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دولة البحرين
مكتب وزير الدولة
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المنامة - البحرين
هاتف: ٢١٧٧٢١ فاكس: ٢١٥٥٠٨

No: ICJ-QvB/ 318

الرقم:

Date: 13 July 2000

التاريخ:

H.E. Mr. Philippe Couvreur
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

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

Your Excellency,

I have the honour to provide Bahrain's written response to the questions posed by Judges Parra-Aranguren and Kooijmans on 29 June 2000 along with my government's comments on Qatar's letter dated 29 June 2000 responding to Judge Vereshchetin's questions.

QUESTION 1

What is the extent and what are the territorial limits of Zubarah? An accurate description would be appreciated, with indication of the evidence supporting the answer.

1. The Zubarah region is a small, contained, and virtually uninhabited area of approximately 193 square kilometres on the West coast of the Qatar peninsula, representing slightly more than one per cent of Qatar's land territory. The Zubarah region extends from Al Arish, about 10 kilometres north of the town of Zubarah on the coast, to Umm El Ma, about 20 kilometres south of the town of Zubarah. Inland from the coast of the Gulf of Bahrain, the region extends to and includes Al Na'man, Umm al Ghubbur, Masarehah and Al Thagab, approximately 13, 9, 8 and 5 kilometres inland respectively. The territorial limits of the Zubarah region are shown on Map 5 in Volume 7 of Bahrain's Memorial. A copy of this map is attached at Annex 1.
2. The co-ordinates for the locations that establish the eastern perimeter of the Zubarah region are attached at Annex 2.
3. Following the transfer of the Al Khalifa capital from the city of Zubarah to the main island of Bahrain at the end of the 18th Century, the Rulers of Bahrain exercised authority over the northern part of the Qatar peninsula through the Naim tribe. The Naim were the principal tribe in a tribal confederation that inhabited the north of the peninsula. They were subject



to and loyal to the Al Khalifa through the 19th and 20th Century leading up to Qatar's armed attack on 1 July 1937.¹ In the 1930's, the Al-Ramzan branch of the Naim defected to the Ruler of Qatar and went to Doha and its environs, while the Al-Jabr branch of the Naim tribe, whose tribal *dirah* (territory) was situated in and around the town of Zubarah, maintained their allegiance to the Ruler of Bahrain.²

4. The geographic extent of the Zubarah region claimed by Bahrain is an area over which Bahrain continuously and openly exercised authority by virtue of the allegiance of the Al-Jabr branch of the Naim tribe.
5. As recognised in the *Dubai-Sharjah Border Arbitration*, Arab tribes distinguished between a town and its associated area (*haram*) and the *dirah* of the tribes in the desert area:

The term 'dirah' indicates a region within which a nomadic people moves. The term 'haram' means, however, an area in the vicinity of a town or settlement upon which such town or settlement has a claim of exclusive rights for the purpose of obtaining the necessities of its existence."³

6. References to "Zubarah", therefore, have three possible meanings: first, to the ruined city of Zubarah; second, to the city of Zubarah and associated settled areas; and third, to the Zubarah Region, the combined *haram* and *dirah* of the Al-Jabr. Lorimer's *Gazetteer of the Persian Gulf*, refers to Zubarah as a "ruined and deserted town". Lorimer observed that the site was still frequented by "the Naim of Bahrain and Qatar" and that it was surrounded by dependent forts "within a radius of 7 miles" [15.4 kilometres] from the main town including "Faraihah, Halwan [Hulwan], Lisha, 'Ain Muhammed, Qal'at Murair [the main Zubarah fort], Rakaiyat, Umm-ash-Shuwail [Umm Al Shuwyyi] and Thagab."⁴ These are the same places identified by Bahrain as being within the limits of its claim to the Zubarah Region.
7. In 1937, the Political Agent prepared a briefing note for the British Political Resident on the Zubarah situation and stated that the "Zubarah area may be taken to be an enclave running from the coast south of and including Rubeijah, inland to include the wells at Halwan [Hulwan], Masaichah [Masarehah] and Lashi [Lisha] returning to the coast at and including Faraihah village. The ruined town of Zubarah and the ruined fort of Umm Rear [Murair] will be seen to be included within this area."⁵

¹ BM, para. 85.

