



INTERNATIONAL COURT OF JUSTICE

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Aerial Incident of 10 August 1999 (Pakistan v. India)

The Court decides that the question of its jurisdiction to entertain the Application shall be addressed first and fixes time-limits for the written pleadings thereon

THE HAGUE, 24 November 1999. By an Order of 19 November 1999 the International Court of Justice (ICJ) fixed 10 January 2000 and 28 February 2000 respectively as the time-limits for the filing of a Memorial by Pakistan and of a Counter-Memorial by India on the question of the Court's jurisdiction in the case concerning Aerial Incident of 10 August 1999 (Pakistan v. India).

In so doing, the Court took account of the statement by India in a letter of 2 November 1999, that it had "preliminary objections to the assumption of jurisdiction by the . . . Court . . . on the basis of Pakistan's Application" and of the provisional agreement reached by the Parties at a meeting on 10 November 1999 with the President of the Court, Judge Stephen M. Schwebel, to request the Court to determine separately the question of jurisdiction in the case before any proceedings on the merits. That agreement was later confirmed in writing by Pakistan.

Background Information

On 21 September 1999, the Islamic Republic of Pakistan instituted proceedings before the Court against India in respect of a dispute concerning the destruction on 10 August 1999 of a Pakistani aircraft.

In its Application, Pakistan contends that the "unarmed Atlantique aircraft of the Pakistan navy was on a routine training mission with sixteen personnel on board" when "while flying over Pakistan air space it was fired upon with air to air missiles by Indian air force planes, without warning", resulting in the death of all 16 personnel, "mostly young naval trainees". It maintains that the aircraft, when shot down, was in an area situated approximately 70 to 90 miles east of Karachi and that it was "carrying out various training exercises and manoeuvres of instrument". According to Pakistan, after radar contact was lost with the aircraft at 10.55 a.m, an intensive search was undertaken by Pakistani aircraft and helicopters and the wreckage was discovered around 2.55 p.m. 2 kilometres inside Pakistan territory.

Pakistan further maintains that in the two and a half hours which elapsed between the shooting down and the discovery of the wreckage, "Indian helicopters . . . sneaked into Pakistan's territory to pick up a few items from the debris . . . in order to produce 'evidence' for [India's] initial claim that the Atlantique had been shot down over Indian air space". However, according to Pakistan, because of the "overwhelming evidence . . . Indian officials were obliged to admit that the Atlantique had indeed been shot down over Pakistan's air space".

Pakistan states that the above-mentioned acts constitute breaches of the obligation to refrain from the threat or use of force under Article 2, paragraph 4, of the Charter of the United Nations; of the provisions of the Agreement of 6 April 1991 between Pakistan and India on Prevention of Air Space Violations; and of the obligations under customary international law not to use force and not to violate the sovereignty of another State.

Pakistan therefore requests the Court to judge and declare that "the acts of India . . . constitute breaches of the[se] various obligations . . . for which . . . India bears exclusive legal responsibility" and that "India is under an obligation to make reparations to . . . Pakistan for the loss of the aircraft and as compensation to the heirs of those killed".

As a basis for the Court's jurisdiction, Pakistan invoked the declarations by which both States have accepted the compulsory jurisdiction of the Court.

The full text of the Court's Order will shortly be available on the Court's website at the following address: <http://www.icj-cij.org>

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