

**OBSERVATIONS DE LA JAMAHIRIYA ARABE
LIBYENNE POPULAIRE ET SOCIALISTE
SUR LA DEMANDE EN REVISION
ET EN INTERPRÉTATION
DE L'ARRÊT DU 24 FÉVRIER 1982
PRÉSENTÉE PAR LA TUNISIE**

**OBSERVATIONS OF THE SOCIALIST PEOPLE'S
LIBYAN ARAB JAMAHIRIYA ON THE
APPLICATION SUBMITTED BY TUNISIA FOR
REVISION AND INTERPRETATION OF THE
JUDGMENT OF 24 FEBRUARY 1982**

VOLUME I

I. Introduction

1. On behalf of the Socialist People's Libyan Arab Jamahiriya ("Libya") I have the honour, pursuant to Articles 98 and 99 of the Rules of Court, and the decision of the Vice-President of the Court fixing 15 October 1984 as the time-limit for the filing of written observations, to submit the following Observations on the Application of the Republic of Tunisia ("Tunisia") made by letter addressed to the President of the Court dated 17 July 1984 and entitled "*Requête de la Tunisie en revision et en interprétation*", and Annexes I and II attached thereto (the "Application")¹, concerning the Court's Judgment of 24 February 1982 in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*². The Application was filed in the Registry of the Court by Tunisia on 27 July 1984³.

2. In accordance with the fundamental principle set forth in Article 60 of the Statute of the Court, the Judgment in the *Tunisia/Libya* case "is final and without appeal". Moreover, Article 94 of the Rules of Court provides that a judgment becomes binding on the parties on the day of its reading — in the present case, on 24 February 1982. The Application brings before the Court for the first time in its history — or in the history of its predecessor, the Permanent Court of International Justice — a request to reopen one of its judgments and to revise a decision which has already been adjudicated with binding force. In addition, the Application asks the Court to "construe" its Judgment and to "correct an error". While this Court has previously been presented with one request for interpretation⁴, it has never been asked to "correct an error" in the manner Tunisia suggests.

3. As requested in the Registrar's letter of 30 July 1984, these Observations are directed, in particular, to the question of the admissibility of the Application as provided in Article 99 (2) of the Rules of Court. Since Article 99 deals with procedures related to applications for revision of a judgment, these Observations will focus primarily on Tunisia's request for revision. In so doing, they will examine the provisions of Article 61 of the Statute which govern the question of revision and which set forth the various conditions that must be satisfied by the party claiming revision in order for its application to be admitted. While it will be necessary to deal also with the subsidiary requests for interpretation and *correction of an error*, it appears that the essence of the Application is a request to revise the 1982 Judgment and that the subsidiary requests are, in effect, requests for revision under a different guise.

¹ See pp. 3-47, *supra*. [Note by the Registry.]

² *I.C.J. Reports 1982*, p. 18. [Note by the Registry.]

³ References in these Observations to the Application are to the English translation thereof prepared by the Registry. [Not reproduced.]

⁴ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, Judgment, I.C.J. Reports 1950*, p. 395. Two cases involving interpretation did come before the Permanent Court. See fn. 2 at p. 73, below.

4. Neither the extraordinary remedy of revision nor a request for the interpretation of a judgment of the Court are justified in the present case. In its Judgment, the Court did what the Parties asked of it in applying equitable principles in reaching its decision by selecting, considering and balancing up the "relevant circumstances which characterize the area". In so doing, the Court considered a wide range of factors and circumstances in pointing to what it regarded to be an equitable result in the light of them — a result which satisfied the optimum claim of neither Party. As for this result, the Court indicated in paragraph 27 of the 1982 Judgment that it "has in any case to be precise as to what it decides". The Court went on to say that —

"... there will be no need for negotiation between experts of the Parties regarding the factors to be taken into account in their calculations, since the Court will have determined that matter. The only task remaining will be the technical one making possible the drafting of the treaty in incorporating the result of the work by the experts¹."

5. The clarity and specificity of the 1982 Judgment affirm the conclusion that the Application concerns revision of the Judgment and that there are no aspects of the Judgment calling for interpretation. It has been Libya's view from the time the Judgment was rendered, and throughout the discussions between the Parties, that only the technical task remains for the experts of the Parties to perform in order to implement the Judgment. This task was clearly identified by the Court and can be completed, to use the words of the Special Agreement, "without any difficulties". This remains Libya's view today. The high degree of specificity of the Judgment has been acknowledged in a recent article by Professor Ben Achour, who acted as counsel to Tunisia during the oral hearings and who was serving as Co-Agent at the time of the article. Professor Ben Achour wrote:

"Pour la Tunisie, le rôle de ces experts était purement technique et consistait à transposer cartographiquement la méthode pratique de délimitation dont la Cour aurait auparavant indiqué les paramètres et variables . . .

La Cour a en effet suivi l'optique de la Tunisie, et l'a même dépassée, en fixant non pas seulement les principes d'une méthode, non pas seulement une méthode, mais une ligne proprement dite avec chiffrage et traçage sur une carte . . ."

In the same vein, Professor Ben Achour explained that "... le tracé de la ligne a été fixé dans le dispositif même de l'arrêt . . ."².

6. Libya's views as to the clarity of the Judgment and the purely technical nature of its implementation were made clear to Tunisia during the diplomatic exchanges and contacts that took place between the Parties after the Judgment was rendered. In the light of the references to these events which appear in the Application, however, certain clarifications and corrections are necessary. Accordingly, these Observations will first review the history of these events

¹ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, p. 40, para. 30.

² Ben Achour, Y., "L'affaire du plateau continental tuniso-libyen (Analyse empirique)", *Clunet*, 1983, pp. 254-255. This article well illustrates the dilemma in which Tunisia is placed. Having argued in its written and oral pleadings that the Court's Judgment should be precise, Tunisia now finds itself confronted with a most precise and clear Judgment and yet forced to argue that it is unclear and error-ridden, and in need of interpretation, correction and, most of all, revision.

which are of importance since, when viewed in their proper context, they shed light on the nature of the revision that Tunisia is now seeking. Following this history, the circumstances surrounding the "new fact" allegedly discovered by Tunisia will be examined. This, in turn, will lead to a discussion of Tunisia's failure to satisfy the conditions for revision of a judgment laid down by Article 61 of the Statute. The next two sections of these Observations will then deal with (i) Tunisia's contentions relating to interpretation of the Judgment and correction of an error and (ii) the most westerly point of the Gulf of Gabes. The final section sets forth Libya's Submissions.

II. The Diplomatic Exchanges and Contacts between the Parties following the Judgment

7. An attempt is made in the Application to give the impression that Tunisia has continuously tried to implement the 1982 Judgment in good faith but that it has been hindered in this task by the dogmatic and inflexible attitude of Libya. This theme, which runs throughout the Application, finds expression in such allegations as that Libya "categorically refused to examine the questions raised by Tunisia" (para. 2), that Tunisia's overtures were "met with a flat refusal" (para. 3) and that Libya refused "to agree even to an opening of technical discussions" in regard to the so-called "difficulties" Tunisia claimed it had encountered (para. 28).

8. The events that have transpired since 24 February 1982 actually show quite a different picture. Throughout 1982, it was Libya that took the initiative to convene meetings to carry out the Judgment. It was also Libya that indicated with precision how the Judgment could be implemented. After considerable urging by Libya, the first meeting took place between the Parties during 13-16 May 1982¹. It was certainly the most revealing of all. Tunisia has avoided any mention of this meeting in its Application despite the fact that it sheds light on Tunisia's real attitude towards implementation of the Court's Judgment and, thus, has considerable relevance to a consideration of the admissibility of the Application.

9. Straight away, the Tunisian representatives at this meeting complained that the Judgment contained ambiguities and contradictions². At this point, Tunisia introduced the suggestion now contained in the Application — and without any need to have its imagination sparked by an allegedly newly discovered and "decisive" fact — that, in the first sector, the line should follow the eastern limits of Tunisia's 1966 Concession, and hence a bearing of approximately 28° or 29° rather than of approximately 26°. In advancing this argument, the Tunisian representatives referred to the fact that the Tunisian 1966 Concession and Libyan Concession No. 137 overlapped but that the Tunisian Concession, having been granted first, should be given precedence in determining the

¹ See, for example, the Notes Verbales sent by Libya on 13 March and 6 May 1982 attached in Annex I hereto. A copy of an English translation of these Notes, as well as of the other Notes referred to in these Observations, has been included in Annex I. With the exception of the letters dated 23 January 1984 and 4 April 1984, a copy of the Arabic originals of these Notes has previously been filed with the Registry.

² This complaint was subsequently reiterated in a letter from the Tunisian Prime Minister dated 23 January 1984 referred to in paragraph 18 below. The Tunisian delegation also stated that the Judgment lacked clarity and contained a number of legal and technical errors.

line in the first sector. The extent to which Tunisia wished to deviate from the Judgment can be gauged by the fact that Tunisia even suggested a three-segment line in order to give sufficient weight to the Island of Djerba. As regards the second sector, in addition to a superficial discussion of the most westerly point of the Gulf of Gabes, the Tunisian delegation brought up the possibility of a "compromise" formula of joint exploitation to avoid the necessity of giving the Kerkennah Islands one-half effect¹. Again, the extent of the deviation from the Judgment is manifest.

10. It should come as no surprise that the Libyan delegation showed no interest in these proposals which were, in fact, nothing more than attempts to change the Judgment. Instead, the Libyan delegation insisted that the Judgment was specific and clear and required only that the technical work of the experts be promptly accomplished, as it could be, without difficulty.

11. The diplomatic correspondence shows that, following the meeting of May 1982, Libya pressed Tunisia to get on with the task of implementing the Court's Judgment. To this end, by Note Verbale dated 5 June 1982, Libya invited Tunisia to send a delegation of experts to Tripoli in early June to accomplish their technical task. By a Note Verbale dated 12 June 1982, Tunisia responded by suggesting that a meeting be held on 25 June 1982 for the work of the experts to be resumed.

12. This meeting eventually occurred on 19 July 1982. The Libyan representatives reiterated their view that the Judgment was clear, precise and could be easily implemented by the experts of the Parties while Tunisia stuck to its position that the Judgment was ambiguous and contradictory. Tunisia was informed that Libya was interested solely in the purely technical implementation of the Judgment by the experts of the two Parties.

13. Seeing that Tunisia's attitude during these meetings prevented progress from being made towards the conclusion of a treaty implementing the Court's Judgment, Libya sent Tunisia a Note Verbale dated 10 August 1982 in which Libya specified the precise course of the delimitation line that it considered would faithfully and accurately carry out the Judgment of the Court. Libya expressed the hope that Tunisia would be ready to agree on the line thus defined in order that the Judgment could thereby be carried out and a treaty drawn up.

14. Tunisia's response came in a Note Verbale dated 14 August 1982, a copy of which Tunisia furnished to the Court. In this Note, Tunisia complained about "the hindrance to the experts in concluding their task" — a strange statement in the light of prior events and of the fact that the experts had not even started their technical task — and suggested that the best course to take was to return jointly to the Court under Article 3 of the Special Agreement. Tunisia urged an immediate meeting between the Parties to prepare the joint request to go back to the Court since the three-month period prescribed by the Special Agreement (renewed already once) was to expire in a few days.

15. Given the variety of Tunisia's proposals at the May meeting, Libya concluded that it should at this stage ask Tunisia to state in writing its exact position as to the course of the delimitation line so that it could be determined what, if any, differences existed between Tunisia's position and the Libyan position as it had been expressed in Libya's Note of 10 August 1982. In a Note

¹ The account of this meeting is based on a report prepared by the Libyan delegation. Tunisia refused to sign joint minutes of the meetings because the Parties had not yet agreed on extending the three-month time period provided for in Article 3 of the Special Agreement. This time period eventually was extended by means of an exchange of Notes on 20-22 May 1982.

Verbale dated 22 August 1982, Libya expressed the view that until that step had been taken by Tunisia it was of no use to convene a meeting to discuss going back to the Court. Seven weeks passed without a Tunisian response. Accordingly, on 11 October 1982, Libya again took the initiative and sent a Note Verbale which, *inter alia*, invited Tunisia, if it still believed it necessary to return to the Court, to prepare a draft request specifying the point or points requiring interpretation or clarification in the view of Tunisia. Further Notes were subsequently exchanged in which Libya continued to urge Tunisia to state precisely in writing all the differences Tunisia had with the solution contained in Libya's 10 August 1982 Note which had been prepared in accordance with the *dispositif* of the Court's Judgment. Inexplicably, Tunisia expressed astonishment at Libya's request for specificity and accused Libya of refusing to return to the Court.

16. Tunisia even went so far as to inform Libya, in its Note of 28 February 1983, that it considered that Libya had rejected the provisions of Article 3 of the Special Agreement (I) and that Tunisia, therefore, had "decided to go back to the Court unilaterally in the near future to request interpretation and clarification". Libya responded by emphasizing that it had at no time rejected the provisions of the Special Agreement¹. It pointed out, however, that if Tunisia wished to return jointly to the Court under Article 3 then Tunisia should identify exactly which matters it regarded as requiring interpretation or clarification. This was all the more necessary since Tunisia was then aware of Libya's precise position as to the line of delimitation which would carry out the Judgment of the Court in accordance with its terms.

17. In an apparent change of mind, Tunisia informed Libya on 28 April 1983 that it had postponed its decision to return unilaterally to the Court. Tunisia suggested that one final attempt at breaking the deadlock be made. Yet even this Tunisian Note was imprecise and went on to suggest that as part of the agenda of the meeting there should be an exchange of views regarding delimitation of maritime zones other than the continental shelf — a matter clearly falling outside the scope of the experts' task.

18. Notes continued to be exchanged and an ineffectual meeting was held during 14-16 December 1983². Following this, the Tunisian Prime Minister sent a letter dated 23 January 1984 in which he again alluded to Tunisia's position that the Judgment was ambiguous, contradictory and imprecise. The letter went on to suggest, among other things, that the eastern boundary of the Tunisian concession be accepted by Libya as the boundary in the first sector. While raising the possibility of returning together to the Court to seek clarifications, the Tunisian Prime Minister noted that this alternative did not generate a great deal of enthusiasm on the part of Tunisia. Libya responded by a letter dated 4 April 1984. This letter expressed Libya's regret over the fact that the Tunisian experts had attempted to open negotiations on the substance of a Judgment which was binding on the Parties, instead of sticking to the technical task of implementing a Judgment which was clear. Libya rejected the suggestions stated in the Tunisian letter³.

19. From this history, certain conclusions emerge. Libya believed the Judg-

¹ Libyan Note Verbale dated 16 March 1983.

² At this meeting, Tunisia's representatives presented a draft delimitation agreement which left blank spaces for each of the key elements of the course of the delimitation line. Thus, once again, Tunisia failed to indicate in writing its position as to the course of this line.

³ This account of the meetings and exchanges between the Parties can, of course, be considerably expanded but the foregoing appears adequate.

ment to be clear and precise and not difficult to implement. It pressed Tunisia to meet in order to get on promptly with the technical task of the experts. The Application has, however, described Libya's conduct in the following terms: "Libya, for its part, clung to the repeated assertion that the Judgment was perfectly clear and could be implemented without any difficulty. . ." (para. 2). As was indicated in the Introduction, Libya still "clings" to this assertion. The Application goes on to say in the same paragraph that Libya has — ". . . categorically refused to examine the questions raised by Tunisia". As the record shows, this is simply not true. While Libya did regard proposals to renegotiate portions of the Judgment and to discuss maritime areas other than the continental shelf as outside the competence of the delegations and inconsistent with the Court's Judgment, Libya, far from refusing to discuss questions raised by Tunisia, urged Tunisia to put its position as to the course of the delimitation line in writing in precise terms so that any issues or differences between the Parties as to the interpretation of the Judgment could be made clear. This Tunisia refused to do. On the contrary, Tunisia sought from the very outset to reopen the Judgment, complaining of its ambiguity and errors. Thus, the statements appearing in paragraph 3 of the Application are misleading in that they create a one-sided impression of Libyan obduracy and of "rigidly clinging to their viewpoint". In fact, Libya sought to carry out the Judgment in accordance with its terms; Tunisia sought to open up through negotiations matters settled by the Judgment. As a result of the Tunisian attitude, the experts were prevented from undertaking their purely technical task in accordance with the Special Agreement, as Libya repeatedly urged.

20. A second conclusion that emerges is that, far from refusing to return jointly to the Court under Article 3 of the Special Agreement, Libya urged that Tunisia specify in writing the precise differences it considered existed between the Parties. Tunisia continuously evaded taking this step. Libya has not the slightest doubt that its insistence on drafting terms of reference for referral to the Court setting forth the precise differences between the Parties was appropriate and that otherwise a return to the Court would have been fruitless and contrary to the spirit, if not the letter, of the Court's own procedures. It is noted, for example, that Article 98 (2) of the Rules specifies that a request for interpretation of a judgment must indicate "the precise point or points in dispute". It was this which Libya sought and which Tunisia refused to do either in the context of the discussions between the Parties or in connection with a return to the Court under Article 3 of the Special Agreement.

21. The statement in paragraph 56 of the Application implying that Libya refused to return to the Court is, therefore, incorrect. It is there asserted that ". . . despite the invitations of the Tunisian Government, the Jamahiriya has not agreed to join Tunisia in returning to the Court together on the basis of Article 3". However, the record shows quite the contrary. It was Tunisia that thwarted its own desire to return to the Court by its failure to clarify the points or questions at issue which it wished to refer back to the Court. What Tunisia sought throughout the discussions between the Parties, and what it evidently hoped to obtain by a return to the Court, were changes in the Judgment so as to obtain a more favourable line for Tunisia. Thus, while evading the implementation of the Court's Judgment, Tunisia at the same time refused to commit itself in writing to the exact questions requiring clarification. It evaded the duty of making its position precise so as to keep all of its options open. This same tendency is seen in the diversity of the requests now contained in the Application.

22. In the light of Tunisia's conduct since the rendering of the Court's Judgment, and its insistence on the contention that the Judgment is unclear, it is

ironic to find that the Tunisian State petroleum company, E.T.A.P., apparently did not find it difficult to draw the delimitation line as set forth in the Court's *dispositif* on a map of the offshore Tunisian concession areas¹. This map is dated 31 December 1982 and indicates, as closely as may be ascertained from its scale, the line as passing through the Point 33° 55' N; 12° E (and not through Point 5 on the Tunisian 1966 Concession as the Application now suggests) and veering at an angle of 52° at the latitude of approximately 34° 10' 30" N, the latitude at which the Court found the most westerly point of the Gulf of Gabes to appear to lie.