² See BM, paras. 73-103.

³ *Dubai-Sharjah Border Arbitration*, 91 ILR 543, pp. 588.

⁴ Lorimer, *Gazetteer of the Persian Gulf*, Vol. II, p. 1952, BM, Ann. 74, Vol. 3, p. 398.

⁵ Report entitled "Zubarah Incident" and a memorandum entitled "Possible basis of a Compromise" by Capt. Hickinbotham, British Political Agent, 3 May 1937, BM, Ann. 126, Vol. 3, pp. 654 and 665. Umm Rear was another name given to Murair, the Al-Khalifa fort in the town of Zubarah.



8. Lorimer and the Political Agent were thus describing Zubarah as including the city and the surrounding settled areas , bounded to the north by Rakaiyat; to the east by Thagab, Masarehah and Lisha; and to Hulwan in the south. These descriptions of Zubarah were to the city of Zubarah and the associated settled areas. This was the home of the *hadar*, the members of the Al-Jabr tribe who had permanent homes.⁶ For example, Fadil bin Mohanna al-Naimi, who lived in a house in Lisha for over 20 years, applied to register this property in the Bahraini Land Registration Directorate in 1937.⁷ And Saleh bin Muhammed ali bin Ali al Naimi describes how as a child his family lived at the oasis of Lisha and how provisions could be obtained there.⁸ This was the core of Al-Jabr territory. Thus, when waiting for the impending Al Thani attack on 1 July 1937, the Al Naim gathered at Lisha and Hulwan and the first sign of the Al Thani intruders was at the guard post in Thagab.⁹
9. The territory of the Zubarah region occupied by the nomadic Al-Jabr was understood, in common with other Arab tribes, in terms of their *dirah*, which was in turn identified by reference to their grazing grounds around specific wells or oases. In 1937, the Zubarah region extended from the city of Zubarah to the wells and settlements that encircled it (the *haram*) and included the Naim grazing grounds (*dirah*) to the north, south and east of the *haram*. Bahrain has limited its claim to that part of the Zubarah region within the line circumscribed by the wells and places described in paragraph 1 above. The locations of these wells and places are easily identified and provide clear points for a delineation line between Bahrain's and Qatar's territory on the peninsula.
10. The territorial extent of the Zubarah region claimed by Bahrain is based on abundant historic and contemporaneous evidence as well as uncontradicted witness statements from members of the Al Jabr tribe. This evidence is set out in Bahrain's Memorial at paragraphs 89-103 and is briefly summarised below.
11. In May 1937, during negotiations with the Ruler of Qatar, Bahrain presented a compromise proposal to the Political Agent that Bahrain's control in northern Qatar would be limited to the Zubarah region and that the Naim could decide by plebiscite which Ruler they would serve.¹⁰ The Al Thani, knowing that they had no claim to the loyalty of the inhabitants of the Zubarah region and knowing that the inhabitants of the Zubarah region considered

6 Statement of Mohammed bin Mohammed bin Theyab Al Naimi, BM, Ann. 233(a), Vol. 4, p. 1014 and Statement of Saleh bin Muhammed Ali bin Al Naimi, BM, Ann. 234(a), Vol. 4, p. 1025.

7 BM, Ann. 118, Vol. 3, p. 638.

8 Statement of Saleh bin Muhammed Ali bin Al Naimi, BM, Ann. 234(a), Vol. 4, p. 1025.

9 Statement of Mohammed bin Mohammed bin Theyab Al Naimi, BM, Ann. 233(a), Vol. 4, p. 1014 at 1016.

10 Memorandum from Assistant Political Agent Bahrain, dated 29 May 1937, QM, Annex III.131, Vol. 7, p. 157



themselves subjects of the Ruler of Bahrain, do not appear to have accepted this proposal.¹¹

