

CORRESPONDENCE

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TO THE EDITOR IN CHIEF:

The World Court is still going strong.

As Professor Keith Highet rightly observed in his 1991 Editorial Comment in this *Journal*, the Peace Palace has heated up.¹ In 1992 J. J. Quintana, of the Colombian Foreign Ministry, gave further evidence of the Court's increased activity.² To demonstrate that the World Court is very much in business again, these remarks will briefly analyze some basic statistics on the judicial work of the Court during the biennium 1991–1992, using the General List, pleadings filed, orders and judgments given, and hearings and deliberations held at the Peace Palace.

In 1991–1992, under the “administration” of President Sir Robert Jennings and Registrar Eduardo Valencia-Ospina, the Court had a longer case list than at any previous stage in its history. Cases that were dealt with in one way or another by the Court or a chamber during this period averaged between ten and twelve, and eighteen states from different regions of the world participated.³ This record can only be appreciated against the background of previous decades.⁴ The number of cases submitted each year, which had averaged two or three during the fifties, fell to none or one in the sixties. From mid-1962 to January 1967, no new case was brought, and the situation was the same from February 1967 until August 1971. As of 1972, the number of cases brought before the Court increased, and between 1972 and 1985 cases averaged from one to three each year. Between 1980 and 1985, the number of cases that the Court had to deal with at any particular time stood, on average, between three and five, and between six and eight from 1985 to 1990.

The following aspects of judicial work have lent momentum to the Court's activities during the biennium 1991–1992.

During the calendar year 1991, the Court was seized of three new contentious cases: *Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)*,⁵ *Passage through the Great Belt (Finland v. Denmark)*,⁶ and *Mari-*

¹ See Keith Highet, *The Peace Palace Heats Up: The World Court in Business Again?*, 85 AJIL 646 (1991).

² Letter to the Editor, 86 AJIL 542 (1992).

³ These states are, in alphabetical order: Australia (2), Bahrain, Chad, Denmark (2), El Salvador, Finland, Guinea-Bissau (2), Honduras (2), Iran (2), Libya (3), Nauru, Nicaragua (3), Norway, Portugal, Qatar, Senegal (2), the United Kingdom and the United States (4). The Court has not been asked to exercise its *advisory* jurisdiction under Article 65 of its Statute and Article 96 of the UN Charter since 1989, when it ruled on *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, 1989 ICJ REP. 177 (Advisory Opinion of Dec. 15). However, an agenda item, No. 151, is pending before the UN General Assembly concerning a request for an advisory opinion by 21 Ibero-American states in connection with the U.S. Supreme Court's decision in *United States v. Alvarez-Machain*, 112 S.Ct. 2188 (1992). On November 25, 1992, the General Assembly decided to continue its consideration of this item and to include it in the provisional agenda of its forthcoming forty-eighth session. See UN Doc. A/47/713 (1992).

⁴ Since 1946, the ICJ (or one of its chambers) has handed down judgments (merits) in 38 cases, and 20 advisory opinions, for a total of about nine thousand pages in the *ICJ Reports*.

⁵ Application of March 12, 1991.

⁶ Application of May 17, 1991, followed by a request from Finland for the indication of provisional measures on May 23.

time Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain).⁷ In 1991 a total of twelve cases appeared on the General List at any particular time: eleven contentious cases dealt with by the full Court, and one chamber case. Besides the three new cases referred to, the contentious proceedings were: *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)* (Compensation Phase), *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*, *Aerial Incident of 3 July 1988 (Iran v. United States)*, *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*, *East Timor (Portugal v. Australia)*, and *Territorial Dispute (Libya/Chad)*, the only case brought before the full Court by virtue of a special agreement. The Chamber continued its consideration of *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.⁸

In total, pleadings were filed in the following eleven instances. Preliminary Objections were filed by Australia in the *Nauru* case on January 16, and by the United States in the *Aerial Incident* case on March 4. In the *Jan Mayen* case, the Reply of Denmark was filed on February 1, followed by the Rejoinder of Norway on October 1. In the Chamber case, written observations on the written statement of Nicaragua, as intervening party, were filed by both parties on March 14. On July 19, Nauru filed its written statement of observations and submissions on the Preliminary Objections raised by Australia in January. In the *Territorial Dispute* case, both parties filed a Memorial on August 26. Similar documents were filed by Portugal in *East Timor* on November 18, and by Finland in *Great Belt* on December 30.

In total, nine orders were made by the Court and its President. The full Court made three orders, in the *Nauru*,⁹ *Aerial Incident*¹⁰ and *Great Belt*¹¹ cases on February 8, April 9 and July 29, respectively. The President of the Court issued six orders: the one of September 26 removed *Military and Paramilitary Activities in and against Nicaragua* from the General List.¹² The five others fixed (or extended) time limits in the *East Timor*,¹³ *Great Belt*,¹⁴ *Territorial Dispute*,¹⁵ *Qatar v. Bahrain*¹⁶ and *Aerial Incident*¹⁷ cases on May 3, July 29, August 26, October 11 and December 18, respectively.

In 1991 the Court held a total of twenty-one public sittings (hearings) in three cases: seven in the *Arbitral Award* case between April 3 and 11, six in the *Great Belt* case (Provisional Measures) between July 1 and 5, and eight in the *Nauru* case (Preliminary Objections) between November 11 and 22. The Chamber constituted to deal with the *El Salvador/Honduras* case held an unprecedented number of fifty public sittings between April 15 and June 14. In addition, the full Court held thirty-seven private deliberations, and the Chamber twenty-eight.