23. Finally — and perhaps most important in relation to the issue of the admissibility of the Application — never during any of the meetings following the Judgment nor in any official exchanges between the Parties did Tunisia request information from Libya regarding the co-ordinates of Libyan Concession No. 137 or of any other concession, let alone request to be furnished with a copy of the Resolution of the Libyan Council of Ministers of 28 March 1968. As will be seen below, this same lack of interest in the details of the Libyan concessions was manifest in Tunisia's written and oral pleadings.

III. Background Facts regarding the Resolution of the Libyan Council of Ministers of 28 March 1968 and Libyan Concession No. 137

24. Since the supposed "new fact" allegedly discovered by Tunisia on which the Application rests is the text of the Libyan Council of Ministers Resolution of 28 March 1968, it is necessary to examine this document as a preliminary step to considering the question of the admissibility of Tunisia's request to revise the 1982 Judgment under Article 61 of the Statute of the Court. This document was hardly a secret or issued in a "semi-clandestine" manner². The entire text of the Council Resolution was published in the Libyan *Official Gazette* on 4 May 1968. A copy together with an English translation is attached to these Observations as Annex II³. The document is a mere three pages in length and contains no details as to Concession No. 137. No map is included as part of the Resolution⁴. What it consists of is the approval of a submission of the Minister of Petroleum Affairs as recommended by the High Council of Petroleum to grant to two companies, Aquitaine Libye and ERAP, the right to exploit certain petroleum areas as defined in a Concession Agreement negotiated between these companies and the Libyan Ministry of Petroleum Affairs. The Agreement itself is not annexed to the Resolution.

25. Publication of the Council Resolution in the *Official Gazette* was a requirement of Libyan law. The text of the Council Resolution itself was not only published in the *Official Gazette* but it had also been published by the *Middle East Economic Survey*, known as *MEES* ("A weekly review of news and views on Middle East Oil"), on 9 August 1968⁵. The source of authority for approval

¹ A copy of this map has been deposited with the Registry.

² See Ben Achour, *op. cit.*, p. 291.

³ It is curious indeed that this document — the supposed "new fact" allegedly discovered recently by Tunisia — was not in fact furnished to the Court with the Application.

⁴ The reference in Article 1 of the Resolution to an accompanying map refers to the map attached to the "Concession Contract" which was not annexed to the Resolution. This map appears in Annex 7 of the Libyan Counter-Memorial.

⁵ The cover page on this edition together with pages 12 and 13 thereof containing an English translation by *MEES* of the Resolution as published in the *Official Gazette* on 4 May 1968 are attached hereto as Annex III.

by the Council of Ministers of the grant of Concession No. 137 was Libyan Petroleum Law No. 25 of 1955 and Regulation No. 1 issued thereunder. But while publication of the Council Resolution was required by Libyan law, it did not require the official publication of the concession nor of any details regarding it, and the Resolution in fact contained no details such as co-ordinates. The Libyan practice of not publicly publishing co-ordinates of its concessions is not an uncommon practice. Thus, anyone obtaining the officially published Council Resolution would immediately become aware of the fact that details regarding the Concession granted to Aquitaine Libye and ERAP would have to be obtained elsewhere. And, indeed, various external bodies make it their business to ascertain details of such concessions, not only in Libya but throughout the world. In fact, the Geneva-based oil consultant firm, Petroconsultants, addressed an inquiry to Libya's National Oil Corporation (the "NOC") on 8 December 1975 regarding the geographical co-ordinates of Libya's petroleum exploration concessions. On 30 May 1976, the NOC replied giving the exact co-ordinates of the area retained by Aquitaine Libye-Elf Libya under Concession No. 137. On 20 March 1977, the NOC sent to Petroconsultants the co-ordinates of Concession No. NC 76, a new Concession which covered the southern portion of the original Concession No. 137 granted in 1968. Thus, Petroconsultants obtained the complete co-ordinates of these Concessions in 1976 and 1977 by simple inquiries directed to the NOC. A copy of each letter may be found in Annex IV attached hereto. The significance of these facts will be brought out in Section IV below where the matter of the inadmissibility of the Application is dealt with.

26. As indicated in the Libyan Memorial (I), Concession No. 137 was granted on 30 April 1968. Aside from its terms and conditions, it contained several annexes: the first annex consisted of the text of the Council Resolution; the third annex, in English, was a description of the co-ordinates of the Concession; the fourth was a map of the Concession, a copy of which was attached as Annex 7 to the Libyan Counter-Memorial (II). It is the third annex to the Concession bearing a date of 13 April 1968, which is of special interest in connection with the Application and, therefore, a copy has been attached hereto as Annex V. For it is that document, namely the annex to the Concession Agreement, rather than the Council Resolution which Tunisia has furnished with the Application as Annex II. The supposed "new fact" — the text of the Council Resolution — appears nowhere in the application: what is furnished is a different "fact", namely annex 3 to the Concession Agreement¹. Moreover, annex 3 of Concession No. 137, which was furnished with the Application, was apparently misunderstood by Tunisia as well as by its expert who "discovered" it. *First*, the Application appears to assume that this one-page annex giving the co-ordinates of Concession No. 137 was a part of the Council Resolution, which it was not. *Second*, the title of this annex — "Description of Concession 137 as Defined in the Resolution of the Council of Ministers of March 28, 1968" — seems to have

¹ Although reference is frequently made in these Observations to annex 3 of Concession No. 137 which contains its co-ordinates, a document which Tunisia claims to have discovered only recently, the Application in fact relies on the Council Resolution, a totally different document which makes no mention at all of these co-ordinates. It is possible, therefore, that the Court may take the view that the claims of Tunisia set forth in the Application are vitiated by the fact that the supposed key document, the Council Resolution, has not in fact been furnished with the Application. By referring to annex 3 of Concession No. 137 in these Observations, Libya does not accept this defect in the Application.

been misread. The word "defined" modifies "Concession" — and as seen above the Council Resolution made only the most general reference to the Concession, containing no precise details as to the area covered or its co-ordinates.

27. Leaving to one side the fact that this extraordinary request to reopen the 1982 Judgment is based on the text of a document not even furnished with the Application, it is evident that the Council Resolution was published and, therefore, available to anyone interested in petroleum affairs in this part of the world. Its text would have immediately alerted such a person to the fact that for further details regarding Concession No. 137 the Concession itself or information derived from it would have to be sought. The two companies holding this Concession were by no means unknown to Tunisia. Elf-Aquitaine, the parent company of Aquitaine Libye, held the adjoining Tunisian 1966 Concession to the west. Moreover, *MEES* had obtained and published the Council Resolution text in 1968 and Petroconsultants had obtained the exact co-ordinates of the area covered by the original Concession No. 137 in 1976 and 1977. Information of this kind obtained by Petroconsultants is not confidential; they are in the business of disseminating petroleum data to interested parties. These facts, therefore, set the stage for an examination of the admissibility of the Application.

IV. The Inadmissibility of the Application for Revision

28. In its first Submission, Tunisia requests the Court to adjudge and declare:

"As regards the first sector of the delimitation:

That there is a new fact of such a character as to lay the Judgment open to revision within the meaning of Article 61 of the Statute of the Court;

That the application for revision submitted by the Tunisian Republic is on that account admissible."

29. Requests for revision are governed by Article 61 of the Statute. It is apparent that Article 61 places a heavy burden on the party seeking revision by providing that an application for revision may only be made when certain specific conditions are satisfied by the applicant. These conditions are:

- (i) the application must be based on the discovery of a new fact;
- (ii) that fact must be of such a nature as to be a "decisive factor";
- (iii) it must have been unknown to the Court when the judgment was given;
- (iv) it must also have been unknown at that time to the party claiming revision;
- (v) the party claiming revision must not have been ignorant of the new fact "due to negligence"; and
- (vi) the application must be made "at latest within six months of the discovery of the new fact".

30. Under Article 99 (1) of the Rules of Court, an application for revision of a judgment shall contain "the particulars necessary to show that the conditions specified in Article 61 of the Statute are fulfilled". This means that the party claiming revision bears the burden of proving that each of these six conditions has been met. It follows that if even one of the requirements of Article 61 is not satisfied by the applicant then the application cannot be considered admissible. As the ensuing discussion will demonstrate, Tunisia in its Application fails to sustain this burden; it has not proved that the conditions required under Article 61 have been satisfied.

A. THE ALLEGED DISCOVERY OF A "NEW FACT" UNKNOWN TO THE COURT AND TO TUNISIA WHEN THE JUDGMENT WAS GIVEN

31. Since "discovery" of a fact and "knowledge" of that fact go hand in hand, it will be useful to consider these elements of Article 61 together. For it is evident that a fact cannot be "discovered" if it was already known. Accordingly, this section will examine together the first, third and fourth conditions required by Article 61 and the deficiencies in Tunisia's Application with respect to them.

32. According to paragraph 50 of the Application, the "new fact" is said to be the discovery of the text of the Resolution of the Libyan Council of Ministers dated 28 May 1968. The alleged "decisive" nature of this "new fact" is that it contained the co-ordinates of Libyan Concession No. 137 which revealed a course of the north-western boundary of this Concession that is claimed in the Application to be "very different from the one emerging from the descriptions Libya gave during the written and oral pleadings". Paragraph 51 of the Application further states that these co-ordinates showed that the "north-western boundary of the Libyan petroleum concessions, and in particular that of concession No. 137, is not aligned on the south-eastern boundary of the Tunisian permit of 1966".

33. The background facts relating to the Council Resolution of 28 March 1968 have already been set out in Section III above. As explained in paragraph 26 above, the document dated 13 April 1968 which appears as Annex II to the original French version of the Application filed with the Court on 27 July 1984 is not the Council Resolution at all. It is an annex to the Concession Agreement. It bears the signatures of representatives of the Libyan Ministry of Petroleum Affairs and of the companies, Aquitaine Libye and ERAP. It also bears the seal of the Ministry. This annex to the Concession Agreement sets forth the area covered by the Concession in square kilometres as well as the co-ordinates of the boundaries of concession¹.

34. The data contained in the Concession Agreement annex accords with what Libya stated in its Memorial in paragraph 36:

"The area covered by this Concession was 6,846 square kilometres, lying to the eastward of a line running south/southwest from the point 33° 55' N, 12° E to a point about one nautical mile offshore. The point of origin viewed from Ras Ajdir is at an angle of 26 degrees."

The area covered is the same — 6,846 square kilometres. The starting point is the same — 33° 55' N; 12° E. Moreover, as Annex I attached to the Tunisian Application acknowledges, the south-western corner of this Concession — over which Tunisia expresses so much concern — does lie approximately one mile from the terminus of the land frontier at Ras Ajdir², and the bearing of the angle viewed from Ras Ajdir to the point of origin of the Concession (33° 55' N; 12° E) is approximately 26°³. As for the point 33° 55' N; 12° E, this was referred to in paragraph 36 of the Libyan Memorial as well as in paragraph 117 of the Court's Judgment where the Libyan Memorial was itself quoted, and it was shown on the numerous maps furnished with the Libyan pleadings. This point could readily have been ascertained from the map annexed to Concession

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¹ See Annex V hereto.

² Annex I, para. 7.

³ Annex I, para. 8 (a).

No. 137 and attached as Annex 7 to the Libyan Counter-Memorial¹. It is not convincing, therefore, for Tunisia, some four years after the filing of the Memorials, to complain in the Application that it "has never known what it signifies" (para. 18). The "fact" of 33° 55' N; 12° E was known: and whether Tunisia realized its significance is a quite different question.

35. Annex 3 to the Concession Agreement adds only some details as to the boundary co-ordinates of Concession No. 137 to the facts already set forth in paragraph 36 of the Libyan Memorial. As subsequent paragraphs will show, this Concession was portrayed by both Parties in their written and oral pleadings on small-scale maps. Neither Party showed any interest in the details as to the precise course of the boundary of Concession No. 137 or, indeed, of Tunisia's 1966 Concession, and neither Party furnished large-scale, detailed maps in this regard. Libya's descriptions of its concessions, therefore, were not intended to be detailed, but to give the general setting which was accurate given the scale of the maps presented. Nor were there any statements made by Libya as to a precise relationship of Libyan Concession No. 137 to Tunisia's 1966 Concession. That there was a generally common boundary between these Concessions, following a direction of approximately 26° as viewed from Ras Ajdir, was the extent of the descriptive detail given to the Court by Libya and portrayed on its small-scale maps and, as such, was correct. Moreover, as discussed in paragraph 42 below, the fact that there was some small amount of overlap between the 1966 Tunisian Concession and Libyan Concession No. 137 was depicted on Map No. 4 in the Libyan Counter-Memorial. Thus, there can be no question of Libya presenting a misleading picture of the course of its concessions before the Court.

36. Did Tunisia know of the co-ordinates contained in the document attached as Annex II to the Application? It appears that the answer to this question is that Tunisia must have known, for it is not credible that the details of Libyan Concession No. 137 were unknown to Tunisia. The very same parent company, Elf Aquitaine, held the adjoining concessions of the Parties, that is, the 1966 Tunisian Concession, the eastern boundary of which followed the stepped line, and Libyan Concession No. 137. So the co-ordinates of these concessions were hardly secret. They had been easily obtained by Petroconsultants. No doubt Tunisia could just as easily have obtained this information from the NOC, from the concession holders or from Petroconsultants, and it would be astonishing if some department of the Tunisian Government had failed to do so.

37. Other sources show the lack of credibility in Tunisia's assertion that the co-ordinates of Concession No. 137 were not known to Tunisia until within six months of the filing of the Application². Paragraphs 1.05 and 1.19 of the Tunisian Memorial (I) made heavy weather out of the fact that, unlike Tunisia, Libya never published details of its concessions. The way in which this point was made is interesting. For example, paragraph 1.05 of the Tunisian Memorial contains the following admission:

"... it is only indirectly, and often belatedly, that the Tunisian Government has been able to learn of encroachments on its continental shelf resulting

¹ Both the point of origin and the south-western corner of Concession No. 137 are included in the information provided by the NOC to Petroconsultants in 1976 and 1977. See paragraph 25 above and Annex IV hereto.

² The matter of reasonable diligence or "negligence" will be deferred to a subsequent subsection as will be a discussion of the requirement that the fact in question must be a "decisive factor". However, these questions and the discovery of a "new fact" allegedly unknown to the Court and to Tunisia are so interrelated as not to be capable of total separation.

from some of these licences — in practice, it had done so on account of prospecting operations by the concessionary companies.

It was in this way that the Tunisian Government learned, for example, that Licence No. 137 [held by the same companies as the adjoining Tunisian concession to the west] . . . encroached upon the continental shelf of Tunisia or, at the very least, was being used [to undertake exploratory operations] in areas located on that shelf.”

Is this not an admission by Tunisia that information regarding Libyan Concession No. 137 had been or could readily be obtained — as has been shown in paragraph 36 above?¹

38. The footnote to this same paragraph is also of interest :

“This concession, apparently granted in 1968, has never, to the knowledge of the Tunisian Government, been officially publicized by Libya. The only information given to Tunisia by the Libyan Government regarding the area to which it relates is contained in a Note Verbale of 30 March 1976 (see para. 1.19 below).”

A similar statement appears in paragraph 1.19 of the Tunisian Memorial. These statements evidently were made to counter an anticipated argument by Libya that Tunisia had never protested Concession 137. Tunisia’s defence was that it had no *official* knowledge of it. Tunisia never stated in its pleadings that it had *no* knowledge of this fact². As said in paragraph 1.19 of the Tunisian Memorial: “The note of 30 March does not itself contain any precise indication of the line of delimitation claimed by Libya and was not accompanied by a map.” In footnotes 3 and 4 to paragraph 1.19 it is observed that the Libyan Note Verbale of 30 March 1976 (Annex 26 to the Tunisian Memorial) implicitly recognized this absence of detail. But what is more important is the comment that appears in footnote 3. First, it quotes from the Note —

“. . . the Libyan Arab side has expressed the willingness of the Libyan Arab Republic to assist the Tunisian High Representative in Tripoli to obtain maps of the area under the sovereignty of the Libyan Arab Republic; these maps have already been published, registered and distributed and are available to all, assuming that the Tunisian High Representation has not already had cognizance of this³”.

The footnote adds: “It would have been simpler for the Libyan Government itself to transmit the maps in question to Tunisia; this has never been done.”

39. What stands out from these excerpts is the constant qualification of Tunisia’s alleged lack of knowledge regarding Libyan Concession No. 137 by the word “official” — connoting the absence of any official communication by Libya. They reveal Tunisia’s concern over a possible Libyan argument based on acquiescence or estoppel on the grounds that Tunisia never protested the granting

¹ See also paragraph 25 above where it is pointed out that the text of the Council Resolution, which was published in the *Official Gazette*, would have alerted Tunisia to the fact that for details as to Concession No. 137 further inquiry would be necessary. For the Resolution expressly refers to a “Concession Contract”, which was not annexed to the Resolution. See Annexes II and III hereto.

² The availability of this information from the NOC, from the concession holders and from Petroconsultants makes Tunisia’s failure to deny actual knowledge — as opposed to official communication — quite understandable.

³ It is evident from the Libyan Note Verbale of 30 March 1976 (Annex 26 to the Tunisian Memorial) that the maps offered to be provided contained information as to Libyan concessions.

of Concession No. 137. But they do not contain any statement by Tunisia that it did not *in fact* have detailed knowledge of this Concession. Annex 8 to the Tunisian Memorial contains a unilateral record dated 22 July 1968 of the meeting that was held between the Parties from 15 to 20 July 1968. The record was signed by the head of the Tunisian delegation. It makes it clear that the cause of the meeting was Tunisia's concern over the fact that the same company had signed concessions with both Parties covering adjoining areas. Clearly, Tunisia knew enough about the location of Concession No. 137 just two months after the Concession had been granted to spur it on to seek further details if it had wished to do so¹.

40. The Libyan Counter-Memorial raised the matter of Tunisia's knowledge of Concession No. 137 head on in paragraph 50, the first two sentences of which are of particular relevance:

"One may contrast with this the constant restraint of Libya in using as a point of reference a line drawn in the direction of about 26° from Ras Ajdir which was first adopted by Tunisia in the 1966 concession grant to the French company Aquitaine. However Tunisia may now attempt to present the facts, it is quite clear that Tunisia from 1968 was well aware that a concession following the direction of this line had been granted by Libya to the same company, Aquitaine."

