



ICJ

CIMUN XV

November 29th - December 2nd



1. Case 1 - North Sea Continental Shelf Case

1.1. Case Overview

On February 20th, 1969 the International Court of Justice (ICJ) delivered its judgement on the North Sea Continental Shelf Case. The case involved three governments, The Federal Republic of Germany, Denmark, and the Netherlands. The governments requested that the ICJ decide the principles and rules of international law that are applicable to deciding the boundaries between the three nations in the North Sea. It had been contended on behalf of Denmark and the Netherlands that the whole matter was governed by a mandatory rule of law which, reflecting the language of *Article 6 of the Geneva Convention on the Continental Shelf of 29 April 1958*, was designated by them as the "equidistance-special circumstances" rule. That rule was to the effect that in the absence of agreement by the parties to employ another method, all continental shelf boundaries had to be drawn by means of an equidistance line unless "special circumstances" were recognized to exist. According to Denmark and the Netherlands, the configuration of the German North Sea coast did not of itself constitute, for either of the two boundary lines concerned, a special circumstance. Germany sought to get a decision in favour of the notion that the delimitation of the relevant continental shelf was governed by the principle that each coastal state is entitled to a just and equitable share. It is up to you, members of the Court, to decide which maritime principle will be adopted. Terms for the case can be found further in your background guide. Study them carefully.

1.2. Special Agreement / Written Proceedings

The Government of the Kingdom of Denmark and the Government of the Federal Republic of Germany, Considering that the delimitation of the coastal continental shelf in the North Sea between the Kingdom of Denmark and the Federal Republic of Germany has been laid down by a Convention concluded on 9 June 1965, Considering that in regard to the further course of the boundary disagreement exists between the Danish and German 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 Danish-German Treaty of Conciliation and Arbitration of 2 June 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 Denmark 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 "Condition 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 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 9 June 1965? (2) The Governments of the Kingdom of Denmark and of the Federal Republic of Germany shall determine the continental shelf in the North Sea as between their countries by agreement in pursuance of the decision requested from the International Court of Justice.

Article 2

The Parties shall present their written pleadings to the Court in the order stated below: SPECIAL AGREEMENTS 7 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 Denmark to be submitted within six months from the delivery of the German Memorial; 3. a German Reply followed by a Danish 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.

1.3. Key Terms

1. **Equidistance principle** - In maritime boundary claims, is a legal concept that a nation's maritime boundaries should conform to a median line that is equidistant from the shores of neighboring nations. The concept was developed in the process of settling disputes in which the borders of adjacent nations were located on a contiguous continental shelf:
2. **Continental Shelf** - referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.
3. **Opinio Juris** - A shortened form of the Latin phrase *opinio juris sive necessitatis*, which means "an opinion of law or necessity. In customary international law, *opinio juris* is the second element necessary to establish a legally binding custom. *Opinio juris* denotes a subjective obligation, a sense on behalf of a state that it is bound to the law in question. The International Court of Justice reflects this standard in ICJ Statute, Article 38(1)(b) by reflecting that the custom to be applied must be "accepted as law".
4. **Rules of Delimitation** - A principle with regard to aspect of territorial sovereignty between states, which can be useful for the international sea territorial disputes resolving.
 - a. **The Territorial Zone** - The sovereignty over the territorial sea is similar to complete legislative jurisdiction on the land territory. The states can make laws and regulate the area by utilizing all the resources in the territorial zone. Initially, in the 1958 Convention, there was no specific provision on the width of the territorial sea of a state.
 - b. **The Contiguous Zone** - The Contiguous zone comprises of 12 nautical miles from the baseline of the territorial waters. *The main aim behind the formation of*

this zone is the privileges for coastal states to exercise control for preventing infringement of customs, fiscal, immigration and sanitary regulations.

5. Principle of Estoppel - A rule of international law that bars a party from going back on its previous representations when those representations have induced reliance or some detriment on the part of others.

6. Article 6 of the Geneva Convention -

- A. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
- B. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
- C. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs A and B of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

1.4. Resources

- <http://www.refworld.org/docid/4023a4c04.html>
- <http://sedac.ciesin.columbia.edu/entri/texts/continental.shelf.1958.html>

- <https://www.lawteacher.net/free-law-essays/international-law/rules-of-delimitation-in-international-law-of-the-sea-international-law-essay.php>
- <https://www.icj-cij.org/en/case/52>
- <https://www.icj-cij.org/en/how-the-court-works>