

DECLARATION BY JUDGE LACHS

The Court's Judgment has necessarily to dwell on and resolve only issues of procedure (jurisdiction and admissibility); judgments of this type may be exposed to criticism as being apparently legalistic.

Yet solutions of matters of procedure are essential in the activities of any court, as they determine its role in the fate of a dispute brought before it. Such decisions may constitute the Court's last word in such a dispute, or they may open the door to substantive consideration. In taking these decisions, this Court has to exercise the utmost care to discourage attempts to resort to it in any case lacking a proper jurisdictional foundation, but at the same time not to deny States their right to benefit from its decisions where such a foundation does exist. Sometimes the mere opening of the door may bring about a solution to a dispute.

In the present case the Court has had to take decisions which — as will be clear from a mere reading of the Judgment — have not been free from complexities, placing on judges serious responsibilities, both as regards analysis of the underlying circumstances of the case, and of a juridical nature.

The Court has not prejudged the future. Thus the Parties retain their freedom of action, and full possibilities of finding solutions.

All these considerations have prompted me to give my support to this decision, voting in favour of the Judgment, as I have in 18 of the 19 Judgments in the elaboration of which I have participated.

(Signed) Manfred LACHS.
