



**INTERNATIONAL COURT OF JUSTICE**

**CASE CONCERNING MARITIME DELIMITATION  
AND TERRITORIAL QUESTIONS**

**BETWEEN  
QATAR AND BAHRAIN**

**(QATAR V. BAHRAIN)**

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**INTERIM REPORT**

**SUBMITTED BY**

**THE STATE OF QATAR**

**VOLUME 1**

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

**INTERIM REPORT ON THE QUESTION OF THE AUTHENTICITY OF THE  
82 DOCUMENTS ANNEXED TO THE MEMORIAL AND COUNTER-MEMORIAL  
OF THE STATE OF QATAR AND CHALLENGED BY BAHRAIN**

The present Interim Report is submitted by the State of Qatar pursuant to the Order of the Court dated 30 March 1998 fixing 30 September 1998 as the time-limit for the filing by Qatar of an interim report on the question of the authenticity of the 82 documents annexed to its Memorial and Counter-Memorial which have been challenged by the State of Bahrain.

**I. INTRODUCTION**

1. The Court's Order directed that the Interim Report "be as comprehensive and specific as possible" and that the Reply of Qatar contain "its detailed and definitive position on the question of the authenticity of each of the documents challenged by Bahrain". The Court will recall that the Memorial of Qatar annexed eighty-one documents and its Counter-Memorial one document, the authenticity of which is challenged by Bahrain<sup>1</sup>. Qatar has deposited with the Registry the originals of seventy-six of these documents, not having been able to locate the originals of the six remaining documents. In its letter dated 17 March 1998, Qatar indicated that it would not rely on the six missing documents until their originals had been

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<sup>1</sup> Those documents are the following: QM, Annexes II.12 (also reproduced as Annex III.1); II.13 (also reproduced as Annex III.2); II.17; II.18; II.21 (also reproduced as Annexes III.7 and IV.5); II.22 (also reproduced as Annexes III.8 and IV.6); II.23 (also reproduced as Annexes III.9 and IV.7); II.24 (also reproduced as Annexes III.10 and IV.8); Annex II.30 (also reproduced as Annex IV.11); II.31 (also reproduced as Annexes III.14 and IV.13); II.32 (also reproduced as Annex III.20); II.33 (also reproduced as Annex III.25); II.34 (also reproduced as Annex III.26); II.35 (also reproduced as Annexes III.29 and IV.14); III.13; III.15; III.16; III.17; III.18 (also reproduced as Annex IV.12); III.19 (also reproduced as Annex IV.10); III.21; III.27; III.31 (also reproduced as Annex IV.15); III.34; III.36; III.37; III.39; III.40; III.46 (also reproduced as Annex IV.17); III.48; III.49; III.50; III.54; III.69; III.71; III.76; III.77; III.78; III.79; III.82; III.83; III.95; III.96; III.97; III.100; III.101; III.105; III.115; III.116; III.117; III.119; III.122; III.127; III.128; III.140; III.141; III.145; III.151; III.155; III.167; III.175; III.179; III.180; III.186; III.187; III.194; III.201; III.202; III.214; III.215; III.216; III.217; III.218; III.223; III.224; III.241; III.242; IV.9; IV.59; IV.66; IV.67; QCM, Map No. 1 (also reproduced as Annexes II.6 and III.12).

located and deposited with the Registry so as to permit Bahrain to examine them<sup>2</sup>. As of today, these originals have not been located. Consequently, Qatar will disregard these six documents for the purpose of the present case<sup>3</sup>. Accordingly, this Interim Report contains Qatar's position, as comprehensive and specific as possible, on the question of the authenticity of each of the remaining challenged documents<sup>4</sup>.

2. Throughout these proceedings, initiated in 1991, it has been Qatar not Bahrain which has sought to have the Court examine fully the merits of the dispute. Bahrain's attempts to contest the Court's jurisdiction and to prevent the adjudication of the dispute are a matter of record and need not be re-canvassed here. Qatar views Bahrain's attack on the authenticity of the documents as an additional attempt to prevent the Court from finally adjudicating the dispute. Bahrain now claims that "the 81 documents play an essential role in Qatar's Memorial, serving as almost the only basis for Qatar's claim to the Hawar Islands as well as, to a lesser degree, the Zubarah region"<sup>5</sup>. Contrary to Bahrain's assertions, Qatar's case does not depend on the challenged documents but is founded on many other factual and legal bases. Indeed, as will be explained below, one of the reasons why Qatar was led to believe that the documents in question could be relied upon was because they were consistent with other, unchallenged, sources upon which Qatar's case rests<sup>6</sup>.

