**Research Report**

**International Court of Justice**



***Addressing the Air Dispute between Qatar and United Arab Emirates***

*Student Officers:*

*Celine Lu and Lisa-Ling Scheermeijer*

**Introduction**

The International Court of Justice (ICJ) on Saudi Arabia, the UAE, Bahrain, and Egypt imposed a blockade on Qatar, restricting its access by air, sea, and land. ‘These measures include preventing Qatar’s aircrafts from landing or departing from airports of the appellants and denies them the right to overfly their territories’ (Oxford International Organizations, 2021). These restrictions are applied to aircrafts registered in Qatar and the aircrafts flying in and out of Qatar.

On October 30th 2017, Qatar took this case to the International Civil Aviation Organization (ICAO), claiming that Saudi Arabia, the UAE, Bahrain, and Egypt violated the Chicago Convention and International Air Services Transit Agreement (IASTA). Following these submissions, the four states raised two preliminary objections to each of Qatar’s claims, arguing that the ICAO Council lacks the jurisdiction to discuss these claims. Both preliminary objections were rejected by the ICAO Council on 29 June 2018.

After the judgement of the ICAO Council, Saudi Arabia, the UAE, Bahrain, and Egypt took the case to the International Court of Justice, arguing the same objections made for the preliminary objections to the ICAO Council. Qatar reiterates that the blockade violated international law, particularly the Chicago Convention on civil aviation, which guarantees freedom of air travel and forbids unjust airspace restrictions.

**The Committee**

​​The International Court of Justice (ICJ) is the United Nation’s principal judicial organ. The ICJ consists of the President of the ICJ, the Vice-President and the Head of Judges. These roles will be assigned to the student officers. The ICJ has jurisdiction over two types of cases: contentious (settling international legal disputes between states) and advisory (providing advisory opinions on inquiries of international law to certain UN organs and specialized agencies). The ICJ consists of 16 delegates, divided into eight judges and eight advocatess. A case consists of a dispute between two countries. Each country who is in conflict has an ally country, totaling to four advocates representing each side. The other eight delegates act as judges. Bear in mind that the judges should act impartially. Each delegate will take the role of a judge and an advocate twice. During the conference, the ICJ will discuss two cases per day totaling up to four cases. For each case, there is a followed process consisting of four stages:

1. All countries have to merge the charges they prepared into one and write an **opening statement**. At the start of each case, both parties involved in the dispute have to give their opening statement. In the opening statement the advocate will read their charge to the judges and explain their charge.

2. After the opening statements, the first part of the debate will commence. This starts as an **open debate** and has a time limit. Both countries can attack the others’ charge and support their own. The judges can also ask each country to clarify clauses in their charges, or the charge as a whole.

3. Proceeding the open debate, the debate will continue as a **closed debate**, which also has a time limit. For both charges, there will be time in favor and time against. It is required for each country to speak at least once in favor of their charge, and at least once against the other charge.

4. After the closed debate, the ICJ will move into **voting procedures**, the charge of the accusing country will be voted on.

**Keywords**

Civil Aviation Organization (ICAO) = is a United Nations agency which helps 193 countries to cooperate together and share their skies to their mutual benefit.

International Air Services Transit Agreement (IASTA) = is a multilateral treaty established in 1944 as part of the Chicago Convention on International Civil Aviation. It provides certain rights for aircraft from member states to fly across the airspace of other member states, facilitating international aviation.

Chicago Convention also known Convention on International Civil Aviation =is a foundational international treaty signed on December 7, 1944. It established the framework for modern international aviation by creating rules and standards for civil air transport and led to the creation of the International Civil Aviation Organization (ICAO)

International Air Services Transit Agreement (IASTA) = is a multilateral treaty adopted in 1944 alongside the Chicago Convention on International Civil Aviation. It is designed to facilitate international air travel by granting basic overflight and technical landing rights to civil aircraft of member states.

Riyadh Agreement = it represents the findings of Arab region and other international experts on global citizenship, with inputs by the International Dialogue Centre (KAICIID) and UNESCO, focuses on education policy, curricular development and teaching and learning practices (KAICIID, n.d.)

