

## Appendix

### Comparison of Written Observations

**Written Observations of Denmark, ¶¶3-40; Written Observations of Estonia, ¶¶3-43; Written Observations of Spain, ¶¶3-42; Written Observations of Portugal, ¶¶3-44.**

Written Observations in French employ the same wording as well. *See*, for example, Written Observations of Luxembourg, ¶¶3-46.

[Highlighted where there are differences].

Written Observations of Denmark	Written Observations of Estonia	Written Observations of Spain	Written Observations of Portugal
<p>3. Article 63 of the Statute provides that</p> <p><i>“1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.</i></p> <p><i>2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon in.”</i></p> <p>4. Article 82, paragraph 2, of the Rules of the Court provides that a declaration of a State's desire to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall specify the case and the convention to which it relates and shall contain:</p> <p><i>a) particulars of the basis on which the declarant State considers itself a party to the convention;</i></p>	<p>3. Article 63 of the Statute provides that</p> <p><i>“1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.</i></p> <p><i>2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon in.”</i></p> <p>4. Article 82(2) of the Rules of the Court provides that a declaration of a State's desire to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall specify the case and the convention to which it relates and shall contain:</p> <p><i>a) particulars of the basis on which the declarant State considers itself a party to the convention;</i></p>	<p>3. Article 63 of the Statute provides that</p> <p><i>“1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notified all such states forthwith.</i></p> <p><i>2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon in.”</i></p> <p>4. Article 82, paragraph 2, of the Rules of the Court provides that a declaration of a State's desire to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall specify the case and the convention to which it relates and shall contain:</p> <p><i>a) particulars of the basis on which the declarant State considers itself a party to the convention;</i></p>	<p>3. Article 63 of the Statute provides that</p> <p><i>“1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.</i></p> <p><i>2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon in.”</i></p> <p>4. Article 82, paragraph 2, of the Rules of the Court provides that a declaration of a State's desire to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall specify the case and the convention to which it relates and shall contain:</p> <p><i>a) particulars of the basis on which the declarant State considers itself a party to the convention;</i></p>

<p><i>b) identification of the particular provisions of the convention the construction of which it considers to be in question;</i></p> <p><i>c) a statement of the construction of those provisions for which it contends;</i></p> <p><i>d) a list of documents in support, which documents shall be attached.</i></p> <p>5. A plain reading of these provisions indicates that every State Party to the Genocide Convention has a “right” to intervene, as confirmed by the Court. In line with Article 82(2) of the Rules, this right may be exercised in the present case if four objective criteria are fulfilled:</p> <p><i>a) The State must show that it has become party to the Genocide Convention;</i></p> <p><i>b) The intervention must identify the particular provisions of the Genocide Convention, the construction of which is in question;</i></p> <p><i>c) The intervention must contain “a statement of the construction” of these provisions of the Genocide Convention;</i></p> <p><i>d) The intervention must contain a list of documents in support.</i></p>	<p><i>b) identification of the particular provisions of the convention the construction of which it considers to be in question;</i></p> <p><i>c) a statement of the construction of those provisions for which it contends;</i></p> <p><i>d) a list of documents in support, which documents shall be attached.</i></p> <p>5. A plain reading of these provisions indicates that every State party to the Genocide Convention has a “right” to intervene, as confirmed by the Court. In line with Article 82(2) of the Rules, this right may be exercised in the present case if four objective criteria are fulfilled:</p> <p>a) The State must show that it has become party to the Genocide Convention;</p> <p>b) The intervention must identify the particular provisions of the Genocide Convention the construction of which is in question;</p> <p>c) The intervention must contain “a statement of the construction” of these provisions of the Genocide Convention.</p> <p>d) The intervention must contain a list of documents in support.</p>	<p><i>b) identification of the particular provisions of the convention the construction of which it considers to be in question;</i></p> <p><i>c) a statement of the construction of those provisions for which it contends;</i></p> <p><i>d) a list of documents in support, which documents shall be attached.</i></p> <p>5. A plain reading of these provisions indicates that every State party to the Genocide Convention has a “right” to intervene, as confirmed by the Court. In line with Article 82(2) of the Rules, this right may be exercised in the present case if four objective criteria are fulfilled:</p> <p>a) The State must show that it has become party to the Genocide Convention;</p> <p>b) The intervention must identify the particular provisions of the Genocide Convention the construction of which is in question;</p> <p>c) The intervention must contain “a statement of the construction” of these provisions of the Genocide Convention.</p> <p>d) The intervention must contain a list of documents in support.</p>	<p><i>b) identification of the particular provisions of the convention the construction of which it considers to be in question;</i></p> <p><i>c) a statement of the construction of those provisions for which it contends;</i></p> <p><i>d) a list of documents in support, which documents shall be attached.</i></p> <p>5. A plain reading of these provisions indicates that every State party to the Genocide Convention has a “right” to intervene, as confirmed by the Court. In line with Article 82(2) of the Rules, this right may be exercised in the present case if four objective criteria are fulfilled:</p> <p>a) The State must show that it has become party to the Genocide Convention;</p> <p>b) The intervention must identify the particular provisions of the Genocide Convention the construction of which is in question;</p> <p>c) The intervention must contain “a statement of the construction” of these provisions of the Genocide Convention.</p> <p>d) The intervention must contain a list of documents in support.</p>
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<p>6. Hence, the admissibility test is a simple one. The Court has to ascertain whether the object of the desired intervention stems from a State Party to the Genocide Convention and whether the object of the intervention is in fact the interpretation of the identified provisions of the Genocide Convention.</p>	<p>6. <b>Therefore</b>, the Court has to ascertain whether the object of the desired intervention stems from a State Party to the Genocide Convention and whether the object of the intervention is in fact the interpretation of the identified provisions of the Genocide Convention.</p> <p>7. The latter condition leaves room for only two grounds of inadmissibility. First, the Court can reject a statement if it turns out that a State does not advance a “construction” of the Genocide Convention, but ventures into territory of application <b>instead</b>. In such a case, an intervener would act as if it was a co-complainant or co-defendant, circumventing the procedural requirements to become a party in its own right. Second, the Court can declare an intervention inadmissible if the statement does not <b>interpret</b> the Genocide Convention, but <b>elaborates on</b> other self-standing bodies of international law <b>unrelated to the Genocide Convention</b>. In such a case, the Court would not be required to look at the purported intervention, as it would be irrelevant to the case at hand.</p> <p>8. <b>The Republic of Estonia</b> considers that it has fully complied with the admissibility requirements under Article 63 of the Statute and Article 82 of the Rules of the Court. As indicated in paragraph <b>24</b> of the Declaration, it became a party to the Genocide</p>	<p>6. Hence, the admissibility test is a simple one. The Court has to ascertain whether the object of the desired intervention stems from a State Party to the Genocide Convention and whether the object of the intervention is in fact the interpretation of the identified provisions of the Genocide Convention.</p> <p>7. The latter condition leaves room for only two grounds of inadmissibility. First, the Court can reject a statement if it turns out that a State does not advance a “construction” of the Convention in question, but ventures into territory of application. In such a case, an intervener would act as if it was a co-complainant or co-defendant, circumventing the procedural requirements to become a party in its own right. Second, the Court can declare an intervention inadmissible if the statement does not refer to the Convention in question, but to other self-standing bodies of international law. In such a case, the Court would not be required to look at the purported intervention, as it would be irrelevant to the case at hand.</p> <p>8. <b>Spain</b> considers that it has fully complied with the admissibility requirements under Article 63 of the Statute and 82 of the Rules of the Court. As indicated in para. <b>16</b> of the Declaration, it became a party to the Genocide Convention. Moreover, it has</p>	<p>6. Hence, the admissibility test is a simple one. The Court must ascertain whether the object of the desired intervention stems from a State Party to the Genocide Convention and whether the object of the intervention is in fact the interpretation of the identified provisions of the Genocide Convention.</p> <p>7. The latter condition leaves room for only two grounds of inadmissibility. First, the Court can reject a statement if it turns out that a State does not advance a “construction” of the Convention in question, but only ventures into territory of application. In such a case, an intervener would act as if it was a co-complainant or co-defendant, circumventing the procedural requirements to become a party in its own right. Second, the Court can declare an intervention inadmissible if the statement does not refer to the Convention in question, but to other self-standing <b>areas</b> of international law <b>without any connection with the Convention</b>. In such a case, the Court would not be required to look at the purported intervention, as it would be irrelevant to the case at hand.</p> <p>8. <b>The Portuguese Republic</b> considers that it has fully complied with the admissibility requirements under Article 63 of the Statute and 82 of the Rules of the Court. As indicated in paragraph <b>16</b> of the Declaration, it <b>is</b> a party to the Genocide Convention.</p>
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<p>became a party to the Genocide Convention on 15 June 1951. Moreover, Denmark has announced to the Court its intention to assist the Court's determination of the interpretation of Articles I, II, III, VIII and IX of the Genocide Convention in Paragraph 16 of its Declaration.</p>	<p>Convention on 19 January 1992. Moreover, it has announced to the Court its intention to contribute to the interpretations of Articles I, II-IV, VIII and IX of the Genocide Convention in paragraphs 17, 27 and 39 of the Declaration. In doing so, the Republic of Estonia has expressed its arguments on construction of certain provisions of the Genocide Convention focusing in particular on construction of the compromissory clause of Article IX in general terms and refrained from making any statements that could be regarded as an attempt to apply the Convention to certain facts that occurred between Ukraine and Russia. Accordingly, it has also not endorsed the Ukrainian pleas or arrogated itself any other right that is reserved to a party to the dispute.</p>	<p>announced to the Court its intention to contribute to the interpretations of Article IX of the Genocide Convention in paras. 13 of the Declaration. In doing so, Spain has refrained from making any statements that could be regarded as an attempt to apply the Convention to certain facts that occurred between Ukraine and Russia. Accordingly, it has also not endorsed the Ukrainian pleas or arrogated itself any other right that is reserved to a party to the dispute.</p>	<p>Moreover, in paragraphs 17-19 of the Declaration, it has announced to the Court its intention to contribute to the interpretation of Articles IX and I of the Genocide Convention, which must be interpreted also in light of Articles II, III and VIII of the same Convention. In doing so, the Portuguese Republic has refrained from making any statements that could be regarded as an attempt to apply the Convention to any facts that occurred between Ukraine and Russia. Accordingly, it has also not endorsed the Ukrainian pleas or arrogated to itself any other right that is reserved to a party to the dispute.</p>
<p>8. The Russian Federation nevertheless objects to this straightforward analysis by advocating five counter-arguments. However, a closer analysis reveals that none of them is based on the law. Rather, as will be shown in the next section, the Russian Federation invites the Court to read into the Statute additional requirements on admissibility for interventions under Article 63 of the Statute, which are unfounded in the Statute.</p> <p>9. In its first argument, the Russian Federation claims that the Declaration of Intervention is not "genuine".</p>	<p>9. The Russian Federation nevertheless objects to this straightforward analysis. However, a closer analysis reveals that none of the Russian argument in its written observations is based on the law. Rather, as will be shown next, Russia invites the Court to read into the Statute additional requirements on admissibility for interventions under Article 63 of the Statute, which are not there.</p> <p>10. In its first argument, the Russian Federation tries to convince the Court rejecting the intervention as not being</p>	<p>9. The Russian Federation nevertheless objects to this straightforward analysis by advocating five counter-arguments. However, a closer analysis reveals that none of them is based on the law. Rather, as will be shown in the next section, Russia invites the Court to read into the Statute additional requirements on admissibility for interventions under Article 63 of the Statute, which are not there.</p> <p>10. In its first argument, the Russian Federation tries to convince the Court rejecting the intervention as not being</p>	<p>9. The Russian Federation, nevertheless, objects to this straightforward analysis by advocating five counter-arguments. However, a closer analysis reveals that none of them has a legal basis. Rather, as will be shown in the next section, Russia invites the Court to read into the Statute additional requirements on admissibility for interventions under Article 63 of the Statute, which are not there.</p> <p>10. In its first argument, the Russian Federation tries to convince the Court to reject the intervention as not being</p>

