

CORRESPONDENCE

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1. THE AMBASSADORS OF CANADA AND THE UNITED STATES OF AMERICA TO THE
NETHERLANDS TO THE REGISTRAR

[See I, pp. 3-4]

2. THE AMBASSADORS OF CANADA AND THE UNITED STATES OF AMERICA
TO THE NETHERLANDS TO THE ACTING PRESIDENT OF THE INTERNATIONAL COURT
OF JUSTICE

25 November 1981.

The Governments of the United States of America and Canada have on this date notified the Registrar of the Court under Article 40 of the Statute of the Court of the Special Agreement¹ between the Government of Canada and the Government of the United States of America to submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine area.

In their joint notification, the two Governments have stressed the importance that they attach to early consultations with you under Article 17 of the Rules of Court so that you may be in a position to ascertain their views regarding the composition of the Chamber to which the two Governments have now submitted the question set out in Article II of the Special Agreement.

To this end, on behalf of the Governments of Canada and the United States of America, we hereby request a meeting with you within the period from the afternoon of 8 December to 11 December 1981, in order that the Agents of both Governments are able to present their views regarding the composition of the Chamber to hear the Gulf of Maine case in accordance with the Statute and the Rules of Court.

3. THE REGISTRAR TO THE AMBASSADOR OF CANADA TO THE NETHERLANDS

25 November 1981.

I have the honour to acknowledge receipt of the letter dated 25 November 1981, signed by Your Excellency and by His Excellency the Ambassador to the Netherlands of the United States of America, constituting notification to the Court of the Special Agreement between the Government of Canada and the Government of the United States of America to submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine area, signed at Washington on 29 March 1979, and subsequently altered. I have the honour further to acknowledge receipt of certified copies of the Treaty between the said two Governments to submit to binding dispute settlement the Delimitation of the Maritime Boundary in the Gulf of Maine area, done at Washington on 29 March 1979 and subsequently

¹ I, pp. 3-26.

altered; the Special Agreement referred to above; a further Special Agreement between the said two Governments to submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine area; and of the Protocol of Exchange of instruments of ratification of the said Treaty, dated 20 November 1981.

I note that Mr. Leonard H. Legault has been appointed Agent for the Government of Canada in this case, and that his address for service is the Embassy of Canada at The Hague.

Due note has also been taken that it is the intention of the Government of Canada to exercise the power conferred by Article 31 of the Statute of the Court to choose a judge *ad hoc* to sit in this case.

(Signed) Santiago TORRES BERNÁRDEZ.

4. THE REGISTRAR TO THE AMBASSADOR OF THE UNITED STATES OF AMERICA
TO THE NETHERLANDS

25 November 1981.

I have the honour to acknowledge receipt of the letter dated 25 November 1981, signed by Your Excellency and by His Excellency the Ambassador to the Netherlands of Canada, constituting notification to the Court of the Special Agreement between the Government of Canada and the Government of the United States of America to submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine area, signed at Washington on 29 March 1979, and subsequently altered. I have the honour further to acknowledge receipt of certified copies of the Treaty between the said two Governments to submit to binding dispute settlement the Delimitation of the Maritime Boundary in the Gulf of Maine area, done at Washington on 29 March 1979 and subsequently altered; the Special Agreement referred to above; a further Special Agreement between the said two Governments to submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine area; and of the Protocol of Exchange of instruments of ratification of the said Treaty, dated 20 November 1981.

I note that Mr. Davis R. Robinson has been appointed Agent for the Government of the United States of America in this case, and that his address for service is the Embassy of the United States of America at The Hague.

Due note has also been taken that it is the intention of the Government of Canada to exercise the power conferred by Article 31 of the Statute of the Court to choose a judge *ad hoc* to sit in this case.

5. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

(telex)

26 November 1981.

I have the honour to inform you, pursuant to Article 40, paragraph 3, of the Statute of the Court, that on 25 November 1981 the Governments of Canada and the United States of America filed in the Registry of the Court a joint

notification of a Special Agreement dated 29 March 1979 (subsequently amended) for the submission to a Chamber of the Court of the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. Printed copies of the Special Agreement will be communicated to you as soon as possible pursuant to Article 42 of the Rules of Court.

6. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

27 November 1981.

By a letter dated 25 November 1981, and handed to me the same day, Their Excellencies the Ambassadors to the Netherlands of Canada and the United States of America notified to the Court, pursuant to Article 40 of the Statute of the Court, a Special Agreement between their respective Governments for the submission to a Chamber of the Court of the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Main Area*; and by that letter the Court was also informed of your appointment as Agent of the Government of the United States of America, having as address for service the United States Embassy at The Hague.

By a further letter dated 25 November 1981, addressed to the Acting President of the Court, the two Ambassadors requested a meeting of the Agents of the Parties with the Acting President, pursuant to Article 17 of the Rules of Court.

The President has directed me to inform you that he will be happy to meet the Agents for that purpose, and proposes an appointment¹ for 11 a.m. on 12 December 1981. I am, of course, writing to the Agent of Canada in the same sense.

7. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

11 December 1981.

I have the honour to refer to the telex message of 26 November 1981 whereby I informed you of the filing on the previous day of a joint notification by the Governments of Canada and the United States, and to advise you that I am forwarding under separate cover (by airmailed parcel post, marked "Attention, Director, General Legal Division") 200 copies of the Special Agreement thus notified, providing for the submission to a Chamber of the Court of the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

I would be grateful if, in accordance with Article 40, paragraph 3, of the Statute of the Court, you would be good enough to inform the Members of the United Nations of the filing of this Special Agreement.

¹ The meeting in question was later postponed until 15 December 1981.

8. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

Le 16 décembre 1981.

Le 25 novembre 1981, les ambassadeurs du Canada et des États-Unis d'Amérique aux Pays-Bas ont conjointement notifié à la Cour internationale de Justice un compromis entre leurs gouvernements visant à soumettre à une chambre de la Cour la question de la *Délimitation de la frontière maritime dans la région du golfe du Maine*. Ce compromis a été signé à Washington le 29 mars 1979 et modifié par la suite; les instruments de ratification ont été échangés à Ottawa le 20 novembre 1981.

J'ai l'honneur de vous transmettre ci-joint, à toutes fins utiles, un exemplaire dudit compromis et des autres textes déposés en même temps au Greffe de la Cour.

9. THE ACTING PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE
TO THE AGENT OF THE GOVERNMENT OF CANADA

18 December 1981.

With reference to the meeting held in my office on Tuesday 15 December 1981 for the purpose of the consultation to ascertain the views of the Parties, pursuant to Article 17, paragraph 2, of the Rules of Court, concerning the composition of the Chamber the formation of which has been requested to hear the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Main Area*, I have to inform you that at a meeting held by the Court on Wednesday, 16 December 1981, I duly reported the ascertained views of the Parties to the Court.

In the course of that meeting the Court proceeded to an examination of the Special Agreement notified to the Court on 25 November 1981 by the Governments of Canada and the United States of America, and the other documents enclosed with the notification. Views were exchanged between the Members of the Court and certain issues were raised by some of them concerning problems which in their view might create difficulties, particularly because of possible incompatibilities with the Statute and the Rules of Court. Following the discussion, it was decided that I should invite the Agents of both Parties to submit in writing to the Court supplementary explanations or clarifications on the following points:

1. How in Article III of the Treaty of 29 March 1979 the reference to the filling of vacancies on the Chamber "in a manner acceptable to the Parties" can be reconciled with the provisions of Article 26 of the Statute and of Article 17, paragraph 3 (last sentence), and Article 18, paragraph 1, of the Rules of Court.

2. Attention was drawn to the last sentence of Article I of the Treaty of 29 March 1979 and to Article VI, paragraph 1 (a), of the Special Agreement, which refer to the notification of the name of the judge *ad hoc* as determining the constitution of the Chamber and the date from which the time-limit for the memorials to be submitted by the Parties be counted, while a Chamber is established by the Court, and the notification of the name of the judge *ad hoc*

¹ Une communication analogue a été adressée aux États Membres des Nations Unies et aux États non membres des Nations Unies admis à ester devant la Cour.

does not exhaust the requirements of Article 31 of the Statute and Article 35 of the Rules of Court.

3. What relationship exists, in the view of the two Governments, between Article II, paragraph 4, of the Special Agreement and Article 27 of the Statute of the Court?

4. Is the effect of Article VII, paragraph 2, of the Special Agreement that the decision of the Chamber (which under Article 27 of the Statute "shall be considered as rendered by the Court") will be subject to review by a "third party", so that it will be the decision of the "third party" and not the decision of the Court which will be regarded by the Parties as having binding force, contrary to Articles 59 and 60 of the Statute?

It would be of assistance to the Court if your reply to the present letter were to be available to it when it next meets around 13 January 1982 for further consideration of the Special Agreement as well as of my report of our meeting of 15 December.

I am addressing a similar letter to the Agent of the United States of America.

(Signed) T. O. ELIAS.

**10. THE AMBASSADORS OF CANADA AND THE UNITED STATES OF AMERICA
TO THE NETHERLANDS TO THE ACTING PRESIDENT OF THE INTERNATIONAL COURT
OF JUSTICE¹**

6 January 1982.

The Parties to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area* respectfully submit the following response to the four questions raised in your letter of 18 December 1981.

At the outset the Parties wish to emphasize that they consulted informally with the late President Sir Humphrey Waldock during the negotiation of the Treaty of 29 March 1979 and the related Special Agreement, and incorporated suggestions made by Sir Humphrey in order to ensure that the Treaty and Special Agreement would be consistent in all respects with the Statute and Rules of the Court. These consultations with the Court have continued in a number of meetings with you and the Registrar during the past year. The Parties consider that the Treaty and Special Agreement are fully consistent with the Statute and Rules of the Court, and reaffirm their request that the proposed Chamber be constituted prior to the commencement of the Terms of Office of those Members of the Court elected in the triennial election in 1981.

The questions and the answers thereto are as follows:

1. "How in Article III of the Treaty of 29 March 1979 the reference to the filling of vacancies on the Chamber 'in a manner acceptable to the Parties' can be reconciled with the provisions of Article 26 of the Statute and of Article 17, paragraph 3 (last sentence), and Article 18, paragraph 1, of the Rules of Court."

Article III of the Treaty is wholly consistent with the Statute and Rules of the Court. The Parties have at all times expected that any vacancy on the Chamber

¹ This communication was sent on behalf of the Agents of the Government of Canada and the Government of the United States of America.

would be filled in accordance with the Statute and the Rules. The procedures set forth in Articles 17 and 18 of the Rules provide for ascertaining the views of the Parties and for a subsequent election by the Court in the case of a vacancy created by the absence of a Member of the Court not a national of either Party. Article III of the Treaty in no way interferes with the operation of these provisions. It simply specifies the circumstances under which the Parties may exercise their right to terminate the Special Agreement and, pursuant to Article 88 of the Rules, to discontinue the proceedings before the Court.

The Parties note that the right of termination, as discussed above, is provided for in the Treaty which was transmitted to the Court as background information. Unlike the Special Agreement, the Treaty was not notified to the Court pursuant to Article 40 of the Statute and thus does not call for any action by the Court. In respect of the operation of Article III of the Treaty, the Parties contemplate that they would jointly request the election of a Member of the Court to fill any vacancy that might arise among those Judges not nationals of either Party and either Party would have the option of terminating the Special Agreement if the result of the election was not in accordance with this joint request.

2. "Attention was drawn to the last sentence of Article I of the Treaty of 29 March 1979 and to Article VI, paragraph 1, of the Special Agreement, which refer to the notification of the name of the judge *ad hoc* as determining the constitution of the Chamber and the date from which the time-limit for the memorials to be submitted by the Parties be counted, while a Chamber is established by the Court, and the notification of the name of the judge *ad hoc* does not exhaust the requirements of Article 31 of the Statute and Article 35 of the Rules of Court."

The last sentence of Article I of the Treaty states that "The Chamber . . . shall be deemed to have been constituted when the Registrar of the Court has been notified of the name or names of the judge or judges *ad hoc*." The purpose and practical effect of this language is to establish a reference point for the calculation of the six-month period referred to in Article II of the Treaty. This does not affect the Court's power to interpret and apply the Statute and the Rules with respect to the establishment of the Chamber, including Article 31 of the Statute and Article 35 of the Rules. Similarly, Article VI, paragraph 1 (*a*), of the Special Agreement reflects an agreement between the Parties to request the Chamber to set a certain time-limit for the filing of the Memorials. Such an agreement between the Parties is consistent with the Statute and the Rules and practice of the Court. The date of notification of the name of the judge *ad hoc* was selected by the Parties as a convenient formula to identify the time-limit to be requested. This clause does not interfere with the operation of the Statute and the Rules or, in particular, with the authority of the Court or the President to fix time-limits for the filing of Memorials pursuant to Articles 44 and 92 of the Rules or such other provisions as may be relevant.

3. "What relationship exists, in the view of the two Governments, between Article II, paragraph 4, of the Special Agreement and Article 27 of the Statute of the Court?"

These provisions of the Statute and the Special Agreement are both consistent and complementary. Under Article 27 of the Statute, the judgment to be given by the Chamber "shall be considered as rendered by the Courts". Article II,

paragraph 4, of the Special Agreement provides that the decision of the Chamber rendered pursuant to the same Article – which according to the Statute must be considered a judgment of the International Court of Justice – shall be accepted as final and binding by the Parties. The relationship of the two provisions, therefore, is clear and unequivocal: the decision of the Chamber under Article II of the Special Agreement shall be a final and binding decision of the International Court of Justice. Although Article II, paragraph 4, of the Special Agreement may not be necessary as a legal matter (since the Statute already makes the decision of the Chamber binding on the Parties), this paragraph does serve to inform domestic constituencies that may not be familiar with the Statute of the Court.

4. “Is the effect of Article VII, paragraph 2, of the Special Agreement that the decision of the Chamber (which under Article 27 of the Statute ‘shall be considered as rendered by the Court’) will be subject to review by a ‘third party’, so that it will be the decision of the ‘third party’ and not the decision of the Court which will be regarded by the Parties as having binding force, contrary to Articles 59 and 60 of the Statute?”

The Special Agreement does not provide for any third party review of the decision of the Chamber of the International Court of Justice. As provided in Articles 27, 59 and 60 of the Statute, that decision is final and without appeal.

Article VII of the Special Agreement concerns an entirely different matter, namely, the possible future seaward extension of the boundary beyond the segment drawn by the Chamber. Article II of the Special Agreement defines an area within which the Chamber is asked to place the seaward limit of the boundary to be drawn under that Article. Article VII envisages the possibility of extending the boundary beyond that terminal point, either by agreement of the Parties or by recourse to third party settlement procedures. Since the seaward extension would begin at the terminus of the line drawn by the Chamber and would not alter that line in any way, there is no inconsistency between Article VII of the Special Agreement and Articles 59 and 60 of the Statute.

11. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA¹

23 January 1982.

I have the honour, with reference to the request notified to me on 25 November 1981 for the formation by the Court, pursuant to Article 26, paragraph 2, of its Statute, of a Chamber to deal with a dispute between Canada and the United States of America concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, to inform Your Excellency that on 20 January 1982 the Court made an Order² to that effect, and to transmit to you an official copy of the Order in question.

Printed copies of the Order will also be dispatched to you very shortly.

¹ A communication in the same terms was sent to the Agent of the Government of Canada.

² *I.C.J. Reports 1982*, p. 3.

12. THE AMBASSADOR OF CANADA TO THE NETHERLANDS TO THE REGISTRAR¹

26 January 1982.

I have the honour to refer to the letter dated 25 November 1981, from the Ambassadors of Canada and of the United States to the Kingdom of the Netherlands, notifying the Court of the Special Agreement between their Governments to submit to binding dispute settlement the Delimitation of the Maritime Boundary in the Gulf of Maine area, and to the notification by the Government of Canada in the said letter of its intention to exercise the power conferred by Article 31 of the Statute of the Court to choose a judge *ad hoc* in this case.

In accordance with Article 31 of the Statute and Article 35 of the Rules, the Government of Canada hereby informs the Court that the name of the person chosen by Canada to sit as judge *ad hoc* on the Chamber of the Court constituted for the *Gulf of Maine* case is Professor Maxwell Cohen, of Ottawa, Canada. Professor Cohen is of Canadian nationality. A brief biography is attached herewith².

The Government of Canada would be pleased to be informed by the Court as soon as possible as to the observations, if any, of the Government of the United States and of the Court regarding Canada's choice of Professor Cohen as its judge *ad hoc* for this case.

13. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

26 January 1982.

I have the honour to inform you that by a letter of today's date, of which a copy is enclosed, the Ambassador of Canada to the Netherlands has informed me of his Government's choice, in accordance with Article 31 of the Statute and Article 35 of the Rules of Court, of Professor Maxwell Cohen to sit as a judge *ad hoc* in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

14. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE REGISTRAR

26 January 1982.

I have the honor to refer to your communication of 26 January 1982 forwarding to the Government of the United States the letter of 26 January 1982 from the Agent of the Government of Canada which informs the Court of the name and nationality of the person chosen by the Government of Canada as judge *ad hoc* in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

¹ This communication was sent on behalf of the Agent of the Government of Canada.

² Not reproduced.

I have the honor to inform you that the Government of the United States has no observations to make with respect to the choice of Professor Maxwell Cohen as judge *ad hoc* in this case.

(Signed) Davis R. ROBINSON.

15. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

27 January 1982.

On behalf of the Government of the United States of America, I am pleased to inform the Court of the selection of David A. Colson, as Deputy-Agent for the Government of the United States of America in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. The address for the Deputy-Agent for the United States of America is: Embassy of the United States of America to the Netherlands, Lange Voorhout 102, The Hague.

16. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

27 January 1982.

I have the honour to refer to my telex message¹ of 26 November 1981 and to my letter of 11 December 1981 concerning the submission by Canada and the United States of America of a new case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

Today I have the honour to inform you that, pursuant to Article I of the Special Agreement concluded between Canada and the United States on 29 March 1979 (and subsequently altered), the Court, after consultation of the Parties, has, by an Order of 20 January 1982, formed a Chamber which will be composed of four Members of the Court and a judge *ad hoc* chosen by the Government of Canada.

I enclose a stencilled copy of the Order of 20 January 1982 and also, for your further convenience, a copy of the Special Agreement as notified to the Court. The printed text of the Order will be sent to you as soon as it is available.

I should stress that this is the first time since its foundation in 1946 that the International Court of Justice has formed a Chamber to deal with a particular case, even though there has always been formal provision for it to do so in Article 26, paragraph 2, of its Statute, which reads:

“The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.”

It follows from Article 27 of the Statute and Article 20 of the Rules of Court that the procedure before a Chamber of the Court and the nature of its decisions

¹ See No. 5, *supra*.

are the same as in the case of a full Court. At the same time, however, there are certain special features which inevitably arise out of the establishment of a Chamber in general, and the establishment of this one in particular, and I think I should draw your attention to two of these.

First, among the Members of the Court called upon to serve on the Chamber, there is one the last day of whose term of office would normally be that immediately preceding the triennial renewal of the Court's composition, i.e., 5 February 1982. His duties will now therefore extend beyond that date until the end of the case, though solely for the purpose of his participation in the work of the Chamber in accordance with Article 13, paragraph 3, of the Statute and Article 17, paragraph 4, of the Rules of Court. The paragraphs in question read as follows:

Statute, Article 13 (3):

"The Members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun."

Rules, Article 17 (4):

"Members of a Chamber formed under this Article who have been replaced, in accordance with Article 13 of the Statute following the expiration of their terms of office, shall continue to sit in all phases of the case, whatever the stage it has then reached."

A second special feature, arising out of Article 11, paragraph 3, of the Special Agreement, is that the Chamber has to be assisted by a technical expert. This question is governed by Article 50 of the Statute of the Court and Article 67 of the Rules.

These features and certain questions concerning the Canadian judge *ad hoc* and other matters give rise to some queries of a financial nature which I am bringing to the attention of Mr. Debatin, Under-Secretary-General for Administration, Finance and Management, in a letter¹ I am addressing to him today.

17. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

29 January 1982.

I have the honour to acknowledge receipt of the letter of 26 January 1982 signed on your behalf by His Excellency the Ambassador of Canada to the Netherlands, whereby, referring to Article 31 of the Court's Statute and Article 35 of the Rules of Court, you informed the Court of your Government's choice of Professor Maxwell Cohen to sit as judge *ad hoc* in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* and enclosed brief biographical details of Professor Cohen, and to enclose a copy of a letter of the same date transmitted on behalf of the Agent of the United States following communication of a copy of your notification pursuant to Article 35, paragraph 3, of the Rules of Court.

I am, further, to inform you that, as foreseen in the Court's Order of 20 January 1982, Judge Ruda has, pursuant to Article 31, paragraph 4, of the

¹ Not reproduced.

Statute of the Court given place to the person chosen by your Government. Accordingly Judge Cohen participated in the private meeting of the Chamber held immediately before the public meeting at which he made the solemn declaration required by the Statute and Rules of Court.

Judge Cohen will duly be sent the case dossier *pari passu* with the other members of the Chamber.

18. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

29 January 1982.

I have the honour to inform you that today, at a private meeting of the Chamber formed by the International Court of Justice to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* between Canada and the United States of America, the members of the Chamber, consisting of Judges Gros, Mosler, Ago and Schwebel and the judge *ad hoc* chosen by Canada, Professor Maxwell Cohen, elected Judge Ago to be President of the Chamber, in accordance with Article 18, paragraph 2, of the Rules of Court.

Immediately following the election, a public meeting was held at which Judge Cohen made a solemn declaration in accordance with Article 20 and Article 31, paragraph 6, of the Statute of the Court.

The meeting was opened with a speech by the Acting President and was also addressed by the President of the Chamber and the Agents of the Parties.

19. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA¹

1 February 1982.

I have the honour to inform you that the Court today, pursuant to Article 92, paragraph 1, of the Rules of Court, made an Order² fixing 26 August 1982 as the time-limit for the filing of Memorials by the Parties in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

An official, printed copy of the Order will be transmitted to you within a few days.

20. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN³

5 février 1982.

J'ai l'honneur de vous communiquer ci-joint le texte de l'ordonnance du 20 janvier 1982 par laquelle la Cour a constitué, en vertu de l'article 26, paragraphe 2,

¹ A communication in the same terms was sent to the Agent of the Government of the United States of America.

² See Nos. 24 and 25, *infra*.

³ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour. Le même envoi a été fait au Secrétaire général de l'Organisation des Nations Unies.

de son Statut, une chambre chargée de connaître de l'affaire de la *Délimitation de la frontière maritime dans la région du golfe du Maine* entre le Canada et les Etats-Unis d'Amérique, et de porter à votre connaissance que, par application des articles 31, paragraphe 4, du Statut et 35 et 18, paragraphe 2, du Règlement, cette chambre sera composée comme suit :

M. Roberto Ago, président de la Chambre,
M. André Gros,
M. Hermann Mosler,
M. Stephen Schwebel, juges,
M. Maxwell Cohen, juge *ad hoc* (désigné par le Canada).

21. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

10 March 1982.

I have been instructed to bring to your attention my Government's concern regarding the status and role of the judge *ad hoc* chosen by Canada, Maxwell Cohen, in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

The Court's Order of 1 February 1982 in this case does not list Judge *ad hoc* Cohen among the judges present and composing the Court, nor among those voting. Thus it would appear that the Court made the Order establishing the time-limit for the filing of the Memorials of Canada and the United States of America without the participation of Judge *ad hoc* Cohen, who on 29 January 1982 made the solemn declaration required under Article 8, paragraph 2, of the Rules of Court. Judge *ad hoc* Cohen, moreover, is not named in the Order, which notes that "the judge *ad hoc* chosen by Canada" was "invited to be present".

Article 7, paragraph 1, of the Rules of Court provides that judges *ad hoc* chosen under Article 31 of the Statute of the Court for the purposes of a particular case shall be admitted to sit on the Bench of the Court. This provision is expressly applicable to Chamber proceedings. In the light of the Court's Order of 1 February 1982, my Government is anxious to ascertain that Judge *ad hoc* Cohen has in fact been admitted to the Bench for the purposes of the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, in accordance with the aforementioned Article 7, paragraph 1, of the Rules. It is also anxious to ascertain that he is able to participate in the case on terms of complete equality with the other Judges on the Bench, in accordance with Article 7, paragraph 2, of the Rules and the last sentence of Article 31, paragraph 6, of the Statute. Accordingly, I respectfully request clarification of these two questions, which are of fundamental importance to my Government. I should point out that my Government understands the term "the Bench of the Court" to include both the Chamber and the full Court when sitting in connection with the present case.

I am forwarding a copy of this communication to the Agent for the United States of America.

(Signed) L. H. LEGAULT, Q.C.

22. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

12 March 1982.

On behalf of the Government of Canada, I am pleased to inform the Court of the appointment of Blair G. Hankey, Esq., as Deputy-Agent for Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. The address for the Deputy-Agent for Canada is:

Embassy of Canada to The Netherlands
Sophialaan 7
The Hague.

23. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

18 March 1982.

I acknowledge receipt of your letter relating to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/ United States of America)* transmitted to me by a letter dated 12 March 1982 from the Counsellor of the Canadian Embassy at The Hague.

As soon as I received your letter I brought it first to the attention of the President of the Court and then to that of the President of the Chamber constituted by the Order of the Court of 20 January 1982.

It was agreed that the text of the Order of the Court of 1 February 1982, an official copy of which was transmitted to you by letter of 9 February 1982, contained two factual errors. The correction of these two errors will be incorporated in a corrected text of the Order which will be printed as soon as possible and sent immediately to you and to the Agent of the United States of America in the case.

