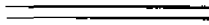


SECTION B. PLEADINGS



SECTION B. MÉMOIRES

MEMORIAL SUBMITTED BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY

(Federal Republic of Germany/Netherlands)

Note by the Registry:

The text of the Memorial (with Annexes) filed by the Government of the Federal Republic of Germany in the case between the Federal Republic of Germany and the Kingdom of the Netherlands is the same as that of the Memorial filed by the Government of the Federal Republic of Germany in the case between the Federal Republic of Germany and the Kingdom of Denmark, except for the Introduction which is reproduced below.

INTRODUCTION

1. This Memorial is submitted to the Court in pursuance of an Order made by the Judge discharging the duties of President of the International Court of Justice under Article 12 of the Rules of Court, dated 8 March 1967. The Minister of Foreign Affairs of the Kingdom of the Netherlands had transmitted by a letter, dated 16 February 1967 and received in the Registry of the Court on 20 February 1967, the Special Agreement, signed at Bonn on 2 February 1967 for the Government of the Federal Republic of Germany and the Government of the Kingdom of the Netherlands, for the submission to the International Court of Justice of a dispute between the Federal Republic of Germany and the Kingdom of the Netherlands concerning the delimitation, as between the Parties, of the Continental Shelf in the North Sea. Attached to this letter was an original copy of a protocol, signed at Bonn on 2 February 1967 for the Governments of the Federal Republic of Germany, the Kingdom of Denmark, and the Kingdom of the Netherlands (*infra* para. 5), in which provision is made for the notification of the Special Agreement to the International Court of Justice by the Netherlands Government.

2. As it is set forth in the preamble of the Special Agreement, the Federal Republic of Germany, not being a party to the Statute of the International Court of Justice, by declaration of 29 April 1961 and in conformity with the resolution of the Security Council of the United Nations of 15 October 1946 on conditions under which the International Court of Justice shall be open to States not parties to the Statute of the Court, has accepted the jurisdiction of the Court in respect to all disputes which may arise between the Federal Republic of Germany and any of the parties to the European Convention of 29 April 1957 for the Peaceful Settlement of Disputes. The Kingdom of the Netherlands is a party to the said Convention. The Netherlands instrument of ratification was deposited on 7 July 1958 and by virtue of its Article 41 the Convention entered into force for the Kingdom of the Netherlands on the same date.

3. The *Special Agreement*, which provides for its entry into force on the day of its signature, reads as follows:

"Special Agreement
for

the submission to the International Court of Justice of a difference between the Federal Republic of Germany and the Kingdom of the Netherlands concerning the delimitation, as between the Federal Republic of Germany and the Kingdom of the Netherlands, of the continental shelf in the North Sea.

The Government of the Federal Republic of Germany and the Government of the Kingdom of the Netherlands,

Considering that the delimitation of the coastal continental shelf in the North Sea between the Federal Republic of Germany and the Kingdom of the Netherlands has been laid down by a Convention concluded on 1 December 1964,

Considering that in regard to the further course of the boundary disagreement exists between the German and the Netherlands Governments, which could not be settled by detailed negotiations,

Intending to settle the open questions in the spirit of the friendly and good-neighbourly relations existing between them,

Recalling the obligation laid down in Article 1 of the German-Netherlands Treaty of Conciliation and Arbitration of 20 May 1926 to submit to a procedure of conciliation or to judicial settlement all controversies which cannot be settled by diplomacy,

Bearing in mind the obligation assumed by them under Articles 1 and 28 of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957 to submit to the judgment of the International Court of Justice all international legal controversies to the extent that no special arrangement has been or will be made,

By virtue of the fact that the Kingdom of the Netherlands is a party to the Statute of the International Court of Justice, and of the Declaration of acceptance of the jurisdiction of the International Court of Justice made by the Federal Republic of Germany on 29 April 1961 in conformity with Article 3 of the Convention of 29 April 1957 and with the Resolution adopted by the Security Council of the United Nations on 15 October 1946 concerning the "Conditions under which the International Court of Justice shall be open to States not Parties to the Statute of the International Court of Justice",

Have agreed as follows:

Article I

(1) The International Court of Justice is requested to decide the following question:

What principles and rules of international law are applicable to the delimitation as between the Parties of the areas of the continental shelf in the North Sea which appertain to each of them beyond the partial boundary determined by the above-mentioned Convention of 1 December 1964?

