

DECLARATION OF JUDGE RANJEVA

[Translation]

First, I should like to explain how I interpret the reply to Article I of the Special Agreement concerning paragraphs 2 and 3 of the operative part of the Judgment relating to the status of Kasikili/Sedudu Island:

1. Given its effect, in terms of allocation of territory, the Judgment's choice of the northern channel as the main channel is the least improbable solution, in the absence of a systematic comparison of the two navigation channels; this is the reason for the finding that Kasikili/Sedudu Island forms part of the territory of Botswana.
2. The Kasane Communiqué created legal obligations for the two States parties to the dispute with regard to the enjoyment and exercise of rights by their nationals in the relevant area; in addition to navigation and fishing rights in the channel, there is a right of free access to the surrounding waters and to the territory of Kasikili/Sedudu Island.

Further, as regards the presence of the Masubia on Kasikili/Sedudu Island, the statement in paragraph 98 of the Judgment that:

“even if links of allegiance may have existed between the Masubia and the Caprivi authorities, it has not been established that the members of this tribe occupied the Island *à titre de souverain*, i.e., that they were exercising functions of State authority there on behalf of those authorities”

is not of general import and relates only to the particular circumstances of the present case.

(Signed) Raymond RANJEVA.