3. Bahrain's letter of 25 September 1997 also contains a number of inaccuracies and exaggerations. For example, Qatar has never alleged that "it was a well-established state with a defined territory, borders and people before the arrival of the Al-Khalifa in Zubarah in the 1760s"<sup>7</sup>. Such misstatements, exaggerations and other defects in Bahrain's presentation, to which Qatar will draw attention in this Interim Report and its annexes, provide no grounds for

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<sup>2</sup> Those documents are QM, Annexes III.105, III.116, III.117, III.119, III.122 and III.127.

<sup>3</sup> Qatar has also decided to disregard Map No. 1 of its Counter-Memorial.

<sup>4</sup> The Interim Report comprises the Report itself (Volume 1) and two volumes of Annexes (Volumes 2 and 3).

<sup>5</sup> Bahrain's letter dated 25 September 1997, para. 1.

<sup>6</sup> See, for example, BCMJA, Annex III.16, Vol. III, p. 83, which was stated to be a petition from the so-called residents of Zubarah (with 536 signatures) the text of which is virtually identical to that contained in one of Qatar's challenged documents (QM, Annex III.127, Vol. 7, p. 135).

<sup>7</sup> Bahrain's letter dated 25 September 1997, para. 12.

Bahrain's allegations that the challenged documents are designed to distort each of the three aspects of the case concerning the Hawar islands, Zubarah, and the maritime delimitation.

4. In its letter of 25 September 1997, Bahrain has also stated that it is "puzzled by the appearance in [Qatar's Memorial's] Annexes of 81 documents of which Bahrain had no prior knowledge"<sup>8</sup>. Qatar recalls that it had attached two of those documents to its Memorial dated 10 February 1992 in the jurisdiction and admissibility phase<sup>9</sup>. In its Counter-Memorial in that preliminary phase, Bahrain made no comment on these documents although it did comment on issues related to the substance of the case<sup>10</sup>.

5. Bahrain took over one year to prepare the reports attached to its letter of 25 September 1997. Qatar is conscious of the gravity of the accusations made by Bahrain and has treated them seriously. Qatar has been obliged not only to make a more thorough examination of the challenged documents themselves but also to analyse the voluminous reports by Bahrain's experts. In the short time available, Qatar has obtained and is providing the Court with two forensic studies, commissioned from independent experts, attached in Volume 2 as Annexes II and III; and two historical reports, also commissioned from independent experts, dealing with what Bahrain characterises as "historical and other inconsistencies and anachronisms", attached in Volume 3 as Annexes IV and V<sup>11</sup>. To the extent that the historical issues are related to the merits of the case, Qatar will address them further in its Reply.

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<sup>8</sup> *Ibid.*, para. 1.

<sup>9</sup> See, QMJA, paras. 2.15-2.16 and Annexes I.6, Vol. II, p. 27, and I.11, Vol. II, p. 49.

<sup>10</sup> See, BCMJA, para. 2.1, where Bahrain stated that its Counter-Memorial was "not the proper place in which to state the whole of Bahrain's historical case... . Instead, Bahrain will direct a few paragraphs to correcting the Qatari statement in respect of two main themes of importance". Bahrain made no mention of the two Ottoman survey maps now challenged by Bahrain which were QMJA, Annexes I.6 and I.11.

<sup>11</sup> Given the time constraints, Qatar has not retained experts to examine every single report submitted by Bahrain. Rather, it has concentrated on the essential aspects of the problem, which in its view are (i) the forensic issues and (ii) the historical issues addressed by Bahrain's experts Dr. I. Bostan and Dr. C. Finkel (Appendix II.2 to Bahrain's letter dated 25 September 1997) and Dr. J.C. Wilkinson and Mr. R. Schofield (Appendices II.1 and II.4 to Bahrain's letter dated 25 September 1997, respectively). The forensic issues are addressed by Messrs. Abdul Karim Younis Al-Tarawneh and Abdul-Hamid Naji Irshaid in their report attached as Annex II, and by Dr. David A. Crown and Mr. Brian B. Carney in their report attached as Annex III. The historical issues are addressed by Professor Dr. M. Mehdi Ilhan and Associate Professor Dr. Zekeriya Kursun in their report attached as Annex IV, and by the International Boundaries Research Unit of the University of Durham in its report attached as Annex V.

6. With respect to the forensic issues, the reports show that Qatar's forensic experts dispute many of the findings of Bahrain's forensic experts, but themselves have differing views on the authenticity of the challenged documents. Qatar is itself unqualified, of course, to take a position on the authenticity of documents where there appear to be conflicts between the experts. As regards the historical aspects, however, the reports of Qatar's historical experts show that there are gross exaggerations and distortions in Bahrain's assertions.

