



INTERNATIONAL COURT OF JUSTICE

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Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

The Court places on record Qatar's decision to disregard disputed documents and extends the time-limit for the filing of Replies

THE HAGUE, 18 February 1999. The International Court of Justice (ICJ) has placed on record the decision of Qatar to disregard, for purposes of the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), the 82 documents annexed to its written pleadings which had been challenged by Bahrain.

In an Order dated 17 February 1999, the Court, taking into account the views of the Parties, accordingly decided that the Replies yet to be filed by Qatar and by Bahrain would not rely on these documents.

The Court granted a two-month extension of the time-limit for the submission of these Replies following a request by Qatar, to which Bahrain had no objection. They have now to be filed by 30 May 1999.

Qatar's announcement that it would not rely on the disputed documents appeared in the Interim Report that it submitted on 30 September 1998 within the time-limit fixed by the Court's Order of 30 March 1998. In that report, to which four experts' reports were appended, Qatar stated on the one hand that, on the question of the material authenticity of the documents, there were differing views not only between the respective experts of the Parties, but also between its own experts, and on the other that, as far as the historical consistency of the content of those documents was concerned, the experts that it had consulted considered that Bahrain's assertions showed exaggerations and distortions. Qatar took its decision "so as to enable the Court to address the merits of the case without further procedural complications".

The subsequent procedure has been reserved for further decision.

Background information

On 8 July 1991, Qatar filed in the Registry of the Court an Application instituting proceedings against Bahrain "in respect of certain existing disputes between them relating to sovereignty over the Hawar Islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas". These disputes had arisen following decisions taken by the British Government during the time of its presence in Bahrain and Qatar (which ended in 1971).

In its Application, Qatar founded the jurisdiction of the Court upon certain agreements allegedly concluded by the Parties in 1987 and 1990. In July 1991, Bahrain contested the basis of jurisdiction invoked by Qatar. The President of the Court then decided, after consultations with the Parties, that the proceedings should first address the issue of the jurisdiction of the Court and the admissibility of the Application. Written pleadings were exchanged and hearings were held from 28 February to 11 March 1994.

On 1 July 1994, the Court delivered a Judgment by which it found that the exchanges of letters between the King of Saudi Arabia and the Emir of Qatar, dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Emir of Bahrain, dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of their dispute. Having noted that it had only an Application from Qatar, the Court decided to afford the Parties the opportunity to submit the whole of the dispute jointly to it.

On 15 February 1995, the Court delivered a further Judgment by which, in the absence of an agreement between the Parties to submit the dispute jointly to it, it found that it had jurisdiction to adjudicate upon the dispute and that the Application of Qatar (as formulated by that State on 30 November 1994 and presented by a separate act) was admissible. Accordingly, the dispute submitted to the Court now includes the following matters: the Hawar Islands, including the island of Jana; Fasht al Dibal and Qit'at Jaradah; the archipelagic baselines; Zubarah; the areas for fishing for pearls and for fishing for swimming fish and any other matters connected with maritime boundaries.

After the filing of a Memorial by each of the Parties on 30 September 1996, the President of the Court fixed 31 December 1997 as the time-limit for the filing of their Counter-Memorials. Both were filed within that time-limit.

By a letter dated 25 September 1997, Bahrain informed the Court that it challenged the authenticity of 81 documents produced by Qatar as annexes to its Memorial. Accordingly, Bahrain announced that it would disregard the content of these documents for the purposes of preparing its Counter-Memorial, which had to be filed by 31 December 1997.

On 8 October 1997, Qatar stated that the objections raised by Bahrain came too late and that it could not answer them in its Counter-Memorial.

Bahrain then stated that the use by Qatar of the challenged documents gave rise to procedural difficulties that could affect the orderly development of the case. It observed that the question of the authenticity of the said documents was "logically preliminary to . . . the determination of its substantive effect".

After the filing of the Counter-Memorials on 23 December 1997, Bahrain, noting that Qatar continued to rely on the challenged documents, again emphasized the need for the Court to decide the question of their authenticity as a preliminary issue.

In view of this, the Court, by an Order of 30 March 1998, directed that each of the Parties submit a Reply on the merits by 30 March 1999. It also decided that Qatar should file by 30 September 1998 an interim report, to be as comprehensive and specific as possible, on the question of the authenticity of each of the disputed documents. The Court specified that Qatar's Reply should contain its detailed and definitive position on the question and that Bahrain's Reply should contain its observations on Qatar's interim report.

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