12. The allegiance of the Al-Jabr Naim was confirmed one month later when no less than 536 inhabitants of the Zubarah region sent a petition to the Ruler of Bahrain.¹² A copy of this petition is in the British archives and the original petition, comprising seven large sheets of parchment attested to with thumbprints, seals and names, is in the Government of Bahrain's archives. It is a visible and compelling testament of the Bahraini Naim's allegiance to the Ruler of Bahrain and the territorial extent of the Zubarah region. Since only family heads would have signed the petition, and given the extremely low population of the area, the petition probably represented the overwhelming majority of the families living in the Zubarah region in 1937. The petition states in part:

...we the undersigned, the inhabitants within the boundaries of Zubara for over hundred years are belonging to the Khalifah rulers of Bahrain and we have never been under the rule of any other Ruler: the boundaries of Zubara are from Ras Ashairij [Ra's Ushayrij] and Rabaijah and Um al Mai [Umm El Ma] and Na'maan and Halwan and Lisha and Misaichah [Masarehah] and Thagab to Ras al Hiddeyyah [south of Al Arish] and Fraihat [Al Faraihah] to Zubara and these boundaries are the property of the Khalifah Rulers of Bahrain from the oldest time till today."¹³

13. Immediately after the attack on Zubarah, the Ruler of Bahrain informed the Political Agent that Zubarah included: Al Thagab, Fureiha [Al Faraihah], Ain Muhammed, Umm al Sheweel [Umm Al Shuwyy], Al Zubarah, Qala Umm Rear [Murair], Al Rabaija [Al Rubayqan], Halwan [Hulwan], Lisha, Masuchhi [Masarehah] and Al Maharaqa.¹⁴
14. In the context of the 1944 settlement negotiations between Bahrain and Qatar, Capt. Hickenbotham, the Political Agent, proposed that the historical claims of the Al-Khalifa to the forts at the wells of Umm El Ma, Al Naman, Al Lisha, Halwan [Hulwan], Umm Sika [Masarehah] and Al Furiha [Faraihah], all ringing the Zubarah area, be recognised.¹⁵

11 *Ibid.*

12 *Ibid.*

13 Letter from Charles Belgrave, Advisor to Govt. of Bahrain, to Capt. Hickenbotham, British Political Agent, 20 June 1937, BM, Ann. 130(a), Vol. 3, pp. 679 to 680.

14 Letter from Capt. Hickenbotham, British Political Agent, to Lt. Col. Fowle, British Political Resident, 4 July 1937, BM, Ann. 141, Vol. 4, p. 701.

15 Capt. Hickenbotham's 1944 proposal for the settlement of the Zubarah dispute, February 1944, BM, Ann. 166, Vol. 4, p.751, sent under cover of a letter to Ruler of Qatar, 8 February 1944, BM, Ann. 165, Vol. 4, p. 749.



15. In November 1946, the Ruler of Bahrain described his ancestral territories and the extent of Bahraini land to the British Political Agent, Lieutenant Colonel Galloway, as "the port of Zubara territory, the houses in Zubara and the Lisha, and Halwan [Hulwan] and Um Saicha [Masarehah] and Um-Alma [Umm El Ma] and the mosques and the graveyards and his freedom and that of his people on the sea coast from Al Arish to Um Alma [Umm El Ma] and in the desert of the land without interference."¹⁶
16. In March 1948, the Ruler of Bahrain again described his territories as including the town of Zubarah, Lisha, Umm El Ma, Rabaijah, Faraihah and Hulwan.¹⁷
17. In June 1948, Mr. Ballantyne, adviser to the Bahraini oil concessionaire BAPCO, located the southern boundary of the Zubarah area at "Omm al Mai" (Umm El Ma).¹⁸
18. Former Zubarah residents have attested to the extent of the Zubarah region over which the Ruler of Bahrain exercised control and which the Al-Jabr branch of the Naim inhabited. They confirm that the Zubarah region includes the area within the limits of Al Arish, Al Thagab, Masarehah, Umm al Ghubbur, Al Na'man, Al Maharaqa and Al Judaydah.¹⁹
19. The map in Montigny-Kozlowska's study *Evolution d'un groupe bédouin dans un pays producteur de pétrole: les Al-Na'im de Qatar* demonstrates that the Al-Jabr were the predominant branch of the Naim in the Zubarah region.²⁰
20. Bahrain submits that the evidence already before the Court demonstrates a continuous and consistent recognition of the territorial extent of the Zubarah region as described in paragraph 1.