7. Qatar's intent has always been to rely only upon documents whose authenticity is beyond question. In the light of the conflicting forensic reports, Qatar formally declares to the Court that it will disregard all the challenged documents for the purposes of the present case so as to enable the Court to address the merits of the case without further procedural complications.

8. This Interim Report will explain how the challenged documents were obtained by Qatar and why it was decided to submit them to the Court. It will then present the results of the forensic examination of those documents by various experts following the challenge by Bahrain to their authenticity. Finally, it will offer certain observations on the relationship between the content of the challenged documents and the history of Qatar as known from other sources.

9. As a result of Qatar's declaration in this Interim Report that it will disregard all of the challenged documents, Bahrain is now in a position to prepare its Reply on the same basis. Bahrain suffers no prejudice in this respect since Bahrain itself prepared its Counter-Memorial on the basis that it would also disregard the challenged documents<sup>12</sup>.

## **II. THE SOURCES AND INITIAL EXAMINATION OF THE CHALLENGED DOCUMENTS**

10. In its letter of 25 September 1997, Bahrain has expressed the view that "although the documents are purportedly from different sources, widely separated by time, place, and

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<sup>12</sup> See, BCM, para. 6, in which Bahrain declared that it "will treat the content of the 81 forged documents as non-existent".



person, it is highly likely that every one of them comes from a single, non-genuine source"<sup>13</sup>. In paragraph 15 of its Counter-Memorial, Bahrain has gone further, and has suggested that Qatar itself may have fabricated the challenged documents. This accusation is entirely false. Not only did the documents come from a variety of different sources, but the expert opinion of Messrs. Al-Tarawneh and Irshaid, attached in Annex II, shows that they were written by no fewer than 57 individuals.

11. Bahrain claimed that none of these documents was known to historians or scholars or could be found in a public archive<sup>14</sup>, and that they should not have been located in Qatar<sup>15</sup>. But this does not by itself prove that the documents are fraudulent. Both Turkish and British experts consulted by Qatar have explained that the state of the archives in Turkey and Britain cannot support such a conclusion by Bahrain<sup>16</sup>. Furthermore, according to Qatar's Turkish experts, the Ottoman-related documents are not "official Ottoman documents"; nonetheless, they could have been drafts, copies or translations of such documents<sup>17</sup>. In addition, the letters to or from Belgrave in the 1920s and 1930s as well as the correspondence between Belgrave and/or the Ruler of Bahrain, on the one hand, and intelligence agents acting for Bahrain, on the other hand, were of such a nature that they would not normally be found in the official archives of a particular country. Finally, it is well known that neither private correspondence by officials nor secret intelligence correspondence is generally included in normal departmental files.

12. At first glance it may appear peculiar that Qatar has only relatively recently obtained the challenged documents. The reason for this resides in the history of the State of Qatar itself. Qatar was a protected State until the end of the British presence in 1971. Prior to 1949, there was no British representation in Qatar; rather, the Political Agent in Bahrain was responsible for reporting on conditions in Qatar, and there were no separate archives

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<sup>13</sup> Bahrain's letter dated 25 September 1997, para. 22.

<sup>14</sup> *Ibid.*, paras. 2 and 16-17.

<sup>15</sup> *Ibid.*, at para. 15.

<sup>16</sup> *See*, Annex IV, Vol. 3, pp. 5 and 15; and Annex V, Vol. 3, paras. 29-31.

<sup>17</sup> *See*, Annex IV, Vol. 3, p. 4. *See*, also, paras. 34, *et seq.*, below.

exclusively related to Qatar existing on Qatari territory. Archival material relating to Qatar was thus found in Bahrain, Britain, Turkey, Iran and India. The national archive was kept in the personal archive of the Ruler of Qatar. Only with the appointment of a British Political Officer in Qatar in 1949 did official correspondence begin to be generated and archived on Qatari territory.

13. Apart from a general scarcity of documents in Qatar, there was another problem. In 1961 the British Political Agent in Qatar (Moberly) stated in a letter to the Political Resident that:

"... the Qatar Government archives are very incomplete and... Abdullah Darwish is suspected of having made off with many official Government papers which he cannot now be persuaded to hand back. To make good these deficiencies in the Government records Ahmad Mulla said that from time to time he may have to ask us to supply copies of letters sent to the Ruler in earlier years"<sup>18</sup>.

To try to remedy this deficiency, Qatar began to acquire documents which relate to its history.

14. Following the end of the British presence in Qatar, one of the tasks assigned to Qatar's Department of Cultural Heritage was the general acquisition of documents concerning the history and heritage of Qatar and its people. With this in mind, and well before it was apparent that the Court would ever be seised of the present case, Qatar made numerous efforts on various fronts to identify and collect documents that should have a place in its archives. Therefore, a number of sources were contacted, through official, academic and private channels, in an effort to collect any relevant materials. Several hundred documents have already been acquired in this way from various sources all over the world, with a view to their inclusion in Qatar's archives.

