

INTERNATIONAL COURT OF JUSTICE

YEAR 2019

**2019
27 March
General List
No. 174**

27 March 2019

**APPEAL RELATING TO THE JURISDICTION OF THE ICAO COUNCIL UNDER
ARTICLE II, SECTION 2, OF THE 1944 INTERNATIONAL AIR SERVICES
TRANSIT AGREEMENT**

(BAHRAIN, EGYPT AND UNITED ARAB EMIRATES v. QATAR)

ORDER

Present: President YUSUF; Vice-President XUE; Judges TOMKA, ABRAHAM, BENNOUNA, CANÇADO TRINDADE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI, CRAWFORD, GEVORGIAN, SALAM, IWASAWA; Deputy-Registrar FOMÉTÉ.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 31, 44, 45, paragraph 2, 48 and 49 of the Rules of Court,

Having regard to the Application filed in the Registry of the Court on 4 July 2018, instituting an appeal by the Kingdom of Bahrain, the Arab Republic of Egypt and the United Arab Emirates

(hereinafter collectively referred to as the “Applicants”) from the decision rendered by the Council of the International Civil Aviation Organization on 29 June 2018 in proceedings commenced by the State of Qatar (hereinafter referred to as “Qatar” or the “Respondent”) against these States on 30 October 2017 pursuant to Article II, Section 2 of the 1944 International Air Services Transit Agreement,

Having regard to the Order dated 25 July 2018, whereby the President of the Court fixed 27 December 2018 and 27 May 2019 as the respective time-limits for the filing of a Memorial by the Applicants, and a Counter-Memorial by the Respondent,

Having regard to the Memorial filed by the Applicants on 27 December 2018 and the Counter-Memorial filed by the Respondent on 25 February 2019;

Whereas the President of the Court convened a meeting with the Agents of the Parties on 15 March 2019 in order to ascertain their views with regard to certain questions of procedure; whereas, ahead of that meeting, in a letter dated 11 March 2019, the Applicants requested the Court to authorize or direct a second round of written pleadings, in view of “the nature, complexity and importance of the legal and factual issues arising for consideration in this case”; and whereas, in a letter dated 12 March 2019, the Agent of the Respondent indicated that the views of Qatar with regard to questions of procedure would be presented at the forthcoming meeting;

Whereas, at that meeting, the Applicants reiterated that, in their view, a second round of written pleadings was warranted in the circumstances of the case; whereas they stated, in particular, that in its Counter-Memorial the Respondent had introduced a considerable amount of new factual material, which raised a number of evidentiary issues, as well as new legal arguments, with respect to which, as a matter of due process, the Applicants should be given an opportunity to respond in writing; and whereas, in terms of the timeframe, the Applicants requested a minimum period of four months for the preparation of their Reply;

Whereas, at the same meeting, the Respondent stated that, in its view, a second round was not deemed necessary; whereas it considered that the scope of the case was limited by virtue of its very nature, namely, an appeal from a decision of the Council of the International Civil Aviation Organization; whereas the Respondent maintained that the Court was already sufficiently informed about the factual and legal issues raised in the case; and whereas the Respondent indicated that, in the event that the Court were to direct a second round of written pleadings, the Applicants and the Respondent should each be given one month for the preparation of a Reply and a Rejoinder, respectively;

Taking into account the views of the Parties,

Directs the submission of a Reply by the Kingdom of Bahrain, the Arab Republic of Egypt, and the United Arab Emirates, and a Rejoinder by the State of Qatar;

Fixes the following time-limits for the filing of these written pleadings:

27 May 2019 for the Reply of the Kingdom of Bahrain, the Arab Republic of Egypt and the United Arab Emirates;

29 July 2019 for the Rejoinder of the State of Qatar; and

Reserves the subsequent procedure for further decision.

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this twenty-seventh day of March, two thousand and nineteen, in five copies, one of which will be placed in the archives of the Court and the others transmitted to the Governments of the Kingdom of Bahrain, the Arab Republic of Egypt and the United Arab Emirates, and to the Government of the State of Qatar, respectively.

(Signed) Abdulqawi Ahmed YUSUF,
President.

(Signed) Jean-Pelé FOMÉTÉ,
Deputy-Registrar.
