux autres États, non Membres des Nations Unies et non Parties au Statut de la Cour, auxquels la Cour est ouverte aux termes de l'article 35, paragraphe 2, du Statut.

datée du 25 juillet 1958 par laquelle le Gouvernement des États-Unis a introduit devant la Cour contre l'Union des Républiques socialistes soviétiques une instance relative à un incident aérien survenu le 4 septembre 1954.

Me référant à l'article 40, paragraphe 3, du Statut de la Cour, j'ai l'honneur, à toutes fins utiles, de transmettre ci-joint à Votre Excellence un exemplaire de cette requête.

Veillez agréer, etc.

II. THE CHARGÉ D'AFFAIRES *a.i.* OF THE U.S.S.R. TO THE NETHERLANDS
TO THE REGISTRAR ¹

September 26, 1958.

Mr. Registrar of the Court,

In connection with the letter of the International Court of Justice No. 28125 of August 22, 1958, communicating, that the Government of the USA transmitted an application to the Court concerning an American aircraft, violated the state frontier of the USSR in the region of Cape Ostrovnoi to the east of the Soviet Port Nakhodka on September 4, 1954, I have the honour to transmit upon the instruction of my Government the following communication.

The Government of the USSR in its note of October 10, 1957, as well as in previous notes of September 5 and 8, 1954 and of January 21, 1957 stated that since the American military aircraft of the Neptun-type violated the state frontier of the USSR in the Cape Ostrovnoi region and opened fire on Soviet fighters first, responsibility for the incident taken place on September 4, 1954 and consequences of it fully lied on the American side. In the above-mentioned note of October 10, 1957 the Government of the USSR in response to the proposal of the Government of the USA transmitting this case for hearing in the International Court of Justice communicated that no basis for it can be seen.

I should like to draw Your attention to the Article 36 of the Statute of the Court according to which any dispute may be transmitted to the International Court of Justice only by common consent of both sides.

As appears from above-stated the Government of the USSR has already informed the Government of the USA formerly that the Soviet Government does not give its consent for hearing this case in the International Court of Justice. Under these conditions the Government of the USA having applied to the Court, acted in disaccord with the Statute of the International Court of Justice.

The Government of the USSR deems that in this case there are no questions which are of need to be considered by the International Court of Justice and as before does not see any basis for turning this question over for examination by the International Court.

Please, accept, Mr. Registrar, the assurances of my highest consideration.

(Signed) V. KOUZNETSOV,
Chargé d'Affaires *a.i.* of the USSR in
the Netherlands.

¹ Text in English, annexed to a letter in Russian and entitled "Unofficial translation".

12. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

30th September, 1958.

Sir,

With reference to the case concerning the Aerial Incident of September 4th, 1954 (*United States of America v. Union of Soviet Socialist Republics*), I have the honour to transmit to you herewith a photostatic copy of a letter in Russian ¹ from the Chargé d'affaires *a.i.* of the Union of Soviet Socialist Republics in The Hague as well as a certified true copy of an "unofficial translation" into English ² which accompanied that letter.

A copy of the "unofficial translation" submitted by the Chargé d'affaires has been transmitted to Members of the Court.

I have, etc.

13. THE AGENT FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE REGISTRAR

November 25th, 1958.

Sir:

This communication is in response to yours of September 30, 1958 with reference to the case of the *United States of America vs. Union of Soviet Socialist Republics*. The United States has noted that the Soviet Chargé d'Affaires *ad interim* in the Netherlands, upon the instruction of his Government, stated that his Government did not give its consent for the settlement of the dispute described in the United States application by the International Court of Justice.

The United States Government must take this opportunity to express its profound disagreement with the further statement of the Soviet Government that in filing its application for a settlement of the dispute involved by the International Court of Justice the United States Government "acted in disaccord with the Statute of the International Court of Justice" because the United States Government had not received the prior consent of the Soviet Government to submit the dispute to this Court for decision. The United States Government of course also contests the statement that "there are no questions which are of need to be considered by the International Court of Justice and ... does not see any basis for turning this question over for examination by the International Court". On the contrary, the United States Government believes that international law and order depend on the peaceful settlement of disputes between governments of international questions of fact and law as described in the Statute. It is now well settled that any government qualified to appear before this Court may file its application without prior special agreement.

Very truly yours,

(Signed) LOFTUS E. BECKER, ..

The Agent for the
Government of the
United States of America.

¹ Not reproduced.

² See No. 11.

**14. THE ACTING REGISTRAR TO THE AMBASSADOR OF THE U.S.S.R. TO THE
NETHERLANDS**

3rd December, 1958.

Sir,

I have the honour to send to you herewith a certified true copy of a letter dated November 25th, 1958, from the Agent for the Government of the United States of America in the case concerning the Aerial Incident of September 4th, 1954 (United States of America *v.* Union of Soviet Socialist Republics).

I have, etc.

**15. THE ACTING REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE
UNITED STATES OF AMERICA ¹**

12th December, 1958.

Sir,

I have the honour to refer to an Application relating to the Aerial Incident of September 4th, 1954, which was filed in the Registry on August 22nd, 1958, on behalf of the Government of the United States of America.

I have the further honour to inform you that on December 9th, 1958, the International Court of Justice ordered that the case brought before it by means of this Application should be removed from its List.

I shall in due course send you the official copy for the Government of the United States of America of the above-mentioned Order.

I have, etc.

**16. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS
(*tel.*)**

13th December, 1958.

With reference my cable 11 of August 22nd 1958 have honour inform you that on December 9th 1958 Court decided remove from List case concerning Aerial Incident of September 4th 1954 Copies relevant Order will be despatched to you by surface mail.

**17. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED
STATES OF AMERICA ¹**

15th December, 1958.

Sir,

With reference to my letter of December 12th, 1958, I have the honour to send you herewith an official copy of the Order by which the case relating to the Aerial Incident of September 4th, 1954, was removed from the Court's List.

I have, etc.

¹ A similar communication was sent to the Ambassador of the U.S.S.R. to the Netherlands.

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[Part I, Section B, Part II and Part III: not included. See note p. 25]

[Première Partie, Section B, Deuxième et Troisième Parties: absentes. Voir note p. 25]

PART IV.—CORRESPONDENCE

[See pages 28 to 34]

QUATRIÈME PARTIE. — CORRESPONDANCE

[Voir pages 28 à 34]

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