15. As far as the 82 challenged documents are concerned, these were acquired by Qatar between 1989 and 1993. History thus provides the answer to Bahrain's question as to why Qatar failed to mention these documents in 1938-39<sup>19</sup>. Qatar did not mention the challenged documents then, nor indeed in the 1980s, for the simple reason that it did not have them in its possession at those times.

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<sup>18</sup> See, QM, Annex III.286, Vol. 8, p. 421.

<sup>19</sup> See, Bahrain's letter dated 25 September 1997, para. 2.

16. All of the challenged documents were obtained from sources in Bahrain, India, Morocco, Oman, Saudi Arabia, Singapore, Dubai, Sharjah, and Qatar. They may be divided into two principal categories: those that were donated and those that were purchased. A total of 18 documents were donated to Qatar by four different donors from different countries in the Gulf region. Purchased documents came from a variety of sources in the countries mentioned above. In all, 15 different sellers and donors from nine different countries provided these documents.

17. While Bahrain purports to be surprised that the documents are not to be found in various official archives, the fact remains that there is a considerable trade in original documents relating, *inter alia*, to the Ottoman Empire and the history of the Gulf States. It is also regrettably true that numerous documents have been removed from official archives, notably for the purpose of furthering this trade.

18. Despite the fact that, *prima facie*, the documents that it had acquired appeared to be genuine, Qatar did not wish to submit donated or purchased documents to the Court until it had taken the precaution of obtaining an opinion from an expert in forensic science. It therefore submitted a representative sample of the documents that it had collected (including some of the challenged documents) to a renowned forensic expert in Germany, Dr. Walter Koch.

19. In the early 1990s, Dr. Koch performed a series of non-destructive forensic tests on these documents, using VSC equipment in order to assess the compatibility of the age of the paper and ink with the dates of the documents<sup>20</sup>. After completing this examination, Dr. Koch issued reports on the authenticity of documents presented to him<sup>21</sup>. First, these reports describe certain details found on the document, such as paper quality and appearance;

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<sup>20</sup> VSC equipment has also been used by Qatar's and Bahrain's forensic experts in these proceedings.

<sup>21</sup> Annex I contains a series of reports prepared by Dr. Koch. Qatar did not submit every document to Dr. Koch for forensic testing since, as noted above, Qatar had collected several hundred documents in all. Also, it should be noted that not all the certificates issued by Dr. Koch relate to documents that have been submitted by Qatar to the Court, since Qatar had not at the time selected the documents upon which it intended to rely and, in addition, many of the several hundred documents collected by Qatar have no bearing on the present case. However, the certificates produced by Qatar in Annex I show that Dr. Koch did examine the documents that became Annexes II.21, III.37, III.145, III.186, III.241 and IV.66 to Qatar's Memorial.

watermarks and foldings; signs of ageing such as holes or browning; ink colour; number and types of seal and stamp impressions. Second, they explain the technical examination carried out and its result. Third, they state Dr. Koch's conclusion: that examination using criminal investigation techniques produced no evidence raising questions as to the age of the paper and ink and their genuineness. This is also confirmed by Dr. Koch's affidavit of 24 July 1998, which is attached in Annex I.

20. In addition, the documents collected by Qatar were considered as being consistent with other documents from the British or Ottoman archives. They complemented other unchallenged documentary evidence. The historical report attached in Annex V has now confirmed that the great majority of the challenged documents do have an historical context.

21. The foregoing account of the various sources from which Qatar acquired the documents in question, together with the steps taken by Qatar to have an independent expert examine a representative sample of them before submitting them to the Court, suffices to demonstrate that the Bahraini charge of any misconduct by Qatar is wholly unfounded.

### **III. THE FURTHER FORENSIC EXAMINATION OF THE DOCUMENTS BY QATAR'S EXPERTS FOLLOWING BAHRAIN'S CHALLENGE TO THEIR AUTHENTICITY**

22. In its letter of 25 September 1997, Bahrain stated that it had reached the "conclusion that all of the 81 documents are forgeries"<sup>22</sup> on the basis of "concrete and comprehensive evidence provided by 12 experts in the relevant areas of historical scholarship and forensic analysis of documents"<sup>23</sup>. As regards the forensic aspects, Qatar has in turn had recourse to forensic document examiners, who were requested to examine the originals of the challenged documents at the premises of the Court, as well as the reports of Bahrain's experts<sup>24</sup>.

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<sup>22</sup> Bahrain's letter dated 25 September 1997, para. 4.

