

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

AERIAL INCIDENT OF OCTOBER 7th, 1952

(UNITED STATES OF AMERICA *v.* UNION
OF SOVIET SOCIALIST REPUBLICS)

ORDER OF MARCH 14th, 1956

1956

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

INCIDENT AÉRIEN DU 7 OCTOBRE 1952

(ÉTATS-UNIS D'AMÉRIQUE *c.* UNION DES
RÉPUBLIQUES SOCIALISTES SOVIÉTIQUES)

ORDONNANCE DU 14 MARS 1956

This Order should be cited as follows :

*“Aerial incident of October 7th, 1952,
Order of March 14th, 1956 : I. C. J. Reports 1956, p. 9.”*

La présente ordonnance doit être citée comme suit :

*« Incident aérien du 7 octobre 1952,
Ordonnance du 14 mars 1956 : C. I. J. Recueil 1956, p. 9. »*

Sales number 145
N° de vente : 145

INTERNATIONAL COURT OF JUSTICE

1956
 March 14th
 General List :
 No. 28

YEAR 1956

March 14th, 1956

AERIAL INCIDENT OF OCTOBER 7th, 1952
 (UNITED STATES OF AMERICA *v.* UNION
 OF SOVIET SOCIALIST REPUBLICS)

ORDER

Present : Vice-President BADAWI, *Acting President ; President* HACKWORTH ; *Judges* BASDEVANT, WINIARSKI, KLAESTAD, READ, HSU MO, ARMAND-UGON, KOJEVNIKOV, Sir Muhammad ZAFRULLA KHAN, Sir Hersch LAUTERPACHT, MORENO QUINTANA, CÓRDOVA ; *Registrar* LÓPEZ OLIVÁN.

The International Court of Justice,
 composed as above,
 after deliberation,
 having regard to Articles 36 and 48 of the Statute of the Court ;

Makes the following Order :

Whereas on June 2nd, 1955, the Ambassador of the United States of America to the Netherlands filed in the Registry an Application dated May 26th, 1955, and signed by the Agent of the Government of the United States of America instituting proceedings before the Court against the Government of the Union of Soviet Socialist Republics on account of "certain willful acts committed by fighter aircraft of the Soviet Government against a United States Air Force B-29 aircraft and its crew off Hokkaido, Japan, on October 7th, 1952" ;

Whereas the Application was duly communicated by the Registry on June 4th, 1955, to the Ambassador of the Union of Soviet Socialist Republics to the Netherlands ;

Whereas the Application was also duly communicated by the Registry to the Members of the United Nations, through the Secretary-General of the United Nations, and to the other States entitled to appear before the Court ;

Whereas the Application contains the following paragraphs :

“The United States Government, in filing this application with the Court, submits to the Court’s jurisdiction for the purposes of this case. The Soviet Government appears not to have filed any declaration with the Court thus far, although it was invited to do so by the United States Government in the note annexed hereto. The Soviet Government is, however, qualified to submit to the jurisdiction of the Court in this matter and may upon notification of this application by the Registrar, in accordance with the Rules of the Court, take the necessary steps to enable the Court’s jurisdiction over both parties to the dispute to be confirmed.

The United States Government thus finds the jurisdiction of this Court on the foregoing considerations and on Article 36 (1) of the Statute.”

Whereas the note annexed to the Application, which was addressed on September 25th, 1954, by the Government of the United States of America to the Government of the Union of Soviet Socialist Republics, ends with the following passage :

“Since it appears that the Soviet Government has thus far not filed with that Court any declaration of acceptance of the compulsory jurisdiction of the Court, the United States Government invites the Soviet Government to file an appropriate declaration with the Court, or to enter into a Special Agreement, by which the Court may be empowered in accordance with its Statute and Rules to determine the issues of fact and law which have been set forth herein ; and the Soviet Government is requested to inform the United States Government in its reply to the present note of its intentions with respect to such a declaration or Special Agreement.”

Whereas in a letter dated August 26th, 1955, from the Chargé d’affaires of the Union of Soviet Socialist Republics in the Netherlands to the Registry it was stated that :

“In its last note on this question, dated December 30th, 1954, addressed to the Government of the United States of America, the Government of the U.S.S.R. indicated that since the American military aircraft violated the frontier of the U.S.S.R. and opened fire without any reason upon Soviet fighter aircraft, responsibility for the incident which occurred and for its consequences rests entirely upon the American side ; in these circumstances the Soviet Government cannot take into consideration the claim set forth in

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the note of the Government of the United States of America of September 25th, 1954, and considers that the proposal that this case should be referred for consideration to the International Court of Justice is totally unfounded.

Having regard to the foregoing, the Soviet Government considers that no question arises in this case which calls for a decision of the International Court of Justice and it sees no reason why the question should be dealt with by the International Court of Justice."

Whereas a certified true copy of the above-mentioned letter was communicated to the Agent of the Government of the United States of America on August 29th, 1955 ;

Whereas the said letter of August 26th, 1955, does not constitute on the part of the Government of the Union of Soviet Socialist Republics either the appropriate declaration or consent to conclude a Special Agreement ;

Whereas, in these circumstances, the Court finds that it has not before it any acceptance by the Government of the Union of Soviet Socialist Republics of the jurisdiction of the Court to deal with the dispute which is the subject of the Application submitted to it by the Government of the United States of America and that therefore it can take no further steps upon this Application ;

THE COURT

orders that the case shall be removed from the list.

Done in English and French, the English text being authoritative, at the Peace Palace, The Hague, this fourteenth day of March, one thousand nine hundred and fifty-six, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the United States of America and to the Government of the Union of Soviet Socialist Republics, respectively.

(Signed) A. BADAWI,
Vice-President.

(Signed) J. LÓPEZ OLIVÁN,
Registrar.