and purpose of such treaties. Prior to this judgment, who would have thought that these articles could be interpreted in this way? What makes such interpretations remotely tenable is the underlying assumption (reflected in numerous passages in the judgment and retained in this comment) that the purpose of this jurisdictional phase was to see if the 1955 Treaty could be used as a way of putting the legality of the US actions before the Court. It has found that it can. The broader question is whether it ought.[38] Against this background, it is not surprising that the "plausibility" test for determining jurisdiction was not adopted. Now that the interpretation and applicability of the Treaty have been determined at the jurisdictional phase, it remains to be seen whether the Court will revisit this at the merits phase or focus upon whether or not there has been a breach. It does seem that the Court might be in the process, once again, of allowing an applicant to use a compromissory clause as a surrogate for its lack of jurisdiction over the principal issue at stake between the parties.

MALCOLM D. EVANS

II. CASES BEFORE THE COURT*

A. Contentious Cases

1. Maritime Delimitation and Territorial Questions Between Qatar and Bahrain (*Qatar* v. *Bahrain*).
2. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (*Libyan Arab Jamahiriya* v. *United Kingdom*), Jurisdiction and Admissibility.
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*), Jurisdiction and Admissibility.
4. Case Concerning Oil Platforms (*Islamic Republic of Iran* v. *United States of America*).
5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina* v. *Yugoslavia*).
6. Gabčíkovo-Nagymaros Project (*Hungary/Slovakia*).
7. Land and Maritime Boundary between Cameroon and Nigeria (*Cameroon* v. *Nigeria*), Jurisdiction and Admissibility.

38. In his dissenting opinion Judge Oda argued that the Court ought not to exercise jurisdiction on the basis of compromissory clauses in bilateral treaties which raised questions concerning their "object and purposes", as opposed to their interpretation and application. He thought that the object and purpose of such treaties were conclusively settled with the meeting of minds that was necessary for the conclusion of such a treaty. To allow such claims would, he thought, encourage the creation of disputes which appeared to fall within the terms of the treaty but which were in fact unconnected with it, thereby inviting cases "by the back door". His solution might be overly restrictive, but Judge Oda clearly marks out the problem with the Court's approach. Of course, the Court would claim that this case does raise issues of interpretation, rather than of ascertaining its object and purposes.

* As at 31 May 1997. All cases listed are being considered on the merits unless otherwise indicated.

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8. Fisheries Jurisdiction Case (*Spain* v. *Canada*), Jurisdiction.
9. Case Concerning Kasikili/Sedudu Island (*Botswana/Namibia*).

III. OTHER DEVELOPMENTS

1. In the triennial election of five members to the Court held on 6 November 1996 the UN General Assembly and Security Council re-elected Judges Mohammed Bedjaoui (Algeria), Stephen M. Schwebel (United States) and Vladlen S. Vereschetin (Russian Federation) and elected, as from 6 February 1997, Peiter H. Kooijmans (Netherlands) and José F. Rezek (Brazil). These terms of office will expire on 5 February 2006.
2. On 6 February 1997 Judge Schwebel was elected President and Judge Weeramantry elected Vice-President of the Court. These terms of office will expire on 5 February 2000.
3. The mandate of the Chamber of the Court for Environmental Matters has been continued.*
4. The first round of oral hearings in the case concerning the Gabčíkovo-Nagymaros Project (*Hungary/Slovakia*) was held from 3–7 (Hungary) and 24–27 (Slovakia) March 1997. The Court visited the area concerned at the invitation of the parties from 1–4 April 1997, this being the first such visit which it has undertaken. The second round of oral hearings was held from 10–11 (Hungary) and 14–15 (Slovakia) April 1997. Mr Krzysztof J. Skubiszewski was chosen by Slovakia to sit as Judge *ad hoc*.

* The Chamber comprises Judge Schwebel (President), Judge Weeramantry (Vice-President), and Judges Bedjaoui, Ranjeva, Herezegh and Fleischhauer.

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