



# INTERNATIONAL COURT OF JUSTICE

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**Communiqué**

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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)**

**Preliminary Objections**

**The Court will proceed to consider the case on the merits**

THE HAGUE, 27 February 1998. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, found today that it has jurisdiction to deal with the merits of the case brought by Libya against the United Kingdom concerning the aerial incident at Lockerbie. It also found that the Libyan claims are admissible.

Libya, which submitted the case to the Court on 3 March 1992, contends that the United Kingdom does 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, as well as 11 people on the ground). Libya argues that the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal in 1971 authorizes it to try the suspects itself.

In June 1995, the United Kingdom raised two preliminary objections: one to the jurisdiction of the Court and the other to the admissibility of the Libyan Application. In dealing with admissibility, the United Kingdom also asked the Court "to rule that the intervening resolutions of the (United Nations) Security Council have rendered the Libyan claims without object".

**Jurisdiction of the Court**

The United Kingdom maintained that there was no legal dispute with Libya with regard to the Convention because the question to be resolved had to do with "the . . . reaction of the international community to the situation arising from Libya's failure to respond effectively to the most serious accusations of State involvement in acts of terrorism".

In its Judgment, the Court however finds that the Parties differ on the question whether the destruction of the Pan Am aircraft over Lockerbie is governed by the Montreal Convention. A legal dispute of a general nature concerning the Convention thus exists between the Parties. The Court adds that specific disputes also exist concerning the interpretation and application of Article 7 of the Convention (relating to the place of prosecution) and Article 11 (relating to assistance in connection with criminal proceedings).

The United Kingdom also maintained that, even if the Montreal Convention did confer on Libya the rights it claims, they could not be exercised in this case because they were superseded by Security Council resolutions 748 (1992) and 883 (1993) which, by virtue of Articles 25 and 103 of the United Nations Charter, have priority over all rights and obligations arising out of the Montreal Convention.

The Court does not uphold this line of argument. Security Council resolutions 748 and 883 were in fact adopted after the filing of the Application on 3 March 1992. In accordance with its established jurisprudence, if the Court had jurisdiction on that date, it continues to do so.

The Court concludes by thirteen votes to three that it has jurisdiction to hear the disputes between Libya and the United Kingdom as to the interpretation or application of the Montreal Convention.

**Admissibility of the Libyan Application**

The United Kingdom contended that the Libyan Application was inadmissible because the so-called issues in dispute "are now regulated by decisions of the Security Council".

The Court finds that it cannot uphold this conclusion. The date, 3 March 1992, on which Libya filed its Application, is in fact the only relevant date for determining the admissibility of the Application. Security Council resolutions 748 and 883 cannot be taken into consideration in this regard since they were adopted at a later date. As to the resolution 731 (1992), adopted before the filing of the Application, it could not form a legal impediment to the admissibility of the latter because it was a mere recommendation without binding effect, as was recognized moreover by the United Kingdom.

The Court concludes by twelve votes to four that Libya's Application is admissible.

Objection that the Security Council resolutions rendered the claims of Libya without object

Finally, regarding the request of the United Kingdom for a ruling "that the intervening resolutions of the Security Council have rendered the Libyan claims without object", the Court finds that if it were to rule on that objection at this stage of the proceedings, it would inevitably be ruling on the merits and affecting Libya's rights. The Court rejects by ten votes to six the objection raised by the United Kingdom but will be able to consider it when it reaches the merits of the case.

Further proceedings

Having established its jurisdiction and concluded that Libya's Application is admissible, the Court will now, after consultation with the Parties, fix time-limits for the further proceedings.

The proceedings consist of two parts: written and oral.

During the written phase, written pleadings are exchanged. The Applicant (Libya in this case) has already filed a Memorial on the merits and consequently, the Court will fix the time-limit for the filing of a Counter-Memorial by the Respondent (the United Kingdom). The Court may authorize a Reply by the Applicant and a Rejoinder by the Respondent.

Upon the closure of the written proceedings, public hearings are organized during which the Parties address the issues that still divide them. The Court hands down a Judgment on the merits only after the oral proceedings.

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The Court was composed as follows in the case: Vice-President Weeramantry, Acting President, President Schwebel; Judges Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; Judges ad hoc Sir Robert Jennings, El-Kosheri; Registrar Valencia-Ospina.

Judges Bedjaoui, Guillaume and Ranjeva appended a joint declaration to the Judgment of the Court; Judges Bedjaoui, Ranjeva and Koroma appended a joint declaration; Judges Guillaume and Fleischhauer appended a joint declaration; Judge Herczegh appended a declaration. Judges Kooijmans and Rezek appended separate opinions. President Schwebel, Judge Oda and Judge ad hoc Sir Robert Jennings appended dissenting opinions.

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A summary of the Judgment is given in Press Communiqué No 98/5bis. The text of the declarations and a brief summary of the opinions may be found in the Annex to that press communiqué.

The full text of the Judgment, the declarations and opinions, as well as the Press Communiqués, are already available on the Court's Website (<http://www.icj-cij.org>).

The printed text of the Judgment and of the declarations and opinions appended to it will become available in due course (orders and enquiries should be addressed to the Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10; to the Sales Section, United Nations, New York, N.Y. 10017; or any appropriate specialized bookshop).

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