The Republic of the Marshall Islands files Applications against nine States or their alleged failure to fulfil nuclear obligations

Friday 25 April, 2014

THE HAGUE, 25 April 2014. The Government of the Republic of the Marshall Islands yesterday simultaneously filed in the
Registry of the Court separate Applications against nine States (in alphabetical order: China, the Democratic People's
Republic of Korea, France, India, Israel, Pakistan, the Russian Federation, the United Kingdom of Great Britain and
Northern Ireland and the United States of America) accusing them of not fulfilling their obligations with respect to the
cessation of the nuclear arms race at an early date and to nuclear disarmament.

While these nine Applications all relate to the same matter, the Republic of the Marshall Islands distinguishes between
those three States (India, Pakistan and the United Kingdom of Great Britain and Northern Ireland) which have recognized
the compulsory jurisdiction of the Court (pursuant to Article 36, paragraph 2, of the Statute of the Court), and those
which have not done so.

Within each of these two groups, the Republic of the Marshall Islands further distinguishes between those States which
have currently ratified the Treaty on Non-Proliferation of Nuclear Weapons (hereafter: "NPT"), and those which have not
done so. The Republic of the Marshall Islands recalls that it acceded to that Treaty as a Party on 30 January 1995.

A. Bases for the Court's jurisdiction invoked by the Applicant

1. In respect of India, Pakistan and the United Kingdom

In support of its Applications against India, Pakistan and the United Kingdom of Great Britain and Northern Ireland, the
Applicant invokes, as basis for the Court's jurisdiction, Article 36, paragraph 2, of its Statute, referring to the
declarations accepting the compulsory jurisdiction of the Court made under that provision by the Republic of the
Marshall Islands (24 April 2013), by India (18 September 1974), by Pakistan (13 September 1960) and by the United
Kingdom of Great Britain and Northern Ireland (5 July 2004).

In accordance with Article 38, paragraph 4, of the Rules of Court, the Application of the Republic of the Marshall
Islands has been transmitted to the governments of India, Pakistan and the United Kingdom of Great Britain and Northern
Ireland. Under the terms of that provision: "The Registrar shall forthwith transmit to the respondent a certified copy
of the application."

Each of the cases will be entered in the General List.

The full text of the Applications of the Republic of the Marshall Islands against the three States in question will be
available shortly on the Court's website (www.icj-cij.org, under the heading "Cases"/"Pending Cases"). The full text of
the above-mentioned declarations accepting the compulsory jurisdiction of the Court can also be found online, under the
heading "Jurisdiction".

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2. In respect of the six other States

With respect to the six other States (China, the Democratic People's Republic of Korea, France, Israel, the Russian Federation and the United States of America), the Republic of the Marshall Islands seeks to found the Court's jurisdiction, pursuant to Article 38, paragraph 5, of the Rules of Court, on the consent of those States. Under the terms of that provision:

"When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

In accordance with Article 38, paragraph 5, of the Rules of Court, the Applications of the Republic of the Marshall Islands have been transmitted to the six Governments concerned. Unless and until consent is given to the Court's jurisdiction, there is no case to be entered in the General List.

B. The Applicant's claims

1. Of the three cases instituted today by the Republic of the Marshall Islands, one concerns a State party to the NPT (United Kingdom), and the other two relate to States not parties to the NPT (India and Pakistan).

In relation to the United Kingdom, the Republic of the Marshall Islands invokes breaches of Article VI of the NPT, which provides that: "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control." The Republic of the Marshall Islands contends that "by not actively pursuing negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, the Respondent has breached and continues to breach its legal duty to perform its obligations under the [1968 Nuclear Non-Proliferation Treaty] and customary international law in good faith". The Applicant further accuses the United Kingdom of, inter alia, opposing United Nations General Assembly resolutions calling for negotiations to begin; adopting a "negative and obstructive" conduct with regard to the cessation of the nuclear arms at an early date; and repeatedly declaring its intention to rely on their nuclear arsenal for decades to come.

In addition, the Applicant requests the Court to order the United Kingdom to take all steps necessary to comply with its obligations under Article VI of the NPT and under customary international law within one year of the Judgment, including the pursuit, by initiation if necessary, of negotiations in good faith aimed at the conclusion of a convention on nuclear disarmament in all its aspects under strict and effective international control.

In relation to India and Pakistan, the Republic of the Marshall Islands asserts that "the obligations enshrined in Article VI of the NPT are not merely treaty obligations; they also exist separately under customary international law" and "apply to all States as a matter of customary international law". The Applicant contends that "by

engaging in
conduct that directly conflicts with the obligations of nuclear disarmament and cessation of the nuclear arms race at an
early date, [India and Pakistan have] breached and continue to breach [their] legal duty to perform [their] obligations
under customary international law in good faith". The Applicant accuses India and Pakistan of, inter alia, engaging in a
course of conduct, the quantitative build-up and qualitative improvement of their nuclear forces, contrary to the
objective of nuclear disarmament; being engaged in all-out nuclear arms racing; encouraging other States possessing
nuclear weapons to follow suit and potentially inducing non-nuclear-weapon States to reconsider their non-nuclear
posture; and manifesting an intention to rely on their nuclear arsenals for decades to come.

The Applicant further requests the Court to order the Respondents to take all steps necessary to comply with their
obligations under customary international law with respect to cessation of the nuclear arms race at an early date and
nuclear disarmament within one year of the Judgment, including the pursuit, by initiation if necessary, of negotiations
in good faith aimed at the conclusion of a convention on nuclear disarmament in all its aspects under strict and
effective international control.

2. In respect of the six States which have been invited by the Republic of the Marshall Islands to accept the Court's
jurisdiction pursuant to Article 38, paragraph 5, of the Rules of Court:

- as regards the States parties to the NPT (China, France, Russian Federation and United States of America), the
Republic of the Marshall Islands asserts claims similar to those asserted against the United Kingdom;

- as regards the States non-parties to the NPT (the Democratic People's Republic of Korea and Israel), the Republic of
the Marshall Islands asserts claims similar to those asserted against India and Pakistan

Note: The Court's press releases are drafted by the Registry for information purposes only and do not constitute
official documents.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by
the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace
Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in
New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted
to it by States (its judgments have binding force and are without appeal for the parties concerned); and, - 4 - second,
to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the
system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council
of the United Nations.

Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose
activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French
and English. Also known as the "World Court", it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United

Nations system for advisory proceedings, should not be confused with the other ? mostly criminal ? judicial institutions
based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an
ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international
criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for
Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations
tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an
independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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