

DECLARATION OF JUDGE HERCZEGH

[Translation]

The two Parties — Bahrain and Qatar — have asked the Court to draw a “single maritime boundary” between them. In the southern sector of the area in question it is solely the delimitation of the territorial sea between the Parties that is at issue; further to the north, where the coastlines of the two States are adjacent, it is the delimitation between the Parties’ continental shelf and economic zone that is at issue. In the southern sector, this task has proved very difficult because of the nature of the coastlines and the existence of a number of islands and islets with a tiny surface area at high tide but which extend over a considerable area at low tide. The way in which these maritime features have been represented on the geographical maps made available to the Court sometimes differs.

Having taken its decision concerning sovereignty over the Hawar Islands, the Court had to deal with another problem. In accordance with the relevant provisions of customary international law — which are contained in Article 12, paragraph 1, of the 1958 Convention on the Territorial Sea and Contiguous Zone and in Article 15 of the 1982 United Nations Convention on the Law of the Sea — the single maritime boundary that the Court was to draw in fact passes through the narrow, shallow channel that separates the islands of the Hawar group from the Qatar peninsula, a channel that is unnavigable. Consequently, local sea traffic between the southern and northern parts of the western coast of Qatar must follow routes to the west of the Hawar Islands.

In view of this fact, the Court considered it necessary to point out that, as Bahrain was not entitled to apply the method of straight baselines, the waters lying between the Hawar Islands and the other Bahraini islands were not internal waters of Bahrain, but the territorial sea of that State. In point 2 (*b*) of the operative part of the Judgment, it stated that vessels of the State of Qatar enjoy in the territorial sea of Bahrain separating the Hawar Islands from the other Bahraini islands the right of innocent passage accorded by customary international law.

I take this opportunity to express my agreement on this matter and to point out that these very important statements have enabled me to vote in favour of paragraph 6 of the operative part of the Judgment, which defines the single maritime boundary that divides the maritime areas of the two States party to the dispute.

(Signed) Géza HERCZEGH.