

## DECLARATION OF JUDGE ODA

While I voted in favour of the Order constituting a Chamber, I feel that it is my duty, as the only judge now on the Bench who participated in the deliberations on the constitution of all four previous Chambers in the Court's history, to make known my view that in order for an *ad hoc* Chamber formed under Article 26 of the Statute — an institution which is essentially an arbitral tribunal — to be constituted, it must be clear beyond all doubt that the litigating parties have agreed, before the Court decides on the constitution, not only as to the number of Chamber members but also as to who they ought to be (see declaration of Judge Oda in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, *Constitution of Chamber, Order of 8 May 1987*, *I.C.J. Reports 1987*, p. 13; Oda, "Further Thoughts on the Chambers Procedure of the International Court of Justice", *American Journal of International Law*, Vol. 82 (1988), p. 556).

(Signed) Shigeru ODA.

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