<sup>23</sup> *Ibid.*, para. 5.

<sup>24</sup> As noted above, these experts are Messrs. Abdul Karim Younis Al-Tarawneh and Abdul-Hamid Naji Irshaid and Dr. David A. Crown and Mr. Brian B. Carney, whose opinions are attached in Volume 2 as Annexes II and III, respectively. Between these two reports, Qatar's experts have addressed each of the challenged documents from the forensic point of view.

23. Based on their respective examinations of different aspects of the challenged documents, Qatar's forensic experts have reached conclusions which differ from those reached by Bahrain's corresponding experts but also differ between themselves. Thus, Messrs. Al-Tarawneh and Irshaid conclude as follows:

"Based on this careful, detailed, scientific analysis of each of the seventy-five documents, it is our conclusion that these documents are authentic. There is not one piece of evidence in the various areas we examined that indicates in any way that these documents were forged or altered"<sup>25</sup>.

Their report adds that:

"The Bahraini experts' report was explicitly drafted to misrepresent the evidence and to deceive the reader through endless pages of detailed handwriting analysis, which is groundless, unscientific, and internally inconsistent"<sup>26</sup>.

24. These conclusions were based on an analysis of the challenged documents in terms of paper, handwriting, signatures and "stylistic morphology"<sup>27</sup>. The experts' most significant findings are summarised at pages 3 to 4 of their report. According to those findings:

- (i) There is no attempt to disguise the handwriting on any of the documents;
- (ii) There is no indication of any alteration of the handwriting in an attempt at imitation or forgery;
- (iii) The handwriting is consistent in every way with the time period in which each of the documents is said to be written, and is a handwriting which would be difficult consistently to imitate today;
- (iv) The 75 documents examined were written by 57 different persons;
- (v) The vocabulary used in the documents is consistent with the time period in which they are said to have been written;
- (vi) The paper is from the same time period as the documents' dates; and

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<sup>25</sup> Annex II, Vol. 2, p. 19. It should be noted that the 75 documents referred to here are the 75 originals of annexes to its Memorial that have been deposited by Qatar in the Registry, the six remaining originals not having been located by Qatar.

<sup>26</sup> Annex II, Vol. 2, p. 19.

<sup>27</sup> *Ibid.*, p. 2.

(vii) There are as many variations in the handwriting and signatures in the "known documents" referred to by Bahrain's experts as there are in the challenged documents.

25. The report of Dr. Crown and Mr. Carney goes beyond a mere response to the forensic report submitted by Bahrain<sup>28</sup>, and is based to a great extent on forensic aspects not addressed by Messrs. Al-Tarawneh and Irshaid. In their report, Dr. Crown and Mr. Carney have come to different conclusions from those reached by Messrs. Al-Tarawneh and Irshaid. They conclude that, while they might dispute a few points made by Bahrain's experts, out of the 79 documents which they examined, 77 contain faults or flaws<sup>29</sup>.

26. This conclusion is based on various observations, depending on the particular document examined. In contrast to the views earlier given to Qatar by Dr. Koch, some of the documents are held to be questionable because, in the experts' view, the ink used is too modern for the purported age of the document. Some documents are considered to be not wholly reliable because of the presence of inappropriate stamps or seals, while others bearing the same stamps or seals which, in isolation, might be held to be authentic, are classified as doubtful because they are "contaminated" by the use of a stamp or seal that has been found to be inappropriate on other documents. Other documents are considered to be problematic because, "while in every instance the paper can be considered 'old'... there are qualifying conditions such as multiple usage of one sheet of paper by individuals with incongruous connections, paper removed undoubtedly from old books and files, and recent cuts along old paper which reflect negatively upon the validity of the 'old paper'"<sup>30</sup>.

27. It may be noted that on many occasions a document is viewed as flawed by Dr. Crown and Mr. Carney for only one of the above reasons. Qatar notes that in some such cases there is a conflict between its own experts. In other cases, Dr. Crown and Mr. Carney raise points which even Bahrain's experts have not addressed. As far as purely forensic issues are concerned, the question of paper is the one which most sharply divides Qatar's experts. While

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<sup>28</sup> Bahrain's letter dated 25 September 1997, Appendix II.8.

<sup>29</sup> See, Annex III, Vol. 2, p. 14. Dr. Crown and Mr. Carney examined 75 originals plus four photocopies, the quality of the two remaining photocopies being insufficient for meaningful examination.

<sup>30</sup> Annex III, Vol. 2, p. 1.