<p>Quoting several political statements of various intervening States in paragraphs 15-29, it takes issue with the fact that the intervention was part of a concerted political strategy to help Ukraine in the case. This, in the view of the Russian Federation, would reveal an intention of Denmark to become a de-facto co-complainant.</p> <p>10. The Russian presentation of the law is erroneous. The Court has used the expression of “genuine intervention” in <i>Haya de la Torre</i> to describe how it operated the objective test to determine whether the object of the intervention of Cuba was the interpretation of the Havana Convention (a “genuine” intervention) or an attempt to re-litigate another case (not a “genuine” intervention). However, contrary to the Russian observation in paragraph 15, the Court did not consider the text of the declaration and the context within which it had been filed to establish the “genuine intention” of Cuba. This semantic shift from an objective test (was the intervention “genuine”?) to a subjective test (was the government’s intention “genuine”?) does not have any basis in the case law of the Court. Accordingly, and following explicitly from the case law of the Court, the political motivation of Denmark underlying the Declaration of Intervention is irrelevant.</p>	<p>“genuine”. Quoting several political statements of various intervening States, it takes issue with the fact that the intervention was part of a concerted political strategy to help Ukraine in the case (paras 16-28). This, in the view of Russia, would reveal an intention of the Republic of Estonia to become a de facto co-complainant.</p> <p>11. The Russian presentation of the law is erroneous. The Court has used the expression of “genuine intervention” in <i>Haya de la Torre</i> to describe how it operated the objective test of finding out whether the object of the intervention of Cuba was the interpretation of the Havana Convention (a “genuine” intervention) or an attempt to re-litigate another case (not a “genuine” intervention). However, contrary to the Russian observation in paragraph 13 the Court did not consider the text of the declaration and the context within it had been filed to establish the “genuine intention” of Cuba. This semantic shift from an objective test (was the intervention “genuine”?) to a subjective test (was the government’s intention “genuine”?) does not have any basis in the case law of the Court. Accordingly, the political motivation of the Republic of Estonia underlying the Declaration of Intervention is irrelevant.</p>	<p>“genuine”. Quoting several political statements of a various intervening States in paragraphs 15-29, it takes issue with the fact that the intervention was part of a concerted political strategy to help Ukraine in the case. This, in the view of Russia, would reveal an intention of Spain to become a de-facto co-complainant.</p> <p>11. The Russian presentation of the law is erroneous. The Court has used the expression of “genuine intervention” in <i>Haya de la Torre</i> to describe how it operated the objective test of finding out whether the object of the intervention of Cuba was the interpretation of the Havana Convention (a “genuine” intervention) or an attempt to re-litigate another case (not a “genuine” intervention). However, contrary to the Russian observation in paragraph 14, the Court did not consider the text of the declaration and the context within it had been filed to establish the “genuine intention” of Cuba. This semantic shift from an objective test (was the intervention “genuine”?) to a subjective test (was the government’s intention “genuine”?) does not have any basis in the case law of the Court. Accordingly, the political motivation of Spain underlying the declaration of intervention is irrelevant.</p>	<p>“genuine”. Quoting several political statements of various intervening States in paragraphs 16-32, it takes issue with the fact that the intervention was part of a concerted political strategy to help Ukraine in the case. This, in the view of Russia, would reveal an intention of Portuguese Republic to become a de facto co-complainant.</p> <p>11. The Russian presentation is erroneous. The Court has used the expression of “genuine intervention” in <i>Haya de la Torre</i> to describe how it operated the objective test of finding out whether the object of the intervention of Cuba was the interpretation of the Havana Convention (a “genuine” intervention) or an attempt to re-litigate another case (not a “genuine” intervention). However, contrary to the Russian observation in paragraph 15, the Court did not consider the text of the declaration and the context within it had been filed to establish the “genuine intention” of Cuba. This semantic shift from an objective test (was the intervention “genuine”?) to a subjective test (was the government’s intention “genuine”?) does not have any basis in the case law of the Court. Accordingly, the motivation of the Portuguese Republic underlying the declaration of intervention is irrelevant.</p>
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<p>11. Already in <i>Wimbledon</i>, the Court accepted that Poland as intervener shared the same arguments as the applicants. Similarly, Denmark cannot be regarded as a “de-facto co-applicant”, as alleged in paragraph 34 of the Russian observations. As demonstrated above, Denmark did not submit a complaint against the Russian Federation, did not advance any facts and claims against the Russian Federation on which it asked the Court to hand down a judgment, and did not arrogate itself any other rights of a complainant. The Russian Federation’s first argument is therefore entirely unfounded.</p>	<p>12. Similarly, the question whether an intervener would be “taking sides” or not, cannot trigger the inadmissibility of an intervention. Already in the case of <i>SS Wimbledon</i>, the Court accepted that Poland as intervener shared the arguments of the applicant. Moreover, the Republic of Estonia does not “advocate side-by-side with Ukraine as <i>de facto</i> co-applicant”, as alleged in paragraphs 16, 17, 19, 20, 22, 34 of the Russian observations. As demonstrated above, the Republic of Estonia did not submit a complaint against Russia, did not advance any facts and claims against Russia on which it asked the Court to hand down a judgment, and did not arrogate itself any other rights of a complainant. The Republic of Estonia has clearly stated in its Declaration paragraph 18 that it does not seek to become a party to the proceedings. Russia’s first argument is therefore entirely unfounded.</p>	<p>12. Similarly, the question whether an intervener would be “taking sides” or not, cannot trigger the inadmissibility of an intervention. Already in <i>Wimbledon</i>, the Court accepted that Poland as intervener shared the arguments of the applicant. Moreover, Spain does not “advocate side-by-side with Ukraine as “de-facto- co-applicant”, as alleged in paragraph 31 of the Russian observations. As demonstrated above, Spain did not submit a complaint against Russia, did not advance any facts and claims against Russia on which it asked the Court to hand down a judgment, and did not arrogate itself any other rights of a complainant. Russia’s first argument is therefore entirely unfounded.</p>	<p>12. Similarly, the question whether an intervener would be “taking sides” or not, cannot trigger the inadmissibility of an intervention. Already in the <i>Wimbledon case</i>, the Court accepted that Poland as intervener shared the arguments of the applicant. Moreover, the Portuguese Republic does not “advocate side-by-side with Ukraine as <i>de facto</i> co-applicant”, as alleged in paragraph 34 of the Russian observations. As demonstrated above, the Portuguese Republic did not submit a complaint against Russia, did not advance any facts and claims against Russia on which it asked the Court to hand down a judgment, and did not arrogate to itself any other rights of a complainant. Russia’s first argument is therefore entirely unfounded.</p>
<p>12. In its second argument, the Russian Federation pleads that admitting the intervention would be incompatible with the equality of the Parties and the requirements of good administration of justice. It thereby shifts the test under</p>	<p>13. In its second argument, the Russian Federation pleads admitting the intervention would be incompatible with the equality of the Parties and the requirements of good administration of justice. It thereby shifts the test under</p>	<p>13. Finally, the Russian allegation that Spain has taken a different position on Article IX of the Genocide Convention in the <i>Yugoslavia v. Spain</i> case is erroneous, (par 31). In any case, even if a legal position had evolved over time (<i>quod non est</i>), such evolution would not be a criterion to deny the admissibility of the intervention.</p> <p>14. In its second argument, the Russian Federation pleads admitting the intervention would be incompatible with the equality of the Parties and the requirements of good administration of justice. It thereby shifts the test under</p>	<p>13. Finally, the Russian allegation that the Portuguese Republic has taken a different position on Article IX of the Genocide Convention in the case <i>Serbia and Montenegro v. Portugal</i> is erroneous. In any case, even if a legal position had evolved over time (<i>quod non est</i>), such evolution would not be a criterion to deny the admissibility of the intervention.</p> <p>14. In its second argument, the Russian Federation pleads that admitting the intervention would be incompatible with the equality of the Parties and the requirements of good administration of justice. It thereby shifts the test under</p>

