International Court
of Justice
THE HAGUE

Cour internationale
de Justice
La HAYE

YEAR l993

Public sitting

held on Wednesday 27 January 1993, at 10 a.m., at the Peace Palace,

President Sir Robert Jennings presiding

in the case concerning Maritime Delimitation in the Area between Greenland and Jan Mayen

(Denmark v. Norway)

VERBATIM RECORD

ANNEE 1993

Audience publique

tenue le mercredi 27 janvier 1993, à 10 heures, au Palais de la Paix,

sous la présidence de sir Robert Jennings, Président

en l'affaire de la Délimitation maritime dans la région située entre le Groenland et Jan Mayen

(Danemark c. Norvège)

COMPTE RENDU

Present:

President Sir Robert Jennings
Vice-President Oda
Judges Ago
Schwebel
Bedjaoui
Ni
Evensen
Tarassov
Guillaume
Shahabuddeen
Aguilar Mawdsley
Weeramantry
Ranjeva
Ajibola

Judge *ad hoc* Fischer

Registrar Valencia-Ospina

Présents:

Sir Robert Jennings, Président
M. Oda, Vice-Président
MM. Ago
Schwebel
Bedjaoui
Ni
Evensen
Tarassov
Guillaume
Shahabuddeen
Aguilar Mawdsley
Weeramantry
Ranjeva
Ajibola, juges

M. Fischer, juge *ad hoc*

M. Valencia-Ospina, Greffier

The Government of Denmark is represented by:

Mr. Tyge Lehmann, Ambassador, Legal Adviser, Ministry of Foreign Affairs,

Mr. John Bernhard, Ambassador, Ministry of Foreign Affairs,

as Agents;

Mr. Per Magid, Attorney,

as Agent and Advocate;

Dr. Eduardo Jiménez de Aréchaga, Professor of International Law, Law School, Catholic University of Uruguay

Mr. Derek W. Bowett, C.B.E, Q.C., F.B.A., Emeritus Whewell Professor of International Law in the University of Cambridge,

as Counsel and Advocates;

Mr. Finn Lynge, Expert-Consultant for Greenland Affairs, Ministry of Foreign Affairs,

Ms. Kirsten Trolle, Expert-Consultant, Greenland Home Rule Authority,

Mr. Milan Thamsborg, Hydrographic Expert,

as Counsel and Experts;

Mr. Jakob Høyrup, Head of Section, Ministry of Foreign Affairs,

Ms. Aase Adamsen, Head of Section, Ministry of Foreign Affairs,

Mr. Frede Madsen, State Geodesist, Danish National Survey and Cadastre,

Mr. Ditlev Schwanenflügel, Assistant Attorney,

Mr. Olaf Koktvedgaard, Assistant Attorney,

as Advisers, and

Ms. Jeanett Probst Osborn, Ministry of Foreign Affairs,

Ms. Birgit Skov, Ministry of Foreign Affairs,

as Secretaries.

The Government of Norway is represented by :

Mr. Bjørn Haug, Solicitor General,
Mr. Per Tresselt, Consul General, Berlin,
as Agents and Counsel;

Le Gouvernement du Danemark est représenté par :

M. Tyge Lehmann, ambassadeur, conseiller juridique, ministère des affaires étrangères,

M. John Bernhard, ambassadeur, ministère des affaires étrangères,

comme agents;

M. Per Magid, avocat,

comme agent et avocat;

M. Eduardo Jiménez de Aréchaga, professeur de droit international à la faculté de droit de l'Université catholique de l'Uruguay,

M. Derek W. Bowett, C.B.E., Q.C., F.B.A., professeur émérite de droit international à l'Université de Cambridge (chaire Whewell),

comme conseils et avocats;

M. Finn Lynge, consultant spécialisé pour les affaires du Groenland, ministère des affaires étrangères,

Mme Kirsten Trolle, consultant spécialisé, autorité territoriale du Groenland,

M. Milan Thamsborg, expert hydrographique,

comme conseils et experts;

M. Jakob Høyrup, chef de section, ministère des affaires étrangères,

Mme Aase Adamsen, chef de section, ministère des affaires étrangères,

M. Frede Madsen, expert en géodésie de l'Etat, service topographique et cadastral danois,

M. Ditlev Schwanenflügel, avocat auxiliaire,

M. Olaf Koktvedgaard, avocat auxiliaire,

comme conseillers, et

Mme Jeanett Probst Osborn, ministère des affaires étrangères,

Mme Birgit Skov, ministère des affaires étrangères,

comme secrétaires.

Le Gouvernement de la Norvège est représenté par :

M. Bjørn Haug, procureur général,
M. Per Tresselt, consul général, Berlin,
comme agents et conseils;

Mr. Ian Brownlie, Q.C., D.C.L., F.B.A., Chichele Professor of Public International Law, University of Oxford; Fellow of All Souls College, Oxford,

Mr. Keith Highet, Visiting Professor of International Law at The Fletcher School of Law and Diplomacy and Member of the Bars of New York and the District of Columbia,

Mr. Prosper Weil, Professor Emeritus at the Université de droit, d'économie et de sciences sociales de Paris,

as Counsel and Advocates;

Mr. Morten Ruud, Director General, Polar Division, Ministry of Justice,

Mr. Peter Gullestad, Director General, Fisheries Directorate,

Commander P. B. Beazley, O.B.E., F.R.I.C.S., R.N. (Ret'd),

as Advisers;

Ms. Kristine Ryssdal, Assistant Solicitor General,

Mr. Rolf Einar Fife, First Secretary, Permanent Mission to the United Nations, New York,

as Counsellors;

Ms. Nina Lund, Junior Executive Officer, Ministry of Foreign Affairs

Ms. Juliette Bernard, Clerk, Ministry of Foreign Affairs,

Ms. Alicia Herrera, The Hague,

as Technical Staff.

M. Ian Brownlie, Q.C., D.C.L., F.B.A., professeur de droit international public à l'Université d'Oxford, titulaire de la chaire Chichele; *Fellow* de l'All Souls College d'Oxford,

M. Keith Highet, professeur invité de droit international à la Fletcher School of Law and Diplomacy et membre des barreaux de New York et du District de Columbia,

M. Prosper Weil, professeur émérite à l'Université de droit, d'économie et de sciences sociales de Paris,

comme conseils et avocats;

M. Morten Ruud, directeur général de la division des questions polaires au ministère de la justice,

M. Peter Gullestad, directeur général de la direction des pêcheries,

Capitaine de frégate P. B. Beazley, O.B.E., F.R.I.C.S., R.N. (en retraite),

Mme Kristine Ryssdal, procureur général adjoint,

M. Rolf Einar Fife, premier secrétaire à la mission permanente de la Norvège auprès de l'Organisation des Nations Unies à New York,

comme conseillers;

Mme Nina Lund, fonctionnaire administratif au ministère des affaires étrangères,

Mme Juliette Bernard, agent administratif au ministère des affaires étrangères,

Mme Alicia Herrera, La Haye,

comme personnel technique.

The PRESIDENT: This morning we hear the Norwegian rejoinder and first I call upon Mr. Tresselt, please.

Mr. TRESSELT:

Coastal State Rights, Delimitation and Fisheries Management

Thank you, Mr. President and distinguished Members of the Court. It is my task at the outset of this morning's deliberations to comment on some of the remarks made by the Agent for Denmark on Monday.

Mr. Lehmann in his intervention (CR 93/10, p. 30) referred to the quotation by Professor Weil of a passage from the *Libya/Malta* Judgment (CR 93/9, p. 10 quoting from *I.C.J. Reports 1985*, pp. 45-46, para. 58). Mr. Lehmann stated that Professor Weil "conveniently stops before the final part of that paragraph and does not quote the final phrase ...". I am afraid that statement implied that Professor Weil was deliberately misleading the Court. If the Court were to look at pages 15 to 16 and 19 to 25 of the Compte Rendu for 21 January, it would see that Professor Weil has in fact dealt at length with precisely those very aspects and nuances of the jurisprudence on proportionality, which Mr. Lehmann accused him of ignoring.

Likewise, Mr. President, Mr. Lehmann has made the suggestion (CR 93/10, p. 17) that Norway has "deliberately overlooked" certain aspects which in the Danish view are relevant. And further, Mr. Magid suggested (CR 93/10, p. 43) that "Mr. Haug carefully omits to inform the Court that the statement ... also contained the following information ...". The inference can only be that Norway has conducted her pleadings in a manner which is designed to withhold information from the Court. Nothing could be farther from our intentions, Mr. President, and, in fact, the remarks are without foundation.

The orchestrated innuendo of these remarks is such that it is difficult to let them pass as careless statements made in the heat of forensic battle. I am bound to say that in one instance, Mr. Lehmann was asked, as a matter of professional courtesy, to set the record straight and make clear that Professor Prosper Weil cannot be suspected of intellectual dishonesty. Mr. Lehmann has as yet not followed up that friendly appeal.

It is for that reason, Mr. President, that I have felt bound to draw attention to these remarks, and to say quite frankly that we resent them.

Mr. Lynge made some comments on elements of factual information which was referred to in the course of our oral argument (CR 93/10, pp. 70-71). These comments are entirely different in character, and they relate to matters which do not affect the main thrust of either the Norwegian nor the Danish argument. To the extent that there have been inaccuracies on our part, we are glad to see them corrected.