Tunisia did not deny this assertion during the written or oral proceedings; nor has Tunisia requested from Libya the detailed co-ordinates of Concession No. 137. Tunisia appeared content to rest its case on the excuse that it lacked "official" cognizance².

41. The Application appears, however, to attach importance to two distinct issues in this regard. The first issue concerns the angle or bearing of the boundaries of the two concessions and whether the concessions were precisely aligned. The second issue concerns the significance of point 33° 55' N; 12° E. As to the first issue, what is evident from the discussion of the 26 line and of the concessions boundaries in both the written and oral pleadings of Libya is that only generally descriptive terms were used. This clearly emerges from certain remarks of counsel for Libya. For example, Concession No. 137 was described by saying that it — ". . . appears to run generally parallel on the western side [parallel to the Tunisian 1966 Concession] with its western boundary generally at 26° from Ras Ajdir"³. This statement referred to a "virtually common boundary", described in this way: "Theoretically there were little gaps, of course, but virtually a common boundary"⁴. These are hardly words indicating an exact alignment between the lines of the two concessions⁵.

¹ Recent efforts by Tunisia to characterize the granting of Libyan concessions as "semi-clandestine" obviously lack substance. See Ben Achour, *op. cit.*, p. 291.

² A statement by the Libyan Agent during the oral hearings is of relevance in this context:

"Starting in 1968, Libya began its exploration activities in the newly granted Concession 137. The activities were conducted for Libya by the French Company Elf-Aquitaine, the same company that obtained the Tunisian concession granted in 1966, that bordered Concession 137 to the west. Libyan activities were not secret." V, p. 11.

³ V, p. 45.

⁴ *Ibid.*

⁵ In this same statement, counsel for Libya made another remark in the same vein as paragraph 50 of the Libyan Counter-Memorial:

"Both these concessions, it may be noted, were to the French company, Aquitaine,

61 42. The Libyan Counter-Memorial contained an illustration of considerable significance in this regard. This was Map No. 4. It is a small-scale map showing the Tunisian concessions with the Libyan "concession — E.P.S.A. Line" superimposed by means of an overlay. What this map reveals is the lack of precise alignment of the Libyan concession line — including the western boundary of Concession No. 137 — with the zig-zag eastern boundary of Tunisia's 1966 Concession. The Libyan line clearly overlaps the Tunisian Concession to a small extent. Thus, the fact that there was no precise alignment was a fact known both to the Court and to Tunisia upon receipt of Libya's Counter-Memorial. The discussion of the concessions history in paragraphs 36 and 37 of the Libyan Counter-Memorial can only be read as indicating in a general way the fact that the boundaries of the two Concessions followed the same direction. No allegation of precise alignment can be found in Libya's pleadings; indeed, Map No. 4 referred to above shows the contrary. Moreover, the "E.P.S.A. Line" depicted on Map No. 4 of the Libyan Counter-Memorial followed the western boundary of four Libyan concessions — NC 76, 137, NC 41, NC 53 — all of which are mentioned in paragraph 133.C (2) of the *dispositif* of the Court's Judgment.

43. The cumulative effect of these references is to cast serious doubt on any claim that Tunisia was not aware of the overlap between it and Tunisia's own Concession and the lack of any precise alignment. Map No. 4 of the Libyan Counter-Memorial brought this fact to the attention of both the Court and Tunisia.

44. The Court's description of the bearing of this line was also stated as approximate. As indicated by the Court in paragraph 121 of the Judgment: "On the information available to the Court, that angle appears to be 26°". Thus, what follows in the *dispositif* as to the bearing of this line and its relationship to the concessions of the Parties can only be regarded as generally descriptive, although it is of significance that the line of approximately 26° was noted by the Court as "corresponding" not to the Tunisian 1966 Concession but to the north-west boundary of the Libyan Concessions¹. Neither of the Parties provided the Court with the data from which any exact calculation could have been made. In this context, footnote 2 to paragraph 1.05 of the Tunisian Reply (IV) is of relevance. There it is admitted that the eastern boundary of the Tunisian 1966 Concession followed an angle of about 26° as measured from Ras Ajdir². Therefore, it is unacceptable for Tunisia now to complain in the Application that this Concession really followed a 28° or 29° line.

41 45. Such small-scale maps as Map No. 3 in the Libyan Memorial and Map
62 No. 5 in the Libyan Counter-Memorial, referred to in paragraphs 25 and 31 (a) of the Application, were, similarly, intended to be illustrations of the general situation of "virtually a common boundary". They cannot be characterized as "an inexact representation of reality". Indeed, on so small a scale they could not have been other than general illustrations even though, within this scale, Libya made every effort to be accurate. This fact is further illustrated by the fact that

and as I have just said, not only does it show that Tunisia was fully aware of the grant of the concession by Libya, but it also shows that Tunisia was fully aware of the significance in connection with the problem of the delimitation of the continental shelf of the grant of concessions." V, p. 46.

¹ It is noteworthy that the Court was referring here not merely to Concession No. 137, but to the western boundary of all four Libyan Concessions — NC 76, 137, NC 41 and NC 53. Moreover, as noted in paragraph 63 below, the Court indicated in paragraph 121 of its Judgment that: "The 26° line therefore reflects all appropriate factors . . ."

² See also Ben Achour, *op. cit.*, at p. 250, where the same assertion appears.

the end point of Libyan Concession No. 137 — which was stated in Libya's pleadings as lying approximately one mile offshore — would not have been revealed at all on a map of this scale. A line from Ras Ajdir to the seaward point designated by the Court would on such a small scale cover up this offshore point even though it in fact lay one nautical mile east of Ras Ajdir.

46. The second issue raised by the Application with regard to the concessions of the Parties concerns the significance of point 33° 55' N; 12° E. As observed in paragraph 34 above, the Application's numerous references to Tunisia's lack of knowledge concerning the significance of point 33° 55' N; 12° E are not convincing. The fact is that the point was specifically identified in paragraph 36 of the Libyan Memorial, so Tunisia certainly knew of it. The deduction which is made in paragraph 21 of the Application that this point must be a corner point determining the perimeter of Concession No. 137 could have been made at any time by Tunisia without asking either Libya or Elf-Aquitaine for details and without "discovering" the "new fact" — the Council Resolution, or more pertinently, the co-ordinates of Concession No. 137.

47. The line so precisely prescribed by the Court evidently followed neither the boundary of the Libyan Concessions whose origin did not lie at Ras Ajdir, nor the Tunisian Concession, whose configuration — as Tunisia well knew — precluded any boundary along a straight line and which did not pass through 33° 55' N; 12° E in any event. Moreover, Tunisia indicates in paragraph 27 of the Application that it knew that the Court's precise line overlapped with its 1966 Concession. So, allegedly "as a last resort", Tunisia turned to an expert. And the alleged "new fact" turned up by the expert had no relationship at all to either of the difficulties mentioned in paragraph 27 of the Application — that is, the overlap of the Court's line with the Tunisian 1966 Concession and the impossibility of a straight line forming the south-eastern boundary of the Tunisian permit, — for this "new fact" (whether the Council Resolution or the co-ordinates of Concession No. 137) related only to the boundaries of Concession No. 137 and not to a line between Ras Ajdir and the point 33° 55' N; 12° E, nor to the boundary of the Tunisian permit, nor even to the boundary of the other Libyan concessions mentioned in the Court's *dispositif*.

48. In summary, it has been shown that no "new fact" unknown to the Court or to Tunisia, within the meaning of Article 61 of the Statute, has been discovered by Tunisia on which this Application can be deemed admissible. Even if the Tunisian Agent and delegation were unaware of the co-ordinates of Libyan Concession No. 137, it is highly unlikely for this ignorance to have been shared by other departments of the Tunisian Government, especially in the light of the fact that one of the concessionaires held both the Libyan and Tunisian concessions. Moreover, other sources of this information were available as amply discussed in Section III above. It is appropriate, therefore, to turn to the next requirement of Article 61, the absence of "negligence" on the part of the applicant. For in the light of the ease with which information regarding the details of Concession No. 137 could have been obtained, it is evident that Tunisia fails to satisfy this requirement as well.

B. TUNISIA'S FAILURE TO EXERCISE REASONABLE DILIGENCE TO OBTAIN THIS "NEW FACT"

49. As indicated above, it is not enough for a party claiming revision merely to point to the discovery of a "new fact" for an application for revision to be admissible. Under paragraph 1 of Article 61 of the Statute, the claimant must

also prove that it was not ignorant of the fact "due to negligence". This condition of Article 61 was not required under the various model texts for revision that the Advisory Committee of Jurists first considered in their deliberations on the drafting of the Statute of the Court in 1920. Article 55 of the 1899 Convention for the Pacific Settlement of International Disputes and Article 83 of the Convention of 1907, for example, contained no such provision. Hence, it is an important new addition to the conditions of admissibility under Article 61.

50. The *travaux préparatoires* of the Court's Statute indicate that the concept of a party's negligence in knowing of a particular fact was considered in a number of ways. On the one hand, it was suggested that the new fact "must be of such a nature that the party in question *could not* have knowledge of it". As the records of these proceedings state: "The justice of this was fully recognized"¹. For his part, Lord Phillimore introduced the idea of "due diligence" on the part of the party claiming revision. This, in turn, led to the stipulation that "such ignorance must not be due to a failure on the part of the party to use due diligence in the conduct of the case"².

51. The question is, therefore, whether Tunisia — even if it was ignorant of the alleged "new fact" — exercised due diligence in the conduct of its case in this respect. Clearly this question must be answered in the negative. For the information which Tunisia now alleges to constitute a newly discovered fact of "decisive" importance was readily available as been pointed out above. As the record shows, Libya offered to supply Tunisia with the relevant maps³. In its written and oral pleadings, Libya repeatedly asserted that Tunisia obviously was informed as to Concession No. 137. With these offers and this assertion, what did Tunisia do? Nothing. Why did Tunisia not turn to the NOC for this information as Petroconsultants had successfully done? Or for that matter, why did Tunisia itself not ask Petroconsultants for this information since other information provided by Petroconsultants was referred to during the proceedings? Yet during the period before the submission of written pleadings, and during the written and oral stage of the pleadings, and even between the rendering of the Judgment and the submission of the Application, Tunisia failed to ask Libya, either directly or through the Court, for the details regarding Concession No. 137 that it now regards to be so "decisive".

52. It surely is not enough, in order to satisfy the requirements of Article 61, to rely on a statement such as that found in paragraph 19 of the Application: "Neither . . . did Libya see fit to produce the text of this concession during the proceedings before the Court", or merely to complain that Libya's written pleadings did not include the text of the Council Resolution said to contain the coordinates of Concession No. 137 (para. 50). Has Tunisia forgotten the position it took in its written and oral pleadings regarding the concessions of the Parties? It increasingly played down the significance of concessions. Moreover, Tunisia chose to show little interest in the western boundary line of Libyan Concession No. 137. Its interests lay far to the east.

53. Tunisia would apparently dispute the statement in the previous paragraph that never once did it request the details regarding Concession No. 137 let alone

¹ Permanent Court of International Justice. Advisory Committee of Jurists: *Procès-Verbaux* of the Proceedings of the Committee; 28th Meeting, 20 July 1920, p. 592. (Emphasis added.)

² *Ibid.*, Annex No. 1 to the 34th Meeting, 24 July 1920 at p. 744. Eventually, as the *travaux* indicate, the words "not due to negligence" were considered sufficient and were adopted into the present Article 61.

³ See para. 38 above.

the text of the Council Resolution. It does so only once in the Application — in paragraph 52 where there appears the following statement :

“*The Tunisian Government cannot be held negligent in any way, as its representatives have vainly requested their Libyan counterparts to communicate this text to them during the meetings between the two sides ever since 1968.*” (Emphasis added.)

Libya flatly denies this assertion. The burden of proof is on Tunisia to prove its accuracy, since it is for Tunisia to prove that the conditions of Article 61 have been met. Moreover, paragraph 52 reveals a serious flaw in the Application: the Council Resolution was officially published and, hence, readily available to Tunisia. But the text itself provides no “new fact” relevant to the case which the Application tries to make. The above-quoted passage is interesting in another respect as well. It reveals that Tunisia apparently was aware ever since 1968 of the Council Resolution. This is not surprising since its text had been published in the *Official Gazette* of Libya on 4 May 1968 and was publicly available elsewhere¹. Assuming that Tunisia had not been able to obtain this information from other sources, why did Tunisia never ask Libya for this text? There would have been no reluctance — indeed no reason for reluctance — on Libya’s part to supply it promptly. Even had Tunisia requested this document, it would have been incumbent upon it to pursue this request during the proceedings before the Court if the document had not been obtained. Not to do so would surely be a “negligent” act. Had it obtained the text, it would have constituted “negligence” not to seek the further details regarding Concession No. 137 which Tunisia now regards to be so “decisive”².

C. THE “DECISIVE” FACTOR

54. Reverting to Article 61 of the Statute, it is a requirement of that Article that the “new fact”, which forms the basis for the application for revision, be “of such a nature as to be a decisive factor”. The meaning of this is clear: to be “decisive” the fact must have a significant bearing on the case so that, if known to the Court prior to the rendering of its judgment, that fact would have led the Court to a different result than the one reached. A revision under Article 61 is aimed at bringing this “new fact” to the Court’s attention so that it may revise its judgment accordingly. As will be shown in the following paragraphs, the Application fails to sustain the burden of showing that the “new fact”, even in isolation, could have been a “decisive” factor. Moreover, the argument that this “fact” was “decisive” is quite untenable when one considers that the Court evidently took account of a wide range of factors as relevant to its decision.

55. Tunisia bases the alleged decisiveness of the “fact” in question on the claim that neither the Court nor Tunisia were aware that the western boundary of Concession No. 137 was not precisely aligned on the zig-zag boundary of the 1966 Tunisian Concession and that, had the Court been aware of this fact, it would have arrived at a different result. The first point to be made in response is that the real basis of Tunisia’s complaint lies not in the western boundary of

¹ See para. 25 above and Annexes II and III hereto.

² It would also be of interest to know why the expert consulted by Tunisia in the preparation of the Application apparently had no difficulty in acquiring the co-ordinates of Concession No. 137.

Concession No. 137, but in the configuration of its own Concession. The simple fact is that due to the peculiar stepped-like boundary to Tunisia's 1966 Concession, *no* straight line — not even the boundary of Concession No. 137 — could have “aligned” itself with this Concession. “Alignment” in this sense was physically impossible, as Tunisia knew. So also was the Court aware of this fact since it had been depicted by Map No. 4 in the Libyan Counter-Memorial. (61) Indeed, this fact is expressly recognized by the Expert Report annexed to the Application where it is stated that —

“it is difficult to determine the alignment of the boundary of the Tunisian permit, precisely because the south-eastern corner points of this boundary are not in line (any more than the north-western corner points, moreover) ¹”.

56. It is also of relevance that by the time the Judgment was rendered, the question of alignment between the Libyan and Tunisian concessions had become moot. As revealed by the maps prepared by Petroconsultants and attached at Annex 9 of the Technical Annexes to the Libyan Counter-Memorial, the Tunisian 1966 Concession was relinquished during 1978. It thus appears that throughout the proceedings before the Court leading up to the Judgment, there was no Tunisian concession in this area which could be “encroached” upon, or which could be aligned with Libyan Concession No. 137, or with which a delimitation line could be aligned. There is, therefore, no validity in Tunisia's argument that the Court's Judgment must be revised because there was no perfect alignment of the concessions. Since no such alignment was possible, the “discovery” of the precise co-ordinates of the Libyan Concession No. 137 does not justify Tunisia's attempts to replace the delimitation decided by the Court with a new line passing through new co-ordinates. The relinquishment of Tunisia's Concession in 1978 supports this conclusion *a fortiori*.

57. As noted above, throughout the case Libya dealt with the adjoining concessions of the Parties in generally descriptive terms, pointing to a “generally common boundary” following a line of approximately 26°. But suddenly, two years and five months after the rendering of the Judgment, Tunisia has pounced on a detail which it claims to be “decisive” in the case in order to open up the substance of the Judgment. Even within the context of the concessions of the Parties, this detail is of no great moment. The important fact was that there existed a *de facto* working arrangement which began in the period 1966-1968 and lasted over several years. The arrangement assumed an “approximate” boundary along the 26° line. A precise boundary between the 1966 Tunisian Concession and Libyan Concession No. 137 was never alleged and never at issue and was not possible, as Tunisia knew. Indeed, there could be no precise boundary, for overlap or gaps were inevitable.

58. This leads to the second element related to the concessions which is significant in determining whether the “new fact” discovered by Tunisia could amount to a “decisive factor”. As has been pointed out above, the north-western limit of Concession No. 137 was identified in the Libyan Memorial². However, it appears from paragraph 31 (a) of the Tunisian Application that it is the location of the south-western point of this Concession which allegedly came as a surprise to Tunisia and which apparently, therefore, constitute a critical element in the claim for revision. And yet this point lies a mere one nautical mile east of

¹ Annex. I, para. 8 (d).

² See para. 34 above.

Ras Ajdir and east of the line linking Ras Ajdir with $33^{\circ} 55' N$; $12^{\circ} E$ ¹. It simply is not possible that a matter of such a small magnitude could be considered "decisive" particularly since, regardless of where this point fell, a straight line linking it with the point $33^{\circ} 55' N$; $12^{\circ} E$ could not have been exactly aligned with the boundary of Tunisia's Concession any more than could a straight line from Ras Ajdir to that point. The Court had no need to rely on the south-western point of the Libyan Concession since it determined the line as from Ras Ajdir in order to find the point at the outer edge of the territorial sea from which the delimitation would start.

59. There is a third aspect of Tunisia's contention that calls for a response. Under the guise of having discovered a "new fact" justifying revision of the Judgment — a revision which necessarily would be based on that particular "fact" — Tunisia has proposed a totally new line for the first sector: a line based on what it claims to be the correct alignment to its 1966 Concession. From this, Tunisia has suggested a new point through which the line from Ras Ajdir should pass (last paragraph of the first Submission).