With regard to the substance of your letter, I would like, in my capacity as Registrar of the Court, and without prejudging in any way the position the Court might adopt in this matter, to make the following comments.

Judge *ad hoc* Maxwell Cohen, chosen by Canada pursuant to Article 31 of the Statute of the Court and Article 35 of the Rules of Court, as well as to the relevant provisions of the Special Agreement between Canada and the United States, has been duly admitted by the Court to sit in the Chamber formed to deal with the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. As provided for in Article 8, paragraph 2, of the Rules of Court for cases dealt with by Chambers, Judge Cohen made his solemn declaration at a public sitting of the Chamber concerned, held on 29 January 1982.

It follows that, as stated in the last sentence of paragraph 6 of Article 31 of the Statute, Judge *ad hoc* Cohen in his capacity as member of the Chamber "shall take part in the decision on terms of complete equality with [his] colleagues", and that, therefore, there are no grounds for the Canadian Government to feel any anxiety as to the participation of Judge Cohen in the Chamber in which he sits on the terms stated in Article 7, paragraph 2, of the Rules of Court, namely on terms of complete equality with the other Judges sitting in the said Chamber. It was with a view to ensuring, since the creation of the Chamber, the existence of this situation of complete equality to which Canada so rightly attaches such great importance that Judge Cohen was invited to make his solemn declaration at such an exceptionally early stage. As you are surely aware, in the practice of

the Court, judges *ad hoc* are normally appointed just before the time-limit fixed for the filing of the Memorial or Counter-Memorial and they are invited to make their solemn declaration at a considerably later stage, that is, at the opening of the oral proceedings. There are numerous examples in the practice of the Court of non-participation of judges *ad hoc* in the formal decision-making process concerning the adoption of orders dealing with non-controversial procedural matters, as for example the fixing of time-limits for pleadings previously agreed upon by the parties themselves. This practice has never been viewed as conflicting, in any manner whatsoever, with the provisions set forth in the last sentence of paragraph 6 of Article 31 of the Statute and in Article 7, paragraph 2, of the Rules of Court.

The time-limit for the filing by the Parties of their respective Memorials has been fixed by the Court in its Order of 1 February 1982, pursuant to Article 92, paragraph 1, of the Rules of Court. The Order merely recorded an agreement reached between the Parties in the Special Agreement under which the case was brought before the Court and confirmed by the Agents to the Acting President of the Court at a meeting held in his office on 29 January 1982. Pursuant to the aforesaid paragraph 1 of Article 92, the Court, before issuing the Order, also consulted the Chamber concerned, in the person of its President, about the time-limit. The Order recorded these developments in the last paragraph of its preamble as follows: "Having consulted the Chamber and ascertained the views of the Parties". Furthermore, Judge Cohen being still present in The Hague was invited by the Court to be present at its meeting of 1 February 1982 and had the opportunity of expressing his support for the Order, even if this manifestation could not be formally counted as a participation in the vote.

It should be added that during the period from 20 January to 1 February 1982 the Court had never been informed of the understanding now indicated by the Canadian Government that the term "the Bench of the Court" should include "both the Chamber and the full Court when sitting in connection with the present case". Leaving aside any consideration as to the merits of this understanding, it is in fact by the above-mentioned letter of 12 March 1982 that it was for the first time brought to the attention of the Court. It could not indeed have been inferred from the language used in the letter of 26 January 1982 by which the Government of Canada "inform[ed] the Court that the name of the person chosen by Canada to sit as judge *ad hoc* on the Chamber of the Court constituted for the *Gulf of Maine* case [was] Professor Maxwell Cohen, of Ottawa, Canada". Furthermore, following the public sitting of the Chamber on 29 January 1982, the Agents of both Parties in the case stressed only their eagerness for the adoption by the Court of the Order fixing the time-limit for the submission of the Memorials at the earliest possible date, notwithstanding the judicial work of the Court in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, then in its final stages.

The subject-matter of the understanding now indicated by the Canadian Government is not regulated, when a particular case is referred to a Chamber, by any express provision of the Statute and/or the Rules of Court. Article 90 of the Rules only provides that "Proceedings before the Chambers . . . shall, subject to the provisions of the Statute and of these Rules relating specifically to the Chambers, be governed by the provisions of Parts I to III of these Rules applicable in contentious cases before the Court". Under the circumstances, the understanding of the Government of Canada appears to be based solely upon a construction of certain provisions of the Rules of Court in connection with a matter in which the Court has not had in the past the opportunity of pronouncing.

In the present case, the invitation extended to Judge Cohen to be present in

the deliberations concerning the adoption of the Order of 1 February 1982 was not preceded by any decision of the Court concerning the subject-matter to which the above-mentioned understanding of the Canadian Government relates. Taken literally, this understanding could be interpreted as meaning that, for a particular case referred to a Chamber, "the Bench" would be constituted by the full Court and the Judges sitting in the Chamber. I do not feel it necessary to elaborate on the fact that such a definition could be self-defeating in the case of Chambers, because the principle of equality of Judges sitting on "the Bench" could be invoked both ways. Without prejudging any definition of "the Bench" that the Court may adopt in the future for cases dealt with by Chambers, I would venture to say that in the Rules of Court the term "the Bench" is not accompanied by the words "of the Court" but used consistently as referring to the Judges who are dealing with a particular case. Therefore, when a particular case is referred not to the Court but to a Chamber of the Court, one may speak of the "Bench" of the Chamber, this word indicating all those who will take part in the decision of that particular case, but not of the "Bench" of the Court. In the light of the above, it cannot be assumed that the understanding of the Canadian Government would necessarily correspond to the position which could be adopted by the Court in a matter which, in some hypotheses at least, might give rise to difficulties.

I am forwarding a copy of this letter to the Agent of the United States of America.

24. THE DEPUTY-REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA¹

16 April 1982.

You may recall that by his letter of 18 March 1982 the Registrar undertook to have printed and sent to you as soon as available the corrected text of the Order² made by the Court on 1 February 1982 in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. Accordingly I have the honour to enclose herewith printed copies of that text in replacement of any copies of the uncorrected text that may be in your hands. For ease of reference, I would draw your attention to the fact that the sales number of the corrected version bears an asterisk distinguishing it from that of the uncorrected edition, circulation of which will now be stopped.

The official copies will be the subject of a further communication.

(Signed) A. PILLEPICH.

25. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA³

13 May 1982.

Further to our letter of 16 April 1982 I have the honour to transmit to you herewith an official copy of the corrected text of the Order of 1 February 1982

¹ A communication in the same terms was sent to the Agent of the Government of Canada.

² *I.C.J. Reports 1982*, p. 15.

³ A communication in the same terms was sent to the Agent of the Government of the United States of America.

made in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. This copy is to replace the official copy of the uncorrected text which was transmitted to you on 9 February 1982 and which I would ask you now to be so good as to return to me.

26. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

27 May 1982.

I have the honour to acknowledge the receipt today of the official copy of the uncorrected text of the Order made by the Court on 1 February 1982 in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* whose return was requested by my letter of 13 May and which the Deputy-Agent of your Government has had forwarded to me.

27. LE GREFFIER À L'AGENT DU GOUVERNEMENT DU CANADA
(télèx)

17 juillet 1982.

Comme suite à notre entretien téléphonique du 16 juillet 1982, j'ai l'honneur de vous confirmer que les annexes aux pièces de procédure prévues à l'article 50 du Règlement de la Cour doivent être déposées en autant d'exemplaires que les pièces de procédure elles-mêmes, c'est-à-dire en cent vingt-sept exemplaires et que leur liste doit être jointe à la pièce. Bien entendu, pour chaque document, il suffit de joindre les extraits nécessaires aux fins de la pièce dont il s'agit. L'ensemble du document dont est tiré l'extrait annexé peut être remis au Greffe en original ou en photocopie pour toutes vérifications par les juges ou par la partie adverse. Si le document est dans le domaine public, il peut suffire d'indiquer clairement sa référence. Cette deuxième formule présente cet avantage que le dépôt peut ne pas se faire exactement le même jour que pour la pièce de procédure elle-même et que le document déposé peut être repris après la fin de l'affaire. Elle est spécialement applicable au cas des annexes techniques, dont une grande partie peut sans inconvénient être déposée selon cette formule.

28. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

27 July 1982.

I refer to the Court's Order of 1 February 1982 fixing 26 August 1982 as the time-limit for the filing of the Memorials of both Parties in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

On behalf of the Government of Canada, I hereby request an extension of the time-limit fixed in the Order of 1 February 1982. The extension requested is for a period of four weeks, to 24 or 27 September 1982. This request is occasioned by

unforeseen technical delays and difficulties arising in the printing process. The Agent for the United States has been consulted in this matter and has expressed *no objection to the proposed extension.*

29. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

28 July 1982.

I have the honour to acknowledge receipt of your letter¹ dated 27 July 1982 by which you stated that your Government had no objection to the extension requested by the Government of Canada, of the time-limit fixed for the filing of the Memorials of both Parties in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and to inform you that the President of the Chamber formed to deal with this case today made an Order² extending the said time-limit to 27 September 1982.

I enclose herewith a mimeographed copy of the text of the Order. An official sealed copy, as well as printed copies, will be transmitted to you very shortly.

30. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

28 July 1982.

I have the honour to acknowledge receipt of your letter dated 27 July 1982 by which you requested, on behalf of your Government, an extension of the time-limit fixed for the filing of the Memorials of both Parties in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and to inform you that the President of the Chamber formed to deal with this case today made an Order³ extending the said time-limit to 27 September 1982.

I enclose herewith a mimeographed copy of the text of the Order. An official sealed copy, as well as printed copies, will be transmitted to you very shortly.

31. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

27 September 1982.

Further to the Court's Order of 1 February 1982, as varied by an Order of 28 July 1982, and in accordance with Articles 49, 50, 52 and other relevant Articles of the Rules of Court, I am filing with you today the original of Canada's Memorial⁴ in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, duly signed by me as Agent for Canada,

¹ Not reproduced.

² *I.C.J. Reports* 1982, p. 557.

³ *Ibid.*

⁴ I, pp. 9-526.

together with the originals of the Annexes thereto, in four volumes, each duly certified by me. Each of these documents is accompanied by a certified copy for communication to the Government of the United States of America, together with one hundred and twenty-five additional copies to meet the requirements of the Registry. Finally, seven copies of a case-bound edition of these pleadings have also been provided for the convenience of the Chamber formed to hear the present case.

In keeping with the agreement that the proceedings in this case shall be conducted in either or both of the two official languages of the Court, the Memorial of Canada and certain of the Annexes thereto are submitted in both the English and French languages. The French-language versions of the Memorial and of the Historical Introduction to Volume I of the Annexes have been prepared under my direction and to this extent have an official character; in the event of interpretation, however, they are to be read in the light of the English versions. The texts of Canadian laws and regulations included among the Annexes are equally authentic in the English and French languages, as is also the case for other official Canadian documents, including treaty instruments, unless otherwise indicated.

I am also depositing with you today copies of the whole documents from which extracts have been annexed to the Memorial of Canada, as well as copies of all other documents referred to in the Memorial but not included in whole or in part in the Annexes. These documents are also being provided to the Agent for the United States. A complete list¹ of the documents in question is attached herewith (those marked with double asterisks are not yet available for transmission to the Agent for the United States but will be provided to him shortly).

Also enclosed are ten copies of a preliminary *errata* sheet¹ indicating corrections to be made to the Memorial of Canada. A final list of corrections to be made to all of the present pleadings will be provided in due course, in printed format and in such numbers as may be required by you.

At a meeting with the President of the Chamber on 11 May 1982, the Agents for the Parties jointly requested, pursuant to Article 53 of the Rules of Court, that copies of the pleadings and annexed documents should be made available to other States entitled to appear before the Court and accessible to the public only upon the opening of the oral proceedings. I wish to confirm that request at this time.

In a recent communication by telephone you have requested the Parties' views concerning the time-limit for the filing of the Counter-Memorials in this case. As you know, paragraph 1 (*a*), Article VI, of the Special Agreement provides that the Parties shall request the Chamber to authorize a time-limit of six months for this purpose, while paragraph 2 of the same Article provides that the Chamber may extend such time-limit at the request of either Party. In light of the experience gained in the production of the Memorial, my Government considers that a period of six months will be clearly insufficient to allow completion of the processes involved in the preparation of the Counter-Memorial. Accordingly I wish to request that the time-limit be extended to ten months. This request is made at the present time so that it may be taken into account in the planning of the Court's calendar. I would of course be prepared to agree to a further extension should the Agent for the United States request one following the *exchange of the Parties' Memorials*.

I have informed the Agent for the United States of my intentions regarding the time-limit for the Counter-Memorial and he will be conveying his views on this matter to you direct.

¹ Not reproduced.

32. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

27 September 1982.

In connection with the filing of the United States Memorial¹ in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I have the honor to inform you of the views of the United States on two questions now pending.

At a meeting with the President of the Chamber on 11 May 1982 the Agents for the Parties jointly requested, pursuant to Article 53 of the Rules of Court, that copies of pleadings and annexed documents should be made available to other States entitled to appear before the Court and accessible to the public only upon the opening of the oral proceedings. I wish to confirm that request at this time.

In accordance with Article VI of the Special Agreement the United States requests that the filing of the Counter-Memorial in this case now be authorized. I have been informed that the Agent for the Government of Canada intends to request that the Counter-Memorials be filed ten months after the filing of the Memorial rather than the six months agreed to in Article VI of the Special Agreement. The United States is not in a position at this time to reach a judgment whether any extension is in its view justified without a prior review of the Memorial of Canada. The United States will communicate its view to the Court in this respect after a reasonable opportunity to conduct its review.

33. THE DEPUTY-REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

27 September 1982.

I have the honour to acknowledge receipt of the Memorial of the Government of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, filed with its Annexes in the Registry of the Court under cover of your letter of today's date, and accompanied by the copies required under Article 52, paragraph 1, of the Rules of Court. All the texts thus provided, together with those supplied today on behalf of the United States, will be communicated forthwith to the members of the Chamber formed to deal with the case, whose attention will be particularly drawn to the explanations given by the second paragraph of your letter of transmittal.

The certified copy of those texts which you have supplied for the other Party has been communicated to the Government of the United States in accordance with Article 26, paragraph 1, of the Rules of Court. I have likewise communicated to your Government the certified copy of the Memorial and Annexes filed today in the same case on behalf of the Government of the United States of America, and send you herewith five further copies of the same. I also transmit to you a copy of a letter of today's date in which the Agent of the United States conveys the views of his Government on two questions now pending.

I wish further to inform you that a copy of your letter of transmittal, with its enclosures, has been transmitted to the Agent of the United States. The copies you have supplied of the documents listed in your first enclosure and, in due

¹ II, pp. 3-421.

course, copies of the document similarly deposited on behalf of the United States will be available to the Chamber and the Parties in the library of the Court.

I note finally that in due course you will be sending, in the requisite number of copies, a final list of corrections.

34. THE DEPUTY-REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

27 September 1982.

I have the honour to acknowledge receipt of the Memorial of the Government of the United States of America in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, filed today with its Annexes in the Registry of the Court and accompanied by the copies required under Article 52, paragraph 1, of the Rules of Court. The texts thus filed, together with all those supplied today on behalf of Canada, will be communicated forthwith to every member of the Chamber formed to deal with the case. Due note has been taken that copies of Annex 44 to the Memorial and photostats of certain quoted documents will shortly be transmitted to the Registry.

The certified copy of your Government's Memorial and Annexes has been communicated to the other Party in accordance with Article 26, paragraph 1, of the Rules of Court. I have likewise communicated to your Government the certified copy of the Memorial and Annexes filed today in the same case on behalf of the Government of Canada, and send you herewith five further copies of the same.

The filing of the Canadian Memorial was accompanied by a letter with which the Agent of Canada enclosed a preliminary errata sheet¹ and a list¹ of documents of which copies have been deposited in the Registry. A copy of this letter and its enclosures is transmitted to you herewith. The deposited copies of documents will be available to the Chamber and the Parties in the library of the Court. I wish further to inform you that the attention of the members of the Chamber has been particularly drawn to the explanations given in the second paragraph of the Canadian Agent's letter.

Finally I acknowledge receipt of the letter of today's date in which you convey the views of the United States on two questions now pending. I have transmitted a copy of this letter to the Agent of Canada.

35. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

[Received on 20 October 1982.]

In my letter to you of 27 September, I noted that following upon a reasonable opportunity to review the Canadian Memorial, the United States would communicate its views on the question of the time-limit for the filing of the Counter-Memorials, and, in particular, with regard to the request by the Agent of Canada that the time-limit be set for ten months from the date of the filing of

¹ Not reproduced.

the Memorials. The United States has now conducted this review. We believe the United States could meet the time-limit of six months for filing the Counter-Memorials provided for in Article VI of the Special Agreement, although from our perspective a one month extension would be welcomed. I have discussed this matter with the Agent of Canada, however, and I understand that he stands by his earlier request.

In the Special Agreement submitting this case to the Court, the Parties stressed their desire to reach an early resolution of this matter. The United States believes that although the Special Agreement provides for requests by either Party for extensions of the time-limits specified therein, the schedule specifically mentioned in the Special Agreement for the filing of the Memorials and the Counter-Memorials evidenced an agreement of the Parties to put some constraint upon the amount of time to be used in the preparation and presentation of this case.

The United States of course recognizes that every party to a proceeding before the Court should be allowed the time reasonably required to prepare its case. For that reason, the United States did not object to the one month extension requested by Canada of the seven month period established by the Special Agreement for the filing of the Memorials. Nor does the United States object to a delay if reasonably required to file the Counter-Memorials. However, we continue to believe that every effort should be made to adhere as closely as possible to the schedule established in the Special Agreement.

The United States notes that if Canada's request for a ten month time period for the filing of the Counter-Memorials is granted and the filing of reply briefs is subsequently requested and authorized, the informal schedule discussed between the Agents and the President of the Chamber at a meeting on 11 May 1982 to hold oral argument in October 1983 will not be met. Furthermore, now that the Governments of Libya and Malta have submitted their Continental Shelf Boundary Dispute to the Court, we are concerned that the schedule in that case could have implications for the schedule in this case.

The United States recognizes that it is for the Chamber, or the President of the Chamber, taking account of the views and reasonable needs of the Parties, to establish the time-limit for the filing of the Counter-Memorials. Whatever determination is made in this regard, the United States is hopeful that any further written pleadings that may be requested and authorized by the Chamber, or President of the Chamber, can be scheduled so that the oral argument in this case can be held no later than early 1984.

36. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

20 October 1982.

The Agent for the United States has provided me with a copy of his letter of 19 October communicating to you his further views concerning the time-limit for the filing of the Counter-Memorials in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

I wish to confirm that my Government maintains its view that a period of six months is clearly insufficient to allow completion of the processes involved in the preparation of the Counter-Memorial. The experience gained in the production of the Memorial is alone sufficient to establish the need for more time. Accordingly I would renew my request that the limit be fixed at ten months, pursuant to Article VI, paragraph 2, of the Special Agreement.

A review of the United States Memorial further attests to the need for a time-limit of at least ten months. The Memorial proposes a boundary line that represents a fundamental change in the claim hitherto sustained by the United States of America; it cites a number of publications that are not readily available, extracts from which have been annexed to the Memorial but have not been accompanied by the deposit of the whole document in the Registry in accordance with Article 50 of the Rules of Court; and finally, it also advances contentions as to facts for which no documentary support is provided. These factors will undoubtedly add to the time required for the preparation of the Canadian Counter-Memorial. Notwithstanding these unforeseen circumstances, I abide by my original request for a time-limit of ten months. I shall seek to avoid any delays by proposing to the Agent for the United States an exchange of information that may be required on either side. In this connection I would note that the Canadian side deposited with the Registrar and with the Agent for the United States on 27 September 1982 copies of the whole documents from which extracts were annexed to the Canadian Memorial.

I need scarcely add that the Government of Canada attaches the greatest importance to the expeditious resolution of the various issues involved in these proceedings. Indeed Canada has done its utmost to further this objective from the outset, and particularly during the period of more than two and one-half years that elapsed from the signature of the Treaty to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area and the related Agreement on East Coast Fishery Resources, until the ratification of the former instrument, that is from 29 March 1979 to 20 November 1981. The time-limit proposed by the Government of Canada for the filing of the Counter-Memorials would certainly allow the oral proceedings to begin within the first quarter of 1984.

37. THE THIRD SECRETARY OF THE EMBASSY OF THE PEOPLE'S REPUBLIC
OF BANGLADESH TO THE NETHERLANDS TO THE REGISTRAR

Brussels, 2 November 1982.

We understand that the case on delimitation of maritime boundary between Canada and the USA is due to be heard in the Court soon. We shall appreciate it very much if you could kindly send us copy of the memorandum submitted by the concerned Parties and also the outcome of the hearing as and when it takes place.

(Signed) (Mrs.) Nasim FIRDAUS.

38. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA¹

9 November 1982.

I refer to your letter, received in the Registry on 20 October 1982, concerning the time-limits to be fixed for the further proceedings in the case concerning the

¹ A similar communication was sent to the Agent of the Government of Canada.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/ United States of America), and have the honour to inform you that the President of the Chamber has decided, after taking account of the views of the Parties, to fix 28 June 1983 as the time-limit for the filing of the Counter-Memorials contemplated by Article VI, paragraph 1, of the Special Agreement. The subsequent procedure is reserved for further decision.

I enclose the official sealed copy of the Order¹ made by the President of the Chamber for this purpose.

39. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

12 November 1982.

I have the honour to send you herewith a copy of a letter dated 2 November 1982 and received from the Embassy of Bangladesh which in effect constitutes a request governed by Article 53, paragraph 1, of the Rules of Court.

By your letter of 27 September 1982 you have given me to understand that it is the desire of your Government that the pleadings and documents annexed in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* be not made available to third parties before the opening of the oral proceedings. Unless I hear from you to the contrary by 22 November 1982 I shall assume that your Government's attitude in this matter remains unchanged and inform the President of the Chamber accordingly.

A similar letter is being sent to the Agent of the United States of America.

40. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

15 November 1982.

I have the honour, with reference to the filing, on 27 September 1982, of your Government's Memorial in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, to call to your attention an undertaking, given on your behalf on that occasion, whereby certain copies or originals of whole documents would be deposited in the Registry in accordance with Article 50, paragraph 2, of the Rules of Court.

Since several weeks have elapsed since that undertaking was given, I venture to enquire whether I am shortly to expect the deposit of the documents or copies in question so that they, like those already deposited by Canada, may be made available for the inspection of members of the Chamber and the other Party.

I take this opportunity of thanking you most warmly for the 130 reprints of the illustrations from your Government's Memorial, which have arrived under cover of a letter² from the Deputy-Agent dated 11 November 1982. These copies will be invaluable in finalizing the French translation of the pleading.

¹ *I.C.J. Reports 1982*, p. 561.

² Not reproduced.

**41. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA**

24 November 1982.

I have the honour to acknowledge receipt with thanks of your letter of 19 November 1982, and of the copy documents submitted under cover of that letter for deposit in the Registry, pursuant to Article 50, paragraph 2, of the Rules of Court, in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. The members of the Chamber, and the Agent of Canada, are being informed that these documents are available to be consulted in the library of the Court, along with the documents similarly deposited by the Agent of Canada at the time of the filing of the Memorials.

**42. THE LEGAL ADVISER OF THE FOREIGN AND COMMONWEALTH OFFICE OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE REGISTRAR**

25 November 1982.

I have the honour to refer to Article 53 of the Rules of Court and to request that copies of the Parties' pleadings in this case be furnished to the Government of the United Kingdom.

I should be most grateful if copies could be sent to me either direct or via the British Embassy in The Hague.

(Signed) Ian SINCLAIR.

**43. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA**

30 November 1982.

I have the honour to acknowledge receipt with thanks of your letter of 15 November 1982, with which you enclosed an errata sheet¹ to accompany the Memorial of the United States in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. I have to inform you that pursuant to Article 52, paragraph 4, and Article 18, paragraph 3, of the Rules of Court, the President of the Chamber has given leave for the corrections in question to be made to the Memorial; the errata sheet is accordingly being transmitted to the members of the Chamber and to the Agent of Canada.

**44. THE DEPUTY-REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE
UNITED STATES OF AMERICA**

1 December 1982.

I have the honour to inform you that I have received a request from the Government of the United Kingdom for copies of the pleadings and annexed

¹ Not reproduced.

documents in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area* to be made available to that Government, pursuant to Article 53, paragraph 1, of the Rules of Court. In view of the terms of your letter of 27 September 1982, I shall assume, unless I hear from you to the contrary by 10 December 1982 that the attitude of your Government is unchanged, and inform the President of the Chamber accordingly.

A similar letter is being sent to the Agent of Canada.

45. THE DEPUTY-REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

3 December 1982.

I have the honour to transmit to you today, under separate cover, six copies of the French translation¹, prepared by the Registry, of Volume I, Part 1 (Documentary Annexes 1 to 9) and Part 2 (Documentary Annexes 10 and 11) of the Annexes to the Memorial of the United States of America in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. This translation, prepared for the use of members of the Chamber, has no official character whatsoever.

As you will observe, the maps and illustrations are, in general, not reproduced separately in the volumes containing the translations, the reader being referred to the original volume. However, it appears to me that it might be of assistance to members of the Chamber using the translation volume if the map supplied as Annex 99 could be inserted. I should therefore be obliged if you could supply me with copies of this map. With an eye to the future, we are preparing 130 copies of the relevant volume, and therefore I shall be grateful for 130 copies of the map.