However, we would like to respond on one point: citing the Norwegian Rejoinder (p. 166, para. 560), Mr. Lynge gave the impression that Mr. Brownlie should have said that "A very small proportion of the population of Greenland lives within the Arctic Circle." (CR 93/10, p. 70.) That quotation is taken from the Norwegian Rejoinder, and it stands corrected by the information which Mr. Lynge has given. What Mr. Brownlie in fact did say, was that "only a small proportion of the population of Greenland lives at the same latitude as Jan Mayen" (CR 93/7, p. 19). The Arctic Circle is at 66° 32' N, and Jan Mayen is at 71° N. We have at the moment no precise figures on present Greenland settlements north of 71°, but their numbers and population do not constitute any major proportion of the total figures for Greenland. All references were linked to statements about the population figures for eastern Greenland, and there are no discrepancies in this much more relevant regard.

Mr. President, in Monday's statements, we heard two different suggestions that Norway's argument in the present proceedings might have undesirable effects for the enjoyment by developing countries of their rights in broad zones of jurisdiction beyond the territorial sea.

That leads me to point out that Norway achieved its place as an independent nation within the international community at the outset of this century. We have a very vivid memory of foreign domination, and of being a new player on the international stage.

In our nearly 90 years of full independence, Norway has concentrated much of its diplomatic efforts on securing recognition for the rights of coastal States to off-shore resources, and for priority for fishermen of coastal States to harvest the resources of their coastal waters.

The success of these efforts was assured by a close alliance between developing coastal States and developed coastal States which - like Norway - had a long-standing and predominant fishing interest. In a combination of State practice and very complex negotiation, recognition in international law of extended zones of coastal State resource jurisdiction has been achieved.

The sovereign rights to the resources of the continental shelf and of the maritime zones are vested in the coastal State. Coastal States are equal in exercising their rights and enjoying their entitlements. Those entitlements exist without any other qualification than that which arises through the need to delimit maritime zones as between States having competing entitlements and overlapping areas of entitlement.

The exercise and the enjoyment of those rights derive from and are linked to the sovereignty of the coastal State, and extend to all parts of a coastal State.

Thus, France exercises continental shelf rights and economic zone rights in respect of the islands of Kerguélen. India exercises those rights in respect of Minicoy. For Norway, that means that we exercise continental shelf rights and fisheries zone rights in respect of Jan Mayen.

The exercise of these rights in respect of Kerguélen and Minicoy is definitely intended to serve the interests of the people of France and the people of India. And Mr. Lynge is entirely correct in pointing out (CR 93/10, p. 71) that the exploitation of offshore resources is "for the benefit of people".

But Mr. Lynge seeks to establish a distinction between those Norwegian fishermen who utilize the waters off Jan Mayen, and those Greenlanders who can benefit from the resources. At the same time, Mr. Lynge very correctly notes that it is *Denmark* as a State which is the holder of the international rights to shelf and zonal resources.

Mr. President, coastal States stand equal in shelf and zonal entitlement; it is their coasts and the other elements of geography which dictate the delimitation between their areas of jurisdiction when these entitlements overlap. The inference from the remarks by Mr. Bowett and by Mr. Lynge on Monday seems to be that the rules of law to be applied in delimitation should vary with the degree of economic or technical development of the States which are called upon to undertake that

delimitation (or of their constituent sub-divisions). That is a suggestion which the Court should resist, not least in the interest general and shared of all those developing States which may have a different level of economic or technical development from that of the opposite or adjacent neighbouring States with which they may have to seek maritime delimitations.

Professor Bowett seeks to issue a warning that Norway's views would be in opposition to a developing country interest (CR 93/10, pp. 56-57) by a disingenuous attempt to blur the distinction between Norway's politically-motivated negotiated agreements with Iceland, and Norway's views on the law of maritime entitlement and maritime delimitation.

Mr. President, there is a unity of interest between developing coastal States and developed coastal States in seeking clarity, predictability, finality and stability in the law of maritime delimitation. Most delimitation situations with which any particular developing coastal State will have to deal, involve other developing States.

Mr. President, it is precisely that need for clarity and consequence in the law of maritime delimitation which provides an answer to Mr. Lynge's question as to why Norway must claim its legal rights, and is disinclined to grant the same political concessions to Greenland as were granted in Norway's relations with Iceland. Let me remind Mr. Lynge that it is the Government of Denmark which has conducted the delimitation negotiations with Norway. It is the Government of Denmark which has reached the conclusion that those negotiations had gone on for too long. It is the Government of Denmark which has determined that a judicial decision - on the unsatisfactory basis of a unilateral application - would provide the best avenue for reaching a settlement for the delimitation of the continental shelves and the fishery zones in the waters between Jan Mayen and Greenland. No doubt the Greenland Home Rule Authority was duly consulted. But when the Kingdom of Denmark chooses to institute proceedings before this Court, there are certain corollaries. Denmark - or the Greenland Home Rule Authority - can no longer claim concessions on a political basis, and Denmark has indeed made it clear that it is not invoking any most-favoured nation treatment on the basis of Norway's negotiations with Iceland.

Now, Mr. Lehmann made some observations about those negotiations (CR 93/10, pp. 22-24).

He seemed to be of the view that a negotiation which ended up with Norway's acceptance of the extent for Iceland's economic zone up to a distance of 200 nautical miles from Icelandic baselines did not constitute a concession - indeed, that this was "a statement against the facts". I am bound to recall to the Court - and to my colleague - that when Iceland in 1975 established its 200-mile zone and made it clear that the median line was not envisaged as a limit for that zone in relation to Jan Mayen, the Norwegian Government made a formal protest. The legal position of the Norwegian Government was thus clearly established. It was the position of Norway that, in law, the boundary between a potential zone of Jan Mayen and the Icelandic zone should be the median line. Having thus established the Norwegian legal position, negotiations started four years later and were concluded under heavy political pressure with the implicit acceptance of the Icelandic economic zone in its full extent. The rapporteur of the Foreign Affairs Committee of the *Storting* made it quite clear that "from Norway's point of view it is not difficult to see that we have made substantial concessions". He also characterized those concessions as "considerable", and related them both to the extent of the Icelandic zone and to the quality of the fisheries arrangements (Norwegian Counter-Memorial, Vol. II, Ann. 11, p. 39).

Let me make it entirely clear to the Court that Norway, in accepting the extent of Iceland's economic zone to 200 miles in 1980, did in fact retreat from a position of law, as expressed *inter alia* in its protest of 1975. The rapporteur of the Foreign Affairs Committee of the *Storting* was entirely correct in describing the retreat from a duly stated legal position as a *concession*. Mr. Lehmann may not recognize that concept, but we trust that the Court will.

And there can be no doubt that this concession was granted as a function of the negotiation process in which a number of considerations played a part, and where the relative negotiating strength of the two parties in the situation was decisive. I quoted extensively from reactions in the Norwegian Parliament in my earlier intervention; they make it sufficiently clear that there was no *opinio juris* present at any level in the Norwegian political structure to the effect that Norway was in law obliged to make those concessions to Iceland.

Mr. Lehmann is entirely right in pointing out that the 1981 Agreement with Iceland

represented further concessions on Norway's part. Those concessions followed the recommendations of the Conciliation Commission (*ILM*, Vol. XX, 1981, pp. 798 ff.). The Commission made it clear that it was "not a court of law" (*loc. cit.*, p. 823), and that it examined State practice and jurisprudence only in order to ascertain possible guidelines for the fulfilment of its mandate. On that basis, and relying on the advice of geologists, the Commission found that "the natural prolongation concept would not be helpful in finding an acceptable solution" (*loc. cit.*, p. 824). The Commission further noted the implicit recognition of Iceland's 200-nautical-mile economic zone in 1980. That is recorded in its summary of recommendations (Sect. VII) as a "dividing line" within the "specified area" which was recommended (*loc. cit.*, p. 840). It remains, Mr. President, that the only comment of a legal nature of the Conciliation Commission was to the effect that Jan Mayen is an island, and could not be considered as a rock (*loc. cit.*, p. 803).

So, Mr. President, Norway made concessions to Iceland in 1980 and 1981. Those concessions were political in the widest sense of the word, they were the result of difficult and complex negotiations, and they in no way implied a departure from the legal position held by Norway.

Mr. Bowett makes an effort to shift our explanation for granting a political concession into alleged and imaginary statements on our part on the law of maritime entitlement, and on the law of maritime delimitation, and as a claim for "'historic rights' in Greenland's waters" (CR 93/10, pp. 57-59). There is nothing in our written pleadings, nothing in our oral statements or indeed in Norway's general practice to give any support to this disingenuous and distorted exercise. Denmark has asked us to make clear why certain political concessions were granted to Iceland. We have provided a candid answer. But we have not, repeat not, said any of those things which Mr. Bowett wishes to put into our statements.

I should like to revert, Mr. President, to Mr. Lynge's concern about the harvest and management of living resources (CR 93/10, pp. 75, 69-70). Let me first restate most emphatically that Norway attaches great importance to continued co-operation with the Greenland Home Rule Authority on these matters. Norway is committed to responsible conservation policies and rational

management of marine living resources, and we are fully conscious of our international duties whether we have designated our zones of jurisdiction as economic zones or as fisheries zones. We are perfectly aware of the necessity for managing the capelin stocks in the Jan Mayen-Greenland-Iceland area as a unified stock, since it moves between all the three zones. The three parties must of necessity co-operate, and we do so gladly. We believe that co-operation is equally important to both Norway and Greenland, and we are confident that there will be no obstacle to our future co-operation, after the Court has rendered its judgment in the present case.