60. Such a suggestion represents an entirely new approach to delimitation in the first sector from that employed by the Court in the Judgment. The reasoning behind it is based on the "chronological priority of the Tunisian permit over Libyan concession No. 137" (para. 39). Hence, it is said, "the boundary to be taken into consideration for the establishment of a delimitation line can only be the south-eastern boundary of the Tunisian permit of 1966" (para. 39). The solution which the Application proposes in paragraph 40, therefore, is to draw the line in the first sector from the frontier point at Ras Ajdir through the point having the co-ordinates $33^{\circ} 50' 17'' N$; $11^{\circ} 59' 53'' E$, which is said to be "the most easterly point on the Tunisian permit" (Point 5 on the annexed plates²).

61. Herein lies a serious problem for Tunisia. Even this new line which Tunisia now proposes overlaps in places with Tunisia's 1966 Concession. These areas of overlap occur in the territorial sea and beyond. This can readily be perceived from Plate 7 included in Annex I to the Application. The "new fact" relating to Libyan Concession No. 137 is in reality totally irrelevant to the construction of the new first sector of the delimitation which Tunisia has proposed in its Submissions. There is nothing about the "new fact" that relates to Point 5 of the Tunisian permit; Point 5 was known to the Court and to the Parties prior to the Judgment. So also was the point $33^{\circ} 55' N$; $12^{\circ} E$ since it had been identified in paragraph 36 of the Libyan Memorial and recognized by the Court in paragraphs 121 and 133.C (2) of its Judgment. The only alleged unknown "fact" arising from Tunisia's ignorance was the element of the lack of precise alignment, resulting in a very slight overlapping of the Tunisian 1966 Concession and Concession No. 137. Given the fact that overlap was inevitable in view of the configuration of the Tunisian zig-zag boundary and that this overlap was revealed on Map No. 4 of the Libyan Counter-Memorial, where is the "decisive" element in the failure to produce "officially" the Libyan Council Resolution which, in any event, does not provide the co-ordinates? Does such failure to produce the document justify redrawing the line so as to pass through a point

¹ The Libyan Memorial did note that this point lay one mile offshore, and not at Ras Ajdir. It was also noted in paragraph 45 above that on a small-scale map a line drawn from Ras Ajdir to $33^{\circ} 55' N$; $12^{\circ} E$ would cover up the south-western point of Concession No. 137 as well. See also para. 64 below. The data obtained by Petroconsultants from the NOC did, of course, set forth the co-ordinates of this south-western point. See Annex IV hereto.

² It is noteworthy that the Expert Report (Annex I) never identified the co-ordinates of this point and suggested other lines in order to illustrate various possible "alignments".

on the Tunisian Concession as to which full facts have always been available and which had, in any event, been relinquished? And what would this modified line achieve in any event? It would still overlap — albeit in different areas than the Court's line — with both the 1966 Concession and Concession No. 137.

62. Thus far, the question whether the "new fact" is a decisive factor has only been considered in relation to the characteristics of Libyan Concession No. 137 and the 1966 Tunisian Concession. As has been observed above, Concession No. 137 was not the only Libyan concession referred to in the Court's Judgment. Moreover, it is evident that the conduct of the Parties reflected in the concessions history was only one of many relevant factors that the Court took into account in rendering its Judgment. The concessions of the Parties by no means constituted the sole circumstance that led the Court to arrive at a line of approximately 26° from Ras Ajdir as the line of delimitation in the first sector.

63. As mentioned in paragraph 4 above, the Court was requested by the Parties in the Special Agreement to take its decision according to equitable principles and the relevant circumstances which characterize the area. It is apparent that the Court did just that. As the Judgment reveals, a broad range of circumstances were examined and weighed. In addition to the concessions history, other factors and circumstances referred to by the Court as relevant to its decision and specified in the *dispositif* of the Judgment included: the general configuration of the coasts of the Parties; the existence and position of the Kerkennah Islands; the land frontier between the Parties; the line perpendicular to the coast at the land frontier which had, in the past, been observed as a *de facto* limit; and the element of proportionality¹. The 26° line was the result of the balancing up of all these factors; the Court's solution did not rest solely or decisively upon a precise alignment of concession boundaries. As was stated in paragraph 121 of the Judgment: "The 26° line therefore reflects all appropriate factors . . ."²

64. In addition, the Court was faced with the problem that the Parties had not delimited their territorial sea boundary, but had only fixed a common 12-mile outer limit. A starting point for the continental shelf delimitation had to be found at the outer edge of the territorial sea in these circumstances. It was this which was one of the key factors relating to the first sector and not the question whether any exact alignment of concession boundaries or small areas of overlap existed. The starting point for determining the line necessarily had to be the land frontier at Ras Ajdir. It, in turn, had to be connected with a point at sea in order to determine the point on the outer edge of the territorial sea of the Parties where the delimitation would begin. The point at sea selected by the Court was 33° 55' N; 12° E. The second part of paragraph 133.C (2) of the Court's *dispositif* — where it is stated that the line of delimitation "from the intersection point so determined . . . is to run north-east through the point 33° 55' N, 12° E" — defines exactly the course of this line without descriptive language.

65. It follows that even if there were a "new fact" as alleged by Tunisia, it cannot be regarded as a fact of such a nature "as to be a decisive factor" as is required under Article 61 of the Statute. On the purely factual plane, it has been demonstrated that the Achilles heel of Tunisia's claim for revision is the configuration of Tunisia's Concession, since Libyan Concession No. 137 could not have

¹ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, p. 93, paras. 133.B (2), (3), (4) and (5), *dispositif*. These factors and circumstances are also discussed in paragraph 121 of the Judgment.

² See, in this regard, *Anglo-French Arbitration, Decision of 14 March 1978*, p. 193, para. 112.

been perfectly aligned with the Tunisian Concession in any event. Of course, by the time of the Judgment the question of alignment was of no interest due to the relinquishment of Tunisia's Concession. In the light of all the other factors that the Court considered relevant in applying equitable principles to the delimitation, the text of the Council Resolution of 1968 regarded as the newly discovered "fact" cannot be regarded as "decisive".

D. THE TIME OF THE ALLEGED DISCOVERY OF THE "NEW FACT"

66. This last requirement of Article 61 calls for little discussion. The question is precisely when, how, and by whom the text of the Council's Resolution was discovered, particularly in the light of the fact that it is not the actual text of the Resolution that Tunisia has attached to the Application but rather a description of Concession No. 137 as set forth in annex 3 to the Concession Agreement itself. The same questions must be posed as to the "discovery" of this annex 3. Obviously, it is to be expected that Tunisia would make available to the Court these details in order to sustain its burden of proof that the requirement of Article 61 (4) has been met: "The application for revision must be made at latest within six months of the discovery of the new fact."

67. Only vague references to the time at which this text was obtained are contained in the Application. For example, paragraph 4 states:

"Quite recently, furthermore, a fact of such a nature as to be a decisive factor, which fact was, when the Judgment was given, unknown to the Court and also to Tunisia, has come to the knowledge of the Tunisian Government."

This sort of statement is not enough to establish that this element of Article 61 has been satisfied. For example, "quite recently" does not say when. On what date was this "fact" discovered? It is interesting to note in this regard that the covering letter of 15 March 1984 sent by Tunisia's expert to the Tunisian Agent, and included with the annexes originally filed with the Court by Tunisia, suggests that previous drafts of his report had been prepared and exchanged with representatives of Tunisia^{1,2}. A copy of this letter has been attached as Annex VI hereto. It indicates that the question of documents relating to Concession No. 137 had also been previously discussed. Based on this scanty information, it can only be surmised when Tunisia actually learned of the "new fact" from its expert. It is evident, however, that the expert would have had only slightly over two months to work on this project prior to his 15 March letter. These facts further emphasize the necessity for Tunisia to specify the date the "new fact" was discovered since, on its face, it appears most improbable that the six-month requirement of Article 61 has been met. It may be that disclosing the specific circumstances in which this "new fact" was discovered, *allegedly for the first time*, may pose certain problems for Tunisia. It is possible, for example, that although the Agent and his delegation may not have had this information — because they had not sought it — it was available to some other authority or agency of the Tunisian Government. Certainly, Tunisian officials interested in the oil sector

¹ This letter has not been included in the official version of the Application printed by the Court, although it was filed by Tunisia with its original Application.

² The letter in question, subsequently incorporated in the separate printed edition of the Application by way of an erratum, now appears on page 19, *supra*. [Note by the Registry.]

must be well acquainted with the services of Petroconsultants and of the *Middle East Economic Survey*. Or it may reveal how easily obtainable this information was, if only Tunisia had exercised reasonable diligence to find it — a point bearing directly on the lack of “negligence” requirement of Article 61 discussed above.

V. The Lack of Justification for an Interpretation of the Judgment or for the Correction of an Error

68. Having requested the Court to rule that its Application for revision is admissible in the first two paragraphs of its first Submission, Tunisia goes on to request the Court to “construe” its Judgment of 24 February 1982 and “to correct an error” in the third paragraph. These requests, however, are made “altogether subsidiarily” to the primary request for revision and need to be examined separately.

69. It will be perceived that in fact two quite distinct requests are involved in this subsidiary submission. The first — “to construe the Judgment” — involves a demand for the Court to interpret its Judgment and is based on Article 60 of the Statute and Article 98 of the Rules of Court¹. The legal basis for the second request — “to correct an error” — is far less clear, as these Observations will explain below. However, it is necessary first of all to examine the question whether Tunisia’s request to construe the Judgment is admissible as a genuine request for interpretation in accordance with the Statute and Rules of Court and in the light of the provisions of the Special Agreement between the Parties.

70. It will be recalled that the basis on which the Parties brought their dispute to the Court was the Special Agreement signed on 10 June 1977, and that it was the Special Agreement which provided the basis of the Court’s jurisdiction in the case. In their Special Agreement, the Parties included a specific provision — Article 3 — which dealt with the procedures to be followed in the event they were unable to reach agreement on the delimitation following the Court’s Judgment. Article 3 states:

“In case the agreement mentioned in Article 2 is not reached within a period of three months, renewable by mutual agreement from the date of delivery of the Court’s judgement, the two Parties shall together go back to the Court and request any explanations or clarifications which would facilitate the task of the two delegations to arrive at the line separating the two areas of the continental shelf, and the two Parties shall comply with the judgement of the Court and with its explanations and clarifications.”

71. Libya considers that the provisions of Article 3 of the Special Agreement should be respected by both Parties, and that if explanations and clarifications

¹ Article 60 of the Statute provides:

“The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.”

Paragraphs 1 and 2 of Article 98 of the Rules provide:

“1. In the event of dispute as to the meaning or scope of a judgment any party may make a request for its interpretation, whether the original proceedings were begun by an application or by the notification of a special agreement.

2. A request for the interpretation of a judgment may be made either by an application or by the notification of a special agreement to that effect between the parties; the precise point or points in dispute as to the meaning or scope of the judgment shall be indicated.”

are required of the Court, the Parties should go back "together". Such a return, however, presupposes that the experts of the Parties would have made a good faith effort to implement the Court's Judgment and that, if they were not successful, they would have been obligated to indicate the precise points of difference to be included in the reference to the Court.

72. As pointed out above, it was for this reason that when Tunisia suggested that it found the Court's Judgment unclear and ambiguous, Libya put its own position as to the course of the delimitation line — which it considered was set forth clearly in the Court's *dispositif* — in precise terms and requested Tunisia to do the same. In Libya's view, this was the only way to identify precisely what points, if any, it would be appropriate to refer to the Court under Article 3. Tunisia, however, refused to specify the difficulties it had with the way in which Libya had indicated the Judgment should be implemented¹. Although Tunisia had at one time threatened to go back to the Court unilaterally, it postponed this proposal in its Note Verbale of 28 April 1983. As a result, Tunisia's Application came as a complete surprise to Libya which has always been of the view that the proper course to follow was under the provisions of the Special Agreement provided that a *bona fide* and identifiable dispute between the Parties really existed. Why, if Tunisia felt it had discovered a "new fact" of "decisive" importance did it not bring it to Libya's attention and discuss what Tunisia regarded as the implications of this "new fact" rather than filing a unilateral request to revise the Judgment without any prior notification to Libya?

73. The arguments contained in paragraph 57 of the Application are not at all relevant. The point is not whether Article 3 of the Special Agreement overrides Article 103 of the United Nations Charter. The point is that Article 3 requires the Parties to follow a certain procedure: that is, the evident obligation for them first to exhaust the remedy of seeking explanations and clarifications under Article 3 of the Special Agreement. For this reason, Libya considers that the Court does not possess the requisite jurisdiction to admit the Tunisian request for interpretation. Quite apart from the issue of jurisdiction, however, there is a separate point, and that is that Tunisia's request is not really a request for "interpretation" in any event. The legal precedents support the view that Tunisia's request is not a true request for interpretation.

74. Both this Court and its predecessor, the Permanent Court, have had the opportunity to address the question of interpretation in previous cases². The decisions in these cases make it clear that the fundamental principle relating to judgments of the Court is, as Article 60 of the Statute states, that they are final and without appeal. It follows, therefore, that a request for interpretation is not admissible if it violates this basic principle. In its Judgment in the *Interpretation of the Judgment in the Asylum Case*, the Court indicated that Article 60 lays down two conditions for the admissibility of such a request. These are:

- "(1) The real purpose of the request must be to obtain an interpretation of the judgment. This signifies that its object must be solely to obtain clarification of the meaning and the scope of what the Court has decided with binding force, and not to obtain an answer to questions not so decided.

¹ In this respect, it is ironical that it was Tunisia which accused Libya of rejecting the terms of Article 3 of the Special Agreement in its Note Verbale of 28 February 1983.

² *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, Judgment, I.C.J. Reports 1950, p. 395*; see also, *Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4*; *Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13*.

Any other construction of Article 60 of the Statute would nullify the provision of the article that the judgment is final and without appeal.

- (2) In addition, it is necessary that there should exist a dispute as to the meaning or scope of the judgment¹."

75. Since both of these conditions must be satisfied by an applicant State in order for its request to be admitted, a close look at the Application is necessary to determine whether Tunisia has met this burden. Tunisia's request for interpretation as to the first sector of the delimitation is couched in language requesting the Court to specify the "hierarchy" which Tunisia claims exists as to the criteria which apply to the determination of the delimitation line in this sector². Libya considers that there is no such "hierarchy" in the Court's Judgment. The *dispositif* stated in clear terms that in the first sector the starting point for the delimitation line is the point where the outer limit of the territorial sea of the Parties "is intersected by a straight line drawn from the land frontier point at Ras Ajdir through the point 33° 55' N; 12° E". The language which follows in the *dispositif* — "which line runs at a bearing of approximately 26° east of north" — is necessarily approximate as the Expert Report attached to the Application itself acknowledges. So also is the language,

"corresponding to the angle followed by the north-western boundary of Libyan petroleum Concessions Numbers NC 76, 137, NC 41 and NC 53, which was aligned on the south-eastern boundary of Tunisian petroleum concession 'Permis complémentaire offshore du Golfe de Gabès'",

since it describes not the line from Ras Ajdir to the point 33° 55' N; 12° E but the approximate bearing of 26°. That the point 33° 55' N; 12° E is controlling is confirmed by the following part of paragraph 133.C (2) of the *dispositif* where the Court states, "... from the intersection point so determined, the line of delimitation between the two continental shelves is to run north-east through the point 33° 55' N, 12° E, thus on that same bearing".

76. From this it can be seen that the essence of the Tunisian request is not interpretation, but something quite different. For it is Tunisia's position, as expressed in paragraphs 38 to 40 of the Application, that the Court should totally disregard the point which it designated in its Judgment as the point through which the delimitation line should pass — namely, 33° 55' N; 12° E — and take into consideration the south-eastern boundary of the 1966 Tunisian Concession instead. As the Application contends, "the boundary to be taken into consideration for the establishment of a delimitation line can *only* be the south-eastern boundary of the Tunisian permit of 1966"³. Such a request is nothing more than a bald plea for a revision of the Court's Judgment and for the elimination of a key part of paragraph 133.C (2) of the Court's *dispositif* where it was clearly indicated that, in the first sector, the delimitation line is "to run through the point 33° 55' N, 12° E". In this manner, Tunisia attempts to alter what the Court has already decided with binding force. Such a request goes far beyond the permissible scope of interpretation, and thus violates the first condition set forth by the Court in its Judgment in the *Interpretation of the Judgment in the Asylum Case*⁴.

¹ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, I.C.J. Reports 1950, p. 402.*

² Application, para. 36.

³ Application, para. 39 (emphasis added).

⁴ See also *Anglo-French Arbitration, Decision of 14 March 1978*, particularly p. 161, para. 28; pp. 165-166, para. 37; pp. 182-183, para. 85; pp. 192-193, para. 110; and p. 193, para. 112.

77. As for the second condition mentioned above — the existence of a dispute — this point has already been alluded to in connection with the discussion of Tunisia's conduct following the rendering of the Court's Judgment in 1982. Stated briefly, Tunisia failed to specify precisely what differences it had with Libya's position on the implementation of the Judgment as that position had been set forth in Libya's Note of 10 August 1982. Tunisia neither responded to this Note nor specified in writing the exact points and differences it wanted to refer back to the Court. It is not enough that Tunisia claims to find the Judgment ambiguous. As the Court stated in its decision on the request for interpretation in the *Asylum* case:

“Obviously, one cannot treat as a dispute, in the sense of that provision [Article 60 of the Statute], the mere fact that one Party finds the Judgment obscure when the other considers it to be perfectly clear¹.”

It follows, therefore, that Tunisia has failed to meet the second condition of Article 60 as well.

78. That revision is Tunisia's design is made even more apparent by its secondary request “to correct an error” in the Judgment. According to paragraph 40 of the Application, the error to be corrected is the point indicated by the Court in its Judgment having the co-ordinates 33° 55' N; 12° E, the key point known to all. Tunisia would have the Court substitute these co-ordinates by new ones (33° 50' 17" N; 11° 59' 53" E) which are said to correspond to the co-ordinates of Point No. 5 on the 1966 Tunisian Concession. As noted above, however, the 1966 Concession was relinquished in 1978 so that it did not exist at the time the Judgment was rendered.

79. It makes no difference that the Tunisian Application refers to this request as one “to correct an error”. The plain truth is that this is nothing more than another attempt to revise the Court's Judgment. Thus, it is not surprising that the Application has made only a minimum attempt to justify this request on legal grounds.

80. Tunisia rests its case as to the correction of an error on a provision that no longer even appears in the Rules of Court, having been dropped in the 1936 version. Tunisia's argument is that up until 1931 the Rules provided that the Court, or the President if the Court was not sitting, was entitled “to correct an error in any order, judgment or opinion, arising from a slip or accidental omission”. According to the Application: “It cannot be tenably argued that the deletion of that Article in 1935 has deprived the Court of a power that naturally belongs to any judicial body².”

