intention of Yugoslavia to entrust the Court with the resolution of those disputes about the legality of the NATO bombing; it is therefore not easy to reconcile with the reasoning of the Court in the recent *Fisheries Jurisdiction* (*Spain* v. *Canada*) case in which the Court held that regard should be paid to the intent of the State making the reservation.[19] However, the Court was not willing openly to espouse Judge Oda's position that "acceptance by Yugoslavia of the Court's jurisdiction only a matter of days before it filed its application with the Court is not an act done in good faith and is contrary to the proper concept of acceptance of the compulsory acceptance of the Court under the optional clause in the Statute."

F. Conclusions

In these cases Yugoslavia attempted to bring claims against ten NATO States for their air campaign, while at the same time protecting itself from counterclaims for its own actions in Kosovo. The Court was not willing openly to condemn Yugoslavia for abuse of process. However, the Court's decision to refuse provisional measures on the basis of lack of *prima facie* jurisdiction on the merits contained certain controversial features that may best be understood as a result of its determination not to be manipulated by an opportunist State.

As far as the Genocide Convention was concerned, the Court's main decision that this did not provide *prima facie* jurisdiction over the subject matter of Yugoslavia's claims rested on a crucial determination as to the concept of genocide. Its finding that intent to destroy a national, ethnical, racial or religious group had to be provided by Yugoslavia and could not be inferred from NATO's actions was decisive in the rejection of Yugoslavia's application for provisional measures. It is also likely to be important in other cases, but nevertheless this finding by the Court was made extremely briefly and without doctrinal discussion.

As far as the Optional Clause was concerned, the Court's central decision was based on an interpretation of the Yugoslav reservation *ratione temporis*. The Court construed this without giving predominance to Yugoslavia's intentions in making the reservation. Its determination that the dispute was a unity, arising at the start of the bombing campaign, and that it could not be broken up into a series of separate legal disputes meant that the Yugoslav reservation operated against Yugoslavia's own interest and deprived the Court of *prima facie* jurisdiction.

Although these decisions by the Court were nominally provisional, in fact they make it extremely unlikely that Yugoslavia will succeed in establishing the jurisdiction of the Court to hear the merits of the cases.

CHRISTINE GRAY

KASIKILI/SEDUDU ISLAND (BOTSWANA/NAMIBIA)

A commentary on this case will appear in the October issue of this Journal.

II. CASES BEFORE THE COURT*

1. Maritime Delimitation and Territorial Questions Between Qatar and Bahrain (*Qatar* v. *Bahrain*).

19. I.C.J. Rep. 1998, para.49.

* As at 31 May 2000.

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Qatar instituted proceedings against Bahrain on 8 July 1991 in a dispute concerning sovereignty, sovereign rights and the delimitation of maritime areas. Bahrain raised preliminary objections in July 1991. Following its judgments of 1 July 1994[1] and 15 February 1995[2] the Court found that it had jurisdiction and that the application (as reformulated on 30 November 1994) was admissible.[3] By an order of 28 April 1995[4] memorials were to be submitted by both States by 29 February 1998, subsequently extended to 30 September by an order of 1 February 1996.[5] By an order of 30 October 1996[6] counter-memorials were to be submitted by 31 December 1997. However, on 25 September 1997 Bahrain challenged the authenticity of 81 documents annexed to the Qatar memorial and sought clarification of their status as a preliminary issue. By an order of 30 March 1998[7] the Court set 30 March 1999 as the time limit for the filing of replies by both States but also decided that Qatar should file an interim report on the status of the disputed documents by 30 September 1998 and that Bahrain's reply should contain its observations on this report. In its interim report, submitted on 30 September 1998, Qatar announced that it would not rely on the disputed documents and, in an order of 17 February 1999,[8] the Court decided that the replies to be filed by both States would not rely on them and extended the time limit for submission until 30 May 1999. Both replies were filed within the time limit and the oral hearings on the merits opened on 29 May 2000.[9]

2. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (*Libyan Arab Jamahiriya* v. *United Kingdom*).

