

COMMENTS OF THE UNITED STATES ON IRAN'S REPLY TO THE
QUESTIONS PUT BY JUDGE RIGAUX TO BOTH PARTIES

Première question: quel est le statut juridique de plates-formes pétrolières aménagées par un Etat sur son plateau continental? Quelles sont les compétences exercées sur ces installations? Quelle est la différence entre le statut des plates-formes pétrolières selon qu'elles sont localisées respectivement dans la mer territoriale d'un Etat ou en dehors de celle-ci?

Comments on Iran's Reply:

1. The responses to this question provided by both parties demonstrate that the oil platforms at issue in this case, which are located on Iran's continental shelf and outside of Iran's territorial sea, are *not* located within Iranian territory, as understood under international law, as reflected in the 1982 United Nations Convention on the Law of the Sea. Article X, paragraph one, of the 1955 Treaty is concerned solely with commerce and navigation between the "territories" of Iran and the United States.

2. In paragraphs 2 and 3 of its reply, Iran specifically recognized the distinction in international law between a coastal State's territory, including its territorial sea, over which it enjoys sovereignty, and its continental shelf, over which it enjoys certain, expressly enumerated sovereign rights. While not challenging that central distinction, Iran continued to describe its views about the scope of the rights accorded under international law to a coastal State for the purpose of exploring and exploiting the natural resources of the continental shelf. The United States of America reserves its position with respect to that description, as the precise delineation

of those rights does not touch upon the fundamental distinction in international law between a State's territory and its continental shelf.

3. With respect to Iran's assertions in paragraphs 6 and 7 of its reply, the United States has shown that U.S. actions against Iran's oil platforms were not directed against installations that were engaged in relevant "commerce" (*see* CR 2003/11, paras. 15.1-16.25 and CR 2003/17, paras. 25.1-25.34).

4. Contrary to Iran's assertion in paragraph 7 of its reply, the Court did not determine in its 1996 Judgment that the oil extracted from these oil platforms was in fact a part of Iran's export trade to the United States, and did not determine that the oil platforms were in fact protected by Article X, paragraph one, of the 1955 Treaty. Indeed, in one of the paragraphs cited by Iran, the Court expressly stated that "[o]n the material now before the Court, it is indeed not able to determine if and to what extent the destruction of the Iranian oil platforms had an effect upon the export trade in Iranian oil;" I.C.J. Reports 1996 at p. 820 (para. 51).

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Deuxième question: selon les Parties, durant la guerre entre l'Iran et l'Iraq, le Koweït était-il un Etat neutre, un Etat non-belligérant ou un Etat cobelligérant de l'Iraq?

La réponse à cette question serait-elle différente, selon qu'elle ait été formulée durant la guerre elle-même ou aujourd'hui, compte tenu du complément d'informations dont on dispose?

Comments on Iran's Reply:

1. The response of the United States to this question stated that at all times during the Iran-Iraq War, Kuwait was a neutral, non-belligerent State. Notwithstanding Iran's earlier pleadings (*see* CR 2003/13, paras. 21.36-21.39), its response to this same question now concedes that Kuwait was not a belligerent.

2. Iran now appears to assert only that Kuwait violated its obligations as a neutral. We note that the Diplomatic Note from the Ministry of Foreign Affairs of the State of Kuwait, submitted to the Court with the U.S. answers on March 17, 2002, states: "The State of Kuwait remained completely neutral and did not side with either of the parties involved in that war." In any case, Iran no longer asserts that such alleged violations would have given it any right to use force against Kuwaiti flag vessels, let alone against vessels of other neutral countries trading with Kuwait (or other Gulf states). During the oral pleadings, Iran seems to have confirmed that its view is now that attacks on such vessels would be unlawful, notwithstanding the alleged violations of the duties of neutrality (CR 2003/15, p. 54, para. 3).

3. Accordingly, Iran's allegation that Kuwait violated its duties of neutrality is simply irrelevant to this case. Even if true, it would not provide any legal excuse for Iranian attacks on U.S. or other neutral vessels in the Gulf. It would not in any way diminish the right of the United States under Article XX of the 1955 Treaty to protect its essential security interests or its right of self-defense. It would not affect the validity of the U.S. Counter-Claim.

4. The United States reserves its position with respect to the other legal contentions advanced by Iran in its reply, which need not be addressed in connection with this case.