<p>Article 63 of the Statute from verifying the “object” of the intervention to its “effects” on the case. That proposition is equally not supported by the law.</p> <p>13. In <i>Whaling in the Antarctic</i>, the Court itself dismissed the very idea that an intervention would affect the equality of the parties to a dispute if it stays within the limits drawn by Article 63 of the Statute. When admitting New Zealand’s intervention, the Court determined:</p> <p><i>“18. Whereas the concerns expressed by Japan relate to certain procedural issues regarding the equality of the Parties to the dispute, rather than to the conditions for admissibility of the Declaration of Intervention, as set out in Article 63 of the Statute and Article 82 of the Rules of Court; whereas intervention under Article 63 of the Statute is limited to submitting observations on the construction of the convention in question and does not allow the intervenor, which does not become a party to the proceedings, to deal with any other aspect of the case before the Court ; and whereas such an</i></p>	<p>Article 63 of the Statute from verifying the “object” of the intervention to its “effects” on the case. That proposition is equally not supported by the law.</p> <p>14. The first argument was already advanced by Japan in <i>Whaling in the Antarctic</i>. True, Judge Owada gave some credence to the idea of an effects test to restrict the admissibility of an intervention, as quoted extensively in paragraphs 36-38 of the Russian submission. However, he remained isolated with his position in the bench. The Court itself dismissed the very idea that an intervention would affect the equality of parties if it stays within the limits drawn by Article 63 of the Statute. When admitting New Zealand’s intervention, it ruled:</p> <p><i>“18. Whereas the concerns expressed by Japan relate to certain procedural issues regarding the equality of the Parties to the dispute, rather than to the conditions for admissibility of the Declaration of Intervention, as set out in Article 63 of the Statute and Article 82 of the Rules of Court ; whereas intervention under Article 63 of the Statute is limited to submitting observations on the construction of the convention in question and does not allow the intervenor, which does not become a party to the proceedings, to deal with any other aspect of the case before the Court ; and whereas such an</i></p>	<p>Article 63 of the Statute from verifying the “object” of the intervention to its “effects” on the case. That proposition is equally not supported by the law.</p> <p>15. The first argument was already advanced by Japan in <i>Whaling in the Antarctic</i>. True, Judge Owada gave some credence to the idea of an effects test to restrict the admissibility of an intervention, as quoted extensively in paragraphs 36-38 of the Russian submission. However, he remained isolated with his position in the bench. The Court itself dismissed the very idea that it an intervention would affect the equality of parties if it stays within the limits drawn by Article 63 ICJ Statute. When admitting New Zealand’s intervention, it ruled:</p> <p><i>“18. Whereas the concerns expressed by Japan relate to certain procedural issues regarding the equality of the Parties to the dispute, rather than to the conditions for admissibility of the Declaration of Intervention, as set out in Article 63 of the Statute and Article 82 of the Rules of Court; whereas intervention under Article 63 of the Statute is limited to submitting observations on the construction of the convention in question and does not allow the intervenor, which does not become a party to the proceedings, to deal with any other aspect of the case before the Court; and whereas such an</i></p>	<p>Article 63 of the Statute from verifying the “object” of the intervention to its “effects” on the case. That proposition lacks equally any legal basis.</p> <p>15. The first argument was already advanced by Japan in <i>Whaling in the Antarctic</i>. True, Judge Owada gave some credence to the idea of an effects test to restrict the admissibility of an intervention, as quoted extensively in paragraphs 37-40 of the Russian submission. However, he remained isolated with his position in the bench. The Court itself dismissed the very idea that an intervention would affect the equality of parties if it stays within the limits drawn by Article 63 of the ICJ Statute. When admitting New Zealand’s intervention, it ruled:</p> <p><i>“18. Whereas the concerns expressed by Japan relate to certain procedural issues regarding the equality of the Parties to the dispute, rather than to the conditions for admissibility of the Declaration of Intervention, as set out in Article 63 of the Statute and Article 82 of the Rules of Court; whereas intervention under Article 63 of the Statute is limited to submitting observations on the construction of the convention in question and does not allow the intervenor, which does not become a party to the proceedings, to deal with any other aspect of the case before the Court; and whereas such an</i></p>
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<p><i>intervention cannot affect the equality of the Parties to the dispute ;</i></p> <p><i>19. Whereas New Zealand has met the requirements set out in Article 82 of the Rules of Court; whereas its Declaration of Intervention falls within the provisions of Article 63 of the Statute ; whereas, moreover, the Parties raised no objection to the admissibility of the Declaration ; and whereas it follows that New Zealand's Declaration of Intervention is admissible".</i></p> <p>14. In other words, the Court confirmed that a declaration of intervention under Article 63 of the Statute <b>that</b> is limited to submitting observations on the construction of the convention in question, cannot affect the equality of the Parties <i>per se</i>.</p> <p>15. While acknowledging the existence of this order <b>in paragraph 37 of their observations, the Russian Federation</b> takes issue, <b>in paragraphs 39-44</b>, with the fact that the high number of interventions would nevertheless raise an issue of representativeness in the bench under Article 31(5) of the Statute and, <b>in paragraph 49</b>, become "unmanageable" for itself and the Court. <b>According to the Russian Federation, in paragraph 52</b>, admitting several interveners would also run "entirely against the Court's previous practice of admitting only one intervener per case".</p>	<p><i>intervention cannot affect the equality of the Parties to the dispute ;</i></p> <p><i>19. Whereas New Zealand has met the requirements set out in Article 82 of the Rides of Court; whereas its Declaration of Intervention falls within the provisions of Article 63 of the Statute ; whereas, moreover, the Parties raised no objection to the admissibility of the Declaration ; and whereas it follows that New Zealand's Declaration of Intervention is admissible".</i></p> <p>15. In other words, the Court confirmed <b>in that order</b> that a proper declaration of intervention under Article 63 of the Statute, which is limited to submitting observations on the construction of the convention in question, cannot affect the equality of the Parties <i>per se</i>.</p> <p>16. While acknowledging the existence of <b>that order (para. 40)</b>, Russia takes issue with the fact that the high number of interventions would nevertheless raise an issue of representativeness in the bench under Article 31(5) of the Statute <b>(paras. 42-46)</b> and become "unmanageable" for itself and the Court <b>(para. 48-49)</b>. Admitting several interveners would also run "entirely against the Court's previous practice of admitting only one intervener per case" <b>(para. 52)</b>. However, contrary to the Russian assertions expressed in paragraphs <b>39-51</b>, the Court's order in <i>Whaling in the Antarctic</i> also presents</p>	<p><i>intervention cannot affect the equality of the Parties to the dispute ;</i></p> <p><i>19. Whereas New Zealand has met the requirements set out in Article 82 of the Rules of Court; whereas its Declaration of Intervention falls within the provisions of Article 63 of the Statute; whereas, moreover, the Parties raised no objection to the admissibility of the Declaration; and whereas it follows that New Zealand's Declaration of Intervention is admissible".</i></p> <p>16. In other words, the Court confirmed that a proper declaration of intervention under Article 63 of the Statute, which is limited to submitting observations on the construction of the convention in question, cannot affect the equality of the Parties <i>per se</i>.</p> <p>17. While acknowledging the existence of this order <b>(para. 37)</b>, Russia takes issue with the fact that the high number of interventions would nevertheless raise an issue of representativeness in the bench under Article 31(5) of the Statute <b>(paras. 39-43)</b> and become "unmanageable" for itself and the Court <b>(para. 45)</b>. Admitting several interveners would also run "entirely against the Court's previous practice of admitting only one intervener per case" <b>(para. 49)</b>. However, contrary to the Russian assertions expressed in paragraphs <b>36-48</b>, the Court's order in <i>Whaling in the Antarctic</i> also presents</p>	<p><i>intervention cannot affect the equality of the Parties to the dispute ;</i></p> <p><i>19. Whereas New Zealand has met the requirements set out in Article 82 of the Rules of Court; whereas its Declaration of Intervention falls within the provisions of Article 63 of the Statute; whereas, moreover, the Parties raised no objection to the admissibility of the Declaration; and whereas it follows that New Zealand's Declaration of Intervention is admissible".</i></p> <p>16. In other words, the Court confirmed that a proper declaration of intervention under Article 63 of the Statute, which is limited to submitting observations on the construction of the convention in question, cannot affect the equality of the Parties <i>per se</i>.</p> <p>17. While acknowledging the existence of this order <b>(paragraph 40)</b>, Russia takes issue with the fact that the high number of interventions would nevertheless raise an issue of representativeness in the bench under Article 31(5) of the Statute <b>(paragraphs 41-47)</b> and become "unmanageable" for itself and the Court <b>(paragraph 49)</b>. Admitting several interveners would also run "entirely against the Court's previous practice of admitting only one intervener per case" <b>(paragraph 52)</b>. However, contrary to the Russian assertions expressed in paragraphs <b>37-52</b>, the Court's order in <i>Whaling in the Antarctic</i> presents the</p>
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<p>16. <b>However</b>, to the best knowledge of <b>Denmark</b> the Court has never refused a declaration of intervention with the reasoning that it had already allowed the intervention of another State, and allowing a second one would therefore be inadmissible.</p> <p>17. <b>First</b>, such an approach would be manifestly arbitrary. The Court has no power to declare an intervention inadmissible because another State had already done so before. Such a restriction would directly encroach on the “right of intervention” of every State Party to a convention whose construction is at issue. It may well be the case that States were cautious to exercise this right in the past, leading to very few interventions in the history of the Court so far. However, that is purely a matter of policy. According to the law, <u>all</u> State Parties have the right to intervene under Article 63 of the Statute at the same time, if they so wish. Under the Genocide Convention, all State Parties can even invoke the responsibility of another party for a breach of its obligations <i>erga omnes</i> to institute proceedings against the other party. In such a situation, when the treaty embodies matters of collective interest, the late Judge Cançado</p>	<p>good law when the Court faces a situation of several interveners.</p> <p>17. First, the assertion that the Court admitted only one intervener per case is misleading. To the best knowledge of <b>the Republic of Estonia</b>, the Court has never refused a declaration of intervention with the reasoning that it had already allowed the intervention of another State, and allowing a second one would therefore be inadmissible.</p> <p>18. Second, such an approach would also be manifestly arbitrary. The Court has no power to declare an intervention inadmissible because another State had already done so before. Such a restriction would directly encroach of the “right of intervention” of every State party to a Convention whose construction is at issue. It may well be the case that States were cautious to exercise this right in the past, leading to very few interventions in the history of the Court so far. However, that is a pure matter of policy. According to the law, <u>all</u> State parties have the right to intervene under Article 63 of the Statute at the same time, if they so wish. Under the Genocide Convention, all State parties can even invoke the responsibility of another party for a breach of its obligations <i>erga omnes</i> to institute proceedings against the other party. In such a situation, when the treaty embodies matters of collective interest, the late Judge Cançado</p>	<p>good law when the Court faces a situation of several interveners.</p> <p>18. First, the assertion that the Court admitted only one intervener per case is misleading. To the best knowledge of <b>Spain</b>, the Court has never refused a declaration of intervention with the reasoning that it had already allowed the intervention of another State, and allowing a second one would therefore be inadmissible.</p> <p>19. Second, such an approach would also be manifestly arbitrary. The Court has no power to declare an intervention inadmissible because another State had already done so before. Such a restriction would directly encroach of the “right of intervention” of every State party to a Convention whose construction is at issue. It may well be the case that States were cautious to exercise this right in the past, leading to very few interventions in the history of the Court so far. However, that is a pure matter of policy. According to the law, <u>all</u> State parties have the right to intervene under Article 63 of the Statute at the same time, if they so wish. Under the Genocide Convention, all State Parties can even invoke the responsibility of another party for a breach of its obligations <i>erga omnes</i> to institute proceedings against the other party. In such a situation, when the treaty embodies matters of collective interest, the late Judge Cançado</p>	<p>correct legal position when the Court faces a situation of several interveners.</p> <p>18. First, the assertion that the Court admitted only one intervener per case is misleading. To the best knowledge of <b>the Portuguese Republic</b>, the Court has never refused a declaration of intervention with the reasoning that it had already allowed the intervention of another State and allowing a second one would therefore be inadmissible.</p> <p>19. Second, such an approach would also be manifestly arbitrary. The Court has no power to declare an intervention inadmissible because another State had already done so before. Such a restriction would directly encroach of the “right of intervention” of every State party to a Convention whose construction is at issue. It may well be the case that States were cautious to exercise this right in the past, leading to very few interventions in the history of the Court so far. However, that is a pure matter of policy. According to the <b>Court’s Statute</b>, <u>all</u> State parties have the right to intervene under Article 63 at the same time, if they so wish. Under the Genocide Convention, all State Parties can even invoke the responsibility of another party for a breach of its obligations <i>erga omnes</i> to institute proceedings against the other party. In such a situation, when the treaty embodies matters of collective interest, the late Judge Cançado</p>
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<p>Trindade called upon all State Parties to contribute to the proper interpretation of the treaty as a sort of “collective guarantee of the observance of the obligations contracted by the State parties”. In the present case, the fact that many other States felt the need to share their interpretation of the Genocide Convention with the Court cannot deprive <b>Denmark</b> of its right to intervene under Article 63 of the Statute on this important matter.</p> <p>18. <b>Second</b>, it is a direct and inevitable consequence of numerous interventions that some judges in the bench may hold the same nationality as an intervening State. However, that does not infringe the equality of the parties. As recalled by the Court in para. 18 of its order in the <i>Whaling</i> case, the interveners do not become party to the proceedings. Therefore, Article 31 (5) of the Statute, and Articles 32 and 36 of the Rules, as quoted by the Russian Federation, do not apply. Moreover, all judges are bound to uphold their neutrality and impartiality in accordance with Article 20 of the Statute.</p> <p>19. <b>Third</b>, <b>Denmark acknowledges</b> that the number of interveners in the present case is unprecedented and may indeed present new organisational challenges to the Court. In line with Article 30(1) of the Statute, the Court enjoys large discretion to organise the proceedings</p>	<p>Trindade called upon all State parties to contribute to the proper interpretation of the treaty as sort of a “collective guarantee of the observance of the obligations contracted by the State parties”. In the present case, the fact that many other States felt the need to share their interpretation of the Genocide Convention with the Court cannot deprive <b>the Republic of Estonia</b> of its right to intervene under Article 63 of the Statute on this important matter.</p> <p>19. Third, it is a direct and inevitable consequence of numerous interventions that some judges in the bench may hold the same nationality as an intervening State. However, that does not infringe the equality of the parties. As recalled by the Court in paragraph 18 of its order in the <i>Whaling in the Antarctic</i>, the interveners do not become parties to the proceedings. Therefore, Articles 31(5) of the Statute, and Articles 32 and 36 of the Rules, as quoted by the Russian Federation, do not apply. Moreover, all judges are bound to uphold their neutrality and impartiality in accordance with Article 20 of the Statute.</p> <p>20. Fourth, <b>the Republic of Estonia</b> reckons that the number of interveners in the present case is unprecedented and may indeed present new organisational challenges to the Court. In line with Article 30(1) of the Statute, the Court enjoys large discretion to organise the</p>	<p>Trindade called upon all State Parties to contribute to the proper interpretation of the treaty as sort of a “collective guarantee of the observance of the obligations contracted by the State parties”. In the present case, the fact that many other States felt the need to share their interpretation of the Genocide Convention with the Court cannot deprive <b>Spain</b> of its right to intervene under Article 63 of the Statute on this important matter.</p> <p>20. Third, it is a direct and inevitable consequence of numerous interventions that some judges in the bench may hold the same nationality as an intervening State. However, that does not infringe the equality of the parties. As recalled by the Court in para. 18 of its order in the <i>Whaling</i> case, the interveners do not become party to the proceedings. Therefore, Articles 31 (5) of the Statute, and Articles 32 and 36 of the Rules, as quoted by the Russian Federation, do not apply. Moreover, all judges are bound to uphold their neutrality and impartiality in accordance with Article 20 of the Statute.</p> <p>21. Fourth, <b>Spain</b> reckons that the number of interveners in the present case is unprecedented and may indeed present new organisational challenges to the Court. In line with Article 30(1) of the Statute, the Court enjoys large discretion to organise the proceedings.</p>	<p>Trindade called upon all State Parties to contribute to the proper interpretation of the treaty as sort of a “collective guarantee of the observance of the obligations contracted by the State parties”. In the present case, the fact that many other States felt the need to share their interpretation of the Genocide Convention with the Court cannot deprive <b>the Portuguese Republic</b> of its right to intervene under Article 63 of the Statute on this important matter.</p> <p>20. Third, it is a direct and inevitable consequence of numerous interventions that some judges in the bench may hold the same nationality as an intervening State. However, that does not infringe the equality of the parties. As recalled by the Court in paragraph 18 of its order in the <i>Whaling</i> case, the interveners do not become party to the proceedings. Therefore, Articles 31 (5) of the Statute, and Articles 32 and 36 of the Rules, as quoted by the Russian Federation, do not apply. Moreover, all judges are bound to uphold their neutrality and impartiality in accordance with Article 20 of the Statute.</p> <p>21. Fourth, <b>the Portuguese Republic recognises</b> that the number of interveners in the present case is unprecedented and may indeed present new organisational challenges to the Court. In line with Article 30(1) of the Statute, the Court enjoys large</p>