But I am bound to impress upon the Court that the delimitation as between the fisheries zones of Jan Mayen and of Greenland does not in itself have any direct implication for management issues. It is easy to be misled into believing that large zones provide more fish. But the dynamics of migratory stock management are far more complex than the mere comparison of zonal areas. The reasoning is given in our Rejoinder (pp. 42-43, paras. 131-132). In brief, there are no firm, scientific criteria for allocating a particular share of a particular stock to a particular zone (zonal attachment). Allocation is derived from negotiations, taking into account a number of considerations, including scientific data relating to the distribution and movement of the different components of the stock, historic catches, and the occurrence of fishable concentrations, etc.

In our case, this has been recognized both by Norwegian and Greenland fisheries authorities, in coming to the conclusion that there should be parity in their respective allocations of the total TAC. As we have suggested before, it was Iceland's position that delayed the conclusion of the tripartite capelin agreement. That was the shared view of both Norwegian and Greenland negotiators, before the present proceedings were brought. When agreement was reached on the tripartite arrangement, it was, in so far as Norwegian negotiators could observe, only because all three parties recognized that it was no longer tolerable to keep on fishing in excess of scientific recommendations. We have seen no evidence to support Mr. Lehmann's hypothesis (CR 93/10, p. 34) that the Danish Application provided any positive encouragement to the negotiations.

Mr. President, let me now turn to the actual conditions for fishing in the waters between Jan Mayen and Greenland.

On Monday, Mr. Lynge showed us a map with this information [Fig. 12]. It conveys very clearly and very correctly that in April, there is more than a 50 per cent probability that there is more than a 50 per cent ice cover within this area [point]. On this side there is a great deal of ice, on this side there is a greater probability for open waters. This map coincides entirely with Norwegian maps of the ice situation [Fig. 13 (cf. Map II joined to the Norwegian Counter-Memorial)]. These maps are established on the basis of satellite observations carried out over a long time, and of a statistical evaluation of these observations. Drift ice can occur in different densities; a 100 per cent cover is the maximum, a 40 per cent cover renders ordinary navigation and all fishing activities impossible. Mr. Lynge's map is correct, and you will see that it corresponds to the shape and outline of the Norwegian map. Mr. Lynge, however, attempted to draw some rather hasty conclusions.

He stated, based on his map, that "Norway claims about 90 per cent of the good fishing waters and leaves to Greenland about 10 per cent" (CR 93/10, p. 77). He went on to say that

> "even given the fact that the edge of the drift ice lies considerably further to the west in the late summer, the fact remains that the median line solution will give Norway almost a monopoly over the ice-free areas, a veritable lion's share. The median line solution will give Greenland close to nothing, when it comes to fishing." (CR 93/10, p. 77.)

The problem, Mr. President, is that in April there is no capelin and no other known fishable stock of any kind in the waters between Jan Mayen and Greenland. In the month of April, the only harvestable living marine resource in these areas is seal, and sealing takes place on the ice edge - not in ice-free waters.

As Mr. Lynge noted, the ice situation improves in summer. This is another Norwegian map [Fig. 14 in your folder]. You will see the area where there is more than 50 per cent probability of a 40 per cent ice cover. You will see the limit of this incidence of ice clearly outlined: these are waters that are likely to be open waters - these are likely to remain ice-infested in late August.

It is in the months of July, August and September that the capelin is present in these waters, and that fishing takes place. We are unable to specify exactly where the capelin will be present in fishable concentrations; this will vary according to feed availability, water temperatures, currents and so on. But experience tells us that it is more likely that capelin will occur in the the southern part of the area than in the northern part. Sometimes the capelin will not be found at all in fishable

quantities in these waters - that is one of the reasons why rational utilization of the stock is greatly facilitated by cooperative management and reciprocal access rights. And, as we have heard, this is one of the factors which has made it possible for Greenland to envisage investment in a new purse seine vessel, specifically designed for the capelin fishery. Now, finally, Mr. President, I want to show you Mr. Lynge's map, as it would appear in August (Fig. 15). You can see clearly that there is no question of Norway claiming 90 per cent of the reasonably ice-free waters and leaving to Greenland only 10 per cent.

Mr. President, the correct conclusion to be drawn is that the ice conditions at the time when actual fishing will occur has no impact on the fishing possibilities of Greenland.

Once more, Mr. President, the question is not that Norway as a "highly industrialized European country" is denying "a resource input to Greenland". Denmark seeks a judicial decision, Norway is complying, and is defending its legal position. That legal position is based on a principled approach to the law of the sea as a whole. These proceedings must deal with the concrete issue of the delimitation on the basis of the law, and not in terms of what might, in another situation, have been politically possible.

As regards Greenland's real interest - and that real interest, as Mr. Lynge said very clearly, has to do with fish - we cannot see that in terms of management necessities, in terms of ice conditions, in terms of actual fishing possibilities, in terms of the ability to dispose otherwise of Greenland's capelin allotment, we cannot see that the real interest would be negatively affected by the acceptance of Norway's submissions.

Mr. President, I would ask you now to call upon my friend and colleague and Co-Agent, Mr. Haug.

The PRESIDENT: Thank you very much, Mr. Tresselt. Mr. Haug.

Mr. HAUG:

Mr. President, distinguished Members of the Court,

Introduction

The remaining speeches in the Norwegian second round will be the following:

First, I shall myself make a few comments on the claims and submissions as now defined by Denmark, and make some comments on the Danish pleading in the second round in respect of applicable treaties and the conduct of the Parties.

Thereafter, Professor Brownlie and Professor Weil will sum up and set the record straight in respect of contentions made by the Danish side on the questions of general international law.

Finally, I shall make a summing-up and read out the Norwegian submissions, which in substance stand unaltered since our Counter-Memorial.

The final Danish claims and submissions

I shall now turn to the first item, my own comments.

In the second round of the oral pleadings Denmark has clarified and redefined its claims and submissions.

It is finally made clear, first, that Denmark is not requesting a declaratory judgment of entitlement to the full 200-mile extent of the continental shelf and the fishery zone, as the natural meaning of the words used would seem to indicate. Denmark now confirms that it is requesting, in this enigmatic fashion, a straightforward delimitation.

Second, it is now confirmed that the single-line delimitation Denmark is requesting, and the single line it asks to be drawn, is not to result in an all-purpose boundary, as we were told during the first round of the oral pleadings, but - as I understand it - is to result in a dual-purpose boundary, legally relevant only for the areas of continental shelf and fishery zones.

The Agent for Denmark, Mr. Lehmann, is obviously aware of the weakness of the Danish argument and reasoning revealed by this last minute tidying-up of their approach. In an attempt to reduce this effect, he insinuated that Norway was late in pointing out the lack of clarity in the Danish submissions. I refer to his statement on Monday that "In its oral pleading, Norway is now

complaining about lack of clarity ..." (CR 93/10, p. 9), that Norway "at this very last stage of the proceedings ... chooses to engage itself in such a semantic exercise" (CR 93/10, p. 12), and that "Norway has been free at all stages to challenge all Denmark's contentions." (CR 93/10, p. 14)

Mr. President, I must be allowed to set the record straight in this matter. The lack of clarity in the Danish submissions and the appropriateness of judicial restraint in respect of delimitation exercises was pointed out already in the Norwegian Counter-Memorial of 11 May 1990, almost three years ago. It was referred to again in the Norwegian Rejoinder of 27 September 1991, and again in my opening speech on 15 January 1993. I shall not take up time reading out the relevant passages, but I have included in my manuscript the pertinent texts of the Norwegian and Danish written pleadings, which clearly and, from the very beginning, underline the lack of clarity in the Danish submissions.

> "The aim is thus to achieve a single line applicable to all aspects of resources and of jurisdiction in the maritime zones under consideration. In other words, a delimitation dividing the exclusive rights to the whole of the natural resources of the zones - living and non-living on the seabed, under its subsoil or in the superjacent waters." (Memorial, p. 113, para. 359.)
>
> "To the extent that the claim for a single line is a claim for a delimitation of a different nature as compared with other delimitations, Norway is bound to point out that no agreement exists between the two Parties, either on a procedural level or with regard to the substance of such a claim. Without the agreement of the Parties, such a claim would not be admissible." (Counter-Memorial, p. 197, para. 703.)
>
> "Further, the Norwegian Government submits that in these proceedings the judicial function is limited in one particular respect. In the opinion of the Norwegian Government there are substantive considerations both of law and of judicial convenience in favour of the view that the Court should confine itself to a recognition of the legality of the median line boundaries requested in the submissions which follows below, and not proceed to the precise articulation of those boundaries. In the circumstances the Norwegian Government respectfully submits that the adjudication should result in a judgment which is declaratory as to the bases of delimitation, and which leaves the precise articulation (or demarcation) of the alignment to negotiation between the Parties." (Counter-Memorial, p. 197, para. 704.)
>
> "A single line of delimitation presents the obvious advantage of providing a division of all the natural resources of the zones, living and non-living, on the sea-bed, under its subsoil or in the superjacent waters. It is a sensible and practical choice when as in the present case no specific factors exist which dictate the use of different lines for the shelf and the fishery zone." (Reply, p. 171, para. 469.)
>
> "While the first part of the reformulated submission is a request for the Court to adjudge separately on the entitlement to the continental shelf and the fishery zone, the second part of the submission, in the same manner as the original application, asks the Court 'to draw a single line of delimitation'." (Rejoinder, p. 191, para. 651.)

In the first round of the oral pleadings, Dr. Jiménez de Aréchaga made the following statements, on behalf of Denmark:

> "In our submission the task of the Court is to establish a single line of maritime delimitation; an all-purpose boundary line." (CR 93/2, p. 65.)
>
> " the task requested from the Court is to effect a delimitation of maritime areas by means of a single, all-purpose boundary line, applicable both to the continental shelf and to the fishery zones of the Parties" (CR 93/2, p. 66).
>
> "It follows that both Parties ask for a single or all-purpose boundary." (CR 93/2, p. 66.)