43

46. THE DEPUTY-REGISTRAR TO THE THIRD SECRETARY OF THE EMBASSY OF THE
PEOPLE'S REPUBLIC OF BANGLADESH TO THE NETHERLANDS²

6 December 1982.

I refer to your letter of 2 November 1982, by which you asked that copies of the pleadings submitted to the Court by the Parties to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* be supplied to the Government of Bangladesh. I have to draw your attention to the provisions of Article 53, paragraph 1, of the Rules of Court, which reads:

“The Court, or the President if the Court is not sitting, may at any time decide, after ascertaining the views of the parties, that copies of the pleadings and documents annexed shall be made available to a State entitled to appear before it which has asked to be furnished with such copies.”

The request of the Government of Bangladesh has therefore been laid before

¹ Not reproduced.

² A similar communication was sent to the Legal Adviser of the Foreign and Commonwealth Office of the United Kingdom.

Judge Ago, President of the Chamber formed to deal with this case, who under Article 18, paragraph 3, of the Rules of Court exercises the functions of the President of the Court in relation to this case. The views of the Parties have been ascertained: both the Canadian Government¹ and the Government of the United States² have indicated that it is their wish that copies of the pleadings be not made available to other States before the opening of the oral proceedings in the case. Taking these views into account, the President of the Chamber has decided that it would not be appropriate to grant the request of the Government of Bangladesh at the present time. When the stage of the oral proceedings is reached, the request of the Government of Bangladesh will be re-examined in the light of the views of the Parties at that time.

I am however enclosing for your information such documents in the case as are in the public domain, namely the Special Agreement filed on 25 November 1981, and the Orders subsequently made by the Court or by the President of the Chamber.

47. THE DEPUTY-REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA³

7 December 1982.

Further to the Registrar's letter of 12 November 1982 concerning the request by the Government of Bangladesh for copies of the pleadings and annexed documents in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I have the honour to inform you that the President of the Chamber has decided that it would not be appropriate to grant the request of the Government of Bangladesh at the present time. When the stage of the oral proceedings is reached, the request will be re-examined in the light of the views of the Parties at that time.

The Government of Bangladesh has been informed of this decision.

48. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

15 December 1982.

I refer to my letter of 20 October 1982 relative to the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. That letter noted that the United States Memorial cites a number of publications that are not readily available, extracts from which have been annexed to the Memorial but have not been accompanied by the deposit of the whole document in the Registry in accordance with Article 50 of the Rules of Court, and, further, that the United States Memorial also advances contentions as to fact for which no documentary support is provided.

On 1 December 1982 I received in Ottawa a copy of the United States Agent's

¹ See No. 31, *supra*.

² See No. 32, *supra*.

³ A communication in the same terms was sent to the Agent of the Government of the United States of America. Similar communications were sent to the Agents concerning the request of the United Kingdom Government (see *supra*, No. 42).

letter to you of 19 November, together with copies of some of the documents deposited in the Registry by the United States on the latter date. Although the United States has not deposited all those documents that are not readily available, I shall now make my own arrangements to obtain the missing materials.

My present concern is to obtain information that would enable both the Government of Canada and the Court to assess certain unsubstantiated contentions advanced by the United States, in order to facilitate a better understanding of the areas of agreement and disagreement between the Parties and enable Canada to comply with its obligations under Article 49 (2) of the Rules of Court. Accordingly I have prepared the request for information attached hereto. I should be grateful if you could transmit this request to the Agent for the United States.

All appropriate measures will be taken to protect the confidentiality of information provided by the United States.

Annex

1. Range of stocks

23 42 *Paragraphs 55 to 57 and Figures 7 and 36:* These paragraphs and figures contain contentions of fact as to the ranges of stocks of 16 commercially important species.

Authorities and sources are requested.

2. United States area calculations

(a) *Paragraph 23 and footnote 3:* It is contended that the area of the entire US east coast physical continental shelf encompasses approximately 95,000 square nautical miles (326,000 square kilometers), and the area of the Canadian east coast continental shelf about 275,000 square nautical miles (943,000 square kilometers).

Information is requested to explain these calculations including:

- (i) the coordinates of relevant points between which the inshore limits are drawn, and the bodies of water included in the calculations;
- (ii) the coordinates of the northeastern limit in the Lincoln Sea and the coordinates of the southwestern limit (specifying the treatment of the Gulf of Mexico and the Florida Keys) from which measurements were taken;
- (iii) the area included within the above calculations that lies within 200 miles and the area that lies beyond that limit.

(b) *Paragraph 24 and footnote 1:* It is contended that the area of the US 200-mile fishery conservations zone off the east coast encompasses approximately 266,000 square nautical miles (912,000 square kilometers), and the area of the Canadian 200-mile fishing zone off the east coast about 599,000 square nautical miles (2,055,000 square kilometers).

Same information requested as in points (i) and (ii) under sub-paragraph (a) above.

3. United States continental shelf permits

Paragraphs 93 and 135: It is contended that "Beginning in 1964, the United States Geological Survey issued permits for geophysical exploration of areas . . . including Georges Bank." It is further contended that during 1961-1964 the US

began the exploration of its continental shelf off the New England States and that "over the next few years, seismic exploration permits covering all the continental shelf off New England, including the entirety of Georges Bank, were granted by the United States, and activities began". No evidence has been adduced in support of these contentions. A list of permits is produced in Annex 40 but the first permit listed is dated 1967.

Evidence is requested to show that, in fact, the USGS issued permits beginning in 1964 (as indicated in the United States Memorial) or 1960 (as indicated by information available to Canada) rather than 1967. Copies of applications for permits and of the permits themselves are requested, for the period from 1960 to the present.

4. *United States catches*

Paragraphs 73 and 78 to 88: Unsubstantiated contentions are made in relation to the United States and Canadian fisheries in and around the Gulf of Maine generally and by reference to the areas and sub-areas into which the region was divided under ICNAF. Unsubstantiated allegations are also made regarding relative sizes of the United States and Canadian fishing fleets.

The following information is accordingly requested:

(a) For ICNAF sub-area 5, from each 10 minute square and/or each ICNAF statistical unit (for example, 5Zeg, 5Zeh, and so on), by port of landing for as many years as possible between 1953 and 1981, data specifying the quantity (meat weight for scallops and round weight for other species) of United States catches, by species and in total.

(b) For the States of Massachusetts, Maine, New Hampshire and Rhode Island, for all years for which statistics are available since 1965, data specifying:

- (i) contribution to the Gross State Product (GDP for the State) of the fish harvesting sector and of the fish processing and wholesaling sectors;
- (ii) numbers of workers and proportion of the labour force involved in fishing (indicating whether full-time or part-time and defining these categories) and in fish processing, by city if possible in both cases.

(c) For United States vessels which participated in the Georges Bank fishery in general (ICNAF statistical unit areas 5Zeh, 5Zej, 5Zem and 5Zen) and the disputed area in particular (5Zej, 5Zem), by port of registration, for all the years for which statistics are available since 1965, data specifying by ICNAF statistical unit area:

- (i) numbers of vessels by major vessel/gear class (giving average length, tonnage and crew size);
- (ii) total number of fishing trips per year and average number of days per trip for each major vessel/gear class.

(d) For the States of Massachusetts, Maine, New Hampshire and Rhode Island, for all years for which statistics are available since 1965, the number of new fishing vessel registrations (including both newly constructed vessels and transfers of registration) and the number of de-registrations, by major vessel length and tonnage class.

Please provide sources of information and the basis for any calculations made. At least part of the relevant data should be readily available in material the US National Fisheries Marine Service has furnished to the Southeastern Massachusetts University Foundation, College of Business and Industry, contract reference 03-07-043-35132.

49. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

20 January 1983.

I have the honor to refer to your letter of 21 December 1982, transmitting a letter of 15 December 1982, from the Agent of Canada relative to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

As a preliminary matter, we note that the Agent of Canada suggested in his letter of 15 December 1982 that the United States is not in compliance with its obligations under Article 50 of the Rules of Court. In its view, the United States has with regard to its Memorial deposited in the Registry all of the documents required by Article 50.

In his letter, the Agent of Canada also presents the views of Canada regarding certain statements of fact contained in the United States Memorial. By that letter, Canada has circumvented the order and schedule established by the Court for presenting such views. Thus, Canada has laid certain of its positions before the Court in advance of the submission of the Counter-Memorial of the United States. The United States objects to this apparently unprecedented procedure employed by the Agent of Canada.

Moreover, the Agent of Canada, in his letter of 15 December, makes an extraordinary request for information. Canada would have the United States respond to such request and to the views expressed by the Agent of Canada in the letter of 15 December prematurely, in isolation from the comprehensive arguments of the Parties to be submitted on these and other matters in their Counter-Memorials.

The Agent of Canada asserts that the requested information is necessary for Canada to comply with its obligations under Article 49 (2) of the Rules of Court. In this regard, Article 49 (2) requires that a Counter-Memorial contain "an admission or denial of the facts stated in the Memorial". Canada has received the Memorial of the United States. It needs no additional information from the United States in order to comply with that requirement. If Canada disagrees with the facts presented in the United States Memorial, either because Canada possesses contrary information or because Canada believes that the Memorial and Annexes of the United States do not contain evidence to substantiate those facts, Canada is free to state that view in its Counter-Memorial. For its part, the United States, as required by Article 49 (2), will respond in its Counter-Memorial to the numerous contentions contained in the Canadian Memorial that are not supported by the evidence.

Despite these objections, the United States has prepared the attachment to this letter in order to remove any pretext for delay by Canada that would undermine the expeditious resolution of this case.

I would be grateful if you would transmit this letter and its attachments to the Agent of Canada.

Annex

1. Range of stocks

Paragraph 1 of the attachment to the 15 December 1982 letter from the Agent of Canada seeks information relating to paragraphs 55 through 57 and Figures 7 and 36 of the Memorial of the United States regarding the range of stocks of 16 commercially important species found on Georges Bank and on the Scotian Shelf, including Browns Bank. Paragraphs 55 through 57 and Figures 7 and 36

of the United States Memorial illustrate the natural boundary that the Northeast Channel forms between separate stocks of 12 of those 16 species. The remaining four stocks shown at Figures 7 and 36 of the United States Memorial (mackerel, pollock, argentine, and shortfin squid) range throughout the Gulf of Maine area and beyond.

The United States would bring to the attention of the Agent of Canada that the Canadian Memorial discusses and identifies a division at the Northeast Channel for many of the 12 affected stocks referred to by the United States. At paragraph 100 of its Memorial, Canada recognizes that the Northeast Channel is the northern limit of the range of longfin squid; at paragraph 103 Canada notes the "discrete" stocks of haddock, cod, yellowtail flounder, and Atlantic herring found on Georges Bank; at paragraph 106 (after a tentative discussion at paragraph 104) Canada refers to the "resident" stock of scallops on Georges Bank. With respect to five of the six remaining stocks, the attention of the Agent of Canada is directed to the *Atlas of the Major Atlantic Coast Fish and Invertebrate Resources Adjacent to the Canada-United States Boundary Areas*, by G. M. Hare, a technical report of the Canadian Department of the Environment, Fisheries and Marine Service, cited in the Canadian Memorial at paragraph 106, note 27, a full copy of which was deposited in the Registry by Canada. Besides dealing with other fisheries, the report states clearly that there are stock divisions at the Northeast Channel for silver hake (p. 3) and redfish (p. 2). The report's discussion of red hake and white hake (pp. 3-4) is tentative, but it assumes stock divisions at the Northeast Channel. Although the Hare report discusses lobster in terms of "concentration" rather than stocks, it identifies the Northeast Channel as a division between the lobster "concentration" on Browns Bank and that on Georges Bank (p. 8). The United States does not, of course, embrace all of the report's findings. However, it is evidence of the consensus that exists on the stock division at the Northeast Channel. The Hare report does not discuss cusk.

While cusk has not been studied as extensively as the other aforementioned species, the attention of the Agent of Canada is directed to the United States groundfish survey data cited in the Canadian Memorial at paragraph 106, note 25.

The stock division at the Northeast Channel is reflected by the line dividing Statistical Areas XXI (Nova Scotia) and XXII (New England) established by the North American Council on Fishery Investigations (NACFI) in 1931, shown at ²⁴ Figure 8 of the United States Memorial; it is also reflected by the line dividing Subareas 4 and 5 established by the International Convention for the Northwest Atlantic Fisheries (ICNAF) in 1950, shown at ²⁵ Figure 9 of the United States Memorial.

When the United States prepared its Memorial, it did so assuming that there is little or no question that the Northeast Channel divides stocks of 12 of the commercially important species referred to in paragraphs 55 through 57 and ²³ ⁴² Figures 7 and 36 of the United States Memorial. In view of the letter of 15 December 1982 from the Agent of Canada, the United States will provide in its Counter-Memorial further substantiation of this division in addition to that contained or cited in the Memorial of Canada and its Annexes.

2. Area calculations

Paragraph 2 of the attachment to the 15 December 1982 letter from the Agent of Canada requests information to explain the calculations at paragraph 23 and note 3 and paragraph 24 and note 1 of the Memorial of the United States, setting

forth the relative areas of the continental shelves and 200-nautical-mile exclusive fishing zones of the United States and Canada off their east coasts. Those presentations show that the United States possesses a smaller continental shelf and fisheries zone on its east coast than does Canada. With regard to both of these requests, the Agent of Canada has asked for the specific geographic coordinates of the limits of the areas described by the United States. Moreover, in regard to the description of the continental shelf areas, the Agent of Canada has requested a calculation of the areas both within and beyond 200 nautical miles from the coast.

Although note 3 (relating to paragraph 23) and note 1 (relating to paragraph 24) offer general information that should be sufficient to test the validity of the comparisons made in paragraphs 23 and 24, the following additional technical information is offered. In regard to paragraph 23, the area of continental shelf off the east coast of the United States was calculated using the following United States National Ocean Survey (NOS) charts:

11013: 34th ed., September 5/81 - 1:1,200,000 at Lat. 25 degrees 11' 50";
11009: 28th ed., September 5/81 - 1:1,200,000 at Lat. 31 degrees 44';
13003: 34th ed., February 28/81 - 1:1,200,000 at Lat. 40 degrees 00'.

These charts are being deposited in the Registry. All of these charts depict depths in fathoms. As indicated in note 3 (relating to paragraph 23), the 100-fathom depth contour as shown on these charts was used to determine the seaward limit of the continental shelf for this purpose. The inshore limit for calculating the continental shelf area off the United States east coast was the baseline used to delimit the territorial sea of the United States in accordance with the Convention on the Territorial Sea and the Contiguous Zone, as understood and applied by the United States. The southern limit of the continental shelf off the east coast of the United States was defined by a line extending from a point located at approximately 25 degrees 04' N., 80 degrees 27' 55" W. seaward at an azimuth of approximately 128 degrees (true) to its intersection with the 100-fathom depth contour. This point and azimuth approximate the boundary delimiting the use of the Mean Low Water Reference Datum for the Atlantic Coast and the Gulf Coast Low Water Reference Datum as indicated on NOS chart 11013. The northern limit of the continental shelf off the United States east coast was defined by the maritime boundary with Canada proposed by the United States in its Memorial (as shown at Figure 30 of the United States Memorial and as set forth in paragraph 2 of Section C of the Submissions of the United States, found at page 215 of its Memorial) and a straight line connecting the northernmost point of that boundary with the United States-Canada international boundary terminus.

The continental shelf off the east coast of Canada was calculated using the following Canadian Hydrographic Service charts:

L(A)-4001 (INT 109): Jan. 1, 1982 - 1:3,500,000 (22 degrees 30');
L/A, C-5001 (INT 110): Aug. 10, 1979 - 1:3,500,000 (22 degrees 30');
7010: Aug. 7, 1981 - 1:2,000,000;
7000: Feb. 29, 1980 - 1:4,000,000.

These charts are being deposited in the Registry. Charts L(A)-4001 and L/A, C-5001 depict depths in meters while charts 7010 and 7000 depict depths in fathoms. As indicated in note 3 (relating to paragraph 23), either the 100-fathom or 200-meter depth contour as shown on these charts was used to determine the seaward limit of the continental shelf for this purpose. The inshore limit used in calculating the Canadian continental shelf was the baseline for delimiting the territorial sea in accordance with the Convention on the Territorial Sea and the

Contiguous Zone, as it would be understood and applied by the United States. The Bay of Fundy and the Gulf of St. Lawrence were included in the calculation of the Canadian east coast continental shelf. The northern limit of the continental shelf off the east coast of Canada, for this purpose, was determined to be at the point where the 100-fathom depth contour intersects the 65th meridian of West longitude in the Lincoln Sea. The southern limit of the Canadian continental shelf, as noted in note 3 (in relation to paragraph 23), was defined by the maritime boundary with Canada proposed by the United States in its Memorial (as shown in Figure 30 of the United States Memorial and as set forth in paragraph 2 of Section C of the Submissions of the United States, found at page 215 of its Memorial) and a straight line connecting the northernmost point of that boundary with the United States-Canada international boundary terminus.

In its Memorial, the United States did not differentiate the areas of the respective east coast continental shelves that lie within 200 nautical miles of the coast and the areas beyond 200 nautical miles from the coast. To provide additional calculations making that differentiation at this point would therefore not serve to substantiate any statement in the United States Memorial. The United States did include the area of the territorial sea within the continental shelf calculation. This was done to avoid a discussion of the breadth of the territorial sea. These area calculations are intended solely to provide a general comparison based upon common standards. In this respect the disclaimer in the United States Memorial at paragraph 22, note 2, should be recalled.

In regard to paragraph 24, the areas of the exclusive fishing zones off the east coast of the United States and Canada were calculated employing the same baselines used for calculating the continental shelf areas. These baselines provided the inner limit for the calculations.

The outer limits were determined by 200-nautical-mile arcs determined from such baselines. The northern limit of the United States fishing zone and the southern limit of the Canadian fishing zone were defined by the maritime boundary with Canada proposed by the United States in its Memorial (as shown at Figure 30 of the United States Memorial and as set forth in paragraph 2 of Section C of the Submissions of the United States, found at page 215 of its Memorial) and a straight line connecting the northernmost point of that boundary with the United States-Canada international boundary terminus. The southern limit of the fishing zone off the east coast of the United States was defined by extending the southern limit of the United States east coast continental shelf, defined above, to a point situated at approximately 24 degrees 43' 02" N., 79 degrees 49' 39" W. That point is identified as point 83 on page 12937 of 42 *Federal Register*, 12937-12940 (7 March 1977), found in Annex 64 to the United States Memorial.

The northern limit of the Canadian east coast fishing zone was defined by the northern limit of its Fishing Zone 4 at the 66 degrees 15' parallel of North latitude. This is well short of the northern limit of the Canadian east coast continental shelf, which is over 1,000 nautical miles to the north. If the northern limit of the continental shelf were used for calculating the area of Canada's east coast fishing zone, it would add approximately 100,000 square nautical miles (343,000 square kilometers) to the 599,000 square nautical miles (2,055,000 square kilometers) already identified in the United States Memorial.

3. *United States continental shelf permits*

Paragraph 3 of the attachment to the 15 December 1982 letter from the Agent of Canada seeks to substantiate whether the United States began to issue exploration permits for the New England area of the continental shelf off the

United States east coast in 1960 or 1964. In view of the comments of the Agent of Canada regarding the statements contained in paragraphs 93 and 135 of the United States Memorial, the Agent of the United States takes this opportunity to clarify those statements.

As indicated in paragraph 93 and note 2 of its Memorial, the United States, by publication of a Notice in the *Federal Register* in 1960 (found in Annex 9), initiated its program to develop its east coast continental shelf by opening the entire east coast continental shelf to geological and geophysical explorations, upon condition that such explorations be conducted pursuant to and in accordance with a permit from the United States Geological Survey. While permits to explore parts of its east coast continental shelf were issued in the early years following that Notice, as indicated in paragraph 93 of the United States Memorial, the first permit to explore the continental shelf off New England was not issued until 1964. That permit, which did not extend to Georges Bank, was followed by subsequent permits in 1965 and 1966 that extended throughout the entirety of Georges Bank. Copies of those permits are enclosed. In the attachment to his letter of 15 December 1982, the Agent for Canada suggested that Canada has information available to it that the United States began to issue exploratory permits extending to Georges Bank in 1960. The United States assumes that Canada will provide in its Counter-Memorial the evidence upon which it has concluded that such permits were issued for Georges Bank beginning in 1960.

The United States did not include the 1964, 1965, and 1966 permits in the list contained at Annex 40 because the purpose of that Annex was simply to support the additional statement at paragraph 93 that pursuant to permits issued by the United States Geological Survey, 19,185 miles (30,869 kilometers) of geophysical data have been collected on the northeastern part of Georges Bank. Copies of those permits under which the geophysical data were collected are also enclosed. As the Agent of Canada observed, the earliest United States Geological Survey permit under which exploration activities actually occurred on the northeastern part of Georges Bank was issued in 1967.

4. Fisheries

Paragraph 4 of the attachment to the 15 December 1982 letter from the Agent of Canada requests information to substantiate statements relating to the United States and Canadian fisheries, as set forth in paragraphs 73 and 78 through 88 of the United States Memorial. Those paragraphs contain footnotes referring to the evidence supporting the statements made there. Those references are to the statistical publications of the International Commission for the Northwest Atlantic Fisheries (ICNAF), relevant portions of which are set forth in Annexes 46 and 47 to the United States Memorial; a publication of the Northwest Atlantic Fisheries Organization, found at Annex 47; and a publication of the Food and Agriculture Organization of the United Nations, found at Annex 22. The statistic relating to the Georges Bank scallop harvest in 1955 found in the second sentence of paragraph 83 was taken from an official Canadian document: Caddy, J. F., "Spatial Model for an Exploited Shellfish Population, and Its Application to the Georges Bank Scallop Fishery", *Journal of the Fisheries Research Board of Canada*, Vol. 32, 1975, Table 2, page 1309.

The Agent of Canada also requests information on the relative sizes of the United States and Canadian fishing fleets. The United States Memorial does not make a comparison of that kind. The United States Memorial does state, at paragraph 82, that there were 32 offshore scalloping boats in the Canadian fleet in the early 1960s (precisely, in 1961). That number was taken from paragraph

six, page twelve of "Sea Scallop Industry of Canada", reproduced as Annex 21 to the United States Memorial. The United States notes that information deposited by Canada with the Court indicates this number was only 27 in 1962. See N. Bourne: *Scallops and the Offshore Fishery of the Maritimes*, Ottawa, Fisheries Research Board of Canada, Bulletin No. 145, 1964, p. 24, cited at paragraph 190, note 57, of the Canadian Memorial.

The other information requested by the Agent of Canada in paragraph 4 of the attachment relates to the role of United States fishing activities in the regional economy of New England. The United States has made in its Memorial no argument drawing on such information and there is thus nothing for Canada to admit or deny in this regard in its Counter-Memorial for purposes of Article 49 (2) of the Rules of Court. The United States will deal fully in its Counter-Memorial with the unusual "socio-economic" arguments contained in Canada's Memorial.

*List of Enclosed Continental Shelf Exploration Permits**

<i>Permit</i>	<i>Date Issued</i>	<i>Permit</i>	<i>Date Issued</i>
E4-64	6/8/64	E8-75	7/10/75
E1-65	3/31/65	E21-75	9/29/75
	5/4/65	E13-76	4/29/76
E1-66	3/9/66	E22-76	7/13/76
E3-67	6/29/67	E25-76	9/3/76
E2-68	4/23/68	E32-76	9/28/79
E3-68	6/5/68	E8-77	8/10/77
E4-69	7/16/68	E9-77	8/17/77
E1-70	3/30/70	E4-78	5/5/78
E1-71	5/13/71	E12-78	10/11/78
E2-72	5/4/72	E17-78	12/12/78
E1-74	2/13/74	E2-79	4/13/79
E3-75	5/15/75	E1-81	2/20/81
E6-75	6/3/75	E10-82	5/17/82

*Certain documents referred to in the correspondence constituting these permits have not been located. Should these documents be located, copies will be provided.

50. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

26 January 1983.

I have the honour to transmit to you herewith a copy of a letter, dated 20 January 1983 and received on 24 January, from the Agent of the United States in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, referring to your letter to me of 15 December 1982. I also enclose a copy of the Annex to the letter from the United States Agent; a copy of a further letter¹ from him, also dated 20 January 1983, referring to the deposit of certain charts in the Registry of the Court; and a copy list of Continental Shelf

¹ Not reproduced.

Exploration Permits. All these copies were supplied to me by the United States Agent for transmission to you.

In order to facilitate your work, I have also thought it appropriate to have photocopies prepared in the Registry of the documents enumerated on the list of Continental Shelf Exploration Permits, and these copies are also enclosed. These documents and the charts referred to were deposited by the United States Agent with his letter, and have been placed in the library of the Court for consultation by you and by the members of the Chamber formed to deal with this case.

51. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

1 February 1983.

I have the honour to acknowledge receipt with thanks of your letter of 20 January 1983, and the enclosures thereto, referring to the letter of 15 December 1982 from the Agent of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* transmitted to you with my letter of 21 December 1982. The copy of your letter and enclosures supplied by you has been transmitted by me to the Agent of Canada; I also thought it appropriate to supply him with photocopies of the material supplied by you listed under the heading "Continental Shelf Exploration Permits". May I observe in this connection that the documentation supplied includes some relating to permit number E3-82 of 11 March 1982, which does not appear on the list.

I have also to acknowledge receipt of your second letter¹ of 20 January 1983 relating to the deposit of certain charts, and of the charts in question.

52. THE REGISTRAR TO THE COUNSELLOR OF THE EMBASSY OF CANADA
TO THE NETHERLANDS

17 February 1983.

Thank you for your letter of 14 February 1983¹ confirming that the Agents of Canada and the United States of America in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area* have agreed, at the request of the President of the Chamber, that their respective Memorials be made available to the Members of the Court not sitting in the Chamber. I note also that the Government of Canada will make available 12 additional case-bound copies of its Memorial with Annexes for this purpose, for which the Members of the Court concerned will, I am sure, be grateful.

