

1978 Rules of Court – the first instance of this. That order was unusual, however, in that it was not limited to questions of procedure. It also called upon the United States to provide assurance that no action would be taken that would impinge on the current arrangements for the official functions of the PLO Mission. That Order was adopted unanimously, with a separate opinion by Judge Schwebel. Without referring to that aspect, the United States later informed the General Assembly that no further steps would be taken to close the office until the U.S. courts had determined whether the law in question required that office to be closed.

After accelerated written and oral proceedings, on 26 April the Court was unanimous in answering the question in the affirmative. The advisory opinion was accompanied by a declaration by Judge Elias, and separate opinions by Judges Oda, Schwebel and Shahabuddeen. In that form the issue reverted to the General Assembly.

On 13 May 1988 the General Assembly adopted resolution 42/232. Here it expressed its appreciation to the Court for having accelerated its procedure. It took note of and endorsed the advisory opinion and urged the host country to act consistently with it. The General Assembly also asked the Secretary-General to continue his efforts, and to report without delay on developments in the matter.

The United States court, after proceedings in which the United Nations took part as *amicus curiae*, subsequently determined that the law did not require the closing of the offices of the PLO Observer Mission to the United Nations if that meant a breach of the Headquarters Agreement.⁵²

MARITIME DELIMITATION BETWEEN JAN MAYEN AND GREENLAND

In August 1988 Denmark filed an application instituting proceedings against Norway for the delimitation of the fishing zone and the continental shelf by a single line between the Norwegian island of Jan Mayen and its western neighbor, Greenland. The jurisdiction was based on each country's declaration accepting the compulsory jurisdiction. The area of overlapping claims of the parties was some 65,000 square kilometers. Denmark claimed that the boundary should coincide with 200 nautical mile limit of Greenland and Norway maintained that the boundary was a median line. The principal resource of the area involved is capelin, a stock which straddles the 200 nautical mile zones of the parties and Iceland. In its judgment of 14 June 1993 the Court, by fourteen votes to one, effected the delimitation. There were a series of declarations by Vice-President Oda and Judges Evensen, Aguilar Mawdsley and Ranjeva, separate opinions by Vice-President Oda, and Judges Schwebel, Shahabuddeen, Weeramantry and Ajibola, and a dissenting opinion by Judge *ad hoc* Fischer.⁵³

This was the first case where the Court was requested to effect a maritime delimitation by a unilateral application of one of the parties. Norway did not contest the jurisdiction of the Court, but argued that the adjudication should only result in a judgment which was declaratory as to the bases of delimitation, and which left the establishment of the actual boundary to negotiations between the parties. The Court rejected this argument, observing that to give only a broad indication of the manner in which the delimitation line should be established and to leave the matter to further agreement of the parties, would not be a complete discharge of the Court's duty to determine the dispute.

This was also the first case in which a court was required to establish separate boundaries for the continental shelf and a 200 mile fishing zone, instead of effecting the delimitation of all maritime zones by a single line. The delimitation effected by the Court results in the coincidence of the continental shelf and fishing zone boundaries. For the fishery zone, equitable access to the capelin resources by the parties was an important consideration to establish the location of the boundary. The main reason for locating the continental shelf boundary in the same position seems to have been that this was the preference of the parties and prevented the complications of diverging boundaries for the two jurisdictions. The Court considered that this approach in any case was within the measure of discretion conferred upon it by the need to arrive at an equitable result.

On 18 December 1995 Norway and Denmark signed an agreement implementing the terms of the Court's judgment. This agreement makes some minor technical adjustments to the boundary defined by the Court. Moreover, the agreement regulates the exploitation of continental shelf resources that straddle the boundary. An agreement of 11 November 1997 defines a further part of the boundary between Greenland and Jan Mayen. The Court had not addressed this delimitation because it also concerned the maritime zones of Iceland, which was not a party to the case. This agreement became possible after Denmark and Iceland had reached agreement on the delimitation of their maritime zones in this area. The three states cooperate for the management of the capelin resources which straddle their 200 nautical mile zones.

INCIDENTS IN THE ARABIAN/PERSIAN GULF

Incidents in the Gulf during the Iran/Iraq War of 1980-1988, and in particular the presence of United States naval units (together with others) to ensure safe passage of neutral ships through the Gulf, led to two major incidents which Iran referred to the Court in proceedings against the United States.

The first of these arose out of the accidental shooting down by USS *Vincennes* of an Iranian civilian airliner transiting the Gulf on 3 July 1988. Iran immediately brought this incident before both the Security Council and the Council of the International Civilian Aviation Organization, each of which adopted resolutions on the matter. Dissatisfied with the resolution of the ICAO Council, on 17 May 1989 Iran filed an application instituting an appeal against the resolution of the ICAO Council, acting in accordance with provisions of the Convention on Civil Aviation of 1944. At the same time Iran, citing other instruments, introduced other requests claiming a formal condemnation of the United States and reparation. Against this the United States filed preliminary objections.

Subsequent to the raising of preliminary objections, the two States entered into negotiations which led to a full and final settlement and the discontinuance of the case on the basis of a joint request by the Parties on 22 February 1996.

Other incidents, including the destruction of three offshore Iranian oil platforms by United States naval vessels in response to armed attacks in the form of mines and missile attacks against a US warship and an American flagged oil tanker under convoy of US warships which had allegedly been carried out by Iranian forces, occurred on 17 October 1987 and 18 April 1988.