

INTERNATIONAL COURT OF JUSTICE

YEAR 1998

30 March 1998

CASE CONCERNING MARITIME DELIMITATION
AND TERRITORIAL QUESTIONS
BETWEEN QATAR AND BAHRAIN

(QATAR v. BAHRAIN)

ORDER

Present: President SCHWEBEL; Vice-President WEERAMANTRY; Judges ODA, BEDJAOUI, GUILLAUME, RANJEVA, HERCZEGH, SHI, FLEISCHHAUER, KOROMA, VERESHCHETIN, HIGGINS, PARRA-ARANGUREN, KOOIJMANS, REZEK; Judges ad hoc TORRES BERNARDEZ, FORTIER; Registrar VALENCIA-OSPINA.

The International Court of Justice.

Composed as above,

After deliberation,

Having regard to Articles 43, 48 and 49 of the Statute of the Court and to Articles 31, 44, 45 and 50 of the Rules of Court,

Having regard to the Judgments given by the Court on 1 July 1994 and 15 February 1995 on the questions of jurisdiction and admissibility in the case,

Having regard to the Orders dated 28 April 1995 and 1 February 1996, whereby the Court successively fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits and extended that time-limit to 30 September 1996,

Having regard to the Memorials filed within the time-limit so extended,

Having regard to the Order dated 30 October 1996 whereby the President of the Court fixed 31 December 1997 as the time-limit for the filing by each of the Parties of a Counter-Memorial on the merits;

Whereas, by a letter dated 25 September 1997, the Agent of the State of Bahrain informed the Court that his Government challenged the authenticity of 81 documents, copies of which had been produced by the State of Qatar as annexes to its Memorial; whereas it was stated in that letter that the matter, brought to the Court's attention "for such action as [it] may deem appropriate", was "distinct and severable from the merits"; whereas it was stated in the letter that Bahrain would disregard the content of the documents in question for the purposes of preparing its Counter-Memorial; and whereas that letter was sent with various document search and experts' reports:

Whereas, by a letter dated 8 October 1997, the Agent of Qatar informed the Court that, in his Government's view, the objections raised by Bahrain to particular documents produced by Qatar were linked to the merits and, therefore, should "be considered and determined within the framework of the merits of the case"; and whereas he added that the Court could not, however, "expect Qatar, at the present stage of preparation of its own Counter-Memorial, to comment on the detailed Bahraini allegations";

Whereas, by a letter dated 17 October 1997, the Agent of Bahrain stated that his Government considered that the use by Qatar of the challenged documents gave rise to "procedural difficulties that strike at the fundamentals of the orderly development of the case"; whereas he observed that the question of the authenticity of the said documents was "logically preliminary to, and severable from the determination of its substantive effect"; and whereas he concluded that "this observation should, in Bahrain's submission, determine the procedural approach to be taken at this stage"; and whereas, by a letter dated 18 November 1997, the Agent of Bahrain informed the Court of a "new development" which was relevant to assessment of the authenticity of the documents produced by Qatar;

Whereas at a meeting held by the President of the Court on 25 November 1997 with the Agents of the Parties in order to ascertain their views on the subsequent procedure, the Agents reiterated the positions of their respective Governments; whereas Qatar stated that it would be able to respond in full to Bahrain's questioning of the authenticity of the documents annexed to its Memorial only in a document to be appended to its Reply; and whereas, at the end of that meeting, it was agreed *inter alia* that the Counter-Memorials would not cover that question and that other pleadings would be submitted by the Parties at a later date;

Whereas the Counter-Memorials of the Parties were duly filed and exchanged on 23 December 1997; and whereas, in the introduction to its Counter-Memorial, Bahrain confirmed that, in drawing up its Counter-Memorial, it had disregarded the 81 Qatar documents the authenticity of which was challenged, and it stated that its Agent's letter dated 25 September 1997 should be treated as forming part of its Counter-Memorial;

Whereas, by a letter dated 31 December 1997, the Agent of Bahrain sent the Court particular documents supplementing those presented on 25 September 1997;

Whereas, by a letter dated 2 February 1998, the Agent of Bahrain, noting that Qatar was continuing in its Counter-Memorial to rely on the challenged documents, emphasized the need for the Court to decide the question of their authenticity as a preliminary issue by maintaining that "all elements of Qatar's claims are affected" and by pointing out "the complications and expense" to which they would give rise, in his Government's opinion, if that question were to be deferred;

Whereas, on 17 March 1998, the President of the Court held a further meeting with the Agents of the Parties in order to ascertain their views on the subsequent procedure; whereas during that meeting, Qatar maintained its position as to the indivisible nature of the proceedings on the merits; whereas Qatar suggested that the Court should prescribe the filing of a Reply by each of the Parties within a period expiring at the end of March 1999, and stated that in such an eventuality it would be able to annex to its Reply a comprehensive report containing its definitive submissions on the question of the authenticity of the documents challenged by Bahrain; and whereas Qatar moreover proposed to submit to the Court, by the end of September 1998, an interim report on that question to which Bahrain would be able to respond in its Reply; and whereas Bahrain, whilst reiterating its preference for a separate examination of that question at a preliminary stage, did not object to the procedure envisaged by Qatar as either unreasonable or unjust; and whereas Bahrain pointed in particular to the "positive" nature of Qatar's proposal that an interim report be submitted six months before the filing of the Replies;

Whereas, by a letter dated 17 March 1998, the Agent of Qatar confirmed the views of his Government, as presented at the meeting held that day;

Whereas, by a letter dated 26 March 1998, the Agent of Bahrain confirmed the views of his Government, as presented at the meeting held on 17 March 1998, and filed additional material in support of them;

Having regard to the views of the Parties,

Fixes 30 September 1998 as the time-limit for the filing by Qatar of an interim report, to be as comprehensive and specific as possible, on the

question of the authenticity of each of the documents challenged by Bahrain in the case;

Directs the submission of a Reply on the merits by each of the Parties, and *decides* that the Reply of Qatar will contain its detailed and definitive position on the question of the authenticity of each of the documents challenged by Bahrain and that the Reply of Bahrain will contain its observations on the interim report of Qatar; and *fixes* 30 March 1999 as the time-limit for the filing of these pleadings; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this thirtieth day of March, one thousand nine hundred and ninety-eight, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the State of Qatar and the Government of the State of Bahrain, respectively.

(Signed) Stephen M. SCHWABEL,
President.

(Signed) Eduardo VALENCIA-OSPINA,
Registrar.