¹ Not reproduced.

53. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

21 March 1983.

I refer to the letter of 20 January 1983 from the Agent for the United States in reply to your letter of [21] December 1982 relative to the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

In his letter, the United States Agent suggests that "Canada has circumvented the order and schedule established by the Court" for presenting views regarding allegations of fact contained in the United States Memorial. The Government of Canada cannot accept this unfounded suggestion. My letter to you of 15 December simply pointed out that in some cases allegations advanced by the United States were not substantiated by supporting documents or data. The purpose of my letter was to obtain the required data or information.

Nor can the Government of Canada accept the view of the United States Agent that this request for information was "extraordinary". I would point out, for instance, that the Memorial of Canada (Annexes, Vol. II, Annex 49) provided the Court and the United States Agent with copies of the Oil and Gas Exploratory Permits issued by Canada in the Gulf of Maine area between 1964 and 1971. What seems extraordinary is that Canada should have been *obliged* to request the United States to provide copies of United States "seismic exploration permits" – and that in the end the United States Agent should have provided only some of the material requested.

The Government of Canada is particularly disturbed by the unwarranted suggestion of the Agent for the United States that Canada's request for information was a "pretext for delay" intended to "undermine the expeditious resolution of this case". Canada has sought an expeditious resolution from the outset. The delay in bringing this case before the Court in the first instance – from the signature of the Treaty to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area, in March 1979, until its ratification in November 1981 – was the sole responsibility of the United States.

I should be grateful if you would transmit this letter to the Agent for the United States.

54. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

(telex)

6 May 1983.

With reference to your letter¹ of 15 April and in order that the President of the Chamber may be in a position to know whether it is in order for him to give leave for the correction to be made under Article 52, paragraph 4, of the Rules of Court, I should be grateful if you would inform me by telex in what precise respect the map now submitted differs from the one originally included with the Memorial. Please also confirm that the modification is sought in order to correct a purely material error. When authorized by the President of the Chamber the correction should be made to all copies of the Memorial supplied to the Registry. I shall therefore require further copies of the revised map.

¹ Not reproduced.

55. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

18 May 1983.

8 This will confirm that proposed modifications to Figure 6¹ in the Canadian Memorial are intended to correct purely material errors. Following the submission of the Canadian Memorial on 27 September 1982, it was noted that a technical error had been made in the compilation of Figure 6, which resulted in the omission of Northumberland Strait from the northeast corner of that Figure. This is the major correction proposed for Figure 6. At the same time, however, it was also noted that minor errors had also been made in the depiction of the coastline in the vicinity of Cape Cod and Cape Ann and in the positioning of the islets north of Seal Island, those southwest of Grand Manan Island and off the coast of Maine. Thus it was decided to take the opportunity to provide a more accurate representation of the coastline by drawing upon reproductive material from Canadian Hydrographic Service Chart Number 4006, first published on 18 February 1983. Copies of Canadian Hydrographic Service Chart 4006 are being forwarded to the Court. Additional copies of the corrected Figure 6 will be provided in due course.

56. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

24 May 1983.

8 With reference to the Memorial filed by the Government of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I am to inform you that the President of the Chamber has given the Agent of Canada leave under Article 52, paragraph 4, of the Rules of Court to substitute a corrected version of Figure 6 on page 22 for the plate originally inserted at that place.

I accordingly transmit to you herewith a copy of the revised version supplied by the Agent of Canada and will send you further copies when he has provided them. I also enclose for your information a copy of a letter dated 18 May 1983 in which the Agent of Canada, in response to my enquiry, indicates the material errors which had called for correction.

57. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

28 June 1983.

Further to the Court's Order of 5 November 1982, and in accordance with Articles 49, 50, 52 and other relevant Articles of the Rules of Court, I am filing with you today the original of Canada's Counter-Memorial² in the case

¹ Reproduced as modified.

² III, pp. 3-456.

concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, duly signed by me as Agent for Canada, together with the originals of the Annexes thereto, in five volumes. Those Annexes incorporating documents adduced in support of contentions contained in the pleading have been duly certified by me.

The Canadian Counter-Memorial and the Annexes thereto are each accompanied by a certified copy for communication to the Government of the United States of America, together with one hundred and twenty-five additional copies to meet the requirements of the Registry.

Nineteen case-bound copies of the Canadian Counter-Memorial will be provided in mid-July for the convenience of the Court. The French-language version of the Canadian Counter-Memorial will also be deposited in mid-July.

I am also depositing with you today copies of the whole documents from which extracts have been annexed to the Counter-Memorial of Canada, as well as documents in support of Volume I and Volume III of the Annexes. These documents are also being provided to the Agent for the United States. A complete list¹ of the documents in question is attached herewith. The documents in support of Volume I and Volume III of the Annexes have been grouped by volume and chapter and contain all the articles and reports referred to therein, with the exception of those that have already been deposited with the Court in connection with the submission of the Parties' Memorials. The documents in support of Volume II of the Canadian Counter-Memorial will be deposited with the Court in mid-July.

Also enclosed are ten copies of a preliminary *errata* sheet¹ indicating corrections to be made to the Counter-Memorial of Canada. A final list of corrections to be made to all of the present pleadings will be provided in due course, in printed format and in such numbers as may be required by you.

At a meeting with the President of the Chamber on 11 May 1982, the Agents for the Parties jointly requested, pursuant to Article 52 of the Rules of Court, that copies of the pleadings and annexed documents should be made available to other States entitled to appear before the Court and accessible to the public only upon the opening of the oral proceedings. I confirmed that request on 27 September 1982 when the Canadian Memorial was filed and I do so again at this time.

58. THE DEPUTY-AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

28 June 1983.

In accordance with the Order of 5 November 1982 issued by the President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I am filing with you today the original of the United States Counter-Memorial² in this case, duly signed by the Agent of the United States, together with its Annexes, in five volumes, certified by the Agent of the United States. In addition, the Counter-Memorial and its

¹ Not reproduced.

² IV, pp. 3-482.

Annexes are accompanied by a certified copy for communication to the Government of Canada, together with one hundred twenty-five additional copies to meet the requirements of the Registry.

I am also depositing with you today copies of most of the whole documents which have been referred to in the Counter-Memorial and its Annexes. A list¹ is enclosed. The remainder will be deposited within a few days. All such documents are being provided to the Agent of Canada, as well.

In keeping with previous practice, the United States will be pleased to provide the Registry with copies of the figures contained in the Counter-Memorial and its Annexes for the Registry's translation into French. I also note that the United States will provide the Registry with hard-bound copies of the Counter-Memorial and its Annexes, for use of the Judges of the Court, within a few weeks.

In connection with the filing of the United States Counter-Memorial, I have the honor to reaffirm the United States view that copies of pleadings and annexed documents should be made available to other States entitled to appear before the Court and accessible to the public only upon the opening of oral proceedings.

(Signed) David A. COLSON.

59. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

28 June 1983.

I have the honour to acknowledge receipt of your letter of 28 June 1983, with enclosures, concerning the filing of the Counter-Memorial of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and to acknowledge receipt also of the signed original of that Counter-Memorial with its Annexes, a certified copy thereof for communication to the Government of the United States of America, and 125 additional copies, in accordance with Article 52, paragraph 1, of the Rules of Court.

I confirm that the Counter-Memorial of Canada has thus been duly filed within the time-limit fixed by the Order made by the President of the Chamber on 5 November 1982. The Counter-Memorial of the United States was also filed in the Registry today, and thus also within the time-limit fixed.

The copy of the Canadian Counter-Memorial destined for the Government of the United States was delivered to the Deputy-Agent of that Government at a meeting held in my office this morning, in the presence of Mr. Hankey, Deputy-Agent of Canada. At the same time, the certified copy of the Counter-Memorial of the United States was delivered to Mr. Hankey, together with seven plain copies thereof. Also delivered to Mr. Hankey was a copy of a letter addressed to me by the United States Agent, dated 28 June 1983, and of the list of documents enclosed therewith. A copy of your letter of 28 June 1983, and enclosures, was similarly handed by me at that meeting to the Deputy-Agent of the United States.

¹ Not reproduced.

60. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

28 June 1983.

I have the honour to acknowledge receipt of your letter of 28 June 1983, with enclosure, concerning the filing of the Counter-Memorial of the United States of America in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and to acknowledge receipt also of the signed original of that Counter-Memorial with its Annexes, a certified copy thereof for communication to the Government of Canada, and 125 additional copies, in accordance with Article 52, paragraph 1, of the Rules of Court.

I confirm that the Counter-Memorial of the United States has thus been duly filed within the time-limit fixed by the Order made by the President of the Chamber on 5 November 1982. The Counter-Memorial of Canada was also filed in the Registry today, and thus also within the time-limit fixed.

The copy of the United States Counter-Memorial destined for the Government of Canada was delivered to the Deputy-Agent of that Government at the meeting attended by you in my office this morning. At the same time, the certified copy of the Counter-Memorial of Canada was delivered to you, together with five plain copies thereof, and a copy of a letter addressed to me by the Canadian Agent, dated 28 June 1983, and of an errata sheet and list of documents enclosed therewith. A copy of your letter of 28 June 1983, and enclosure, was similarly handed by me at that meeting to the Deputy-Agent of Canada.

61. THE DEPUTY-AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

11 July 1983.

During the meeting on 28 June 1983 for the purpose of filing with the Registry the Counter-Memorials in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I indicated that the United States did not intend to issue a press release marking the event. In this regard I was in error.

Please find enclosed a copy of the press release issued by the Department of State on 28 June 1983 marking the filing of the Counter-Memorials with the International Court of Justice.

June 28, 1983.
No. 236.

United States Submits Its Pleadings to the International Court of Justice in the Case concerning the Maritime Boundary with Canada in the Gulf of Maine Area

On June 28, 1983 the United States filed its second written pleading (Counter-Memorial) with the International Court of Justice in The Hague in the "Case concerning the Delimitation of the Maritime Boundary in the Gulf of Maine Area" between Canada and the United States. Canada also filed its second

pleading on the same date. The first written pleading (Memorial) was filed with the Court by both the United States and Canada on September 27, 1982.

The case is before the Court as the result of a boundary settlement treaty between the United States and Canada which entered into force on November 20, 1981. A Chamber of five judges has been established by the Court to hear the case. The members of the Chamber are Judge Roberto Ago of Italy, as President, Judge André Gros of France, Judge Hermann Mosler of the Federal Republic of Germany, Judge Stephen Schwebel of the United States and Judge *ad hoc* Maxwell Cohen of Canada.

The Court will establish the single maritime boundary between the two countries that will divide their continental shelf jurisdictions and 200-nautical-mile fishery zones in the Gulf of Maine area. That boundary will also delimit the 200-nautical-mile exclusive economic zone of the United States in the Gulf of Maine area. At stake is approximately 15,000 square nautical miles of resource-rich ocean off the New England coast. This Atlantic area includes rich fisheries developed by the United States on Georges Bank, a site of significant cod, haddock, scallop and other catches. The Bank may also contain valuable oil and gas resources.

The boundary proposed by the United States claims United States jurisdiction over all of Georges Bank. New England fishermen developed the fisheries of Georges Bank during the 19th century and fished the area exclusively until the late 1950s when an influx of foreign fishermen began. Over the last 200 years, the United States has undertaken the primary responsibility for surveying and charting the area, the maintenance of other navigational aids, the provision of search and rescue services, the conduct of scientific research, and defense. The boundary proposed by the United States respects the natural divisions in the marine environment of the area by taking into account the Northeast Channel, which separates the Georges Bank ecological regime from the separate ecological regime of the Scotian-Shelf.

One further round of written pleadings may be submitted. Oral argument is currently contemplated to be scheduled in early 1984.

The Agent of the United States directing the case is Davis R. Robinson, the Legal Adviser of the Department of State. The Agent for Canada is L. H. Legault, Legal Adviser to the Department of External Affairs. A chart depicting the boundary claimed by the United States is attached¹.

62. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

19 July 1983.

Further to my letter of 28 June 1983 with which I filed the original of Canada's Counter-Memorial and Annexes in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I am sending you today the original of the French-language version of the Canadian Counter-Memorial, together with a certified copy for communication to the Government of the United States of America, and one hundred and twenty-five additional copies to meet the requirements of the Registry. The French-language versions of the

¹ Not reproduced.

Counter-Memorial have been prepared under my direction and to this extent have an official character; in the event of interpretation, however, they are to be read in the light of the English versions.

⑥ I am also sending you today further copies of corrected versions, in English and French, of Figure 6 (page 22) of the Canadian Memorial. Additional copies are also being provided to the Agent of the United States. (Please refer to my letter of 18 May 1983.)

In addition, I am sending you copies of documents in support of Volume II of the Annexes to the Canadian Counter-Memorial, as well as copies of four books cited in support of the Counter-Memorial, which were not deposited on 28 June 1983. All of the documents sent today are listed in the attachment¹ hereto. Copies of these documents are also being provided to the Agent for the United States. The documents in support of Volume II are grouped under generic headings, with the exception of those that have already been deposited with the Court in connection with the submission of the Parties' Memorials or Counter-Memorials. Also attached is a list¹ of documents in support of Volume II that are *not* included with the documents sent today but will be deposited with the Court as soon as they are available.

63. THE COUNSELLOR OF THE EMBASSY OF THE UNITED STATES OF AMERICA
TO THE NETHERLANDS TO THE REGISTRAR

20 July 1983.

The following agenda was agreed upon by the US and Canadian Agents for the *Gulf of Maine* case for the meeting which will take place with the President of the Chamber on 27 July.

Agenda:

1. An order for a reply.
2. Date for commencement of oral proceedings.
3. Discussion of the approximate length of oral proceedings.
4. The technical expert provided for in Article II (3) of the Special Agreement.
5. Discussion of the use of witnesses and experts and the application of Articles 57, 63 and 65 of the Rules of Court.
6. Discussion of the application of Article 56 of the Rules of Court.
7. The use of demonstrative evidence in the oral proceedings.
8. The Parties' views concerning the application of Article 59 of the Rules of Court.
9. Schedule for discussion of matters pertaining to Article 58 of the Rules of Court and other procedural matters.
10. Other business.

(Signed) Michael J. HABIB.

¹ Not reproduced.

64. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

25 July 1983.

I have the honour to acknowledge receipt of your letter of 19 July 1983, with which you communicated to me the French-language version of the Counter-Memorial of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, in one original, one certified copy for the Government of the United States of America and 125 plain copies. Due note has been taken of your indication as to the extent to which the French-language version has an official character.

I acknowledge receipt also of the copies of the corrected versions, in English and French, of Figure 6 of the *Canadian Memorial*.

Finally, receipt is acknowledged of the documents deposited in the Registry in support of Volume II of the Annexes to the Counter-Memorial of Canada, as enumerated in the list sent with your letter, and of the list supplied by you of the documents which have yet to be deposited in this connection.

65. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

27 July 1983.

I have the honor to submit to you for deposit in the Registry of the Court copies of certain documents relating to the Counter-Memorial filed by the United States of America in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. These documents are in addition to those already submitted along with the Counter-Memorial of the United States of America on 28 June 1983. These documents, with one exception, are being submitted pursuant to Article 50 of the Rules of the Court. The exception is composed of those documents published by the Northwest Atlantic Fisheries Organization (NAFO) not referred to in the Counter-Memorial of the United States. A full set of NAFO documents is being submitted in order to complement the full set of ICNAF documents submitted with the Memorial of the United States last year.

A list¹ of the documents being deposited at this time is attached.

66. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA²

28 July 1983.

With reference to the meeting held yesterday between the President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime*

¹ Not reproduced.

² A communication in the same terms was sent to the Agent of the Government of Canada.

Boundary in the Gulf of Maine Area and the Agents of the Parties to that case, I have the honour to transmit to you herewith the official sealed copy for your Government of the Order¹ made by the President of the Chamber authorizing the filing of Replies and fixing the time-limit therefor. I also enclose three plain copies of the Order; further printed copies will follow in due course.

**67. THE AGENTS OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF CANADA TO THE TECHNICAL EXPERT**

15 September 1983.

We are writing to you to express our appreciation for your continued willingness to serve as the technical expert that the Parties intend to nominate jointly to the Chamber formed to deal with the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

As you are aware, the Parties submitted the Special Agreement to the International Court of Justice on 25 November 1981. On 20 January 1982, the Court constituted a Chamber to hear the case. The Memorials were filed on 27 September 1982, and the Counter-Memorials were filed on 28 June 1983. Replies are to be submitted on 12 December 1983. The Parties are hopeful that oral proceedings will begin in the Spring of 1984.

In a recent meeting with the President of the Chamber, the Parties informed him of their intention to submit your nomination to the Chamber on or about 12 October 1983. Following that nomination, all further correspondence concerning this matter shall be between yourself and the Court. In this connection, it was suggested that it would be most helpful if you could be available in the first part of November in order to meet with the Chamber.

The Parties would appreciate it if you would be so kind as to transmit to them a curriculum vitae, for submission to the Court together with your nomination.

We are hopeful that this information will assist you in making your personal plans. We are grateful for your patience and are confident that you will make a valuable contribution to the resolution of this matter.

68. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

26 September 1983.

I refer to the meeting held in The Hague on 27 July 1983 between the Agents for Canada and the United States and the President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

At the meeting under reference, I informed the Court that the Government of Canada was considering the preparation of a film for presentation during the oral proceedings in this case. I now wish to confirm that a film is being produced and to inform you of its subject.

The subject of the film is the physical and human geography of the Gulf of Maine area. While the film will focus primarily on southwest Nova Scotia and

¹ *I.C.J. Reports 1983*, p. 6.

the Fundy coast of New Brunswick, it will also incorporate brief sequences showing United States coastal areas and the marine areas under consideration in this case.

The film will be narrated and is expected to be about thirty minutes in length. It will employ both aerial and ground photography to permit both close-up and panoramic views.

I attach a copy of this letter for transmission to the Agent of the United States.

69. THE AGENTS OF THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE REGISTRAR

12 October 1983.

Article II, paragraph 3¹, of the Special Agreement between our Governments to submit to a Chamber of the International Court of Justice the delimitation of the maritime boundary in the Gulf of Maine area provides that the Parties are to request the Chamber to appoint a technical expert, nominated jointly by the Parties, to assist the Chamber in respect to technical matters and, in particular, in preparing the description of the maritime boundary and the charts referred to in Article II, paragraph 2², of the Special Agreement.

This is to request that Commander Peter Beazley, R.N. (Ret.), be appointed as the technical expert. Commander Beazley's curriculum vitae is enclosed³.

70. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE REGISTRAR

18 October 1983.

I have the honor to refer to the letter from the Agent for Canada dated 28 September 1983, advising the Court that Canada is producing a film for possible presentation during oral proceedings in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. The 28 September letter also informed the Court that the general subject and content of the film is the "Physical and Human Geography of the Gulf of Maine Area". On the basis of the information supplied in that letter and for the reasons outlined below, the United States objects to a presentation of this film before the Court.

The question of a film was first raised with the Court at a meeting in The Hague on 27 July 1983, between the President of the Chamber and the Agents for Canada and the United States. At that meeting, the Agent for Canada withdrew Canada's initial and longstanding opposition to a possible on-site visit to the Gulf of Maine area by the Chamber. At the same time, the Agent for Canada also reported that Canada was considering the preparation of a film for presentation during the oral proceedings in this case. At that time, however, he declined to answer the request of the Agent for the United States for a description of the subject matter and content of the proposed film. The agent for

¹ I, p. 10.

² *Ibid.*

³ Not reproduced.

the United States informed the President of the Chamber that, in view of the extensive written submissions of the Parties, he could envisage no legitimate evidentiary purpose to be served by the presentation of a film in this case. He further expressed the belief that films, which are neither necessary nor subject to the agreement of the Parties or to specific procedural and substantive standards, can be highly provocative in a judicial setting. The Agent for the United States expressed the view that a film, depending upon its subject and content, could introduce political considerations into the proceedings before the Court that could detract from their judicial character. He also stated his belief that the introduction and rebuttal of a film could, at this late stage in the proceedings, entail considerable inconvenience to the United States and the Chamber.

In light of the differing views of the Parties, as expressed at the 27 July meeting, the Agents for Canada and the United States informed the President of the Chamber that they would discuss the issue further. By its letter of 28 September 1983, which followed upon conversations between the Agents, Canada has now confirmed that it is preparing a narrated film that will "focus primarily on southwest Nova Scotia and the Fundy coast of New Brunswick" but will also include "brief sequences" showing "the marine areas under consideration" and, in a curious development, "United States coastal areas".

The United States objects to any presentation of the Canadian film before the Court on six grounds. First, since the proposed Canadian film is, in effect, an effort by Canada to create a substitute for an on-site visit, its presentation would be contrary to the previous understanding of the Parties that an on-site visit to the Gulf of Maine area need not and, in their view, should not be conducted in this case. Second, the United States believes that the proposed Canadian film, unilaterally and selectively prepared for use in this adjudication, should not be presented over the objection of the United States. Third, the production of such a film by Canada as a substitute for an on-site visit is not consistent with the safeguards that are contained in the Statute and Rules of the Court and that are designed to ensure that an on-site visit will be fair and balanced in keeping with the judicial nature of proceedings before the Court. Fourth, Canada is preparing this film expressly for use in this case. In the absence of governing standards, the film will necessarily have elements of selectivity and advocacy that, in the view of the United States, will detract from the judicial character of the proceedings. Fifth, the Canadian concept of "Human Geography", as set forth in Canada's Memorial and Counter-Memorial, includes issues that the United States has shown in its written pleadings are irrelevant as a matter of law to the delimitation of a single maritime boundary in this case. And sixth, a precedent in which a film such as that being prepared by Canada is presented before the Court would, in the view of the United States, increase the cost of adjudication before the Court and add an element of unnecessary uncertainty and potential unfairness. The United States is concerned that the consequence of such a precedent could be to discourage recourse to the Court in other disputes.

With regard to these objections, I refer first to the previous understanding of the Parties, communicated to the President of the Chamber, that an on-site visit need not be conducted in this case. The Registrar of the Court raised the subject of a visit with the Parties in March of 1982, shortly after the formation of the Chamber and in the early stages of the preparation of the Memorials by the Parties. The Parties consulted on this question and agreed that they would jointly discourage the Chamber from conducting an on-site visit. During a subsequent meeting with the Registrar on 22 March 1982, the Deputy-Agents for the United States and Canada informed the Court that they saw no need for an on-site visit and indeed were opposed to one being held. Subsequently, on

11 May 1982, in keeping with Article 31 of the Rules of the Court, the Agents for the United States and Canada met with the President of the Chamber and the Registrar to discuss this and other matters. At that time, the Parties reiterated for the President of the Chamber their common view that an on-site visit by the Chamber would serve no useful or necessary purpose and would, for local reasons, be undesirable to both Parties.

The Court has relied upon the understanding not to conduct an on-site visit, for instance, in the preparation of its budget for the biennium 1984-1985. The United States, in organizing and staffing its preparation for this case, has also relied upon Canada's prior agreement that an on-site visit would not add anything appropriate or necessary to the presentation of this case. In this regard, the United States fears neither the facts nor the law of this case but is concerned about unnecessary or unanticipated politicization of these proceedings. In the absence of a compelling need, Canada should not now be permitted to withdraw unilaterally from that agreement and, without the consent of the United States, present what is, in effect, an unsatisfactory substitute for an on-site visit, subject to no safeguards and raising the very spectre of politicization that the Parties had previously agreed to seek to avoid in not encouraging an unnecessary visit.

Secondly, even in the absence of the prior agreement, the practice of the Court in regard both to visits and to films suggests that the Court should not permit the presentation of the proposed Canadian film without the consent of the United States. As far as the United States can determine, no on-site visit has ever been conducted by the Court without the consent of all of the Parties. Indeed, in the only instance of which the United States is aware, where one Party objected to a request by another Party for such a visit (*South West Africa* case¹), the Court declined to conduct the visit.

Similarly, in each case of which the United States is aware in which the Court has witnessed a film, it has only been with the consent of the other Party. As far as the United States has been able to determine, the Court has viewed a film in only two cases. In the case of the *Temple of Preah Vihear*, the Court permitted Cambodia, with Thailand's consent, to present what the United States understands was a silent film, produced long before the initiation of the case by a scientific expedition conducting research in the area in dispute². In the *Tunisia/Libya* case, the United States understands that while Libya initially objected to the presentation of a film by Tunisia, Libya withdrew that objection after viewing the film and consented to its presentation before Court. The only other instance in which a film has been shown before an international tribunal, of which the United States is aware, occurred in the *Rann of Kutch* arbitration. In that land boundary case, Pakistan, with the consent of India, presented a film of certain topographical features in the area to be delimited³.

Thus, as far as the United States is aware, international tribunals have followed a practice of permitting on-site visits or admitting films only where the parties are not in disagreement.

Thirdly, the presentation of the proposed Canadian film, unilaterally produced by Canada without consultations with the United States and the Court

¹ *South West Africa, Order of 29 November 1965, I.C.J. Reports 1965*, p. 9.

² *Case concerning the Temple of Preah Vihear (Cambodia v. Thailand), Merits, Judgment of 15 June 1962, I.C.J. Reports 1962*, pp. 6, 9. The Court apparently allowed this presentation of the film for the purpose of showing the uninhabited character of the area at the time the film was made.