Libya instituted proceedings against the United Kingdom and the United States on 3 March 1992, arguing that it was entitled itself under the Montreal Convention to try those suspected of the destruction of Pan Am Flight 103 over Lockerbie and requested an award of provisional measures to prevent further action to compel their surrender pending the outcome of the case. In its orders of 14 April 1992[10] the Court declined to do so. In orders of 19 June 1992[11] the following time limits were set for the submission of written pleadings: Libya, memorial, 20 December 1993; United Kingdom and the United States, counter-memorials, 20 June 1995. Preliminary objections were filed by the United Kingdom and the United States on 16 and 20 June 1995 respectively but in its judgments of 27 February 1998[12] the Court found it did have jurisdiction and that the application was admissible. In orders of 30 March 1998[13] the time limit for the filing of counter-memorials by the United Kingdom and the United States was set as 30 December 1998 but by orders of 17 December 1998[14] this was extended to 31 March 1999. In an order of 29 June 1999[15] the Court fixed 29 June 2000 as the time limit for the filing of a reply by Lybia and authorized the filing of a rejoinder by the United Kingdom and the United States but without setting a date for this.

1. I.C.J. Rep. 1994, 112.
2. I.C.J. Rep. 1995, 6.
3. See M. D. Evans, Case Note, (1995) 44 I.C.L.Q. 691.
4. I.C.J. Rep. 1995, 83.
5. I.C.J. Rep. 1996, 6.
6. I.C.J. Rep. 1996, 800.
7. I.C.J. Rep. 1998, 243.
8. I.C.J. Rep. 1999, 3.
9. I.C.J. Press Communiqué No. 2000/13.
10. I.C.J. Rep. 1992, 3, 14. See F. Beveridge, "The Lockerbie Affair", (1992) 41 I.C.L.Q. 907.
11. I.C.J. Rep. 1992, 231, 234.
12. See F. Beveridge, Case Note, (1999) 48 I.C.L.Q. 658.
13. I.C.J. Rep. 1998, 237, 240.
14. I.C.J. Rep. 1998, 746, 749.
15. I.C.J. Press Communiqué No. 99/36.

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3. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (*Libyan Arab Jamahiriya* v. *United States of America*).

See previous entry.

4. Oil Platforms (*Islamic Republic of Iran* v. *United States of America*).

Iran instituted proceedings against the United States on 2 November 1992 with respect to the destruction of Iranian oil platforms, allegedly in breach of the 1955 Treaty of Amity, Economic Relations and Consular Rights. By an order of 4 December 1992[16] the following time limits were set for the submission of written pleadings: Iran, memorial, 31 May 1993; United States, counter-memorial, 30 November 1993. These were extended by an order of 3 June 1993[17] to: Iran, memorial, 8 June 1993; United States, counter-memorial, 16 December 1993. On 16 December 1993 the United States filed preliminary objections. In its judgment of 12 December 1996[18] the Court found that it had jurisdiction to entertain the claims[19] and, by an order of 16 December 1996,[20] fixed 23 June 1997 as the date for the submission of the United State's counter-memorial. The counter-memorial, submitted on 23 June 1997, contained a counter-claim against Iran and, in an order of 19 March 1998,[21] the Court held this to be admissible and that it formed a part of the current proceedings. The following time limits were set for the written pleadings on the merits: Iran, reply, 10 September 1998; United States, rejoinder, 23 November 1999. By an order of 26 May 1998[22] these were extended to: Iran, reply, 10 December 1998; United States, rejoinder, 23 May 2000. By an order of 8 December 1998[23] they were further extended to: Iran, reply, 10 March 1999; United States, rejoinder, 23 November 2000.

5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina* v. *Yugoslavia*).

The Republic of Bosnia and Herzegovina instituted proceedings against Yugoslavia on 20 March 1993 alleging violations of the 1949 Genocide Convention and requesting an indication of provisional measures which was made in an order of 8 April 1993.[24] This was reaffirmed in an order of 13 September 1993,[25] following a second request for provisional measures made by Bosnia and Herzegovina on 27 July 1993 and a request made by Yugoslavia on 10 August 1993.[26] By an order of 16 April 1993[27] the following time limits were set for the filing of the written pleadings: Bosnia and Herzegovina, memorial, 15 October 1993; Yugoslavia, counter-memorial, 15 April 1994. By an order of 7 October 1993[28] these were extended to: Bosnia and Herzegovina, memorial, 15 April 1994; Yugoslavia, counter-memorial, 15 April 1995 and, by order of 21 March 1995,[29] the date for the submission of the Yugoslavian counter-memorial was again extended to 30 June 1995. On 26 June 1995 Yugoslavia

