

**REPORT
OF THE
INTERNATIONAL COURT
OF JUSTICE**

1 August 1982 - 31 July 1983

GENERAL ASSEMBLY

OFFICIAL RECORDS: THIRTY-EIGHTH SESSION

SUPPLEMENT No. 4 (A/38/4)



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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. COMPOSITION OF THE COURT

1. The present composition of the Court is as follows: President T. O. Elias; Vice-President J. Sette-Camara; Judges M. Lachs, P. D. Morozov, Nagendra Singh, J. M. Ruda, H. Mosler, S. Oda, R. Ago, A. El-Khani, S. M. Schwebel, Sir Robert Jennings, G. Ladreit de Lacharrière, K. Mbaye and M. Bedjaoui.

2. The Registrar of the Court is Mr. Santiago Torres Bernárdez and its Deputy-Registrar Mr. A. Pillepich.

3. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure. On 23 February 1983 this Chamber was constituted as follows:

Members

President T. O. Elias; Vice-President J. Sette-Camara; Judges Nagendra Singh, A. El-Khani and G. Ladreit de Lacharrière.

Substitute Members

Judges K. Mbaye and M. Bedjaoui.

4. On 20 January 1982 the Court formed a chamber to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. The Chamber is composed as follows: Judge R. Ago, President; Judges A. Gros, H. Mosler, S. M. Schwebel; Judge *ad hoc* M. Cohen.

5. The Court recorded with sorrow the death of Judge Sir Gerald Fitzmaurice, a Member of the Court from 1960 to 1973, and of Judge F. de Castro, a Member of the Court from 1970 to 1979.

II. JURISDICTION OF THE COURT

A. JURISDICTION OF THE COURT IN CONTENTIOUS CASES

6. On 31 July 1983 the 157 Member States of the United Nations, together with Liechtenstein, San Marino and Switzerland, were parties to the Statute of the Court.

7. On 13 May 1983 the Government of Malta withdrew the declaration of acceptance of the compulsory jurisdiction of the Court concerning certain categories of disputes which it had deposited on 23 January 1981 under Article 36, paragraph 2, of the Statute; it confirmed the declaration accepting the jurisdiction of the Court dated 29 November 1966.

8. There are now 47 States which recognize (a number of them with reservations) the jurisdiction of the Court as compulsory in accordance with declarations filed under Article 36, paragraph 2, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Canada, Colombia, Costa Rica, Democratic Kampuchea, Denmark, Dominican Republic, Egypt, El Salvador, Finland, Gambia, Haiti, Honduras, India, Israel, Japan, Kenya, Liberia, Liechtenstein, Luxembourg, Malawi, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Philippines, Portugal, Somalia, Sudan, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The texts of the declarations filed by these States appear in Chapter IV, Section II, of *I.C.J. Yearbook 1982-1983*.

9. Since 1 August 1982, four treaties providing for the jurisdiction of the Court in contentious cases and registered with the Secretariat of the United Nations have been brought to the knowledge of the Court: Treaty concerning the Rio de la Plata and its Maritime Front concluded between Uruguay and Argentina on 19 November 1973, Treaty concerning the status of the Uruguay river concluded between Uruguay and Argentina on 26 February 1975, Protocol to the Convention on the Contract for the International Carriage of Goods by Road concluded on 5 July 1978

and International Olive Oil Agreement concluded on 30 March 1979.

10. Lists of Treaties and conventions in force which provide for the jurisdiction of the Court appear in Chapter IV, Section III, of *I.C.J. Yearbook 1982-1983*. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. JURISDICTION OF THE COURT IN ADVISORY PROCEEDINGS

11. In addition to the United Nations (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly, Committee on Applications for Review of Administrative Tribunal Judgements), the following organizations are at present authorized to request advisory opinions of the Court on legal questions:

International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization;
World Health Organization;
International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
World Meteorological Organization;
International Maritime Organization;
World Intellectual Property Organization;
International Fund for Agricultural Development;
International Atomic Energy Agency.

12. The international instruments which make provision for the advisory jurisdiction of the Court are listed in Chapter IV, Section I, of *I.C.J. Yearbook 1982-1983*.

