

JOINT DECLARATION OF JUDGES WEERAMANTRY, SHI  
AND VERESHCHETIN

We have voted with the majority of the Court in regard to items 1, 2, 4, and 5 of the *dispositif*, but have been unable to support the majority in relation to item 3. The reasons for our unease with this clause are as follows.

The two Parties have given the Court two entirely different versions in regard to the incidents of 3 February 1996. These different versions involve entirely different positions in regard to the location of their respective armed forces on that date.

The Court has refrained from reaching any conclusion at this stage as between the contradictory versions presented by the two Parties, and advisedly so, for a decision on a matter of this nature would have required more detailed and specific evidence than was placed before the Court.

The Court's Order, requiring the Parties to ensure that the presence of any armed forces in the Bakassi Peninsula should not extend beyond the positions in which they were situated prior to 3 February 1996, in effect leaves it to each Party to determine what that position was and to act upon that determination. These positions may well be contradictory, thus leaving open the possibility of confusion upon the ground. The Order may thus be interpreted as containing an internal contradiction.

Indeed, the Court itself would be unable to state what those respective positions are, if an enquiry were addressed to it.

Our view is that item 3 should not, for these reasons, have been included in the Order and we have therefore been unable to support that portion of the Order.

*(Signed)* Christopher Gregory WEERAMANTRY.

*(Signed)* SHI Jiuyong.

*(Signed)* Vladlen S. VERESHCHETIN.