16. I.C.J. Rep. 1992, 763.
17. I.C.J. Rep. 1993, 35.
18. I.C.J. Rep, 1996, 803.
19. See M. D. Evans, Case Note, (1997) 46 I.C.L.Q. 693.
20. I.C.J. Rep. 1996, 902.
21. I.C.J. Rep. 1998, 190.
22. I.C.J. Rep. 1998, 269.
23. I.C.J. Rep. 1998, 740.
24. I.C.J. Rep. 1993, 3.
25. I.C.J. Rep. 1993, 325.
26. See C. Gray, Case Note, (1994) 43 I.C.L.Q. 705.
27. I.C.J. Rep. 1993, 29.
28. I.C.J. Rep. 1993, 470.
29. I.C.J. Rep. 1995, 80.

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submitted preliminary objections which were rejected by the Court in its order of 11 July 1996.[30] By an order of 23 July 1996[31] the time limit for filing the Yugoslav counter-memorial was fixed as 23 July 1997. The counter-memorial was filed on 22 July 1997 and contained counter-claims against Bosnia and Herzegovina and, in an order of 17 December 1997,[32] the Court held this to be admissible and that it formed a part of the current proceedings. The following time limits were set for the written pleadings on the merits: Bosnia and Herzegovina, reply, 23 January,1998; Yugoslavia, rejoinder, 23 July 1998. By an order of 22 January 1998[33] these were extended to Bosnia and Herzegovina, reply, 23 April 1998; Yugoslavia, rejoinder, 22 January 1999. By an order of 11 December 1998[34] the time limit for the submission of the Yugoslav rejoinder was further extended, to 22 February 1999.

6. Gabčikovo-Nagymaros Project (*Hungary/Slovakia*).

On 2 July 1993, in pursuance of a Special Agreement of 7 April 1993, Hungary and Slovakia requested the Court to determine certain issues arising out of the implementation and termination of a 1977 Agreement on the construction and operation of the Gabčikovo-Nagymaros barrage system. In its judgment of 25 September 1997[35] the Court found both States to be in breach of their obligations and called on them to negotiate a settlement in good faith.[36] On 3 September 1998 Slovakia filed a request for an additional judgment, arguing that Hungary was unwilling to implement to judgment[37]and it was subsequently agreed that Hungary would file a written statement of its position regarding this request by 7 December 1998.[38]

7. Land and Maritime Boundary between Cameroon and Nigeria *(Cameroon* v. *Nigeria*).

Cameroon instituted proceedings against Nigeria on 29 March 1994 in a dispute concerning sovereignty over the Bakasi Peninsula and over their maritime frontier and, by an additional application on 6 June 1994, requested the Court to determine the frontier between the two States from Lake Chad to the sea, order withdrawal of Nigerian troops from Cameroonian territory and determine reparations. By an order of 16 June 1994[39] the following time-limits were set for the submission of written pleadings: Cameroon, memorial, 16 March 1995; Nigeria, counter-memorial, 18 December 1995. On 13 December 1995 Nigeria raised objections to the jurisdiction of the Court and the admissibility of the claims. On 12 February 1996 Cameroon made a request for an award of provisional measures. The Court made an order concerning an award of provisional measures on 15 March 1996[40] and in its judgment of 11 June 1998[41] ruled that it had jurisdiction and found the claim admissible.[42] In an order of 30 June 1998[43] the time limit for the filing of the Nigerian counter-memorial was fixed as 31 March 1999 but by an order of 3 March 1999[44] this was extended to 31

30. I.C.J. Rep. 1996, 595. See C. Gray, Case Note, (1997) 46 I.C.L.Q. 688.
31. I.C.J. Rep. 1996, 797.
32. I.C.J. Rep. 1997, 243.
33. I.C.J. Rep. 1998, 3.
34. I.C.J. Rep. 1998, 743.
35. I.C.J. Rep. 1997, 7.
36. See P.N. Okowa, Case Note, (1998) 47 I.C.L.Q. 688.
37. I.C.J. Press Communiqué No. 98/28
38. I.C.J. Press Communiqué No. 98/31.
39. I.C.J. Rep. 1994, 105.
40. I.C.J. Rep. 1996, 13. See J. G. Merrills, Case Note, (1997) 46 I.C.L.Q. 676.
41. I.C.J. Rep. 1998, 275.
42. See J. G. Merrills, *supra* p.720.
43. I.C.J. Rep. 1998, 420.
44. I.C.J. Rep. 1999, 24.