³ *Case Concerning the Indo-Pakistan Western Boundary (Rann of Kutch)*, 17 R. Int'l. Arb. Awards 1, 10 (1968).

regarding the conditions under which the film would be made, would not be consistent with the Rules of the Court that pertain to on-site visits and are designed to ensure their fairness. Article 66 of the Rules, for example, requires consultations among the parties and the Court regarding the establishment of the conditions under which a visit is to be conducted. Article 67 describes the nature and scope of the conditions of enquiry where persons other than Members of the Court are to conduct the visit (a situation that should be compared for analytical purposes to the proposed Canadian film). These conditions include the definition of the subject of the enquiry to be made, the number and mode of appointment of the persons to carry it out, and the procedures to be followed.

From the only two cases before the Court that are known to the United States in which on-site visits were conducted, it appears that the Court and the Parties agreed in advance upon both substance and procedures. In the case of the *Diversion of Water from the Meuse*, the on-site visit was conducted on the basis of an itinerary that was jointly prepared by the Parties. The Agents for both Parties, as well as their technical advisers and others, participated in the visit and provided the Court with information regarding the works, canals and waterways that were the subject of the dispute¹. In the *Corfu Channel* case, the Court appointed three experts to conduct the on-site visit. The Court identified the questions to be addressed by the experts. A detailed itinerary and specific methods of obtaining evidence were established by the Court. The Court also provided the Parties with an opportunity to submit comments on the report of the experts².

The arbitral tribunal in the *Grisbadarna* case also conducted an on-site visit³. The tribunal took care to ensure that the visit resulted in a full, fair, and accurate viewing of the maritime area in question. The tribunal conducted separate visits of approximately equal length to the coastal areas of both Norway and Sweden in accordance with agreed upon itineraries. Agents, experts, and counsel for both Parties participated in the viewing and both Parties were free to make observations during the visits. Moreover, the official accounts of the visits were apparently modified in light of comments provided by the Parties⁴.

Fourthly, Canada's proposed film raises important evidentiary questions for the Court. Any depiction of the subject addressed in the proposed Canadian film will presumably be based upon an intentional selection of material and method of presentation⁵. Consequently, there will be no safeguards to assure that the material presented is a complete and accurate representation of what is

¹ *Diversion of Water from the Meuse, P.C.I.J., Series C., No. 81*, pp. 217-218, 222-224, 553-554 (1937); 31 *A.J.I.L.* 696, 697 (1937).

² *I.C.J. Pleadings, Corfu Channel*, Vol. III, pp. 194-198, Vol. IV, pp. 251-277, Vol. V, pp. 229-243.

³ 3 Hague Ct. Rep. (Scott), 1916, pp. 121, 125.

⁴ *Recueil des comptes rendus de la visite des lieux et des protocoles des séances du tribunal arbitral, constitué en vertu de la convention du 14 mars 1908, pour juger de la question de la délimitation d'une certaine partie de la frontière maritime entre la Norvège et la Suède*, Van Langenhuisen Frères, The Hague - 1909, pp. 1-38.

⁵ It might be noted that under the domestic legal systems both of Canada and of the United States, films of the sort Canada proposes may be denied admission into evidence for a variety of reasons relating to their untrustworthy or prejudicial character. See Weinstein, J. B. and M. A. Berger: *Weinstein's Evidence: Commentary on Rules of Evidence for the United States Courts and Magistrates*, Vol. 5, Matthew Bender, 1983, section 1001; Schiff, S. A.: *Evidence in the Litigation Process*, Vol. 2, The Carswell Company Limited, Toronto, 1978, pp. 757-765.

purported to be shown. Testing the accuracy and fairness of a film, not subject to proper safeguards in its production, can cause burdens and uncertainties for the other Party as well as for the Court. It might be necessary for the United States, for example, during the oral proceedings, to seek to examine those who produced the film or otherwise participated¹. The burdens and uncertainties associated with testing the accuracy and fairness of a narrated motion picture are compounded where, as in this case, the film is made specifically for use in a pending judicial proceeding. Such a film necessarily involves elements of persuasion that transform what might otherwise be an objective representation into a subjective visual pleading. Indeed, effective rebuttal of the Canadian film might reasonably require production of yet another film by the United States, produced under equivalent circumstances and conditions, however inappropriate that additional film might also be under the objections raised by the United States herein.

Fifthly, there is a fundamental disagreement between the Parties as to the relevance and correctness of Canada's arguments regarding purported economic dependence and relative wealth which, in the context of Canada's Memorial and Counter-Memorial, are included under the subject of "Human Geography"². To the extent that these issues are relevant to these proceedings, a proposition that the United States disputes, the written pleadings and appropriate documentary and oral evidence should, in the view of the United States, be the means by which these matters are presented to the Court, and not with the addition of some unilaterally determined and theatrically staged scenes of the area and its inhabitants. Canada's presentation of a film on such matters, without proper safeguards and/or without the United States having an appropriate opportunity to prepare and present rebuttal evidence, could, in the view of the United States, have the potential of adversely affecting the Court's proper consideration of these issues.

Finally, the United States respectfully submits that the Court should refuse any admission of the proposed Canadian film because of the precedent that would be established. The introduction of films such as that proposed by Canada, without necessary safeguards, carries a risk of politicizing proceedings before the Court. Moreover, the General Assembly has expressed concern over the expense of bringing cases before the Court³. A precedent that encouraged the production of films of the nature proposed by Canada could substantially increase costs and add an unnecessary element of uncertainty and potential unfairness to proceedings before the Court. In so doing, the goal of encouraging the peaceful resolution of disputes by recourse to the Court could, in the view of the United States, be hindered.

The United States respectfully requests that the Chamber consider its objections to any presentation of the Canadian film as soon as possible, after receiving whatever further views of the Parties may be appropriate.

¹ It might be further noted that in order to evaluate the accuracy of a film and to determine its admissibility in judicial proceedings, the legal systems both in the United States and in Canada authorize examination of the persons who produced the film or have knowledge of its technical aspects, such as lighting, editing, projection, or development. 5 Weinstein, *op. cit.*, *supra.*; Schiff, *op. cit.*, *supra.*

² I, Canadian Memorial, paras. 46-63, 110-121, 149-178, 311, 326; III, Canadian Counter-Memorial, paras. 157-163, 165, 246-250, 263-277, 295-301, 304-321, 496, 540, 608, 697, 729 (B).

³ Resolution 3232 (XXIX), 6th preambular paragraph, 12 November 1974.

71. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA¹

21 October 1983.

I have the honour to acknowledge receipt with thanks of the letter dated 12 October 1983 and signed by you and by the Agent of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, requesting the appointment of Commander Peter Beazley, RN (retired), as the technical expert contemplated by Article II, paragraph 2, of the Special Agreement in this case, which letter has been laid before the Chamber formed to deal with the case.

72. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA²

21 October 1983.

I have the honour to inform Your Excellency that I have laid before the Chamber your letter dated 26 September 1983 and the letter from the Agent of the United States of America in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* dated 18 October 1983, a copy of which was transmitted to you with my letter of 19 October 1983. At a recent meeting of the Chamber, these letters were examined; the Chamber noted that Your Excellency's Government has undertaken the preparation of a film which it contemplates presenting during the oral proceedings in the case, and that the Government of the United States, for the reasons set out in its Agent's letter, objects to such presentation of a film.

The Chamber is of the opinion that, without prejudice to any question of admissibility of the film, it is not for the Chamber to interfere in the preparation by the Parties of the presentation of their case. Accordingly, it would be premature for the Chamber to make any ruling at this stage; it is when or if the question actually arises, in the course of the oral proceedings, of the propriety or admissibility of a film as part of a Party's case, that it will be for the Chamber to rule on the matter. The Chamber has requested me to draw the Parties' attention to this, and in addition, for their guidance, to draw attention to the texts and precedents which may be relevant.

In the few cases in the past in which films have been presented before the Court, which are referred to in the letter of 18 October 1983 from the Agent of the United States, such films have had the character of a form of evidence, comparable to a document produced before the Court. In the one case, no objection was taken by the other Party to the presentation of the film, which had not been prepared for the purposes of the case but taken from the Party's archives. In the other case, objection was at first made by the other Party, but after a copy of the film had been made available to it by the Party seeking to present the film, that objection was withdrawn, and the film then shown to the Court.

¹ A communication in the same terms was sent to the Agent of the Government of Canada.

² A similar communication was sent to the Agent of the Government of the United States of America.

In the light particularly of this latter case, the Parties should as soon as possible agree on the United States viewing the film in question and thereafter explore whether they can reach agreement on its utilization. In the absence of agreement between the Parties, it will ultimately be for the Chamber to decide on the admissibility of the film in question as a document, giving such weight as it thinks appropriate to the views expressed by the Parties. It will be recalled that where new documents are concerned, under Article 56, paragraph 2, of the Rules, in the absence of agreement between the Parties, the Court will only authorize their production if it considers it necessary.

73. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA¹

(telex)

5 December 1983.

With reference to the telephone conversation of the Deputy-Agents in the *Gulf of Maine* case with the Deputy-Registrar, I am to inform you, with the authorization of President Ago, that the full Court is due to consider as a matter of priority, beginning in the last week of January 1984, the Italian request for permission to intervene in the *Continental Shelf* case between Libya and Malta. In all probability, consideration of such a request would take at least until the middle of March. The earliest possibility for the Chamber to begin its oral proceedings in the *Gulf of Maine* case would therefore not present itself before the end of March or the beginning of April. However, no decision on the matter can be taken without previous knowledge of any decisions that the full Court might take pursuant to Article 54 of its Rules with regard to its overall caseload. With the forthcoming session of the Court beginning on 23 January 1984, no further indication can be expected by Canada and the United States before that date. The President of the Chamber intends to raise the issue with the President of the Court at the outset of that session.

74. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

12 December 1983.

Further to the Court's Order of 27 July 1983, and in accordance with Articles 49, 50, 52 and other relevant Articles of the Rules of Court, I am filing with you today the original of Canada's Reply² in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, duly signed by me as Agent for Canada, together with the originals of the Annexes thereto, in two volumes. Those Annexes incorporating documents adduced in support of contentions contained in the pleading have been duly certified by me.

The Canadian Reply and the Annexes thereto are each accompanied by a certified copy for communication to the Government of the United States of

¹ A communication in the same terms was sent to the Agent of the Government of the United States of America.

² V, pp. 3-371.

America, together with one hundred and twenty-five additional copies to meet the requirements of the Registry.

Nineteen case-bound copies of the Canadian Reply will be provided in early January for the convenience of the Court. The French-language version of the Canadian Reply will also be deposited in early January.

I am depositing with you today copies of the whole documents from which extracts have been annexed to the Reply of Canada. These documents are also being provided to the Agent for the United States. A complete list¹ of the documents in question is attached herewith.

Also enclosed are ten copies of a preliminary *errata*¹ sheet indicating corrections to be made to the Reply of Canada. A final list of corrections to be made to all of the present pleadings will be provided in due course, in such numbers as may be required by you.

I have the honour to refer to your letter of 8 November 1983¹ concerning the Small Hall of Justice at the Peace Palace. In view of the size of the delegations contemplated by Canada and by the United States, it is clear that the Small Hall of Justice cannot accommodate these delegations, as well as any members of the diplomatic corps, press or public who may wish to attend the oral proceedings.

75. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

12 December 1983.

In accordance with the Order of 27 July 1983 issued by the President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, the United States is filing with you today the original of the United States Reply² in this case, together with its Annexes, in two volumes, duly signed and certified. In addition, the Reply and its Annexes are accompanied by a certified copy for communication to the Government of Canada, together with one hundred twenty-five copies to meet the requirements of the Registry.

The United States is also depositing today copies of the whole documents which have been referred to in the Reply and its Annexes. A list³ is enclosed. Copies of these documents are being provided to the Agent of Canada, as well. As in the past, the United States will provide the Registry with copies of the figures contained in the Reply and its Annexes for the Registry's translation into French. I also note that the United States will provide the Registry with hard-bound copies of the Reply and its Annexes, for use by the Judges of the Court, within a few weeks.

In connection with the filing of the United States Reply, I reaffirm the United States view that copies of the pleadings and annexed documents should be made available to other States entitled to appear before the Court and accessible to the public only upon the opening of the hearing.

In anticipation of that hearing, I have the honor to refer to your letter of

¹ Not reproduced.

² V, pp. 375-707.

³ Not reproduced.

8 November 1983 containing information regarding the seating capacity and size of the Small Hall of Justice. I anticipate that at any one time during oral argument the United States will have between 20 and 30 persons in The Hague working directly on this case. Most of these persons will be present during the oral proceedings. I also anticipate that some private United States citizens with an interest in the case will appear from time to time with an expectation that they will be allowed to view the oral proceedings in accordance with Article 59 of the Rules of the Court. It is also possible that other government officials with an interest in the case may wish to view the oral proceedings from time to time. We further assume that Canada will have comparable needs and that the Court itself may wish to reserve space for others having an interest in this case. Accordingly, on the basis of your letter of 8 November and its enclosures, it appears that the seating capacity of the Small Hall of Justice will be insufficient for the oral proceedings in this case.

76. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

12 December 1983.

I have the honour to acknowledge receipt of your letter of 12 December 1983, with enclosures, concerning the filing of the Reply of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and to acknowledge receipt also of the signed original of that Reply with its Annexes, a certified copy thereof for communication to the Government of the United States of America, and 125 additional copies, in accordance with Article 52, paragraph 1, of the Rules of Court. I note that the French-language version of the Canadian Reply will be delivered shortly, as will hard-bound copies of the Reply and Annexes, for the convenience of members of the Chamber, for which I am obliged to you.

I note that the Reply of Canada has thus been duly filed within the time-limit fixed by the Order made by the President of the Chamber on 27 July 1983. The Reply of the United States was also filed in the Registry today, and thus also within the time-limit fixed.

I also acknowledge receipt of a preliminary errata sheet to the Reply, the corrections on which will be treated as made to the pleading prior to its deposit; further corrections will of course be subject to Article 52, paragraph 4, of the Rules of Court.

The copy of the Canadian Reply destined for the Government of the United States was delivered to the Deputy-Agent of that Government at a meeting held in my office this morning, in the presence of Mr. Hankey, Deputy-Agent of Canada. At the same time, the certified copy of the Counter-Memorial of the United States was delivered to Mr. Hankey, together with seven plain copies thereof. Also delivered to Mr. Hankey was a copy of a letter addressed to me by the United States Agent, dated 12 December 1983, and of the list of documents enclosed therewith. A copy of your letter of 12 December 1983, and enclosures, was similarly handed by me at that meeting to the Deputy-Agent of the United States.

I have the further honour to acknowledge the deposit in the Registry of copies of documents referred to in the Reply and its Annexes, together with a list thereof.

The views expressed by Mr. Hankey, on behalf of the Government of Canada, as to the possibility of making copies of the pleadings and annexed documents available to third States or accessible to the public under Article 53 of the Rules of Court – views shared by the Agent of the United States – have been duly noted.

The views expressed in your letter as to the expected needs of the Parties, in terms of space, for the oral proceedings in the case will be duly communicated to the President and members of the Chamber.

77. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

12 December 1983.

I have the honour to acknowledge receipt of your letter of 12 December 1983, with enclosures, concerning the filing of the Reply of the United States of America in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and to acknowledge receipt also of the signed original of that Reply with its Annexes, a certified copy thereof for communication to the Government of Canada, and 125 additional copies, in accordance with Article 52, paragraph 1, of the Rules of Court. I note that hard-bound copies of the Reply and the Annexes, for the convenience of members of the Chamber, will be supplied shortly, as will additional copies of the figures contained therein, for which I am obliged to you.

I note that the Reply of the United States has thus been duly filed within the time-limit fixed by the Order made by the President of the Chamber on 27 July 1983. The Reply of Canada was also filed in the Registry today, and thus also within the time-limit fixed.

A copy of the United States Reply destined for the Government of Canada was delivered to the Deputy-Agent of that Government at the meeting attended by Mr. Colson, Deputy-Agent of the United States, in my office this morning. At the same time, the certified copy of the Reply of Canada was delivered to Mr. Colson, together with five plain copies thereof, and a copy of a letter addressed to me by the Canadian Agent, dated 12 December 1983, and of an errata sheet and list of documents enclosed therewith. A copy of your letter of 12 December 1983, and enclosure, was similarly handed by me at that meeting to the Deputy-Agent of Canada.

I have the further honour to acknowledge the deposit in the Registry of copies of documents referred to in the Reply and its Annexes, together with a list thereof.

The views of the United States, set out in your letter, as to the possibility of making copies of the pleadings and annexed documents available to third States or accessible to the public under Article 53 of the Rules of Court – views in which the Deputy-Agent of Canada concurred orally at the meeting today – have been duly noted.

The views expressed in your letter as to the expected needs of the Parties, in terms of space, for the oral proceedings in the case will be duly communicated to the President and members of the Chamber.

78. THE AGENTS OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF CANADA TO THE REGISTRAR

13 December 1983.

In the written proceedings in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, the Parties have filed Memorials, Counter-Memorials, and Replies with the Court within the time-limits established by Orders of the President of the Chamber formed to deal with the case.

In accordance with Article 54 (1) of the Rules of the Court, the case is now ready for hearing. The Parties consider that an early hearing and judgment in this case is an urgent matter. The Parties request that the hearing be held as soon as practicable and that an Order setting the date for the opening of the oral proceeding be issued.

In view of the considerations set forth in your telegram¹ of 5 December 1983, the Parties understand that the earliest possibility for the Chamber to begin the hearing is the end of March or the beginning of April, 1984. The Parties wish to emphasize the importance they attach to an Order at the earliest possible time setting the date when the hearing is to begin so that final arrangements for the staffing, hotel accommodations and other necessary facilities can be completed and the schedules of the participants, including their factual, scientific and legal consultants, can be set.

79. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA²

(telex)

21 December 1983.

Further to my telex message of 14 December I have the honour to inform you that the President of the Chamber is prepared to meet the Agents of the Parties together at the Peace Palace on Tuesday 24 January 1984 as from 3 p.m.

80. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

9 January 1984.

In my letter to you of 15 December 1982, I requested information necessary to enable both Canada and the Court to assess certain unsubstantiated contentions advanced by the United States, and also to enable Canada to comply with its obligations under Article 49 (2) of the Rules of the Court. On 20 January 1983, the Agent for the United States transmitted a number of documents relating to some of the questions raised in my letter.

Full documentation, however, has not yet been made available to Canada on one important matter. This matter was raised in paragraph 3 of the Annex to my

¹ See No. 73, *supra*.

² A communication in the same terms was sent to the Agent of the Government of Canada.

letter of 15 December 1982. It pertains to arguments concerning United States geophysical survey permits, which arguments were advanced by the United States in its Memorial and Counter-Memorial, and again in its Reply.

In order to enable the Court to assess the arguments presented by the United States concerning these permits, and to enable Canada to fully comply with its obligations under Article 49 (2) of the Rules of the Court, Canada needs copies of all of the "plats" and program maps submitted to the United States in connection with applications for geophysical survey permits in the Gulf of Maine area for the period 1967 through 1975. Canada has been informed that most of these maps are available from the Chief, Office of Program Services, Atlantic OCS Region, Minerals Management Service, 1961 Kidwell Drive, Suite 601, Vienna, Virginia 22180. In any event, given permission from the United States Department of the Interior, *all* of the maps needed by Canada should be available from the company that did the surveys (*Digicon Geophysical Corporation*, 3701 Kirby Drive, Houston, Texas 77098).

The maps in question may, with difficulty, be reconstructed from the 1975 cumulative shot point map deposited by Canada with the Court. However, submissions advanced by both the United States and Canada can best be assessed by referring to the original maps for each separate survey so as to be able to analyse the historical record of the surveys.

In addition, the United States has offered no information as to how it calculated the mileage figures listed for the geophysical surveys on what is said to be the "Northeast Portion of Georges Bank" in Annex 40 to the United States Memorial. Canada cannot calculate such mileages without further data, and renews its previous request for the necessary information.

I would again be grateful if you would transmit this request to the Agent for the United States, informing him that Canada has immediate need for the materials requested to prepare its oral pleadings. As previously stated, all appropriate measures will be taken to protect any requirements of confidentiality.

81. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

1 February 1984.

I have the honour to acknowledge the provision of 125 copies of the French-language version of the Reply of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, including one signed original, and one certified copy for the Government of the United States of America. The last-mentioned has been duly transmitted to the Agent of the United States.

**82. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR**

8 February 1984.

In the meeting on 24 January 1984 between the President of the Chamber and the Agents of the Parties in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I undertook to clarify as soon as possible

the intention of the United States concerning the calling of experts and/or witnesses at the oral proceedings.

I am pleased to inform you that this decision has now been made and that, pursuant to Article 63 of the Rules of Court, the United States intends to call one expert during the first round of oral hearing. That expert will address matters pertaining to the marine environment, particularly matters most specifically discussed in Volume I of the Annexes to the United States Counter-Memorial. The expert will be Dr. Robert L. Edwards, Special Assistant to the Assistant Administrator of Fisheries, National Oceanic and Atmospheric Administration, United States Department of Commerce. The United States has no objection to a full cross-examination of this expert by Canada under the control of the President in accordance with Article 65 of the Rules of Court.

The foregoing information was communicated to the Agent for Canada on 7 February 1984.

The United States reserves the right to call additional experts or witnesses in rebuttal once the plans of the Canadian side are known.

This letter is not intended to meet United States obligations under Article 57 of the Rules of Court. The communication therein referred to will be transmitted at a later date.

83. THE AGENT OF THE GOVERNMENT OF CANADA TO THE AGENT OF THE
GOVERNMENT OF THE UNITED STATES OF AMERICA

21 February 1984.

I refer to our meeting in Washington on 9 July 1983 and our meeting in The Hague on 27 July 1983 with the President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. At these meetings I informed you and the President of the Chamber that the Government of Canada was considering the preparation of a film for presentation during the oral proceedings in this case. I refer also to my letter of 20 September 1983 to the Registrar of the Court in which I informed the Court of the subject matter of the film, to your letter to the Registrar of 18 October 1983 in which you objected to the presentation of the film, and to the Registrar's letter of 21 October 1983.

In his letter the Registrar stated that "the Parties should as soon as possible agree to the United States viewing the film in question and thereafter explore whether they can reach agreement on its utilization". I subsequently informed you, and confirmed in our meeting of 24 January 1984 with the President of the Chamber, that I would transmit a copy of the film to the United States as soon as it was prepared, and that I expected it to be ready during the week of 20 February 1984. Pursuant to this undertaking, I am transmitting herewith a copy of the film.

In response to the objections you have raised on the basis of analogies with on-site visits, and the possible "politicization" of these proceedings, I have decided not to include in the film any material on United States coastal areas. Accordingly, the film deals only with the physical and human geography of the Canadian coastal area that is most intimately linked with Georges Bank, namely the coast of southwest Nova Scotia.

Canada considers that the very nature of international judicial proceedings, by which sovereign States voluntarily submit to the jurisdiction of the Court,

militates in favour of allowing the Parties the maximum possible freedom in presenting their cases, subject always to the judicial character of the proceedings and the Statute and Rules of the Court. In deference to the strong objections raised by the United States, Canada has not pressed its views concerning an on-site visit by the Court, despite its opinion that such a visit would have assisted the Court in appreciating certain circumstances relevant to the delimitation of the maritime boundary. *Canada does not believe that further constraints on the presentation of its case in the manner it deems fit would be consistent with the spirit of the international judicial process.* Moreover, Canada doubts whether such constraints would further the peaceful settlement of international disputes.

The question of the legal relevance of the material contained in the film can be determined by the Court once it has viewed the film, just as the Court will have to determine the legal relevance of all the evidence and argument presented by both Parties in the course of the written and oral proceedings. The United States will have ample opportunity during the oral proceedings to present its views on the material contained in the film.

I hope that after viewing the film you will agree that the Court should have an opportunity to view and decide for itself, in the light of any arguments or evidence that may be presented by the United States, the relevance of the graphic evidence contained in this film. A procedural dispute on this matter would not facilitate the task of the Court and is something that both Parties should seek to avoid.

84. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

27 February 1984.

I have the honor to refer to the letter of 12 January 1984 from the Agent of Canada relating to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

In his letter, the Agent of Canada has made another request for information that is as extraordinary as that set forth in his letter to you of 15 December 1982. The Agent of Canada again asserts that the requested information regarding United States geophysical exploration permits is necessary to enable Canada fully to comply with its obligations under Article 49 (2) of the Rules of Court. Such an assertion is particularly singular in that Rule 49 of the Rules of Court applies only to the written proceedings and Rule 49 (2) itself relates solely to Counter-Memorials. The Counter-Memorials, of course, were filed on 28 June 1983. Furthermore, as we understand the Rules of Court, the written proceedings were closed upon the simultaneous filing of Replies by the Parties on 12 December 1983, or one month before the 12 January 1984 letter of the Agent of Canada.

In his recent letter, the Agent of Canada, without reference to any Rule of Court, also invokes a purported inability of the Court to "assess the arguments presented by the United States concerning these permits". The Agent of the United States respectfully submits that it is for the Court to express any such concerns, to the extent they might exist, through whatever means it finds appropriate, but that it is not the province of the Agent of Canada to do so on behalf of the Court.

Accordingly, the United States again objects to Canada's resort to a request

that falls outside the Rules and procedures of the Court. Were it not for the allegation in paragraph 242 of the Canadian Reply that "the United States did not authorize geophysical surveys on the true northeastern portion of Georges Bank during the relevant period", that is, in Canada's definition, prior to 1972, the United States simply might rest upon its objection to Canada's extraordinary request. In view of Canada's continuing mistaken assertions in this regard, however, since the 12 January 1984 letter the United States, at considerable time and expense, has undertaken a full review of all the available information comprising the record of United States geophysical exploration on the northeast portion of Georges Bank. For purposes of evaluating the geophysical exploration activity of the United States, the northeast portion of Georges Bank for these purposes is the area defined as such by Canada, that is, as generally set forth in paragraph 236 of Canada's Reply, that part of Georges Bank claimed by Canada.