(2) The Governments of the Federal Republic of Germany and of the Kingdom of the Netherlands shall delimit the continental shelf of the North Sea as between their countries by agreement in pursuance of the decision requested from the International Court of Justice.

Article 2

(1) The Parties shall present their written pleadings to the Court in the order stated below :

1. a Memorial of the Federal Republic of Germany to be submitted within six months from the notification of the present Agreement to the Court;
2. a Counter-Memorial of the Kingdom of the Netherlands to be submitted within six months from the delivery of the German Memorial;
3. a German Reply followed by a Netherlands Rejoinder to be delivered within such time-limits as the Court may order.

(2) Additional written pleadings may be presented if this is jointly proposed by the Parties and considered by the Court to be appropriate to the case and the circumstances.

(3) The foregoing order of presentation is without prejudice to any question of burden of proof which might arise.

Article 3

The present Agreement shall enter into force on the day of signature thereof.

DONE at Bonn on 2 February 1967 in triplicate in the English language.

For the Government of the Federal Republic
of Germany

(Signed) SCHÜTZ

For the Government of the Kingdom
of the Netherlands

(Signed) VAN ITTERSUM"

4. In accordance with Article 2 of the Special Agreement and with Article 37 of the Rules of Court, the Judge discharging the duties of President of the International Court of Justice under Article 12 of the Rules of Court, in the Order dated 8 March 1967, has fixed 21 August 1967 as the time-limit for the filing of the Memorial of the Federal Republic of Germany and 20 February 1968 as the time-limit for the filing of the Counter-Memorial of the Netherlands.

5. This Memorial takes into account the fact that an identical dispute has arisen between the Federal Republic of Germany and the Kingdom of Denmark which was submitted to the International Court of Justice by a similar Special Agreement equally signed at Bonn on 2 February 1967 and transmitted to the Court together with the German-Netherlands Special Agreement by the above-mentioned letter of the Minister of Foreign Affairs of the Kingdom of the Netherlands dated 16 February 1967. Moreover, the German-Netherlands and

the German-Danish Special Agreements are linked by a trilateral Protocol, signed together with the Special Agreements at Bonn on 2 February 1967, for the Governments of the Federal Republic of Germany, the Kingdom of Denmark, and the Kingdom of the Netherlands and equally transmitted to the Court by the Minister of Foreign Affairs of the Kingdom of the Netherlands, which reads as follows:

"Protocol

At the signature of the Special Agreement of today's date between the Government of the Federal Republic of Germany and the Governments of the Kingdom of Denmark and the Kingdom of the Netherlands respectively, on the submission to the International Court of Justice of the difference between the Parties concerning the delimitation of the continental shelf in the North Sea, the three Governments wish to state their agreement on the following:

1. The Government of the Kingdom of the Netherlands will, within a month from the signature, notify the two Special Agreements together with the present Protocol to the International Court of Justice in accordance with Article 40, paragraph 1, of the Statute of the Court.

2. After the notification in accordance with item 1 above the Parties will ask the Court to join the two cases.

3. The three Governments agree that, for the purpose of appointing a judge *ad hoc*, the Governments of the Kingdom of Denmark and the Kingdom of the Netherlands shall be considered parties in the same interest within the meaning of Article 31, paragraph 5, of the Statute of the Court.

DONE at Bonn on 2 February 1967 in four copies in the English language.

For the Government of the Federal Republic
of Germany

(Signed) SCHÜTZ

For the Government of the Kingdom
of Denmark

(Signed) K. KNUTH WINTERFELDT

For the Government of the Kingdom
of the Netherlands

(Signed) VAN ITTERSUM"

The present Memorial, therefore, refers in the same way to the German-Danish dispute as to the German-Netherlands dispute.

6. This Memorial is divided into the following parts:

Part I reports upon the facts of the case and records the history of the development of the dispute.

Part II contains the legal arguments brought forward by the German side.

Part III contains the submissions to the Court as to what principles and rules of international law are applicable to the delimitation of the areas of the continental shelf in the North Sea appertaining to the Parties.

Part IV contains the Annexes, with English translations if the text is not in English.