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May 1999. The Nigerian counter-memorial contained a number of counter-claims against Cameroon and, in an order of 30 June 1999, the Court held them to be admissible and that they formed a part of the current proceedings.[45] Meanwhile, on 29 October1998 Nigeria made a request for an interpretation of the Court's judgment of 11 June 1988,[46] which was declared inadmissible in the Court's judgment of 25 March 1999.[47] On 30 June 1999 Equatorial Guinea filed an application to intervene[48] which was authorised by the Court in its order of 21 October 1999.[49]

8. Sovereignty over Pulau Ligitan and Pulua Sipadan (*Indonesia/Malaysia*).

On 2 November 1998, in pursuance of a Special Agreement dated 31 May 1997 (in force 14 May 1998), Indonesia and Malaysia seised the Court of their dispute concerning the sovereignty of the above named islands. In an order of 10 November 1998,[50] the following time limits were set for the submission of written pleadings by both parties: memorials, 2 November 1999, counter-memorials, 2 March 2000. By an order of 14 September 1999[51] the time limit for the filing of the counter-memorials was extended to 2 July 2000 and, by an order of 11 May 2000, this time limit was further extended to 2 August 2000.[52]

9. Ahmadou Sadio Diallo (*Republic of Guinea* v. *Democratic Republic of the Congo*).

Guinea instituted proceedings against the Democratic Republic of Congo on 28 December 1998 alleging grave breaches of international law perpetrated upon a national of Guinea. By an order of 25 November 1999[53] the following time limits were set for the submission of written pleadings: Republic of Guinea, memorial, 11 September 2000; Democratic Republic of the Congo, counter-memorial, 11 September 2001.

10. LeGrand (*Germany* v. *United States of America*).

Germany instituted proceedings against the United States on 2 March 1999, alleging violations of the 1963 Vienna Convention on Consular Relations with respect two German nationals convicted of murder in Arizona. The Court issued an order for provisional measures on 3 March 1999.[54] In an order of 5 March 1999[55] the following time limits were set for the submission of written pleadings: Germany, memorial, 16 September 1999; United States, counter-memorial, 27 March 2000.

11. Legality of Use of Force (*Yugoslavia* v. *Belgium*).

Yugoslavia instituted proceedings against Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal, Spain, the United Kingdom and the United States of America on 29 April 1999, alleging that they had been involved in the bombing of Yugoslav territory in violation of their obligations not to use force against another State and requested an award of provisional measures calling upon them to cease doing so. In its orders of 2 June 1999[56] the Court declined to do so and struck the

45. I.C.J. Press Communiqué No. 99/37.
46. I.C.J. Communiqué No. 98/34.
47. I.C.J. Press Communiqué No. 99/14. See J. G. Merrills, Case Note, (1999) 48 I.C.L.Q. 651.
48. I.C.J. Press Communiqué No. 99/35.
49. I.C.J. Press Communiqué No. 99/44. See J.G. Merrills, Case Note, *supra* p.731.
50. I.C.J. Rep. 1998, 429.
51. I.C.J. Press Communiqué No. 99/40.
52. I.C.J. Press Communiqué No. 2000/14.
53. I.C.J. Press Communiqué No. 99/49.
54. I.C.J. Rep. 1999, 9. See M. K Addo, Case Note, (1999) 58 I.C.L.Q. 673.
55. I.C.J. Rep. 1999, 28.
56. I.C.J. Press Communiqué No. 99/39.

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applications against Spain and the United States of America from its list.[57] In orders of 30 June 1999[58] the following time limits were set by the Court for the submission of written pleadings: Yugoslavia, memorial, 5 January 2000; respondent States, counter-memorials, 5 July 2000.

12. Legality of Use of Force (*Yugoslavia* v. *Canada*).

See previous entry.

13. Legality of Use of Force (*Yugoslavia* v. *France*).

See previous entry.

14. Legality of Use of Force (*Yugoslavia* v. *Germany*).

See previous entry.

15. Legality of Use of Force (*Yugoslavia* v. *Italy*).

See previous entry.

16. Legality of Use of Force (*Yugoslavia* v. *Netherlands*).

See previous entry.

17. Legality of Use of Force (*Yugoslavia* v. *Portugal*).

See previous entry.

18. Legality of Use of Force (*Yugoslavia* v. *United Kingdom*).

See previous entry.