81. The main point to make in response to these contentions is that the original rule to which Tunisia refers never had as its purpose the alteration of the *substance* of a decision by the Court or by the President acting alone. The provision was drafted to cover “a slip or accidental omission” and not to revise a judgment. Indeed, it would have been wholly inappropriate for a provision permitting the alteration of a substantive point in a judgment to appear in the Rules and not in the Court's Statute. Moreover, the *travaux préparatoires* of the Rules make it abundantly clear that the original discussion of the rule which

¹ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, Judgment, I.C.J. Reports 1950, p. 403.*

² Application, para. 61. The Rule in question had been Rule 75 in the 1931 version of the Rules of Court.

Tunisia cites focused on clerical errors¹. The *travaux* also indicate that the rule in question had never been applied and was considered superfluous. For that reason, it was suppressed in 1935².

82. In summary, it may be seen that Tunisia's subsidiary requests to interpret the Judgment of 24 February 1982 and to correct an alleged error amount, in effect, to another attempt to revise that same Judgment. As such, these requests are incompatible with the provisions of Article 60 of the Statute since they go beyond requesting an interpretation of what the Court has already decided with binding force.

VI. The Most Westerly Point of the Gulf of Gabes

83. The ambiguity of this portion of the Application is readily apparent. The second of the Submissions in the Application does not specify what there is for the Court to clarify. On the one hand, it seems to add nothing to paragraph 124 of the Court's Judgment where the Court said: "... the precise co-ordinates of this point [the most westerly point] will be for the experts to determine...". On the other hand, the Application and Annex I, read as a whole, suggest that the location of the most westerly point lies as much as five minutes — over nine kilometres — south of the location indicated by the Court. This kind of ambiguity is unacceptable in a request to the Court, whether for revision under Article 61 of the Statute, for interpretation under Article 60 thereof, or for "explanations and clarifications" under Article 3 of the Special Agreement. It was to avoid this sort of confusion that Libya insisted, without avail, that Tunisia make precise its position before the Parties returned jointly to the Court.

84. One striking aspect of this portion of the Application is that the course of the delimitation line in the second sector is quite unrelated to the "new fact" that gave rise to the Application for revision. It seems to be Tunisia's theory that if it can bring into question one part of the Judgment for revision the whole Judgment becomes fair game for re-examination. Behind the beguiling innocence of the request in Tunisia's second Submission — on the surface seemingly only a reaffirmation of what the Court instructed the Parties to do — lies a potential threat to the whole structure of the solution provided by the Court in the second sector.

85. In being as precise as possible while stopping short of the technical task of drawing the actual delimitation line, the Court left to the experts the narrow and technical task of determining "the precise co-ordinates" of the most westerly point on the shoreline (low-water mark) of the Gulf of Gabes³. In this regard, the Court said: "*Again* the precise co-ordinates of this point will be for the experts to determine, but it appears to the Court that it will be approximately 34° 10' 30" north."³ (Emphasis added.) The use of the word "[a]gain" in the second sentence of paragraph 124 of the Judgment is telling. It is an obvious reference back to paragraph 121 of the Judgment where the angle of the line in the first sector (i.e., from Ras Ajdir to 33° 55' N; 12° E) was discussed in the following terms: "On the information available to the Court, that angle appears to be 26°; it will, however, be for the experts of the Parties to determine it with exactness."

¹ See, *Series D, Acts and Documents Concerning the Organization of the Court*, No. 2, Preparation of the Rules of Court, 37th Meeting, 21 March 1922, p. 22. See also, *ibid.*, *Explanatory Note Concerning the Draft Rules of Court*, submitted on 8 March 1922, p. 452.

² *Series D, Acts and Documents Concerning the Organization of the Court*, Third Addendum to No. 2; Elaboration of the Rules of Court of 11 March 1936, Supplementary Report of the Second Committee, 12 March 1934, p. 763.

³ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, p. 87, para. 124.

86. Quite evidently, therefore, the task envisaged for the experts in locating the most westerly point was similar to that employed for the first sector. It was not only technical but of a very narrow scope since the Court had already made its own preliminary, yet very precise, calculation. It was only the plotting of that point that was left to the experts — a matter perhaps of seconds, not minutes or degrees. It is unrealistic to argue that an adjustment of over nine kilometres was envisaged. Otherwise, the Court could not have prescribed the angle of 52° as the bisector on which the second sector of the delimitation was based. For if the latitude of the most westerly point deviates appreciably from $34^\circ 10' 30''$ N, the whole rationale on which the 52° angle is based becomes undermined¹. Thus, just as in the first sector the Court prescribed the precise course of the delimitation, leaving only the plotting of the line to the experts, so also in the second sector was the task of the experts narrow and specific.

87. The seaward point in the first sector was not arbitrarily selected. Neither were the co-ordinates in the second sector. If French nautical chart No. 4240, claimed by Tunisia in the Application as the most appropriate map — or, indeed, other nautical charts of the area of large enough scale — are consulted, it is apparent that there is an inlet at this point on the shoreline where, according to the markings on the French chart, seawater remains at low tide. A non-expert can readily determine that this is the point furthest to the west on the shoreline of the Gulf of Gabes based on the tidal criterion of “low-water mark”. Determining the “precise co-ordinates” is not a task for the layman, however, but rather one for the expert. Merely because the Court used the form of words in paragraph 124 of its Judgment that “it appears to the Court that it [the most westerly point] will be approximately $34^\circ 10' 30''$ north” — a co-ordinate expressed in seconds — it does not follow that this point can be ignored by the Parties as a random guess. The Court’s calculation of the bearing of the line in the second sector depended upon a rather exact location of the most westerly point. Nor can it be ignored, as would seem to be implied by paragraphs 42 to 44 of the Application, because there might be some difference of opinion as to whether or not the shoreline changed direction at this point, as the Expert Report suggests, or because this point is not part of the shoreline since it lies in the “mouth of a wadi”.

88. As to the argument in the Application based on the “mouth of a wadi”, Libya has two comments. Whether or not the point on the shoreline corresponding to $34^\circ 10' 30''$ N lies in the “mouth of a wadi” does not vitiate this point as the most westerly point; it is the tidal factor — the presence of the sea at low tide — which controls. There is no support for the view that such a feature — an inlet on the shoreline — ceases to be part of the shoreline as determined by the low-water mark because it is in the “mouth of a wadi”, and no support for this proposition is offered by Tunisia. The second point is that this inlet at approximately $34^\circ 10' 30''$ N on the Gulf of Gabes shoreline cannot in any event, on the basis of the French nautical chart or of any other chart known to Libya, be said to lie in the “mouth of a wadi” as a matter of fact. The only nearby wadi identified on that chart — the Oued Oum el Kram — ends more than two kilometres to the west of the most westerly portion of the inlet. The “mouth” of this wadi can be seen on French nautical chart 4240 as opening onto a sebka and to have no relationship to the inlet lying at approximately $34^\circ 10' 30''$ N. The *Gazetteer* of the Official Standard Names approved by the U.S. Board on Geographic Names and prepared in the Office of Geography, Depart-

¹ See, in this regard, paragraph 129 of the Court’s Judgment where it described the manner in which the 52° angle was determined.

ment of Interior (Washington, D.C., September 1964) appears to confirm this fact. The Expert Report, however, refers to another wadi, the "Wad Raghla". Such a feature is not identified on the French chart and does not appear in the *Gazetteer*¹. Regrettably, paragraph 20 of the Expert Report appears to stray into the legal realm when it is suggested that this inlet should be ignored because it is not where the coast changes direction, a question expressly not given to the experts to determine under paragraph 123 of the Judgment².

89. Thus, it appears that behind the innocent appearance of Tunisia's second Submission lies another request for revision of the Judgment. This should also be rejected. For the Court had good reason to locate the most westerly point even if it left the precise co-ordinates to be determined by experts. This point is a fundamental element in the calculation of the angle of the line in the second sector. In paragraph 133.C (3) of its *dispositif* the Court designated the bearing of 52° just as decisively as it had indicated the course of the line in the first sector. Finally, Tunisia's request in the last part of its second Submission asking the Court to instruct the Parties as to what documents and methods their experts should employ to determine the "exact co-ordinates" of this point is curious, for there is no evidence that the experts of the Parties have experienced any difficulties over documents or methods, and even less that such difficulties arise from the need to have an interpretation of the Judgment. As noted in paragraph 19 above, the experts, in fact, were never able to undertake their purely technical work. Tunisia's request does not, therefore, lie within the scope of what the Court decided in its Judgment. It is, therefore, inadmissible as a request for interpretation.

90. For the foregoing reasons, Libya calls upon the Court to reject each and every one of the requests contained in the Application, and makes the following Submissions.

VII. Submissions

In the light of the facts and legal considerations set forth above;

May it please the Court to adjudge and declare:

1. That the request for revision under Article 61 of the Statute of the Court contained in the Application of Tunisia does not satisfy the conditions laid down in that Article and is thus inadmissible;
2. That there are no grounds to grant Tunisia's request to construe the Judgment; and
3. That there is no foundation in law or in fact for the request to the Court to correct an error in the Judgment.

(Signed) Kamel H. EL MAGHUR,
Agent of the Socialist People's
Libyan Arab Jamahiriya.

¹ Such an inlet cannot qualify as a "wadi", in any event, as that term is ordinarily defined.

² Paragraph 20 of the Expert Report states, in pertinent part:

"... the presence of the wadi in this precise spot is a topographical accident independent of the morphology of the Gulf, which cannot be selected for the determination of the latitude where the coast changes direction".

VOLUME II

ANNEXES

Annex I

DIPLOMATIC CORRESPONDENCE EXCHANGED BETWEEN
THE PARTIES SINCE 24 FEBRUARY 1982 RELATED TO THE OBSERVATIONS*Unofficial Translation*

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
THE PEOPLE'S COMMITTEE
FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 18.5.1391
13 March 1982

Note Verbale

The People's Bureau for Foreign Liaison presents its best compliments to the General Commissariat of the Republic of Tunisia in Tripoli and requests that the contents of this Note be conveyed to the competent Tunisian Authorities.

Whereas the two countries had, on 10 June 1977, signed a Special Agreement to refer the question of the continental shelf between them to the International Court of Justice, which led to the delivery of a Judgment by the said Court on 24 February 1982; and

In order to implement Article 2 of the Special Agreement which provides for a meeting to be held between the two sides following the delivery of such decision of the Court with a view to concluding a delimitation agreement between them; and

Thus strengthening the existing fraternal relations between the two sisterly countries as demonstrated in the meetings of their political leadership held in Tunisia during the period from 22 to 27 February 1982,

The Socialist People's Libyan Arab Jamahiriya expresses its desire to implement the aforementioned agreement according to the formula agreed upon by the two countries and its full willingness to receive Tunisian proposals concerning the level, date and place of such meetings or any other proposals intended to attain the objective referred to above.

The People's Bureau for Foreign Liaison avails itself of this opportunity to express to the General Commissariat of the sisterly Republic of Tunisia the assurances of its highest considerations.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA, TRIPOLI.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
THE PEOPLE'S COMMITTEE
FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 3.7.1391
6 May 1982

Ref. No. 1/7/10/501.

Note Verbale

The People's Committee of the People's Bureau for Foreign Liaison presents its best compliments to the General Commissariat of the sisterly Republic of Tunisia in Tripoli, and has the honour to request it to communicate the content of this Note to the competent Authorities in the Republic of Tunisia.

With reference to the Note Verbale of the People's Bureau for Foreign Liaison dated 12 March 1982 and the verbal message conveyed from the Tunisian Minister for National Economy by the director of the Tunisian Oil Company to the Under-Secretary of the Libyan Secretariat of Oil during the meeting held between them in Tripoli on 18 March 1982; and

In culmination of the discussions held between the two sides during the visit made by the Tunisian Minister for Foreign Affairs to Libya on 29 April 1982 concerning the contents of the above-mentioned Note, and our sincere desire to implement the Special Agreement for the Submission of the Question of the Continental Shelf between the Two Countries to the International Court of Justice signed on 10 June 1977 which provides in its Article 2 for holding a meeting between the two Parties with a view to the conclusion of a delimitation convention following the delivery of the Court's decision which took place on 24 February 1982.

The Socialist People's Libyan Arab Jamahiriya invites the Republic of Tunisia to the meeting stipulated therein in order to achieve the aforementioned objective, in Tripoli on Wednesday 12 May 1982.

The People's Committee for the People's Bureau for Foreign Liaison avails itself of this opportunity to express to the General Commissariat of the Republic of Tunisia in Tripoli the assurances of its highest considerations.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA, TRIPOLI.

Unofficial Translation

No. 94/82

Tripoli, 12 May 1982.

The General Commissariat of the Republic of Tunisia presents its best compliments to the People's Committee of the People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya and has the honour to inform it that, in pursuance of the Committee's Note Verbale No. 1/7/10/501 of 6 May 1982 regarding its desire to convene a meeting for the delimitation of the continen-

tal shelf between Tunisia and Libya in the light of the Judgment of the International Court of Justice, a Tunisian delegation will be arriving in Tripoli for this purpose in the evening of this 12th day of May 1982 on the Libyan Airlines' flight arriving from Tunis. The delegation is composed of two members:

- Mr. Al Habib Al-Azraq, Director General of the Tunisian Corporation for Oil Activities.
- Mr. Al Mauloudi Marsit, Director of the Legal Department of the Prime Minister's Office.

The General Commissariat avails itself of this opportunity to convey to the People's Committee the assurances of its highest consideration and respect.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Very Urgent

Ref. No. 4/8/3220

Date: 26.7.1391
20 May 1982

TO: THE INFORMATION OFFICE

The General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis has today received the following Note from the Tunisian Government:

"Pursuant to the provisions of Article 3 of the Special Agreement for the Submission of the Question of the Continental Shelf between the Republic of Tunisia and the Socialist People's Libyan Arab Jamahiriya to the International Court of Justice signed in Tunis on 10 June 1977; and

Whereas the Court had rendered its decision on the delimitation of the continental shelf on 24 February 1982, and with reference to the contacts that had taken place between responsables of the two countries regarding the convening of a meeting of experts to implement the Court's decision during the official visits to Tripoli by Mr. Mohammed Al-Nassir, Minister of Social Affairs, from 17 to 19 April 1982 and Mr. Al-Baji Qaed Sibsi, Minister of Foreign Affairs, on 28 and 29 April 1982, and due to the fact that the work of the experts of both countries, who met in Tripoli during the period from 13 to 17 May 1982, may require more time in order to complete the talks and conclude the convention concerning the implementation of the International Court of Justice's decision.

The Government of the Republic of Tunisia suggests to the Socialist People's Libyan Arab Jamahiriya Authorities to renew the period provided for in Article 3 of the above-mentioned Agreement as starting from 24 May 1982 for three months."

(Signed) ABDEL-ATI ALEBEIBY,

Secretary, People's Committee
for the People's Bureau for Foreign Liaison.

cc to: — Secretary, People's General Committee
— Director, Department of Legal Affairs
— Committee of the Continental Shelf.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 28.7.1391
22 May 1982

Ref. No. 1/7/10/509.

Note Verbale

The People's Bureau for Foreign Liaison in the Socialist People's Libyan Arab Jamahiriya presents its best compliments to the General Commissariat of the sisterly Republic of Tunisia and has the honour to request it to communicate the contents of this Note to the competent Tunisian Authorities.

The People's Bureau refers to the International Court of Justice's Judgment issued in the case of the continental shelf between the two countries, on 24 February 1982, to Article 94 (2) of the Rules of Court which provides that the Judgment becomes binding on the two Parties on the day of its reading, and to Article 2 of the Special Agreement concluded between the two countries on 10 June 1977 providing the meeting of the two Parties following the delivery of the Court's Judgment in order to implement the said Judgment.

The People's Bureau recalls the Libyan Arab Jamahiriya's current positions as expressed at the political meetings and in the Notes Verbales addressed to the Republic of Tunisia following the delivery of the Court's Judgment in which it expressed its will to execute and apply the Judgment and to sign an agreement in this respect. The Bureau further recalls the meeting held in Tripoli from 13 to 17 May 1982 between the delegations of the two countries at the request of the Libyan Arab Jamahiriya and its endeavours to implement the above-mentioned Judgment.

And with reference to the proposal made in the Tunisian Ministry of Foreign Affairs' Note dated 20 May 1982 and addressed to the People's Bureau for Foreign Liaison, concerning the renewal of the period for the meetings stipulated in the aforementioned Special Agreement.

The Libyan Arab Jamahiriya expresses its consent to renew the mentioned period with a view to enabling the experts during the first ten days of June 1982 to accomplish their technical task, making possible the drafting of a convention applying the Court's Judgment with the points and the delimitation lines indicating the longitudinal and latitudinal co-ordinates, their bearings and angles.

The People's Bureau for Foreign Liaison avails itself of this opportunity to express to the General Commissariat of the sisterly Republic of Tunisia the assurances of its highest consideration and respect.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA, TRIPOLI.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date : 5 June 1982

Ref. No. 1/7/14/522.

Note Verbale

The People's Bureau for Foreign Liaison presents its best compliments to the General Commissariat of the sisterly Republic of Tunisia, and with reference to its Note dated 22 May 1982 expressing the consent of the Libyan Arab Jamahiriya to extend the period of meetings provided for in Article 2 of the Special Agreement signed between the two countries on 10 June 1977 with a view to enabling the experts of both countries to accomplish, during the first ten days of June 1982, their technical task making possible the drafting of a convention applying the International Court of Justice's Judgment with the points and the delimitation lines indicating the longitudinal and latitudinal co-ordinates, their bearings and angles, the Bureau would be pleased if this invitation would be conveyed to the competent Tunisian Authorities, and would be grateful if it were accepted.

The People's Bureau for Foreign Liaison has the pleasure to welcome a Tunisian delegation in Tripoli on 8 June in order to accomplish this task.

The People's Bureau avails itself of this opportunity to convey to the General Commissariat of the sisterly Republic of Tunisia the assurances of its highest considerations and respect.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date : 20.8.1391

12 June 1982

Ref. No. 4/3/5/50.