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<p>as it sees fit. <b>Denmark</b> welcomes the decision of the Court to ask for written submissions of the interveners with an identical deadline in order to streamline the process. In order to help in the good administration of justice, <b>Denmark</b> also reiterates its willingness to coordinate its further action before the Court with other interveners to contribute to an effective management of time of the Court and both parties.</p> <p>20. In its third argument, the Russian Federation maintains that the Court has never allowed interventions at the preliminary stage of the proceedings in which jurisdiction or admissibility of an application was challenged. In <b>paras. 53</b>, it quotes six cases in support. In the first three instances (<i>Military and Paramilitary Activities, Nuclear Tests and Nuclear Tests (Request for Examination)</i>), the Court is said to have discarded interventions in the respective phases relating to jurisdiction or admissibility. In the second three instances (<i>Haya de la Torre, Whaling in the Antarctic and Wimbledon</i>), the Court accepted interventions within the main phase, because – according to the Russian Federation in <b>para. 54</b> – the jurisdiction was not challenged in a separate stage.</p> <p>21. It appears that <b>the Russian Federation</b> draws from this practice a duty of the Court to refrain from deciding on the</p>	<p>proceedings. <b>The Republic of Estonia</b> welcomes the decision of the Court to ask for written submissions of the interveners with an identical deadline in order to streamline the process. In order to help in the good administration of justice, it also reiterates its willingness to coordinate its further action before the Court with other interveners to contribute to an effective management of time of the Court and both parties.</p> <p>21. In its third argument, the Russian Federation maintains that the Court has never allowed interventions at the preliminary stage of the proceedings in which jurisdiction or admissibility of an application was challenged. In <b>paragraphs 53-54</b>, it quotes six cases in support. In the first three instances (<i>Military and Paramilitary Activities, Nuclear Tests and Nuclear Tests (Request for Examination)</i>), the Court is said to have discarded interventions in the respective phases relating to jurisdiction or admissibility. In the second three instances (<i>Haya de la Torre, Whaling in the Antarctic and SS Wimbledon</i>), the Court accepted interventions within the main phase, because – according to Russia in <b>paragraph 54</b> – the jurisdiction was not challenged in a separate stage.</p> <p>22. It appears that Russia draws from this practice a duty of the Court to refrain from deciding on the admissibility of</p>	<p><b>Spain</b> welcomes the decision of the Court to ask for written submissions of the interveners with an identical deadline in order to streamline the process. In order to help in the good administration of justice, it also reiterates its willingness to coordinate its further action before the Court with other interveners, <b>in particular other EU Member States</b>, to contribute to an effective management of time of the Court and both parties.</p> <p>22. In its third argument, the Russian Federation maintains that the Court has never allowed interventions at the preliminary stage of the proceedings in which jurisdiction or admissibility of an application was challenged. In <b>paras. 50-52</b>, it quotes six cases in support. In the first three instances (<i>Military and Paramilitary Activities, Nuclear Tests and Nuclear Tests (Request for Examination)</i>), the Court is said to have discarded interventions in the respective phases relating to jurisdiction or admissibility. In the second three instances (<i>Haya de la Torre, Whaling in the Antarctic and Wimbledon</i>), the Court accepted interventions within the main phase, because – according to Russia in <b>para. 51</b> – the jurisdiction was not challenged in a separate stage.</p> <p>23. It appears that Russia draws from this practice a duty of the Court to refrain from deciding on the admissibility of</p>	<p>discretion to organise the proceedings. <b>The Portuguese Republic</b> welcomes the decision of the Court to ask for written submissions of the interveners with an identical deadline in order to streamline the process. In order to help in the good administration of justice, it also reiterates its <b>availability</b> to coordinate its further action before the Court with other interveners in order to contribute to an effective management of time of the Court and both parties.</p> <p>22. In its third argument, the Russian Federation maintains that the Court has never allowed interventions at the preliminary stage of the proceedings in which jurisdiction or admissibility of an application was challenged. In <b>paragraphs 53-54</b>, it quotes six cases in support. In the first three instances (<i>Military and Paramilitary Activities, Nuclear Tests and Nuclear Tests (Request for Examination)</i>), the Court is said to have discarded interventions in the respective phases relating to jurisdiction or admissibility. In the second three instances (<i>Haya de la Torre, Whaling in the Antarctic and Wimbledon</i>), the Court accepted interventions within the main phase, because – according to Russia in <b>paragraph 54</b> – the jurisdiction was not challenged in a separate stage.</p> <p>23. It appears that Russia draws from this practice a duty of the Court to refrain from deciding on the admissibility of</p>
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<p>admissibility of the interventions before considering its preliminary objections. <b>Unfortunately</b>, such a duty does not exist in the law and the alleged precedents do not support this view either.</p> <p>22. First, Article 63 of the Statute does not make any distinction between separate phases before the Court. Rather, the opening word “whenever” indicates that a State is allowed to intervene in all phases of the proceedings.<sup>10</sup> Moreover, Article 82(1), second sentence of the Rules sets out only an outer time limit, i.e. a duty to intervene no later than the date fixed for the oral hearing. Again, the mention of an “oral hearing” does not distinguish between separate phases of the Court – the intervention may be filed before the oral hearings set for the jurisdictional/admissibility phase or before the merits phase. In addition, the invitation to file a declaration “as soon as possible” in that provision confirms that the filing of an Article 63 declaration is admissible at this stage of the proceedings.</p> <p>23. <b>The Russian Federation</b> also advances an erroneous interpretation of the words “Convention in question” in Article 63 of the Statute. In its view, it would be first for the Court to determine the “dispute” pending before it before allowing Convention <b>States</b> to intervene. However, the role of the Court in Article 63 of the Statute is</p>	<p>the interventions before considering its preliminary objections. <b>However</b>, such a duty does not exist in the law and the alleged precedents do not support this view either.</p> <p>23. First, Article 63 of the Statute does not make any distinction between separate phases before the Court. Rather, the opening word “whenever” indicates that a State is allowed to intervene in all phases of the proceedings. Moreover, <b>the second sentence of</b> Article 82(1) of the Rules sets out only an outer time limit, i.e. a duty to intervene no later than the date fixed for the oral hearing. Again, the mention of an “oral hearing” does not distinguish between separate phases of the Court – the intervention may be filed before the oral hearings set for the jurisdictional/admissibility phase or before the merits phase. In addition, the invitation to file a declaration “as soon as possible” in that provision confirms that the filing of an Article 63 declaration is admissible at this stage of the proceedings.</p> <p>24. Russia also advances an erroneous interpretation of <b>the convention in</b> question in Article 63 of the Statute. In its view, it would be first for the Court to determine the “dispute” pending before it before allowing the states, <b>which are parties to the convention</b>, to intervene. However, the role of the Court in Article 63 of the Statute is</p>	<p>the interventions before considering its preliminary objections. <b>Hélas</b>, such a duty does not exist in the law and the alleged precedents do not support this view either.</p> <p>24. First, Article 63 of the Statute does not make any distinction between separate phases before the Court. Rather, the opening word “whenever” indicates that a State is allowed to intervene in all phases of the proceedings. Moreover, Article 82(1), second sentence of the Rules sets out only an outer time limit, i.e. a duty to intervene no later than the date fixed for the oral hearing. Again, the mention of an “oral hearing” does not distinguish between separate phases of the Court – the intervention may be filed before the oral hearings set for the jurisdictional/admissibility phase or before the merits phase. In addition, the invitation to file a declaration “as soon as possible” in that provision confirms that the filing of an Article 63 declaration is admissible at this stage of the proceedings.</p> <p>25. Russia also advances an erroneous interpretation of the words “Convention in question” in Article 63 of the Statute. In its view, it would be first for the Court to determine the “dispute” pending before it before allowing Convention <b>states</b> to intervene. However, the role of the Court in Article 63 of the Statute is restricted to</p>	<p>the interventions before considering its preliminary objections. <b>However</b>, such a duty does not have a legal basis and the alleged precedents do not support this view either.</p> <p>24. First, Article 63 of the Statute does not make any distinction between separate phases before the Court. Rather, the opening word “whenever” indicates that a State is allowed to intervene in all phases of the proceedings. Moreover, Article 82(1), second sentence of the Rules sets out only an outer time limit, i.e. a duty to intervene no later than the date fixed for the oral hearing. Again, the mention of an “oral hearing” does not distinguish between separate phases of the Court – the intervention may be filed before the oral hearings set for the jurisdictional/admissibility phase or before the merits phase. In addition, the invitation to file a declaration “as soon as possible” in that provision confirms that the filing of an Article 63 declaration is admissible at this stage of the proceedings.</p> <p>25. Russia also advances an erroneous interpretation of the words “Convention in question” in Article 63 of the Statute. In its view, it would be first for the Court to determine the “dispute” pending before it prior to allowing <b>Parties to the</b> Convention to intervene. However, the role of the Court in Article 63 of the Statute is restricted to</p>
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<p>restricted to verify whether the conditions enumerated in Art. 82(2) of the Rules are complied with. Contrary to the Russian allegation, the Court did not determine first the subject matter of the dispute in <i>Haya de la Torre</i>. Rather, the Court only ascertained whether the object of the intervention of the Government of Cuba was in fact the interpretation of the Havana Convention in regard to the question whether Colombia <b>was</b> under an obligation to surrender the refugee to the Peruvian authorities.</p>	<p>restricted to verify whether the conditions enumerated in Article 82(2) of the Rules are complied with. Contrary to the Russian allegation, the Court did not determine first the subject matter of the dispute in <i>Haya de la Torres</i>. Rather, the Court only ascertained whether the object of the intervention of the Government of Cuba was in fact the interpretation of the Havana Convention in regard to the question whether Colombia is under an obligation to surrender the refugee to the Peruvian authorities.</p>	<p>verify whether the conditions enumerated in Art. 82(2) of the Rules are complied with. Contrary to the Russian allegation, the Court did not determine first the subject matter of the dispute in <i>Haya de la Torre</i>. Rather, the Court only ascertained whether the object of the intervention of the Government of Cuba was in fact the interpretation of the Havana Convention in regard to the question whether Colombia is under an obligation to surrender the refugee to the Peruvian authorities.</p>	<p>verify whether the conditions enumerated in Art. 82(2) of the Rules are complied with. Contrary to the Russian allegation, the Court did not determine first the subject matter of the dispute in <i>Haya de la Torre</i>. Rather, the Court only ascertained whether the object of the intervention of the Government of Cuba was in fact the interpretation of the Havana Convention regarding the question whether Colombia is under an obligation to surrender the refugee to the Peruvian authorities.</p>
<p>24. Second, in the first two cases quoted by <b>the Russian Federation</b> in support for such a duty (<i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i>) the Court had actually decided to split the proceedings into separate phases before examining the admissibility of the subsequent interventions. In the present case, the Court did not order under Article 79(1) of the Rules to <b>bifurcate</b> the proceedings after the filing of <b>the Russian Federation</b>'s preliminary objection. Rather, it has allowed Ukraine to address jurisdiction, admissibility and merits in one memorial. Accordingly, no authority can be drawn from <i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i> for the present case: in those cases, there was a separate jurisdictional/admissibility phase, in the present case there is none.</p>	<p>25. Second, in the first two cases quoted by Russia in support for such a duty (<i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i>), the Court had actually decided to split the proceedings in separate phases before examining the admissibility of the subsequent interventions. In the present case, the Court did not order under Article 79(1) of the Rules to separate the proceedings after the filing of Russia's preliminary objection. Rather, it has allowed Ukraine to address jurisdiction, admissibility and merits in one memorial. Accordingly, no authority can be drawn from <i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i> for the present case <b>■</b> in those cases, there was a different jurisdictional/admissibility phase, in the present case there is none.</p>	<p>26. Second, in the first two cases quoted by Russia in support for such a duty (<i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i>) the Court had actually decided to split the proceedings in separate phases before examining the admissibility of the subsequent interventions. In the present case, the Court did not order under Article 79(1) of the Rules to separate the proceedings after the filing of Russia's preliminary objection. Rather, it has allowed Ukraine to address jurisdiction, admissibility and merits in one memorial. Accordingly, no authority can be drawn from <i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i> for the present case: in those cases, there was a different jurisdictional/admissibility phase, in the present case there is none.</p>	<p>26. Second, in the first two cases quoted by Russia in support for such a duty (<i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i>) the Court had actually decided to split the proceedings in separate phases before examining the admissibility of the subsequent interventions. In the present case, the Court did not order under Article 79(1) of the Rules to separate the proceedings after the filing of Russia's preliminary objections. Rather, it has allowed Ukraine to address jurisdiction, admissibility and merits in one memorial. Accordingly, no authority can be drawn from <i>Military and Paramilitary Activities</i> and <i>Nuclear Tests</i> for the present case: in those cases, there was a different jurisdictional/admissibility phase, in the present case there is none.</p>