¹⁶ Note by Lt. Col. Galloway on his meeting with Ruler of Bahrain on 2 November 1946, BM, Ann. 182(a), Vol. 4, p. 790.

¹⁷ Letter from Ruler of Bahrain to C.J. Pelly, British Political Agent, 2 March 1948, BM, Ann. 186, Vol. 4, p. 798.

¹⁸ Letter from Mr. Ballantyne (Adviser to BAPCO), to Charles Belgrave, Adviser to the Govt. of Bahrain, 2 June 1948, Ann. 188, Vol. 4, p. 802.

¹⁹ Statement of Mohammed bin Mohammed bin Theyab Al Naimi, BM, Ann. 233(a), Vol. 4, p. 1014 and Statement of Saleh bin Muhammed Ali bin Al Naimi, BM, Ann. 234(a), Vol. 4, p. 1025.

²⁰ A. Montigny-Kozlowska, *Evolution d'un groupe bédouin dans un pays producteur de pétrole: les Al Naim de Qatar*, (Paris, 1985 PhD thesis), p. 53, BM, Ann. 229, Vol. 4, p. 983.

**QUESTION 2**

Which baselines were used for the determination of the outer limits of the territorial sea before the Parties extended the breadth of the territorial sea to 12 nautical miles in 1992 and 1993, respectively? Are any maps or nautical charts available which reflect these baselines and the outer limits of the territorial sea?

1. Like many other states, Bahrain has not specified baselines or the co-ordinates of basepoints for the determination of the limits of its territorial sea. Nor has Bahrain produced maps or charts that indicate such baselines or basepoints. Nevertheless, Bahrain has consistently maintained that, in accordance with international law, its basepoints are to be measured from the low water line of its islands and the low tide elevations within these islands' territorial waters. Bahrain placed beacons and markers on these islands and low tide elevations in the 1930's. Bahrain's basepoints opposite the Qatar peninsula are located on the low water lines of Qit'at Jaradah, Fasht ad Dibal, Qita'a el Erge and Fasht Bu Thur; multiple basepoints are located on the low water lines of the Hawar Islands, including Janan.
2. Since Bahrain's long-standing claim to the Zubarah region is subject to the Court's jurisdiction, Bahrain has specified basepoints on the coast of the Zubarah region in these proceedings. In the event that the Court declines to restore the Zubarah region to Bahrain, Bahrain would have to use additional basepoints on the low water line of Qit'at ash Shajarah for the measurement of its territorial sea in the area opposite the Zubarah region, as explained in its oral argument.
3. Bahrain has attached to this letter, at Annex 3, a copy of its basepoints. For the Court's reference, these basepoints were provided at tab 115 of the Bahrain's Judge's Folders. An illustration of the maritime boundary claimed by Bahrain in relation to Bahrain's and Qatar's other maritime boundaries is attached at Annex 4.
4. Bahrain has used the above basepoints on its islands and the low-tide elevations in the territorial seas of those islands to measure the breadth of its territorial sea. The Bahraini coastguard patrols Bahrain's territorial sea to the east of these basepoints.²¹

BAHRAIN'S COMMENTS ON QATAR'S RESPONSES TO JUDGE VERESHCHETIN'S QUESTIONS

Pursuant to Article 72 of the Rules of the Court, which affords Bahrain an opportunity to comment upon Qatar's written reply to the questions posed by Judge Vereshchetin, Bahrain respectfully submits the following observations.