Dr. Crown and Mr. Carney consider a number of documents as questionable for the sole reason that the paper appears to have been taken from a book, Messrs. Al-Tarawneh and Irshaid found no problems with the paper, an aspect specifically covered by their examination. Indeed, while noting that for some documents the paper had been re-used, they state that, "As there was a paper shortage in the region, the re-use of paper was not uncommon and does not change our finding that this document is authentic"<sup>31</sup>. As will be seen in further detail below, the Turkish historians consulted by Qatar have come to similar conclusions regarding the re-use of paper<sup>32</sup>. As those experts state, "... given the scarcity of paper in the region at the time of drafting the documents, this fact does not establish the documents' inauthenticity"<sup>33</sup>.

28. With respect to stamps and seals, it may well be that some of those that were found to be "inappropriate" were added at a later date, possibly by the seller with a view to making the document appear more valuable to a potential purchaser, but in fact "contaminating" what may otherwise have been an authentic document.

29. In view of Dr. Koch's earlier opinions and the opinions expressed by Qatar's other experts, Qatar was surprised that the report of Dr. Crown and Mr. Carney called into question the authenticity of 77 of the challenged documents. As a result, Qatar considers that Dr. Crown and Mr. Carney may have been too categorical in their conclusions.

30. In the light of the uncertain and sometimes conflicting assessments made by its own forensic experts and those of Bahrain, Qatar has decided to disregard the challenged documents. This decision applies to all 82 documents that have been challenged by Bahrain. The question of the historical context of the documents is, however, a quite different issue, which Qatar will now address.

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<sup>31</sup> Annex II, Vol. 2, p. 4.

<sup>32</sup> See, para. 36, below.

<sup>33</sup> See, Annex IV, Vol. 3, p. 4.

#### **IV. THE CONTENT OF THE CHALLENGED DOCUMENTS IN THE CONTEXT OF THE HISTORY OF QATAR**

31. The examination by Qatar of Bahrain's allegations has not been limited to the forensic aspects. Qatar has also addressed the reports submitted by Bahrain pertaining to historical questions, which it regards as inaccurate and seriously distorted. As noted above, Qatar has therefore consulted two Turkish specialists in Ottoman history, Professor Dr. M. Mehdi Ilhan and Associate Professor Dr. Zekeriya Kursun, and a team of experts from the International Boundaries Research Unit of the University of Durham ("IBRU"). The reports of these experts are attached in Volume 3 hereto as Annexes IV and V, respectively.

32. The task assigned to these historical experts was not to determine as such whether the challenged documents were authentic, but rather to assess whether their content was consistent with the historical facts as already known and whether the documents could thus reasonably be considered as genuine from an historical point of view.

33. In particular, Prof. Ilhan and Dr. Kursun were asked to examine the 27 documents from Ottoman officials or addressed to Ottoman officials that are included among the challenged documents, with reference to the report by Dr. I. Bostan and Dr. C. Finkel<sup>34</sup>. Qatar's experts evaluated the documents from the point of view of Ottoman diplomatic practice, comprising an examination of the contents, writing, signatures, headings, formalities and seals.

34. Prof. Ilhan and Dr. Kursun have concluded in their report that the documents examined by them cannot be considered as official Ottoman documents. They reach this conclusion after noting that the documents do not display the formalism that was laid down for official correspondence by specific rules for Ottoman bureaucratic language. Thus, for

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<sup>34</sup> Bahrain's letter dated 25 September 1997, Appendix II.2.



example, the official forms of address are not used, and the use of certain stamps or seals appears to be inappropriate<sup>35</sup>.

35. On the other hand, these experts provide responses to some of the criticisms raised by Bahrain's experts with regard to the Ottoman documents. As they note, Ottoman documents could be written in Arabic if the writer or the addressee was himself an Arab, as was sometimes the case<sup>36</sup>. Furthermore, while the documents are not official documents, they could be drafts, translations or copies of official documents. In such an event, the formalities might be dispensed with<sup>37</sup>.

36. Again, as regards the paper, Prof. Ilhan and Dr. Kursun, like Messrs. Al-Tarawneh and Irshaid<sup>38</sup>, observe that paper was scarce in the region at the time, and that the re-use of paper does not establish a document's inauthenticity<sup>39</sup>. Indeed, while Qatar's experts on Ottoman history agree with Bahrain's experts that official Ottoman documents (meaning documents issued from recognised Ottoman officials or pertaining to official Ottoman bodies) were written on official paper, they point out that it is possible to find Ottoman documents in the Ottoman archives which are either drafts and/or copies, and which are written on non-official paper or paper of lesser quality<sup>40</sup>.

37. Finally, with respect to Bahrain's experts' assertion that they have found none of the challenged documents or their copies in the Ottoman archives, Prof. Ilhan and Dr. Kursun suggest that it is not possible to infer from this that the documents or their copies were not at one time, or still are not, in the Ottoman archives. As they point out, the Baghdad and Basrah archives, which grouped the Ottoman administrative archives from Nejd and Hasa, suffered losses as a result of the First World War; in addition, the catalogues of the Basbakanlik

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<sup>35</sup> See, Annex IV, Vol. 3, p. 5.

