## CORRESPONDENCE

The *American Journal of International Law* welcomes short communications from its readers. It reserves the right to determine which letters shall be published and to edit any letters printed.

TO THE EDITORS-IN-CHIEF:

June 2, 1981

On page 153 of volume 75 of the *American Journal of International Law*, a summary was given for the Swiss case, *Socialist People's Libyan Arab Jamahiriya v. Libyan American Oil Co.* (1980).[1] I am concerned that some American readers may obtain the impression from this summary that Swiss courts will not enforce an arbitral award even though the parties select Switzerland as the site for arbitration in a contract. Thus, I should like to submit this clarification.

In the *Libyan* case, there was no clause in the contract whereby the parties selected Switzerland as the place of arbitration. It is true that the contract provided for arbitration and stipulated that, if one of the parties failed to appoint an arbitrator, then the President of the International Court of Justice could appoint the sole arbitrator who would decide where the arbitration would take place. This is exactly what happened, and the fact that the proceedings took place in Geneva was really incidental.

Since the parties themselves had never chosen Switzerland as the place for arbitration, the only contacts with this nation were the presence of assets owned by the defendant and the selection of this arbitration site by the sole arbitrator. The Supreme Court of Switzerland simply concluded that these two rather tenuous contacts with Switzerland were not a sufficient basis for enforcing the arbitral award.

In contrast, the Swiss courts could be expected to enforce an arbitral award where the parties have included in a contract a clause specifically providing for arbitration in Switzerland.

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[1] The official citation (in German) is 106 BGE Ia 142 *ff.* (1980).