United States permits under which geophysical exploration was conducted on the northeast portion of Georges Bank were listed in Annex 40 to the United States Memorial, which subsequently was updated in Annex 26 of the United States Counter-Memorial to reflect the addition of one permit that had been issued after the filing of the Memorials. These Annexes also listed the "approximate" number of survey miles carried out on the northeast portion of the Bank under each permit.

The overall results of the exhaustive review since 12 January 1984 confirm that the United States issued permits authorizing exploration on the northeast portion of Georges Bank as early as 1965, and that operations were carried out under such permits beginning in 1967. The recent review employed technically more precise methods of measurement, which revealed that Annex 40, although in the aggregate substantially correct, contained inaccuracies in the approximations of the number of survey miles set forth. The review further disclosed that Annex 40 should be revised to reflect the addition of a number of permits not previously enumerated. The overall results of the recent review show that over 21,000 miles of geophysical exploration, rather than the 19,585 miles reported in Annex 40 to the United States Memorial, were conducted up to 1982 on the northeast portion of the Bank under United States permits, and that considerable exploration - some 3,880 miles, or 880 more miles than were reported in Annex 40 - was conducted prior to 1972.

Enclosure I to this letter has been prepared to summarize the results of the review undertaken by the United States as a result of Canada's request of 12 January 1984. The evidence upon the basis of which Enclosure I and its attachments were prepared is contained principally in plats (or "pre-plots") and program maps, submitted in connection with permit applications, that depict *proposed survey lines*, as well as in "post-plots" that depict survey lines actually conducted (these plats, program maps, and "post-plots" collectively hereinafter the "Supporting Materials"). The "pre-plots" and program maps for the years 1967 through 1975 are those that I understand the Agent of Canada to have requested by his letter of 12 January 1984.

Under United States laws and regulations, the Supporting Materials may contain data that some might regard as proprietary. As such, the public release of the Supporting Materials, in the absence of a definitive domestic Court ruling, could expose the United States or United States officials to the risk of claims of civil and even criminal liabilities. Accordingly, we are not in a position to release the Supporting Materials to the Court and to Canada without appropriate assurances that their possible confidential nature will be strictly preserved and their use correspondingly limited.

With these concerns in mind, the United States, in order that the Court and Canada may recognize the veracity of United States assertions concerning this matter, is prepared to submit the Supporting Materials to the Court and to Canada for examination provided that the necessary assurances are obtained. Specifically, I propose that the Court and Canada agree that the Supporting Materials and any information contained therein be made available subject to the following restrictions. With respect to the Court, we seek its concurrence that: (1) the possible confidential nature of the Supporting Materials and any information contained therein will be strictly safeguarded and protected; (2) any copies or other reproductions of the Supporting Materials likewise will be treated as confidential, with all Supporting Materials returned to the United States, and all copies or other reproductions thereof destroyed, at the conclusion of this case; and (3) any reference that the Court might wish to make to the Supporting Materials or to any information contained therein in a public sitting or in its judgment will safeguard and protect the possible confidentiality of the Supporting Materials and the information contained therein. As for Canada, we seek its assurances that: (1) the Supporting Materials will be used solely by the Agent of Canada and those individuals under the supervision of the Agent of Canada and only for purposes of this case; (2) the possible confidential nature of the Supporting Materials and any information contained therein will be strictly safeguarded and protected; (3) any copies or other reproductions of the Supporting Materials likewise will be treated as confidential, with all Supporting Materials returned to the United States, and all copies or other reproductions thereof destroyed, at the conclusion of this case; and (4) the Supporting Materials and any information contained therein will not be used during the forthcoming oral proceedings without the agreement of the United States, Canada, and the Court regarding procedures to maintain the possible confidential nature of the Supporting Materials and the information contained therein. In the event these requirements pose any difficulties for the Court or for Canada, I would be pleased to discuss other means of protecting the Supporting Materials and the information contained therein.

I would be most grateful if you would transmit this letter and Enclosure I¹, with its accompanying attachments², to the Agent of Canada in response to his letter of 12 January 1984. I will forward to the Court and to the Agent of Canada the Supporting Materials associated with Enclosure I upon receipt of the necessary assurances.

[Attachment 1² to Enclosure I, see pp. 345-348, infra]

¹ Not reproduced.

² Attachments 2 and 3 are not reproduced.

[Attachment 1]

Approximate No. of
Line Miles in N.E.
Portion of
Georges Bank

Permit Number	Date Approved	Company	Permit Area ¹	Work Commenced	Work Completed	Remarks	Past 1978 Line	Past 1976 Line
E3-67	06-29-67	Ray Geophysical (f/group)	N, M	07-03-67	10-16-67	Seismic (Vibroseis)	230	60
E1-68A	02-01-68	Delta (f/group)	N, M, S	03-01-68	11-06-68	Seismic (Vibroseis)	240	60
E2-68	04-23-68	ESI	N, M	06-06-68	12-04-68	Gravity Magnetics	880	450
E3-68B	06-05-68	Shell	N, M, S	06-05-68	09-06-68	Seismic (Sparker)	110	25
E4-69	07-16-69	ESI	N, M	08-19-69	10-19-69	Gravity Magnetics	120	105
E1-70	03-30-70	Digicon (f/group)	N	04-25-70	09-25-70	Seismic (Airgun)	510	160
E1-71	05-13-71	Digicon (f/group)	N, M	06-26-71	10-13-71	Seismic (Airgun)	680	210
E2-71	05-27-71	Digicon (f/group)	N, M	05-29-71	11-13-71	Gravity Magnetics	1,110	410
E2-72	05-04-72	Digicon (f/group)	N, M	05-22-72	07-08-72	Seismic (Airgun)	1,540	780
E3-72	08-18-72	Shell	N	09-28-72	10-03-72	Seismic (Airgun)	520	430
E1-73	05-16-73	Shell	N, M	05-19-73	05-25-73	Seismic (Airgun)	310	290

¹ Permit areas are abbreviated as follows :
N : North Atlantic. M : Mid-Atlantic. S : South Atlantic.

[Attachment 1] (cont.)

Permit Number	Date Approved	Company	Permit Area ¹	Work Commenced	Work Completed	Remarks	Approximate No. of Line Miles in N.E. Portion of Georges Bank	
							Past 1978 Line	Past 1976 Line
E2-73	05-30-73	Digicon (f/group)	N, M	06-22-73	10-18-73	Seismic (Airgun)	60	20
E1-74	02-13-74	Digicon (f/group)	N, M, S	02-20-74	12-07-74	Seismic (Airgun)	2,220	610
E2-75	05-12-75	Shell	N	06-05-75	11-19-75	Seismic Magnetics	100	70
E3-75	05-15-75	Digicon (f/group)	N, M	05-17-75	11-17-75	Seismic (Airgun)	3,370	3,270
E6-75	06-03-75	Mobil	N, M, S	06-19-75	09-01-76	Seismic (Airgun)	500	270
E8-75	07-10-75	GSI	N	08-12-75	12-03-75	Seismic (Airgun)	480	25
E10-75	07-10-75 09-10-75 (Amended)	Exxon	N, M	07-10-75	02-28-76	Seismic Magnetics Gravity	100	70
E18-75	09-15-75	GSI (for Exxon)	N	09-24-75	11-11-75	Seismic (Airgun)	400	310
E21-75	09-29-75	Digicon	N	10-02-75	11-20-75	Seismic (Airgun)	410	190
E7-76	03-02-76	Shell	N	04-02-76	11-30-76	Seismic	1,460	980
E13-76	04-29-76	Texaco	N	05-21-76	07-18-76	Seismic (Airgun) Magnetics	250	150

[Attachment 1] (cont.)

Approximate No. of
Line Miles in N.E.
Portion of
Georges Bank

<i>Permit Number</i>	<i>Date Approved</i>	<i>Company</i>	<i>Permit Area¹</i>	<i>Work Commenced</i>	<i>Work Completed</i>	<i>Remarks</i>	<i>Past 1978 Line</i>	<i>Past 1976 Line</i>
E17-76	08-02-76	Mobil	N, M	05-17-76	07-31-76	Aeromagnetic	1,450	980
E18-76	06-18-76	ONI	N	06-01-76	08-22-76	High Resol.	1,510	700
E20-76	06-22-76	Shell	N, M	07-05-76	07-10-76	Geologic	150	120
E22-76	07-13-76	Chevron	N, M	07-23-76	09-06-76	Seismic (Airgun)	90	6
E25-76	09-03-76	Digicon	N	09-09-76	11-22-76	Seismic (Airgun)	870	480
E32-76	09-28-79 retro- active to 10-28-76	Exxon	N	11-08-76	11-15-76	Seismic Gravity Magnetics	70	31
E1-77	02-17-77	Digicon	N	09-21-76	09-25-76	Seismic (Airgun)	60	7
E3-77	06-08-77	Exxon	N	07-11-77	07-25-77	Seismic (Airgun)	170	0
E4-77	06-09-77	Shell	N	06-14-77	10-20-77	Seismic (Airgun)	220	4
E6-77	06-10-77	Digicon (f/Chevron)	N	06-10-77	07-31-77	Seismic	64	0
E8-77	10-10-77	Digicon	N	08-11-77	08-14-77	Seismic (Airgun)	12	0

CORRESPONDENCE

[Attachment 1] (cont.)

Permit Number	Date Approved	Company	Permit Area ¹	Work Commenced	Work Completed	Remarks	Approximate No. of Line Miles in N.E. Portion of Georges Bank	
							Past 1978 Line	Past 1976 Line
E9-77	08-17-77	Digicon	N	08-15-77	08-26-77	Seismic (Airgun)	27	0
E13-77	09-14-77	Exxon	N	10-19-77	10-23-77	Seismic Gravity Magnetics	37	0
E4-78	05-05-78	USGS by Geoatlantic	N, M	05-24-78	11-05-78	Seismic (Airgun)	290	240
E11-78	08-01-78	Exxon	N	10-05-78	10-30-78	Seismic Gravity Magnetics	12	0
E12-78	10-11-78	GSI	N	10-30-78	11-08-78	Seismic (Airgun)	370	340
E17-78	12-12-78	USGS by Prakla-Seismos	N	08-11-79	09-04-79	Seismic Gravity Magnetics	165	65
E1-81	02-20-81	Exxon by Petty Ray	N, M, S	03-15-81	12-31-81	Seismic (Airgun)	70	0
E10-82	05-17-82	GECO (USA)	N, M, S	05-17-82	07-15-82	Seismic Gravity	450	0
						Total mileage	21,687	11,918

[Attachment 4 to Enclosure 1]

AFFIDAVIT

My name is Harry A. DuPont. I am retired from the Conservation Division of the United States Geological Survey (USGS), the functions of which now are divided within the United States Department of the Interior between the Minerals Management Service for offshore operations and the Bureau of Land Management (BLM) for onshore operations. I served as the Oil and Gas Supervisor for the Eastern Region of the Conservation Division of the USGS from the latter part of 1967 until late 1978. My responsibilities included supervision of oil and gas drilling and producing operations on leased Federal and Indian lands onshore in the Eastern Region of the United States, comprised generally of the states east of the Mississippi River. I also was responsible, from the latter part of 1967 until 1977, for the review and issuance of permits to conduct geophysical exploration on the "outer Continental Shelf" off the east coast of the United States, extending from Maine to the Atlantic coast of Florida. The authority to approve permits for geophysical exploration was delegated to the Oil and Gas Supervisor of each region by the Secretary of the Interior, as published in the *Federal Register*.

I prepared the document entitled "Attachment V", dated November 14, 1969, that appears in the file for Permit E2-69. Attachment V is not part of Permit E2-69, but was a document that I prepared indicating that this permit extended into the northern portion of Georges Bank, which Canada had covered with its permits. Prior to preparing that document, I selected a number of points on the basis of information that had been provided to my office by BLM that BLM described as representing the limit of Canada's permits on Georges Bank. I had taken note of these points so that I could know whether permits I was approving covered areas that Canada might claim.

The program map submitted with the application for Permit E2-69 indicated that the applicant planned to conduct two seismic survey lines that would extend beyond the points selected into the northern portion of Georges Bank. I noted this fact on the document referred to as Attachment V by using the phrase "BLM line" simply as a means of identifying the source from which my office had received information concerning the limits of Canadian permits on Georges Bank.

I made the pencilled notations "Pt on BLM line" that appear in two places on the program map submitted with the application for Permit E3-69. The purpose of these two notations was to indicate the extent to which the grid of proposed survey lines extended into the northern portion of Georges Bank. The application for Permit E3-69 was submitted by the Chevron Oil Corporation, on behalf of Digicon Geophysical, to conduct magnetic and gravity operations on Georges Bank. I did not restrict the area of Permit E3-69 because of any median line.

At no time during the period I was Eastern Region supervisor did I ever consider any type of median line to be the offshore boundary between the United States and Canada, and I did not restrict any permits that I issued because of any median line. I always had presumed that any offshore boundary between the United States and Canada would have taken advantage of the Northeast Channel, beyond Georges Bank.

I certify under penalty of perjury that the foregoing is true and correct. Executed on February 17, 1984.

(Signed) Harry A. DUPONT.

85. THE COUNSELLOR OF THE EMBASSY OF CANADA TO THE NETHERLANDS
TO THE REGISTRAR

9 March 1984.

I am pleased to attach herewith the text of a press release regarding the Opening of Oral Proceedings in the *Gulf of Maine Maritime Boundary* case which will be released in Ottawa today.

(Signed) F. D. PILLARELLA.

Opening of Oral Proceedings in the Gulf of Maine Maritime Boundary case

The Honourable Allan J. MacEachen, Deputy Prime Minister and Secretary of State for External Affairs, and the Honourable Mark MacGuigan, Minister of Justice and Attorney General of Canada, announced today that the Oral Proceedings in the *Gulf of Maine Maritime Boundary* case between Canada and the United States are expected to commence in The Hague, April 2, 1984, according to information released by the International Court of Justice March 5, 1984.

The Honourable Mark MacGuigan, Minister of Justice and Attorney General of Canada, has also announced that he will attend the proceedings in The Hague. He will open the case for Canada April 2, 1984.

The Agent for Canada in the case is L. H. Legault Q.C., Legal Adviser to the Department of External Affairs. The names of other counsel appearing on behalf of Canada will be announced shortly. The Agent for the United States is Davis Robinson, Legal Adviser to the Department of State.

The case will be heard by a special Five-Member Chamber of the International Court of Justice. The President of the Chamber is Judge Roberto Ago of Italy. Other members of the Chamber are Judge André Gros (France), Judge Hermann Mosler (FRG), Judge Stephen Schwebel (USA) and Judge *ad hoc* Maxwell Cohen (CDA).

The hearings follow three rounds of written pleadings submitted in September 1982, June 1983 and December 1983. The decision to be rendered by the Court will settle a dispute between Canada and the United States over the location of the boundary that divides the continental shelf and the 200-mile fishing zones of the two countries off the coasts of the Maritime provinces and the New England states. The case centres on the rich fishery resources and potential hydrocarbon resources of Georges Bank. Canada claims almost one-half of the Bank and the United States asserts a claim to its entirety.

86. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

7 March 1984.

I refer to the meeting of 24 January 1984 between the President of the Chamber and the Agents for the Parties in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, when both Parties

undertook to clarify their intentions regarding the calling of experts and witnesses at the oral proceedings. I refer also to the letter to you from the Agent of the United States advising that the United States intends to call one expert during the first round of the oral proceedings.

I am now able to advise you that, pursuant to Article 63 of the Rules of Court, Canada may call one expert in the second round in rebuttal of the testimony of the United States expert. The Canadian expert will be Dr. Michael M. Sinclair, Chief, Invertebrates and Marine Plants Division, Halifax Fisheries Research Laboratory, Department of Fisheries and Oceans, Halifax, Nova Scotia.

Canada reserves the right to call additional experts or witnesses in rebuttal once the plans of the United States regarding any further experts or witnesses are known.

A communication in conformity with Article 57 of the Rules of Court will be forwarded to you at a later date.

87. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

12 March 1984.

I have the honour to refer to the letter of 27 February 1984 from the Agent of the United States relative to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. That letter purports to respond to a request by the Agent for Canada in a letter to the Court of 9 January 1984, repeating an earlier request of 15 December 1982, for documentary evidence to support contentions advanced by the United States concerning the extent of the surveys authorized pursuant to early United States geophysical survey permits.

It will be recalled that in an aide-mémoire of 5 November 1969 (discussed in the Canadian Memorial and found in Annex 13 thereto), the United States assured Canada, with respect to the "northern portion of the Georges Bank continental shelf", that "the United States has refrained from authorizing mineral exploration or exploitation in the area"¹. The United States Memorial and Counter-Memorial made allegations that appeared to be contrary to this earlier assurance. Canada accordingly requested pertinent supporting documents in order to reconcile the conflicting declarations of the United States.

After a delay of seven weeks the United States has still not provided the supporting documents requested by Canada. Instead it has submitted a fourth written pleading in violation of the Rules of Court. Canada objects to this procedure and reserves all its rights in the matter. I do not, of course, propose to deal with the substance of this fourth United States pleading here. I would only note that it is drafted in the most ambiguous terms and leaves essential questions unclarified, always without providing documents in support of the new contentions made.

The Agent for the United States asserts that he has not provided the supporting documents requested by Canada because these documents "may contain data that some might regard as proprietary" under United States laws and regulations. Canada finds this assertion perplexing for two reasons. *First*, the United States itself has already submitted some of these maps in Annex 40 to its Memorial and has also supplied certain "Reproduction Maps" to the Court and to Canada in response to Canada's earlier request. (Although the United

¹ II, p. 356.

States Agent now claims in his letter of 27 February that two of the three "Reproduction Maps" supplied by the United States and relied upon by Canada in its Reply are erroneous, he has failed even to provide the correct documentation to replace this allegedly erroneous material.) *Secondly*, a number of United States and Canadian oil companies involved in the geophysical surveys on Georges Bank have already voluntarily provided Canada with information on these surveys and indeed have supplied Canada with program maps.

The United States Agent has characterized as "extraordinary" Canada's request for supporting documents in relation to contentions advanced by the United States. That request, of course, is anything but extraordinary. In Canadian and United States law, and in international law as well, it is the ordinary rule of litigation that the party advancing a contention shall have the burden of proving that contention. The obligation to provide appropriate documentary evidence is clearly reflected in Article 50 of the Rules of Court. Indeed, where necessary the assistance of the Court in obtaining such evidence may be invoked pursuant to Article 49 of the Statute and Articles 57 and 62 of the Rules.

What is truly extraordinary is the continuing reluctance of the United States to provide the Court and Canada with the full documentation necessary to allow an evaluation of the conflicting formal declarations by the United States. As has already been made clear in my letters of 15 December 1982 and 9 January 1984, Canada is prepared to give whatever assurances are necessary to ensure the protection of legitimate needs of confidentiality, consistent with Canada's own right to use the information so provided for the purposes of this litigation. With respect, however, Canada considers it extraordinary that one Party should seek to impose unilateral conditions upon the other Party and upon the Court with regard to the treatment of material relevant to this case.

As was pointed out in my letter of 9 January 1984, the maps in question may, with difficulty, be reconstructed from maps already deposited by Canada with the Court, and Canada has proceeded both with this reconstruction and with efforts to obtain additional maps from oil companies that participated in the surveys in question. If necessary Canada will rely at the oral proceedings upon the numerous maps already deposited with the Court, upon maps reconstructed from that material, and upon a number of new maps provided since January by oil companies (without any restrictions being placed upon their use). Canada will file such additional material with the Court at an early date. If the United States is not prepared to consent to the receipt of this material by the Court, Canada will, at the appropriate time, seek the approval of the Court in accordance with Article 56 of the Rules of Court.

Canada, of course, maintains the arguments concerning the surveys conducted pursuant to United States geophysical survey permits and Canadian licences, as set forth in its Reply.

I should be grateful if you would transmit this letter to the Agent of the United States.

88. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

16 March 1984.

I have the honor to refer to your letter of 21 October 1983 regarding the film that the Government of Canada was then preparing for possible presentation to

the Chamber in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

In my letter to you of 18 October 1983, the United States indicated that if Canada were to seek to produce the proposed film as evidence in the oral proceedings, the United States would object on six separate grounds. By his letter of 21 February 1984, a copy of which was sent to the Court, the Agent for Canada transmitted to me a copy of the film in question. We thus received the film less than six weeks prior to the anticipated opening of oral argument and more than two years after the Chamber was formed to deal with this case.

The United States has now viewed the film. As one would expect, after having been in production for well over six months, the film is technically impressive and of high artistic merit. However, for our part, we can discern in it nothing of an evidentiary character. The film, from our perspective, is nothing more than a staged, subjective and selective piece of aural and visual advocacy, prepared specifically for the Canadian case during its pendency. We certainly do not believe the film is "necessary" within the meaning of Article 56 (2) of the Rules. On the basis of our review of the film, we can only confirm the positions of principle set forth in our letter of 18 October 1983. Indeed, we find the film objectionable on each and every one of the grounds described in that letter.

In your letter of 21 October 1983, you suggested that after the United States had seen the film, the Parties should explore whether they could reach agreement on its utilization. I accordingly telephoned the Agent for Canada on 7 March 1984, informed him of our continuing objections, and asked whether in the light of those objections, he would agree not to seek to show the film before the Chamber. He indicated that he could not agree.

As a result, I suggested to the Agent for Canada that the United States would be willing, subject to certain conditions, including acceptance of such a suggestion by the Chamber, to agree to join with Canada in an informal showing of the film to the Chamber separate and apart from the oral argument and that neither Party would make any reference to the film or its contents during the proceedings. In subsequent telephone conversations on 9, 12, and 13 March, the Agent for Canada and I further discussed what we might jointly recommend for the Chamber's consideration. As the proposal developed, it included a further understanding that at such an informal showing, neither Party would make any comment on the Canadian film or its contents.

The Agent of the United States hoped that such a proposal if acceptable to the Chamber, would satisfy Canada's perceived need to show the film, would preserve the United States' principled objections, and would spare the Chamber and the Parties from the prospect of a debate on the film that could disrupt the course of the oral proceedings.

In our conversation of 13 March, the discussion narrowed to the issue of timing. The Agent of the United States maintained that under any joint proposal, the showing should take place as a preliminary matter at the Court's convenience during the week preceding the opening of oral argument. The Agent for Canada took the position that the informal viewing of the film should take place during the period scheduled for the oral proceedings or thereafter. The Agent of the United States argued that the United States' objections would be compromised if the United States participated in a joint proposal to the Court that did not call for a showing of the film as a preliminary matter in advance of the oral proceedings, thereafter leaving the issue of the film to the wisdom of the Chamber. The Agent for Canada, on the other hand, argued that in light of the other conditions of the proposal, he could not agree to an informal viewing prior to the opening of the oral proceedings without prejudicing his position. The

discussions ended at that point and I told the Agent for Canada that I would write a letter to the Court to inform it of what had transpired and to set forth the position of the United States. I also indicated that I would respond directly to the letter¹ of the Agent for Canada of 21 February 1984.

As set forth above, the United States, having seen the film, is of the view that each of the anticipated objections enumerated in the letter of the Agent of the United States of 18 October 1983 to the Registrar applies to the Canadian film. However, despite the fact that the good faith efforts of both Parties to reach agreement on a joint proposal have fallen short, the United States, in order to facilitate the work of the Chamber and possibly to avoid a dispute over a film that the United States considers both irrelevant and unnecessary, hereby reaffirms its willingness for the Chamber, should the Chamber wish to do so, to see the film separate and apart from, and in advance of, the oral argument. While specifically preserving its principled objections, the United States would accept an informal showing as a preliminary matter, without comment on the film or its contents by either Party and without requiring the Chamber to take any position on the film.

In the eventuality that Canada seeks to produce the film during the course of the oral proceedings, the United States reserves all its rights and would expect that Canada would provide the United States and the Chamber with adequate advance notice.

89. LETTER OF THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE AGENT OF THE GOVERNMENT OF CANADA TRANSMITTED TO THE REGISTRAR

[Attached to letter of 16 March 1983.]

Attached is a copy of a letter² of 15 March 1984 that I have transmitted to the Registrar concerning United States intentions with regard to the Canadian film. That letter is self-explanatory.

Your letter of 21 February 1984 contains the following statements:

“In deference to the strong objections raised by the United States, Canada has not pressed its views concerning an on-site visit by the Court despite its opinion that such a visit would have assisted the Court in appreciating certain circumstances relevant to the delimitation of the maritime boundary. Canada does not believe that further constraints on the presentation of its case in the manner it deems fit would be consistent with the spirit of the international judicial process.”

For the record, I wish to note that the United States position before the Court regarding the issue of an on-site visit was based upon an agreement to which Canada was a party and which we jointly communicated to the President of the Chamber at the time of the meeting held pursuant to Article 31 of the Rules of Court on 11 May 1982.

With further reference to the quoted statements from your 21 February 1984 letter, Canada is of course entitled to a legitimate opportunity to present its case “in the manner it deems fit”. As you recognize in your letter, Canada’s

¹ See No. 83, *supra*, and No. 89, *infra*.

² See No. 88, *supra* [letter dated 16 March 1984].

presentation is "subject always to the judicial character of the proceedings and the Statute and Rules of the Court". To the extent that this character or these Statute and Rules might constitute "constraint", such constraints are in the interest of justice and fairness.

I regret that our good faith efforts to find a joint solution to the film, as described in my letter of 15 March 1984 to the Registrar, have eluded success.

90. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

19 March 1984.

I have the honour to refer to the letter¹ of 15 March 1984 from the Agent of the United States in the case concerning the Delimitation of the Maritime Boundary in the Maine area, regarding the film prepared by Canada for possible presentation as part of its case in the oral proceedings.

In response to the suggestion in your letter of 21 October 1983, to the effect that "the Parties should as soon as possible agree on the United States viewing the film in question and thereafter explore whether they can reach agreement on its utilization", a copy of the film was sent to the United States Agent on 21 February 1984, and a copy of my letter of transmittal was forwarded to you.

Subsequently, as related by the United States Agent in his letter of 15 March 1984, the Parties entered into discussions as to whether some agreed procedure could be adopted for the viewing of the film by the Court. These discussions, however, did not lead to any agreement.

The conditions attached to the first proposal by the United States Agent did not include any condition as to the timing of a possible informal showing of the Canadian film. The United States Agent stipulated only (i) that Canada would not seek to introduce the film as a formal part of the oral argument, (ii) that neither Party would make any reference to the film or its contents during the proceedings, and (iii) that the United States should have the right to rebut the filmed presentation in a half-hour statement to be delivered following the informal showing. I expressed my gratitude for the constructive nature of this proposal, but also expressed reservations as to its compatibility with the judicial nature of the proceedings. After giving the matter further thought, I concluded that it was *for the Court, and not the Parties, to determine whether the procedure envisaged was permissible*. I therefore called the United States Agent several days later and accepted his proposal, subject to certain conditions of my own. These were that I should have the right to see his proposed rebuttal statement well in advance, and the right to give a brief counter-rebuttal. The United States Agent, however, was unable to accept this amendment of his proposal.

In subsequent telephone conversations, the United States Agent proposed that the showing should take place as a preliminary matter at the Court's convenience during the week preceding the opening of the oral argument. He abandoned his condition regarding an oral rebuttal by him and suggested instead that he should give his views concerning the film in a letter to the Court. I agreed to this condition but reserved the right to respond to his letter, if necessary. I was unable, however, to accept that the showing take place as a preliminary matter prior to the opening of the oral argument. I stressed that this

¹ See No. 88, *supra* [letter dated 16 March 1984].

would constitute a severance of the film from the Canadian case, as though there had been a ruling that it was inadmissible and irrelevant.

The purpose of this letter is to confirm that I maintain my objection to the procedure last suggested by the United States. The showing of the Canadian film as a preliminary matter would be incompatible both with the Rules of the Court and with the position of the Chamber, conveyed in your letter of 21 October 1983, that it would rule on the "admissibility of a film as part of a party's case" "when or if the question actually arises, in the course of the oral proceedings".

It is, of course, for each Party to decide the appropriate sequence in which it will seek to introduce material prepared for its case. Canada prepared a film on the Physical and Human Geography of the Gulf of Maine area in order to address assertions made in the United States Counter-Memorial. The oral proceedings, like the written proceedings, contain a rebuttal or reply phase, and Canada, like the United States, will decide what evidence it will seek to produce at each stage, consistent always with the need to provide the Court and the other Party of due notice of its intentions, and consistent too with Canada's abiding concern to facilitate the task of the Court.

91. THE AGENT OF THE GOVERNMENT OF CANADA TO THE AGENT OF THE
GOVERNMENT OF THE UNITED STATES OF AMERICA

19 March 1984.

Thank you for your letter¹ of 15 March 1984, with which you transmitted a copy of a letter of even date, from yourself to the Registrar of the International Court of Justice, regarding the film prepared by Canada for possible use in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

For the record, I must point out that there was never any agreement between Canada and the United States regarding the question of an on-site visit by the Court. The United States, for its own reasons, expressed opposition to such a visit. Canada, for its own reasons, expressed reservations. There was in this a measure of coincidence of views but no "agreement" in the sense in which you appear to use the term.

Later, after the deposit of the second set of written pleadings, Canada decided to withdraw its reservations, in the light of the description of Nova Scotia given in the United States Counter-Memorial and its Annexes. I communicated that decision to you in Washington on 9 July 1983, and subsequently to the President of the Chamber at our joint meeting with him in The Hague on 27 July 1983. In withdrawing my reservations without actually pressing for an on-site visit, I was most conscious of your very strong opposition to any such visit.

I do agree, naturally, that any constraints imposed by the Judicial Character of the Proceedings and by the Statute and Rules of the Court are in the interest of justice and fairness. It is, of course, for the Court, and not the Parties, to rule on what precise constraints are required to ensure justice and fairness.

I thank you as well for your good faith efforts with regard to the question of the Canadian film. Like you, I regret that our joint exploration of various possibilities that might be put to the Chamber did not end in success. A copy of my letter² to the Registrar in this matter is attached for your information..

¹ See No. 89, *supra*.

² See No. 90, *supra*.

92. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

19 March 1984.

I have the honour to refer to my letter¹ of 4 March 1984, in which I advised you that pursuant to Article 63 of the Rules of Court, Canada may call one expert in the second round in rebuttal of the testimony of the expert called by the United States.

The following information is provided pursuant to Rule 57 of the Rules of Court.

The Canadian expert, Dr. Michael M. Sinclair, is a Canadian national. He is Chief of the Halifax Fisheries Research Laboratory and Chief of the Invertebrates and Marine Plants Division, Fisheries Research Branch, Scotia-Fundy Region, Department of Fisheries and Oceans, Halifax, Nova Scotia. His place of residence is 6167 Watt Street, Halifax, Nova Scotia. A copy of Dr. Sinclair's curriculum vitae¹ is attached.

Whether Dr. Sinclair is, in fact, to be called to give his expert opinion, and the nature of that opinion, will depend upon the testimony adduced by the expert called by the United States. In his letter of 8 February 1984, the Agent for the United States stated that the United States expert will "address matters pertaining to the Marine Environment, particularly matters most specifically discussed in Volume I of the Annexes to the United States Counter-Memorial". If called, Dr. Sinclair will address those matters as well.

93. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

[Received on 22 March 1984.]

The following information regarding the expert that the United States intends to call at the oral proceedings in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* is provided in accordance with Article 57 of the Rules of Court.

Name: Edwards, Dr. Robert L.
Nationality: United States citizen
Residence: P.O. Box 505
Woods Hole, Massachusetts 02543
USA

A brief curriculum vitae¹ for Dr. Edwards is attached. Dr. Edwards will present testimony pertaining to the marine environment as discussed in Annex I of Volume I of the Annexes to the United States Counter-Memorial, and Annexes 20 through 25 of Volume II of the Annexes to the United States Reply, including, more particularly, the following points:

- (1) the existence of oceanographic régimes in the Gulf of Maine area;
- (2) the existence of ecological régimes in the Gulf of Maine area;
- (3) the division of species and stocks in the Gulf of Maine area;

¹ Not reproduced.

- (4) arguments and evidence relating to these matters contained in the Canadian Memorial, Counter-Memorial, and Reply, as well as in supporting materials submitted by Canada.

94. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

22 March 1984.

I have the honor to refer to the letter¹ of 12 March 1984 from the Agent for Canada relating to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. That letter responds to my letter of 27 February 1984, in which I offered to make available to the Court and to Canada, in response to the request of the Agent for Canada of 12 January 1984, certain supporting materials (the "supporting materials") provided that the United States obtained assurances that the possible confidential nature of the supporting materials would be safeguarded. The supporting materials relate to geophysical exploration authorized or conducted, or both, in the Georges Bank Area pursuant to permits issued by the United States.

In his letter of 12 March 1984, the Agent for Canada has made a number of inaccurate and unfair allegations with respect to the response of the United States to his request of 12 January. This letter should not be regarded as a response to those allegations.

Nevertheless, the United States welcomes the decision of the Agent for Canada to provide assurances regarding the use of the supporting materials consistent with the concern set forth in my letter of 27 February 1984 pertaining to any possible liability of the United States Government in connection with any release of the supporting materials in the absence of permittee consent. Accordingly, we now will make appropriate arrangements immediately to provide the supporting materials to the Agent for Canada. Once the Parties are in The Hague, we can consult with the Agent of Canada with respect to specific procedures to govern any use of the supporting materials and the information contained therein, consistent with the need to safeguard their possible confidentiality during the course of the oral proceedings.

The United States reserves its position regarding the maps and other information that the Agent for Canada has indicated that he has received from certain oil companies. In view of the possibility that this material might be deemed to be publicly available, we are studying the question of whether the United States has been or will be relieved of any possible obligation of confidentiality imposed by United States Laws and Regulations with regard to this material. It is conceivable that Canada already has obtained from oil companies or elsewhere some or all of the supporting materials now to be provided to Canada by the United States on the basis of the letter of the Agent for Canada of 12 March 1984. To the extent that the Agent for Canada provides the Court and the United States with copies of the materials already available to him, the need for safeguarding the United States with respect to the supporting materials may be limited to a significant degree. On the other hand, the United States would not be relieved of any possible obligation of confidentiality with regard to those of the supporting materials that are provided to the Agent for Canada only by the United States in response to his request of 12 January 1984.

¹ See No. 87, *supra*.

I should note that the United States will make the same supporting materials immediately available to the Chamber at the Chamber's convenience following whatever consultations may be appropriate.

I would be most grateful if you would transmit this letter to the Agent for Canada in response to his letter of 12 March 1984.

95. THE REGISTRAR TO THE DIRECTOR OF PROTOCOL AT THE MINISTRY OF
FOREIGN AFFAIRS OF THE NETHERLANDS

27 March 1984.

I have the honour to refer to the Exchange of Letters which took place between the President of the Court and the Netherlands Minister for Foreign Affairs on 26 June 1946 establishing the Privileges and Immunities in the Netherlands of the International Court of Justice, and to inform you that on 28 March 1984 Mr. P. B. Beazley, Commander R.N. (retd.), of British nationality, will be travelling to The Hague from England for the purpose of taking up duties as a technical expert engaged to assist the Chamber of the Court dealing with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

Between that date and the end of the case, a period of several months, Commander Beazley will have several occasions to travel in an out of the Netherlands in connection with his service to the aforesaid Chamber and is to be regarded while so travelling and while present in this country as an expert on mission within the meaning of the General Principles (*in fine*) annexed to the above-mentioned Exchange of Letters.

I therefore request you to be so good as to ensure that he is accorded such immunities and facilities as may prove necessary for the fulfilment of his mission.

96. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

28 March 1984.

I have the honor to refer to the telephone conference between the President of the Chamber and the Agents for the Parties in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* on 14 March 1984, in which the President of the Chamber suggested that the oral proceedings should conclude no later than 11 May and that there should be no third round. The United States wishes hereby to indicate its acceptance of these suggestions.

I am in receipt of a letter¹ to the Registrar of 21 March 1984 from the Agent for Canada who has likewise indicated Canada's desire to accede to the wishes of the President. As you are aware, a brief third round of argument had originally been proposed as a result of an agreement between the Parties intended to facilitate the resolution of the question of the order of presentation. One of the objectives of the proposed third round was to mitigate any element of surprise that might be associated with the late introduction of new documents or

¹ Not reproduced.

arguments. The United States is confident that through consultations between the Agents, the potential element of any undue surprise, about which the Agent for Canada has expressed concern, will be mitigated.

97. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

28 March 1984.

I have the honour to acknowledge receipt of the letter of today's date in which you, *inter alia*, indicate your Government's acceptance of the suggestions of the President of the Chamber as regards the closing date of the oral proceedings in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* and the exclusion of a third round of argument.

I am transmitting a copy of your letter to the Agent of Canada.

98. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA¹

28 March 1984.

I have the honour to confirm that the President of the Chamber has fixed 3 p.m. on Monday, 2 April 1984 as the time for the opening of the oral proceedings² in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

99. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

29 March 1984.

In accordance with Article 56 of the Rules of Court I enclose the documents not previously produced by either Party to which Canada proposes to refer in the first round of the oral proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

Copies of these documents have been provided to the United States.

{ List of documents enclosed }

1. Nova Scotia: Official Highways Map.
2. H. Mitchell: U.S. Coast and Geodetic Survey 1879.
3. Mobil 12/06/83 U.S. North Atlantic. OCS 82 LIMITED Line, Location Index (1969 to 1976).

¹ A communication in the same terms was sent to the Agent of the Government of the United States of America.

² VI, pp. 12-460, and *supra*, pp. 3-275.

4. 1974 East Coast, Area D Extension, Digicon Inc. map No. 42-4.
5. 1974 East Coast, Area D Extension, Digicon Inc. map No. 43-1.
6. 1974 East Coast, Area D Extension, Digicon Inc. map No. 43-4.
7. 1975 Atlantic Ocean Group (Georges Banks), Digicon Inc. map No. 53-3.
8. Data shot in 1969 by Digicon (Proj. 20).
9. Data shot in 1970 by Digicon (Proj. 21).
10. Data shot in 1971 by Digicon (Proj. 22 and 122).
11. Data shot in 1972 by Digicon (Proj. 28 and 58).
12. Data shot in 1974 by Digicon (Proj. 53, 54 and 48).
13. Exploration Surveys Inc. Sea Gravity Program. Continuous Profiling Underway Gravity and Marine Magnetometer Survey. Northeast U.S. Atlantic Continental Shelf.
14. Project Base map 159, 1974-1975 Surveys.
15. Reconstruction of data shot in 1969 by Digicon.
16. Reconstruction of data shot in 1970 and 1971 by Digicon.
17. Reconstruction of data shot in 1972 by Digicon.
18. Reconstruction of data shot in 1969-1975 by Digicon.
19. Project history map, 1967-1971, Assembly 41.
20. Project history map, 1967-1971, Assembly 42.
21. Project history map, 1970, Assembly 43.
22. Project history map, 1967-1972, Assembly 52.
23. Project history map, 1967-1972, Assembly 53.
24. Seismic Survey by G.S.I. for Humble Oil, 1966.

100. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

30 March 1984.

I have the honour to acknowledge receipt of your letter of 29 March 1984 enclosing the documents not previously produced by either Party to which Canada proposes to refer in the first round of the oral proceedings in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* and note your provision of copies of these documents to the United States.

The documents I have received under cover of your letter are entitled as follows:

[See No. 99, supra.]

101. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

30 March 1984.

I have the honour to send you herewith a copy of a letter dated 29 March 1984, received yesterday from the Agent of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, with which were enclosed the following documents:

[See No. 99, supra.]

102. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

30 March 1984.

I have the honour to acknowledge receipt of your letter¹ dated 28 March 1984, handed to me on 29 March 1984, providing the Chamber with a list¹ of Counsel and others who have assisted the United States in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

This list has been duly transmitted to the Chamber and to the Agent of Canada.

103. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES DES PAYS-BAS

30 mars 1984.

Me référant au paragraphe V des principes généraux de l'accord du 26 juin 1946 entre le Gouvernement des Pays-Bas et la Cour internationale de Justice, j'ai l'honneur de porter à votre connaissance que, en prévision des audiences qui se tiendront à partir du 2 avril 1984 en l'affaire de la *Délimitation de la frontière maritime dans la région du golfe du Maine*, le Gouvernement des Etats-Unis m'a fait tenir la liste² ci-incluse des conseils et autres personnes qui assistent les Etats-Unis en ladite affaire.

Je ne manquerai pas de vous faire part de toute modification éventuelle de ladite liste.

104. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

31 March 1984.

I have the honor to refer to my letters of 22 March 1984 and 27 February 1984 concerning certain "Supporting Materials" relating to geophysical exploration authorized or conducted, or both, in the Georges Bank area pursuant to permits issued by the United States. As I noted in my letter of 27 February 1984, the Supporting Materials may contain data that some might allege as having a proprietary nature. I further pointed out that public release of the Supporting Materials could, therefore, in the absence of a definitive domestic court ruling, expose the United States or United States officials to the risk of claims of liability. In my letter of 27 February, I outlined certain assurances that I had anticipated might be acceptable to the Agent for Canada and the Chamber, thereby reducing the exposure of the United States and its officials to such risks.

In his letter to you of 12 March 1984, the Agent for Canada indicated his decision to provide "whatever assurances are necessary to ensure the protection of legitimate needs of confidentiality, consistent with Canada's own right to use the information so provided for purposes of this litigation". In addition, the

¹ Not reproduced.

² Non reproduite.

Agent for Canada stated that Canada had received from certain oil companies materials that we expected might correspond to some or all of the Supporting Materials. My letter to you of 22 March noted that, on the basis of these considerations, the United States would make appropriate arrangements immediately to provide the Supporting Materials to the Agent for Canada, and, once we were in The Hague, to consult with him with respect to specific procedures for their use.

Consistent with my undertaking of 22 March, the United States has provided the Agent for Canada with copies of the Supporting Materials. The Agent for Canada has also supplied the United States with copies of the materials that Canada had received from the oil companies.

Following the meeting with the President of the Chamber on 30 March 1984, in which certain difficulties were noted with regard to the Supporting Materials, I consulted further with the Agent for Canada concerning this matter, and conversations were held with a representative of one of the Executive agencies of my Government.

There is considerable duplication between the Supporting Materials and the materials supplied to Canada by the oil companies, which latter materials have already been made available by Canada to the Chamber. It is my judgment that in light of this and other factors, the importance of the Chamber having before it the full record of the relevant documents relating to United States geophysical exploration authorized or conducted, or both, on Georges Bank pursuant to United States permits, outweighs other considerations. Accordingly, the Supporting Materials will be filed with you pursuant to Article 56 of the Rules of Court within a few days.

105. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA¹

2 April 1984.

I have the honour to transmit to you herewith a sealed original Order² made on 30 March 1984 by the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, appointing Commander Peter Bryan Beazley R.N. (retd.) as the technical expert contemplated by Article II³ of the Special Agreement signed on 29 March 1979. Further printed copies of the Order will be available in due course.

106. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA

2 April 1984.

I have the honour to draw your attention to the following provisions of Article 71 of the Rules of Court:

¹ A communication in the same terms was sent to the Agent of the Government of Canada.

² *I.C.J. Reports 1984*, p. 165.

³ *I*, p. 10.

"1. A verbatim record shall be made by the Registrar of every hearing, in the official language of the Court which has been used . . .

4. Copies of the transcript shall be circulated to the judges sitting in the case, and to the parties. The latter may, under the supervision of the Court, correct the transcripts of speeches and statements made on their behalf, but in no case may such corrections affect the sense and bearing thereof . . ."

The transcript of the oral proceedings opening on Monday 2 April 1984, in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, will be circulated to the Parties as follows: the transcript of a hearing held from 10 a.m. to 1 p.m. will be available in the evening of the same, and that of a hearing held from 3 to 6 p.m. will be available during the morning of the following day.

In order to facilitate any supervision which the Chamber may feel it proper to exercise, I shall be obliged if you will hand your corrections to my secretary as soon as possible after the circulation of each transcript, and in any event not later than 6 p.m. on the day following such circulation.

107. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

2 April 1984.

In accordance with Article 56 of the Rules of Court I enclose the extracts of two additional documents not previously produced by either Party to which Canada proposes to refer in the first round of the oral proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. Copies of these documents have been provided to the United States.

Extract from Henry F. Howe: *Prologue to New England*, New York, Farrar and Rhinehard, 1943, p. 10:

"Georges Bank off the Maine and Massachusetts coasts. The progression of fishing boats southward following the line of shoals down from the Newfoundland and Nova Scotia areas toward New England is a natural one, and it is quite probable that some of these unremembered fishermen coasted along these shores before the time of Verrazano. All this, at any rate, constitutes a background of hearsay that must have influenced King François I of France in commissioning Giovanni da Verrazano to go on a voyage of exploration in 1523. A commercial impulse undoubtedly prompted the voyage. This was the first deliberate attempt to learn what lay between Florida and Newfoundland."

Extract from Ross D. Eckert: *The Enclosure of Ocean Resources: Economics and the Law of the Sea*, Stanford, Hoover Institution Press, 1979, p. 99:

"Mediterranean coast near Gibraltar: between Iraq and Kuwait over islands in the Persian Gulf: between the United States and Canada over the Georges Bank area between Maine and Nova Scotia: and numerous disputes between Egypt and Israel over deposits in the Gulf of Suez as well as off the coast of Sinai in the Red Sea. The prospect of oil deposits has even produced division within countries. Metropolitan Denmark has had

disagreements with Eskimos in Greenland and with the inhabitants of the Faeroes over the division of oil revenues. In the North Sea, huge oil and gas deposits opposite the coast of Scotland have led to debates over its secession from the United Kingdom.

2. *Economics of the Common Pool*

Economic analysis demonstrates that exploitation of a hydrocarbon deposit, whether on land or at sea, will be inefficient unless control is assigned to a single decision maker by property rights or by regulations. On land, the inefficiency arises where multiple oil or gas producers have exclusive rights to their parcels of land overlying the reservoir, but none have the exclusive rights to extract hydrocarbons. The first producer to sink a well obtains some fluids or gas without pumping since the reservoir pressures push hydrocarbons out the hole. As extraction continues, the reservoir pressure declines and pumping must substitute for the natural forces of the field. However, sinking multiple independently owned wells will cause pressures to decline more rapidly owing to the larger number of holes, and the various producers thus are forced to spend more and more for pumping. Furthermore, as additional wells are drilled, the first producer realizes that some of the oil that would have flowed out of his well instead moves in the direction of his neighbors' land and out their wells. This realization leads each producer to increase his rate of pumping defensively, which raises the pumping costs of all producers. The oil would have been extracted at a rate that would avoid inefficiency under the condition of exclusive ownership. But with nonexclusive or communal 'ownership', it is instead extracted through cost-increasing competition which in the end dissipates all economic rent. The amount of oil recovered is the same under each mode of ownership, but exclusive property rights ideally accomplish the job without the waste of resources.

The uneconomically rapid exploitation of common pools can rarely be eliminated by independent actions. The rational action for each producer is to raise his rate of pumping, because a reduction means that his neighbors will capture the oil that he foregoes. Group actions to convert the multiple parcels of land to single ownership are an obvious attraction since the value of the drilling rights is greatest when they are held by just one producer. This gain from sole ownership would be the maximum that any driller would pay to his cohorts in a bargain to acquire the exclusive rights, which equals the cost savings of avoiding . . ."

108. THE REGISTRAR TO THE THIRD SECRETARY OF THE EMBASSY OF THE PEOPLE'S REPUBLIC OF BANGLADESH TO THE NETHERLANDS¹

2 April 1984.

I have the honour to refer to your letter of 2 November 1982, by which you asked that copies of the pleadings and annexed documents submitted to the Court by the Parties to the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* be

¹ A similar communication was sent to the Legal Adviser of the Foreign and Commonwealth Office of the United Kingdom.

supplied to the Government of Bangladesh, pursuant to Article 53, paragraph 1, of the Rules of Court. By my letter of 6 December 1982, I informed you that taking the views of the Parties to the case into account, the President of the Chamber had decided that it would not be appropriate to grant the request of the Government of Bangladesh at that time. I added however that when the stage of the oral proceedings was reached, the request would be re-examined in the light of the views of the Parties at that time.

I now have the honour to inform you that the Chamber has decided to make the pleadings and annexed documents accessible to the public and available to third States with effect from the opening of the oral proceedings in the case, that is to say from today's date. A set of the pleadings and annexed documents is therefore being despatched to you under separate cover.

109. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

4 April 1984.

Further to our meeting of 31 March 1984, in which the United States Agent and I reviewed with you and President Ago certain questions regarding the use of United States geophysical survey permit documents, I attach a list of documents which had already been submitted to the Court by either Canada or the United States prior to the forthcoming deposit of such further documents by the United States Agent pursuant to his letter to you of 31 March 1984.

In Canada's view, the concerns expressed by the United States Agent with regard to the documents now to be deposited by him under Rule 56 do not apply to the documents referred to in the attached list.

List of documents relating to United States geophysical survey permits already submitted to the Court and which both Parties, and the Court, are free to refer to or make such use of as may be deemed appropriate, without conditions of any kind other than those imposed by the Statute or the Rules of the Court:

1. United States geophysical survey permits documents annexed to the United States Memorial (Annexes 40 and 41)¹.
2. United States geophysical survey permits documents annexed to the United States Counter-Memorial (Annexes 26 and 15², including materials enclosed with the United States Agent's letter of 20 January 1983³ pertaining to permits and listed but not included in Annex 15).
3. United States geophysical survey permits documents annexed to the Canadian Counter-Memorial (Annexes 73 and 74)⁴.
4. United States geophysical survey permits documents annexed to the Canadian Reply (Vol. II, Part III, including Documentary Appendices 1-9)⁵.

¹ II, pp. 338-345.

² IV, pp. 468-469 and 461.

³ See No. 49. *supra*.

⁴ III, p. 438.

⁵ V, pp. 324-335.

5. United States geophysical survey permits documents deposited with the Canadian Reply (see attached list¹).
6. United States geophysical survey permits documents deposited by Canada on 29 March 1984².

**110. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR**

9 April 1984.

In accordance with Article 56 of the Rules of Court, I enclose documents to which the United States proposes to refer during the oral proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. I have attached the required certification³.

Copies of these documents have been provided to Canada.