Question 1: Treaty Relations of Bahrain and Qatar

1. On page 2 of Qatar's response to the first question, Qatar contends that the 1868 undertaking by Mahomed bin Sanee of Gutter should have been included in the list provided by the United Kingdom in 1971 of treaties establishing special treaty relations

²¹ See BR, Ann. 24, Vol. 2, p. 148.



between the United Kingdom and Qatar. Bahrain submits that this argument is unsustainable in light of the analysis of the 1868 agreement that appears in CR 2000/22, 28 June 2000, pp. 8-22. Indeed, the fact that Britain did not do so confirms this analysis. Qatar is yet again trying to argue against facts.

2. The second paragraph of page 2 states that Great Britain “considered the State of Qatar to be an independent State with the capacity to enter into international agreements.” Qatar then lists a number of treaties that the State of Qatar entered “in its own right”. Qatar fails to mention that prior to 1971, Qatar’s right to enter into international agreements was subject to, and limited by, its special treaty relations with Great Britain, as were other important sovereign rights, such as the right to grant concessions over natural resources. This was the essence of the lack of international political independence. The nature and effect of Qatar’s special treaty relations was fully addressed by Bahrain in its oral pleadings.²²

Question 2: The Meaning of “Bahrain and its Dependencies”

1. Qatar’s statement in the first paragraph of section (a) of its comment regarding the “Official denomination of the State of Bahrain” to the effect that “this reference to ‘dependencies’ is not opposable to Qatar” is factually and legally incorrect. The national denomination of “Bahrain and its Dependencies”, which was used by Britain and Bahrain for decades prior to 1971 in official documents including passports, represented an unequivocal territorial description, with unmistakable references to the Hawar Islands, maritime features and the Zubarah region. There is no record of any protest by Qatar of these territorial implications. Qatar cannot have been unaware of the official name of Bahrain as used by Britain in its Exchange of Notes with Bahrain dated 15 August 1971 or of the implications for the Hawar Islands and Zubarah of the use of the name “State of Bahrain and its Dependencies”, in contrast to the reference to Qatar as simply “the State of Qatar” in the notes exchanged between Britain and it on 3 September 1971. Regard must be had to the previous history of Britain’s attitude regarding Zubarah as well as the Hawar Islands and, especially as to the latter, to the British Government’s 1939 Award.
2. Bahrain wishes to draw attention to the fact that the word “Dependencies” as used in the Exchange of Notes of 15 August 1971 was spelled with a capital “D” indicative that the word is part of the official name of the State of Bahrain, and not merely a geographical description as might have been suggested if the word were not introduced by a capital letter.
3. In the second paragraph of page 2, Qatar once again asserts that the treaties of 1868, 1880 and 1892 between Britain and Bahrain “were entered into at the time of, or subsequent to, Britain’s first recognition of Qatar as a separate entity”. The assertion that Qatar was recognised as a separate entity from Bahrain in 1868 is repeated in paragraph (c) of Qatar’s comments.

²²

CR 2000/11 p. 25, paras. 37-42; p. 26, para. 42; CR 2000/13 pp. 50-66, paras. 2-128, CR 2000/21 p. 8, paras. 4-5; pp. 9-12, paras. 8-18; pp. 21-32, paras. 1-80; and CR 2000/22 p. 8, para. 3.



