

### REQUEST

To the Registrar of the International Court of Justice,

1. I have the honour to refer to the Application dated 17 May 1991 by which Finland has instituted proceedings against Denmark relating to the right of free passage through the Great Belt; and hereby to submit, in accordance with Article 41 of the Statute and Article 73 of the Rules of Court, a request for the indication by the Court of provisional measures of protection for the preservation of the rights of Finland pending the final decision in these proceedings.

#### A. Rights to be preserved

2. The rights of Finland to be preserved are those relating to the continued passage of ships, including drill ships and oil rigs coming to or from Finnish ports and shipyards, through the strait of the Great Belt between the Baltic and the North Sea.

#### B. Grounds of Request

3. According to Danish Law No. 380 of 10 June 1987 a fixed traffic connection will be constructed over the Great Belt. The Danish Government has decided that the traffic connection in the main navigable channel in the Great Belt - the East Channel - will be a fixed suspension bridge which will allow free passage to ships of up to 65 metres height. In the exchanges between the Danish and Finnish Governments it has become apparent that there is no intention to build the bridge in such a fashion (by means of openings, a draw bridge or a "bascule" construction) that ships of more than 65 metres' height could also pass under it.

4. The unilateral exclusion by Denmark of ships of over 65 metres height, including drill ships and oil rigs, from enjoying the right of free passage through the Great Belt constitutes the object of the

application to which the present request relates.

5. The Danish authorities have informed the Government of Finland that they do not consider there to be any reason for engaging in negotiations to safeguard passage to and from Finnish ports and shipyards in the future by ships exceeding the height of 65 metres. In a letter of 20 February 1991 by the Prime Minister of Denmark, Mr. Poul Schlüter, to the Prime Minister of Finland, Mr. Harri Holkeri, he states that "there can be no question of modifying, let alone considering another alternative to the project at this advanced stage" (cf. annex 7 to the Application). The East Channel bridge project will, then, continue on schedule and is expected to be completed in 1996.

6. Construction work for the East Channel bridge would prejudice the very outcome of the dispute brought before the Court by the aforementioned Application. The object of the Application relates precisely to the right of passage which the completion of the bridge project in its planned form will effectively deny. In particular, the continuation of the construction work prejudices the negotiating result which the Finnish submissions in the Application aim to attain.

### C. The Facts of the Passage

7. Drill ships and oil rigs which extend to over 65 metres' height have been constructed at the shipyard of Rauma-Repola Offshore Oy in Pori on the Baltic Sea from 1972. The company has built altogether 23 drill-ships, semi-submersible and jack-up oil rigs. All of them have been delivered for use outside the Baltic Sea. Most of them have navigated to their production or exploration fields through the Great Belt.

8. The drill ships and oil exploration rigs manufactured by Rauma-Repola Offshore Oy are fully assembled already at the shipyard. Their navigating height thus varies between 80 metres (drill ships) to 150 metres (rigs). Offers have been made by Rauma-Repola Offshore for rigs of 170 metres height. The competitiveness of Finnish craft in the international offshore market is based precisely on the fact that all construction works can be completed already at the shipyard which is specially equipped for that purpose. It has been estimated that completing the construction only after the craft has passed the Great Belt, in the North Sea, will involve both an additional cost of approximately 30-55 million Finnmarks (US\$ 7,5-13,75 million) plus an extension of the time of delivery of up to four months. This will inevitably destroy their competitiveness on the international market.

9. The production of drill ships and oil exploration rigs is an important part of the Finnish marine industry. During the period 1982-1988 the value of exports from offshore industry in Finland was between 8,5 to 24 per cent of the total value of exports from Finnish shipyards. Shipbuilding, again, accounted for approximately 10 per cent of the value of exports from metal and engineering industry. The cost of one drill ship or oil exploration rig is approximately 400 million Finnmarks (US\$ 100 million). It has been estimated that the offshore oil exploration market will be needing from 200 to 400 new

ffshore exploration rigs or drill ships in the 1990's. Assuming a market share similar to that in the 1970's and 1980's, Rauma-Repola Offshore Oy can be assumed to have a demand for 10-20 drill ships and rigs in the 1990's. Currently, two jack-ups are being constructed in cooperation with a corporation from the Soviet Union. Both of these will, when assembled, exceed the height of 65 metres.

10. The geographical situation of Finland in relation to world oceans has been explained in detail in the Application. The only deep-water route between the Baltic and the North Sea traverses through the Great Belt. For many of the craft produced in Finland, the Great Belt remains the only available passage-way.

#### D. Urgency of the Request

11. Construction work for the East Channel bridge has not yet commenced. The submission of tenders for the bridge, however, took place in December 1990 and, as Finland understands the matter, the contracts are due to be signed during late spring or early summer of 1991. This means that the Danish Government, through agreements entered into by the State-owned bridge company (The Great Belt A.S.), is close to binding itself legally with private contractors to undertaking the project as planned.

12. The very existence of the Danish bridge project as presently planned will make it difficult for The Finnish company Rauma-Repola Offshore Oy to obtain, even less to accept, new orders for the construction of drill ships and oil exploration rigs, given that they can no longer rely on the continued passage of such vessels through the Great Belt. The starting and, even more so, possible completion of the bridge project by Denmark in its presently planned form will aggravate such harm. Inability to deliver completed drill ships and oil rigs will necessitate at least a temporary closure of the shipyard at Pori. The losses to Rauma-Repola Offshore Oy and its approximately 900 employees which will result from the impossibility to deliver to their world-wide customers drill ships and oil exploration rigs constructed in Finland cannot be offset by eventual compensation should the Court decide in favour of Finland on the merits of the case. The granting of the provisional measures requested is the sole means to ensure that Finnish rights and interests are not irreparably prejudiced during the currency of the present proceedings.

#### E. Proposed Provisional Measures

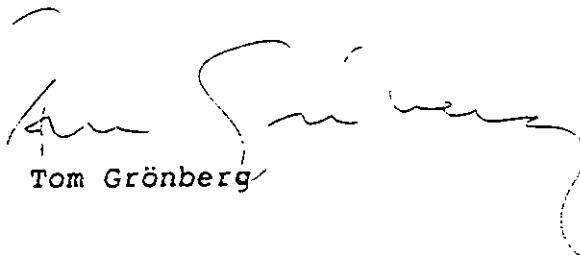
13. In the light of the foregoing considerations, Finland has the honour to request that the Court indicate the following provisional measures to protect the Finnish rights and interests which are the object of the Application of 17 May 1991 instituting proceedings against Denmark in this case:

(1) Denmark should, pending the decision by the Court on the merits of the present case, refrain from continuing or otherwise proceeding with such construction works in connection with the planned bridge project over the East Channel of the Great Belt as would impede the passage of ships, including drill ships and oil rigs, to and from Finnish ports

and shipyards; and

(2) Denmark should refrain from any other action that might prejudice the outcome of the present proceedings.

Helsinki, 22 May 1991



Tom Grönberg

Agent of the Government of Finland