<sup>36</sup> *Ibid.*, p. 4.

<sup>37</sup> *Ibid.*

<sup>38</sup> See, Annex II, Vol. 2, p. 4.

<sup>39</sup> Annex IV, Vol. 3, p. 4.

<sup>40</sup> *Ibid.*

Ottoman archive in Istanbul cover only one-third of the archive<sup>41</sup>. Qatar's Turkish experts also note that the maps which are contained in the group of the documents that they examined appear either to have been drawn by an expert or to have been copied from original Ottoman maps, since there are many Ottoman maps of this type in the Ottoman archives<sup>42</sup>.

38. In conclusion, therefore, while Qatar's Turkish experts consider that, for the reasons which they have given, none of the documents challenged by Bahrain and submitted to their examination can be considered as official Ottoman documents, the documents cannot be discounted for this reason alone, and could have an historical context.

39. Qatar's other historical experts, from IBRU, have addressed the challenged documents from the perspective of various historical sources and of British knowledge of Gulf affairs to determine whether they are compatible with such sources and knowledge, with particular reference to the reports by Dr. J.C. Wilkinson and Mr. R. Schofield that have been submitted by Bahrain<sup>43</sup>.

40. Dr. Wilkinson and Mr. Schofield have tried to show that there is no historical context for the challenged documents. IBRU's report appended hereto demonstrates however that the content of many of the challenged documents is compatible with their historical context, with the content of other, unchallenged, documents, and in general with known historical facts<sup>44</sup>. Consequently, there is no basis for Bahrain's assertion that the challenged documents contain "startling revelations which, if true, would mean that previously accepted history must be radically rewritten - not only the history of Bahrain and Qatar, but also that of the Gulf as a whole"<sup>45</sup>. Nor is there any basis for Bahrain's accusation that "purported political relations between Britain and the Ottoman Empire and between the Rulers of Bahrain, Abu Dhabi and Qatar are just invented"<sup>46</sup>.

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<sup>41</sup> *Ibid.*, p. 6.

<sup>42</sup> *Ibid.*

<sup>43</sup> Bahrain's letter dated 25 September 1997, Appendices II.1 and II.4.

<sup>44</sup> Annex V, Vol. 3.

<sup>45</sup> BCM, para. 4.

<sup>46</sup> See, Bahrain's letter dated 25 September 1997, para. 19.

41. The research that has been performed by IBRU to date shows that this proposition has been grossly overstated by Bahrain and by its historical experts. In particular, the IBRU report points to flaws in the research methods of Bahrain's experts, which have led to a distorted picture of the historical context. The more detailed research by IBRU thus demonstrates, *inter alia*, that while the maps produced with Qatar's Memorial that have been challenged by Bahrain may not be formal delimitation documents<sup>47</sup>, the lines that they depict may be primarily concerned with responsibility in connection with the maintenance of the maritime peace in the Gulf<sup>48</sup>. In regard to the Ottoman-related documents, therefore, it is IBRU's view that since these documents do have an historical context, Bahrain's experts are "wrong to declare so categorically that it is impossible for these Ottoman-related documents to be genuine"<sup>49</sup>.

42. Similarly, with respect to the documents relating to conflicts between Qatar and Abu Dhabi, IBRU's report has shown that such conflicts had existed since the 19th century, and that there is thus no foundation for Dr. Wilkinson's characterisation of these challenged documents as a "transparent retrojection" of the frontier disputes in the 1950s. By reference to published works and archival documents, IBRU's report shows here again that the challenged documents are consistent with the contemporary historical context<sup>50</sup>.

43. The IBRU report has shown that Bahrain's expert Dr. Wilkinson was also wrong to reach the conclusion that there was no dispute between Qatar and Abu Dhabi concerning Khor al-Udayd. In fact, Dr. Wilkinson completely ignored the fundamental point that Khor al-Udayd was the main area of dispute between Abu Dhabi on the one side and Qatar and the Ottomans on the other, between 1871 and 1913, and then between Qatar, Abu Dhabi and Saudi Arabia in the inter-war period<sup>51</sup>. Similarly, Dr. Wilkinson has stated that Britain never recognised any Ottoman jurisdiction in the Qatar peninsula; yet as Qatar has shown in its

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<sup>47</sup> QM, Annexes II.21, II.22, II.23, II.24, II.32, II.35, III.17 and III.46.

<sup>48</sup> Annex V, Vol. 3, paras. 25, *et seq.*.

<sup>49</sup> *Ibid.*, para. 78.

<sup>50</sup> *Ibid.*, paras. 79, *et seq.*.

<sup>51</sup> *See, ibid.*, paras. 82, *et seq.*.

written pleadings<sup>52</sup> and as IBRU further demonstrates in its report<sup>53</sup>, unchallenged records dating from before 1881 show that the British government did recognise Qatar as having fallen under *de facto* Ottoman jurisdiction. Indeed, as the IBRU report points out, Dr. Wilkinson himself, in one of his published works, admits that at one time the British were encouraging the Ottomans to enforce their rule in Qatar<sup>54</sup>.

44. Referring to other challenged documents from the 1920s and 1930s, the IBRU report again shows that they are plausible within the historical context<sup>55</sup>. For example, where Dr. Wilkinson has tried to show that the references in the documents to oil are an anachronism, IBRU has demonstrated, on the basis of known historical facts and unchallenged documents, that there was considerable oil interest in Bahrain from 1925<sup>56</sup>.

45. As a result of its research to date, and on the basis of the above observations and other more detailed responses to objections raised in the reports of Dr. Wilkinson and Mr. Schofield, IBRU comes to the general conclusion that the great majority of the challenged documents have an historical context and that they thus cannot be deemed to be inauthentic on historical grounds alone. Indeed, for IBRU only one of the challenged documents appears to cause a problem as far as historical context is concerned<sup>57</sup>.

46. In Qatar's view, therefore, there is nothing in the historical content of the challenged documents which should have given rise to any doubts concerning their authenticity. Indeed, as the IBRU report shows, the content of the challenged documents is consistent with the historical facts as recorded in other unchallenged documents and publications. Qatar therefore had no reason not to use these documents to complement the other documentary evidence.

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<sup>52</sup> See, QM, paras. 3.43, *et seq.* and 3.47, *et seq.*; and QCM, paras. 2.30, *et seq.*

<sup>53</sup> Annex V, Vol. 3, paras. 27, *et seq.*

<sup>54</sup> *Ibid.*, para. 27, referring to J.C. Wilkinson, *Arabia's Frontiers: The Story of Britain's Boundary Drawing in the Desert*, London, 1991, p. 78.

<sup>55</sup> Annex V, Vol. 3, paras. 87, *et seq.*

<sup>56</sup> *Ibid.*, para. 119.

<sup>57</sup> *Ibid.*, para. 157. The document concerned is QM, Annex III.46.

47. Qatar cannot end this Interim Report without commenting on the highlighting exercise that has been performed by Bahrain on Qatar's Memorial and Counter-Memorial. Under cover of its letter to the Court dated 2 February 1998, Bahrain submitted copies of those written pleadings which were purportedly highlighted "to show all references to the forged documents, and the arguments based on them". In this connection Bahrain stated that "It is impossible to overstate the extent to which the forgeries used by Qatar contaminate the case". Qatar considers, however, that Bahrain has vastly overstated the extent to which the content of the challenged documents affects Qatar's case, particularly when it is recalled that Bahrain's own Counter-Memorial was prepared on the basis that it disregarded the challenged documents. Bahrain's highlighting is an eloquent demonstration of such overstatement. To give just one example, Qatar would like to draw the Court's attention to paragraph 5.1 of Bahrain's highlighted version of Qatar's Memorial, from which it appears that Bahrain considers that Qatar can no longer rely on Lorimer's *Gazetteer of the Persian Gulf*, the 1913 Anglo-Ottoman Convention or British Government records if the challenged documents are to be disregarded. This is quite absurd, and the highlighting here and in numerous other places has clearly been done by Bahrain in an attempt to exaggerate the effect that the challenged documents have on Qatar's case.

## V. CONCLUSION

48. As indicated above, after receiving its various experts' reports, and in the light of the conflicting views amongst the Parties' experts, Qatar has decided that it will disregard all the 82 challenged documents for the purposes of the present case so as to enable the Court to address the merits of the case without further procedural complications. It does so, however, with the proviso that it does not accept Bahrain's distortions of the historical facts or its exaggerations of the effect of the challenged documents on Qatar's case.

[Signed]

Dr. Abdullah bin Abdulatif Al-Muslemani  
Agent of the State of Qatar

30 September 1998



## **LIST OF ANNEXES**

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- I. Certification by Dr. Walter Koch
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- II. Expert Forensic Report by Abdul Karim Younis Al-Tarawneh and Abdul-Hamid Naji Irshaid
- III. Forensic Document Examination Report by Dr. David A. Crown and Mr. Brian B. Carney

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- IV. Report by Professor Dr. M. Mehdi Ilhan and Associate Professor Dr. Zekeriya Kursun
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