III. JUDICIAL WORK OF THE COURT

13. During the period under review the Court made one Order in the contentious case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*. During the same period, the Chamber constituted to deal with the contentious case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* made two Orders.

A. DELIMITATION OF THE MARITIME BOUNDARY IN THE GULF OF MAINE AREA (CANADA/UNITED STATES OF AMERICA)

14. On 25 November 1981 the Government of Canada and the Government of the United States notified to the Court a Special Agreement, concluded by them on 29 March 1979, and having entered into force on 20 November 1981, by which they submitted to a chamber of the Court a question as to the course of the maritime boundary dividing the continental shelf and fisheries zones of the two Parties in the Gulf of Maine area.

15. The Special Agreement provided for the submission of the dispute to a five-member chamber to be constituted after consultation with the Parties, pursuant to Article 26, paragraph 2, and Article 31 of the Statute of the Court. These are respectively the Articles providing for the establishment of a chamber to deal with a particular case and for the right of a Party, when there is no judge of its nationality upon the bench, to choose a judge *ad hoc* to sit in the case.

16. The Parties were duly consulted. The Court had already been notified in a letter from the Parties accompanying the submission of the case that, since the Court did not include upon the bench a judge of Canadian nationality, the Government of Canada intended to choose a judge *ad hoc*.

17. In the course of the Court's consideration of the Special Agreement notified by the Governments of Canada and the United States of America, various Members of the Court referred to certain problems which they felt likely to give rise to difficulties, in particular on account of certain features which might not be compatible with the Statute and Rules of Court. In the outcome, it was decided that the Acting President would call upon the Agents of the Parties to provide the Court with further explanations or clarifications on several points. The Acting President did so in a letter of 18 December 1981, to which the Parties replied by a letter of 6 January 1982. After consideration of the answers thus supplied, the Court decided to accede to the request by the Governments of Canada and the United States that a special chamber be formed, and held an election on 15 January 1982.

18. On 20 January 1982, by 11 votes to 2 (Judges Morozov and El-Khani), the Court adopted an Order whereby it duly constituted a special chamber to deal with the question of delimitation of the maritime boundary between Canada and the United States in the Gulf of Maine area, with the composition having resulted from the above-mentioned election: Judges Gros, Ruda, Mosler, Ago and Schwebel. The Order noted that, in application of Article 31, paragraph 4, of the Statute of the Court, the Acting President had requested Judge Ruda to give place in due course to the judge *ad hoc* to be chosen by Canada, and that Judge Ruda had indicated his readiness to do so (*I.C.J. Reports 1982*, p. 3). Judge Oda appended a declaration to the Order (*ibid.*, p. 10). Judges Morozov and El-Khani appended dissenting opinions (*ibid.*, pp. 11-13).

19. Canada chose Professor Maxwell Cohen as a judge *ad hoc*, and Judge Ruda duly gave place to him.

20. The Chamber constituted to deal with the case elected Judge R. Ago to be its President and is composed as follows: Judge Ago, President; Judges Gros, Mosler and Schwebel; Judge *ad hoc* Cohen.

21. On 29 January 1982 the Chamber held its first public sitting. Judge *ad hoc* Cohen made on that occasion the solemn declaration required by the Statute and Rules of Court.

22. On 1 February 1982, the Parties having confirmed the indications given in the Special Agreement and the Chamber having been consulted, the Court made an Order fixing 26 August 1982 as the time-limit for the filing of Memorials by Canada and the United States. The subsequent procedure was reserved for further decision. The Order was adopted by 10 votes to 2 (Judges Morozov and El-Khani). The judge *ad hoc* was in attendance at the Court's invitation and expressed his support for the Order (*I.C.J. Reports 1982*, p. 15). At the request of one of the Parties, this time-limit was extended on 28 July 1982 by the President of the Chamber to 27 September 1982.

23. The Agents of the Parties filed their Memorials within the time-limit as thus extended. By an Order of 5 November 1982, the President of the Chamber fixed 28 June 1983 as the time-limit for the filing of the Counter-Memorials (*I.C.J. Reports 1982*, p. 560). These pleadings were filed within the prescribed time-limit. By an Order of 27 July 1983, the President of the Chamber authorized the submission of replies by Canada and the United States in the case and fixed 12 December 1983 as the time-limit for their filing.

B. CONTINENTAL SHELF (LIBYAN ARAB JAMAHIRIYA/MALTA)

24. On 26 July 1982 the Governments of the Libyan Arab Jamahiriya and Malta notified jointly to the Registrar a Special Agreement concluded between them on 23 May 1976 and in force since the exchange on 20 March 1982 of the instruments of ratification. The Special Agreement requests the Court to decide the following question:

"What principles and rules of international law are applicable to the delimitation of the area of the continental shelf which appertains to the Republic of Malta and the area of continental shelf which appertains to the Libyan Arab Republic, and how in practice such principles and rules can be applied by the two Parties in this particular case in order that they may without difficulty delimit such areas by an agreement as provided in Article III."

The Article III referred to provides for negotiation after the case with a view to reaching agreement on the delimitation in accordance with the Court's decision.

25. On 27 July 1982 the Vice-President of the Court made an Order whereby, having regard to a provision of the Special Agreement between the Parties, he fixed 26 April 1983 as the time-limit for the filing of a Memorial by each Party. The Memorials were filed within the prescribed time-limit and, by an Order of 26 April 1983, the President fixed 26 October 1983 as the time-limit for the filing of the Counter-Memorials.

26. Each State has appointed a Judge *ad hoc* in accordance with Article 31 of the Statute of the Court. The Libyan Arab Jamahiriya chose Mr. E. Jiménez de Aréchaga, and Malta chose Mr. J. Castañeda.

IV. ADMINISTRATIVE QUESTIONS

27. To facilitate the performance of its administrative tasks, the Court has constituted several committees:

- the Budgetary and Administrative Committee, composed of President T. O. Elias, Vice-President J. Sette-Camara, Judges M. Lachs, Nagendra Singh and S. M. Schwebel;
- the Rules Committee, composed of Judges M. Lachs, P. D. Morozov, J. M. Ruda, H. Mosler, S. Oda, R. Ago and Sir Robert Jennings;
- the Committee on Relations, composed of Judges P. D. Morozov, G. Ladreit de Lacharrière and K. Mbaye;
- the Library Committee, composed of Judges J. M. Ruda, H. Mosler, S. Oda and Sir Robert Jennings.

28. The Court has taken note that, by resolution 37/240 of 21 December 1982, the General Assembly adopted a revised version of the Travel and Subsistence Regulations of the International Court of Justice, the previous text of which dated from 1946. The Rules governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations became applicable to the Members of the Court on 1 January 1983.

29. The Registry, under the direction of the President and the supervision of the Rules Committee, has continued the preparation of a full analytical study of the Court's past practice in regard to the application of its Statute and Rules.

V. PUBLICATIONS AND DOCUMENTS OF THE COURT

30. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court and the major law libraries of the world. The sale of the Court's publications is organized by the Sales Sections of the United Nations Secretariat, which are in touch with specialized booksellers and distributors throughout the world. A catalogue (latest edition: 1981) is, with its annual addenda, distributed free of charge. The question of ensuring easier and speedier availability of the Court's publications throughout the world is receiving the particular attention of the Registry.

31. The publications of the Court include three annual series: *Reports of Judgments, Advisory Opinions and Orders*, a *Bibliography* of works and documents relating to the Court, and a *Yearbook*. The most recent publications in the first two series are *I.C.J. Reports 1982* and *I.C.J. Bibliography No. 35*.

32. The documentation of each case is published by the Court after the end of the proceedings, under the title *Pleadings, Oral Arguments, Documents*. However, even before the termination of a case, the Court may, after ascertaining the views of the Parties, make the pleadings

and documents available on request to the Government of any State entitled to appear before the Court; the Court may also, after ascertaining the views of the Parties, make them accessible to the public on or after the opening of the oral proceedings. The most recent volume issued in the *Pleadings, Oral Arguments, Documents* series relates to the case concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*.

33. The Court distributes press communiqués, background notes and a handbook to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The handbook has so far been published in English, French, Spanish and German editions.

34. More comprehensive information on the work of the Court during the period under review is contained in the *I.C.J. Yearbook 1982-1983* published concurrently with the issue of the present report.

(Signed) T. O. ELIAS

President of the International Court of Justice

The Hague, 1 August 1983

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