<p>25. Third, even if the Court had bifurcated these proceedings, nothing in the case law supports a duty of the Court to refrain from deciding on the admissibility of an intervention during the jurisdictional phase. In <i>Military and Paramilitary Activities</i>, the Court's jurisdiction depended on an understanding of Article 36(2) and (5) of the Statute, and the merits touched upon questions of the UN Charter and customary international law. El Salvador's Declaration of Intervention of 15 August 1984 addressed mainly the latter and did not contain any statement on how it would construe Article 36(2) and (5) of the Statute. Against that background, the Court dismissed the application "in as much as it relates to the current phase of the proceedings". As judge Singh, judges Ruda, Mosler, Ago, Jennings and De Lachamere, as well as judge Oda explained, it had weighed in the Court that El Salvador's declaration was mainly directed to the merits of the case, but insufficient with respect to the jurisdictional question before the Court. This explanation is shared in doctrine.</p>	<p>26. Third, even if the Court had separated the proceedings in the two separate phases here, nothing in the case law supports a duty of the Court to refrain from deciding on the admissibility of an intervention during the jurisdictional phase. In <i>Military and Paramilitary Activities</i>, the Court's jurisdiction depended on an understanding of Article 36(2) and (5) of the Statute, and the merits touched upon questions of the UN Charter and customary international law. El Salvador's declaration of intervention of 15 August 1984 addressed mainly the latter and did not contain any statement on how it would construe Article 36(2) and (5) of the Statute. Against that background, the Court dismissed the application "in as much as it relates to the current phase of the proceedings". As Judge Singh, Judges Ruda, Mosier, Ago, Jennings and De Lacharriere, as well as Judge Oda explained, it had weighed in the Court that El Salvador's declaration was mainly directed to the merits of the case, but insufficient with respect to the jurisdictional question before the Court. This explanation is shared by the doctrine.</p>	<p>27. Third, even if the Court had separated the proceedings in the two separate phases here, nothing in the case law supports a duty of the Court to refrain from deciding on the admissibility of an intervention during the jurisdictional phase. In <i>Military and Paramilitary Activities</i>, the Court's jurisdiction depended on an understanding of Article 36(2) and (5) of the Statute, and the merits touched upon questions of the UN Charter and customary international law. El Salvador's Declaration of intervention of 15 August 1984 addressed mainly the latter and did not contain any statement on how it would construe Article 36(2) and (5) of the Statute. Against that background, the Court dismissed the application "in as much as it relates to the current phase of the proceedings". As judge Singh, judges Ruda, Mosier, Ago, Jennings and De Lacharriere, as well as judge Oda explained, it had weighed in the Court that El Salvador's declaration was mainly directed to the merits of the case, but insufficient with respect to the jurisdictional question before the Court. This explanation is shared by the doctrine.</p>	<p>27. Third, even if the Court had separated the proceedings in the two separate phases here, nothing in the case law supports a duty of the Court to refrain from deciding on the admissibility of an intervention during the jurisdictional phase. In <i>Military and Paramilitary Activities</i>, the Court's jurisdiction depended on an understanding of Article 36(2) and (5) of the Statute, and the merits touched upon questions of the UN Charter and customary international law. El Salvador's Declaration of intervention of 15 August 1984 addressed mainly the latter and did not contain any statement on how it would construe Article 36(2) and (5) of the Statute. Against that background, the Court dismissed the application "in as much as it relates to the current phase of the proceedings". As judge Singh, judges Ruda, Mosier, Ago, Jennings and De Lacharriere, as well as judge Oda explained, it had weighed in the Court that El Salvador's declaration was mainly directed to the merits of the case, but insufficient with respect to the jurisdictional question before the Court. This explanation is shared by the doctrine.</p>
<p>26. Therefore, it appears that the Court rejected El Salvador's declaration as inadmissible during the jurisdictional phase because and only insofar as it did not contain any construction of Article 36(2) and (5) of the Statute as the</p>	<p>27. Therefore, it appears that the Court rejected El Salvador's declaration as inadmissible during the jurisdictional phase <i>because and only insofar it did not contain any construction of Article 36(2) and (5) of the Statute as the</i></p>	<p>28. Therefore, it appears that the Court rejected El Salvador's declaration as inadmissible during the jurisdictional phase <i>because and only insofar it did not contain any construction of Article 36(2) and (5) of the Statute as the</i></p>	<p>28. Therefore, it appears that the Court rejected El Salvador's declaration as inadmissible during the jurisdictional phase because and only insofar it did not contain any construction of Article 36(2) and (5) of the Statute as the</p>