**Arguments**

Saudi Arabia, the UAE, Bahrain, and Egypt:

1. According to Bahrain, Egypt, Saudi Arabia and the United Arab Emirates, these restrictive measures were taken in response to the alleged breach by Qatar of its obligations under certain international agreements to which the States are parties, including, in particular, the Riyadh Agreement of 23 and 24 November 2013, and of other obligations under international law.

1. Qatar did not meet the necessary conditions for the Council to have jurisdiction under Article II, Section 2, of the IASTA, and Article 84 of the Chicago Convention, as it had not attempted to resolve the airspace dispute through negotiations before bringing its claims forward. It also failed to show, as required by Article 2(g) of the ICAO Rules, that efforts to negotiate had taken place and been unsuccessful (International Court of Justice, n.d.).

1. The ICAO Council incorrectly required 19 votes to uphold the preliminary objections, out of 25 members entitled to participate in the vote, even though Article 52 of the Chicago Convention, which applies equally to disagreements brought under the IASTA, provides only that a mere “majority” is needed. (International Court of Justice, n.d.).

1. The ICAO Council addressed the two preliminary objections raised by the Applicants as if they were a single issue, even though each objection independently challenged the Council’s authority. By treating them as one and voting on that basis, the Council's decision was fundamentally flawed, making it invalid (International Court of Justice, n.d.).

Qatar:

1. On 5 June 2017, the Government of the all the applicants announced, without any previous negotiation or warning, that aircraft registrated under Qatar are not permitted to fly to or from the airports within their territories and are barred from their respective national air spaces, effective immediately.

1. Qatar contended that the airspace closures contravened the principles of the Chicago Convention, which promotes the freedom of civil aviation and ensures the right of transit passage over international airspace.

1. Qatar argued that the blockade breached IASTA, which grants the right of transit and non-discriminatory access to airspace for international civil aviation.

1. Qatar maintained that ICAO was the appropriate forum to adjudicate the dispute, as it directly pertained to the interpretation and application of international aviation treaties under ICAO's purview.

**Timeline of events**

* *November 23-24, 2013* – Riyadh Agreement was set up between the countries Qatar, Saudi Arabia, the UAE, Bahrain, and Egypt

* *June 5, 2017* – Severance of diplomatic relations by the governments of Saudi Arabia, the UAE, Bahrain, and Egypt with Qatar and implementation of restrictive measures including aviation restrictions.

* *October 30,2017* – Qatar took this case to the International Civil Aviation Organization (ICAO) against Saudi Arabia, the UAE, Bahrain, and Egypt, for violating the Chicago Convention and International Air Services Transit Agreement (IASTA)

* *June 29, 2018* – Preliminary objections were rejected by the ICAO Council

* *July 4, 2018* – Bahrain, UAE, Egypt and Saudi Arabia brought appeal against decision against ICAO Council

**Resolution**

To address this issue, it is essential to draft a solution that aims to resolve the ongoing dispute between Qatar and the UAE. Bear in mind that as a delegate, you represent your country’s official stance on this issue. Consider your countries norms and interests rather than your personal ideas and values. The resolution should reflect your country’s perspective based on economic, political, cultural, and ethical factors. If your country is not immediately affected by this issue, research the perspectives of your allied nations to understand their stance on the dispute, so you know which resolutions to help with and vote on. Furthermore, your resolution must also include possible solutions which are clearly elaborated and when needed examples are used. For extra information on resolution-writing and the guidelines, visit the MUNA website and read the ‘MUNA Instruction Booklet’<https://munalfrink.nl/conference/downloads/>

**Links and resources**

<https://news.un.org/en/story/2020/07/1068341>

<https://www.icj-cij.org/sites/default/files/case-related/173/173-20180704-APP-01-00-EN.pdf>

<https://opil.ouplaw.com/display/10.1093/law-oxio/e616.013.1/law-oxio-e616>

<https://www.aljazeera.com/features/2017/6/9/timeline-of-qatar-gcc-disputes-from-1991-to-2017>

<https://www.kaiciid.org/resources/publications/riyadh-declaration#:~:text=The%20%E2%80%9CRiyadh%20Declaration%E2%80%9D%2C%20which,and%20teaching%20and%20learning%20practices>.

<https://www.gco.gov.qa/en/international-court-of-justice-rules-that-qatar-can-challenge-airspace-restrictions-at-the-international-civil-aviation-organization/>