

DECLARATION OF JUDGE KOROMA

1. The provisional Order adopted by the Court in this case establishes a *provisional* demilitarized zone that includes within it territory under the undisputed sovereignty of Cambodia, as well as territory under the undisputed sovereignty of Thailand. As pointed out in the Order, the establishment of this provisional zone in no way prejudices the outcome of the Application before the Court. It does not affect the rights claimed by either Party. Rather, the Order is designed to prevent further armed clashes between the Parties that might prejudice the rights of either Party while the case is pending before the Court. I have, accordingly, voted in favour of the Order.

2. Article 41 of the Court's Statute grants the Court the power to indicate provisional measures "which ought to be taken to preserve the respective rights of either party". In my view, when determining the precise nature of the provisional measures to be indicated in a given case, the Court must take into consideration the factual situation, including the existence, nature, and magnitude of an armed conflict between the Parties. The Court must also assess the risk of any further armed conflict occurring while the case is pending that could prejudice the rights of either Party. In other cases which have come before the Court similar to the one under consideration, in which there was a significant risk of further armed conflict between the parties, the Court has indicated provisional measures similar to those indicated in this case in order to preserve the rights of the parties until the case was decided on the merits (see, e.g., *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Provisional Measures, Order of 15 March 1996, I.C.J. Reports 1996 (I)*, p. 24, para. 49).

3. In the present case, the evidence provided to the Court demonstrated that there had been repeated incidents of armed conflict between the Parties in the area surrounding the Temple in the years and months preceding this Order. In addition, there have been reports of shelling from heavy artillery in the area surrounding the Temple. Taking into consideration these circumstances, the Court decided to create a provisional demilitarized zone of a size adequate to minimize the risk of further armed clashes — including shelling — in the disputed area while the case is pending before the Court.

4. In the case concerning *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, I voted in favour of the Court's Order regulating the position of the armed forces of the parties with the understanding that the Order would preserve the respective rights of both

parties without prejudging the issue before the Court (*I.C.J. Reports 1996 (I)*, declaration of Judge Koroma, p. 30). In my view, the Court's present Order should accomplish the same objective; however, it bears re-emphasizing that the demilitarized zone created by the Court is only temporary and does not affect the rights claimed by either Party. The Court's Order should therefore be seen as an effort to prevent further armed conflict between the two Parties while preserving the sovereign rights of each of them.

(Signed) Abdul G. KOROMA.