TO: THE SECRETARY, COMMITTEE OF THE CONTINENTAL SHELF

The Director of the Department for Arab Affairs at the Tunisian Ministry of Foreign Affairs handed over to the Chargé d'Affaires of our General Commissariat in Tunis a Note No. 502125, the text of which reads as follows :

"Please inform the appropriate Authorities in the Jamahiriya of the following :

According to the Agreement concluded between the two countries on the renewal of the period provided for in Article 3 of the Special Agreement, signed in Tunis on 10 June 1977, as from 24 May 1982 for three months ;

and in view of the previous commitments assumed by some members of the Tunisian delegation which would not allow them to participate in the works of the experts of the two countries on the date suggested by the Libyan competent Authorities, the Republic of Tunisia would suggest to the Authorities of the Socialist People's Libyan Arab Jamahiriya that the work of the experts be resumed from 25 June 1982 in Tunis in order to implement the decision of the International Court of Justice."

In addition, the Director of the Department for Arab Affairs at the Tunisian Ministry for Foreign Affairs indicated the following:

1. The implementation of the Court's decision should not be based exclusively on the experts, but should proceed from the new spirit aimed at developing the fraternal relations between the two peoples.

2. The request to postpone the meeting of the Joint Technical Committee is due to circumstances explained in the Note, and not to any ill intention to procrastinate or to gain time.

3. During the brief visit made by Mr. Abdul-Ati-El-Obeidi, Mr. Al-Baji and Mr. Al-Asram requested to meet with him and with any other persons, and said that they are ready to go to Tripoli in order to discuss the question of implementing the Decision on the continental shelf and are awaiting a reply.

(Signed) DIRECTOR, OFFICE OF
CONFIDENTIAL AFFAIRS.

cc to: Director, Legal Department.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 24.8.1391
16 June 1982

Ref. No. 1/7/10/535.

Note Verbale

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya presents its best compliments to the General Commissariat of the sisterly Republic of Tunisia, and has the honour to request it to convey the content of this Note to the competent Tunisian Authorities.

The People's Bureau would like to recall the Notes Verbales it has addressed to the Republic of Tunisia since 13 March 1982 and its latest Note dated 5 June 1982 in which it expressed the desire of the Libyan Arab Jamahiriya to welcome a Tunisian delegation in Tripoli on 8 June 1982 with a view to enable the experts from both our countries within the first ten days of June 1982 to accomplish their technical task making possible the drafting of a Convention applying the Judgment issued by the International Court of Justice on the continental shelf case between the two countries, in accordance with what the Libyan Arab Jamahiriya expressed in its Note Verbale dated 22 May 1982.

In view of the commitments referred to in the latest Tunisian Note, No.

502125, which had prevented the arrival of the Tunisian delegation in Tripoli on the date suggested by the competent Libyan Authorities, the People's Bureau for Foreign Liaison, bearing in mind the political contacts made between the two countries during the last few days, has the pleasure to welcome in Tripoli a Tunisian ministerial delegation during the first week of July with a view to complete the task referred to above and to conclude a convention applying the Judgment of the International Court of Justice.

The People's Bureau for Foreign Liaison avails itself of this opportunity to convey to the General Commissariat of the sisterly Republic of Tunisia the assurances of its highest considerations and respect.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA, TRIPOLI.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 20.10.1391
10 August 1982

Note Verbale

The People's Committee for the People's Foreign Liaison Bureau of the Socialist People's Libyan Arab Jamahiriya presents its best compliments to the General Commissariat of the Tunisian Republic, and would like the contents of this Note to be transmitted to the competent Tunisian Authorities.

Although the two Parties have had discussions and have held meetings, no progress has been achieved towards the conclusion of the Convention provided for in Article 2 of the Special Agreement concluded between the two countries on 23rd Jumada Athania, 1397, corresponding to 10 June 1977.

It is obvious that the Judgment of the International Court of Justice issued on 1st Jumada Al-Oula 1391, corresponding to 24 February 1982, on the Continental Shelf case between the two countries has enough clarity and details to enable the two Parties to draw the delimitation line without any difficulty.

The position of the Socialist People's Libyan Arab Jamahiriya on the way of drawing such line with a view to implement the above-mentioned Judgment, previously expressed orally to the Tunisian side, is as follows:

In the First Sector

The starting point for the line is the point where the outer limit of the Territorial Sea of the Two Countries is intersected by a straight line drawn from the Land Frontier point of Ras Ajdir (having the co-ordinates 33° 10' N, 11° 33' E), through the point 33° 55' N, 12° E. From this starting point the line of delimitation runs through the point 33° 55' N, 12° E to the point of intersection with 34° 10' 30" N, such parallel being the parallel which passes through the most westerly point of the Tunisian coastline between Ras Kabudia and Ras Ajdir, that is to say, the most westerly point of the Gulf of Gabes.

This point of intersection has the co-ordinates 34° 10' 30" N, 12° 9' 12" E which marks the end of the first sector.

In the Second Sector

The line of delimitation starts from the point indicated above with the co-ordinates 34° 10' 30" N, 12° 9' 12" E and runs at an angle of 52° N until the point of its intersection with the line of longitude that passes through Ras Tajoura at a point whose co-ordinates are:

34° 57' 51" N, 13° 23' 45" E.

An arrow would be placed at this point bearing in mind that the extension of this line north-east depends on delimitation agreed upon with other concerned States.

The Socialist People's Libyan Arab Jamahiriya hopes, in implementing the Court's Judgment, as mentioned above, that the Tunisian Republic would be ready to agree on the delimitation line set out above, and accordingly, to proceed towards the conclusion of the convention provided for in Article 2 of the Special Agreement.

The People's Committee for the People's Foreign Liaison Bureau avails itself of this opportunity to express to the General Commissariat of the Tunisian Republic its highest consideration and respect.

TO: THE GENERAL COMMISSARIAT OF THE
TUNISIAN REPUBLIC, TRIPOLI.

Tripoli, 20 Shawal 1391
10 August 1982.

Unofficial Translation

No. 207/82

Tripoli, 15 August 1982.

THE GENERAL COMMISSARIAT OF THE REPUBLIC OF TUNISIA IN TRIPOLI

The General Commissariat of the Republic of Tunisia presents its compliments to the People's Committee for the People's Bureau for Foreign Liaison, and has the honour of transmitting herewith a copy of the Note No. 502 844 dated 14 August 1982, which was delivered on the same date by the Ministry of Foreign Affairs to the General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis.

The General Commissariat of the Republic of Tunisia hopes that the People's Committee for the People's Bureau for Foreign Liaison will please inform it of the views of the competent Authorities in the sisterly Libyan Jamahiriya about the contents of this Note as soon as possible.

The General Commissariat of the Republic of Tunisia avails itself of this

opportunity to express to the People's Committee for the People's Bureau for Foreign Liaison its highest consideration and respect.

TO: THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S
BUREAU FOR FOREIGN LIAISON, TRIPOLI.

Unofficial Translation

THE REPUBLIC OF TUNISIA, MINISTRY OF FOREIGN AFFAIRS

No. 502 844

14 August 1982.

The Ministry of Foreign Affairs of the Republic of Tunisia presents its compliments to the General Commissariat of the sisterly Socialist People's Libyan Arab Jamahiriya, and would like the following to be conveyed to the competent Authorities in the Jamahiriya :

The Tunisian Government :

— Wishing to consolidate the brotherly and good neighbourhood relations between the two countries ; and

— Having a sincere willingness to settle definitively the dispute between the two countries on the Continental Shelf at the earliest opportunity ; and

— Out of its firm determination to implement the Judgment of the International Court of Justice issued on 24 February 1982 on the question of delimitation of the Continental Shelf ; and

— In consideration of the hindrances to the experts in concluding their task and in carrying out the Court's Judgment ; and the differing views of the two Parties on this issue, in spite of the several attempts by the two sides on both technical and political levels to overcome such difficulties ; and

— By reference to the agreement reached by the Parties to renew the period fixed for the implementation of the Judgment issued by the International Court of Justice according to the Tunisian Note dated 20 May 1982 and the Libyan Note delivered to the Tunisian Authorities on 22 May 1982 ; and

— Considering that the above-mentioned period will soon expire without the two countries implementing the Judgment and drafting a convention in this respect ; and

— According to Article 3 of the Special Agreement relating to the delimitation of the continental shelf between the two countries which provides for going back to the International Court of Justice to request interpretations and clarifications in order to overcome the difficulties facing the experts in the implementation of the Court's decision ; and

— With reference to the Libyan Note No. 43-1-6-986 dated 10 August 1982 on the delimitation of the Continental Shelf which was handed over to the General Commissariat of the Republic of Tunisia in Tripoli on 12 August 1982.

First : Is of the view that it would be better to go back jointly to the International Court of Justice to be enlightened by its opinion and to resolve the problem definitively ;

Second : Invites the competent Authorities in the Libyan Arab Jamahiriya to participate with it in preparing the request to go back to the Court. For this

purpose the Tunisian Government is glad to welcome a Libyan delegation in Tunis on Friday 20 August 1982;

Third: Suggests that the request to go back to the Court be filed on Monday 23 August, at the latest.

The Ministry of Foreign Affairs of the Republic of Tunisia avails itself of this opportunity to express to the General Commissariat of the sisterly Socialist People's Libyan Arab Jamahiriya its highest consideration and respect.

TO: THE GENERAL COMMISSARIAT OF THE
SOCIALIST PEOPLE'S LIBYAN ARAB
JAMAHIRIYA IN TUNIS.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 3.11.1391
22 August 1982

Ref. 43/1/6-1006.

Note Verbale

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya presents its compliments to the General Commissariat of the Republic of Tunisia in Tripoli, and hopes that it will convey this Note to the competent Tunisian Authorities.

The People's Bureau for Foreign Liaison refers to its Note Verbale addressed to the Republic of Tunisia on 20 Shawal 1391, corresponding to 10 August 1982; to the Note of the Tunisian Foreign Ministry addressed to the Jamahiriya on 14 August 1982, and would like to reaffirm what was previously expressed, that the Judgment of the International Court of Justice issued in the case of the Continental Shelf between the two countries, on 1 Jumada Al-Oulla 1391, corresponding to 24 February 1982, has, in the view of the Libyan Arab Jamahiriya, enough clarity and details to permit its implementation without any difficulty. The Socialist People's Libyan Arab Jamahiriya also considers that the delimitation line set forth in its Note Verbale addressed to the Republic of Tunisia on 20 Shawal 1391, corresponding to 10 August 1982, by longitudinal and latitudinal co-ordinates, bearings and angles, conforms with the Judgment of the Court and represents a correct implementation of it. The Socialist People's Libyan Arab Jamahiriya notes with regret that the above-mentioned Tunisian Note of 14 August 1982 refrained from responding to the specified points contained in that Note.

The Socialist People's Libyan Arab Jamahiriya does not find use in holding a meeting of the Parties to formulate any referral to the Court to request any interpretations or clarifications, before the Republic of Tunisia has determined its specific position in writing on the delimitation line and the details relating to it as set forth in the Libyan Note of 10 August 1982.

The Socialist People's Libyan Arab Jamahiriya considers it fundamental to know such position in writing before any other procedures.

The Socialist People's Libyan Arab Jamahiriya hopes that the Republic of Tunisia will find, after further examination of the points specified in the Libyan Note referred to above, what could achieve the correct implementation of the Judgment and secure the conclusion of a convention in this respect in the near future. The expiration of the three-month period as renewed according to the Special Agreement, does not preclude the two Parties from reaching this end and concluding a convention implementing the Court's Judgment.

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya avails itself of this opportunity to express to the General Commissariat of the Republic of Tunisia its highest considerations and respect.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA, TRIPOLI.

Tripoli, 22 August 1982.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Date: 23.12.1391
11 October 1982

Ref. No. 1/7/10/589.

Note Verbale

The People's Bureau for the Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya presents its best compliments to the General Commissariat of the sisterly Republic of Tunisia in Tripoli and hopes that this Note will be conveyed to the competent Tunisian Authorities.

On 30 Shawal 1391, corresponding to 10 August 1982, the Socialist People's Libyan Arab Jamahiriya addressed a Note Verbale to the Republic of Tunisia indicating the details concerning the delimitation line of the continental shelf between the two countries, in implementation of the Judgment issued by the International Court of Justice on 24 February 1982.

On 14 August 1982, the Republic of Tunisia addressed its Note Verbale No. 502844 to the Socialist People's Libyan Arab Jamahiriya which avoided replying to the substance of the mentioned Libyan Note and suggested that "it would be better to go back jointly to the International Court of Justice to be enlightened by its opinion...". In view of this reply, the Socialist People's Libyan Arab Jamahiriya, by its Note dated 22 August 1982, indicated the need to know the Tunisian position on the delimitation line and related details as specified in the Libyan Note of 10 August 1982 before discussing any formula of going back to the Court to request any interpretations or clarifications.

Up to this date, and although seven weeks have now elapsed, the Socialist People's Libyan Arab Jamahiriya has not received a Tunisian reply to its Note.

The Socialist People's Libyan Arab Jamahiriya, while maintaining the views expressed in its previous Notes, invites the Republic of Tunisia, if it still maintains its opinion "to go back to the Court to be enlightened by its opinion", as indicated in its Note No. 502844 of 14 August 1982, to provide Libya with a

draft request to go back to the International Court of Justice specifying the point or points in the view of the Republic of Tunisia that need interpretation or clarification from the Court so that the Socialist People's Libyan Arab Jamahiriya may consider the draft and decide what could be done in this matter.

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya avails itself of this opportunity to express to the General Commissariat of the Republic of Tunisia its highest considerations and respect.

TO: THE GENERAL COMMISSARIAT OF THE
REPUBLIC OF TUNISIA, TRIPOLI.

13 Zul-Hejja 1391.
11 October 1982.

Unofficial Translation

Date: 24 October 1982

TO: THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

25/10.82 — 10.30 hrs. a.m.

Attn: Liaison with Arab Nation Dept.

VERY VERY URGENT

I wish to refer to you the Note we received yesterday from the Tunisian Ministry for Foreign Affairs, which reads as follows:

"In pursuance of the content of the Note of the Ministry for Foreign Affairs of the Republic of Tunisia, No. 502844 dated 14/8/1982, and with reference to both Libyan Notes No. 1006/6/1/43 of 22 August 1982 and No. 589/10/7/1, dated 11 October 1982, and in confirmation of its sincere desire to settle the continental shelf case between the two countries at the earliest time as it has expressed in a manner not likely to raise any ambiguity on previous occasions, and in particular in the Note referred to above, dated 14/8/1982;

Therefore the Government of Tunisia:

First, expresses its regret at the decline by the Libyan Authorities of the invitation for a meeting of the two Parties at the dates fixed in the above-mentioned Note, dated 14 August 1982, to go back jointly to the International Court of Justice and to request a clarification of some subjects showing ambiguity or requiring reference to the Court;

Second, is astonished at the Jamahiriya's insistence that it reiterate what it had previously expressed in its clear position throughout the numerous contacts and on frequent occasions, on some points and terms contained in the Judgment on which the Parties did not agree as to the same meaning and interpretation and which necessitate the two Parties to go back to the Court to be enlightened with its opinion.

Such contacts took place between the two countries on the occasion of the official visit to Tripoli by the Minister for Social Affairs from 17 to 21 March 1982 and by the Minister for Foreign Affairs on 28 and 29 April

1982 as well as at the meeting of the experts of the two countries in Tripoli from 13 to 17 May 1982, and, last, on the occasion of the Tunisian-Libyan working session held in Tripoli on 19 July 1982 between both countries' delegations, led by the Tunisian Minister for Social Affairs and the Secretary of the People's Committee of the People's Bureau for Foreign Liaison of the Libyan Arab Jamahiriya.

Third, in view of the insistence of the Jamahiriya to state the positions and to express them in writing, and if this will help the negotiations forward, reference may be made, in particular, to the following points:

- (a) The co-ordinates related to the most westerly point on the Gulf of Gabes need verification and correction, if necessary, in accordance with what the Court itself requested.
- (b) The angle of the first sector of the delimitation line and the point with the co-ordinates 33° 55' 12" which controls it, raises interpretations and needs to be clarified and fixed so as to conform with all facts upon which they will be based.

Fourth, while affirming its continued readiness to pursue its efforts to reach a delimitation Agreement in the context of the Court's Judgment, is still of the opinion that it would be more advantageous to go back to the Court to have the dispute definitely settled between the two countries.

Therefore the Tunisian Government renews its invitation to host a delegation from the Jamahiriya to participate in the preparation of the request to go back to the Court at a date suitable to the Libyan Authorities."

GENERAL COMMISSARIAT IN TUNIS.

Unofficial Translation

SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Regist. No. 43/1/6-1278

Date 30 October 1982.

Note Verbale

The People's Bureau for Foreign Liaison in the Socialist People's Libyan Arab Jamahiriya presents its compliments to the General Commissariat of the sisterly Republic of Tunisia in Tripoli and has the honour to request transmission of this Note to the competent Authorities in the Tunisian Government.

With reference to the Note of the Tunisian Ministry of Foreign Affairs addressed to the People's Bureau for Foreign Liaison in the Socialist People's Libyan Arab Jamahiriya on 24 October 1982, the Socialist People's Libyan Arab Jamahiriya is still of the view that the International Court of Justice's Judgment, issued on the Continental Shelf case between the two countries on 24 February 1982, is sufficiently clear and specific to enable both Parties to draw the line without difficulty.

If it appears — contrary to this view — that there are points requiring explanations, both Parties would have to, in conformity with Art. 3 of the Special Agreement, go back jointly to the Court and “request any explanations or clarifications which would facilitate the task of the two delegations”.

This presupposes the existence of difficulties actually preventing the experts of the two countries from carrying out their technical task in implementing the Court’s Judgment in good faith, difficulties which after a bona fide effort they were not able to resolve, this before it could become appropriate for the Parties to formulate a request to go back to the Court.

In this respect the above-mentioned Tunisian Note contains two points which require, in the view of the Tunisian Government, explanation or clarification :

The first point relates to the co-ordinates of the most westerly point in the Gulf of Gabes. In this connection, the Socialist People’s Libyan Arab Jamahiriya’s view is that, although this matter was taken up in the course of the meeting of the experts of the two countries, held in Tripoli, from 13 to 17 May 1982, it was not dealt with within the limits of the technical task entrusted upon them in conformity with the Court’s Judgment to make possible the drafting of an agreement applying the aforementioned Judgment. Consequently, the Socialist People’s Libyan Arab Jamahiriya does not know exactly the differences related to this point and other elements in the Court’s Judgment, or the nature of the issue or issues that would need the Court’s clarifications.