<p>jurisdictional base of the case. The Court did <u>not</u> find that no intervention under Article 63 of the Statute could ever be admissible during a jurisdictional phase, as the Russian Federation seems to read into the Court's order of 4 October 1986.</p> <p>27. The same is true for the <i>Nuclear Tests case</i>. After having ordered a jurisdictional phase in June 1973, the Court declared in July 1973 Fiji's intervention of May 1973 admissible. However, it deferred the consideration thereof to the merits as the intervention did not contain any construction of the jurisdictional basis of the case. In other words, the Court was able to decide about the admissibility of the intervention during the ongoing jurisdictional phase, but deferred it to the merits phase, as it only dealt with issues relating to the merits.</p> <p>28. Fourth, <i>Nuclear Tests (Request for Examination)</i> does not support the Russian argument either. In that rather specific case, the Court had before it New Zealand's application from August 1995 and four subsequent interventions under Article 63 of the Statute to re-examine <u>para.</u> 63 of its earlier judgment in <i>Nuclear Tests</i>. Instead of separating the proceedings, the Court held a hearing in September 1995 and rejected both the application and the four interventions in an order of October 1995. Hence, the only lesson</p>	<p>jurisdictional base of the case. The Court did <u>not</u> find that no intervention under Article 63 of the Statute could ever be admissible during a jurisdictional phase, as the Russian Federation seems to read into the Court's order of 4 October 1986.</p> <p>28. The same is true for <i>Nuclear Tests</i>. After having ordered a jurisdictional phase in June 1973, the Court declared in July 1973 Fiji's intervention of May 1973 admissible. However, it deferred the consideration thereof to the merits as the intervention did not contain any construction of the jurisdictional basis of the case. In other words, the Court was able to decide about the admissibility of the intervention during the ongoing jurisdictional phase, but deferred it to the merits phase, as it only dealt with issues relating to the merits.</p> <p>29. Fourth, <i>Nuclear Tests (Request for Examination)</i> does not support the Russian argument either. In that rather specific case, the Court had before it New Zealand's application from August 1995 and four subsequent interventions under Article 63 of the Statute to re-examine <u>paragraph</u> 63 of its earlier judgment in <i>Nuclear Tests</i>. Instead of separating the proceedings, the Court held a hearing in September 1995 and rejected both the application and the four interventions in an order of October 1995. Hence, the only lesson</p>	<p>jurisdictional base of the case. The Court did <u>not</u> find that no intervention under Article 63 of the Statute could ever be admissible during a jurisdictional phase, as the Russian Federation seems to read into the Court's order of 4 October 1986.</p> <p>29. The same is true for the <i>Nuclear Tests case</i>. After having ordered a jurisdictional phase in June 1973, the Court declared in July 1973 Fiji's intervention of May 1973 admissible. However, it deferred the consideration thereof to the merits as the intervention did not contain any construction of the jurisdictional basis of the case. In other words, the Court was able to decide about the admissibility of the intervention during the ongoing jurisdictional phase, but deferred it to the merits phase, as it only dealt with issues relating to the merits.</p> <p>30. Fourth, <i>Nuclear Tests (Request for Examination)</i> does not support the Russian argument either. In that rather specific case, the Court had before it New Zealand's application from August 1995 and four subsequent interventions under Article 63 of the Statute to re-examine <u>§</u> 63 of its earlier judgment in <i>Nuclear Tests</i>. Instead of separating the proceedings, the Court held a hearing in September 1995 and rejected both the application and the four interventions in an order of October 1995. Hence, the only lesson</p>	<p>jurisdictional base of the case. The Court did not find that no intervention under Article 63 of the Statute could ever be admissible during a jurisdictional phase, as the Russian Federation seems to read from the Court's order of 4 October 1986.</p> <p>29. The same is true for the <i>Nuclear Tests case</i>. After having ordered a jurisdictional phase in June 1973, the Court declared in July 1973 Fiji's intervention of May 1973 admissible. However, it deferred the consideration thereof to the merits as the intervention did not contain any construction of the jurisdictional basis of the case. In other words, the Court was able to decide about the admissibility of the intervention during the ongoing jurisdictional phase, but deferred it to the merits phase, as it only dealt with issues relating to the merits.</p> <p>30. Fourth, <i>Nuclear Tests (Request for Examination)</i> does not support the Russian argument either. In that rather specific case, the Court had before it New Zealand's application from August 1995 and four subsequent interventions under Article 63 of the Statute to re-examine <u>paragraph</u> 63 of its earlier judgment in <i>Nuclear Tests</i>. Instead of separating the proceedings, the Court held a hearing in September 1995 and rejected both the application and the four interventions in an order of October 1995. Hence, the only lesson</p>
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<p>from this case is that the Court has discretion to dismiss an application together with purported interventions. However, the precedent does not entail a duty of the Court to disregard an intervention prior to the examination of preliminary objections from the Defendant.</p> <p>29. In conclusion, nothing in Article 63 of the Statute or in the Court’s case law supports the Russian view that the Court cannot deal with the admissibility of an intervention before deciding on the Russian Federation’s preliminary objection.</p> <p>30. In its fourth and fifth argument, the Russian Federation criticises that the declaration would in effect address matters, which presuppose that the Court has jurisdiction and/or that Ukraine’s application is admissible. The Russian Federation complains, in particular, that the declaration contains a construction of Article IX of the Genocide Convention on the jurisdiction of the Court. For the Russian Federation, this makes the declaration inadmissible as it is written in a way that presupposes that the Court has jurisdiction over the alleged dispute. Thereby, the Russian Federation effectively maintains that a State may not intervene on questions of jurisdiction, as taking a position on that point would “presuppose” that the Court has jurisdiction. In its fifth</p>	<p>from this case is that the Court has discretion to dismiss an application together with purported interventions. However, the precedent does not entail a duty of the Court to disregard an intervention prior to the examination of preliminary objections from the Defendant.</p> <p>30. In conclusion, nothing in Article 63 of the Statute or in the Court’s case law supports the Russian view that the Court cannot deal with the admissibility of an intervention before deciding on Russia’s preliminary objections.</p> <p>31. In its fourth and fifth argument, the Russian Federation criticises that the Declaration would in effect address matters, which presuppose that the Court has jurisdiction and/or that Ukraine’s application is admissible. Russia complains, in particular, that the Declaration contains a construction of Article IX of the Genocide Convention on the jurisdiction of the Court. For Russia, this makes the Declaration inadmissible as it is written in a way that presupposes that the Court has jurisdiction over the alleged dispute. Thereby, Russia effectively maintains that a State may not intervene on questions of jurisdiction, as taking a position on that point would “presuppose” that the Court has jurisdiction. In its fifth argument, it repeats this point with more clarity,</p>	<p>from this case is that the Court has discretion to dismiss an application together with purported interventions. However, the precedent does not entail a duty of the Court to disregard an intervention prior to the examination of preliminary objections from the Defendant.</p> <p>31. In conclusion, nothing in Article 63 of the Statute or in the Court’s case law supports the Russian view that the Court cannot deal with the admissibility of an intervention before deciding on Russia’s preliminary objection.</p> <p>32. In its fourth and fifth argument, the Russian Federation criticises that the declaration address would in effect address matters, which presuppose that the Court has jurisdiction and/or that Ukraine’s application is admissible. Russia complains, in particular, that the declaration contains a construction of Article IX of the Genocide Convention on the jurisdiction of the Court. For Russia, this makes the declaration inadmissible as it is written in a way that presupposes that the Court has jurisdiction over the alleged dispute. Thereby, Russia effectively maintains that a State may note intervene on questions of jurisdiction, as taking a position on that point would “presuppose” that the Court has jurisdiction. In its fifth argument, it repeats this point with more clarity,</p>	<p>from this case is that the Court has discretion to dismiss an application together with purported interventions. However, the precedent does not entail a duty of the Court to disregard an intervention prior to the examination of preliminary objections from the Defendant.</p> <p>31. In conclusion, nothing in Article 63 of the Statute or in the Court’s case law supports the Russian view that the Court cannot deal with the admissibility of an intervention before deciding on Russia’s preliminary objection.</p> <p>32. In its fourth and fifth arguments, the Russian Federation criticises that the declaration would in effect address matters which presuppose that the Court has jurisdiction and/or that Ukraine’s application is admissible. Russia complains, in particular, that the declaration contains a construction of Article IX of the Genocide Convention on the jurisdiction of the Court. For Russia, this makes the declaration inadmissible as it is written in a way that presupposes that the Court has jurisdiction over the alleged dispute. Thereby, Russia effectively maintains that a State may note intervene on questions of jurisdiction, as taking a position on that point would “presuppose” that the Court has jurisdiction. In its fifth argument, it repeats this point with more clarity,</p>
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<p>argument, it repeats this point with more clarity, contesting <b>Denmark's</b> right to intervene on Article IX of the convention <i>per se</i>.</p> <p>31. In <b>Denmark's</b> view, this line of reasoning also runs contrary to Article 63 of the Statute and the Court's practice.</p> <p>32. According to Article 63 (1) of the Statute, a State <b>P</b>arty may intervene on the "construction of a convention". The plain wording refers to the entire Convention, including its compromissory clause, as the case may be. Accordingly, nothing in the text suggests that a State may not offer its construction of Article IX of the Genocide Convention to the Court.</p> <p>33. That point is further strengthened by the object and purpose of Article 63 of the Statute. States do not only have a legitimate interest in sharing with the Court their interpretation of substantive obligations contained in a Convention at stake before the Court. It is of equal importance to be heard on jurisdictional issues, as this may affect their own position before the Court in future cases relating to themselves. Hence, an intervention under Article 63 of the</p>	<p>contesting <b>the Republic of Estonia's</b> right to intervene on Article IX of the Genocide Convention <i>per se</i>.</p> <p>32. In the <b>Republic of Estonia's</b> view, this line of reasoning also runs contrary to Article 63 of the Statute and the Court's practice.</p> <p>33. According to Article 63 of the Statute, a State <b>p</b>arty may intervene <b>in the proceedings whenever</b> the construction of a convention <b>is in question</b>. The plain wording <b>of Article 63 of the Statute is not selective and</b> refers to the entire <b>convention</b>, including its compromissory clause, as the case may be. Accordingly, nothing in the text suggests that <b>the Republic of Estonia</b> may not offer its construction of Article IX of the Genocide Convention to the Court <b>as it did in its Declaration paragraphs 25-38</b>.</p> <p>34. That point is further strengthened by the object and purpose of Article 63 of the Statute. States do not only have a legitimate interest to share with the Court their interpretation of substantive obligations contained in a <b>convention</b> at stake before the Court. It is of equal importance to be heard on jurisdictional issues, as this may affect their own position before the Court in future cases relating to themselves. Hence, an intervention under Article 63 of the</p>	<p>contesting <b>Spain's</b> right to intervene on Article IX of the convention <i>per se</i>.</p> <p>In <b>Spain's</b> view, this line of reasoning also runs contrary to Article 63 of the Statute and the Court's practice.</p> <p>33. According to Article 63 (1) of the Statute, a State <b>p</b>arty may intervene on the "construction of a convention". The plain wording refers to the entire Convention, including its compromissory clause, as the case may be. Accordingly, nothing in the text suggests that a State may not offer its construction of Article IX of the Genocide Convention to the Court.</p> <p>34. That point is further strengthened by the object and purpose of Article 63 of the Statute. States do not only have a legitimate interest to share with the Court their interpretation of substantive obligations contained in a Convention at stake before the Court. It is of equal importance to be heard on jurisdictional issues, as this may affect their own position before the</p> <p>Court in future cases relating to themselves. Hence, an intervention under Article 63 of the Statue may</p>	<p>contesting <b>the Portuguese Republic</b> right to intervene on Article IX of the convention <i>per se</i>.</p> <p>33. In <b>the Portuguese Republic</b> view, this line of reasoning also runs contrary to Article 63 of the Statute and the Court's practice.</p> <p>34. According to Article 63 (1) of the Statute, a State <b>P</b>arty may intervene on the "construction of a convention". The plain wording refers to the entire Convention, including its compromissory clause, as the case may be. Accordingly, nothing in the text suggests that a State may not offer its construction of Article IX of the Genocide Convention to the Court.</p> <p>35. That point is further strengthened by the object and purpose of Article 63 of the Statute. States do not only have a legitimate interest to share with the Court their interpretation of substantive obligations contained in a Convention at stake before the Court. It is of equal importance to be heard on jurisdictional issues, as this may affect their own position before the Court in future cases relating to themselves. Hence, an intervention under Article 63 of the</p>
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<p>Statue may cover both jurisdictional and substantive aspects.</p> <p>34. Subsequent practice <b>of the</b> Court points in the same direction. So far, the Court has never dismissed an intervention because it was (entirely or primarily) directed to interpreting a compromissory clause. Rather, in <i>Military and Paramilitary Activities</i> El Salvador's attempt to influence the jurisdictional question before the Court was unsuccessful because the declaration had not complied with the formal requirements under Rule 82(2)(b) and (c) for the great majority in the Court. Had it done so, it would have been of interest to the Court, as expressly confirmed by Judge Oda. Moreover, Judge Schwebel even found that the faults of El Salvador's initial declaration on jurisdiction had been healed by subsequent letters. Based on this reading, he was prepared to admit El Salvador's declaration on jurisdictional matters.</p>	<p>Statue may cover both jurisdictional and substantive aspects.</p> <p>35. Subsequent practice before the Court <b>indicates</b> the same. So far, the Court has never dismissed an intervention because it was (entirely or primarily) directed to interpreting a compromissory clause. Rather, in <i>Military and Paramilitary Activities</i>, El Salvador's attempt to influence the jurisdictional question before the Court was unsuccessful because the declaration had not complied with the formal requirements under <b>Article 82(2)(b) and (c) of the Rules</b> for the great majority in the Court. Had it done so, it would have been of interest to the Court, as expressly confirmed by Judge Oda. Moreover, Judge Schwebel even found that the faults of El Salvador's initial declaration on jurisdiction had been healed by subsequent letters. Based on this reading, he was prepared to admit El Salvador's declaration on jurisdictional matters.</p> <p>36. In <i>Pakistani Prisoners of War</i>, Judge Pétren defended a similar view. He noted that Pakistan and India had different views about the Genocide Convention, including its jurisdictional clause. In his view, "<i>Article 63 of the Statute of the Court required the questions thus raised to be notified without delay to the States parties to the two international instruments in question</i>". Such an invitation would</p>	<p>cover both jurisdictional and substantive aspects.</p> <p>35. Subsequent practice before the Court points into the same direction. So far, the Court has never dismissed an intervention because it was (entirely or primarily) directed to interpreting a compromissory clause. Rather, in <i>Military and Paramilitary Activities</i> El Salvador's attempt to influence the jurisdictional question before the Court was unsuccessful because the declaration had not complied with the formal requirements under Rule 82(2)(b) and (c) for the great majority in the Court. Had it done so, it would have been of interest to the Court, as expressly confirmed by Judge Oda. Moreover, Judge Schwebel even found that the faults of El Salvador's initial declaration on jurisdiction had been healed by subsequent letters. Based on this reading, he was prepared to admit El Salvador's declaration on jurisdictional matters.</p> <p>36. In <i>Pakistani Prisoners of War</i>, Judge Pétren defended a similar view. He noted that Pakistan and India had different views about the Genocide Convention, including its jurisdictional clause. In his view, "<i>Article 63 of the Statute of the Court required the questions thus raised to be notified without delay to the States parties to the two international instruments in question</i>". Such an invitation would</p>	<p>Statue may cover both jurisdictional and substantive aspects.</p> <p>36. Subsequent practice before the Court points into the same direction. So far, the Court has never dismissed an intervention because it was (entirely or primarily) directed to interpreting a compromissory clause. Rather, in <i>Military and Paramilitary Activities</i> El Salvador's attempt to influence the jurisdictional question before the Court was unsuccessful because the declaration had not complied with the formal requirements under Rule 82(2)(b) and (c) for the great majority in the Court. Had it done so, it would have been of interest to the Court, as expressly confirmed by Judge Oda. Moreover, Judge Schwebel even found that the faults of El Salvador's initial declaration on jurisdiction had been healed by subsequent letters. Based on this reading, he was prepared to admit El Salvador's declaration on jurisdictional matters.</p> <p>37. In <i>Pakistani Prisoners of War</i>, Judge Pétren defended a similar view. He noted that Pakistan and India had different views about the Genocide Convention, including its jurisdictional clause. In his view, "<i>Article 63 of the Statute of the Court required the questions thus raised to be notified without delay to the States parties to the two international instruments in question</i>". Such an invitation would</p>
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<p>35. It follows that <b>Denmark</b> correctly exercised its right to intervene under Article 63 of the Statute. The fact that the intervention also addresses the compromissory clause under Article IX of the Genocide does not render the intervention inadmissible.</p> <p>36. In its last argument, the Russian Federation refers to <b>Denmark's arguments</b>:</p> <p><i>“Denmark refers to questions related to whether there is evidence that genocide has been committed or may be committed in Ukraine, the doctrine of abuse of rights and the principle of good faith in application of the Convention, the scope of due diligence to be performed by the State that intends to accuse another State of genocide, issues of use of force, and compliance with the Court's provisional measures order.”</i></p> <p><b>The Russian Federation</b> alleges that this observation does not relate to the construction of the Genocide Convention and contains an impermissible incursion into the interpretation or application of other rules of international rules that are</p>	<p>make no sense if States would not be able to make a statement in Article IX of the Genocide Convention under Article 63 of the Statute.</p> <p>37. It follows that <b>the Republic of Estonia</b> correctly exercised its right to intervene under Article 63 of the Statute. The fact that the intervention also addresses the compromissory clause under Article IX of the Genocide <b>Convention</b> does not render the intervention inadmissible.</p> <p>38. In its last argument, the Russian Federation refers to <b>Republic of Estonia's statement that "addresses good faith in application of the Convention, whether there is evidence that genocide has been committed or may be committed in Ukraine, issues relating to the use of force, and compliance with the Court's provisional measures order."</b> It alleges that <b>these issues</b> do not relate to the construction of the Genocide Convention and contain an impermissible incursion into the interpretation or application of other rules of international rules that are distinct from the treaty in question and derive from different sources.</p>	<p>make no sense if States would not be able to make a statement in Article IX Genocide Convention under Article 63 of the Statute.</p> <p>37. It follows that <b>Spain</b> correctly exercised its right to intervene under Article 63 of the Statute. The fact that the intervention entirely addresses the compromissory clause under Article IX of the Genocide does not render the intervention inadmissible.</p> <p>38. In its last argument, the Russian Federation refers to <b>Spain's statements in par. 8, 29 and 30</b>. It alleges that these observations does not relate to the construction of the Genocide Convention and contains an impermissible incursion into the interpretation or application of other rules of international rules that are distinct from the treaty in question and derive from different sources.</p>	<p>make no sense if States would not be able to make a statement in Article IX Genocide Convention under Article 63 of the Statute.</p> <p>38. It follows that the <b>Portuguese Republic</b> correctly exercised its right to intervene under Article 63 of the Statute. The fact that the intervention also addresses the compromissory clause under Article IX of the Genocide does not render the intervention inadmissible.</p> <p>39. In its last argument, the Russian Federation refers <b>in paragraph 106 (i) that</b></p> <p><i>“Portugal states that a dispute exists between Ukraine and the Russian Federation. It further addresses issues such as whether there is evidence that genocide has been committed or may be committed in Ukraine, the principles of good faith and abuse of law, and use of force.”</i></p> <p>It alleges that this observation does not relate to the construction of the Genocide Convention and contains an impermissible incursion into the interpretation or application of other rules of international law that are distinct from the treaty in question and derive from different sources.</p>
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<p>distinct from the treaty in question and derive from different sources.</p> <p>37. The argument is based on a misperception of <b>Denmark's arguments</b>. Clearly, the statements did not introduce the <b>issue of verifying allegations that genocide has been committed or may be committed in Ukraine, the doctrine of abuse of rights, the principle of good faith in the application of the Genocide Convention, the scope of due diligence to be undertaken by a State Party that wish to take action pursuant to Article I, issues of use of force, or compliance with the Court's provisional measures order as self-standing matters under international law</b>. Rather, the statements were part of the construction of Articles <b>I, II, III, VIII and IX</b> of the Convention.</p> <p>38. Such technique is permissible, <b>and necessary</b>, under international law. According to Article 31(3)(c) of the Vienna Convention on the Law of Treaties, representing customary international law, the interpretation of a treaty may include:</p> <p><i>“any relevant rules of international law applicable in the relations between the parties.”</i></p> <p>According to the Report of the ILC Study Group on Fragmentation of International law, the notion of “relevant rules” includes customary</p>	<p>39. The argument is based on a misperception of the <b>Republic of Estonia's</b> statement. Clearly, the statement did not introduce any of these issues as a self-standing matter. Rather, the statement was part of the construction of Articles <b>I, II-IV, VIII and IX</b> of the <b>Genocide</b> Convention.</p> <p>40. Such technique is permissible under international law. According to Article 31(3)(c) of the Vienna Convention on the Law of Treaties, representing customary international law, the interpretation of a treaty may include <i>“any relevant rules of international law applicable in the relations between the parties.”</i></p> <p>41. According to the Report of the ILC Study Group on Fragmentation of International law, the notion of “relevant rule” includes customary</p>	<p>39. The argument is based on a misperception of <b>Spain's</b> statement. Clearly, the statement did not introduce this issue as a self-standing matter. Rather, the statement was part of the construction of Article <b>IX</b> of the Convention.</p> <p>40. Such technique is permissible under international law. According to Article 31(3)(c) of the Vienna Convention on the Law of Treaties, representing customary international law, the interpretation of a treaty may include</p> <p><i>“any relevant rules of international law applicable in the relations between the parties.”</i></p> <p>According to the Report of the ILC Study Group on Fragmentation of International law, the notion of “relevant rule” includes customary</p>	<p>40. The argument is based on a misperception of <b>the Portuguese Republic</b> statement. Clearly, the statement did not introduce <b>good faith, abuse of law and the law on the use of force</b> as self-standing matters. Rather, the statement was part of the construction of Article <b>I</b> of the Convention.</p> <p>41. Such <b>interpretation</b> technique is <b>in accordance with</b> international law. According to Article 31(3)(c) of the Vienna Convention on the Law of Treaties, representing customary international law, the interpretation of a treaty may include <i>“any relevant rules of international law applicable in the relations between the parties.”</i></p> <p>42. According to the Report of the ILC Study Group on Fragmentation of International law, the notion of “relevant rule” includes customary</p>
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<p>international law, general principles of law and treaty law. It follows that mentioning relevant case law of the Court, resolutions of the UN Human Rights Council, the general principles of due diligence and good faith, and the UN Charter as interpretative aids to Articles I, II, III, VIII and IX of the Convention cannot be disqualified as an “impermissible incursion” as stated in paragraph 110 of the Russian observations. Rather, adhering to the principle of systemic integration, it contributes to the required integral interpretation of international law as a legal order.</p> <p>39. Denmark finds further support for its position in the Court’s order of 16 March 2022. In para. 58, the Court stated:</p> <p><i>The acts undertaken by the Contracting Parties “to prevent and to punish” genocide must be in conformity with the spirit and aims of the United Nations, as set out in Article 1 of the United Nations Charter.</i></p> <p>40. It appears that the Court interpreted Article I of the Genocide Convention in light of Article 1 of the UN Charter. In a similar vein, Denmark suggests that it is possible to interpret Articles I, II, III, VIII and IX in the light of general principles of law and the UN Charter, as permitted by the principle of systemic integration and Article 31(3)(c) of the</p>	<p>international law, general principles of law and treaty law. It follows that mentioning either good faith, issues relating to the use of force, or compliance with the Court’s provisional measures order as an interpretative aid to Articles I, II-IV, VIII and IX of the Convention cannot be disqualified as “impermissible incursion”. Rather, it contributes to the required integral interpretation of international law as a legal order.</p> <p>42. The Republic of Estonia finds further support for its position in the Court’s order of 16 March 2022. In paragraph 58, the Court stated:</p> <p><i>“The acts undertaken by the Contracting Parties “to prevent and to punish” genocide must be in conformity with the spirit and aims of the United Nations, as set out in Article 1 of the United Nations Charter.”</i></p> <p>43. It appears that the Court interpreted Article I of the Genocide Convention in light of Article 1 of the UN Charter. In a similar vein, the Republic of Estonia suggests that it is possible to interpret the Articles of the Genocide Convention on which the Republic of Estonia has focused in its Declaration in the light of relevant international law,</p>	<p>international law, general principles of law and treaty law. It follows that mentioning a general principle of law as an interpretative aid to Article IX of the Convention cannot be disqualified as “impermissible incursion”. Rather, it contributes to the required integral interpretation of international law as a legal order.</p> <p>41. Spain finds further support for its position in the Court’s order of 16 March 2022. In paragraph 58, the Court stated:</p> <p><i>The acts undertaken by the Contracting Parties “to prevent and to punish” genocide must be in conformity with the spirit and aims of the United Nations, as set out in Article 1 of the United Nations Charter.</i></p> <p>42. It appears that the Court interpreted Article I of the Genocide Convention in light of Article 1 of the UN-Charter. In a similar vein, Spain suggest that it is possible to interpret Article IX in the same light, as permitted by Article 31(3)(c) of the Vienna Convention. Such operation does not transcend the boundaries of Article 63 of the Statute,</p>	<p>international law, general principles of law and treaty law. It follows that referring to good faith, abuse of law or article 2(4) of the Charter of the United Nations as interpretative aids to Article I of the Convention cannot be disqualified as “impermissible incursion”. Rather, it contributes to the required integral interpretation of international law as a legal order.</p> <p>43. The Portuguese Republic finds further support for its position in the Court’s order of 16 March 2022. In paragraph 58, the Court stated:</p> <p><i>The acts undertaken by the Contracting Parties “to prevent and to punish” genocide must be in conformity with the spirit and aims of the United Nations, as set out in Article 1 of the United Nations Charter.</i></p> <p>44. It appears that the Court interpreted Article I of the Genocide Convention in light of Article 1 of the UN Charter. In a similar vein, the Portuguese Republic suggests that it is possible to interpret Article I in the light of the other relevant rules of international law mentioned by the Portuguese Republic, as permitted by Article 31(3)(c) of the Vienna</p>
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Vienna Convention. Such operation does not transcend the boundaries of Article 63 of the Statute, but stays within the requirement of constructing the Convention at issue in line with accepted rules of treaty interpretation.	as permitted by Article 31(3)(c) of the Vienna Convention. Such operation does not transcend the boundaries of Article 63 of the Statute, but stays within the requirement of constructing the Convention at issue in line with accepted rules of treaty interpretation.	but stays within the requirement of constructing the Convention at issue in line with accepted rules of treaty interpretation.	Convention. Such operation does not transcend the boundaries of Article 63 of the Statute but stays within the requirement of constructing the Convention at issue in line with accepted rules of treaty interpretation.
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**Written Observations of Germany, ¶¶9, 35; Written Observations of Greece, ¶10; Written Observations of Liechtenstein, ¶¶7, 23; Written Observations of Poland, ¶7.**