In my opening speech on 15 January 1993 I was therefore able to conclude that Denmark had finally stated what it means by "a single line". I took issue with the learned counsel for Denmark in his reading of the Norwegian submissions, and pointed out the difference between single-purpose boundaries in the same location and the concept of one dual-purpose, or multi-purpose, or all-purpose boundary. I pointed out that Denmark was now asking for "a single line boundary, to be legally relevant for all purposes, present and future, known and unknown" (CR 93/5, p. 17).

This has obviously given the Danish delegation food for thought over the week-end. Denmark, in the final round, apparently retreated from the position of an all-purpose delimitation and all-purpose boundary line and has now landed on a request for a dual-purpose delimitation and boundary drawing, legally relevant for the continental shelf and fishery zone only, but not in other relations.

It must be admitted that the way the Danish Agent is expressing himself is still not very clear. In one place he states that:

> "Our terminology corresponds actually to that used in the 1981 Agreement between Norway and Iceland on the continental shelf ... where the delimitation line coincides with the delimitation line for the Parties' economic zones ..." (CR 93/10, p. 12).

In other words, his terminology is intended to correspond to a situation where a single-purpose continental shelf boundary was agreed to be placed upon the location of the boundary of an economic zone. But in another instance he states that Denmark "requests a line between the only two zones actually claimed by the Parties ..." (CR 93/10, p. 13) (emphasis added).

The new addition to the Danish submission is tainted by the same lack of precision. But

Norway must assume that Denmark is now principally requesting the Court to perform, in one process, a delimitation resulting in one boundary line relevant for the continental shelf and fishery zones only. That must, in Norway's view, be rejected. Whether Denmark, in the alternative, is requesting the Court to perform two separate delimitation processes, one for the continental shelf under the legal régime applicable to continental shelves, and one separate delimitation process for the fishery zones, will be for the Court to decide. Such an alternative pleading would, at least, be compatible with the present stage of international law.

I shall comment on the realities of the redefined Danish claims and submissions a little later, but I wanted to set the record straight in regard to the Danish suggestion that Norway should have caused all these last-minute changes by the representatives of Denmark, even in the oral pleadings before this Court.

The Norwegian position in respect of the final Danish claims and submissions

May I then briefly express the Norwegian position in respect of the Danish claims and submissions as they have now been presented.

Norway maintains that the framework of this case and the functions and the scope of the mandate of the Court follow from the optional clause declarations in Article 36, paragraph 2, of the Statute. We recognize that it lies within the scope and function of the Court to perform a delimitation of the continental shelf between Denmark and Norway, as well as a delimitation of the fishery zones between the same Parties, in the area between Jan Mayen and Greenland. But we have pointed to the very special nature of any delimitation process and to the judicial restraint which in Norway's view should be exercised in such matters. Norway pointed out in its Counter-Memorial, and still maintains the view, that:

> "In the circumstances the Norwegian Government respectfully submits that the adjudication should result in a judgment which is declaratory as to the bases of delimitation, and which leaves the precise articulation (or demarcation) of the alignment to negotiation between the Parties." (Counter-Memorial, p. 197, para. 704.)

Norway further maintains, as it has done since its Counter-Memorial, that a separate

delimitation of the continental shelf may be performed, as well as a separate delimitation of the fishery zones. But Norway denies that there is any basis in international law, or in any agreement between the Parties, to perform a single, composite, delimitation relevant for both the continental shelf and the fishery zone. Such a claim for a dual-purpose delimitation must, in the submission of Norway, be rejected and dismissed.

Single line delimitation

I would like to make a few further general comments concerning the concept of the single maritime boundary as distinct from several single-purpose boundaries coinciding in respect of location.

As I observed in my first intervention, there is a tendency in international law to prefer the use of multi-purpose or all-purpose boundaries (CR 93/5, p. 22), in particular of boundaries for both shelf and exclusive economic zone.

In the Gulf of Maine case, the Chamber decided that "there is certainly no rule of international law ..." to prohibit such an agreement (I.C.J. Reports 1984, p. 267, para. 27).

However, from the growing tendency towards single maritime boundaries and from their legality one cannot infer that single maritime boundaries are compulsory. By agreement, two States may always provide for two separate lines. But a single maritime boundary cannot be imposed on a State against its will, either in negotiation or in judicial proceedings. A single maritime boundary is never obligatory as a matter of law, and a court cannot decide a single maritime boundary against the will of a party.

Norway asks the Court to rule on the shelf boundary and on the fishery zone boundary in two separate and distinct processes, each boundary being decided on its own merit. Whether these two processes will end up in two separately located lines or in two lines with the same location is a different matter.

I have previously explained Norway's reasons for maintaining that there must be two separate delimiting processes in this case. I may perhaps now draw the Court's attention to the reason why Denmark so persistently tries to obtain a single line maritime boundary.

The reasoning appears to me to be quite obvious: Denmark recognizes that it has a particularly weak legal position in respect of the continental shelf delimitation. There are first of all the treaty provisions, the Continental Shelf Treaty of 1965, which they deny, and the 1958 Continental Shelf Convention, which they expressly recognize as valid and binding; and it is the consistent conduct of the Parties, including almost 30 years of the parallel and unreserved continental shelf declarations of 1963, followed up by a series of bilateral delimitation agreements on the very same median line basis. The trick Denmark attempts to perform is to obtain agreement, or the Court's approval, that there is basis for a dual-purpose or multi-purpose delimitation, hopefully with the same effect as in the Gulf of Maine and the St. Pierre-Miquelon cases - that a request for a single maritime boundary would make the unpleasant realities of treaty obligations and international law concerning the continental shelf fade and go away like a bad dream in the night. An equally obvious alternative for Denmark would be to wake up to the legal reality concerning the continental shelf, and to stand up to their obligations under binding treaties and international law. They would also have to wake up to the reality that certain facts that are so heavily relied upon by Denmark, such as population and the dependency on fisheries, do not weigh in as special circumstances within the meaning of Article 6 of the 1958 Convention.

In my intervention on 15 January 1993 (CR 93/5, p. 23) I stated the three reasons for Norway's maintaining the continental shelf and the fishery zones delimitations within their respective and separate legal régimes. The first and main reason is simply that Denmark is free to bring a unilateral application in order for the Court to perform a delimitation, but our position is then that we stand on our rights under the respective legal régimes. We have not abandoned, and we do not wish to abandon, our legal positions and rights under treaty law and general international law concerning the continental shelf.

The need to maintain a distinction between the process of the delimitation of the continental shelf and the process of the delimitation of zones of maritime jurisdiction - whatever their description - is not linked to tactical or procedural considerations. Nor is it only a matter of

seeking the best-suited legal approach to the solution of delimitation questions as such.

There is an underlying substantive reason. The continental shelf and the extended zones of maritime jurisdiction beyond the territorial sea are governed by separate legal régimes. That is clear from the legal history of the different concepts of the continental shelf and the exclusive economic zone. It is clearly established in contemporary State practice. And it is reflected in the treatment of these distinct categories in the 1982 Convention.

The existence of the two régimes is not an empty formality. It may be that a coastal State - for whatever reason - feels that its interests are best served by refraining from extending its claim to an exclusive economic zone (or its variations) to the maximum permissible. There are situations where the continental shelf may extend beyond 200 nautical miles from the baselines, by operation of the entitlement throughout the natural prolongation of the land territory of a State. In both cases, the continental shelf takes on an existence legally separate from the exclusive economic zone.

For those cases, the distinction between the two régimes will be of material importance.

It is a matter of national policy, and of national interest, for Norway to maintain that distinction. If the Court were to entertain the Danish proposition that a single maritime boundary - for dual or multiple purposes - is obligatory, and can be imposed without the specific agreement of States, then distinctions would be blurred with regard not only to the very important field of delimitation, but in many other respects as well.

That, Mr. President, explains our national interest, and our determined opposition to the Danish proposition.

May I add that the Norwegian position is not an artificial device designed to enhance the treaty arguments or the role of Article 6. We fully accept that a delimitation concerning the fishery zones must stand on its own feet, and be considered in the light of the law applicable to such delimitation.

However, I may also add that it has always been Denmark's declared position, as a practical matter, to accept that in those instances where a continental shelf boundary has already been defined, the fishery zones boundary may conveniently and practically be drawn to follow the

continental shelf boundary. Denmark is trying to escape this stated policy as well, by attacking the historical fact that a continental shelf boundary has long since been determined in this area.

One may say that from a practical viewpoint, there cannot be much difference between two single-purpose boundaries in the same location and one boundary qualitatively defined as a dual-purpose boundary. But the distinction has been preferred by States, in many instances. May I briefly mention two Danish examples:

(a) The 1979 Agreement between Norway and Denmark concerning the Faroe Islands first defined the continental shelf boundary and then, in a separate and later article, decreed that the fishery boundary should follow the continental shelf boundary line (Norwegian Counter-Memorial, Ann. 69, p. 262).

(b) The 1984 Agreement between Denmark and Sweden did the same (Counter-Memorial, Ann. 74, p. 282).

May I also mention one more recent Danish agreement where the continental shelf and the fishery zone are mentioned separately, but are referred to the same Article: "The Treaty of 14 September 1988 between Denmark and the [then] German Democratic Republic" (Counter-Memorial, Vol. II, Ann. 77, p. 293).

What appears from all these Danish examples is that the continental shelf and the fishery zone are mentioned separately, even though coinciding as to location. Not in one single of these instances is there any reference to the concept of a single maritime boundary.