4. Bahrain will not repeat its detailed refutation of Qatar's imaginative narrative about the supposed development of Qatar as an "entity" that appears in CR 2000/22, 28 June 2000, pp.8-22, but will merely recall that that analysis excludes any identification of a separate identity, in any meaningful sense of the word, called "Qatar" prior to mention of it in the unratified Anglo-Ottoman Treaty of 1913.
5. The statement in the fourth paragraph on the same page (page 2) of Qatar's comments, that "[s]ubsequently, official Bahraini documents were headed "Government of Bahrain"", is misleading. Though some were headed in this way, others were headed "State of Bahrain and its Dependencies". For example, passports issued by Bahrain from the late 1950's until 1971 were headed "Government of Bahrain and Dependencies".
6. In the third paragraph of section (b), entitled "Meaning of the term "dependencies"", that begins on page 3 of Qatar's response, Qatar states: "The use of the wording in the 1913 British Order-in-Council "which may be included in the Principality..." suggests that reference was being made to possible future expansion of the Principality of Bahrain". Bahrain submits that this is a self-serving and incorrect interpretation of the words "which may be included". It is also counter-intuitive to suggest that in relation to Bahrain alone and no other of the territories, for which it was responsible, Britain legislated with specific reference to possible future territorial expansion. The words used are the standard way of referring to, without listing specifically, areas that are included in the territory of Bahrain, whether before or after the date of the Order. Since the words preceding "other territories" fully describe Bahrain's islands and maritime features, the additional reference to "other territories" by the drafters of the Order must have been intended to mean Bahrain's dependencies on the Qatar peninsula.
7. Finally, as to the Qatar's reference on page 4 to Laithwaite's description of Bahrain as a "compact group of five islands", the uninformed and hesitant nature of Laithwaite's views on the territories of Bahrain was addressed by Bahrain on 28 June 2000 (CR2000/21, pp. 36-37, paras. 21-28). Laithwaite's geographic description was manifestly incorrect, was not a legal decision and has no bearing on the territorial extent of Bahrain.

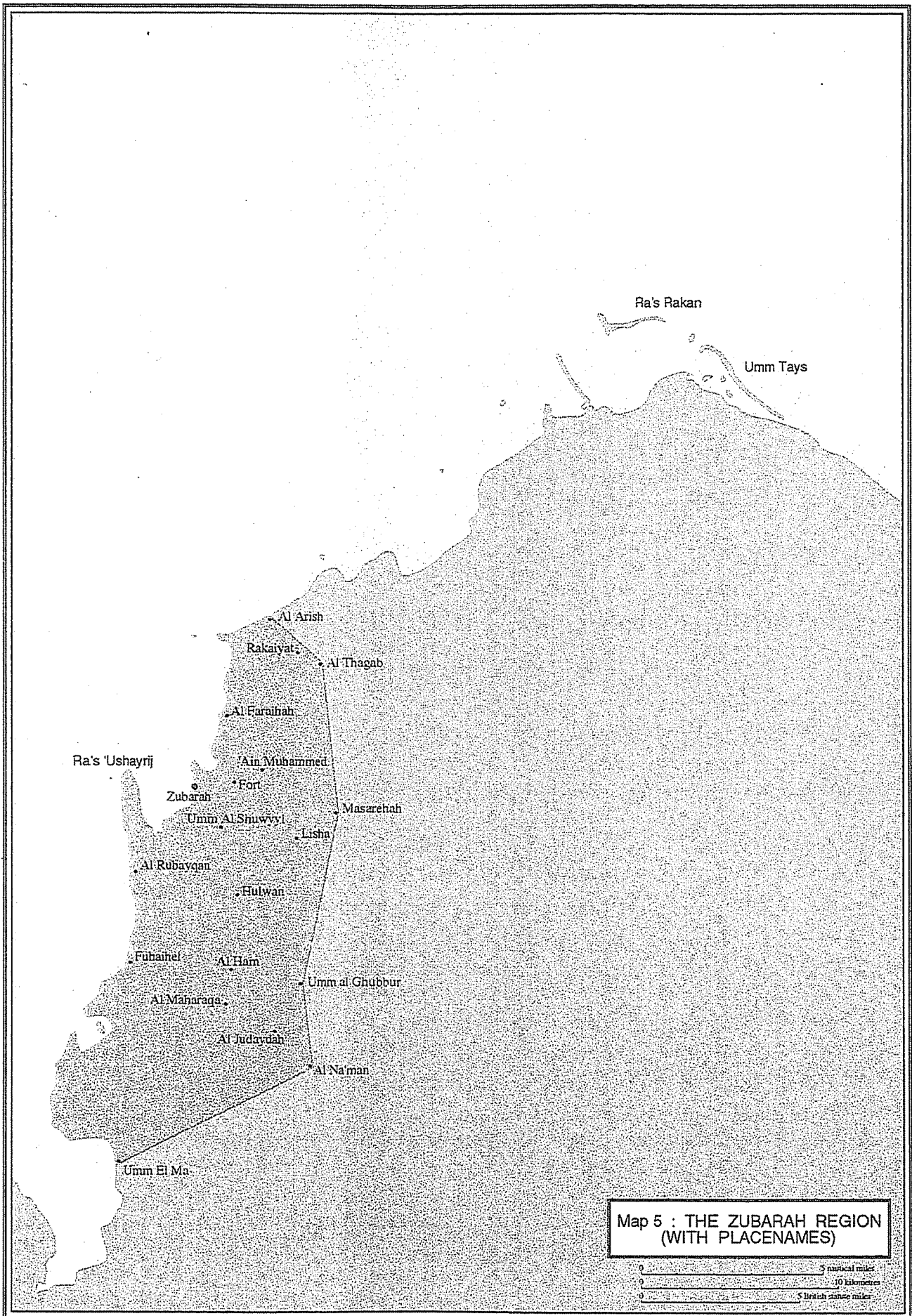
Accept, Sir, the assurance of my highest consideration.

