

Attachment to the letter of Dr. Najeeb Al-Nauimi to the Registrar dated 11 March 1994

Response to  
Questions of Vice-President Schwebel to Counsel

Question 1

*The Doha Minutes (in the U.N. translation) specify that "the good offices" of the King of Saudi Arabia "in addressing the dispute between the two countries" shall continue until May 1991; "Once that period has elapsed, the two parties may submit the case to the International Court of Justice, in accordance with the Bahraini formula accepted by the State of Qatar and the arrangements relating thereto".*

*Does this provision indicate that:*

- (a) *in the period of the continuation of Saudi good offices, Saudi Arabia would endeavour to bring about a settlement of the substance of the dispute?*

The answer is yes. As explained in paragraph 3.55 of Qatar's Memorial, the Sultan of Oman proposed, during the opening session of the Doha GCC Summit, that Saudi Arabia be given a further period of 5 months, until after Ramadan, to try to reach a settlement on the substance. Bahrain had originally asked that Saudi Arabia's efforts to reach a settlement on the substance be continued indefinitely, a proposal which Qatar had strongly opposed.

Bahrain's Foreign Minister confirms these facts in his statement (B.C-M, Annex I.25, p. 160, para. 3). He states as follows:

"It was also suggested by His Majesty Sultan Qaboos of Oman that a further period should be agreed, say to the end of Shawwal, during which time the parties should try once again to reach a political solution of all their differences. If not, then the matter might proceed to the ICJ."

It should be noted that this was to be a "continuation" of Saudi Arabia's efforts to reach a settlement on the substance.

Confirmation of the meaning of this part of the Doha Agreement is also to be found in Qatar's letters of 30 December 1990, and 6 May and 18 June 1991 to the Mediator (see,

Qatar Memorial, Annexes II. 33, II. 34 and II. 35). For convenience of reference, copies of these letters are attached. These letters show that the Parties actually did try to negotiate a settlement on the substance during this period. They also show that Qatar agreed to wait a further three weeks after the expiry of the deadline for further negotiations on the substance before submitting the case to the Court (see, Qatar's Memorial, paras. 3.64-3.65).

Moreover, as explained in Qatar's 18 June 1991 letter, Saudi Arabia's negotiation on the substance would continue after reference to the Court. The last sentence of paragraph 2 and paragraph 3 of the Doha Agreement read (in the U.N.'s translation) as follows:

"Agreement was reached as follows:

...

(2)... The good offices of the Kingdom of Saudi Arabia may continue during the period in which the case is referred to arbitration.

(3) If a fraternal agreement acceptable to both parties is attained, the case shall be withdrawn from arbitration."

*Does this provision indicate that...(b) during that period (i.e., until May 1991), the two parties may not submit the matter to the Court?*

During this period neither of the parties could submit the matter to the Court unilaterally.

*Does this provision indicate that...(c) once that period had elapsed, the two parties may submit the case to the Court?*

The answer is yes. Each party could submit the case to the Court unilaterally after the agreed period had elapsed.

## Question 2

*In paragraph 2 of the Doha Minutes (in the U.N. translation), it is specified that "the two parties may submit the case" to the Court, whereas paragraph 3 provides that, thereafter, "If a fraternal agreement acceptable to both parties is attained", the case shall be withdrawn. Does the pertinent phrase or do the pertinent phrases in the Arabic text from which these passages have been translated, in their references to "the two parties" and to "both parties", differ in paragraph 2 and 3, or is it or are they the same?*

The Arabic words used in both paragraphs 2 and 3 of the Doha Agreement for "the two parties" and "both parties" are the same, that is to say, "al-tarafan".

**Question 3**

*The translation of the draft of minutes on Saudi Arabian Foreign Ministry notepaper of 24 December 1990 provided that: "These consultations have concluded with the agreement of the two parties on the formulation of the question which will be presented to the International Court of Justice by each of them, which is as follows: - as specified in the Bahraini memorandum.*

*The two parties request the Court to decide..."*

*Did the original Arabic of which the foregoing is a translation, when it specified "by each of them" and "The two parties" request, use the same terms or different terms for these two phrases ?*

Different terms are used: in the Arabic of the draft of minutes on Saudi Arabian Foreign Ministry notepaper the phrase which is translated by Dr. Holes as "by each of them" is "min kullin minhuma". The words for "the two parties" in the Arabic are "al-tarafan".

Qatar has already explained its views on this document in its written and oral pleadings.

11 March 1994