As mentioned in other contexts, in 1981, Norway entered into the second of the two agreements with Iceland, stating that the continental shelf boundary should coincide with the outer limit of the Icelandic exclusive economic zone. This obviously preserved the continental shelf boundary as a single-purpose boundary with a particular definition of its location. And - as already mentioned - the Agent for Denmark has stated in the second round that this corresponds with the terminology of Denmark (Counter-Memorial, Vol. II, Ann. 72, p. 272).

Delimitation of the continental shelf

As for the substantive part of a delimitation process concerning the continental shelf,

Norway relies - as already stated repeatedly - on four legal bases, working independently and conjointly:

(a) The 1965 Agreement between Norway and Denmark

(b) The 1958 Continental Shelf Convention, to which Norway and Denmark are both parties

(c) The consistent conduct of the Parties, and

(d) General international law in respect of delimitation

I shall not repeat or elaborate on the Norwegian arguments, but I must be allowed to comment upon some of the distortions of our arguments made by the Agent for Denmark, Mr. Lehmann, and the Danish counsel, Mr. Magid.

Mr. Lehmann made a statement which at best represents a misunderstanding. He referred to a statement in my opening address (CR 93/5, p. 23) that Norway is indeed seeking an equitable solution and then went on to say: "That represents an important legal recognition of the fundamental rule of delimitation, namely that the method to be adopted should be justified by the equity of the result - and not the other way around" (CR 93/10, p. 17). The disadvantage to this kind of advocacy on the Danish side is that we have the full transcript of what was actually said. It can clearly be seen, also by Mr. Lehmann, that my statement was twofold. I first said that we stand on our four legal sources for the continental shelf delimitation and boundary. I then added that the Norwegian side will try to show that our solutions are indeed equitable.

For the sake of clarity I must state again that Norway does not abandon any of its legal rights or positions, and does not adopt the idea of replacing all legal sources by a general principle or aim of seeking an equitable solution. It is a displeasure to have to point this out again, but sufficiently important to make the Norwegian legal position clear.

As for the Geneva Convention on the Continental Shelf, the Agent for Denmark once again stated that "Denmark, ... fully accepts that the 1958 Convention remains in force and binding on the Parties." (CR 93/10, p. 19.) But after that, Mr. Lehmann did his best to minimize the effects

of that recognized fact.

First, he referred to the Gulf of Maine case, and tried to invoke in the present case the effect which followed in that case from the Parties' agreement to have one single maritime boundary determined. I find it sufficient to refer back to what I just said about these matters a little while ago. In our case, the Parties have not abrogated by agreement the effects of their treaty relationship under the 1958 Convention.

Second, in respect of Article 6 of that Convention, Mr. Lehmann finds nothing better to do than to put into my mouth the entire opposite of what I stated in the first round of the oral pleadings. I stated expressly (CR 93/6, p. 44) that the question of whether the equidistance/special circumstances rule is one rule or not does not need to deter us in this case. I accepted fully the finding in the 1977 case that it is one rule, combining equidistance and special circumstances.

But what I did say, was that there are no "special circumstances" in this case within the meaning of that expression in Article 6. Both Professor Weil and I commented upon the interpretation of that provision. I concluded that, in the case of opposite coasts, Article 6, paragraph 1, provides that, in the absence of an agreement, the median line shall be the boundary (CR 93/6, p. 43).

Against this, Mr. Lehmann, citing one sentence in the 1977 Award, tries to argue (CR 93/10, p. 20) that Article 6, paragraph 1, could be read as follows: "failing agreement, the boundary ... is to be determined on equitable principles". Frankly, Mr. President, this amounts to a contention that Article 6 is reduced to an admonition to the parties to reach agreement, and failing that, then general international law applies. Quite simply, that is not the legal situation of the 1958 Convention.

Coming back to "special circumstances", Mr. Lehmann asserted again that the island of Jan Mayen itself constitutes a special circumstance within the meaning of Article 6 (CR 93/10, p. 21). We have in some detail refuted that position.

He also stated that "The extraordinary difference in coastal length alone dictates another line than the median line" (CR 93/10, p. 20). Again, it must be noted that differences in the length of

coasts never qualified as special circumstances in relation to Article 6.

Counsel for Denmark, Mr. Magid, went on to comment on the 1965 Agreement between Norway and Denmark.

I shall not take up time by repeating our argument. I refer back to Norway's written pleadings (Counter-Memorial, pp. 81-83, paras. 280-292, and Rejoinder, pp. 55-63, paras. 172-202) and oral pleadings (CR 93/6, pp. 9-35) in the matter. But there were also a couple of novel arguments.

Mr. Magid tried to invoke the expression "the common boundary between the parts of the continental shelf ..." in the Preamble of the 1965 Agreement (CR 93/10, p. 35). He was seeking support in the singular "the" in the beginning of this quotation, but kept silent about the plural of the expression "the parts" in the very same passage of the Preamble on which he relies. What parts are there? The area in this case is one of them.

Mr. Magid also tried to ridicule the idea that the Parties, at the time of the 1965 Agreement, contemplated all future delimitation (CR 93/10, p. 37), and also made the statement that "It would be foolhardy in the extreme for a State to agree in advance that one method should apply to all ... delimitations, in all circumstances, ..." (CR 93/10, p. 38.) May I simply remind the Court that both Denmark and Norway, in 1963, two years earlier, issued unilateral declarations concerning the median line as the boundary vis-à-vis all other States, in the absence of agreements to the contrary. That was a statement with application - in respect of Denmark - in 17 different locations, and - in respect of Norway - in nine locations. In Norway's contention, both States had the full overview of what they were doing, and were not acting foolhardy. The series of subsequent delimitation agreements with other States, all based on the median line method, are evidence that both States did indeed not act foolhardy. Mr. Magid even contradicts his own contention - that Jan Mayen-Greenland was not contemplated by the time of the 1965 Agreement - by quoting passages from the Danish Minister for Energy when he answered questions in 1980 in the Danish Parliament. The Danish Minister did not at all deny that East Greenland rights might have been part of the Danish considerations when the 1965 Agreement was entered into. But the Danish

Minister said that he could not, or would not, go into the relationship between East Greenland and the 1965 Agreement (Norwegian Annex 105).

In Norway's submission, all areas of abutting continental shelves between Norway and Denmark were indeed in the Parties' mind when they entered into the 1965 Agreement.

As for the third element of Norway's basis for the continental shelf delimitation, the conduct of the parties, Mr. Magid limited himself to pick up one little - and obviously unimportant - bit of the arguments made by Norway. Not one word was spoken about the evidently strongest aspect of this matter, the legal effect of the consistent and long-lasting declaration to the international community - both by Denmark and Norway - that the median line shall constitute the boundary, in the absence of agreement.

General international law

As for general international law, the fourth leg of the Norwegian basis in respect of the continental shelf, Professor Ian Brownlie and thereafter Professor Prosper Weil will make some comments.

Delimitation of fishery zones

In respect of the process of fishery zone delimitation and the drawing of a boundary line for the fishery zones, Norway, as earlier stated, relies on two legal bases:

(a) The consistent conduct of the Parties, and

(b) General international law.

At this stage, I shall restrict myself to refer back to what has been written and said about the consistent and conclusive conduct of the Parties. As for the general international law aspect, I again refer to Professor Brownlie and Professor Weil.

Bear Island

As for Bear Island, nothing new of any substance was presented by Denmark in the second round. I shall therefore abstain from further comments.

Mr. President, may I then ask you to call upon my colleague, Professor Brownlie, perhaps

after the intermission?

The PRESIDENT: Thank you very much, Mr. Haug. I think it would be convenient to take the intermission here and start with Professor Brownlie afterwards. Thank you.

The Court adjourned from 11.10 to 11.30 a.m.

The PRESIDENT: Professor Brownlie.

Mr. BROWNLIE:

Sovereignty, the significance of title and public order

Mr. President, distinguished Members of the Court, the purpose of my speech today is to respond to certain questions of general international law.

The position of Denmark can be summarized as follows:

First, the result of applying equitable principles is to award to Denmark a delimitation line the actual basis of which is the 200-mile outer limit of Danish entitlements.

Secondly, Denmark accepts the principle of equality of titles (CR 93/10, p. 48), but is unwilling to accept that equality of titles has any legal consequences in relation to delimitation.

Thirdly, Denmark asserts that Norway seeks to "restore equidistance as the ... norm in maritime delimitation" (CR 93/10, p. 48).

Fourthly, Denmark asserts that proportionality is a criterion to be applied in all geographical situations.

Mr. Lehmann has argued that Jan Mayen is not deprived of its entitlement but "maintains its entitlement up to some 50 nautical miles or more ..." (CR 93/10, p. 18).

This radical solution is the direct result of the claim to the 200-mile line by Denmark.

This position, it is argued, represents a "balancing up of all the relevant factors of the case" (CR 93/10, pp. 18-19).

In our view, the Danish approach is not in reality based upon equitable principles and would, if adopted in any form whatsoever, introduce a revisionist element into maritime boundary

settlements.

According to the doctrine propounded in very clear terms by Mr. Lehmann on Monday (CR 93/10, p. 18) the entitlement of the island of Jan Mayen simply does not count, but constitutes whatever happens to be left to the east of Denmark's full entitlement. Moreover, Mr. Lehmann even asserts that this is the result of "a positive rule of international law".

In response to all this the Government of Norway feels bound to underline the consequences of the new Danish doctrine for international public order.

For, Mr. President, whatever may be said by academic writers and political scientists, the present international system rests upon the concept of sovereignty and the orderly relations of sovereign States. When existing States disintegrate - and we have seen some examples recently - the fragments either seek independence as sovereign States or integration with other existing States.