19. Armed activities on the territory of the Congo (*Democratic Republic of the Congo* v. *Burundi*).

The Democratic Republic of the Congo (DRC) instituted proceedings against Burundi, Uganda and Rwanda on account of "acts of armed aggression". On 19 October 1999 Burundi and Rwanda raised preliminary objections to the jurisdiction of the Court and the admissibility of the claims. In an order of 21 October 1999[59] the following time limits were set for the submission of written proceedings on these preliminary issues: Burundi and Rwanda, memorials, 21 April 2000; DRC, counter-memorials, 23 October 2000.

20. Armed activities on the territory of the Congo (*Democratic Republic of the Congo* v. *Rwanda*).

See previous entry.

21. Armed activities on the territory of the Congo (*Democratic Republic of the Congo* v. *Uganda*).

The Democratic Republic of the Congo (DRC) instituted proceedings against Burundi, Uganda and Rwanda on account of "acts of armed aggression". In an order of 21 October 1999[60] the following time limits were set for the submission of written proceedings on the merits of the dispute: DRC, memorial, 21 July 2000; Uganda, counter-memorial, 21 April 2001.

57. See C. Gray, Case Note, *supra* p.730.
58. I.C.J. Press Communiqué No. 99/33.
59. I.C.J. Press Communiqué No. 99/45.
60. *Ibid.*

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22. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Croatia* v. *Yugoslavia*).

Croatia instituted proceedings against Yugoslavia on 2 July 1999, alleging violations of the 1949 Genocide Convention and seeking reparations. In an order of 14 September 1999[61] the following time limits were set for the submission of written pleadings: Croatia, memorial, 14 March 2000; Yugoslavia, counter-memorial, 14 September 2000. In an order of 10 March 2000[62] these were extended to: Croatia, memorial, 14 September 2000, Yugoslavia, counter-memorial, 14 September 2001.

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

Pakistan instituted proceedings against India on 21 September 1999 in respect of a dispute concerning the destruction of a Pakistani aircraft. On 2 November 1999 India raised preliminary objections to the jurisdiction of the Court and in an order of 19 November 1999[63] the following time limits were set for the submission of written pleadings on the question of jurisdiction: Pakistan, memorial, 10 January 2000; India, counter-memorial, 28 February, 2000. Public hearings were held from 3–6 April 2000[64] and judgment is expected in autumn 2000.

24. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (*Nicaragua* v. *Honduras*).

Nicaragua instituted proceedings against Honduras on 8 December 1999 regarding a dispute concerning the delimitation of maritime zones between them in the Caribbean Sea and requesting that the Court determine the course of a single maritime boundary between their respective areas of territorial sea, continental shelf and exclusive economic zone. In an order of 21 March 2000[65] the following time limits were set for the submission of written pleadings: Nicaragua, memorial, 21 March 2001; Honduras, counter-memorial, 21 March 2002.

III. OTHER DEVELOPMENTS

1. In the triennial election of five members to the Court held on 3 November 1999 the UN General Assembly and Security Council re-elected Judges Gilbert Guillaume (France), Raymond Ranjeva (Madagascar), Rosalyn Higgins (United Kingdom), Gonzalo Parra-Aranguren (Venezuela) and elected Awn Shawkat Al-Khasawneh (Jordan). These terms of offices began on 6 February 2000 and will expire on 5 February 2009.

2. On 7 February 2000 Judge Guillaume was elected President and Judge Jiuyong elected Vice-President of the Court. Both will serve a three year term of office.

3. On 8 February 2000 the Court determined the membership of its Chamber of Summary Procedure as comprising Judges Guillaume, Jiuyong, Herczegh, Koroma and Parra-Aranguren and of its Chamber for Environmental Matters as comprising Judges Guillaume, Jiuyong, Bedjaoui, Ranjeva, Herczegh, Rezek and Al-Khasawneh.

4. On 10 February 2000 Mr Phillipe Couvreur was elected Registrar following the resignation of Mr Valencia-Ospina.

61. I.C.J. Press Communiqué No. 99/41.
62. I.C.J. Rep. 2000, 3.
63. I.C.J. Press Communiqué No. 99/48.
64. I.C.J. Press Communiqué No. 2000/12.
65. I.C.J. Rep. 2000, 6.

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5. On 2 March 2000 the UN General Assembly and Security Council elected Mr Thomas Buergenthal (United States of America) to be a member of the Court, filling the vacancy caused by the resignation of Judge Schwebel as of 29 February 2000. This term of office expires on 5 February 2006.

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