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JPRS L/10328

17 February 1982

# Worldwide Report

LAW OF THE SEA

(FOUO 1/82)



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INTERNATIONAL AFFAIRS

HAGUE COURT HEARING ARGUMENTS ON TUNISIAN-LIBYAN SEA FRONTIER

Paris JEUNE AFRIQUE in French No 1085, 21 Oct 81 p 27

[Article by Samir Gharbi: "A Smell of Gasoline"]

[Text] The final Tunisian-Libyan confrontation over delimitation of their maritime frontier began on 16 September in The Hague International Court of Justice (ICJ). Contrary to those that preceded it in 1976 and 1977, in the open sea, this has been very peaceful. Indeed, courtesy is compulsory in this "world tribunal" established by the United Nations in 1945. One of the common expressions is "our eminent adversaries," another, "fraternal countries." But to get to this point it took 8 years of fruitless negotiations (1968-1976) followed by a serious crisis. At last resort, on 10 June 1977 wisdom won out: the two governments signed a compromise calling on the ICJ to decide not only "the principles and rules of international law which could be applied" to delimit the continental shelf, but also to "clarify a practical way" which would enable experts of the two countries to mark the frontier "without any difficulty."

The matter is very complicated. It involves scientific, economic, juridical, and historical facts. The issue is especially crucial to Tunisia since the disputed zone is rich in petroleum.

Following the 10 June 1977 compromise, each government submitted to the court the documents necessary to support its position (memorandum, counter-memorandum, and reply). It is the oral proceedings now underway in The Hague, with an initial stage of Tunisian testimony (16-25 September) and Libyan testimony (beginning 29 September) before 15 independent judges, presided over by Nigerian Taslim Olawale Elias.

On the two sides there are some 50 lawyers, experts and advisers; British, American, French, Italian, Tunisian, and Libyan. Most are outstanding specialists in international law, geology, geomorphology, physiography, and oceanography... Some are from such prestigious universities as Cambridge, Paris, Geneva, Cornell, etc. But the positions they are defend'ng on behalf of the government which hired them result in very different lines leading from the land border point, Ras Ajdir. The Tunisian representatives maintain that the predominant orientation of Tunisia's coast is east. However, the opposing party considers this direction to be "abnormal" and "accidental" and thus negligible in relation to its own

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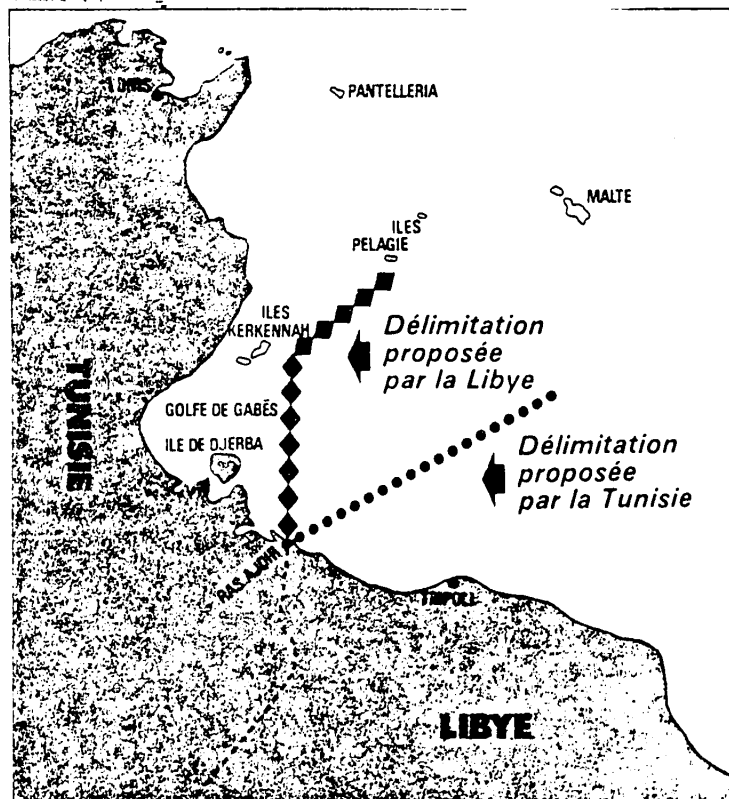
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"continental perspective." The Libyan representatives, referring back 7 million years, affirm that the thrust of the African continent has been north. Since it is the orientation that will decide the line of the maritime frontier, it is easy to see that the difficulty of the debate is more than geological.

#### Deliberations

The key to the issue has appeared in the Libyan delegation's intention to counter the natural extension of Tunisia to the east by disregarding the islands of Djerba and Kerkennah. The Tunisian solution of several oblique lines is also rejected: these lines pass in front of the Libyan coast...In contrast, the Libyan representatives propose a line proceeding due north which passes...in front of the Tunisian coast. It is up to the court to decide which are the most pertinent natural and juridical factors. Its deliberations will last at least 1 to 2 months.

The judgment, which will be voted by absolute majority of the judges, is "compulsory, definitive, and without appeal." The two parties, within a period of 3 months (once renewable), will be required to proceed themselves to marking the line. In case of deviation from, or failure to respect, the judgment, the ICJ rules provide that recourse is possible to the Security Council, "which has power to recommend or decide on appropriate measures."



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BRIEFS

NO ILLEGAL FISHING CLAIMED--Following the information that the Ghanaian Navy had arrested the Ivorian tuna fishing vessel "Laurent," we have received the following letter from the Ets Chevannes-Merceron-Ballery company in Concarneau: "As the administrators in charge of this vessel, we would like to note that it was not 'seen fishing in the country's territorial waters,' as had been announced. The vessel was arrested on 14 December at 2315 hours GMT when it had stopped for technical reasons approximately 60 miles from the Ghanaian coast. We were able to prove that the vessel had not been fishing during the 48 hours preceding the arrest and the vessel was released on 31 December." [Text] [Paris MARCHES TROPICAUX ET MEDITERRANEENS in French No 1888, 15 Jan 82 p 147]

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