Sovereign independence goes with title to territory and title, once either recognized by other States or determined by a legal third party procedure, is not relative.

Norwegian title to Jan Mayen is, of course, uncontested. Title to territory is not contingent upon the presence or absence of population, or upon a certain level of economic activity or economic development.

It must follow that the legal consequences of holding title in respect of land territory should not be contingent. Islands do not form a category of second class title.

In this same context, Mr. President, it is necessary to insist on the integration of the different institutions of public international law. It would not, for example, be lawful for one State to grant nationality to the population of another State. This would be an abusive use of a normal power which States have, i.e., to grant nationality.

Similarly, the institutions of the law of the sea cannot be used in such a way as to subvert the institution of title to land territory.

Mr. President, if Denmark's position on lengths of coasts were to be given any tincture of legitimacy, many existing maritime delimitations would be open to criticism and proposals for revision. Islands form a significant aspect of the patrimony of many States, rich and poor,

developed and developing alike.

In my submission, the political, moral and practical objections to the argument based upon greater landmass apply with no less force to arguments based upon the population factor and upon coastal length.

In Norway's submission, the Danish arguments in this case pose a serious threat to public order and the rule of law.

The principle of equal division and legal equality

That completes my argument on the significance of title and I can now move on to the issue of equality.

Denmark accepts the principle, at least, of the equality of titles (CR 93/10, p. 48) but complains that "Norway would transpose equality of title into the principle of 'equal division', which, for Norway, means equidistance" (ibid.).

This involves a misunderstanding of Norway's position. In my first round speech, I was careful to emphasize, and I emphasize again now, that the principle of equal division represents a legal equality and is not intended to bring about an equal division of areas.

The same is true of the median line which is the product of applying the principle of equal division in certain geographical situations.

The median line is not based on areas but the criterion of distance and the principle of adjacency. It is these instruments which provide a flexible alternative to the dogmatic geometrical solution based on the ratio of the lengths of coasts.

Given the equality of titles, the principle of equal division is logical and necessary. Its application in the case of opposite coasts leads appropriately to a median line solution.

Mr. President, there is no mechanical device for ensuring an ideal equality and the task of the Court is to devise a solution which does not compromise the legal entitlement and the resulting equality of titles recognized at this stage by both Parties.

The so-called presumption in favour of equidistance

Professor Bowett has asserted that Norway's position is based upon a "presumption in favour of equidistance" (CR 93/10, p. 49), and, in our view, it is necessary to set the record straight.

The Norwegian position is perfectly clear. In the geographical circumstances of this case the equitable solution is a median line, which as Denmark accepted in the first round, is a well-recognized form of delimitation (CR 93/4, p. 10).

In the case of opposite coasts, and in the absence of any cause of modification, then the median line is the equitable solution. It is possible, but not necessary, to describe this as a presumption applicable in certain geographical situations.

And there is no doubt that the State practice adduced by Norway militates in favour of the presumption that the median line is the equitable solution in a certain type of geographical relationship.

In this particular sense, and only in this particular sense, it may be appropriate to speak of a presumption.

The relevance/irrelevance of lengths of coasts

I shall move on to the question of the relevance or irrelevance of the comparative lengths of coasts.

It is Norway's primary submission on this subject that there is no basis in the existing jurisprudence for any reduction of Jan Mayen's normal entitlement. There is no geographical situation creating a normative or comparative framework in which any modification would be justified (see CR 93/7, pp. 32-35).

At this stage, and without prejudice to the primary submission, I intend to focus upon the essential irrelevance - the irrelevance as a matter of principle - of the lengths of coasts.

In the course of the Danish Reply counsel for Denmark tended to rely upon epithets such as "unconvincing" or "unpersuasive" in responding to very specific Norwegian demonstrations of the irrelevance of lengths of coasts (CR 93/10, pp. 51-54). Not much serious counter-demonstration was attempted and what little there was appears to be counter-productive.

First of all, I shall refer to Professor Bowett's point concerning distance. What he said was:

> "In fact, if you take our situation of a small island lying opposite a long coast, the further the distance between them becomes, the greater the divergence between any equality in the ratio of length of the coast to maritime area." (CR 93/10, p. 51.)

With respect to my distinguished opponent this is simply untrue. As a mathematical necessity, whatever the distance between opposite coasts, the effect of a median line is always to reflect the equal lateral reach of jurisdiction from the opposite coasts. The distance value is always shared and the ratio of the two coastal lengths to areas will remain constant no matter what the distance.

Secondly, counsel for Denmark referred to Figure 10 in the Norwegian dossier and found the demonstration "totally unconvincing" (CR 93/10, p. 53).

So, Mr. President, in order to assist the Court, Norway refers once more to Figure 10. The point of the demonstration can be restated quite briefly. Figure 10 is now on the easel behind me.

When Denmark asserts that the proportionality factor is important, that must be taken to mean that as a matter of logic, or equity, or equitable principles, the disparity in coastal lengths is significant. From what we have heard, even in Mr. Bernhard's more moderate version, the significance must be taken to mean that where there is a long coast facing a short coast, the boundary must be located closer to the short coast, that is on the "short-coast State's" side of the median line.

In Norway's submission, that is illogical as a proposition, and a fallacy as a matter of legal reasoning.

The point of departure appears to be agreed: where the comparable coastal lengths are opposite one another, there is no problem in establishing the median line as an equitable boundary within a proportionality perspective. That is the situation which is schematically depicted in the top of the three figures on the demonstration behind me.

Mr. President, the problems of the proportionality dogma can be more easily seen if we look at the second illustration. This long coast of State F to the south - at the bottom - should according to the proportionality dogma be given privilege and priority over - say - State A to the north, or, in

relation to other States, alongside the State A, and this because of the disparity of coastal lengths, and the boundary between State F and State A should consequently be located north of the median line. So, on this reasoning, the long coast of State F would by its length alone lead to a location of each of the several boundaries to the north of a median line between the physical coastlines. We have our long-coast State and our series of short-coast States. The question of course which arises is: what sort of ex post facto test could be devised to provide a cure for such a solecism, for this inescapable consequence of proportionality thinking?

Likewise, in the bottom illustration, you will see an exactly parallel situation, where a series of island States are situated opposite a long-coast State - where the aggregate coastal lengths of the island States are in no way out of comparison with the length of the long, single-coast State.

Mr. President, the Court, if it wished, could check the speeches of the Danish delegation. If this were done, no qualification would be found. The priority asserted for the long-coast State is founded upon a logic based upon bilateral comparisons. This is true of the formulation offered, for example, by Mr. Bernhard (CR 93/4, p. 41).

In our view Professor Bowett failed to explain why the existence of more than one short-coast State opposite should produce a legal privilege for the long-coast State (CR 93/10, p. 53).

If Denmark were correct, in the Arabian or Persian Gulf the longer coast of Iran should result in an adjustment of the line toward the coast of each of Kuwait, Saudi Arabia, Bahrain, Quatar, and so forth.

The logical flaws of the reference to lengths of coast, which flaws are inherent, are also proved by the reductio ad absurdum represented by the illustration in the Danish Memorial (pp. 119-20). This showed that if you took a certain ratio of lengths then in fact the line in favour of Denmark would move to the east of the outer limit of the 200-mile entitlement of Denmark.

Mr. President, in some cases a reductio ad absurdum is simply that. It is a distortion of a thesis which as such is perfectly reasonable. But in our submission in the present context that is not so. And the fact that the selection of the sector of long coast may result in the elimination of

any maritime areas attributable to the short-coast State is a clear indication that the approach based upon the ratio of coasts is unrelated to real geographical relations at all of its stages.

The test of proportionality and the reasoning by way of ratios is irrelevant to the actual location of coasts and their relationships. Length is not the key index of geographical relationship. Length, when converted into ratios, is concerned with areas but not with the location of areas and is therefore inappropriate to a delimitation exercise. This is especially true, in our submission, in the case of the relation of oppositeness.

State practice

I come, finally, to State practice. In general Norway reaffirms its position as expounded in the first round (CR 93/7, pp. 72-85).

But in the light of the remarks of counsel for Denmark some limited rejoinder is called for on certain matters of fact.

The India/Indonesia Agreement of 1974 (Counter-Memorial, Ann. 57)

In relation to the India/Indonesia Agreement of 1974 Professor Bowett claims that the coastal fronts are no more than 12 and 20 miles long respectively. These distances can refer only to the actual basepoints used to construct the equidistance line in this phase of the delimitation. As Norway pointed out in the Rejoinder (paras. 475 and 476) the relevant coastal fronts are "those which abut directly upon the continental shelf area in dispute". In this case the coasts consist of the whole east coast of Great Nicobar, and the west and north coast of Sumatra from Kepulan Kokos to Ujong Jambe Aje. The reasoning may be more easily appreciated from an examination of the second phase of the delimitation in 1977 (Counter-Memorial, Ann. 60).

The India/Maldives Agreement of 1976 (Counter-Memorial, Ann. 59)

Professor Bowett claims that the "Maldives were 'compensated' in the sense that they were given favoured treatment between Point 1 to 10 of the boundary" CR 93/10, p. 64). Norway can find no evidence of this. The analysis by the US State Department Geographer (Limits in the Seas,

No. 78) shows that those points are all equidistant points within the limits of accuracy of the charts used for the analysis. Confusion may have arisen because the analysis used the point numbering adopted in the Maldivian legislation in which the corresponding points are 6 to 16.