The second point raised in the foregoing Tunisian Note relates to the angle of the first sector of the line and its controlling point delimited by the co-ordinates : 33° — 55’ N and 12° E. In this regard the above-mentioned Note gives no indications what are the issues in respect of which explanations or clarifications are sought.

The Court’s Judgment was absolutely clear that the line of the first sector is to be drawn from the point where the outer limit of the territorial sea of the Parties is intersected by a straight line drawn from the frontier point of Ras Ajdir through the point 33° 55’ North, and 12° East. Thus once the line and its course are determined, there is no possibility of technical problems arising with regard to the resulting angle itself.

In the light of these observations, it appears that the mere mention of a point or points is not sufficient to indicate what are the difficulties in respect of which explanations or clarifications are needed.

In these circumstances, the Socialist People’s Libyan Arab Jamahiriya can only renew its request that the sisterly Republic of Tunisia set forth the following :

First : All the points with respect to which the Republic of Tunisia deems it necessary to go back to the Court provided that all such points are submitted and not merely *inter alia*.

Second : The precise questions with respect to each of those points which in the Republic of Tunisia’s view have not been resolved by the Court’s Judgment or cannot be resolved through the technical tasks of the experts of the two countries applying the Judgment, and consequently require to go back to the Court.

The Socialist People’s Libyan Arab Jamahiriya has consistently shown — as the sisterly Republic of Tunisia is well aware —, and still shows its desire and readiness to apply promptly the Court’s Judgment.

The People’s Bureau for Foreign Liaison of the Socialist People’s Libyan

Arab Jamahiriya avails itself of the opportunity to express to the General Commissariat of the sisterly Republic of Tunisia in Tripoli its highest consideration and respect.

TO: GENERAL COMMISSARIAT OF THE SISTERLY
REPUBLIC OF TUNISIA.

Tripoli, 13 Moharram 1392 — as from P.D Corresp. to 30 October 1982.

Unofficial Translation

REPUBLIC OF TUNISIA
MINISTRY OF FOREIGN AFFAIRS

28 February 1983

No. 41 500793.

Note Verbale

The Tunisian Ministry of Foreign Affairs presents its compliments to the General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis, and hopes that it will convey the following to the competent Authorities in the Jamahiriya.

With reference to the Note of the Tunisian Ministry of Foreign Affairs No. 502844 dated 14 August 1982, and in particular its content regarding the deadline to file together a request to the International Court of Justice.

And with reference to the Note of the Tunisian Ministry of Foreign Affairs No. 503537 dated 23 October 1982 which renewed the invitation to the Libyan Authorities to prepare "jointly" a request to go back to the Court and even after the expiration of the three months provided for in the Special Agreement that were renewed for another period by the agreement of the two Parties.

And due to the non response of the Libyan Authorities to the Tunisian invitation, and their condition to know in advance, in writing, the details of the points that require the going back to the Court, in spite of their acknowledgement of the Tunisian views in all aspects and in precise details during the negotiations of the experts.

And based on a sincere and confirmed desire to settle the question of delimitation of the Continental Shelf between the two countries definitely and in the nearest time;

The Tunisian Government:

First: is astonished at the Jamahiriya's insistence to know in advance and in writing the details of all the points that require the going back to Court, without any reference to the possibility to respond to the Tunisian invitation, or the promise to do so, while the Libyan Authorities are well aware of the points that raise questions to the Tunisian experts and need in their view, interpretation and clarification, in confirming that these points do not affect the principles and rules decided by the Court in its Judgment;

Second: expresses once again its regret that the Libyan Authorities did not respond to the invitation for the meeting of the two Parties at the first time suggested or at any other time chosen by the Jamahiriya, as stated in the last

above-mentioned Note of the Tunisian Ministry of Foreign Affairs to formulate a request to go back to the International Court of Justice;

Third: considers that the Jamahiriya's position as to that invitation is a rejection of the provisions of Article 3 of the Special Agreement concluded between the two countries on 10 June 1977 regarding the going back jointly to the Court to request an explanation and clarification;

Fourth: informs the competent Authorities in the Jamahiriya that it has decided to go back to the Court unilaterally in the near future to request interpretation and clarification to facilitate the difficulties which face the experts in implementing the Judgment of the Court.

The Ministry of Foreign Affairs avails itself of this opportunity to express to the General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis its highest respect and consideration.

THE GENERAL COMMISSARIAT OF THE
SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA,
TUNIS.

Unofficial Translation

THE SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

16 March 1983

Ref. : 1/7/10-117.

Note Verbale

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya presents its compliments to the General Commissariat of the sisterly Republic of Tunisia in Tripoli and would appreciate that this Note be transmitted to the competent Authorities in the Tunisian Government.

With reference to the Note No. 41-500793 dated 28 February 1983 of the Tunisian Ministry of Foreign Affairs addressed to the General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis, and the Notes Verbales addressed to the Republic of Tunisia from 18 Jumada Al-Ula 1391 corresponding to 13 March 1982 to 13 Muharan 1392, corresponding to 30 October 1982, the People's Bureau for Foreign Liaison would like to indicate the following:

First: The Socialist People's Libyan Arab Jamahiriya has at no time rejected the application of the Special Agreement or any part of it. To the contrary, it has repeated, since the rendering of the Court's Judgment, efforts aimed at applying this Agreement, and consequently, at securing the implementation and the application of the Judgment at the earliest time. But these efforts from 13 March to 30 October 1982 have not met with a response from the Tunisian Authorities.

Second: The reference back to the Court must, in accordance with Article 3 of the Special Agreement, be made "jointly" by the two Parties. This clearly means

that the two Parties have to agree on the points or questions which require interpretation or clarification by the Court in order to facilitate the task of the two Parties in implementing the Judgment. Since the Socialist People's Libyan Arab Jamahiriya considers that the above-mentioned Judgment has enough clarity and specificity to enable the two Parties to draw the delimitation line without any difficulty, and while the Republic of Tunisia is of the view to go back to the International Court of Justice to request interpretation and clarification, it is natural that the Socialist People's Libyan Arab Jamahiriya requests all questions or points that require, in the view of the Tunisian Authorities, the interpretation or clarification by the Court, especially since the Jamahiriya has indicated, by its Note of 30 Shawal 1391 corresponding to 10 August 1982, how to draw the delimitation line with a view to implement the Judgment.

Third: The Socialist People's Libyan Arab Jamahiriya regrets that the Tunisian Authorities did not respond to the specific points contained in the above-mentioned Note of the Bureau for Foreign Liaison. The subsequent Tunisian Notes have not contained all points and questions that require the interpretation and clarification by the Court. After the sisterly Republic of Tunisia refrained from providing the Socialist People's Libyan Arab Jamahiriya with a draft request to go back to the Court, according to its Note of 23 Zul-Hajja 1391, corresponding to 11 October 1982, it did not indicate all points or questions that require the reference to the Court, as was requested by the Bureau's Note of 13 Muharram 1392, corresponding to 30 October 1982; and

Fourth: Notwithstanding the lapse of time, the Socialist People's Libyan Arab Jamahiriya is still willing to give any Tunisian suggestion that leads to the implementation of the Court's Judgment in good faith its complete care and attention. But, it does not recognize the right of the Republic of Tunisia to go back unilaterally to the Court under the Special Agreement, especially on questions which have not been specified or formulated. The Socialist People's Libyan Arab Jamahiriya reserves its position regarding any unilateral procedure taken by the Republic of Tunisia before the Court.

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya avails itself of this opportunity to express to the General Commissariat of the Sisterly Republic of Tunisia in Tripoli its highest consideration and respect.

TO THE GENERAL COMMISSARIAT OF THE SISTERLY
REPUBLIC OF TUNISIA.

Tripoli, 1 Jumada Al-Akhera 1392
16 March 1983.

Unofficial Translation

THE REPUBLIC OF TUNISIA
MINISTRY OF FOREIGN AFFAIRS

28 April 1983

No. 501 853.

The Ministry of Foreign Affairs of the Republic of Tunisia presents its compliments to the General Commissariat of the sisterly Socialist People's Libyan

Arab Jamahiriya in Tunis, and hopes that the following be transmitted to the competent Libyan Authorities:

With reference to the Tunisian Note No. 500793 dated 28 Feb. 1983, and in view of the content of the Libyan Note No. 6/1-524 dated 16th of March 1983, the Tunisian Government:

First: Shares the Libyan desire to reach an agreement which secures the implementation of the Judgment of the Court in good faith, having hoped that no differences would have emerged between the two Parties concerning the application of the Judgment, differences which up to this date have delayed the conclusion of the delimitation agreement provided for in Article 2 of the Special Agreement of 10th of June 1977.

Second: Expresses its rejection of the interpretation of Article 3 of the Special Agreement contained in the Libyan Note of 16 March 1983, although it still wishes that the recourse to the Court, regarding the points that have raised differences between them, would be made by a request prepared by the two Parties.

Third: Records with satisfaction the readiness of Jamahiriya in its last Note to give "any Tunisian suggestion that leads to the implementation of the Court's Judgment in good faith complete care and attention".

Taking this position into consideration, the Tunisian Government has decided to postpone recourse to the Court unilaterally in order to seek, for a last time with the Jamahiriya the possibility of a breakthrough in the deadlock which the discussions between the Parties have reached.

Fourth: For this purpose, suggests to the Jamahiriya the convening of a meeting of experts in Tunis in the nearest time to consider the following points on which the two Parties were not able to reach an agreement at the previous meetings:

1. The determination of the most westerly point of the coastline (low tide mark) in the Gulf of Gabes;
2. The delimitation of "the straight line drawn from the land frontier point of Ras Ajdir" which represents from its intersection with the outer limit of the territorial waters of the two countries, the delimitation line in its first sector;
3. Moreover, to exchange views regarding the points of importance raised during the previous negotiations between the two Parties relating to the contents of the Judgment regarding the delimitation of maritime areas other than the continental shelf.

The Ministry of Foreign Affairs avails itself of this opportunity to express to the General Commissariat of the sisterly Socialist People's Libyan Arab Jamahiriya in Tunis its highest respect and consideration.

TO: THE GENERAL COMMISSARIAT OF THE
SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA,
TUNIS.

*Unofficial Translation*THE REPUBLIC OF TUNISIA
MINISTRY OF FOREIGN AFFAIRS

No. 502013

11 May 1983.

The Ministry of Foreign Affairs of the Republic of Tunisia presents its compliments to the General Commissariat of the sisterly Socialist People's Libyan Arab Jamahiriya in Tunis, and asks it to transmit the following to the competent Authorities of the Socialist People's Libyan Arab Jamahiriya :

The Tunisian Government has come to know that the National Oil Company in the Socialist People's Libyan Arab Jamahiriya has sent a circulation to the oil companies working in it informing them that it considers that the delimitation line, provided for by the Judgment of the International Court of Justice issued on 24 February 1982 in the *Continental Shelf case between the two countries*, as "a definitive line which must be given all its effects".

Although this circulation was not issued by official sources, the Tunisian Government considers it necessary to inform the concerned Authorities in the Jamahiriya of the following :

First : the Tunisian Government recalls that the Special Agreement of 10 June 1977 did not request the Court to give a delimitation line between the two countries.

Second : The delimitation of the line remains, according to this Agreement, within the competence of the two Parties according to the principles and rules and the practical method decided by the Court, and provided for by the Judgment rendered by it.

Third : On that basis, the Tunisian Government has confirmed, in its previous Notes and contacts with the Jamahiriya, that the definitive delimitation line is the line on which the two Parties reach an agreement in their implementation of the Judgment and for this purpose conclude an official delimitation agreement.

Fourth : The Tunisian side has made every effort it could to reach this line and conclude an agreement for this purpose, but in vain to this time.

Fifth : Consequently, the Tunisian Government still awaits the Jamahiriya's response to its last Note No. 501853 dated 28 April 1983, and still considers it necessary to go back to the Court to request clarification and interpretation of the Judgment if the two Parties do not reach a solution, and rejects a unilateral application of the Judgment, and reserves all its rights as to implications of such action.

The Ministry of Foreign Affairs avails itself of this opportunity to express to the General Commissariat of the sisterly Socialist People's Libyan Arab Jamahiriya in Tunis its highest consideration and respect.

TO: THE GENERAL COMMISSARIAT OF THE
SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA,
TUNIS.

Unofficial Translation

THE SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
 THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Note Verbale

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya presents its compliments to the General Commissariat of the sisterly Republic of Tunisia in Tripoli, and hopes that this Note will be transmitted to the Tunisian competent Authorities:

With reference to the Note No. 41-501853 of the Ministry of Foreign Affairs of the Republic of Tunisia addressed to the General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis on 28 April 1983;

With reference to the Judgment of the International Court of Justice issued in the Continental Shelf case between the two countries on 1 Jumada al-Oula 1391, corresponding to 24 February 1982, and to the Libyan Notes Verbales addressed to the Republic of Tunisia from 18 Jumada al-Oula 1391, corresponding to 13 March 1982, which aimed at securing the execution and the application of the Court's Judgment, the People's Bureau for Foreign Liaison would like to clarify the following:

First: The Socialist People's Libyan Arab Jamahiriya, which has sought and still seeks to implement the Judgment of the International Court of Justice in good faith and in the nearest time, welcomes any step or meeting of the experts of the two countries that aims to achieve the said end and secures the carrying out of their technical task making possible the drafting of an agreement implementing the Court's Judgment.

Second: The Socialist People's Libyan Arab Jamahiriya, which confirms its position contained in the second paragraph of its Note Verbale dated 1st Jumada al-Oula 1392, corresponding to 16 March 1983, is of the view that the Court's Judgment has facilitated the task of the experts of the two countries and has put an end to difficulties which might justify a delay in the technical task which will secure the drafting of an agreement implementing the Judgment in accordance with the Special Agreement concluded between the two countries. In this regard, the Socialist People's Libyan Arab Jamahiriya would like to clarify the following matters concerning the three points contained in paragraph Fourth of the last Tunisian Note Verbale.

1. The method of drawing the delimitation line in its first sector according to the Court's Judgment — relating to points (1) and (2) in paragraph Fourth of the said Tunisian Note Verbale was indicated precisely and in detail in the Note Verbale addressed by the Socialist People's Libyan Arab Jamahiriya to the Republic of Tunisia on the 20th of Shawal 1391, corresponding to 10th of August 1982;

2. While the Socialist People's Libyan Arab Jamahiriya is ready to listen carefully to the point of view of the sisterly Republic of Tunisia concerning matters mentioned in point (3) of paragraph Fourth, it is of the view that these matters appear to fall beyond the technical task delegated to the experts as defined in the Special Agreement.

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya avails itself of this opportunity to express to the General

Commissariat of the sisterly Republic of Tunisia in Tripoli its highest consideration and respect.

TO: THE GENERAL COMMISSARIAT OF THE
SISTERLY REPUBLIC OF TUNISIA,
TRIPOLI.

Tripoli, 2 Shaaban 1392
15 May 1983

Unofficial Translation

THE SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

THE PEOPLE'S COMMITTEE FOR THE PEOPLE'S BUREAU FOR FOREIGN LIAISON

Re: 1/7/10-223

The People's Bureau for Foreign Liaison in the Socialist People's Libyan Arab Jamahiriya presents its compliments to the General Commissariat of the sisterly Republic of Tunisia in Tripoli and hopes that this Note will be transmitted to the competent Tunisian Authorities:

With reference to the Note of the Ministry of Foreign Affairs of the Republic of Tunisia No. 502013 dated 11 May 1983 addressed to the General Commissariat of the Socialist People's Libyan Arab Jamahiriya in Tunis;

And with reference to the Judgment of the International Court of Justice issued in the Continental Shelf case between the two countries on 1 Jumada Al-Oula 1391, corresponding to 24 February 1982; and the Libyan Notes Verbales addressed to the Republic of Tunisia from 18 Jumada Al-Oula 1391, corresponding to 13 March 1982, the People's Bureau for Foreign Liaison would like to clarify the following:

First: The Socialist People's Libyan Arab Jamahiriya has clarified its obligation to execute and apply the Judgment of the Court with the precision and clarity that it contains through a number of Notes which have not met a direct and specific response from the sisterly Republic of Tunisia. And, contrary to the general and vague information referred to in the last Tunisian Note No. 502013 dated 11 May 1983, nothing has been issued by the Socialist People's Libyan Arab Jamahiriya, its Corporations or companies which contradicts the previous indicated position, or prejudices areas of continental shelf which, in accordance with the Court's Judgment, are not considered to fall under the sovereign rights of the Socialist People's Libyan Arab Jamahiriya;

Second: The Libyan Note dated 20 Shawal 1391, corresponding to 10 August 1982, indicated precisely what the Judgment specified as a practical method to delimit areas of the continental shelf between the two countries, a method which, in the view of Libya, needs nothing from the experts but to carry out the technical task making possible the drafting of an Agreement implementing the Court's Judgment. The Socialist People's Libyan Arab Jamahiriya expresses its regret for the delay in reaching this end, since it has repeated its efforts to avoid it and it does not see in the Tunisian Notes, despite its repeated response to them, anything but an attempt to impede the execution and the implementation

of a binding Judgment on the two Parties since the day of its reading, more than one year ago;

Third: Despite the frequent requests of the Socialist People's Libyan Arab Jamahiriya to the Republic of Tunisia to clarify the details of what it claimed as points that need interpretation or clarification, the Republic of Tunisia has refrained from indicating them, except in general and unspecified terms;

Fourth: The Socialist People's Libyan Arab Jamahiriya was and still is ready to have a meeting of the experts of the two countries to carry out the task delegated to them as mentioned above. But it cannot accept that the meeting of the experts or others would involve matters relating to a stage prior to the Court's Judgment, or a discussion of the foundation of that Judgment.

The People's Bureau for Foreign Liaison of the Socialist People's Libyan Arab Jamahiriya avails itself of this opportunity to express to the General Commissariat of the sisterly Republic of Tunisia in Tripoli its highest consideration and respect.

TO: THE GENERAL COMMISSARIAT OF THE SISTERLY
REPUBLIC OF TUNISIA,
TRIPOLI.

Tripoli: 25 Shaban 1392
7 June 1983.

[Arabic text not reproduced]

Unofficial Translation

THE REPUBLIC OF TUNISIA
THE PRIME MINISTER

Tunis, 23 January 1984.