Finally, on November 12, the Court delivered a Judgment on the merits in *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*.¹⁸

As in the previous year, during 1992 the Court was seized of three new contentious cases, in addition to the ten cases from the 1991 General List that were

⁷ Application of July 8, 1991.

⁸ The five-member Chamber was constituted by the Court, upon the request of the parties, by the Order of May 8, 1987, 1987 ICJ REP. 10.

⁹ 1991 ICJ REP. 3.

¹⁰ *Id.* at 6.

¹¹ *Id.* at 12 (Provisional Measures).

¹² *Id.* at 47.

¹³ *Id.* at 9.

¹⁴ *Id.* at 41.

¹⁵ *Id.* at 44.

¹⁶ *Id.* at 50.

¹⁷ *Id.* at 187.

¹⁸ *Id.* at 53.

still pending: the cases brought by Libya against the United Kingdom and the United States concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie*,¹⁹ and a case brought by Iran against the United States concerning *Oil Platforms*.²⁰ In addition, on October 23, Hungary filed an Application concerning a dispute with the former Czechoslovakia over the diversion of the Danube River. However, since Czechoslovakia had not in any way consented to the Court's jurisdiction, no action could be taken on this Application save for its transmission to the state named as respondent.²¹ Two cases that had been pending in 1991 were discontinued: *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and *Passage through the Great Belt (Denmark v. Norway)*. The Chamber continued its deliberations in the *El Salvador/Honduras* case.

In total, pleadings were filed in the following thirteen instances. A Memorial concerning jurisdiction and admissibility in the *Qatar v. Bahrain* case was filed on February 10. In the *Territorial Dispute* case, Libya and Chad each filed a Counter-Memorial on March 27. On June 1, Counter-Memorials were filed in the *Great Belt* and *East Timor* cases, followed by one in *Qatar v. Bahrain* on June 11. On September 9, Iran filed its written observations and submissions on the Preliminary Objections raised by the United States in the *Aerial Incident* case. Libya and Chad both filed a Reply in their case on September 14. Similar documents were filed in *Qatar v. Bahrain* on September 28,²² and in *East Timor* on December 1. On December 9, the Court received written observations from the International Civil Aviation Organization on the pleadings filed by Iran and the United States in the *Aerial Incident* case.²³ Finally, a Rejoinder was filed in the *Qatar v. Bahrain* case on December 29.

Another milestone in 1992 was the rare total of twelve orders. Eight were made by the full Court. Of these, five fixed time limits: in *Territorial Dispute*,²⁴ *East Timor*,²⁵ the two *Lockerbie* cases²⁶ and *Qatar v. Bahrain*,²⁷ on April 14, June 19 (three) and June 26, respectively. An Order of May 27 removed *Border and Transborder Armed Actions* from the Court's list.²⁸ On June 19, the Court issued orders on the Libyan request for the indication of provisional measures in the two *Lockerbie* cases.²⁹ The remaining four orders were made by the President of the Court. Three fixed (or extended) time limits—in *Aerial Incident*,³⁰ *Nauru*³¹ and *Oil Platforms*,³² on June 5, June 29 and December 4, respectively—and the fourth, made on September 10, removed *Passage through the Great Belt* from the General List.³³

In 1992 the Court held a total of five public sittings in the two *Lockerbie* cases (Provisional Measures) between March 26 and 28. As for private deliberations, the full Court held twenty-six altogether, and the Chamber nineteen.

¹⁹ Both Applications were filed on March 3, 1992.

²⁰ Application filed on November 2, 1992.

²¹ See ICJ Rules of Court, Art. 38, para. 5, reprinted in 73 AJIL 748, 761 (1979). On January 1, 1993, the state of Czechoslovakia was dissolved and two new states, the Czech Republic and the Slovak Republic, emerged, which became the 179th and 180th member states of the United Nations.

²² This was the first time in its history that the Court had directed that there be a second round of written pleadings, consisting of a Reply and a Rejoinder, in initial proceedings addressed to the jurisdiction of the Court to entertain the dispute and the admissibility of the Application. See *id.*, Art. 45, para. 2.

²³ See ICJ Statute, Art. 34, and Rules of Court, *supra* note 21, Art. 69, para. 3.

²⁴ 1992 ICJ REP. 219.

²⁵ *Id.* at 228.

²⁶ *Id.* at 231 (Libya v. UK), 234 (Libya v. U.S.).

²⁷ *Id.* at 237.

²⁸ *Id.* at 222.

²⁹ *Id.* at 3 (Libya v. UK), 114 (Libya v. U.S.).

³⁰ *Id.* at 225.

³¹ *Id.* at 345.

³² *Id.* at 763.

³³ *Id.* at 348.

On June 26, the Court delivered a Judgment on the Preliminary Objections of Australia in the *Nauru* case.³⁴ Finally, the Chamber constituted to deal with one of the most voluminous cases ever submitted to the Hague Court, namely, *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, delivered its Judgment on the merits, which consisted of over four hundred pages,³⁵ on September 11.

The above data demonstrate that, during the biennium 1991–1992, several quantitative records were broken by the World Court in its judicial work, which betokens a successful start to the United Nations Decade of International Law.

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³⁴ *Id.* at 240. For a summary of the Judgment, see the case note by Antony Anghie, 87 AJIL 282 (1993).

³⁵ 1992 ICJ REP. 351 (including opinions).

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