

## SEPARATE OPINION OF JUDGE VALTICOS

[*Translation*]

Without dissociating myself from the Judgment, I would like to be more specific about my own thinking. The Court has been dealing with a case that is confused in several respects and which is, if I may say so, not all that it might be from a legal standpoint. When the jurisdiction of the Court is being considered, one needs to be quite certain that the two States concerned have indeed agreed to refer their dispute to the Court and that they were likewise in agreement as to the subject of the dispute and the method of seisin of the Court. As matters now stand, one cannot assert that this is clearly the case.

Of course, I take the view that, as indicated in the Judgment, the exchanges of letters of December 1987 may be considered to be an international agreement, but an agreement in principle of which the implementing provisions had still to be specified. I am likewise prepared to admit, albeit less readily, that one may also consider as an agreement the Minutes signed in Doha under somewhat obscure conditions and in terms which have appeared ambiguous. There was indeed an agreement to come to the Court.

However, I am unable to refrain from mentioning the fact that a problem has arisen with respect to the Arabic term "al-tarafan" as used by the Parties with a view to describing the *démarche* to be taken to seise the Court.

However that may be, the Court should only proceed to deal with the merits of the present case if both the States concerned were to seise it of their disputes, whether jointly or separately, and in accordance with the so-called "Bahraini" formula which has been accepted by both of them and which provides that each of the States is to submit to the Court such issues as it may wish to have settled, without the other State being able to object to their being considered.

It is in this spirit that I associate myself with the terms of the Judgment.

(*Signed*) Nicolas VALTICOS.

---