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INTERNATIONAL COURT OF JUSTICE

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New Zealand submits to the Court a Request for an Examination of the Situation in accordance with Paragraph 63 of the Court's 1974 Judgment in the Nuclear Tests Case (New Zealand v. France)

Provisional Measures Requested

Today, 21 August 1995, New Zealand submitted to the Court a Request for an Examination of the Situation "arising out of a proposed action announced by France which will, if carried out, affect the basis of the Judgment rendered by the Court on 20 December 1974 in the Nuclear Tests Case (New Zealand v. France)". The request refers to a media statement of 13 June 1995 by President Chirac "which said that France would conduct a final series of eight nuclear weapons tests in the South Pacific starting in September 1995". New Zealand states that the request is made "under the right granted to New Zealand in paragraph 63 of the Judgment of 20 December 1974."

Paragraph 63 reads as follows:

"Once the Court has found that a State has entered into a commitment concerning its future conduct it is not the Court's function to contemplate that it will not comply with it. However, the Court observes that if the basis of this Judgment were to be affected, the Applicant could request an examination of the situation in accordance with the provisions of the Statute; the denunciation by France, by letter dated 2 January 1974, of the General Act for the Pacific Settlement of International Disputes, which is relied on as a basis of jurisdiction in the present case, cannot constitute by itself an obstacle to the presentation of such a request."

New Zealand asserts that the rights for which it seeks protection "all fall within the scope of the rights invoked by New Zealand in paragraph 28 of the 1973 Application" in the above mentioned case, but that at the present time "New Zealand seeks recognition only of those rights that would be adversely affected by entry into the marine environment of radioactive material in consequence of the further tests to be carried out at Mururoa or Fangataufa Atolls, and of its entitlement to the protection and benefit of a properly conducted Environmental Impact Assessment". New Zealand asks the Court to adjudge and declare:

"(i) that the conduct of the proposed nuclear tests will constitute a violation of the rights under international law of New Zealand, as well as of other States; further or in the alternative;

(ii) that it is unlawful for France to conduct such nuclear tests before it has undertaken an Environmental Impact Assessment according to accepted international standards. Unless such an assessment establishes that the tests will not give rise, directly or indirectly, to radioactive contamination of the marine environment the rights under international law of New Zealand, as well as the rights of other States, will be violated."

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Also today New Zealand, referring to the Court's Order of 22 June 1973 indicating interim measures of protection and to the Court's Judgment of 20 December 1974 in the above mentioned case, requested the Court, in accordance with Article 33, paragraph 1, of the General Act for the Pacific Settlement of Disputes, 1928 and Article 41 of the Statute of the Court, to indicate the following further provisional measures:

"(1) that France refrain from conducting any further nuclear tests at Mururoa and Fangataufa Atolls;

(2) that France undertake an environmental impact assessment of the proposed nuclear tests according to accepted international standards and that, unless the assessment establishes that the tests will not give rise to radioactive contamination of the marine environment, France refrain from conducting the tests;

(3) that France and New Zealand ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court or prejudice the rights of the other Party in respect of the carrying out of whatever decisions the Court may give in this case."
