

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 (29 March 1979)

The Government of Canada and the Government of the United States of America,
Recognizing that they have been unable to resolve by negotiation the differences between them concerning the delimitation of the continental shelf and the fisheries zones of Canada and the United States of America in the Gulf of Maine area,

Desiring to reach an early and amicable settlement of these differences,
Have agreed as follows:

Article 1

The Parties shall submit the question posed in article II to a Chamber of the International Court of Justice, composed of five persons, to be constituted after consultation with the Parties, pursuant to article 26(2) and article 31 of the Statute of the Court and in accordance with this Special Agreement.

Article 2

1. The Chamber is requested to decide, in accordance with the principles and rules of international law applicable in the matter as between the Parties, the following question:

What is the course of the single maritime boundary that divides the continental shelf and fisheries zones of Canada and the United States of America from a point on latitude 44°11'12"N, longitude 67°16'46"W to a point to be determined by the Chamber within an area bounded by straight lines connecting the following sets of geographic coordinates: latitude 40°N, longitude 67°W; latitude 40°N, longitude 65°W; latitude 42°N, longitude 65°W ?

2. The Chamber is requested to describe the course of the maritime boundary in terms of geodetic lines connecting geographic coordinates of points. The Chamber is also requested, for illustrative purposes only, to depict the course of the boundary on Canadian Hydrographic Service Chart No. 4003 and United States National Ocean Survey Chart No. 13006, in accordance with article IV.

3. The Parties shall request the Chamber to appoint a technical expert nominated jointly by the Parties to assist it in respect of technical matters and, in particular, in preparing the description of the maritime boundary and the charts referred to in paragraph 2. The Registrar is requested to provide the expert with copies of each Party's pleadings when such pleadings are communicated to the other Party. The expert shall be present at the oral proceedings and shall be available for such consultations with the Chamber as it may deem necessary for the purposes of this article.

4. The Parties shall accept as final and binding upon them the decision of the Chamber rendered pursuant to this article.

Article 3

1. South and west of the maritime boundary to be determined by the Chamber in accordance with this Special Agreement Canada shall not, and north and east of said maritime boundary the United States of America shall not, claim or exercise sovereign rights or jurisdiction for any purpose over the waters or seabed and subsoil.

2. Nothing in this Special Agreement shall affect the position of either Party with respect to the legal nature and seaward extent of the continental shelf fisheries jurisdiction, or of sovereign rights or jurisdiction for any other purpose.. under international law.

Article 4

1. The Chamber and any technical expert or experts are requested to utilize, and the Parties in their presentations to the Chamber shall utilise, the following technical provisions:

- (a) All geographic coordinates of points referred to shall be rendered on the 1927 North American Datum.
- (b) All straight lines shall be geodetic lines. Curved lines, including parallels of latitude, if necessary for the judgment, shall be computed on the 1927 North American Datum.
- (c) Notwithstanding the fact that the Parties utilize different vertical datums in the Gulf of Maine area, the two datums shall be deemed to be common.
- (d) Should reference to the low water baseline of either Party be required, the most recent largest scale charts published by the Party concerned shall be utilized.
- (e) If a point or points on a particular chart are not on the 1927 North American Datum, the Chamber shall request the Agent of the appropriate Party to furnish the Chamber with the corrected datum points.
- (f) In recognition of the fact that the Parties do not utilize the same standard set of symbols on nautical charts, the Chamber or any technical expert or experts shall, if necessary, confer with the Agents and their advisers to insure proper interpretation of the symbol or feature.
- (g) The Chamber, or any technical expert or experts, is requested to consult with the Parties as may be necessary concerning any common computer program .. of the Parties for technical calculations, and to utilize such programs as appropriate.

Article 5

1. Neither Party shall introduce into evidence or argument, or publicly disclose in any manner, the nature or content of proposals directed to maritime boundaries settlement, or responses thereto, in the course of negotiations or discussions between the Parties undertaken since 1969.

2. Each of the Parties shall notify and consult the other prior to introducing into evidence or argument diplomatic or other confidential correspondence between Canada and the United States of America related to the issue of maritime boundaries delimitation.

Article 6

1. Without prejudice to any question as to burden of proof, the Parties shall request the Chamber to authorize the following procedure with regard to the written pleadings:

- (a) A Memorial to be submitted by each Party not later than seven months after the Registrar shall have received the notification of the name or names of the judge or judges *ad hoc*;
 - (b) A Counter-Memorial to be submitted by each Party not later than six months after the exchange of Memorials; and
 - (c) Any further pleadings found by the Chamber to be necessary.
2. The Chamber may extend these time limits at the request of either Party.
3. The written pleadings submitted to the Registrar shall not be communicated to the other Party until the corresponding pleading of that Party has been received by the Registrar.

Article 7

1. Following the decision of the Chamber, either Party may request negotiations directed toward reaching agreement on extension of the maritime boundary as far seaward as the Parties may consider desirable.

2. If the Parties have not reached agreement on the extension of the maritime boundary within one year of the date of such a request, either Party may notify the other of its intention to submit the question of the seaward extension of the maritime boundary for decision by a binding third party settlement procedure.

3. If the Parties are unable to agree on the terms of such a submission within three months of such a notification, either Party may submit the question of the seaward extension of the maritime boundary to the Chamber of five judges constituted in accordance with this Special Agreement.

4. The provisions of this Special Agreement shall be applied, *mutatis mutandis*, to the proceedings under this article, and the decision of the Chamber shall be final and binding upon the Parties.

Article 8

This Special Agreement shall enter into force on the date of the entry into force of the Treaty between the Government of Canada and the Government of the United States of America to submit to binding dispute settlement the delimitation of the maritime boundary in the Gulf of Maine area signed this day. It shall remain in force unless and until it is terminated in accordance with the provisions of the said Treaty or until the said Treaty is terminated.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Special Agreement.

DONE in duplicate at Washington this twenty-ninth day of March 1979, in the French and English languages, each text being equally authentic.

For the Government of Canada:

For the Government of the United States of America: