CORRESPONDANCE

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STATE OF BAHRAIN

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

25 September 1997

Dear Mr President,

I have the honour to convey to you, and through you to the members of the Court for urgent consideration, certain surprising and deeply concerning developments, which are unprecedented in the history of the Court and of which it is appropriate that the Court should be aware at the earliest possible opportunity.

The Facts

1. When examining Qatar's Memorial, Bahrain was puzzled by the appearance in its Annexes of 81 documents of which Bahrain had no prior knowledge. The 81 documents play an essential role in Qatar's Memorial, serving as almost the only basis for Qatar's claim to the Hawar Islands as well as, to a lesser degree, the Zubarah region. They are cited in no less than 100 footnotes in Qatar's Memorial.

2. Qatar has never before invoked any of these documents, whether in the course of the arbitration conducted by Britain in 1938-39, in the half century following Britain's award in favour of Bahrain, during the Saudi mediation in the 1980s, or in any discussion or negotiation between the two States. Not a single one was known to the historians or other experts consulted by Bahrain prior to their emergence on 30 September 1996. None has apparently ever before been reproduced or discussed in scholarly writings. None is located in a public archive where it would normally be expected to be found. The whole set of 81 Annexes is said to be reproduced from originals in the Qatar Diwan Amiri Archives.

3. Bahrain soon noted a number of anomalies in these documents, sufficiently glaring to raise doubts regarding their authenticity. However, Bahrain could not responsibly have expressed these initial doubts until they were thoroughly investigated and positively confirmed. Bahrain has therefore had to conduct an extensive investigation of public historical archives and academic sources, and to consult with qualified historians, archivists and forensic document examiners in several countries. For example, *one single document* submitted by Qatar (III.46) required research by different specialists in Abu Dhabi, Bahrain, Bonn, Istanbul, London, Paris and Washington. This expert scrutiny of so many documents has necessarily taken several months.

4. Bahrain's investigation has led to the compelling conclusion that all of the 81 documents are forgeries -- a conclusion which Bahrain brings to the Court's attention for such action as the Court may deem appropriate.

5. This conclusion is based on concrete and comprehensive evidence provided by 12 experts in the relevant areas of historical scholarship and forensic analysis of documents, as well as on thorough and extensive research in eight countries on four continents.

6. The falsity of the documents is manifested, inter alia, in glaring historical inaccuracies and anachronisms. For example: in several instances the alleged author or recipient of a letter was dead on the date the document was allegedly sent; supposedly official seals on documents have no connection with the document they purport to authenticate; several seals bear dates more than a decade removed from the putative date of the document; the same seals appear on documents from entirely unrelated sources; certain categories of documents (e.g. correspondence between Ottoman officials) are in the wrong language; and letters have been written to officials who never existed or who did not occupy the position attributed to them at the relevant time. Expert handwriting analysis and an examination of the ink and paper on which the Qatari documents have been prepared add further confirmation of their fraudulent nature.[1] Moreover, the 81

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1 It is particularly striking that the facts Bahrain is now putting before the Court should have been anticipated in comments made as long ago as 1980 by Dr. J.B. Kelly, an expert on whom Qatar itself relies at paragraph 5.20 of its Memorial with respect to the region's history, at page 192 of his book Arabia, the Gulf and the West:

> "... the Qataris have of late been equipping themselves with a history and an indigenous culture, both of noble proportions. The showpiece of this particular enterprise is a 'national museum', housed in the former (c. 1920) palace of the ruler in Dauhah [Doha]. Largely an inspiration of a public relations firm in London, the museum has been equipped and adorned at a cost of several millions, despite – or

documents in question are all claimed by Qatar to have their source in its own Diwan Amiri Archives, notwithstanding that in most cases neither the purported author nor the purported addressee was ever located in Qatar. They are the type of correspondence that one would expect to be part of public records in London, India, Istanbul or Abu Dhabi, but no trace of them can be found there.

7. Given the results of its preliminary investigations, Bahrain sought to examine the so-called originals. But this required that they be produced by Qatar. By request filed with the Court on 29 May 1997, Bahrain asked that the documents be delivered to The Hague by 1 July 1997 so as to cause the least disruption to the progress of the case. However, Qatar delayed that delivery by a series of letters in which it purported to lay down conditions for the production of the documents; suggested that the Registry convene a meeting with the Parties; and indeed asked Bahrain to clarify what it meant by asking to "examine" the documents (although Bahrain had already written that it accepted controls by the Court's personnel to ensure that its inspection be non-destructive). On 17 July 1997, the Registrar of the Court wrote to the Parties, expressing the view of the Vice-President to the effect that the documents should be made available at Qatar's earliest convenience. Even so, it was not until 29 August 1997 (i.e., three months after Bahrain's request) that a first instalment of the documents was delivered to the Court. Even then, Qatar withheld without explanation seven documents which it promised to deliver later.[2] Bahrain's experts immediately (beginning on Monday 1 September 1997) proceeded to examine the documents provided.

8. The examination conducted at the Peace Palace has allowed Bahrain's conviction about the 81 forgeries to grow into absolute certainty.

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perhaps because of - the fundamental limitation of having very little to put into it ... [T]he museum has had to attach profound significance to fishing nets, Bedouin tents, camel halters and saddles in its re-creation of the Qatari past. It is not the fault of the Qataris that they have no history, nor can it be held against them that they would like to invent one ... What is objectionable about these public relations exercises on behalf of the Qatari regime is that they involve the falsification of the historical record over the past two centuries, notably concerning the nature and length of Bahrain's connection with Qatar, the relationship between the Al-Thani and the Ottoman Turks ..." (emphasis added)

2 One further document was made available for Bahrain to examine on 12 September 1997, but at the date of this letter the remainder have not been delivered.

Scale and Scope of the Forgeries

9. In its attempt to fashion a case against Bahrain's long-established title to the Hawar Islands and to legitimise Qatar's armed invasion of the Zubarah region, Qatar's Memorial relies almost exclusively on the 81 Annexes said to have been reproduced from documents in Qatar's own Diwan Amiri Archives.

10. In informing the Court of the scale and scope of the forgeries, Bahrain does not invite the Court to anticipate or enter into a consideration of the merits of the case. The grave matter of the forgeries is distinct and severable from the merits. However, the forged documents are designed to distort each of the three aspects of the case: the question of sovereignty over the Hawar Islands; the question of sovereignty over the Zubarah region; and the delimitation of the maritime boundary between the two States. The 81 documents relied on by Qatar were directed to the first two of these issues. But since key parts of the maritime delimitation are dependent on the outcome of the first two issues, the third issue is also profoundly affected.

11. The specific propositions in support of which the fraulent documents have been invoked are as follows:

(1) Sir Charles Belgrave, acting in the interest of Bahrain as the Adviser to the Emir, engaged in a criminal conspiracy with British officials to tamper with evidence relating to the Hawar Islands and to Zubarah, leading to Britain's 1939 award in Bahrain's favour;

(2) prior to that conspiracy, Qatar had engaged in acts of sovereignty in the disputed territories; and,

(3) prior to the 1939 award, a number of Rulers and officials, as well as Britain and the Ottoman Empire, had recognised that the Hawar Islands and the Zubarah region were part of Qatar.

12. The documents may be listed in the following categories:

- **Seventeen** letters purportedly from Sir Charles Belgrave, Adviser to the Bahrain Government, and other Adviserate staff, cited to establish, inter alia: that Belgrave recognised that the Hawar Islands belonged to Qatar; that Belgrave tried in vain to secure regional support for Bahrain's claims to the Hawar Islands; that Belgrave engaged in lengthy machinations to fabricate false evidence to establish a claim to the Hawar Islands, using bribery, coercion and threats; that Belgrave was the ringleader of a widespread

conspiracy, which involved Hugh Weightman, the British Political Agent in Bahrain; and that Belgrave and other Adviserate staff were involved in a scheme to manufacture evidence establishing a Bahraini claim to the Zubarah region;

- **Nineteen** letters and maps purportedly from Ottoman officials, cited by Qatar to establish, inter alia: that the Ottomans recognised that the Hawar Islands, Janan and Zubarah belonged to Qatar; and that this was acknowledged by Britain, other Great Powers and Sheikh Zayed bin Khalifa, the Ruler of Abu Dhabi;

- **Fourteen** letters from regional Rulers, including 11 from the Rulers of Abu Dhabi or persons acting for them, one from the Ruler of Dubai and one from the King of Saudi Arabia, cited to establish, inter alia: that regional Rulers consistently recognised that the Hawar Islands (including Janan) and Zubarah all belonged to Qatar and that they continued to do so at the time of the British decision awarding the Hawar Islands to Bahrain in 1939; acts of sovereignty by Qatar in connection with the Hawar Islands; and that Bahrain stole evidence from Qatar relevant to establishing Qatar's sovereignty over the Hawar Islands;

- **Eleven** letters from various Qatari sheikhs and officials, cited to establish, inter alia: that Qatar was a well-established state with a defined territory, borders and people before the arrival of the Al-Khalifa in Zubarah in the 1760s; that Qatar engaged in acts of sovereignty in the Hawar Islands and Zubarah; that the Hawar Islands were not permanently populated by anyone, let alone Bahraini subjects; and that Bahrain was involved in the theft of evidence supporting Qatar's sovereignty over the Hawar Islands;

- **Four** letters from the Rulers of Bahrain, cited to show that they recognised Qatar's sovereignty over the Hawar Islands;

- **Five** letters from Salim bin Nasser al-Muzaire, allegedly a spy for Bahrain and Belgrave, cited to prove Belgrave's wide conspiracy ring and efforts to manufacture evidence through deceit and fraud;

- Two judgments purportedly issued by Bahraini judges, cited to establish, inter alia, Qatar's sovereignty over the Hawar Islands;

- **Two** letters from Rashid bin Mohammed bin Jabor, headman of the Naim tribe in Zubarah, cited as proof of Belgrave's attempts to manufacture a false claim to Zubarah;

- **Seven** other letters and documents, cited by Qatar to establish, inter alia: that the Hawar Islands belonged to Qatar; that Belgrave used deceit and coercion in his efforts to obtain evidence establishing Bahrain's sovereignty over the Hawar Islands; that Qatar engaged in acts of sovereignty in connection with the Hawar Islands; and that the evidence submitted by Bahrain and relied upon by Britain in the 1939 award was fraudulent.

Bahrain's Verification Efforts: Methods and Results to Date

13. Given the gravity of its apprehensions, Bahrain has scrupulously checked the suspect Qatari documents in the most comprehensive, methodical, technologically advanced and, above all, objective manner possible. Bahrain's experts:

- searched for the originals or copies of the documents (or collateral references to them) in public archives and private document collections;
- analysed the documents for intrinsic historical, substantive and other inaccuracies and anachronisms; and
- conducted handwriting and forensic examinations of the documents.

14. A document-by-document summary of the evidence Bahrain has collected to date is given in 81 concise Document Research Summaries. They are set out in Appendix I. In order to provide an overview of the scope and implications of Bahrain's findings, a synthesis of the results of each of the three types of verification mentioned above is provided in the paragraphs that follow.

– searches for the Qatari documents

15. Of the 81 spurious documents from the Diwan Amiri Archives, the vast majority consists of correspondence sent *neither to nor by a person located in Qatar* at the time the letter was allegedly written[3] or of documents that purport to be official Bahraini documents.[4] Because the originals of these documents in the normal course of events would not have been located in Qatar, Bahrain searched for the originals in all possible locations where one might more plausibly expect to find them. Simultaneous searches

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3 E.g., letters from Sir Charles Belgrave to the British Political Agency in Sharjah; letters from the Rulers of Abu Dhabi to the Rulers of Bahrain; and letters between Ottoman officials in Hasa and Baghdad.

4 E.g., Bahraini court judgments.

were conducted for copies of the suspect documents that might have been created contemporaneously for administrative purposes (e.g., carbon or handwritten copies) or for other facsimiles (e.g., microfilm, photocopies) that might have been made of the documents by one or more of the archives. Searches were made for any references to the documents in correspondence ledgers and archival bibliographies. In addition, a search was made for any reference to the suspect documents in *other documents* which might have been expected to corroborate their existence.

16. The searches were conducted over the course of almost nine months by qualified researchers and archivists at twelve different public and government archives in seven countries – Bahrain, England, France, Germany, Turkey, the United Arab Emirates and the United States. In its efforts to exhaust all possible sources and means for verifying the authenticity of the documents, Bahrain also contacted the alleged writer or addressee, or surviving family members of the alleged authors, to ascertain whether the documents might perchance be found in private collections.

17. Not a single trace was found of any one of the Qatari documents. A table showing all of the locations searched for the documents is included in Appendix I. Detailed research reports describing the search procedures, protocols and results are provided in Appendix II.

– historical and other inconsistencies and anachronisms

18. Historians specialising in Gulf and Ottoman history,[5] as well as other qualified persons consulted by Bahrain,[6] have confirmed that the documents from Qatar's Diwan

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5 They are:

- Dr. John C. Wilkinson, *Ad Hominem* Reader in Middle Eastern Geography at the University of Oxford and Tutorial Fellow, St. Hugh's College, Oxford. Dr. Wilkinson is a specialist in Arab Gulf history and human geography and has published four books and forty articles on these subjects;
- Dr. Idris Bostan, Associate Professor in the Department of Modern History at Marmara University (Istanbul) and Professor-elect in the Department of History at Istanbul University. Dr. Bostan is a specialist in Ottoman naval history and Ottoman activities in Arabia in the second half of the 19th Century and has published a book and some 40 articles on these subjects;
- Dr. Caroline Finkel, Ottoman Historian and author of two books and fifteen papers on Ottoman History;
- Dr. M. Morsy Abdullah, Director of the Centre for Documentation and Research, the Cultural Centre Abu Dhabi. Dr. Abdullah is a specialist in Arab Gulf history, in particular the history of the Trucial States. He has published a number of books and articles on the subject;

Amiri Archives cannot be authentic historical documents. When first asked to examine the documents, none of these persons was made aware of Bahrain's suspicions that the documents were forgeries. After studying them and conducting the standard research required by their respective disciplines, each independently concluded that the documents he or she had been shown could not be considered authentic.[7] Some of the more glaring substantive errors and anachronisms found in the documents are described below. Further details are available in the Suspect Document Research Reports provided in Appendix I and the expert reports and statements referenced therein, which are presented in Appendix II.

- Dr. Henry Mattox, Adjunct Assistant Professor of History at the North Carolina State University. A former U.S. diplomat in Arabia, Dr. Mattox is a specialist in U.S. diplomatic history in the late 19th Century and has published extensively on the subject, including a book on the U.S. diplomatic and consular services during the 1890s.
- Dr. Richard Schofield, Deputy Director of the Geopolitics and International Boundaries Research Centre (GRC) and Teaching Fellow (Lecturer) in Geography at the School of Oriental and African Studies (SOAS) at the University of London. Mr. Schofield is a specialist in the geography and history of Arab Gulf boundary matters and has published four books, six compendia of archival source materials, and numerous articles on the subject;
- Dr. Jean-Marc Thouvenin, *Maître des Conférences* at the University of Maine (Paris) and the Institute of Political Studies of Paris. In addition to his academic duties, Dr. Thouvenin has extensive experience in the archives of the French Foreign Ministry in relation to his professional activities in the field of public international law;
- Dr. Peter Grupp, archivist in the Archives of the Ministry of Foreign Affairs of Germany.

6 The following persons have provided additional evidence relevant to establishing the historical inauthenticity of the Qatari documents:

- Mr. Sayed Abdel Aziz Sayed Yousuf, the Head of the Records and Documents Section, Bahrain Ministry of Cabinet Affairs and Information, who for 46 years has been responsible for managing, sorting and studying documents in Bahrain's governmental archives;
- Mr. Yousuf Al-Shirawi, the purported author of one of the suspect documents;
- Mr. Rashid A.R. Al-Zayani, who was employed as a typist and office administrator in the Bahrain Government Adviserate during the period when 11 of the 19 suspect letters were allegedly sent from the Adviserate.
- Mr. Adil Algosaibi, a son of the purported author of two of the suspect documents.

7 In addition to reviewing thoroughly photocopies of the suspect documents from Qatar's Memorial, Drs. Bostan, Finkel, Schofield and Wilkinson also came to the Peace Palace to examine the originals of the 74 documents that Qatar deposited on 29 August 1997.

- Five of the discredited Qatari documents consist of correspondence either sent by or to a person who was long-dead at the purported date of the letter.[8]

- A 1937 letter purportedly from one of the staff members of the Bahrain Government Adviserate was allegedly written when the author would have been only 10 years old. The alleged author is still alive and has declared that he did not write the letter in 1937 (or at any other time) and that he did not join the Adviserate until 1955, a fact confirmed by Adviserate records.[9]

- Fourteen documents allegedly written by high-ranking Ottoman officials and intended for the use of other high-ranking Ottoman officials, which should have been written in Osmanlica (Ottoman Turkish), are all written in Arabic.

- Five of the alleged Ottoman documents purport to record highly important agreements with representatives of Western powers, or territorial descriptions and boundary delimitations on maps assented to by them,[10] but not one of these purported "international agreements" displays any of the expected formal characteristics of genuine Ottoman treaties and agreements. Although historical records abundantly confirm that the Ottoman Empire's official diplomatic language was French, the documents presented by Qatar are all in Arabic. Some documents use the wrong term to designate the Ottoman Empire; some use the wrong term to designate the Western power. Most importantly, none of them appears ever to have been mentioned in historical records or to have left a trace in the relevant Ottoman or Western diplomatic archives.

- Twelve of the discredited Qatari documents are purportedly written by or to the Ottoman "Vali of Hasa."[11] No such official ever existed in the Ottoman

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8 See Suspect Document Research Reports III.71, III.167, III.194, III.201, and III.215.

9 See Suspect Document Research Report III.117. A second letter refers to the alleged author of III.117 directly by name and is cited in support of the same set of facts as those described in III.117. This letter, therefore, must also be fraudulent. See Suspect Document Research Report III.122.

10 See Suspect Document Research Reports II.21/III.7/IV.5; II.22/III.8/IV.6; II.23/III.9/IV.7; II.24/III.10/IV.8; III.46/IV.17.

11 See Suspect Document Research Reports II.30/IV.11; II.32/III.20; II.33/III.25; II.34/III.26; III.13; III.17; III.18/IV.12; III.21; III.31/IV.15; III.34; IV.9. One of the Ottoman documents is a map purportedly relating to the Vali and Vilayet of Hasa. See Suspect Document Research Report and III.46/IV.17.

political or administrative structure. A *Vali* was a governor of a *Vilayet* (an Ottoman province); there were only about thirty throughout the Ottoman Empire. The British occasionally misnamed the Ottoman official in Hasa as the Vali, and this may have misled the forger. But among Ottomans, particularly in official documents such as these purport to be, the error is quite inconceivable, as though a modern-day American official would write to "the Governor of San Francisco" – or worse, describe himself as such.

- One Qatari document allegedly exchanged between two high Ottoman officials[12] is addressed to the *Vali* of Basrah in 1870, five years before Basrah was upgraded to the status of a province ruled by a governor. Nor was the person to whom the letter is addressed, Hafidh Basha, even the highest official (*Mutasarrif*) of Basrah in 1870; that position was held by Suleyman Bey.

- Ottoman officials were punctilious about their seals. The documents produced by Qatar contain a profusion of totally inappropriate seals, including some that the forger may have found among souvenirs at a bazaar stall. This could explain the repeated use of the "seal" of the municipal celebration of a village in northern Anatolia.[13] Three of the documents on which this seal appears purport to be formal agreements between the Ottoman Empire and Great Britain.[14] On occasion, one finds the seal of the accounting department of a *Vilayet* in Anatolia.[15] In ten other documents, the date of the seal – unnoticed or not understood by the forger – is between 10 and 30 years later than the document.[16]

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12 See Suspect Document Research Report II.31/III.14/IV.13.

13 See Suspect Document Research Reports II.21/III.7/IV.5; II.35/III.29/IV.14; III.37; III.46/IV.17.

14 See Suspect Document Research Reports II.21/III.7/IV.5; III.37. Document III.46/IV.17 was also purportedly approved by France, Germany and the USA.

15 See Suspect Document Research Reports II.21/III.7/IV.5; III.37.

16 See Suspect Document Research Reports II.22/III.8/IV.6; II.23/III.9/IV.7; II.24/III.10/IV.8; II.31/III.14/IV.13; II.32/III.20; II.35/III.29/IV.14; III.15; III.17; III.19/IV.10; and III.27.

- Among the Qatar documents are two judgments supposedly issued by named Bahraini judges regarding land transactions.[17] Bahrain's judicial records do not show any such persons as ever having been judges in Bahrain. In addition, no record of the judgments themselves could be found in official archives where all such judgments would normally be filed. Nor could any reference to the purported land transactions be found in the records of the Bahrain Land Department.[18]

- Among the Qatari collection are 26 documents containing a signature stamp for Sir Charles Belgrave rather than a hand-written signature. Sixteen of these documents consist of letters sent by Belgrave from the Bahrain Government Adviserate. Although much correspondence from Belgrave is a matter of public record in London, Bombay and Bahrain, there is no case known to Bahrain where Belgrave used a signature stamp to sign the original of outgoing correspondence. Furthermore, a thorough review of the Adviserate's records shows that over the course of his 30-year career in Bahrain, Belgrave used three different signature stamps: the first from 1926 to 1948; the second from 1948 to 1955; and the third from 1955 to 1957. The signature stamp impression appearing on the Qatari documents attributed to Belgrave, ostensibly dating from 1930 to 1940, bears no resemblance to the impression appearing on hundreds of documents authorised by Belgrave in this period. Nor does it resemble the impressions created by the other two signature stamps used by Belgrave in later periods. Additionally, three of the alleged Belgrave letters are amongst those whose purported addressees were already deceased when the letters were supposed to have been written. If one accepts (as seems unavoidable) that Belgrave's three letters to these dead persons are forgeries, one would also doubtless condemn the 26 other documents on which the same aberrant signature stamp impression appears and of which neither trace nor reference exists in any national archives or other collection (apart from Qatar's).

19. In varying degrees, the 81 documents said to come from Qatar's Diwan Amiri collection recite facts that squarely contradict the well-documented historical record.

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17 See Suspect Document Research Reports III.186 and III.202.

18 This is also the case with respect to a third alleged land transaction. See Suspect Document Research Report III.96.

Tribal relations and history are grossly distorted and misconstrued.[19] Purported political relations between Britain and the Ottoman Empire and between the Rulers of Bahrain, Abu Dhabi and Qatar are just invented. Many of the documents conjure up fictitious personalities and officials and ascribe to them equally fictitious titles, positions and functions. Several of the documents involve the appointment of persons to positions well before they occupied those positions.[20] Some of the documents use language and terminology that were not part of contemporary official or colloquial parlance. Some refer to events that could not have taken place in the time period in which they are described as having taken place.[21] Many refer to issues that would not have been of concern to the correspondents identified in the document.[22] Some documents purport to be correspondence between persons who would have had no reason to correspond with each other directly and in all likelihood would not have done so as a matter of political or diplomatic protocol.[23] In none of the documents do the style, format, opening and ending greetings or salutations bear any resemblance to that found in genuine documents from the purported authors.

– forensic document examination

20. Bahrain retained three forensic document examiners of international standing to examine the handwriting, seals, stamps, signatures, format and other markings and physical characteristics of the Qatari documents.[24]

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19 See Suspect Document Research Reports II.12/III.1; II.13/III.2.

20 See Suspect Document Research Reports II.30/IV.11; II.33/III.25; III/13 .

21 See e.g. Suspect Document Research Reports II.18.

22 See e.g. Suspect Document Research Reports IV.67.

23 See e.g. Suspect Document Research Reports III.101; III.167; III.140; III.145; III.179; III.180; III.201; III.241; IV.59; IV.66; III.242.

24 They are:

- Mr. Mokhtar Amin, a forensic document examiner with over 38 years of experience in the field. Formerly the Head of the Department of Forgery and Falsification Identification, Medico-Legal Administration, Egyptian Ministry of Justice, Mr. Amin is the author of numerous books and articles on topics concerning counterfeiting and forgery, including a leading Arabic treatise on these subjects.

- Dr. Mohammed Ezz-el-Din Sobhy, a forensic chemist specialising in forensic document examination, with over 47 years of experience in counterfeiting and forgery identification. His past positions include Chief Expert for the Department of Forgery

21. Applying well-established principles of document examination and identification, the experts issued the following opinion:[25]

> "Having examined the originals of 75 of the 81 documents and photocopies of the remaining six, it is our expert determination that the entire Qatari Diwan Amiri Archives collection of 81 documents submitted for examination is not genuine."[26]

22. The expert forensic findings that led to this categorical determination are described in detail in Appendix II.8.[27] The most significant of these findings are summarised below.

- It can easily be shown that many of the Qatari documents were prepared on reused paper, scavenged from various sources to create an appearance of age.[28] These recycled paper sources include old Ottoman documents, old

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and Falsification Identification, Assiut Regional Division, Egyptian Ministry of Justice and Chief Document Examiner, Department of Criminal Investigation and Public Security, Ministry of Interior, Saudi Arabia. He is the author of several books and numerous articles on counterfeiting and forgery identification.

- Mr. Peter Tytell, an American forensic document examiner with over 26 years' experience in document examination. Mr. Tytell is a diplomate of the Forensic Science Society, and has served as an expert in hundreds of civil and criminal cases in the United States and abroad.

25 Although the experts examined the originals of only 75 of the 81 documents -- due to Qatar's failure to deliver the remaining documents by the date of this letter -- they were able to gather sufficient evidence from the photocopies of these six documents to arrive at conclusive findings regarding their inauthenticity.

26 Forensic Document Examination Report at pp.2 and 146.

27 Appendix II.8 (Forensic Document Examination Report) consists of a Main Report and four appendices, the last of which is divided into four parts. These appendices, which are several hundred pages long and document in considerable detail the main findings made by the experts, will follow.

28 A. Grafton in Forgers and Critics: Creativity and Duplicity in Western Scholarship (Princeton University Press 1990), pp. 49-50, explains the forger's problem as follows:

> "After all, the forger has to carry out a limited range of tasks, one that has not altered greatly over time. He must give his text the appearance - the linguistic appearance as a text and the physical appearance as a document - of something from a period dramatically earlier than and different from his own. He must, in other words, imagine two things: what a text would have looked like *when it was written* and what it should look like *now that he has found it*."

Ottoman forms, and blank leaves cut or ripped from old books. Several documents, even though they are dated years – even decades – apart, or were purportedly written by different individuals, have been prepared on paper from the same book or from a larger piece of paper.[29] For example, the illustration that follows shows the reverse of two documents from Qatar's Ottoman collection. They are dated 1870 and 1873 respectively.[30] When they are simply put side–to–side, an observer can clearly see: (i) that the torn edges of the two documents fit; (ii) that the two halves of the faint image of a large *tughra* – an Ottoman calligraphic emblem – join perfectly; and (iii) that the lines of the Osmanlica text running across the two documents are in fact two halves of a single line of writing. This simple exercise shows beyond doubt that the two forged documents were written on two scraps of paper that were torn from a larger piece of paper. The Osmanlica text reveals that this larger piece of paper was a certificate of promotion for an official in the telegraph office of the Commander–in–Chief of the Imperial Ottoman Army in Constantinople (having absolutely no relevance to the forged letters on the other side). Since it appears that the forger did not know Osmanlica (the forged letters between Ottoman officials are inexplicably in Arabic) it is safe to assume that he did not realise, when he obtained the original document and set out to use it as his "raw material", what the line of Osmanlica text meant.

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29 See Forensic Document Examination Report, Section V.A.2, pp.29–43.

30 They are:

Document II.30/IV.11 Letter from Barakah bin Era'ar, Ruler of Hassa and incomplete map of the borders of Qatar, dated 26 February 1870, and

Document II.33/III.25 Letter from Barakah bin Era'ar, Turkish Vali of Hassa, to Hafidh Basha, Vali of Baghdad, dated 27 November 1873.

* not reproduced

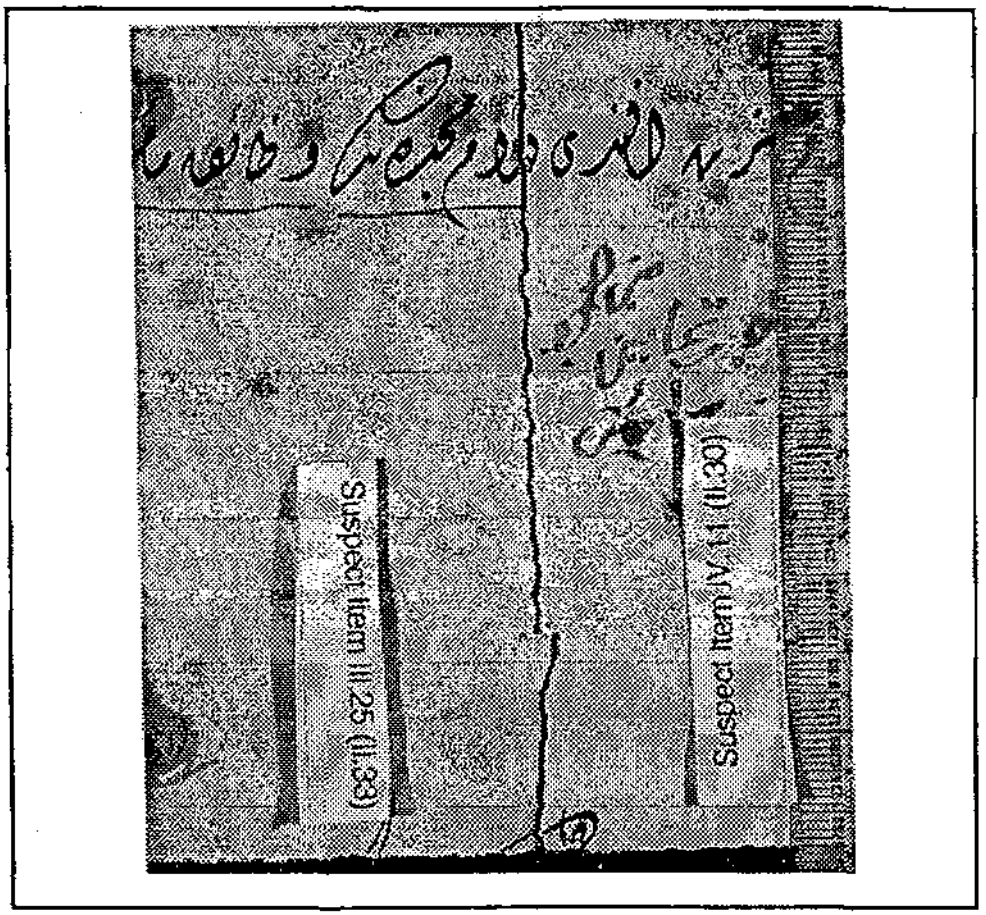

Figure 1: Close-up of the back side of Documents II.33/III.25 (left) and II.30/IV.11 (right), showing fracture fit, dark Osmanlica text and tughra (light oval pattern behind text).

- In the same way, the following documents were also found to have been fabricated from a single larger sheet of paper:

  - An 1867 letter from an Ottoman naval captain to the purported "Vali" of Hassa (IV.9) and an 1872 letter from the "Vali" to Jassim bin Thani, the Sheikh of Doha (II.32/III.20);

  - Two letters dated in 1926 and 1935 from Sheikh Hamad bin Issa, the Ruler of Bahrain (Documents III.69 and III.100);

  - A 1935 statement by a Hawar Island resident regarding the sale of property (III.96), two 1939 Bahrain court judgments (III.186 and III.202) by Bahraini judges who never existed, and an undated letter jointly from Sheikh Hamad and Sir Charles (III.214);

- A 1939 letter from Sharq bin Ahmed (who had died 17 years earlier) to Issa bin Abdul Lateef al-Sarkal (who had died 4 years earlier in 1935) (III.215) and a 1939 letter from Sir Charles Belgrave (III.201).

In other words, to believe that the Qatari documents were genuine one would have to accept not only that all of these persons reused old paper for their correspondence, but also that such unlikely combinations as Sir Charles Belgrave and the deceased Sharq bin Ahmed; or the Emir of Bahrain, two Bahraini judges and a Hawar resident, somehow found the way to share the same used paper.

- Where verifiable genuine documents of the purported author of the Qatari documents could be located, forensic comparisons of significant features (e.g., signatures, handwriting, stylistics, format, seals and stamps) confirmed that the Qatari documents are not genuine. More than half of the 81 Qatari documents were discredited in this manner.[31]

- The vast majority of the Qatari documents bear seals or stamp impressions purporting to, authenticate their text or indicate their provenance. Amidst the profusion of seals, there are a number of instances where impressions of the same seal are inappropriately attributed to more than one individual, sometimes on documents that are dated more than 60 years apart.[32] An example of such seal recycling is illustrated below. In impressions of this seal, the names *Mohamed/Abdu/Rida* can be read, yet impressions from this seal (or another seal made from the same master) are attributed to individuals with completely different names and also appear on unrelated documents that are dated decades apart.

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31 See Forensic Document Examination Report, Section V.B., pp.48-105.

32 See Forensic Document Examination Report, Section V.A.1, pp.10-28.

* not reproduc

	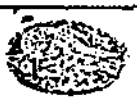	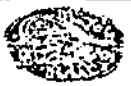		
Seal impression from Document II.35: Ottoman Map, dated 10 October 1874	Seal impression from Document III.46: Survey Map of Qatar, dated May 1898	Seal impression from Document III.77: Written testimony of Ahmed bin Ali al-Ghatam, Yousuf bin Ahmed and Irhama bin Rashid al-Dosari, dated November 1930	Seal impression from Document III.100: Letter from Sheikh Hamad bin Issa bin Ali Al-Khalifa to Sheikh Shakhboot bin Sultan, dated 18 August 1935	Seal impression from Document III.128: Letter from Sheikh Shakhboot bin Sultan to Belgrave, dated 10 May 1937

Figure 2: One seal impressed on five unrelated documents spanning a period of more than 60 years.

- Meticulous examination of the Arabic handwriting of each of the 81 documents revealed characteristics typically found in instances where a writer wishes to conceal his true identity. This finding, in itself completely inconsistent with the genuineness of the documents, coupled with the other findings made by the document examiners led them to conclude that, although the documents are purportedly from different sources, widely separated by time, place, and person, it is highly likely that every one of them comes from a single, non-genuine source.[33]

Conclusion

23. The Court has the power to take such measures as it considers appropriate under these extraordinary circumstances.[34]

24. For its part, Bahrain takes the present opportunity to indicate to the Court, and through the Court to Qatar, that Bahrain will disregard the content of the 81 discredited documents and will prepare its Counter-Memorial accordingly.

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33 See Forensic Document Examination Report, Section V.C and V.D, pp.106-135 and pp.136-144.

34 E.g. the power to call for explanations, to put in motion an enquiry, or to suspend the proceedings on the merits to deal with the 81 documents as a preliminary matter.

25. Finally, Bahrain respectfully requests the Court to retain custody of the original documents now in its possession.[35]

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

35 The retention of the documents is especially appropriate in view of the fact that Bahrain was allowed only to examine 75 of the documents, and those without removing them from protective plastic coverings. Bahrain's experts, although satisfied with this examination to reach the categorical conclusion that the documents are forged, consider that different corroborative tests could be carried out if experts were able to handle the documents themselves.

* not reproduced

APPENDICES

APPENDIX I: SUSPECT DOCUMENT RESEARCH SUMMARIES

APPENDIX II: EXPERTS' REPORTS, DOCUMENT SEARCH REPORTS AND WITNESS STATEMENTS

II.1 Expert Historical Report by Dr. J.C. Wilkinson dated 5 September 1997 (**Historical Report**)

II.2 Expert Ottoman Report by Dr. Idris Bostan and Dr. Caroline Finkel dated 4 September 1997 (**Ottoman Report**)

II.3 Research Report from the Centre for Documentation and Research, the Cultural Centre Abu Dhabi dated 25 April 1997 (**Abu Dhabi Report**)

II.4 Expert Research Report by Dr. Richard Schofield dated 5 September 1997 (**British Archives Report**)

II.5 Expert Research Report by Dr. Jean-Marc Thouvenin dated 8 September 1997 (**French Archives Report**)

II.6 Expert Research Report by Dr. Peter Grupp dated 20 June 1997 (**German Archives Report**)

II.7 Expert Research Report by Dr. Henry E. Mattox dated 30 June 1997 (**American Archives Report**)

II.8 Expert Forensic Document Examination Report by Dr. Mokhtar Amin, Dr. Mohammed Ezz-el-Din Sobhi, and Mr. Peter Tytell dated 20 September 1997 (**Document Examination Report**)

II.9 Document Search Report from the Bahrain Ministry of Information and Cabinet Affairs (Records and Documents Section) dated 17 June 1997 (**Bahrain Archives Report**)

II.10 Document Search Summary Report from the Bahrain Historical Documents Centre dated 12 May 1997 (**Historical Documents Centre Report**)

II.11 Report from the Bahrain Ministry of Justice and Islamic Affairs dated 17 September 1997 (**Bahrain Courts Report**)

II.12 Document Search Report from the Archives of the Bahrain Amiri Court dated 13 July 1997 (**Amiri Archives Report**)

II.13 Statement of Mr. Adil Algosaibi dated 22 April 1997 (**Algosaibi Statement**)

II.14 Statement of Mr. Yousuf Al-Shirawi dated 21 May 1997 **(Al-Shirawi Statement)**

II.15 Statement of Mr. Sayed Abdel Aziz Sayed Yusuf dated 3 August 1997 **(Bahrain Archivist Statement)**

II.16 Statement of Mr. Rashid bin A.R. Al-Zayani dated 26 July 1997 **(Al-Zayani Statement)**

H.E. Dr. Abdullah bin Abdulatif Al-Muslemani
Agent of the State of Qatar
before the International Court of Justice

(2)

Eduardo Valencia-Ospina, Esq.
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

8 October 1997

Re. **Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Sir,

With reference to your letter No. 97840 dated 26 September 1997 transmitting a copy of a letter dated 25 September 1997 addressed to the President of the Court by the Agent of the State of Bahrain in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* together with attachments, I have the honour to present the following comments:

1. Qatar cannot fail to point out that, once again, Bahrain has presented an irregular communication to the Court. Had Bahrain proceeded in accordance with the pattern of written pleadings fixed by the President of the Court, it would have presented its observations on the authenticity of the Qatar documents within the framework of its Counter-Memorial which is due to be presented simultaneously with the Qatar Counter-Memorial on 31 December 1997. Bahrain's communication is reminiscent of its past conduct following the filing of Qatar's Application in July 1991, and of its extraordinary reaction at the time of the delivery of the Judgment of the Court in February 1995.

2. Even more serious are the allegations made by Bahrain with respect to the authenticity of 81 of the documents appended to the Memorial of Qatar. These must be considered as a direct challenge to Qatar's good faith. Of course, before submitting these documents to the Court as Annexes to its Memorial, Qatar satisfied itself that there was no reason to doubt their authenticity. Moreover, the content of some of the disputed documents is consistent with other evidence on the record.

3. Qatar has taken note of the intent expressed in Bahrain's letter to disregard the content of the 81 documents and to prepare its Counter-Memorial accordingly. The objections now raised by Bahrain concerning these Qatari documents are in fact intimately linked to the

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substance of the disputed matters submitted to the Court in the present case. Therefore, it is Qatar's view that they are to be considered and determined within the framework of the merits of the case.

4. The Court will hardly expect Qatar, at the present stage of the preparation of its own Counter-Memorial, to comment on the detailed Bahraini allegations. This will be done by Qatar at the next stage of the proceedings, following the filing of the Counter-Memorials.

5. Qatar does not object to the challenged documents remaining in the custody of the Court, at least until the closure of the written pleadings.

Qatar remains at the disposal of the Court and, as the Agent of the State of Qatar, I am ready to meet the President of the Court at his earliest convenience.

Accept, Sir, the assurance of my highest consideration.

A. A. Muslemany

Dr. Abdullah bin Abdulatif Al-Muslemani
Agent of the State of Qatar

STATE OF BAHRAIN
OFFICE OF THE MINISTER OF STATE

P.O. Box 2088
MANAMA, BAHRAIN
Phone : 217721 Fax: 215508

دولة البحرين
مكتب وزير الدولة

ص.ب ٢٠٨٨
المنامة - البحرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No. : ICJ-QvB/ 098 (3) The Agent of

الرقم :

Date: 17 October, 1997

التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Dear Mr. President,

I have been sent by the Registrar a copy of a letter of 8 October 1997 addressed to him by the Agent of Qatar. I should like to be permitted to make certain comments on that letter and the situation which has given rise to it.

First, may I refer to the concluding paragraph of Qatar's letter which indicates the Agent's readiness to meet you at your earliest convenience. I venture to believe that such a meeting, in which I hope that I, as Agent of Bahrain, would be invited to participate, could be helpful in letting you know how the Parties themselves consider that the procedural aspects of the present situation could best be handled.

For its part, Bahrain submits that the use by Qatar of forged material on a massive scale gives rise to procedural difficulties that strike at the fundamentals of the orderly development of the case.

This is not a situation in which Bahrain questions the authenticity of one or two isolated items in a much larger body of evidence. Such an incident could readily be handled within the normal procedural framework. In this case, Bahrain has been compelled to investigate the genuineness of virtually the whole body of evidence presented by Qatar in support of its territorial claim. The examination of so many documents, one by one, has already obliged Bahrain to divert considerable effort from the preparation of its Counter-Memorial, which should have been limited to the substantive issues of which the Court is already aware, and has occasioned huge expense. But what is even more important is that Qatar has thereby added a whole new dimension to the case — the need to examine the authenticity of documents on a large scale.

Whatever may be the connection of this material to the true merits of the case, the question of its genuineness is logically preliminary to, and severable from, the determination of its substantive effect. This observation should, in Bahrain's submission, determine the procedural approach to be taken at this stage.

If Qatar were to insist on the authenticity of the documents, the question of forgery would play such a prominent and extensive part in the pleadings that it would enlarge and significantly distort the main proceedings and add to their length and expense, for both the Parties and the Court. For example, Qatar's Counter-Memorial will, it seems, continue to rely on the material in question. Bahrain's Counter-Memorial will not address the

substance of the 81 forged documents. Qatar's Reply would eventually respond to Bahrain's challenge, most likely at some length, and Bahrain's Rejoinder would then respond to Qatar's Reply on this point, also at length. Instead of the Parties grappling with the same substantive issues, their pleadings would be vastly more difficult to follow because of the complicating feature of the forgery issue. At each stage, large quantities of technical arguments and evidence would have to be presented to the Court. As the very bulk of the evidence already submitted by Bahrain shows, this would, in itself, add considerably to the length of the case and to the cost of translating the material. Moreover, if the matter is not resolved before the oral proceedings, the same problems will recur, especially with the need to examine expert witnesses.

These additional complications (which, it must be emphasized, are not of Bahrain's making but stem entirely from Qatar's conduct) could be significantly reduced if the question of the forgeries is investigated without delay. Some of the modalities of such an investigation are suggested in Articles 49 and 50 of the Statute and Articles 62 and 79 of the Rules. If, as Bahrain confidently expects, the investigation confirms the fraudulent character of the documents, then that major complication would disappear and the case would continue within the substantive and procedural framework originally contemplated.

The alternative to this possibility is that Qatar may prefer to indicate now that it will place no further reliance on the forged material or the arguments to which they relate.

For the record, I would like to add three comments on the letter from Qatar of 8 October:

1. Qatar states that "once again, Bahrain has presented an irregular communication to the Court." This is inaccurate and objectionable. There is nothing "irregular" in a party promptly bringing to the attention of the Court the use by the other side of massive forgeries as a substantial element of the case.

2. Qatar asserts that Bahrain's allegations regarding the documents in question "must be considered as a direct challenge to Qatar's good faith." This is incorrect. The Court will have observed that at no point in Bahrain's letter of 25 September 1997 does Bahrain allege bad faith on the part of Qatar; nor is it necessary for Bahrain to show that Qatar used the material knowing it to be forged.

3. Qatar states that "before submitting these documents to the Court ... [it] satisfied itself that there was no reason to doubt their authenticity." The Court will note that Qatar does <u>not</u> say that it was satisfied that the documents were authentic. The Court will no doubt await with interest Qatar's statement of the steps that it alleges that it took diligently to "satisfy itself that there was no reason to doubt" the "authenticity" of the documents.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

STATE OF BAHRAIN
OFFICE OF THE MINISTER OF STATE

P.O. Box 2088
MANAMA, BAHRAIN
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Annex 3 to OB 97/24

دولة البحرين
مكتب وزير الدولة
ص.ب ٢٠٨٨
المنامة - البحرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No. : ICJ-QVB/ 118

Date: 18 November, 1997

الرقم :
التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Dear Mr. President,

I have the honor to acknowledge receipt of the Deputy Registrar's letters of 3 November and 7 November 1997 attaching two letters from the State of Qatar to the Registrar, each dated 31 October 1997. I wish to comment on these two letters and also to inform you and the Members of the Court of a remarkable new development regarding the 81 forged documents submitted by Qatar.

Qatar's Two Letters Dated 31 October 1997

2. After many months of requests by Bahrain and on the eve of the submission of the Parties' Counter-Memorials, Qatar's two letters are, to say the least, unresponsive to the gravity of the situation Qatar's actions have created.

3. The first letter, purporting to justify Qatar's failure to produce the six documents that the Court called for, states that "the administration of the Diwan Amiri archives has not yet been able to find the originals...". It is difficult to accept that documents in its archives, which Qatar repeatedly insisted were to be protected and treated with exacting care, have been suddenly misplaced just when they have been exposed as forgeries. The reproductions annexed to Qatar's Memorial were obviously made from the originals by persons known to Qatar. These persons presumably could have indicated when they last had possession of the originals, and what they did with them. The absence of any such explanation is striking. The inability of Qatar promptly to produce the originals of the alleged evidence suggest a lack of care in the handling of its evidence of which it cannot be assumed that this is the only example.

4. Qatar's second letter, accompanied by 20 boxes of " replacement" Annexes, including new translations, is notable for its complete avoidance of the forgery issue. Qatar might have sought to withdraw the documents, or at least proposed that they be ignored, for it was not beyond reason that Qatar had been unaware of the fraud. That now seems impossible, since Qatar, through its letter of 31 October 1997, in the face of the proof of the forgeries, is now seeking to submit new reproductions of the documents as evidence, with new translations.

5. The problem with the Qatari documents is not their translation or the quality of their reproduction. The problem is that they are forged and fraudulent, a fact that cannot be changed, however they are translated or reproduced.

6. Nevertheless, the fact is that Qatar has now sought to introduce new "translations" of the forged documents, and has announced that there are others yet to be produced. Bahrain notes that the deadline for these submissions was 30 September 1996, i.e., the date when the Memorial which they were annexed to was due. Article 52 of the Statute provides:

> "After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents."

Bahrain notes that Qatar has attempted to introduce 75 "replacement" Annexes as a *fait accompli*, without asking leave of the Court and indeed without giving any explanation. Bahrain respectfully informs the Court that it does not consent, for the purposes of Article 52 of the Statute, to Qatar's attempt to introduce the replacement Annexes more than 13 months after the deadline for its Memorial, and on the eve of Bahrain's finalization of its Counter-Memorial.

7. Nor is it permissible for Qatar to justify the production of its 75 "replacement" Annexes as a correction. Article 50 of the Rules requires that "there should be annexed to the original of every pleading certified copies of any relevant documents adduced in support of the contentions contained in the pleadings." Article 51(3) provides that "when a document annexed to a pleading is not in one of the official languages of the Court, it shall be accompanied by a translation into one of these languages certified by the party submitting it as accurate." Bahrain is at a loss to understand how Qatar can, by its letter of 31 October 1997, now purport to attach afresh "where appropriate an accurate revised translation". If the translations originally filed with the Memorial of 30 September 1996 were not accurate, then Qatar was at that time in breach of Rule 51. Qatar's stated intention that "the Annexes transmitted under cover of this letter are designed to replace the corresponding Annexes to Qatar's Memorial" is unacceptable. Article 52(4) of the Rules provides as follows:

> "The correction of a slip or error in any document which has been filed may be made at any time with the consent of the other party or by leave of the President. Any correction so effected shall be notified to the other party in the same manner as the pleading to which it relates."

Bahrain observes that Qatar has not sought the consent of Bahrain in any such correction (if such be the scope of the amended translations now filed by Qatar) nor, so far as Bahrain is aware, has Qatar sought the leave of the President for its actions. Had Bahrain's consent or the President's leave been sought by Qatar, Bahrain would certainly have pointed to the lateness of the date at which Qatar would have been seeking to make this substantial "replacement" of no less than 75 Annexes.

8. Bahrain will proceed to submit its Counter-Memorial as planned, but in so doing – as already indicated in its letter dated 17 October 1997 – will ignore the substance of the 81 forged documents and the entirety of the purported 75 replacement Annexes. Bahrain respectfully submits that the complication generated by Qatar's successive *and still incomplete* attempts to present "evidence" provides additional justification for an expert inquiry into the 81 forgeries before the Court allows the debate on the merits of the case to continue. That would permit the Court and the Parties to proceed with the calendar that has been established, yet allow for an early resolution of the matter of the forgeries. If, as Bahrain believes will be the case, the verdict of such an inquiry would be that this significant mass of documents is in fact forged, the legal consequences flowing therefrom may not be limited to the exclusion from the case of the substance of the documents.

New Development Concerning the Forgeries

9. Bahrain has now discovered that the seals with which some of the 81 forged documents have been impressed were designed recently – more than half a century after the supposed date of the relevant documents – by an English company which sells seals to the general public. I attach a letter from Mr. Peter Tytell, one of the eminent forensic examiners upon whose expertise Bahrain has drawn in this matter. Section A of the letter describes the seals that have been used and paragraph 9 thereof refers to the discovery of floral Latin character seals of the same shape and size as those appearing on some of the forged documents. The discovery was in fact made by Mr. Tytell when, in the course of a walk in The Hague, he passed by a gift and stationery shop. He noticed a collection of personal seal kits containing floral Latin character seals together with a stick of red sealing wax. On closer examination, he was struck by the apparent similarity of these seals with several of those appearing on a number of the 81 forged documents submitted by Qatar. He purchased the seal kits that corresponded to the impressions that appear in the forged documents. Wax and ink impressions made from the seals he purchased astonishingly *matched in all of their relevant characteristics those appearing on several of the Qatari documents.*

10. Inquiries directed to the listed manufacturer, Stuart Houghton Ltd., in England, elicited the following information, which is discussed in further detail in Mr. Tytell's attached supplementary report:

    a) The floral Latin character seal impressions appearing on the Qatari documents are from a line of seals manufactured by Stuart Houghton Ltd.;

    b) The seals that made those impressions were designed by Stuart Houghton in the early 1980s and are of Stuart Houghton's original creation; that is, they are not replicas of any known personal or official seals.

Yours very truly,

J.S

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

PETER V. TYTELL
DOCUMENT EXAMINER

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14 November 1997

Arif Hyder Ali, Esquire
Freshfields
69 Boulevard Haussmann
75008 Paris
France

Dear Mr. Ali:

1. The present report supplements the Forensic Document Examination Report (the "Main Report") Mr. Mokhtar Amin, Dr. Mohammed Ezz-el-Din Sobhi, and I submitted to Messrs. Freshfields on 20 September 1997. It is based on several additional days of examination following the submission of the Main Report and should be read in the context of that report. In this supplementary report I have also noted several non-intrusive or minimally intrusive tests that might provide additional significant information.

A. Seals

2. Sections V. A. (1). (c) on Latin Alphabet Initial Seals and V. A. (1). (d) on Wax Seals included discussions of seal impressions with a floral motif design.

3. In Section V. A. (1). (c) it was noted that impressions with a floral motif *D* were found on three documents. (Main Report at p. 23)

- III.8 Purported map of Qatar, dated Jumada I 1284 A.H. (corresponding to approximately September 1867 A.D.)
- III.9 Purported map of Bahrain, dated 2 Jumada 1874 A.H. (corresponding to approximately 30 September 1867 A.D.)
- III.10 Purported map of Qatar, dated Rajab 1284 A.H. (corresponding to approximately November 1867 A.D.)

4. In Section V. A. (1). (d) on Wax Seals it was further noted that four wax seals containing impressions with a floral motif *D* were found on three other documents (seal impressions with this motif appear on both the front and back of Document III.27). (Main Report at p. 24)

- III.14 Letter purportedly from the vice-commander of the Sultanic Marine Fleet, head sergeant (Bash Jawish) to Hafidh Basha, Mutassarriff of the Vilayet of Basra, dated 10 Rajab 1287 A.H. (corresponding to approximately 5 September 1870 A.D.)
- III.27 Purported survey map from Mohammed Quli Abdu, dated 20 Shawwal 1290 A.H. (corresponding to approximately 10 December 1873 A.D.)

IV.10 Letter purportedly from the vice-commander of the Sultanic Marine Fleet, head sergeant (Bash Jawish) to Hafidh Basha, Mutassarriff of the Vilayet of Basra, dated 20 Rajab 1287 A.H. (corresponding to approximately 22 August 1870 A.D.)

5. In Section V. A. (1) (c) on Latin Alphabet Initial Seals it was also noted that impressions with a floral motif *F* were found on two other documents. (Main Report at p. 23)

III.29 Purported Ottoman map, dated 5.10.1874 A.D. and 10.10.1874 A.D.

III.46 Purported Ottoman map, dated Muharram 1316 A.H. (corresponding to approximately June 1898 A.D.); dates 10.5.1891 A.D. and 3.6.1891 A.D. also appear

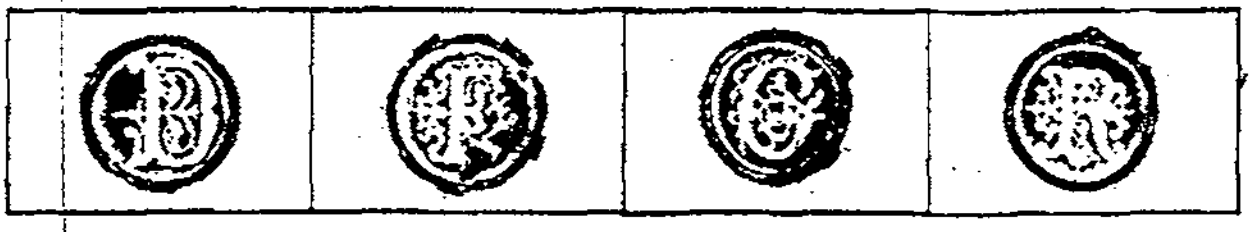
6. It was further noted in this section that an impression with a floral motif *G* was also found on Document III.46. (Main Report at p. 23)

7. In Section V. A. (1). (d) on Wax Seals it was noted that on this same suspect document (Document III.46) there is the impression of a floral motif *R* split between the two parts of the wax used to close the document when it was folded over. (Main Report at p. 26)

8. Examples of these four floral motif initial seals are illustrated below. The document from which the example has been taken is identified below the impression shown.

			
III.9	III.29	III.46	III.46 *(Reverse and Front)*

9. It was subsequently discovered that floral motif impressions of the same style and size as those appearing on the suspect documents are produced by seals from a series of seals manufactured by the English firm of Stuart Houghton, Ltd. Impressions from these Stuart Houghton seals are illustrated below.



10. The firm of Stuart Houghton, Ltd. has been in business for some 25 years. In response to an inquiry directed to the firm, Stuart Houghton, Ltd. has confirmed that the floral motif impressions appearing on the suspect documents listed above are from a series of seals the firm produces. The firm has also informed us that none of these seals were available before late 1982. Stuart Houghton, Ltd. further stated that these seal designs were originated by the firm. In this respect, they are not replicas of and were not copied from any prior existing seals, personal or official. These findings have led to the determination that the suspect documents bearing these seal impression could not have been prepared on or about their purported dates.

11. These Stuart Houghton seals are currently readily available in shops in many countries and are packaged in a box complete with a stick of sealing wax. Some of the seal impressions with matching floral motif designs on the suspect documents are in wax. Analysis of the wax used for the seals on these suspect documents might reveal significant similarities to the wax supplied with the Stuart Houghton seals and/or may reveal components that were not used in sealing wax until after the purported dates of these documents. The samples required for such analysis would be minimal and could be taken without affecting the legibility of the seal impressions.

B. Reused Documents

12. In Section V. A. (2). (a) of the Main Report there was a discussion of how Ottoman documents were reused in order to create certain of the suspect documents. In that context reference was made to remnants of earlier writing as evidence of such paper recycling. Further examinations have revealed what may well be another instance of paper previously used for another purpose being recycled: Document III.167 (Letter purportedly from Charles Belgrave to the Representative of the British State in Sharjah, Khan Bahador Issa Abdul Lateef Al-Sarkal, dated 20 July 1938) has an extraneous curved line at the upper left as well as extraneous words. In addition, traces of writing showing signs of erasure by mechanical abrasion were found at the torn left edge of the document; this feature was also found in the lower portion of the document that was folded under before the document was sealed in the plastic sheath.

C. Sequence of Writing

13. Section V. A. (2). (a) on Reused Ottoman Documents included a discussion of Document IV.11 having been part of the same larger document as Document III.25. (Main Report at pp. 32–33) Further examinations of Document IV.11 were conducted, specifically in the portion of the torn upper edge of the document where there is a concave portion of the paper that is missing. On the back of this document there are several lines of Arabic writing, which could be read as an address, written in red ink at right angles to the Osmanlica text. The ends of these lines in red ink are interrupted at the concave portion of the torn upper edge, as if the last letters or portions of the last letters of the final words of these lines of writing were carried away with the missing piece of paper. Microscopic examination of the torn edge revealed that the red ink writing does not stop at the point where the surface layer of paper ends, but continues over the exposed inner layers of the paper to the very edge, with the red ink "bleeding" onto the other side. This interaction of the ink and the paper leads to the determination that these lines of Arabic in red ink were written after the paper was torn.

14. In Section V. A. (3) on Sequence of Writing it was noted that the right margin of the writing on Document III.13 (Letter purportedly from Zayed bin Khalifa to Barakah bin Erayr, dated 5th Rabia I 1287 A.H. (corresponding to approximately 4 June 1870 A.D.)) and on Document III.95 (Letter purportedly from Shakhboot bin Sultan to Sheikh Hamad bin Issa bin Ali Al-Khalifa, dated 12 Jumada I 1353 A.H. (corresponding to 22 August 1934 A.D.)) followed the irregularly cut edge of the paper, indicating that the paper had been trimmed before the text was written. It should be further noted that the irregular right edges of these two pieces of paper match, leading to the determination that they were cut simultaneously, even though their purported dates are separated by more than 60 years and they are purportedly from two different sources.

D. Other Findings and Potential Tests

15. Section V. A. (2). (b) on Other Physical Fit Matches of Paper noted the white material on the back of Document III.214, referring to it as "whitewash-like". (Main Report at pp. 35–36) Further study of this suspect document under the microscope indicates that this material resembles opaqueing liquid correction fluid such as that used for covering over typewriting errors as much or more than it resembles whitewash. Certain correcting fluids were not introduced until well after the purported date of the suspect document. Analysis of this white material on the back of Document III.214 might reveal that it is such an opaqueing material and/or contains components that were not available until well after the purported date of the suspect document. It was further noted with respect to this suspect document that the white material is painted over a layer of hardened glue-like material. This material may be an organic glue (e.g., made from animal hides) or it may be a plastic based material. Again, analysis of a very small sample may well identify this material and provide information about its availability at the purported date of the document.

16. Two other simple tests (one completely non-destructive) might reveal significant information about Document III.218 (Letter purportedly from Hamad bin Abdullah Al-Thani to Abdul Razag bin Rizoogi dated 19 March 1940). As with a several other suspect documents, writing appears on the reverse of this document. As is also the case with several other suspect documents, this potentially significant writing is covered by the "backing" paper attached to the document by the Qatari Archives. This writing is in the Latin alphabet on the back of the lower left corner of document and can be read (in spite of the added backing sheet) as

TELEG
To BAHRIN Go.
B.X.3, QT 20.8.1940.

Although the liquid ink used for the Arabic writing on the face of the document has run into the paper, the ink of this entry has not run at all. This characteristic lack of "feathering" of the ink into the paper, the ink's shade of blue (as visible through the backing paper) and the embossing of the paper are consistent with ballpoint pen writing. If the sheet of paper added by the Qatari archives could be removed or even rolled back from the corner of the page without taking the suspect document from its plastic sheath, it might be possible to make a definite determination as to the nature of the pen used. Ballpoint pens were not generally available until after World War II. Further, about 1950 there was a major change in the vehicle used for the ink. If this entry was written with a ballpoint pen, a fairly simple test might determine if there is a major difference between the date that the ink could have been available and the purported date of the suspect document.

17. Please do not hesitate to contact me if you have any question concerning the foregoing.

Sincerely,

Peter V. Tytell

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دولة البحرين
مكتب وزير الدولة

ص.ب ٢٠٨٨
المنامة - البحرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No. : ICJ-QvB/ 132 — الرقم :

Date: 31 December 1997 — التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Dear Mr. President,

As indicated in footnote 27 of my letter to you dated 25 September 1997, enclosed herewith are the appendices to the Expert Forensic Document Examination Report (the "Forensic Report") concerning the forged documents submitted by Qatar in its Memorial of 30 September 1996.

Bahrain had intended that this detailed study deal with each of the 81 forged documents on the basis of an examination of the originals but, as you and the other members of the Court are aware, six of these original documents continue to be withheld by Qatar. It now seems unlikely that Qatar will submit these documents in the foreseeable future. Moreover, Bahrain does not wish to give Qatar any basis to ask for delays in providing its explanation of the forgeries. Accordingly, Bahrain submits the Forensic Report at this time, as complete as possible in the circumstances.

The context of this detailed report is as follows. During the first three weeks of September 1997, Bahrain examined the originals of 75 of the 81 documents from Qatar's Diwan Amiri Archives submitted by Qatar with its Memorial dated 30 September 1996. Bahrain's letter to you dated 25 September 1997 informed the Court of its conclusion that all 81 of the documents are forgeries. Among the 16 expert reports and other affidavits annexed to that letter in support of this conclusion was the Forensic Report prepared by three internationally renowned forensic document examiners. In that Report the document examiners provided the following categorical opinion :

> "Having examined the originals of 75 of the 81 suspect documents and photocopies of the remaining six, it is our expert determination that the entire Qatari Diwan Amiri Archives collection of 81 documents submitted for examination is not genuine."

In its entirety, the Forensic Report consists of a covering report and four appendices. The covering report was included with the 25 September letter as Appendix II.8, without the four appendices. Those appendices are submitted herewith, together with the covering report, as supplemented and/or modified where necessary to reflect additional findings made since 25 September 1997. **For example, the College of Arms in London has confirmed that the Royal arms of the United Kingdom appearing as an ink impression or impressed into foil seals on 7 suspect documents (III.7 [II.21 / IV.5], III.186, III.202, III.29 [II.35, IV.14], III.46**

[V.17], III.151, III.167, III.201, III.242) is from the reign of Queen Elizabeth II, many decades after the purported dates of the documents on which the blazon appears.

Appendix I provides the *curricula vitae* of the three expert document examiners consulted by Bahrain; Appendix 2, the detailed findings to date for each of the 81 documents in the Qatar Diwan Amiri Archives collection; Appendix 3, certain additional findings regarding the collection of documents as a group; and Appendix 4, colour reproductions of 75 of the 81 forged documents, colour reproductions of genuine documents of the purported authors, as well as other supplementary materials.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

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دولة البحرين
مكتب وزير الدولة
ص.ب ٢٠٨٨
المنامة - البحرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No. : ICJ-QvB/ 136

Date: 2 February, 1998

الرقم :
التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Dear Mr. President

1. Permit me to address you once more on the question of the procedure to be adopted following Qatar's massive introduction into this case of forged documents, and its continued reliance on them.

A. The development of the matter until now

2. I first brought the matter to your attention by my detailed letter to you of 25 September 1997. On 17 October 1997 I wrote to you again setting out the procedural complications. that would ensue if the question were not dealt with by the Court before the case continues on its merits, and urged that the question be investigated without delay. In a further letter to you of 18 November 1997 I again mentioned the need for an inquiry. Most recently, on 31 December 1997, having waited in vain for Qatar to produce the six missing original documents of which the Court is well aware, I submitted the detailed appendices to the Expert Forensic Document Examination Report that accompanied my letter of 25 September. In the meantime you had, on 26 November 1997, held a meeting with the Agent of Qatar and myself. This did not lead to any agreement between us; nor have you since then communicated to us any decision of the Court on the procedure to be followed.

3. Counter-Memorials were exchanged on 31 December. In its Counter-Memorial Qatar continues to rely without qualification on the forged materials that it used in its Memorial and has thereby confirmed its insistence on recourse to them. Qatar has not yet offered any explanation whatever of the numerous remarkable aberrations noted with respect to the 81 documents in question.

B. The need to deal with the forgery question separately

4. In consequence, whilst in normal circumstances the next step would be for the Court to consider whether Replies should be exchanged and to fix appropriate dates, it is undesirable that any further steps in relation to the merits of the case should be taken until

the matter of the forgeries has first been resolved; otherwise there will be additional procedural complications, delay and unjustifiable expense, no less for the Court than for the Parties.

C. The massive extent to which Qatar has used forgeries

5. It is impossible to overstate the extent to which the forgeries used by Qatar contaminate the case. With the present letter, Bahrain submits copies of Qatar's Memorial and Counter-Memorial highlighted to show all references to the forged documents, and the arguments based on them. As can easily and quickly be seen merely by turning the pages of both the Memorial and the Counter-Memorial, all elements of Qatar's claims are affected, from the earliest historical references to the maritime delimitation. Unless and until the record is purged of these fundamental falsehoods, it will be a near-impossible task to distinguish those contentions which are based on forgeries from those which are not. The danger goes far beyond the intended harm to Bahrain, and even beyond the deliberate misleading of the Court. The attempt to rewrite regional history also poses a threat to third party States, and thus to regional stability. Especially considering that they become part of the public record at the conclusion of the case, any weight given to the forged materials could thus have unpredictable and far reaching repercussions.

D. The complications and expense to which Qatar's forgeries will give rise if not dealt with before the rest of the merits

6. Consideration of the impact of the problem on the successive steps of the case reveals the serious degree to which the case will be complicated if the question of the forgeries is not dealt with as a preliminary matter.

7. At the Reply stage Bahrain will answer the Qatar Counter-Memorial, identifying the forged documents but otherwise disregarding them. Qatar, on the other hand, will presumably continue to refer to these documents and will no doubt comment at some length on their claimed significance in the case, especially in view of Bahrain's disregard of them in its Counter-Memorial. Thus the two pleadings will not be focused on the same issues and their value will be significantly reduced. Even so, both Replies will have to be translated. And the extent of this task will be increased by reason of the fact that Qatar has said that its (doubtless lengthy) response to Bahrain's case on the forgeries will be relegated to an Annex to its Reply.

8. In these circumstances, the Reply will need to be followed by a Rejoinder - at least so as to enable Bahrain to answer the Annex to Qatar's Reply. And Qatar is unlikely then to wish to leave the last word to Bahrain in a case which until then would have been conducted on the basis of simultaneously exchanged pleadings. Again, all these pleadings, will need to be translated. In other words, the course Qatar proposes in this case will greatly complicate the procedure, expand the time to be spent by the Court, and increase costs for the Court and the Parties.

9. Bahrain therefore requests that the Court, if it can find a suitable period during the latter part of 1998 when it can deal with the forgery point separately, take up this aspect of the case and treat it before the real merits and without further delay. The issues involved are readily severable from the substantive issues properly falling within the scope of the case as originally submitted to the Court and can be dealt with by the Court without entering into the real merits.

10. There is no ground for thinking that Qatar would be disadvantaged by this procedure. It has already had ample opportunity for full examination of the documents in question. The following considerations must be recalled:

(i) Qatar had already carried out some examination of the documents even before its Memorial was submitted. In its letter of 8 October 1997 to the Court Qatar affirmed: "Of course, before submitting these documents to the Court as Annexes to its Memorial, Qatar satisfied itself that there was no reason to doubt their authenticity".

(ii) The fact that, under cover of his letter to the Court of 31 October 1997, the Agent of Qatar sought to submit slightly amended versions of 75 of the 81 forged documents indicates that by that date Qatar had re-examined them and had, presumably, some basis on which still to maintain that they were not forgeries.

(iii) Qatar has known since May 1997 that Bahrain has doubts about these documents and has known since 25 September - that is to say, already for some four months - the precise nature and details of Bahrain's submissions.

(iv) Finally, Qatar acknowledged at the meeting with the President of the Court on 25 November 1997 that it had commissioned expert examinations of Bahrain's conclusions. It took Bahrain's experts no more than four weeks from the delivery by Qatar of the originals to the Peace Palace to determine that the documents are forgeries. Surely, it should not take Qatar significantly more time to develop its answer - the more so as, after all, the documents are alleged to be documents from the Qatar archives.

11. May I therefore respectfully inform the Court that Bahrain would be agreeable to the following schedule:

(i) the fixing of a date no later than 30 May 1998 by which Qatar should submit a written reply to Bahrain's contention that the documents in question are forgeries, and

(ii) the fixing of a date in the autumn of 1998, should a suitable opportunity arise in the calendar of the Court, for the commencement of hearings limited to the question of the forgeries.

These dates will allow ample opportunity to Qatar to conduct its examinations and prepare its position while not interfering with the orderly progress of the case.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

Dr. Abdullah Al-Muslemani
Agent of the State of Qatar
before the International Court of Justice

Eduardo Valencia-Ospina, Esq.
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

17 March 1998

Re. **Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Sir,

On the occasion of the meeting with the President of the Court convened with the Agents of the Parties under Article 31 of the Rules of Court on 17 March 1998, I have the honour to confirm what I said at that meeting in response to:

a) your letter of 5 February 1998, transmitting copy of a letter of 27 January 1998 from the Agent of Bahrain; and ** not reproduced

b) your letter also of 5 February 1998, transmitting copy of a further letter of 2 February 1998 from the Agent of Bahrain. ** not reproduced

As regards the first of the two letters, I repeat what I said at the meeting, namely, that the six missing documents have not yet been traced, and that, in the circumstances, Qatar will suspend reliance on them until they have been found and transmitted to the Court.

As regards the second of these two letters, I confirm the position which I and my Counsel explained on behalf of the State of Qatar at the meeting with the President earlier today. Qatar very much resents the repeated reference by Bahrain to the "forged documents" in both that letter and Bahrain's Counter-Memorial. This is most objectionable.

So far, Qatar has not had an opportunity to consider fully and respond to the serious allegations which Bahrain has made with respect to these documents. Bahrain had a period of almost exactly one year between 30 September 1996 and 25 September 1997, to formulate these allegations of forgery. Indeed, it was only at the end of January 1998 that Qatar received copies of the updated Bahraini report on what that report refers to as the "suspect documents". It would be unreasonable for Qatar not to be allowed a corresponding period in which to examine and respond to these allegations.

c/o Embassy of the State of Qatar, 1 South Audley Street, London W1Y 5DQ
Tel (44 171) 493 22 00 - Fax (44 171) 493 26 61

The Court will be aware that Qatar has taken steps to assemble a team of highly qualified forensic document examiners and historians in order to scrutinise and respond to the allegations which Bahrain has made. The investigation of the originals of the documents currently deposited with the Court has not yet been completed by the document examiners and the reports of the historical experts will inevitably take some time to prepare. As Qatar stated in its meeting with the President of the Court on 25 November 1997, it intends to provide a fully considered response to the Bahraini allegations concerning the authenticity of the challenged documents in an Appendix to its Reply. As soon as Qatar has received considered observations on the so-called "suspect documents" - and it expects to receive those observations within the next six months - it intends, without prejudice to the Statute and Rules of Court, to present as may be relevant its interim conclusions to the Court and to Bahrain. Qatar is as anxious as Bahrain to resolve this problem as rapidly as possible, but must be permitted the necessary time to conclude the investigations which it has now set in train.

Having regard to what I have just said, it is the view of the State of Qatar that the Bahraini request to divide the written proceedings on the merits into two phases and to hold separate hearings on the issue of the documents (which for Qatar is strictly an evidential issue) in the autumn of 1998 is ill-conceived and contrary to the Statute and the Rules of Court. Bahrain's request would have the effect of prolonging the proceedings considerably, while it is to be expected that the matter will be clarified once Qatar has finished its own examination of the documents. Qatar firmly believes that to proceed in accordance with the Statute and the Rules of Court will lead to a speedier settlement of the dispute as a whole.

Please accept, Sir, the assurance of my highest consideration.

A. A. Muslemani

Dr. Abdullah bin Abdulatif Al-Muslemani
Agent of the State of Qatar

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دولة البحرين
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ص.ب ٢٠٨٨
المنامة - البحرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No. : ICJ-QvB/ 155

Date: 26 March, 1998

الرقم :
التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Dear Mr. President,

I am writing in connection with certain of the points made by Bahrain at the meeting held by you on 17 March 1998. In this regard, I have the honour of referring to the letter dated 17 March 1998 from the Agent of the State of Qatar to the Registrar of the Court.

1. Map No. 1 of Qatar's Counter-Memorial is a forgery

In its Counter-Memorial dated 31 December 1997, Qatar submitted one more document from its Diwan Amiri Archives, containing two purported Ottoman maps. As with the other 81 documents from these Archives submitted with Qatar's Memorial, Bahrain's experts have established that this document is not just "suspect"; it is an outright forgery. A colour photocopy of this document is annexed to this letter as Attachment A.[1]

As explained in greater detail in a report from Bahrain's Ottoman experts:

(a) The map contains two impressions of a seal of the "Accountancy Department of the Vilayet of Chorum", a province in North Central Anatolia. It is inconceivable that an Anatolian province would have been involved with surveys or the maps of surveys of islands in the Gulf of Arabia.

(b) (b)The maps are dated 1876 and 1883. However, this same seal contains the date 1926 and Chorum did not become a Vilayet until after 1924. It is impossible that these impressions could have been placed on the maps prior to 1924, let alone 1926.

(c) The map contains an imprint of a seal of "The Imperial Land Registry (Office)", an administrative agency of the Ottoman State dealing with land transactions for private persons. It is inconceivable that the Land Registry Office would have been involved with surveys or the maps of surveys of islands in the Gulf of Arabia.

(d) The document contains two impressions of the seal of the village council of a small town in Northern Anatolia. It is inconceivable that this body would have

[1] Map No. 1, Qatar Counter-Memorial pp. 28-29; Annex II.2, Vol. 2, p.23; Annex III.12, Vol. 3, p. 77; Map No. 1, Vol. 6.

also been involved with surveys or the maps of surveys of islands in the Gulf of Arabia.

(e) This same seal refers to the Vilayet of "Shebinkarahisar". This Vilayet was, however, given the name "Shebinkarahisar" in 1924. It is impossible that these impressions could have been placed on the maps prior to 1924. Yet, as recalled above, the maps are dated 1876 and 1883.

A copy of this report is annexed to this letter as Attachment B.

2. The six Qatari documents not submitted to the Court should be formally withdrawn from the record

At the meeting of 17 March and subsequently in his letter of the same date to the Registrar, the Agent for Qatar announced, with respect to the originals of the six documents which Qatar has yet to submit to the Court, that "Qatar will suspend reliance on them until they have been found and transmitted to the Court." The reason given was that these six documents, even though from Qatar's own archives, still cannot be found.

Bahrain first requested these documents in May 1997. Qatar has had over 10 months to locate them and to make them available to the Court and Bahrain. Qatar has failed to do so.

Qatar's unilateral declaration that it will "suspend reliance" on the six documents cannot be supported by reference to the Statute or the Rules. A document is either duly before the Court or it is not. Were this not so, any party could declare that it is looking for any number of documents, but is "suspending reliance" on them until they are found. This would create an intolerable situation for the other party, which would be left in uncertainty as to the case it must answer until Memorials and Counter-Memorials have been finalised (as indeed has happened in this case).

The Court will observe that Qatar has not described which of its arguments relate to the six lost documents. This is a highly problematic matter, as shown by the colour-highlighted reproductions of the Qatar Memorial and Counter-Memorial deposited with the Court by Bahrain. Moreover, if the six lost documents were to remain on the record and the arguments to which they relate were only to be suspended, the Court would have to examine two cases at each stage of the remaining proceedings: one that anticipated the inclusion of the six documents and their arguments and one that anticipated their exclusion, entirely dependent on the unilateral discretion of Qatar.

In view of the foregoing and with reference to Articles 48 and 49 of the Court's Statute, Bahrain respectfully asks that the Court record that the six documents are withdrawn from the file.

If Qatar at a later stage wishes to apply for the re-introduction of all or any of these documents, such an application and its justification would need to be evaluated in light of the circumstances at that time.

3. Further proceedings to consider the Qatari forged documents

At the meeting on 25 November 1997, the Agent of Qatar stated unequivocally that Qatar stood by the authenticity of the documents challenged by Bahrain.

Qatar now claims that, in order to adduce evidence of the authenticity of documents that come from Qatar's own archives, it must be given the same amount of time as Bahrain took to establish that the documents are forged (i.e., 12 months). Qatar accordingly proposes that it submit in September 1998 an "interim" report, responding to Bahrain's charges, and in March of 1999 a final report as an annex to its Reply. Qatar contends that this procedure will be fair and will lead to a more expeditious resolution of this case.

Bahrain does not question the fairness of this approach, provided that the Court requires that the so-called "interim" report contain exhaustive submissions and evidence, as well as a definitive position, regarding the *nature* of the documents (i.e., are they forgeries or not), and that the subsequent Reply be limited to drawing the *consequences* of the position thus taken as to the documents. (It would not however be fair if Bahrain were required to face a moving target.)

At the same time, Bahrain does not believe that the Qatar proposal would lead to an expeditious resolution of the case. Bahrain ventures to repeat its suggestion that Qatar be directed to submit its report on the documents by 30 May 1998 and that hearings on the character of the documents be held in the fourth quarter of this year.

In this regard Bahrain would again wish to raise for the Court's consideration the importance of an expert commission being established forthwith pursuant to Articles 48 and 50 of the Statute to consider this matter. In view of the volume and technical nature of the evidence that must be examined, as noted by Qatar in the meeting of 17 March, Bahrain reiterates its offer to finance, if necessary, the work of such a commission.

4. Additional Materials

In previous correspondence and reports submitted to the Court, Bahrain has referred to the College of Arms, the official body in London, England, that is the heraldic authority for England, Wales, Northern Ireland and much of the Commonwealth, and to Stuart Houghton Limited, the manufacturer of a certain type of seals which have been imprinted on many of the Qatari Ottoman documents. In addition to the supplementary report from Bahrain's Ottoman experts, mentioned above, and in order to give Qatar the fullest opportunity to examine without delay the specific flaws that reveal the forgeries, Bahrain includes herewith reports from Mr. White of the College of Arms and from Stuart Houghton Limited, as follows:

(1) Report from the College of Arms: In his report, Mr. White, one of the College's experts, confirms that nine of the Qatari documents bear imprints of British heraldic devices that demonstrate the inauthenticity of those documents. For example, nine of the documents, dating from 1867 to 1945, bear imprints of the Royal Arms that were designed for Queen Elizabeth II in 1956. One of the documents dating from 1867 bears the imprint of a Royal Air Force pilot's badge, notwithstanding the fact that the RAF was created in 1918. (See Attachment C)

(2) Report from Stuart Houghton Limited: In two statements from Stuart Houghton Limited, Mr. Stuart Houghton (Managing Director; see Attachment D) and Mr. Roy Hudson (Director of Production; see Attachment E) confirm that certain of the ink and wax seal impressions that appear on eight of Qatar's Ottoman documents were made by seals from a seal collection Stuart Houghton Limited designed and marketed in 1990-1991. The design of these seals was conceived by Mr. Houghton and does not replicate that of any pre-existing seals.

***

Bahrain remains ready to assist the Court in any manner that the Court considers best to expedite the resolution of the question of the forged documents.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

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Office of the Minister of State
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دولـــــة البحـــــرين
مكتـب وزيـر الدولـــة
ص.ب ٢٠٨٨
المنـــامة – البحـــرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No: ICJ-QvB/ 193 الرقـم :

Date: 27 November 1998 التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Dear Mr. President,

The Court has received Qatar's Interim Report submitted pursuant to the Court's Order of 30 March 1998. The Order does not require Bahrain to submit its observations on that Report before its Reply. However, in view of the effective abandonment by Qatar of all of the impeached documents in the face of Bahrain's proof of forgery, Bahrain considers it appropriate even now to note the situation resulting from the terms of that Report.

In paragraph 7 of its Report, Qatar "formally declares", in an unqualified and legally binding manner, that it "will disregard all the challenged documents for the purposes of the present case." Later, in paragraph 9, Qatar states that as a consequence "Bahrain is now in a position to prepare its Reply on the same basis" and continues that "Bahrain suffers no prejudice in this respect since Bahrain itself prepared its Counter-Memorial on the basis that it would also disregard the challenged documents." Qatar at this point adds a footnote referring to the "BCM, para. 6, in which Bahrain declares that it 'will treat the content of the 81 forged documents as non-existent'." Qatar thus equates its decision to disregard the challenged documents with a decision to treat them and their content as non-existent.

Although the Court's Order contemplated that Qatar could make known its "definitive" position in regard to the 82 documents in the Reply due on 30 March 1999, the fact is that Qatar has already taken a position which is as "definitive" as it can possibly be. There is thus no scope for any further definition of Qatar's position in its Reply. The status of documents explicitly declared to be non-existent leaves no room for amplification or qualification by any subsequent statement.

It follows that Qatar cannot make any further reference to the 82 forged documents, that it will not adduce the content of these documents in connection with any of its arguments and that, in general, the merits of the case will be adjudicated by the Court without regard to these documents. (A list of the documents thus excluded appears as Annex 1 to this letter.)

At the same time, Bahrain is bound to recall that Qatar, being confronted with proof of the forgery of the 82 documents, has made no attempt in its Interim Report to support its Agent's unequivocal statement to the President of the Court on 25 November 1997 that Qatar had examined the documents and "stands behind" them. Instead, it seeks at paragraph 47 to evade responsibility by hiding behind the alleged disagreement between its experts, and advances the extraordinary

proposition that Qatar is "unqualified, of course, to take a position on the authenticity of documents where there appear to be conflicts between the experts". In view of the glaring inadequacies in the explanations given by Qatar in its Interim Report (some of which are noted in Annex 2 to this letter), it is unacceptable for Qatar to state (in paragraph 21) that "the Bahraini charge of misconduct by Qatar is wholly unfounded." Rather, Qatar's abandonment of all the 82 documents entirely vindicates the position taken by Bahrain on this issue. Qatar's conduct in introducing the forged documents can be seen only as deliberate or negligent. Either way, Qatar's conduct has been unlawful and has caused moral and material damage to Bahrain, in respect of which Bahrain reserves all its rights.

Qatar has suggested that Bahrain has, by its reaction to the forgeries, caused delay. The truth is quite the contrary. Bahrain needs hardly point out that it was Qatar's actions in submitting forged documents, and then refusing to address the situation thus created until ordered to do so by the Court, that has held up the proceedings. Bahrain's costly and successful efforts to prevent a massive fraud - on the Court and on itself – can hardly be considered a delaying tactic.

Finally, Bahrain is compelled to note the absence from the Qatar Interim Report of any apology or, indeed, any expression of regret whatsoever, for the culpable manner in which Qatar has treated the Court and Bahrain.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

بسم الله الرحمن الرحيم

Agent of the State of Qatar before the
International Court of Justice

وكيـــل دولـــة قطـــر
لـــدى محكمة العدل الدولية

Eduardo Valencia-Ospina, Esq.
Registrar
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2517 KJ The Hague
The Netherlands

15 December 1998

Re. **Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Sir,

I have the honour to refer to the letter from the Agent of the State of Bahrain, dated 27 November 1998, and its attached Annexes.

As Bahrain itself acknowledges, the Court's Order of 30 March 1998 did not authorize Bahrain to submit its observations on Qatar's Interim Report before filing its Reply. Thus, Bahrain's letter is once again an irregular communication which is not provided for by the Order of the Court.

Qatar, on the other hand, and contrary to what Bahrain now asserts, has complied fully with the Court's Order. Indeed, by setting out in its Interim Report the results of its forensic and historical examination of all of the documents in question and by indicating its decision to disregard all the challenged documents for the purposes of the present case, Qatar has given its position with regard to those documents in advance of the time-limit of 30 March 1999 that was fixed by the Court's Order. In effectively removing the documents from consideration in the case, Qatar's intention was to enable the Court to address the merits of the case and the Parties to prepare their Replies without further procedural complications.

Qatar does not intend to address further here the highly intemperate terms of Bahrain's letter which it cannot accept.

As Qatar pointed out in its Interim Report, it goes without saying that if Qatar had had doubts as to the authenticity of these documents, it would not have introduced them into evidence in these proceedings. However, so that there be no misunderstanding on this point, Qatar would like to express here its regret at the situation that has arisen and the inconvenience that this has caused to the Court and Bahrain.

Please accept, Sir, the assurance of my highest consideration.

A. A. Muslemany

Dr. Abdullah bin Abdulatif Al-Muslemani
Agent of the State of Qatar

c/o Embassy of the State of Qatar, 1 South Audley Street, London W1Y 5DQ
Tel (44.171) 493 22 00 - Fax (44.171) 493 26 61

STATE OF BAHRAIN
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دولة البحرين
مكتب وزير الدولة

ص.ب ٢٠٨٨
المنامة - البحرين
هاتف ٢١٧٧٢١ فاكس ٢١٥٥٠٨

No. : ICJ-QvB/ 199
Date: 13 January 1999

الرقم :
التاريخ :

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 The Hague
The Netherlands

RE: **Case Concerning Maritime Delimitation and Territorial Questions Between Qatar and Bahrain (Qatar v. Bahrain)**

Dear Mr. President,

Bahrain acknowledges receipt of Qatar's letters of 11 and 15 December 1998. Bahrain appreciates Qatar's expression of regret for the situation resulting from the submission of the forged documents.

Bahrain has no objection to the modification of the Court's Order of 30 March 1998 to accommodate Qatar's request for a two-month extension of the time-limit for the Replies. In connection therewith, Bahrain recalls that the final paragraph of the Order called for Qatar to provide its "definitive position" on the documents in its Reply, due on 30 March 1999. Since Qatar states that it has "given its position with regard to these documents in advance of the time-limit" to the effect that it is "removing the documents from consideration in the case", Bahrain respectfully requests that any modification of the Order take note of this development.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

بسم الله الرحمن الرحيم

Agent of the State of Qatar before the International Court of Justice

وكيـــل دولـــة قطـــر
لـــدى محكمـــة العـــدل الدوليـــة

Eduardo Valencia-Ospina, Esq.
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

1 February 1999

Re: Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

Sir,

I have the honour to refer to your letter dated 14 January 1999, to which was attached the letter from the Agent of the State of Bahrain, dated 13 January 1999.

Qatar is pleased to note that Bahrain has no objection to the modification of the Court's Order of 30 March 1998 to accommodate Qatar's request for a two-month extension of the time-limit for the Replies.

Qatar cannot however accept Bahrain's description of the documents that were challenged by Bahrain as "forged documents". Qatar's position with regard to those documents is stated in its Interim Report of 30 September 1998. In that Report Qatar informed the Court that, in the light of the conflicting views amongst the Parties' experts, it had decided that it would disregard all the challenged documents for the purposes of the present case, so as to enable the Court to address the merits of the case without further procedural complications.

This is Qatar's definitive position. Qatar hereby confirms that it will not rely on any of those documents in its Reply; nor will it make any further observations as to their authenticity. In its Reply Qatar will, however, address the consequences of Qatar's decision to disregard the challenged documents with respect to its previous written pleadings, and will provide a document to illustrate such consequences.

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As far as the Order to be issued by the Court is concerned, Qatar considers that the question of the nature and substance of such an Order is a matter for the Court alone.

Please accept, Sir, the assurance of my highest consideration.

A. A. Muslemani

Dr. Abdullah bin Abdulatif Al-Muslemani
Agent of the State of Qatar

103165 5 July 1999

Sir,

With reference to the meeting held on 28 June 1999 by the President of the Court with the Agents of the Parties, in relation to questions of procedure in the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), I have the honour to inform Your Excellency that the Court has instructed me to let the Parties know that no further round of pleadings will take place in the case. However, taking account of the views of the Parties, the Court has decided to permit them to file supplemental documents. These documents might be accompanied by a brief commentary of no more than a page per document limited to placing them in the context of the written pleadings; in particular, the provenance of the document and how it relates to the proceedings should be described. A time-limit within which any such further documents would have to be filed will be fixed by the Court, once it has determined on the date for the opening of the oral proceedings.

Accept, Sir, the assurances of my highest consideration.

Eduardo Valencia-Ospina
Registrar

His Excellency
Mr. Jawad Salim Al Arayed
Agent of the State of Bahrain
before the International Court of Justice
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دولـــــة البحـــــرين
مكتـب وزيـــر الدولـــة
ص ب ٢٠٨٨
المنـــامة – البحـــرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No: ICJ-QvB/241 الرقـم :

Date: 23 November, 1999 التاريخ :

H. E. Stephen Schwebel
President
International Court of Justice
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2517 KJ The Hague
The Netherlands

RE: CASE CONCERNING MARITIME DELIMITATION AND TERRITORIAL QUESTIONS BETWEEN QATAR AND BAHRAIN (QATAR V. BAHRAIN)

Dear Mr President,

At the meeting which you convened on 16 November 1999 with the Agents of the States of Qatar and Bahrain, Qatar indicated that it wished to be allowed to file various unspecified witness statements or expert opinions six weeks before the opening of the oral proceedings.

Confronted with this unanticipated proposal, Bahrain reserved its position in order to consult with its advisors. I now have the honour of informing you of Bahrain's position.

Bahrain recalls that this case has already resulted in three rounds of simultaneous pleadings. The Memorials were filed on 30 September 1996, the Counter Memorials on 31 December 1997 and the Replies on 30 May 1999. Qatar has adduced no less than 1317 exhibits totalling 8683 pages. Bahrain, by contrast, has submitted 505 exhibits totalling 2133 pages. The Parties have been afforded a full and unhurried opportunity to adduce their evidence and the Court understandably declined, per your letter to the Parties dated 5 July 1999, to authorise any further round of written pleadings.

Because it was correctly anticipated that many months would pass between the final round of written pleadings and the opening of the oral proceedings, the Court acceded to the proposal that the Parties be

allowed to file "supplemental documents". The conditions under which such supplemental documents could be filed were articulated in your aforementioned letter as follows:

> "These documents might be accompanied by a brief commentary of no more than a page per document limited to placing them in the context of the written pleadings; in particular, the provenance of the document and how it relates to the proceedings should be described."

Given the Court's decision not to authorise a fourth round of written pleadings, Bahrain understood that the Court was giving the Parties an opportunity to file a limited number of already existing *historical* documents which had not been available to them in time for inclusion in earlier pleadings (hence the instruction to explain their provenance).

Given this background, Bahrain's position is as follows:

1. To date, both Parties have had an equal opportunity to state their case.

2. Insofar as either party sees something in the other party's final pleadings to which it has not been able to respond, it has ample opportunity to address the matter in oral argument.

3. It is inherent in simultaneous written pleadings that neither party will have "the last word"; if a party is entitled to initiate a new written exchange for afterthoughts, the written phase will be never ending.

4. It is also inherent in the nature of simultaneous written pleadings that each party will see something in the other party's final pleadings to which it has not been able to respond. For example, Qatar's Reply ("QR") contained 259 exhibits, including no less than three expert reports. If there were to be an opportunity to file further witnesses statements or experts reports, Bahrain would be inclined to produce a substantial body of new evidence to rebut these Qatari exhibits. For example (and without limitation):

    - In QR Annex IV.31, Qatar submitted a report by Prof. T.D. Rabenhorst analysing satellite photos of Fasht ad Dibal and Qit'at Jaradah. Bahrain could submit expert opinions regarding the accuracy of the report and the interpretation of such images. In addition, further expert opinions on Bahrain's islands and low water elevations could be submitted.

- In its Reply, Qatar submitted over 60 Ottoman documents dating from the late 19th century and early 20th century. These documents are accompanied by translations on which Qatar relies. Bahrain could submit expert opinions to correct Qatar's mis-translations and mis-interpretations of these historical documents.

- QR Annex II.75 contains an opinion by Dr. Zekeriya Kursun on the interpretation of an Ottoman map submitted by Bahrain in its Memorial; a map that clearly shows that the Hawar Islands were part of Bahrain. Bahrain could submit expert opinions confirming the accuracy of the map and describing the errors in Dr. Kursun's report.

- QR Annex III.98 is a legal opinion by Judge Wassel Alaa El Din Ahmed Ibrahim regarding the jurisdiction and powers of a *Qadi*, an Islamic religious and legal official. Bahrain could submit legal opinions to clarify this issue.

- Bahrain could submit expert opinions and reports to put in proper context each of the 55 published historical and legal works found in Qatar's annexes that Bahrain believes are grievously mis-construed in Qatar's arguments.

5. The Court's tolerance of "supplemental documents" was related to *historical* documents for which there existed a good reason why they had not been filed previously. It did not encompass materials created specifically for the purposes of these proceedings. In the Court's parlance, "document" means evidentiary material (for instance, historical or diplomatic documents) and does not include witness statements or expert opinions, which are part of a party's pleadings. This is clear from the Statute of the Court (e.g., Article 43, which could not refer to a "copy" of each document (*"pièce"* in French) if it was meant to refer to witness statements or expert opinions). The same holds true for Articles 50 and 56 of the Rules of the Court. A "document" is a "document", and not every written statement or opinion that a party would like to put before the Court. Any other interpretation would, *de facto*, reverse the Court's decision not to have a fourth round of written pleadings. Moreover, it would open the possibility of demands for still further pleadings.

6. Furthermore, the filing of such new evidence, equivalent to a fourth round of pleadings, only six weeks before the opening of the oral proceedings would prevent the orderly preparation for the oral phase of the case – not least because of the need for translation.

7. Bahrain understands that the Court considered the case to be "ready for hearing" as of the filing of the Reply. This follows from the operation of Article 54 of the Rules of the Court. If the principle of the closure of the written proceedings as contemplated in Article 54 is not respected, the oral proceedings will perforce be postponed. Bahrain is anxious that no such delay be permitted.

8. Recalling that the Replies were filed on 30 May 1999, Bahrain observes that any urgent and justified need on the part of Qatar to rebut Bahrain's exhibits could have been expressed on the occasion of the meeting with yourself on 28 June 1999, or by way of response (or request for clarification) following your letter of 5 July 1999.

For these reasons, Bahrain respectfully submits that the Court should, pursuant to Article 52 of its Statute, proceed according to its decision notified by your letter of 5 July 1999 and decline Qatar's proposal that new documents, written for the purpose of these proceedings, be admitted into the record at this stage.

Please accept, Sir, the assurance of my highest consideration.

JAWAD SALEM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

بسم الله الرحمن الرحيم

Agent of the State of Qatar before the International Court of Justice

وكيـــل دولـــة قطـــر
لـدى محكمة العدل الدولية

Ref: 30/99/277

Date: 30 November 1999

Eduardo Valencia-Ospina, Esq.
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands.

Re. **Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Sir,

I have the honour to refer to the letter from the Agent of Bahrain dated 23 November 1999, which you transmitted to me under cover of your letter dated 24 November 1999.

As indicated at the meeting with the President of the Court on 16 November 1999, Qatar would wish to reserve the right to submit to the Court, within a time-limit to be fixed by the Court before the opening of the oral proceedings, a few witness statements and expert reports, along with other historical documents.

In the light of Bahrain's contention that the Court should reject Qatar's proposal that such documents be admitted into the record at this stage, Qatar would like to clarify its position in this regard.

The letter from the Registrar dated 5 July 1999 indicates that the Court has decided to permit the Parties "to file supplemental documents" and that "these documents might be accompanied by a brief commentary of no more than a page per document limited to placing them in the context of the written pleadings".

Bahrain argues at point 5 of its letter of 23 November 1999 that the Court's authorisation for the filing by the Parties of "supplemental documents" was related to "historical documents for which there existed a good reason why they had not been filed previously". However, the Registrar's letter dated 5 July 1999 makes no distinction between different categories of documents, and there are thus no grounds for this unilateral interpretation by Bahrain.

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Qatar finds support for its own interpretation of the Registrar's letter in the provisions of the Statute and Rules of Court. Articles 50 and 56 of the Rules make no attempt to define different categories of written evidence, referring simply to "documents" in both the English and French versions of the Rules as a generic term for all categories of written evidence; and the French text of Article 43 of the Statute appears to treat the terms "pièce" and "document" interchangeably. Similarly, the Court's 1998 guidelines on working methods make no distinction between different categories of written evidence. Indeed, Rosenne, commenting upon Article 43 of the Statute and Article 50 of the Rules of Court, indicates that documentary evidence includes "legal opinions and opinions of experts, etc." and "affidavits and declarations"[1].

In short, neither the Registrar's letter, nor the Statute or Rules of Court nor the 1998 guidelines expressly limit to historical documents the supplemental documents that may be filed by the Parties.

Consequently, having regard to the instructions of the Court and Article 56 of the Rules of Court, it would have been perfectly in order for Qatar to file documents within the time-limit without indicating the nature of the documents it intended to file. Nevertheless, Qatar took the step of announcing its intention to produce expert reports and witness statements precisely in order to avert any possible disruption of the oral proceedings. Indeed, from the very beginning of these proceedings it has been the purpose and object of Qatar to cooperate with and assist the Court in accordance with its Rules and practice.

In any event, the number of documents that Qatar proposes to submit and to which Bahrain would apparently object is very limited. Qatar envisages submitting no more than two expert reports concerning Qit'at Jaradah and Fasht al Azm and no more than eight short witness statements.

With regard to the expert reports, Qatar has noted that the two reports submitted as Annexes 13 and 14 to Bahrain's Reply are the only expert evidence produced in support of Bahrain's positive case concerning Qit'at Jaradah and Fasht al Azm. They might well have been presented earlier but are produced now in an attempt to fill a gap in Bahrain's previously presented case. Bahrain has given no reason, and there is no apparent reason, why these reports could not have been submitted with Bahrain's Memorial or Counter-Memorial; nonetheless Bahrain elected to wait until its final written pleading to produce

[1] S. Rosenne, *The Law and Practice of the International Court*, 1920-1996, Vol. III, p. 1282.

them. If Qatar were denied the right to submit expert evidence in response, this would be a denial of the equality of the Parties, particularly in view of the fact that the Court has already envisaged that both Parties may file new documentary materials before the opening of the oral hearings.

It may also be observed that as regards Bahrain's Annexes 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 30 and 31 to its Reply, no reason is given by Bahrain, and there is no apparent reason, why these could not have been submitted along with the statements previously submitted by Bahrain in earlier pleadings. It is consistent with the rules of equality of the Parties that Qatar should be allowed to address these statements.

Furthermore, it will be recalled that, as early as the meeting with the President on 28 June 1999, Qatar stated that there were a number of new elements in Bahrain's Reply, specifically expert opinions and witness statements, to which Qatar would wish to have the possibility of responding. This statement elicited no response from Bahrain at the time.

Bahrain now argues that to admit Qatar's expert reports and witness statements would, *de facto*, reverse the Court's decision not to have a fourth round of written pleadings. This assertion is quite unwarranted, given the limited number of documents that Qatar would wish to produce as expert reports and witness statements and the fact that the submission of such materials, along with other documents which each Party will undoubtedly file accompanied by a brief explanation in accordance with the Registrar's letter of 5 July 1999, in no way can be equated to a fourth round of written pleadings. In this regard Qatar notes, however, that Bahrain has nevertheless seen fit to use its letter of 23 November 1999 to put forward certain comments on Qatar's Reply and the Annexes thereto.

Given the nature and number of the documents that Qatar now intends to submit, there can be no concern that these documents would lead to a postponement of the oral proceedings as suggested by Bahrain at point 7 of its letter.

Nevertheless, in order to avoid any possible prejudice of the type suggested by Bahrain, Qatar would undertake, on the assumption that the oral proceedings will begin no earlier than the end of May 2000, to submit its expert reports and witness statements by 1 March 2000, or three months before the opening of the oral hearings if such hearings are scheduled for a later date.

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بسم الله الرحمن الرحيم

Agent of the State of Qatar before the International Court of Justice

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لـــدى محكمـــة العـــدل الدوليـــة

As to Bahrain's contention that the submission of Qatar's expert reports and witness statements would be a breach of the equality of the Parties and of the simultaneity of the written pleadings, Qatar would simply point out that it would of course be open to Bahrain to produce the same type of evidence. Moreover, given the fact that each Party is already authorised to file additional documents before the hearings, the submission of witness statements and expert reports is no more in contravention of the "equality of arms" rule than the simultaneous submission of other kinds of documentary evidence. It therefore goes without saying that to the extent that Bahrain suggests under point 4 of its letter that it, too, could submit certain expert reports and statements, Qatar has no objection to this provided that such submissions are subject to the same time limitations as Qatar's filings.

In conclusion, Qatar is of the view that to preclude Qatar from producing the expert reports and witness statements that it had intended to submit would be an incorrect application of the Registrar's letter of 5 July 1999, read in conjunction with the relevant provisions of the Statute, the Rules of Court and the 1998 guidelines, and would unduly prejudice Qatar, contrary to the principle of equality of arms. In contrast, the submission of such materials along with other documents that have been authorised can in no way be said to prejudice Bahrain, given that Bahrain would enjoy the same right.

If the Court were nevertheless to decide that Qatar should be precluded from submitting expert reports and witness statements, Qatar might be left with no alternative but to call experts and witnesses during the oral proceedings, which would necessarily have an impact on the duration of those proceedings.

Please accept, Sir, the assurance of my highest consideration.

Dr. Abdullah bin Abdulatif Al-Muslemani
Agent of the State of Qatar

c/o Embassy of the State of Qatar, 1 South Audley Street, London W1Y 5DQ
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104129

9 December 1999

Sir,

Further to my letter dated 5 July 1999, and with reference to the meeting held on 16 November 1999 by the President of the Court with the Agents of the Parties and to the letters dated 23 November 1999 and 30 November 1999 from the Agent of Bahrain and the Agent of Qatar respectively in the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), I have the honour, on the instructions of the Court, to inform Your Excellency of the following decision taken by the Court at today's private meeting.

(i) The Court has decided to permit the Parties to file supplemental expert reports and historic documents. However, no further witness statements should be produced. The Court has also decided that the Parties should be asked to endeavour to produce supplemental documents in both English and French, the two official languages of the Court.

(ii) The Court has fixed 1 March 2000 as the time-limit for the filing of these supplemental documents.

(iii) The Court has decided, pursuant to Article 54, paragraph 1, of its Rules, that the oral proceedings in the case will open on Monday 29 May 2000, at 10 a.m., and will last for a maximum of five weeks. The Parties should endeavour to reach agreement on the organization of the procedure within that period.

Accept, Sir, the assurances of my highest consideration.

Eduardo Valencia-Ospina
Registrar

His Excellency
Mr. Jawad Salim Al Arayed
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before the International Court of Justice
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دولـــــة البحـــــــرين
مكتـب وزيـــر الدولـــة
ص ب ٢٠٨٨
المنـــامة – البحـــرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No: ICJ-QvB/ 248 الرقـــم:

Date: 28 December 1999 التاريخ:

His Excellency Stephen M. Schwebel
President
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

Re: **Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Dear Mr. President,

1. I regret having to extend the correspondence that has passed between the Parties and the Court relating to the question of the submission of further documents between now and the commencement of the oral hearings on 29 May 2000. However, Bahrain must express its concern with respect to the terms and effect of operative paragraphs (i) and (ii) of the decision of the Court taken on 9 December 1999.

2. Bahrain recalls that the request for the filing of supplemental expert reports was made by Qatar alone and that the decision to allow such a filing is in fact responsive to the request of only one Party, namely, Qatar. This was opposed by Bahrain for the good reasons set out in my letter to Your Excellency of 23 November 1999. The expression by the Court of its decision as one permitting "the Parties", i.e. both of them, to file supplemental expert reports by 1 March 2000 cannot obscure the fact that the Court has thus advantaged Qatar alone. Bahrain has no present need to file further expert reports and, therefore, derives no benefit from the Court's permission which expires on 1 March 2000.

3. Qatar has emphasised the importance of the Court maintaining the equality of the Parties. But this cannot be achieved by the simultaneous filings now envisaged by the Court. Such equality can only be achieved by assuring to Bahrain the right to respond to the further expert opinions that Qatar wishes to file. This is evidently not a right that is preserved by the Court's decision as it stands at present.

4. It may be that the expert opinions to be filed by Qatar will be entirely without significance – though Qatar's anxiety to file them suggests otherwise. In Bahrain's submission the correct way to preserve equality between the Parties would be to give Bahrain time to consider and respond to Qatar's proposed filing, limited in the manner set out in the penultimate paragraph of page two of Qatar's letter to the Court of 30 November 1999, before the opening of the oral proceedings. The Court's decision does not contemplate this.

5. Upon studying the additional Qatar opinions, Bahrain may find itself obliged to ask the Court, as Qatar has now successfully done, for leave to file further expert opinions in reply thereto. Or Bahrain may have to deal with the matter in the course of the oral proceedings either by the cross-examination of Qatar's experts or by producing oral testimony of its own. However, neither of these steps was, or could have been, present to Bahrain's mind when it agreed with Qatar to propose to the Court the commencement of proceedings on 29 May 2000 or indicated its view that the oral proceedings could be concluded in five weeks.

   Accordingly, with all respect to the Court, I am obliged to reserve Bahrain's position as regards these matters until after it has had an opportunity to study whatever it is that Qatar may produce by 1 March 2000.

Yours very truly,

JAWAD SALIM AL ARAYED
MINISTER OF STATE
AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

Agent of the State of Qatar before the International Court of Justice

وكيـــل دولـــة قطـــر
لـــدى محكمـــة العـــدل الدوليـــة

Eduardo Valencia-Ospina, Esq.
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

24 January 2000

Re. **Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Sir,

I have the honour to refer to your letter dated 6 January 2000, under cover of which you transmitted to me a copy of a letter dated 28 December 1999 from the Agent of Bahrain in which he referred to the Court's decision regarding the filing of supplemental documents, as communicated to the Parties by your letter of 9 December 1999.

In its letter, Bahrain appears to suggest that it would be somehow disadvantaged by the Court's decision of 9 December 1999.

Qatar would first recall that that decision of the Court allows both Parties to produce supplemental documents up to 1 March 2000, in conformity with the principle of simultaneity of written pleadings in the present case, as laid down in paragraph 39 of the Court's Judgment of 1 July 1994. In application of that principle, Qatar is of the view that the right to produce supplemental documents must terminate at the same time for both Parties, and that there is no inherent disadvantage to Bahrain in this situation.

Second, Qatar must point out that if Bahrain has really been disadvantaged by the Court's decision, Qatar has been similarly disadvantaged by the decision that it would not be allowed to produce the written witness statements that it had announced its intention of submitting despite Bahrain's filing of witness statements in its Reply.

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