

DECLARATION OF JUDGE BHANDARI

1966 Geneva Agreement — Court's finding that United Kingdom has no role in resolution of dispute and that Monetary Gold principle does not come into play — Finding concerning agreement to this arrangement also applies to other parties to Geneva Agreement.

1. I agree with the Court's Judgment and its reasoning. I make this declaration to note an additional conceptual point.

2. The Court's rejection of Venezuela's preliminary objection rests on the findings that the United Kingdom has no role in the resolution of this dispute and that the Monetary Gold principle does not come into play (Judgment, paras. 91, 95, 97, 102 and 105-107). The Court reached these conclusions on the basis of its interpretation of the 1966 Geneva Agreement and the subsequent practice of the parties to that Agreement.

3. In the Court's interpretation, which I share, the Geneva Agreement reflects a common understanding, on the part of all parties to that instrument, that the dispute existing between the United Kingdom and Venezuela on 17 February 1966 would be settled by Guyana and Venezuela through one of the procedures referenced in the Geneva Agreement (Judgment, paras. 95-96). Consequently, as a party to that instrument, the United Kingdom accepted that it would have no role in those procedures (*ibid.*, paras. 97 and 107). I share the view that the United Kingdom was aware of the scope of the dispute regarding the validity of the 1899 Award (*ibid.*, para. 102) and that it accepted the arrangement under Article IV, which allowed Guyana and Venezuela to submit the dispute to judicial settlement without the United Kingdom's involvement (*ibid.*, paras. 97, 102 and 107). Moreover, I share the Court's conclusion that subsequent practice confirms this understanding (*ibid.*, paras. 103-106). In particular, Venezuela engaged exclusively with the Government of Guyana, and not with the United Kingdom, during the good offices process (*ibid.*, para. 105).

4. There is little doubt that the United Kingdom accepted and supported these arrangements, especially the possibility that the dispute could be settled through one of the procedures referred to in Article 33 of the Charter of the United Nations. However, what renders this situation particular is the fact that the other parties, Venezuela and Guyana, accepted this circumstance as well.

5. It follows that one can also consider the situation from the opposite angle. Just as the United Kingdom accepted that it would have no role in the settlement of the dispute, so it could be said that, by becoming a party to the Geneva Agreement, Venezuela itself in any event also forfeited any right it might otherwise have had to object to this dispute being settled through a procedure not involving the United Kingdom. A textual interpretation of the Geneva Agreement already leads to this conclusion, but it is further bolstered by the parties' subsequent practice, as noted above.

(Signed) Dalveer BHANDARI.
