

DECLARATION OF JUDGE RANJEVA

[Translation]

The present Order confirms — if any confirmation was needed — the jurisprudence of the Chamber in the case concerning the *Frontier Dispute (Provisional Measures, Order of 10 January 1986, I.C.J. Reports 1986, pp. 3 et seq.)*. The operative part does not confine itself to the indication of measures preserving rights in the traditional sense; it directly invites the Parties to take measures of a military nature: cessation of hostilities, refraining from any action by armed forces, freezing of the positions of the armed forces. A new “given” in international judicial relations is thus confirmed, that is, incidental proceedings consisting of a request for provisional measures owing to the occurrence of an armed conflict, grafted on to a legal dispute.

In that case, the indication of measures that may have a military character does not form part of a general regulatory function, which neither the Charter nor the Statute has conferred upon the Court. Such decisions represent, on the one hand, measures required by the circumstances of the case which are evaluated by the Court in the exercise of its discretionary power and, on the other hand, a contribution by the Court to ensuring the observance of one of the principal obligations of the United Nations and of all its organs in relation to the maintenance of international peace and security. The latter consideration explains more particularly the Court’s position on a possible additional condition for the indication of provisional measures, that is, the *prima facie* admissibility of the principal Application (see paragraph 33 of the Order). By their nature, provisional measures fall within the Court’s judicial functions and form part of the Court’s responsibility for evaluating the circumstances: risks of irreparable damage to the rights of the parties, urgency, etc., and the measures required.

(Signed) Raymond RANJEVA.