The Venezuela/Dominican Republic Agreement of 1979 (Counter-Memorial, Ann. 68)

Professor Bowett continues to insist that this is a median line between the Dominican Republic and the Venezuelan mainland. Norway is not sure whether this is intended to be a purely semantic point. The fact is that the line is equidistant between the Dominican Republic and the Dutch islands of Aruba and Bonaire.

The India/Thailand Agreement of 1978 (Counter-Memorial, Ann. 66)

In connection with the India/Thailand Agreement of 1978, Professor Bowett compares the Andaman Islands with Thailand, but it is in fact the altogether smaller and more scattered Nicobar Islands that represent the coast of India in this delimitation.

The United States/Venezuela Agreement of 1978 (Counter-Memorial, Ann. 63)

In the case of the Agreement of 1978 between the United States and Venezuela, Professor Bowett refers to the "quite large" United States island of Puerto Rico, and claims that the balance was between that island and the Venezuelan mainland. However, he did not mention that between Points 8 and 11, representing a boundary length of some 56 nautical miles, the line is equidistant between Puerto Rico and Aves Island, and was controlled by basepoints on those islands.

Mr. President, that concludes my second round speech. Once more I wish to acknowledge the assistance received from colleagues in the Norwegian delegation.

I would like to thank the Court for its courtesy and attention.

Mr. President, could I ask you to call on my friend, Professor Weil?

The PRESIDENT: Thank you Professor Brownlie. Professor Weil.

M. WEIL : Monsieur le Président, Messieurs les Juges,

Ma première intervention a été trop longue pour que je puisse envisager de reprendre la moindre de mes démonstrations. Je me contenterai donc de quelques brèves remarques et mises au point.

Je dois tout d'abord observer que sur les problèmes juridiques fondamentaux que soulève la présente affaire au regard du droit de la délimitation maritime, la Partie adverse n'a apporté aucun élément de réponse. Les affirmations péremptoires indéfiniment répétées ne tiennent pas lieu de droit.

1) L'inversion du processus de délimitation, qui commence par la ligne dite équitable de proportionnalité et s'achève par la ligne maximale autorisée par le droit, a été réaffirmée (CR 93/10, p. 18). Quel raisonnement juridique peut-il étayer un processus aussi anormal ? Nous ne le saurons jamais.

2) Aucune justification juridique n'a été fournie de l'importance prêtée par le Danemark dans la délimitation aux facteurs de proportionnalité et de population qui ne jouent l'un et l'autre aucun rôle dans le titre. Comment le Danemark réconcilie-t-il sa thèse avec la doctrine clairement affirmée de *Libye/Malte*, selon laquelle seules sont juridiquement pertinentes dans la délimitation les considérations qui interviennent dans le titre ? Nous ne le saurons jamais.

3) Aucune explication n'a été donnée du changement radical de la position danoise en matière de proportionnalité entre la procédure écrite et la procédure orale : principe direct de délimitation dans les écritures, circonstance pertinente et test a posteriori dans les plaidoiries. Et que pense le Danemark du fait que, quoi qu'il en dise, c'est bel et bien une délimitation "prenant pour base le principe de la proportionnalité" (taking as a basis the principle of proportionality) (MD, par. 371) qu'il continue à préconiser en contravention flagrante avec une jurisprudence massive et sans faille ? Nous ne le saurons jamais.

4) Aucun commencement d'explication n'a été apporté pour nous faire comprendre comment, sous l'empire de l'article 6, une île peut constituer une circonstance particulière dans une délimitation qui la met en cause elle-même directement face à une autre côte. L'agent du Danemark

a comparé Jan Mayen aux îles Anglo-normandes et aux îles Sorlingues dans l'arbitrage franco-britannique (CR 93/10, p. 20), mais, Monsieur le Président, il s'agissait d'îles qui constituaient des appendices des côtes françaises et britanniques entre lesquelles la délimitation devait s'effectuer et qui risquaient de ce fait de représenter un élément perturbateur dans cette délimitation. Comment le Danemark peut-il voir dans le cas des Sorlingues et des Anglo-normandes un précédent pertinent pour notre affaire alors qu'il reconnaît par ailleurs que la côte de la Norvège continentale est étrangère à notre délimitation et que celle-ci met en cause exclusivement Jan Mayen et le Groenland ? Nous ne le saurons jamais.

5) Le concept de circonstances spéciales est-il, aux yeux du Danemark, limité à l'article 6, ou bien doit-il recevoir, aux yeux du Danemark, une application généralisée, y compris dans le cadre du droit coutumier ? Nous ne le saurons jamais.

6) Si les circonstances spéciales de l'article 6 restent confinées au régime conventionnel de 1958 et si, comme le Danemark l'a reconnu au premier tour des plaidoiries, le concept de caractéristiques géographiques particulières n'est pas applicable à notre affaire, alors pour quelle raison juridique précise devrait-on refuser tout effet à Jan Mayen dans une délimitation régie par le droit coutumier ? Nous ne le saurons jamais.

7) Au terme de ce second tour des plaidoiries, c'est en fin de compte sur une approche impressionniste, où le flou juridique domine, que le Danemark paraît compter pour convaincre la Cour. Le seul élément juridique nouveau a été constitué par l'étrange allusion au paragraphe 3 de l'article 121 de la convention sur le droit de la mer, faite une première fois par M. Lehmann (CR 93/10, p. 21), une deuxième fois par M. Lynge (CR 93/10, p. 71). Le Danemark entend-il remettre en cause sa position formelle et explicite que Jan Mayen constitue une île au sens des paragraphes 1 et 2 de cet article - dont la valeur coutumière est généralement reconnue - et non pas un rocher qui ne se prête pas à l'habitation humaine ou à une vie économique propre au sens du paragraphe 3 de ce même article - dont la valeur coutumière reste discutée ? Ou bien le Danemark entend-il simplement jeter un doute sur l'aptitude de Jan Mayen à générer une zone de pêche ou de plateau continental ? Ou bien ces remarques n'ont-elles aucune portée juridique précise, mais alors

pourquoi jeter le trouble dans les esprits ? Cela non plus, nous ne le saurons jamais.

*

En second lieu, malgré l'amitié que je porte au professeur Derek Bowett, je me dois de déplorer qu'il ait parfois si mal compris mes propos qu'il en est venu à en présenter une version défigurée et à me prêter des affirmations diamétralement opposées aux vues que j'ai exposées devant la Cour.

Dans un ultime effort pour inciter la Cour à écarter la ligne médiane que tout impose dans notre affaire - à moins de faire de la proportionnalité ou du facteur de population la circonstance juridiquement pertinente par excellence - le professeur Bowett s'est lancé dans ce qu'il me pardonnera d'appeler une opération de désinformation.

Vue à travers les lunettes du professeur Bowett la thèse de la Norvège devient la suivante :

> "Norway" commence-t-il "would transpose equality of title into the principle of 'equal division' which, for Norway, means equidistance." CR 93/10, p. 48.)

Pourtant, poursuit-il, la jurisprudence a clairement affirmé que

> "L'équité n'implique pas nécessairement l'égalité... [I]l ne s'agit [pas] d'égaliser la situation d'un Etat dont les côtes sont étendues et celle d'un Etat dont les côtes sont réduites." (C.I.J. Recueil 1969, p. 49, par. 91.)

En conséquence, dit le professeur Bowett, "we cannot start from the premise of 'equal division' and from the presumption in favour of equidistance" (CR 93/10, p. 49).

En clair, à en croire le conseil du Danemark, dans une situation comme la présente, où les côtes du Groenland sont beaucoup plus longues que celles de Jan Mayen, commencer par la ligne médiane équivaudrait à rechercher une division égale, or rechercher une division égale serait contraire à la jurisprudence qui interdit d'égaliser des côtes longues et des côtes courtes. La thèse de la Norvège se trouverait par là-même radicalement condamnée.

Que l'on nous entende bien.

Nous sommes d'accord avec le Danemark qu'il ne saurait être question "d'égaliser la

situation d'un Etat dont les côtes sont étendues à celles d'un Etat dont les côtes sont réduites" (C.I.J. Recueil 1985, p. 44, par. 57). J'ai moi-même cité ce passage de la Cour (CR 93/9, p. 11).

Nous sommes aussi d'accord avec le Danemark pour admettre que "l'existence d'un titre égal ... des Etats côtiers n'implique pas l'égalité de l'étendue [de leurs zones maritimes]" (op. cit., p. 43, par. 54). J'ai moi-même cité ce passage de la Cour (CR 93/8, p. 25). J'ai observé qu'une côte longue engendre normalement une plus grande superficie d'espaces maritimes qu'une côte courte (CR 93/9, p. 11). J'ai souligné qu'équidistance n'est pas synonyme d'égale division. Et j'ai rappelé que dans la présente affaire la ligne médiane revendiquée par la Norvège accorde une superficie plus grande au Groenland qu'à Jan Mayen (CR 93/9, p. 43).

M. Bowett a d'ailleurs déclaré lui-même:

> "[I]t may be true that equidistance does not necessarily effect an equal division of areas... [W]here the lengths of opposite coast differ radically, equidistance will produce a radically unequal division." (CR 93/10, p. 51.)

Je répète cette dernière phrase :

> "[W]here the lengths of opposite coast differ radically, equidistance will produce a radically unequal division."

Alors, Monsieur le Président, de quoi se plaint le professeur Bowett? Et pourquoi nous fait-il un procès d'intention ?

Procès d'intention encore lorsque le conseil du Danemark présente notre thèse sous la forme du dilemme "Equidistance or chaos ?" (CR 93/10, p. 59) et qu'il dit en toutes lettres :

> "But, says Professeur Weil, there is no rational alternative. It is either equidistance or equity, which means an unprincipled floundering in a host of subjective evaluations, a sort of juridical chaos." (CR 93/10, p. 61.)