List of Documents Proposed to Be Introduced into Evidence by the United States during Oral Proceedings before the International Court of Justice in the Case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*

1. Letter to Santiago Torres Bernárdez⁴, Registrar, from Davis R. Robinson, Agent of the United States, 27 February 1984, with Enclosure and following attachments:
 - Attachment 1: Revised Annex 40, containing a list of 41 geophysical exploration permits approved between 1967 and 1982, inclusive, and under which exploration was conducted on the northeastern portion of Georges Bank;
 - Attachment 2: A list of 12 geophysical exploration permits approved between 1965 and 1983, inclusive, under which exploration on the northeastern portion of Georges Bank was authorized but under which no exploration actually was conducted in that area;
 - Attachment 3: Copy of an article from the 1 April 1968 issue of *The Oil Daily*;
 - Attachment 4: Affidavit of Harry A. DuPont;
 - Attachment 5: Copy of an article from the 14 June 1971 issue of *The Oil and Gas Journal*.
2. Letter of 12 March 1984 to Santiago Torres Bernárdez⁵, Registrar, from L. H. Legault, Agent for Canada.
3. Letter of 22 March 1984 to Santiago Torres Bernárdez⁶, Registrar, from Davis R. Robinson, Agent of the United States.
4. Letter of 31 March 1984 to Santiago Torres Bernárdez⁷, Registrar, from Davis R. Robinson, Agent of the United States.

¹ Not reproduced.

² See No. 99, *supra*.

³ Not reproduced.

⁴ See No. 84, *supra*.

⁵ See No. 87, *supra*.

⁶ See No. 94, *supra*.

⁷ See No. 104, *supra*.

Correspondence relating to the application for and approval of authority by the United States Department of the Interior to conduct geophysical exploration on the continental shelf in the area of Georges Bank for the following permits:

Correspondence Relating to Permits Listed on Revised Annex 40

<i>Permit Number</i>	<i>Date Approved</i>	<i>Company</i>
5. E3-67	06-29-67	Ray Geophysical (f/group)
6. E1-68A	02-01-68	Delta (f/group)
7. E2-68	04-23-68	ESI
8. E3-68B	06-05-68	Shell
9. E4-69	07-16-69	ESI
10. E1-70	03-30-70	Digicon (f/group)
11. E1-71	05-13-71	Digicon (f/group)
12. E2-71	05-27-71	Digicon (f/group)
13. E2-72	05-04-72	Digicon (f/group)
14. E3-72	08-18-72	Shell
15. E1-73	05-16-73	Shell
16. E2-73	05-30-73	Digicon (f/group)
17. E1-74	02-13-74	Digicon (f/group)
18. E2-75	05-12-75	Shell
19. E3-75	05-15-75	Digicon (f/group)
20. E6-75	06-03-75	Mobil
21. E8-75	07-10-75	GSI
22. E10-75	07-10-75	Exxon
	09-10-75	
	(amended)	
23. E18-75	09-15-75	GSI (for Exxon)
24. E21-75	09-29-75	Digicon
25. E7-76	03-02-76	Shell
26. E13-76	04-29-76	Texaco
27. E17-76	08-02-76	Mobil
28. E18-76	06-18-76	ONI
29. E20-76	06-22-76	Shell
30. E22-76	07-13-76	Chevron
31. E25-76	09-03-76	Digicon
32. E32-76	09-28-79	Exxon
	retroactive to	
	10-28-76	
33. E1-77	02-17-77	Digicon
34. E3-77	06-08-77	Exxon
35. E4-77	06-09-77	Shell
36. E6-77	06-10-77	Digicon (f/Chevron)
37. E8-77	10-10-77	Digicon
38. E9-77	08-17-77	Digicon
39. E13-77	09-14-77	Exxon
40. E4-78	05-05-78	USGS by Geoatlantic
41. E11-78	08-01-78	Exxon
42. E12-78	10-11-78	GSI
43. E17-78	12-12-78	USGS by Prakla-Seismos
44. E1-81	02-20-81	Exxon by Petty Ray
45. E10-82	05-17-82	GECO (USA)

Correspondence Relating to Permits Approved for Northeast Portion of Georges Bank under Which No Operations Were Conducted in That Area

<i>Permit Number</i>	<i>Date Approved</i>	<i>Company</i>
46. E1-65	03-31-65	Shell
47. E1-66	03-09-66	Mobil
48. E5-66	04-08-66	GSI (f/group)
49. E1-67	03-30-67	Humble (f/group)
50. E2-69	04-28-69	Digicon (f/group)
51. E3-69	07-11-69	Digicon (f/group)
52. E29-76	10-12-76	Mobil
53. E15-77	09-26-77	Petty Ray (for Texaco)
54. E2-79	04-13-79	Teledyne (for Exxon)
55. E17-81	12-14-81	Petty Ray (for Exxon)
56. E7-82	03-31-82	Digicon (for Arco)
57. E3-83	05-03-83	Western

Plats, Program Maps, or Post Plots for the following geophysical exploration permits (designated "Supporting Materials" in letter to Registrar of 27 February 1984):

Plats, Program Maps or Post Plots Relating to Revised Annex 40

<i>Permit Number</i>	<i>Date Approved</i>	<i>Company</i>
58. E3-67	06-29-67	Ray Geophysical (f/group)
59. E1-68A	02-01-68	Delta (f/group)
60. E2-68	04-23-68	ESI
61. E3-68B	06-05-68	Shell
62. E4-69	07-16-69	ESI
63. E1-70	03-30-70	Digicon (f/group)
64. E1-71	05-13-71	Digicon (f/group)
65. E2-71	05-27-71	Digicon (f/group)
66. E2-72	05-04-72	Digicon (f/group)
67. E3-72	08-18-72	Shell
68. E1-73	05-16-73	Shell
69. E2-73	05-30-73	Digicon (f/group)
70. E1-74	02-13-74	Digicon (f/group)
71. E2-75	05-12-75	Shell
72. E3-75	05-15-75	Digicon (f/group)
73. E6-75	06-03-75	Mobil
74. E8-75	07-10-75	GSI
75. E10-75	07-10-75	Exxon
	09-10-75	
	(amended)	
76. E18-75	09-15-75	GSI (for Exxon)
77. E21-75	09-29-75	Digicon
78. E7-76	03-02-76	Shell
79. E13-76	04-29-76	Texaco
80. E17-76	08-02-76	Mobil
81. E18-76	06-18-76	ONI
82. E20-76	06-22-76	Shell
83. E22-76	07-13-76	Chevron
84. E25-76	09-03-76	Digicon

<i>Permit Number</i>	<i>Date Approved</i>	<i>Company</i>
85. E32-76	09-28-79 retroactive to 10-28-76	Exxon
86. E1-77	02-17-77	Digicon
87. E3-77	06-08-77	Exxon
88. E4-77	06-09-77	Shell
89. E8-77	10-10-77	Digicon
90. E9-77	08-17-77	Digicon
91. E13-77	09-14-77	Exxon
92. E4-78	05-05-78	USGS by Geoatlantic
93. E11-78	08-01-78	Exxon
94. E12-78	10-11-78	GSI
95. E17-78	12-12-78	USGS by Prakla-Seismos
96. E1-81	02-20-81	Exxon by Petty Ray
97. E10-82	05-17-82	GECO (USA)

*Plats and Program Maps Relating to Attachment 2 to Letter to Registrar of
27 February 1984*

<i>Permit Number</i>	<i>Date Approved</i>	<i>Company</i>
98. E1-67	03-30-67	Humble (f/group)
99. E2-69	04-28-69	Digicon (f/group)
100. E3-69	07-11-69	Digicon (f/group)

Other Documents:

101. "Background Paper - The Management of Shared Stocks - The Canadian Experience", distributed by the Canadian Department of Fisheries and Oceans at the Preparatory Experts Meeting for FAO Global Conference on Fishery Management and Development, Rome, 1983.
102. Computer printout of United States and Canadian fishing vessels sighted by the United States Coast Guard on the eastern part of Georges Bank (bounded by 67° 45' W, 65° 40' W, 42° 20' N, 40° 00' N) during the period 1 March 1979 through 31 August 1983.
103. Mohl, Bruce A., "Boom Goes Halifax", *Boston Globe*, 26 February 1984.
104. *Energy under the Sea*, Ministry of Supply and Services Canada, 1982.
105. "Nova Scotia Natural Gas: an Alternative for the Northeast", Remarks by Honourable John M. Buchanan, P.C., Q.C., Premier of the Province of Nova Scotia, given at Bangor, Maine, 18 January 1984.
106. "Mobil Field May Extend Further", *The Journal of Commerce*, 5 March 1984.
107. Watkins, Lyndon, "Shell Canada Resource Strikes Gas off East Coast", *Toronto Globe and Mail*, 4 November 1983.
108. *Talk Business in Nova Scotia*, Industrial Development Branch, Nova Scotia Department of Development.
109. *Nova Scotia Today*, Nova Scotia Department of Government Services, Halifax, 1983.
110. *Nova Scotia Canada*, Nova Scotia Department of Development, Halifax, 1982.
111. Lannin, Joanne, "Canadian Fish", *Maine Sunday Telegram*, 11 March 1984.
112. "Subsidies Keeping Canadians in Business?", *Maine Sunday Telegram*, 11 March 1984.

113. Harvey, Andrew S. and MacDonald, W. Stephen, "In-Migration Alters Mix of Demands for Public Services", *Urban Forum*, Canadian Council on Urban and Regional Research, Vol. 3, No. 1, Spring 1977, pp. 37-39.
114. McKersie, Robert B. and Sengenberger, Werner, *Job Losses in Major Industries*, OECD, Paris, 1983.
115. *Industry in Transition*, OECD, Paris, 1983.
116. *Certain 1982 and 1983 scallop landings statistics for Canada and southwest Nova Scotia*, Department of Fisheries and Oceans unpublished data.
117. Table entitled "Labor Force Growth by Sector (1891-1981)", compiled by Cambridge Systematics Inc., Cambridge, Mass., 1983.
118. *Nova Scotia Information Profile*, Industrial Promotion Branch, Nova Scotia Department of Development, Halifax, 1983.
119. Appropriation Bill, Department of the Interior, Public Law 94-146, Secs. 101-108, 97 Stat. 933-936.

111. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

18 April 1984.

I have the honour to provide the following adjustments requested by the Court's Expert, Commander P. B. Beazley, in order to relate certain Canadian Hydrographic Service charts to the 1927 North American datum:

Chart 4216 - quoted position of Cape Sable is the 1957 field value. The current accepted NAD position is 43° 25' 03".233 N., 65° 37' 23".857 W. The Canadian Hydrographic Service suggests subtracting 0.1 second from any scaled longitude to bring to current N.A.D. value. No correction necessary for latitude.

Chart 4340 - quoted position of "Head" is 1948 field value. The current accepted NAD position is 44° 37' 06".817 N., 66° 41' 36".969 W. The Canadian Hydrographic Service suggests subtracting 1.0 second in latitude and 0.6 second in longitude from scaled positions of triangulation points to bring to current N.A.D. value.

Chart 4323 - chart is a reproduction of a former Admiralty chart and the graticule was probably added after initial construction. Analysis shows mean correction of minus 3.0 seconds in latitude and minus 3.0 seconds in longitude (i.e. subtract 3 seconds from scaled values). The accuracy of positions is probably six seconds in latitude and longitude.

Chart 4324 - chart is a reproduction of a former Admiralty chart. To obtain 1927 N.A.D. values add 4 seconds in latitude and subtract 2.0 seconds in longitude to scaled values. The accuracy of positions is probably six seconds in latitude and longitude.

Chart 4326 - chart is a reproduction of a former Admiralty chart. To obtain 1927 N.A.D. values add 10.0 seconds in latitude and 2 seconds in longitude. Accuracy of positions is probably six seconds in latitude and longitude.

Chart 4330 - chart is a reproduction of a former Admiralty chart. To obtain 1927 N.A.D. values subtract 1.0 second in latitude and add 3.0 seconds in longitude. Accuracy of positions is probably six seconds in latitude and longitude.

112. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA¹

19 April 1984.

In accordance with the announcement² made at the close of this morning's sitting by the President of the Chamber in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I enclose herewith copies in English and French of the questions³ put at this stage by members of the Chamber to one or other, or both, of the Parties.

You are at liberty to furnish your replies⁴ either orally or in writing within the framework of the hearing.

113. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

24 April 1984.

I have the honour to confirm our telephone conversation of 24 April 1984, wherein I advised you that in view of recent developments which have placed heavy demands upon the Court's schedule, and in view of Canada's desire to take up as little of the Chamber's time as possible in the second round of the oral proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I have decided not to further burden the situation by asking the Chamber to view a film.

This decision was taken in order to facilitate the task of the Chamber in the difficult circumstances that have emerged, and does not represent any acceptance by Canada of the arguments made by the United States in its letter of 26 September 1983 and in its subsequent correspondence concerning the admissibility of the film.

I have advised the Agent of the United States of America of this decision.

114. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA⁵

25 April 1984.

Further to the letter of 19 April 1984 by which I transmitted to you the questions put by members of the Chamber in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I have to inform you that Judge Cohen desires to enlarge upon his fourth question.

A revised text of Judge Cohen's questions is accordingly enclosed and I shall see that the annex⁶ to the verbatim record of the sitting of 19 April 1984 is suitably amended.

¹ A letter in the same terms was sent to the Agent of the Government of the United States of America.

² See VI, p. 460.

³ See VI, pp. 461-465.

⁴ See pp. 18, 35, 39, 72, 139, 161, 211, 234, 258, 266, 270, *supra*.

⁵ A letter in the same terms was sent to the Agent of the Government of the United States of America.

⁶ VI, pp. 464-465.

Questions Put to the Parties by Judge Cohen

1. Is there a unifying, dominant, legal principle that is to provide the basis for the location of a single maritime boundary that unites the old Continental Shelf Doctrine and the old Coastal Fisheries Doctrine to the new 200-mile zone?

2. Is the criticism of the equidistant method sufficient if it rests on the cut-off of the adjacent neighbour's coastal share since every equidistant line, if it is not exactly in the centre of the concavity, is bound to swing somewhat over to the other side? "Perpendicular" and "equidistant" are very unlikely to be the same or nearly the same in real situations. What degree of cut-off is acceptable?

3. What role in fact and in law does the Southern coast of Nova Scotia and the opposite Northern coast of Massachusetts play, either with respect to the Gulf or seaward?

4. Why have both Parties underplayed the role of joint management for all mobile transboundary fisheries? In view of the long record of co-operative "management" and common fact-finding in the carrying out of both parties' obligations under the Boundary Waters Treaty of 1959 and by the International Joint Commission, would there not have been a credible opportunity to examine joint management of offshore migratory fisheries and related biological/environmental matters in the Gulf of Maine area – and conversely, why must it therefore be assumed that such co-operative or joint management of biological resources would create more opportunities for disputes rather than avoid them, given the record of both countries on similar matters under the International Joint Commission; the Great Lakes Fisheries Commission, etc.?

115. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

1 May 1984.

In accordance with Article 56 of the Rules of Court, I enclose the documents not previously produced by either Party to which Canada proposes to refer in the second round of the oral proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

Copies of documents not already in the possession of the United States have been provided to the United States.

List of Documents Proposed to Be Introduced into Evidence by Canada during the Second Round of the Oral Proceedings before the International Court of Justice in the Case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*

- *1. Digicon – 1975 Atlantic Ocean Group Map No. 53-1.
- *2. Digicon – 1975 Atlantic Ocean Group Map No. 53-2.
- *3. Digicon – 1975 Atlantic Ocean Group Map No. 53-3.
- *4. Digicon – 1975 Atlantic Ocean Group Map No. 53-4.
- 5. Letter of 16 August 1968 from H. F. Simmons, Shell Oil Company, to Commander, Eastern Sea Frontier, United States Navy.
- 6. Letter of 18 August 1968 from H. F. Simmons, Shell Oil Company, to Harry DuPont, Oil and Gas Supervisor, United States Geological Survey.
- 7. Letters (two) of 13 September 1968 from H. F. Simmons, Shell Oil Company, to Harry DuPont, Oil and Gas Supervisor, United States Geological Survey.

8. R. G. Halliday: "Notes on the Status of Cod and Haddock Stocks of the Scotian Shelf", ICNAF Res. Doc. 73/7, Serial No. 2909 (D.c. 3), Annual Meeting, June 1973.
9. Socio-Economic Review Panel: *The Venture Development Project*, submitted to the Canada-Nova Scotia Offshore Oil and Gas Board, Halifax, January 1984.

* Copies of these maps were deposited with the Registry on 12 December 1983. The copies now being deposited were obtained from an oil company and include that company's colour codings and mileage calculations.

116. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

4 May 1984.

I have the honour to enclose a document for deposit in accordance with Rule 56 of the Rules of Court, which Canada intends to use during the second round of the oral proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

The document was provided to Canada by the United States, and a copy of this letter and the document has been forwarded to the Agent of the United States.

Total Catch for the United States on Georges Bank for 1982-1983*

<i>Statistical Unit Area</i>	<i>Total Finfish</i>	<i>Scallops</i>
	<i>1982</i>	
522	15,245	3,793
523	13,578	10,616
524	14,569	10,367
525	7,836	4,963
	<i>1983</i>	
522	16,596	4,482
523	13,722	6,955
524	13,363	5,038
525	7,331	3,552

* Source: Northeast Fisheries Center, Woods Hole, Massachusetts.

117. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

5 May 1984.

I have the honour to enclose, in accordance with Rule 60 of the Rules of Court, the *Final Submission*¹ of Canada in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

¹ See p. 142, *supra*.

118. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

8 May 1984.

I have the honour to transmit herewith Canada's reply to the question¹ posed by the President of the Chamber to Mr. Fortier on 5 May 1984.

Response to the Question of the President of the Chamber, 5 May 1984

The Yarmouth Arch is a deep geological structure beginning under the middle of Georges Bank. It trends from there northeastward to the Yarmouth area of Nova Scotia (hence its name). Some scientists consider that the Yarmouth Arch demonstrates the continuity between Nova Scotia structural trends and those under Georges Bank (J. A. Wade: "Stratigraphy of Georges Bank Basin", Canadian Counter-Memorial², Annexes, Vol. I, p. 19, para. 33 and note 34).

More important, the Yarmouth Arch is an uplifted feature of older crustal rocks that partially separates two basins of younger sedimentary rocks: namely, the Scotian Basin, lying under the Scotian Shelf, the Northeast Channel and eastern Georges Bank; and, Georges Bank Basin, lying under western Georges Bank, the Great South Channel and areas further southwest. It is fair to say that without the Yarmouth Arch, there would be no separate Georges Bank Basin, and the Scotian Basin would extend from Newfoundland to south of Nantucket.

Sedimentary basins are significant because they contain the geological features in which hydrocarbons are found.

In light of these facts, the Canadian Memorial, Counter-Memorial and Reply and Canada's argument in these oral proceedings have suggested that to the extent discontinuities exist in the otherwise continuous continental shelf of eastern North America, they are not under the Northeast Channel, but under Georges Bank where the Scotian Basin and Georges Bank Basin are partially separated, at approximately the middle of the Bank, by the Yarmouth Arch (Canadian Memorial³, para. 80; Canadian Counter-Memorial², paras. 173-174; Canadian Counter-Memorial², Annexes, paras. 33, 38 and 40; Canadian Reply⁴, para. 168; VI, p. 109).

The Yarmouth Arch, the Scotian Basin and Georges Bank Basin are best illustrated in Figure 16 of the Canadian Counter-Memorial (reproduced as Figure 52 of the oral proceedings).

**119. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR**

8 May 1984.

In accordance with Article 56 of the Rules of Court, I enclose documents to which the United States proposes to refer during the second round of the oral

¹ P. 125, *supra*.

² III.

³ I.

⁴ V.

proceedings in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. I have attached the required certification¹.

Copies of these documents have been provided to Canada.

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1. Previously unpublished catch statistics by statistical unit areas for the United States of America on Georges Bank for 1965-1983.
 2. "Continental Shelf Boundary Negotiations with Canada", January 1976. Public paper of the Department of State.
 3. "Maritime Boundary Negotiations with Canada", September 1976. Public paper of the Department of State.
 4. "Maritime Negotiations with Canada: The Gulf of Maine Area", 17 May 1977. Public paper of the Department of State.
 5. Jamieson, G. S., M. J. Lundy, G. L. Kerr, and N. B. Witherspoon, *Fishery Characteristics and Stock Status of Georges Bank Scallops*, CAFSAC Research Document 81/70, Dept. of Fisheries and Oceans, Halifax, 1982.
 6. Peart, T. F., *Structure Conduct and Performance of Atlantic Fishing Enterprises and Financing Institutions (1968-77) Together with Government Policy Options for Fleet Financing Assistance, over Period 1978-1985*, Dept. of Fisheries and Environment, October 1978.
 7. La Forest, G. V.: "Canadian Inland Waters of the Atlantic Provinces and the Bay of Fundy Incident", 1 *The Canadian Yearbook of International Law* (1963), pp. 149-171.
 8. International Northwest Atlantic Fisheries Conference, Minutes of the Fifth Session, DOC/20, 28 January 1949.
 9. International Northwest Atlantic Fisheries Conference, Minutes of the Ninth Session, DOC/28, 1 February 1949.
 10. Centre for International Studies, *The International Joint Commission Seventy Years On*, Robert Spencer, John Kirton, Kim Richard Nossal, eds., University of Toronto Press, 1981.
 11. Leigh, Michael, *European Integration and the Common Fisheries Policy*, Croomhelm Ltd., Kent, England, 1981.

120. THE AGENT OF THE GOVERNMENT OF CANADA TO THE REGISTRAR

8 May 1984.

In reviewing the statements made on behalf of Canada on the closing day of our second round, I have discovered that certain errors found their way into three of these statements at the last minute.

The first error occurred in my concluding statement (p. 140, *supra*). In the verbatim record, you will find a sentence reading as follows: "*Secondly*, when the Parties established their 200-mile fishing zones in 1976, they both took the position that the lateral limits of these zones in the Gulf of Maine area should be the same as those applicable to the continental shelf." This sentence should have read: "*Secondly*, when the Parties took the first steps toward the establishment of their 200-mile fishery zones in 1976, they both took the position that the

¹ Not reproduced.

lateral limits of these zones in the Gulf of Maine area should be the same as those applicable to the continental shelf.”

The second error occurred in the statement concerning the conduct of the Parties (p. 109, *supra*). In the verbatim record, you will find a sentence reading as follows: “This line was put on the map by the oil company which provided the map when they applied to the United States Government for permits.” This sentence should have read “This line was put on the map by the oil company which provided the map and applied to the United States Government for permits.”

The third error occurred in the statement concerning proportionality (p. 133, *supra*). In the verbatim record, you will find two sentences reading as follows: “Les eaux de la baie de Fundy ont donc le même statut juridique que les eaux relevant de la zone de pêche de 200 milles. Et c’est aussi bien pour le droit interne canadien qu’aux effets du droit international.” This should have been a single sentence and should have read as follows: “Les eaux de la baie de Fundy ont donc en ce qui concerne la ligne de fermeture le même statut juridique que les eaux relevant de la zone de pêche de 200 milles, et ce tant pour le droit interne canadien que pour le droit international.”

These errors, of course, were entirely inadvertent. It is incumbent upon me as Agent for Canada to bring them to your attention and request that you also bring them to the attention of the Chamber and of the other Party, together with my sincere regrets for any misunderstanding they may have caused. I should be most grateful if the necessary corrections could be made to the verbatim record in due course.

121. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

8 May 1984.

I have the honour to acknowledge the communication on 5 May 1984, with reference to Article 60 of the Rules of Court, of the written text of the Final Submission of Canada in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

A copy of that text has been transmitted to the Agent of the United States of America.

122. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

9 May 1984.

I have the honour to transmit to you herewith a copy of a written reply¹ by Canada to the question put to Mr. Fortier, counsel for Canada, on 5 May 1984 by the President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*. This reply was transmitted to me by the Agent of Canada yesterday.

¹ See No. 118, *supra*.

123. THE AGENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
TO THE REGISTRAR

11 May 1984.

I have the honor to provide to you, in accordance with Rule 60 of the Rules of Court, the Final Submissions¹ of the United States of America in the case concerning the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

A copy of this letter has been provided to the Agent for Canada.

124. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF CANADA

11 May 1984.

I have the honour to transmit to you herewith a copy of a letter dated 11 May 1984 from the Agent of the United States of America in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, and of the text of the final submissions of the United States in that case, enclosed with the Agent's letter.

125. LETTER OF THE AGENT OF THE GOVERNMENT OF CANADA TO THE AGENT
OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA TRANSMITTED
TO THE REGISTRAR

11 May 1984.

I am writing with reference to the statement made by Ambassador Stevenson, on 9 May 1984, on behalf of the United States in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

In a section of his statement entitled "The Chamber Should Take into Account the Possible Expansion of Coastal-State Jurisdiction in the Area", Ambassador Stevenson professed concern about the hypothesis that the United States might somehow be put "in the position of arguing with Canada about our rights to navigate through and overfly the area" northeast of the line claimed by Canada (p. 204, *supra*) or, presumably, any other line to be fixed by the Chamber as the single maritime boundary in the Gulf of Maine area. Such concern is quite unfounded. The purpose of this letter is to reaffirm, if such reaffirmation is truly required, that Canada recognizes the rights of navigation and overflight within the 200-mile exclusive economic zone as these rights are defined in the 1982 United Nations Convention on the Law of the Sea and reflected in customary international law.

¹ See pp. 272-274, *supra*.

126. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA¹
(telex)

5 October 1984.

I wish to inform you that the Chamber of the Court constituted in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* will hold a public sitting on Friday 12 October 1984 for the purpose of delivering its judgment².

127. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN³

5 décembre 1984.

Le Greffier de la Cour internationale de Justice a l'honneur de transmettre ci-joint un exemplaire de l'arrêt rendu le 12 octobre 1984 par la Chambre constituée par la Cour internationale de Justice pour connaître de l'affaire de la *Délimitation de la frontière maritime dans la région du golfe du Maine*.

¹ A communication in the same terms was sent to the Agent of the Government of Canada.

² *I.C.J. Reports 1984*, p. 246.

³ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour. Le même envoi a été fait au Secrétaire général de l'Organisation des Nations Unies.