[Highlighted where there are differences].

Written Observations of Germany	Written Observations of Greece	Written Observations of Liechtenstein	Written Observations of Poland
9. The Court <b>has</b> used the expression of “genuine intervention” in <i>Haya de la Torres</i> to describe how it <b>operated</b> the objective test <b>of finding out</b> whether the object of the intervention of Cuba was the interpretation of the Havana Convention (a “genuine” intervention) or an attempt to re-litigate another case (not a “genuine” intervention). However, contrary to the Russian observation in paragraph 14, the Court did not consider the text of the declaration and the context within it had been filed to establish the “genuine <i>intention</i> ” of Cuba. This semantic shift from an objective test (was the <u>intervention</u> “genuine”?) to a subjective test (was the government’s <u>intention</u> “genuine”?) does not have any basis in the case law of the Court. [...]	10. <b>Finally, as regards</b> the expression “genuine intervention”, <b>it should be pointed out that</b> the Court used it in <i>Haya de la Torre</i> <b>in order to find out</b> whether the object of the intervention of Cuba was the interpretation of the Havana Convention (therefore, a “genuine” intervention) or an attempt to re-litigate another case ( <b>therefore</b> , not a “genuine” intervention). However, contrary to <b>the Russian Federation’s</b> observation in paragraph 14, the Court did not <b>seek</b> to establish the “genuine <i>intention</i> ” of Cuba.	7. <b>This argument is not based on an accurate</b> presentation of the law. <b>When</b> the Court used the expression “genuine intervention” in <i>Haya de la Torres</i> , the Court <b>was assessing</b> whether the object of the intervention of Cuba was interpretation of the Havana Convention (a “genuine” intervention), or <b>whether it was</b> an attempt to re-litigate another case. [...]	7. <b>Russia’s</b> presentation of the law <b>is erroneous</b> . The Court <b>has</b> used the expression of “genuine intervention” in <b>the</b> <i>Haya de la Torres</i> case to describe how it <b>employed</b> the objective test to <b>discover</b> whether the object of <b>Cuba’s intervention</b> was interpretation of the Havana Convention (a “genuine” intervention) or an attempt to re-litigate another case (not a “genuine” intervention). However, contrary to the Russian observation in paragraph 14, the Court did not consider the text of the declaration and the context within it had been filed to establish <b>Cuba’s</b> “genuine intention”. This semantic shift from an objective test (was the intervention “genuine”?) to a subjective test (was the government’s intention “genuine”?) has no basis in the case law of the Court. [...]

35. For the reasons set out above <b>Germany</b> is convinced that its Declaration of Intervention fully complies with the requirements under Article 63 of the Statute and Article 82 of the Rules. <b>Germany thus</b> requests the Court to decide that the intervention is admissible, <b>to</b> allow <b>Germany</b> to exercise its right to intervene, as a party to the Genocide Convention, and to present its written observations <b>on the construction of the Genocide Convention</b> in good time.	For the reasons set out above <b>the Hellenic Republic</b> is convinced that its Declaration of Intervention fully complies with the requirements under Article 63 of the Statute and Article 82 of the Rules. <b>Therefore, the Hellenic Republic respectfully</b> requests the Court to <b>reject all the objections to the admissibility of its Declaration of Intervention and</b> to decide that the intervention is admissible.	23. For the reasons set out above <b>Liechtenstein understands</b> that its Declaration of Intervention fully complies with the requirements under Article 63 of the Statute and Article 82 of the Rules. <b>Accordingly,</b> the Court <b>should</b> decide that the intervention is admissible and allow <b>Liechtenstein</b> to present its written observations in good time <b>in order to</b> exercise its right to intervene as party to the Genocide Convention.
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**Written Observations of Germany, ¶3; Written Observations of Italy, ¶3; Written Observations of Poland, ¶5.**

[**Highlighted** where there are differences].

<b>Written Observations of Germany</b>	<b>Written Observations of Italy</b>	<b>Written Observations of Poland</b>
3. In its Written Observations, the Russian Federation has challenged the admissibility of the Declarations of Intervention of a number of States, including <b>Germany</b> , on the following grounds: <ul style="list-style-type: none"> <li>(a) ... the interventions are not genuine: their real object is not the construction of the relevant provisions of the Genocide Convention, as required by Article 63 of the Statute, but rather pursuing a joint case alongside with Ukraine as de facto co-applicants rather than non-parties.</li> <li>(b) ... the participation of the Declarants in these proceedings would result in a serious impairment of the principle of equality of the parties to the detriment of the Russian Federation and would</li> </ul>	3. In its Written Observations, the Russian Federation has challenged the admissibility of the Declarations of Intervention of a number of States, including <b>Italy</b> , on the following grounds: <ul style="list-style-type: none"> <li>(a) ... the interventions are not genuine: their real object is not the construction of the relevant provisions of the Genocide Convention, as required by Article 63 of the Statute, but rather pursuing a joint case alongside with Ukraine as de facto co-applicants rather than non-parties.</li> <li>(b) ... the participation of the Declarants in these proceedings would result in a serious impairment of the principle of equality of the parties to the detriment of the Russian Federation and would be incompatible with the requirements of good</li> </ul>	5. <b>Russia's</b> written observations <b>contain</b> the following <b>four general</b> grounds: <ul style="list-style-type: none"> <li>5.1. <b>The</b> interventions are not genuine: their real object is not the construction of the relevant provisions of the Genocide Convention, as required by Article 63 of the Statute, but rather pursuing a joint case alongside Ukraine as de facto co-applicants rather than non- parties.</li> <li>5.2. <b>The Declarants' participation</b> in these proceedings would result in a serious impairment of the principle of equality of parties to the detriment of the Russian Federation and would</li> </ul>

<p>be incompatible with the requirements of good administration of justice.</p> <p>(c) ... the Court cannot, in any event, decide on the admissibility of the Declarations before it has made a decision on the Preliminary Objections, and that the Declarations address matters that presuppose that the Court has jurisdiction and/or that Ukraine's Application is admissible.</p> <p>(d) ... the Declarations should be equally declared inadmissible because the Declarants seek to address issues unrelated to the "construction" of the Genocide Convention, such as the interpretation and application of other rules of international law and several questions of fact, which is incompatible with the limited object of Article 63. Furthermore, allowing the Declarants to intervene on such matters at this stage would prejudice the question of the Court's jurisdiction <i>ratione materiae</i>.</p>	<p>administration of justice.</p> <p>(c) ... the Court cannot, in any event, decide on the admissibility of the Declarations before it has made a decision on the Preliminary Objections, and that the Declarations address matters that presuppose that the Court has jurisdiction and/or that Ukraine's Application is admissible.</p> <p>(d) ... the Declarations should be equally declared inadmissible because the Declarants seek to address issues unrelated to the "construction" of the Genocide Convention, such as the interpretation and application of other rules of international law and several questions of fact, which is incompatible with the limited object of Article 63. Furthermore, allowing the Declarants to intervene on such matters at this stage would prejudice the question of the Court's jurisdiction <i>ratione materiae</i>.</p>	<p>be incompatible with the requirements of good administration of justice.</p> <p>5.3. The Court cannot, in any event, decide on the admissibility of the Declarations before it has made a decision on the Preliminary Objections; also, the Declarations address matters presupposing that the Court has jurisdiction and/or that Ukraine's Application is admissible.</p> <p>5.4. The Declarations should likewise be declared inadmissible because the Declarants seek to address issues unrelated to the "construction" of the Genocide Convention, such as the interpretation and application of other rules of international law and several questions of fact, which is incompatible with the limited object of Article 63. Furthermore, allowing the Declarants to intervene on such matters at this stage would prejudice the question of the Court's jurisdiction <i>ratione materiae</i>.</p>
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**Written Observations of Germany, ¶¶6-8; Written Observations of Italy, ¶¶6, 9, 11.**

[Highlighted where there are differences].

Written Observations of Germany	Written Observations of Italy
<p>6. The Russian Federation's first objection is that <b>Germany's</b> intervention <b>was</b> not genuine, i.e. not related to the subject-matter of the pending dispute. The Russian Federation refers to the <i>Haya de la Torre</i> case, arguing that for an intervention to be admissible, the Party should be recognised to have a "genuine intention" to address the construction of the Convention in question. [...]</p> <p>7. The Court has clearly stated that the intervention under Article 63 of the Statute is only subject to the conditions of the Statute and Rules of the Court, as verified by the Court itself. Such conditions are: (a) that the State willing to intervene is a Party to the convention in question; (b) that the Declaration of Intervention addresses the construction of the convention in question; and (c) that the Declaration complies with the formal requirements under Article 82 of the Rules of the Court.</p> <p>8. The Court's case law on Article 63 confirms that there are no further conditions pertaining to the admissibility of the intervention apart from those referred to above.</p>	<p>6. The Russian Federation's first objection <b>to Italy's</b> intervention is that <b>the latter would</b> not be genuine, i.e. not related to the subject-matter of the pending dispute. The Russian Federation refers to the <i>Haya de la Torre</i> case, arguing that for an intervention to be admissible, the Party should be recognised to have a "genuine intention" to address the construction of the Convention in question.</p> <p>9. The Court has clearly stated that the intervention under Article 63 of the Statute is only subject to the conditions of the Statute and Rules of the Court, as verified by the Court itself. Such conditions are: (a) that the State willing to intervene is a Party to the convention in question; (b) that the Declaration of Intervention addresses the construction of the convention in question; and (c) that the Declaration complies with the formal requirements under Article 82 of the Rules of the Court.</p> <p>11. The Court's case law on Article 63 confirms that there are no further conditions pertaining to the admissibility of the intervention apart from those referred to above.</p>

**Written Observations of Germany, ¶¶13, 16-17, 24-26, 30; Written Observations of Liechtenstein, ¶¶12-13, 17-18, 21.**

[Highlighted where there are differences].