Ayant ainsi caricaturé notre thèse et mes paroles, le professeur Bowett n'a évidemment aucune difficulté à les réfuter en proclamant :

> "The dilemma of principle (equidistance) or chaos (equity) is unreal." (Ibid.)

Ai-je besoin de rappeler que la Cour n'a jamais admis l'opposition factice et artificielle entre équidistance et équité et qu'elle a elle-même proclamé à de nombreuses reprises que dans certaines situations l'équidistance produit un résultat équitable ? "[Son] emploi est indiqué dans un très

grand nombre de cas", déclarait la Cour en 1969 (C.I.J. Recueil 1969, p. 23, par. 22). Elle a "pu rendre des services indéniables ... dans bien des circonstances concrètes", a confirmé la Chambre dans le Golfe du Maine (C.I.J. Recueil 1984, p. 297, par. 107). Les accords de délimitation "montrent de façon frappante que la méthode de l'équidistance peut, dans bien des situations, produire un résultat équitable", a répété la Cour dans *Libye/Malte* (C.I.J. Recueil 1985, p. 38, par. 44).

En raison de la disparité des longueurs côtières, a précisé le professeur Bowett, il ne faut pas commencer dans notre affaire par l'équidistance, parce que sinon, ajoute-t-il, *"you build into the delimitation process some presumptions which ... are totally unreasonable and unacceptable"* (CR 93/10, p. 63). Le professeur Bowett a-t-il oublié que dans *Libye/Malte*, où la disparité des longueurs côtières était tout aussi frappante que dans notre affaire, la Cour a estimé qu'il fallait commencer par une ligne médiane parce que c'était là la méthode "cohérente avec les concepts à la base de l'attribution du titre juridique" (*C.I.J. Recueil 1985*, p. 47, par. 61) ?

Monsieur le Président, où ai-je dit qu'il n'y a de choix qu'entre le principe de l'équidistance et le chaos de l'équité ? Oui, où ai-je dit cela ? N'ai-je pas, tout au contraire, évoqué à plusieurs reprises la norme fondamentale du résultat équitable ?

N'ai-je pas rappelé que la ligne médiane est provisoire et que, selon *Libye/Malte*, "il doit .. être démontré que la méthode de l'équidistance aboutit, dans le cas considéré, à un résultat équitable" ce qui me parait être le cas dans notre affaire (CR 93/9, p. 42) ?

N'ai-je pas conlu en priant la Cour d'admettre que (je me cite) "dans la présente affaire équidistance est synonyme d'équité et que la ligne médiane peut être acceptée par la Cour dans le cadre de la norme fondamentale du résultat équitable" (CR 93/9, p. 44) ? Comment M. Bowett peut-il nous accuser de chercher à *"set back the evolution of the law of maritime delimitation by 25 years"* (CR 93/10, p. 48) ?

En ouvrant les plaidoiries orales, l'agent du Danemark avait déclaré que *"the heated debates about equidistance versus equity may look somewhat artificial"* (CR 93/1, p. 30). Je regrette que le conseil du Danemark ait rouvert ce faux débat.

Je n'ai rien d'autre à ajouter.

Monsieur le Président, Messieurs les Juges, je vous remercie de l'attention que vous avez portée à mes propos, et je vous prie, Monsieur le Président, de bien vouloir donner la parole à présent à l'agent de la Norvège, M. Haug.

The PRESIDENT: Thank you very much Professor Weil. Mr. Haug please.

Closing Statement

Mr. HAUG: Mr. President, distinguished Members of the Court, I shall now conclude the Norwegian arguments in the second round and, in accordance with Article 60, paragraph 2, of the Rules of the Court, read out Norway's submission.

Before I do that, and to follow the sequence of our first round of the oral pleadings, may I also make a few comments in respect of the considerations propounded by Professor Keith Highet on 21 January 1993.

My first observation is that Denmark did not respond to any of the points that were made by Professor Highet on 21 January. There is no analysis, no argument, no rebuttal. Mr. Lehmann confined himself to characterizing Professor Highet's argument as "a whole series of political considerations," (CR 93/10, p. 13) and added that the "argument simply does not make sense" (CR 93/10, p. 14). No formal rebuttal of Professor Highet is needed, since there is nothing in fact to reply to. But Denmark did, however, amend its submission.

My second observation is that Mr. Lehmann mischaracterized Professor Highet's statements on at least two points:

First, he said that we had stated that "the Applicant State can dictate the course of the proceedings - maybe even the judgment" (idem, pp. 13-14). In fact, what Professor Highet said was that "no applicant should be able to dictate to a respondent what its claims should be" (CR 93/9 at p. 55) - and that is a far cry from dictating the judgment.

Second, Mr. Lehmann also characterized our argument as being that "the optional clause

reference to any legal question does not include such legal questions as maritime delimitation" (CR 93/10, p. 14). This was never said. What we *did* say was that there is an open question whether the general reference to "any question of international law" in the optional clause could satisfy the requirement of the law of the sea that there be a specific agreement for a delimitation - that is the law to which the Court must in fact turn when it is activated by the optional clause in the first place.

In brief, Norway does not consider Denmark's response to be any kind of an answer to an argument of law that raises, in our submission, important policy questions for the Court in the exercise of its specific duties in a case such as the present one. In fact, Denmark's dismissive treatment of this portion of Norway's argument might perhaps be viewed as conceding defeat on these issues.

As we have stated several times: Norway agrees that the Court has jurisdiction and power to answer the legal question as to the rules and principles governing a delimitation, but it should exercise judicial discretion by stopping short of indicating the details of the specific delimitation itself.

In closing Norway's pleadings, let me recall to the Court that in my opening statement, I pointed to some of the peculiarities of this case: the lack of a special agreement, the lack of clarity of the submissions of Denmark, and the extreme nature of the Danish claims. The background for our views on that last point is formed by the unique features of the present case:

1. The dimensions and simplicity of the geography of the region: the distances and areas involved are greater than ever before encountered in any delimitation case brought to adjudication.

The coastlines are simple - "'classical' and straightforward" opposite coasts, no singularities or incidental features, no intruding external third party coasts and territories or outside framework of macrogeography which could influence a delimitation;

2. The treaty relations between the Parties in respect of the delimitation of the continental shelf, and the conduct of the Parties demonstrating their consistent and mutually congruent practice in respect of the delimitation of both the continental shelf and of the fisheries zones;

3. The absence of any Special Agreement to define - restrict or extend - the scope of the Court's function in any respect; and the resulting reliance of the Court for its jurisdiction and competence on Norway's optional clause declaration and on Article 36, paragraph 2, of the Statute.

It is on this background that the Applicant Government seeks relief which is radical and extreme.

- Radical in the sense that the Court is invited to disregard entirely the treaty relations governing the continental shelf.
- Radical in the sense that the Court is invited to disregard the established legal distinctions between the régime of the continental shelf and that of extended zones of resource jurisdiction, by the insistence on a single, dual-purpose line of delimitation.
- Radical in the sense that State practice - even the practice of the Parties themselves - is held to be of no importance.
- Extreme in that the boundary line claimed is defined without regard whatsoever for the entitlements of one of the territories in question to a continental shelf and to a zone of resource jurisdiction.
- Extreme in that the boundary claimed follows the outer limit of that area which the Applicant considers as the maximum of what it is entitled to claim, in respect of both shelf and zone, if Jan Mayen had not been there.
- Extreme in that the request is for a fully articulated, detailed boundary line, in the absence of any agreement between the Parties and any arrangements for enabling the Court to carry out such an exercise.

Mr. President, we have argued in detail on the law and on its application. I ask the Court now to weigh most carefully its choice of approach to a decision in the matter:

- either the caution of following the uniqueness of the case and the many specific relationships between the Parties, as the Court has done in all other cases; or
- the daring of following the Applicant's invitation to decide in the abstract - when the geographical characteristics of the case are such that on every point, the results of a decision

will be magnified and generalized.

Mr. President, we confidently lay this decision in the hands of the Court.

On behalf of the Norwegian Government I wish to state that the questions addressed to the Parties by the distinguished Vice-President of the Court, Judge Oda, will be answered by Norway in writing in due course.

Mr. President, Norway's Submissions read as follows:

May it please the Court to adjudge and declare that:

1. The median line constitutes the boundary for the purpose of delimitation of the relevant areas of the continental shelf between Norway and Denmark in the region between Jan Mayen and Greenland;

2. The median line constitutes the boundary for the purpose of delimitation of the relevant areas of the adjoining fisheries zones between Norway and Denmark in the region between Jan Mayen and Greenland;

3. The Danish claims are without foundation and invalid, and that the Danish submissions and claims are rejected.

Our submissions will also be submitted to the Court in writing.

Finally, Mr. President, and distinguished Members of the Court, may I express my gratitude, and that of my Co-Agent and counsel, for the patience and care with which the Court has listened to our arguments.

The PRESIDENT: Thank you very much, Mr. Haug. That I think concludes the Norwegian Rejoinder.

That concludes also these oral proceedings in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway).* The only matter still outstanding is the replies to the three questions asked by the Vice-President; and we have been told by both Agents that these will be answered in writing shortly.

Before formally closing these proceedings I wish, on behalf of the Court, to thank both Parties for the very able and valuable assistance they have given to the Court in the course of the

hearing.

I now declare the closure of the oral proceedings in this case, subject to the usual reservation that the Agents remain at the disposal of the Court to supply any information it might find necessary. Thank you very much.

The Court rose at 12.20 p.m.