JAWAD SALIM AL ARAYED

MINISTER OF STATE

AGENT OF THE STATE OF BAHRAIN BEFORE THE ICJ

Annex 1





Annex 2

Boundary Coordinates of the Zubarah Region

	Location Name	Latitude	Longitude
1.	Al Arish	26°03.15'N	051°03.30'E
2.	Al Thagab	26°02.00'N	051°05.10'E
3.	Masarehah	25°57.30'N	051°06.00'E
4.	Umm Al Ghubbur	25°53.80'N	051°04.55'E
5.	Al Na'man	25°52.00'N	051°05.20'E
6.	Um El Ma	25°49.00'N	050°59.20'E



Annex 3

State of Bahrain Territorial Sea Basepoints

Approximate Territorial Sea Basepoints for the determination of the Boundary between Bahrain and Qatar to the nearest second of arc on Ain al Abd Datum (1970).

Northern Sector

Fasht ad Dibal

B1. 26° 17' 35"N 50° 57' 33"E

Southern Sector

Line O₁ - Y

Fasht ad Dibal

B2. 26° 16' 41"N 50° 58' 44"E

B3. 26° 15' 51"N 50° 58' 45"E

B4. 26° 15' 28"N 50° 58' 52"E

B5. 26° 13' 08"N 50° 57' 02"E

Qit'at Jarādah

B6. 26° 10' 59"N 50° 54' 36"E

Zubarah

Y. 26° 03' 14"N 51° 03' 17"E

B7. 26° 04' 58"N 51° 02' 02"E

B8. 26° 02' 36"N 51° 01' 16"E

Line X – 25° 30'N

Zubarah

X. 25° 49' 12"N 50° 59' 10"E

B9. 25° 49' 36"N 50° 57' 48"E

B10. 25° 49' 59"N 50° 57' 16"E

B11. 25° 52' 15"N 50° 56' 48"E

Qita'a el Erge

B12. 25° 53' 17"N 50° 50' 19"E

Fasht Bū Thūr

B13. 25° 49' 25"N 50° 46' 24"E

Hawar Islands

B14. 25° 45' 54"N 50° 47' 31"E

B15. 25° 44' 23"N 50° 49' 32"E

B16. 25° 41' 22"N 50° 48' 52"E

B17. 25° 40' 45"N 50° 49' 28"E

B18. 25° 39' 17"N 50° 49' 27"E

B19. 25° 37' 55"N 50° 49' 02"E

B20. 25° 37' 23"N 50° 48' 16"E

B21. 25° 36' 41"N 50° 47' 18"E

B22. 25° 36' 24"N 50° 47' 01"E

B23. 25° 35' 50"N 50° 45' 53"E

B24. 25° 34' 48"N 50° 46' 02"E

B25. 25° 34' 04"N 50° 47' 19"E

B26. 25° 33' 32"N 50° 48' 11"E

B27. 25° 32' 39"N 50° 48' 47"E

B28. 25° 33' 09"N 50° 44' 48"E

B29. 25° 32' 06"N 50° 44' 23"E

Annex 4

Single Maritime Boundary Requested by Bahrain