Written Observations of Germany	Written Observations of Liechtenstein
<p>13. <b>While acknowledging the existence of this order (para. 37), Russia takes issue with the fact that the high</b> number of interventions would nevertheless raise an issue of representativeness in the bench under Article 31(5) of the Statute (paras. 39-43) <b>and become "unmanageable" for itself and the Court (para. 45).</b> [...]</p> <p>16. <b>Third, it is a direct and inevitable consequence of numerous interventions that several</b> Judges on the bench may hold the same nationality as one of the intervening States. <b>However, that</b> does not infringe upon the equality of the parties <b>in the case.</b> As recalled by the Court in para. 18 of its order in the <i>Whaling</i> case, the interveners do not become party to the proceedings. Therefore, Articles 31 (5) of the Statute, and Articles 32 and 36 of the Rules, as quoted by the Russian Federation, do not apply. Moreover, all <b>Judges at the Court</b> are <b>in any event</b> bound to impartiality in accordance with Article 20 of the</p>	<p>12. <b>Second, the Russian Federation asserts</b> the number of interventions would raise an issue of representativeness in the bench under Article 31(5) of the Statute (paras. 39-43). <b>However, the fact that some</b> judges in the bench may hold the same nationality as an intervening State does not infringe the equality of the parties. As recalled by the Court in para. 18 of its order in the <i>Whaling</i> case, the interveners do not become party to the proceedings. Therefore, Articles 31(5) of the Statute, and Articles 32 and 36 of the Rules, as quoted by the Russian Federation, do not apply. Moreover, all judges are bound to <b>uphold their neutrality and</b> impartiality in accordance with Article 20 of the Statute.</p>

Statute, irrespective of whether there are interventions in a case or not.	
17. [...] Germany welcomes the decision of the Court to establish a written procedure for hearing the States seeking to intervene with an identical deadline for all in order to streamline the process. In order to help in the good administration of justice, it also reiterates its willingness to coordinate its further action before the Court with other interveners, in particular other EU Member States, to contribute to an effective management of time of the Court and both parties.	13. [...] Liechtenstein welcomes procedural decisions by the Court if intended to streamline the process. In order to help in the good administration of justice, it also reiterates its willingness to coordinate its further action before the Court with other interveners to contribute to the effective management of the time of the Court and both parties.
24. The Russian Federation criticises that Germany's declaration of intervention in effect addressed matters, which presuppose that the Court has jurisdiction and/or that Ukraine's application is admissible. Russia complains, in particular, that the declaration contains a construction of Article IX of the Genocide Convention on the jurisdiction of the Court. For Russia, this makes the declaration inadmissible, as it is written in a way that presupposes that the Court has jurisdiction over the alleged dispute. [...]	17. In its fourth argument, the Russian Federation criticises that the declaration would in effect address matters which presuppose that the Court has jurisdiction and/or that Ukraine's application is admissible. In particular, Russia notes that the declaration contains a construction of Article IX of the Genocide Convention on the jurisdiction of the Court, which in its argument presupposes that the Court has jurisdiction over the alleged dispute
25. In Germany's view, this line of reasoning also runs contrary to Article 63 of the Statute and to the Court's practice.  26. According to Article 63 (1) of the Statute, a State party may intervene on the "construction of a convention". The plain wording refers to the entire Convention, including its compromissory clause, as the case may be. [...]	18. In Liechtenstein's view, this line of reasoning is contrary to Article 63 of the Statute and the Court's practice. According to Article 63(1) of the Statute, a State party may intervene on the "construction of a convention". The plain wording refers to the entire Convention, including its compromissory clause, as the case may be. [...]
30. [...] The Russian Federation alleges that these observations do not relate to the construction of the Genocide Convention and contain an impermissible incursion into the interpretation or application of other rules of international rules that are distinct from the treaty in question and derive from different sources	21. [...] It alleges that this observation does not relate to the construction of the Genocide Convention and contains an impermissible incursion into the interpretation or application of other rules of international rules that are distinct from the treaty in question and derive from different sources.

**Written Observations of Germany, ¶¶22-23, 27-28; Written Observations of Greece, ¶¶16-18, 24-25.**

[Highlighted where there are differences].

<b>Written Observations of Germany</b>	<b>Written Observations of Greece</b>
22. In <i>Military and Paramilitary Activities</i> the Court's jurisdiction depended on an understanding of Article 36(2) and (5) of the Statute, and the merits touched upon questions of the UN Charter and customary international law. El Salvador's Declaration of intervention of 15 August 1984 addressed mainly the latter and did not contain any statement on how it would construe Article 36(2) and (5) of the Statute. Against that background, the Court dismissed the application "in as much as it relates to the current phase of the proceedings". As Judge Singh, Judges	24. [...] In <i>Military and Paramilitary Activities</i> , the Court's jurisdiction depended on an understanding of Article 36, paragraphs 2 and 5 of the Statute, and the merits touched upon questions of the UN Charter and customary international law. El Salvador's Declaration of Intervention of 15 August 1984 addressed mainly the latter and did not contain any statement on how it would construe Article 36, paragraphs 2 and 5, of the Statute. Against that background, the Court dismissed the application "in as much as it relates to the current phase of the



<p>Ruda, Mosier, Ago, Jennings and De Lacharriere, as well as Judge Oda explained, it had weighed in the Court that El Salvador's declaration was mainly directed to the merits of the case, but insufficient with respect to the jurisdictional question before the Court. This explanation is shared by the doctrine.</p> <p>23. Therefore, it appears that the Court rejected El Salvador's declaration as inadmissible during the jurisdictional phase <i>because and only insofar it did not contain any construction of Article 36(2) and (5) of the Statute as the jurisdictional base of the case</i>. The Court did <u>not</u> find that no intervention under Article 63 of the Statute could ever be admissible during a jurisdictional phase, as the Russian Federation seems to read into the Court's order of 4 October 1986.</p>	<p><i>proceedings</i>". As Judge Singh, Judges Ruda, Mosier, Ago, Jennings and De Lacharriere, as well as Judge Oda explained, it had weighed in the Court that El Salvador's declaration was mainly directed to the merits of the case, but <b>was</b> insufficient with respect to the jurisdictional question before the Court. This explanation is shared by the doctrine.</p> <p>25. Therefore, it appears that the Court rejected El Salvador's declaration as inadmissible during the jurisdictional phase because and only insofar it did not contain any construction of Article 36, <b>paragraphs 2 and 5</b>, of the Statute as the jurisdictional base of the case. The Court did <u>not</u> find that no intervention under Article 63 of the Statute could ever be admissible during a jurisdictional phase, as the Russian Federation seems to read into the Court's Order of 4 October 1984</p>
<p>27. That point is further strengthened <b>when referring to the object and purpose of Article 63 of the Statute</b>. [...] States <b>do not only</b> have a legitimate interest to share with the Court their interpretation of substantive obligations contained in a convention at stake before the Court. [...] <b>Hence, an intervention under Article 63 of the Statute</b> may cover both jurisdictional and substantive aspects.</p>	<p>16. That point is further strengthened <b>by</b> the object and purpose of Article 63. States have a legitimate interest to share with the Court their interpretation, not only of substantive obligations contained in a convention at stake before the Court, <b>but also on jurisdictional issues, as the rationale underlying Article 63, i.e. to foster uniform interpretation of a convention, equally applies to both</b>. [...]</p> <p>18. [...] <b>On the contrary</b>, an intervention under Article 63 may cover both jurisdictional and substantive aspects, <b>as also confirmed by doctrine</b>.</p>
<p>28. Subsequent practice before the Court points into the same direction. So far, the Court has never dismissed an intervention because it was (entirely or primarily) directed to interpreting a compromissory clause. Rather, <i>in Military and Paramilitary Activities</i> El Salvador's attempt to influence the jurisdictional question before the Court was unsuccessful because the declaration had not complied with the formal requirements under Rule 82(2) (b) and (c) <b>in the view of</b> the great majority in the Court. Had it done so, it would have been of interest to the Court, as expressly confirmed by Judge Oda. Moreover, Judge Schwebel even found that the faults of El Salvador's initial declaration on jurisdiction had been healed by subsequent letters. Based on this reading, he was prepared to admit El Salvador's declaration on jurisdictional matters.</p>	<p>17. Subsequent practice before the Court points into the same direction. So far, the Court has never dismissed an intervention because it was (entirely or primarily) directed to interpreting a compromissory clause. Rather, <i>in Military and Paramilitary Activities</i>, El Salvador's attempt to influence the jurisdictional question before the Court was unsuccessful because the declaration had not complied with the formal requirements under Rule 82, paragraph 2, (b) and (c), <b>for</b> the great majority in the Court. Had it done so, it would have been of interest to the Court, as expressly confirmed by Judge Oda. Moreover, Judge Schwebel even found that the faults of El Salvador's initial declaration on jurisdiction had been healed by subsequent letters. Based on this reading, he was prepared to admit El Salvador's declaration on jurisdictional matters.</p>

**Written Observations of Greece, ¶¶9, 19; Written Observations of Liechtenstein, ¶¶11, 17.**

[Highlighted where there are differences].

Written Observations of Greece	Written Observations of Liechtenstein
9. The Russian Federation <b>claims that conferring on the Hellenic Republic the status of intervenor in this particular case</b> would be incompatible with the <b>principle of</b> equality of the <b>parties</b> and the requirements of good administration of justice. [...]	11. <b>In its second argument,</b> the Russian Federation <b>contends that admitting the intervention</b> would be incompatible with the equality of the <b>Parties</b> and the requirements of good administration of justice. [...]
19. <b>Subsequent practice before the Court points into the same direction. So far,</b> the Court has never dismissed an intervention <b>because</b> it was <b>(entirely or primarily)</b> directed to interpreting a compromissory clause. [...]	17. <b>This interpretation is also supported by Court practice,</b> <b>as</b> the Court has never dismissed an intervention <b>on the basis that</b> it was entirely or primarily directed to interpreting a compromissory clause.

**Written Observations of Germany, ¶15; Written Observations of Poland, ¶17.**

[Highlighted where there are differences].

Written Observations of Germany	Written Observations of Poland
15. [...] In such a situation, when the treaty <b>embodies</b> matters of collective interest, the late Judge Cançado Trindade called upon all State Parties to contribute to the proper interpretation of the treaty as <b>sort of</b> a “collective guarantee of the observance of the obligations contracted by the State parties”. [...]	17. [...] In such a situation, when the treaty <b>encompasses</b> matters of collective interest, the late Judge Cançado Trindade called upon all State Parties to contribute to the proper interpretation of the treaty as a “collective guarantee of the observance of the obligations contracted by the State parties”. [...]

**Written Observations of Greece, ¶21; Written Observations of Poland, ¶20.**

[Highlighted where there are differences].

Written Observations of Greece	Written Observations of Poland
21. <b>It should be further pointed out that</b> Article 63 of the Statute does not make any distinction between separate phases before the Court. Rather, the opening word “whenever” indicates that a State is allowed to intervene in all phases of the proceedings. Moreover, Article 82, <b>paragraph 1, second sentence</b> of the Rules sets out only an outer time limit, i.e. a duty to intervene no later than the date fixed for the oral hearing. Again, the mention of an “oral hearing” does not distinguish between separate phases of <b>the proceedings before the Court: thus, the</b> intervention may be filed before the oral hearings set for the jurisdictional/admissibility phase or before the merits phase. In addition, the invitation to file a declaration “as soon as possible” in that provision confirms that the filing of an Article 63 declaration is admissible at this stage <b>of the proceedings.</b> [...]	20. <b>First,</b> Article 63 of the Statute does not make any distinction between separate phases before the Court. Rather, the opening word “whenever” indicates that a State is allowed to intervene in all phases of the proceedings. Moreover, the second sentence of Article 82(1) of the Rules sets only an outer time limit, i.e. <b>a</b> duty to intervene no later than the date fixed for the oral hearing. Again, the mention of an “oral hearing” does not distinguish between separate phases <b>of Court proceedings —</b> the intervention may be filed before the oral hearings set for the jurisdictional/admissibility phase or before the merits phase. In addition, the invitation to file a declaration “as soon as possible” in that provision confirms that the filing of an Article 63 declaration is admissible at this stage. [...]