Honourable Brother Jadalla Azzous al-Talhi
Greetings,

In implementation of our leadership's intention to carry out our fraternal relations and the sole destiny which unifies our two countries towards its highest level of clarity and trust; also, according to what we agreed upon on the necessity for a new meeting of the experts of the two countries regarding the problem of the continental shelf, I have the honour to inform you of the following:

The experts already met, as previously decided, in Tunis on 14 and 15 December 1983, in order to reach an agreement on the implementation of the Court's Judgment, or to present to the High Commission for its upcoming meeting in Tunis, a report on points of agreement and disagreement between the two Parties.

According to my information, those experts neither reached an agreement on the implementation of the Judgment, nor drafted a report on points of agreement

and disagreement. The difference in the position of the two delegations is as follows:

- The Libyan delegation is of the view that the task of the experts is confined to the implementation of the Judgment as it is, without checking the precision or making sure of the figures contained in the Judgment, due to the fact that the Judgment is clear enough to enable the experts to implement it easily and without the need to go back to the Court to request clarification or interpretation in this regard. We have been aware of this position since the beginning of the negotiations in May 1982.
- The Tunisian delegation is of the view that there is ambiguity and contradiction (concerning the Court's definition of the first sector of the delimitation line), and imprecision (relating to the co-ordinates of the most westerly point of the Gulf of Gabes). This is a matter which necessitates either a return to the Court to request clarification or interpretation (a possibility provided for in the Special Agreement of 1977), or an effort to be made by the experts of the two sides to pave the way for reaching an agreement in this regard.

You have also been aware of this position since the contacts between the experts of the two countries.

But the new element in this regard is the practical suggestion presented by the Tunisian delegation aimed at facilitating the negotiations in order to open the way for an agreement. These suggestions were presented in the following way:

- (a) In principle level, the delegation expressed its readiness to take all required steps to reach an agreement between the two countries if the other side shows the same readiness.
- (b) The limiting of differences to two points: namely the fixing of the most westerly point on the Gulf of Gabes, and adjusting the angle of the first sector of the delimitation line.

With regard to the first point, the Tunisian delegation suggested examining the maps to make sure of its co-ordinates, as requested by the Court itself. The delegation explained that this point is located south of the point marked by the Court by a difference not exceeding 5 minutes. The Tunisian delegation also suggested visiting *in loco* if examination of the maps is not determinative. The result of such an *in loco* examination would be accepted in advance by the Tunisian delegation.

With regard to the angle of the first sector of the delimitation line provided for in the Judgment, the Tunisian delegation suggested that what was provided for by the Court, namely that the line determining this angle corresponds to the eastern boundary of Tunisian petroleum permit granted by Tunisia in this area, be accepted. On this basis, the practical suggestion is to draw the eastern boundaries of this permit on an agreed-upon map and to adopt the angle of these boundaries. The Tunisian side made this drawing which showed the possibility of reaching a compromise; and

- (c) The presentation of a draft agreement in this regard. But, the insistence of the Libyan delegation to maintain its initial position made it impossible to enter into a dialogue or a discussion which could narrow the gap between the two Parties. Consequently, agreement was reached neither on the agenda, nor on a map to be adopted in the Agreement, nor on the drafting of minutes to be referred to the High Commission.

Accordingly, and due to the necessity to reach an agreement between the two

countries on this apparently complicated, but resolvable, question, I would like to present two suggestions in this regard :

First : To take into consideration the new suggestions presented by the Tunisian delegation and to enter into a discussion in order to reach an agreement ;

Second : If this proves impossible, you agree with us, explicitly or implicitly, to go back to the Court to clarify and interpret what seems to be ambiguous or contradictory in the Judgment, so that together we may overcome points of difference and conclude a delimitation agreement in the nearest future.

However, the second suggestion does not generate a great deal of enthusiasm on our part, because our desire is to avoid the judicial atmosphere among Brothers tied by brotherly and good neighbourly relations.

In any event, I hope that the next meeting of the High Commission will provide a suitable body to adopt the final decision in this regard.

Awaiting your opinion which I have no doubt of its positiveness, and the opportunity to meet you soon, God willing, accept, Honorable Brother, my highest consideration. God bless you.

Mohamed MZALI.

[Arabic text not reproduced]

Unofficial Translation

THE SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

Honourable Brother Mohamed Mzali

Greetings,

I have seen your letter dated 23 January 1984 addressed to Brother Jadalla Azzouz al-Tahli, and would like to express that I share the view that the strengthening of our fraternal relations and the sole destiny which unites our two countries constitute the cornerstone of the aims of our two political leaderships. It is a duty which the executive organs should carry out with a view to reach the highest aim ; the unity of our two countries and the unity of our diverse Arab nation.

With the same spirit of clarity which characterized your letter in treating the question of the continental shelf between the Jamahiriya and Tunisia, permit me to clarify the reality of the situation, not as it was presented to you by the experts, but as it should be looked at.

First : No doubt you are aware that a Judgment was rendered by the International Court of Justice. This Judgment is final and definitive and should be implemented according to customary international law, the Statute, the Rules of Court, and moreover, according to what the two Parties had accepted when they had recourse to that Court. By the delivery of that Judgment, I never thought that there could be a possibility of saying that there was a question

which could be called a "dispute" on the continental shelf; this because it was settled by the delivery of that Judgment.

Second: The Judgment of the International Court of Justice of 24 February 1982, is so clear and precise to the extent that there is no place to get into details on its implementation. All that is required is the implementation of the Judgment with its co-ordinates and angles on agreed-upon maps. Any controversy in this regard, or any claim about its interpretation would not be acceptable. If the rights of the two Parties were to be fixed according to the contents of the Judgment, goodwill and international obligations require its contents be put into effect on a map implementing the Judgment and concluding an agreement in this regard.

By taking these two matters into consideration, it was hoped that at the meeting of the experts it would be simple and easy to agree to carry out the Judgment on a map implementing it and to prepare a draft agreement indicating the co-ordinates, showing the angles and lines according to their details in the Judgment.

But, I regret to say that the position of the experts of the sisterly Republic of Tunisia was disappointing and not what was expected from them. They had ventured to say that there was unclarity in the Judgment which required discussion and interpretation. They tried to transfer the meetings devoted to the implementation of the Judgment into meetings for negotiations as if there was no Judgment given by a court. It is regrettable that what was presented as a draft of an agreement was only a draft containing general provisions with blanks to be filled up by the details of the *dispositif* of the Judgment. It is not a matter of negotiations or consideration of a "dispute", but it is a matter of implementing a judgment in a cartographic way without discussion, controversy or interpretation of this course of the line.

Dear Brother,

Since the delivery of the Judgment, the Jamahiriya has addressed notes verbaux and sent experts in order to implement the Judgment, but the position of the Tunisian side has been to beg the question. The Tunisian side insisted on negotiating the Judgment or on going back to the Court for interpretation. This situation required some of the Secretaries to explain to you the legal point of view of the concept of the implementation, the clarity of the Judgment, the possibility of its implementation easily and simply and the non-existence of what could be considered as confusion or ambiguity which required interpretation. Even one of our Secretaries carried out a detailed explanation to you and your colleague, His Excellency the Minister of Foreign Affairs. From these contacts and meetings, we had the impression that you had a good understanding of this objective point of view, and that the meeting of the experts which was to follow that explanation would take the same course, i.e., to implement the judgment with its contents without constituting any obstacles. Yet, the meeting of the experts referred to in your letter showed something contrary to what came to our mind. Rather, the impression could be inferred from your letter that the experts on your side still maintain their previous arguments despite their inaccuracy, and that they may delay your intention to implement the Judgment with its contents. This is a matter which we cannot go along with since it is contrary to the Judgment and its binding force and to the Special Agreement by which the question of the Continental Shelf was referred to the Court. Moreover, it constitutes a real obstacle in the way of completing what is a settled question.

Therefore, and in the light of what has been explained above, we cannot agree

on the suggestions stated in your mentioned letter, and instead, we consider the following :

- (1) The Judgment should be implemented according to its contents without controversy and without going into detail on the course of the line since it is final, definitive and binding with its contents ; and
- (2) The Judgment is so precise and clear to the extent that one cannot say there is controversy, interpretation or a need to go back to the Court or any other body in this regard.

In conclusion, for two sisterly countries which accepted having recourse to the highest international judicial body on a dispute between them, which was settled by the Court clearly and precisely after efforts from it and the Parties, there is nothing in the view of any of their experts which could prevent them from attaining the political desire to implement the Judgment with what it contains. The impeding of the implementation may constitute an obstacle to the achievement of our aims. The judicial decision coincided with the political desire in overcoming this obstacle, and no one should raise any doubt about them.

This is what I would like to inform you of in response to your letter. We expect that your confirmation expresses the highest political desire of the Republic of Tunisia to implement the Judgment in a manner which would pass over an expert's attempts to impede the implementation of the Judgment just for the sake of arguing or seeking interpretation which was not foreseen by the issuance of the Judgment with its binding force.

Accept, My Honourable Brother, the best of my regards and respect.

(Signed) Mohamed ZARROUG RAGEB,
Secretary of the General People's Committee of
the Socialist People's Libyan Arab Jamahiriya.

Tripoli, 4 Rajab 1399
4 April 1984.

Annex II

THE *OFFICIAL GAZETTE* OF LIBYA, VOL. VI, No. 19,
4 MAY 1968 (6 SAFAR 1388 A.H.)
CONTAINING THE RESOLUTION OF
THE COUNCIL OF MINISTERS OF 28 MARCH 1968

[Arabic text not reproduced]

Unofficial Translation

LAWS

*Resolution of the Council of Ministers Approving the Grant of a Petroleum
Concession to Aquitaine Libye and Erap Company*

The Council of Ministers,

Having seen Petroleum Law No. 25 of 1955 and its amending laws;

Acting upon the recommendation of the High Petroleum Council of January 1966, adopted by the Council of Ministers, in which it was decided that the Ministry of Petroleum Affairs would offer blocks that are remaining from the offers to exploit petroleum areas to companies obtaining concession contracts, and to negotiate with these companies in order to grant to them the remaining blocks in accordance with the provisions of the law;

Having regard to the negotiations that took place between the Ministry of Petroleum Affairs and Aquitaine Libye and Erap Company to exploit some of the blocks in the western area, which the Ministry had offered for exploitation in order to develop the western areas of the country;

Whereas these blocks were offered for exploitation more than once without being accepted by any party; and

The two companies submitted an offer dated 13.6.1967 to exploit some of these blocks; and

Based upon what has been submitted by the Minister of Petroleum Affairs:

Has decided:

Article 1

To approve the grant to Aquitaine Libye and Erap Company of a Petroleum Exploitation Contract in the areas defined in the accompanying map thereto, according to the conditions set forth in Annex 2 of the Petroleum Law (Concession Contract).

Article 2

Aquitaine Libye and Erap Company shall be bound to expend the sum of two million U.S. dollars as working obligations. This sum shall be in addition to the working obligations specified in the Petroleum Law. The two companies shall submit, free of charge, all information they obtain from their operations to the Ministry of Petroleum Affairs.

Article 3

The Minister of Petroleum Affairs shall implement this resolution which enters into force as of the date of its issuance.

Issued in Beida on 29 Thu Al-Haja 1387.
28 March 1968.

(Signed) ABDEL-HAMID EL-BACCOUSH,
Prime Minister.

Annex III

RESOLUTION OF THE LIBYAN COUNCIL OF MINISTERS OF
28 MARCH 1968 APPEARING IN *MIDDLE EAST ECONOMIC
SURVEY*, VOL. XI, No. 41, 9 AUGUST 1968, PP. 12-13

*Council of Ministers Decision**Approving the Award of an Oil Concession Contract
to Aquitaine-Libye and ERAP**

The Council of Ministers,

After reviewing Petroleum Law No. 25 of 1955 and its amendments;

And pursuant to the recommendation of the Supreme Petroleum Council in January 1966 as approved by the Council of Ministers stipulating that the Ministry of Petroleum Affairs should offer the blocks remaining after the finalization of tenders for the exploitation of petroleum areas to those companies which acquired concession contracts, and negotiate with such companies with a view to awarding them the remaining blocks in accordance with the conditions laid down in the Law;

And on the basis of the negotiations held between the Ministry of Petroleum Affairs and Aquitaine-Libye and ERAP for the exploitation of some of the blocks in the western region, during which the Ministry proposed the exploitation of some of the blocks in question with a view to promoting the development of the western areas of the country;

And considering that exploitation bids were invited for these blocks more than once and no offers were forthcoming;

And on the basis of the offer submitted by the two companies for the exploitation of these blocks, dated 13 June 1967;

And pursuant to the proposal of the Minister of Petroleum Affairs;

Has decided the following:

Article 1

The award is hereby approved of an oil exploitation contract to Aquitaine-Libye and ERAP covering the areas defined in the attached map and under the terms stipulated in the Second Schedule of the Petroleum Law (The Concession Contract).

Article 2

Aquitaine-Libye and ERAP shall undertake to spend a sum of Two Million United States Dollars as expenditure obligations. This sum shall be in addition to the expenditure obligations stipulated in the Petroleum Law. The two companies shall submit to the Ministry of Petroleum Affairs, free of charge, all information they may acquire as a result of their operations.

* *MEES* translation from Arabic text published in *Libyan Official Gazette* on 4 May 1968.

Article 3

The Minister of Petroleum Affairs shall implement this decision, which shall become effective as of the date of its issue.

Issued in al-Baida on 29 Dhu al-Hijjah, corresponding to 28 March 1968.

(Signed) 'ABD AL-HAMID AL-BAKKUSH,
Prime Minister

Annex IV

LETTERS DATED 30 MAY 1976 AND 20 MARCH 1977
FROM NATIONAL OIL CORPORATION,
TRIPOLI, TO PETROCONSULTANTS S.A., GENEVA

30 May 1976.

PETROLEUM CONCESSIONS.

Reference to your letter dated December 8th 75 received by our office on February 10, 1976 concerning the geographical co-ordinates of all petroleum exploration concessions in Libya.

Please find enclosed the exact co-ordinates of each "corner" of every block of the concessions held by the National Oil Corporation.

Concerning the same data of the companies working in Libya they are under preparation and soon as completed we will supply them to you.

(Signed) Farag M. SAID,
Exploration & Prod. Manager.

ENCLS. 42

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COMPANY NAME: AQUITAINE LIBYA — ELF LIBYA
CONCESSION No.: 137
GRANTING DATE OF CONCESSION: 30 April 1968
ORIGINAL CONCESSION AREA: 6846 Km²
TOTAL RETAINED AREA: 5126.8 Km²

DESCRIPTION OF THE RETAINED BLOCK

Starting at the intersection of 12° 00' Longitude and 33° 55' Latitude

Thence East till 12° 20' Longitude
" South till 33° 10' Latitude
" East till 13° 00' Longitude
" South till 32° 55' Latitude
" West till 12° 40' Longitude
" South till 32° 53' Latitude
" West till 12° 25' Longitude
" North till 33° 00' Latitude
" West till 12° 20' Longitude
" North till 33° 03' Latitude
" West till 12° 15' Longitude
" North till 33° 05' Latitude

Thence West till 12° 10' Longitude
 " North till 33° 10' Latitude
 " West till 12° 05' Longitude
 " North till 33° 15' Latitude
 " West till 12° 00' Longitude
 " North till 33° 20' Latitude
 " West till 11° 55' Longitude
 " North till 33° 25' Latitude
 " West till 11° 50' Longitude
 " North till 33° 30' Latitude

Thence west till the intersection with the straight line between
 11° 35' Longitude — 33° 10' Latitude &

12° 00' Longitude — 33° 55' Latitude

Thence North-Eastward along this straight line till the point of origin.

20 March 1977.

LIBYAN PETROLEUM CONCESSIONS

Reference to our letter dated November 1st 1976 please find listed below the revisions held in petroleum concessions to date as per the attached enclosures.

1. *National Oil Corporation*

(a) Concession No. NC 17 revised to Concession No. NC 17A.

(b) Concession No. NC 72 revised to Concession No. NC 72A.

(c) Concession No. NC 76 new concession.

2. *Arabian Gulf Exploration Company*

(a) Concession No. 81 revised to Concession Nos. 81A EAST & 81A WEST.

(b) Concession 65 EAST revised to Concession No. 65A.

(c) Concession 80 revised to Concession 80A.

(d) Concession No. NC 75 (new concession).

3. *Occidental of Libya Inc.*

(a) Concession numbers NC 33A — B — C — (surrendered).

(b) Concession No. NC 74A — B — C — D — E — F (new concession).

4. *Elmerath Oil Co. Libya*

(a) Concession No. 97 Block I (revised).

(Signed) Farag M. SAID,
 Exploration & Production, Manager,
 National Oil Corporation.

NATIONAL OIL CORPORATION

CONCESSION No. : PC 76, ZONE I.

NATIONAL OIL CORPORATION AREA: 1719.2 Km²*DESCRIPTION:*

Starting at the intersection of 33° 30' latitude (On the straight line between 11° 35' longitude — 33° 10' latitude) and (12° 00' longitude — 33° 55' latitude)

thence east till 11° 50' longitude
 " south till 33° 25' latitude
 " east till 11° 55' longitude
 " south till 33° 20' latitude
 " east till 12° 00' longitude
 " south till 33° 15' latitude
 " east till 12° 05' longitude
 " south till 33° 10' latitude
 " east till 12° 10' longitude
 " south till 33° 05' latitude
 " east till 12° 15' longitude
 " south till 33° 03' latitude
 " east till 12° 20' longitude
 " south till 33° 00' latitude
 " east till 12° 25' longitude
 " south till 32° 53' latitude
 " east till 12° 40' longitude
 " north till 32° 55' latitude
 " east till 12° 45' longitude
 " south till 32° 50' latitude
 " west till 12° 20' longitude
 " north till 32° 55' latitude
 " west till 12° 15' longitude
 " north till 33° 00' latitude
 " west till 12° 05' longitude
 " north till 33° 05' latitude
 " west till 12° 00' longitude
 " north till 33° 10' latitude
 " west till 11° 35' longitude
 " north east-ward in a straight line till point of origin.

Annex V

ANNEX 3 TO THE CONCESSION AGREEMENT DATED
30 APRIL 1968 GRANTED TO AQUITAINE LIBYE
AND ERAP (ANNEX II TO THE APPLICATION)

[See p. 47, supra]

Annex VI

LETTER DATED 15 MARCH 1984 FROM
THE TUNISIAN EXPERT TO THE TUNISIAN AGENT

[See Application, p. 19, supra]
