

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING THE
AERIAL INCIDENT OF

7 NOVEMBER 1954

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

ORDER OF 7 OCTOBER 1959

1959

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE RELATIVE A
L'INCIDENT AÉRIEN DU

7 NOVEMBRE 1954

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

ORDONNANCE DU 7 OCTOBRE 1959

This Order should be cited as follows:

*“Case concerning the Aerial Incident of 7 November 1954
(United States of America v.
Union of Soviet Socialist Republics),
Order of 7 October 1959: I.C.J. Reports 1959, p. 276.”*

La présente ordonnance doit être citée comme suit :

*« Affaire relative à l'incident aérien du 7 novembre 1954
(États-Unis d'Amérique c.
Union des Républiques socialistes soviétiques),
Ordonnance du 7 octobre 1959: C. I. J. Recueil 1959, p. 276. »*

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INTERNATIONAL COURT OF JUSTICE

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7 October 1959

CASE CONCERNING THE
AERIAL INCIDENT OF
7 NOVEMBER 1954
(UNITED STATES OF AMERICA *v.*
UNION OF SOVIET SOCIALIST REPUBLICS)

ORDER

Present: President KLAESTAD; *Vice-President* ZAFRULLA KHAN;
Judges BASDEVANT, HACKWORTH, WINIARSKI, BADAWI,
ARMAND-UGON, KOJEVNIKOV, Sir Hersch LAUTERPACHT,
MORENO QUINTANA, WELLINGTON KOO, SPIROPOULOS,
Sir Percy SPENDER; *Deputy-Registrar* GARNIER-COIGNET.

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 7 July 1959 the Ambassador of the United States of America to the Netherlands filed in the Registry an Application dated 8 June 1959 and signed by the Agent for the Government of

the United States of America instituting proceedings before the Court against the Union of Soviet Socialist Republics "on account of the destruction on November 7, 1954, of a United States Air Force B-29 aircraft in the Japanese territorial air space over Hokkaido, Japan";

Whereas the Application was duly communicated by the Registry on 7 July 1959 to the Ambassador of the Union of Soviet Socialist Republics to the Netherlands;

Whereas the Application was also 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, filing this application with the Court, has submitted 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. It was invited to do so by the United States Government as to the present dispute in the note of June 19, 1958. The Soviet Government has sent a negative reply thereto. The Soviet Government is, however, qualified to submit to 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 founds the jurisdiction of this Court on the foregoing considerations and on Article 36 (1) of the Statute."

Whereas in a letter in Russian, dated 31 August 1959, from the Chargé d'affaires of the Union of Soviet Socialist Republics in the Netherlands to the Registrar, accompanied by an unofficial English translation, it was stated that:

"The Government of the USSR in its note of March 4 1959 to the Government of the USA on this question as in its previous notes of November 7 and December 11 1954 and of August 19, 1957, pointed out that the violation of the Soviet State border by the American plane which was the first to fire the Soviet fighter-planes is an indisputable fact and that the responsibility for the incident is completely on the American side.

In the same note of March 4, 1959, the Government of the USSR, in response to the proposal of the Government of the USA to refer this case to the International Court of Justice stated that they did not see bases for it.

The Soviet Government draws your attention to the fact that they repeatedly protested against violations by American planes of the USSR state borders situated many thousand kilometres

away from the American territory and warned that all the responsibility for such violations and their consequences would be completely on the American side. But the American side ignored this kind of warnings and did not prohibit their military air-forces to direct planes towards the state borders of the USSR and violate these borders.

In connection with the heretofore stated the Government of the USSR considers as before that in this case there are no questions which are in need to be solved by the International Court of Justice and do not see bases for the filing of this case with the Court."

Whereas a true copy of the above-mentioned letter was communicated to the Agent for the Government of the United States of America on 3 September 1959;

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 be removed from the list.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this seventh day of October, one thousand nine hundred and fifty-nine, 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) Helge KLAESTAD,
President.

(Signed) GARNIER-COIGNET,
Deputy-Registrar.