

## NUCLEAR TESTS CASE (AUSTRALIA v. FRANCE)

Judgment of 20 December 1974

In its judgment in the case concerning Nuclear Tests (Australia v. France), the Court, by 9 votes to 6, has found that the claim of Australia no longer had any object and that the Court was therefore not called upon to give a decision thereon.

In the reasoning of its Judgment, the Court adduces *inter alia* the following considerations: Even before turning to questions of jurisdiction and admissibility, the Court has first to consider the essentially preliminary question as to whether a dispute exists and to analyse the claim submitted to it (paras. 22–24 of Judgment); the proceedings instituted before the Court on 9 May 1973 concerned the atmospheric nuclear tests conducted by France in the South Pacific (para. 16 of Judgment); the original and ultimate objective of Australia is to obtain a termination of those tests (paras. 32–41 of Judgment); France, by various public statements made in 1974, has announced its intention, following the completion of the 1974 series of atmospheric tests, to cease the conduct of such tests (paras. 32–41 of Judgment); the Court finds that the objective of Australia has in effect been accomplished, inasmuch as France has undertaken the obligation to hold no further nuclear tests in the atmosphere in the South Pacific (paras. 47–52 of Judgment); the dispute having thus disappeared, the claim no longer has any object and there is nothing on which to give judgment (paras. 55–59 of Judgment).

Upon the delivery of the Judgment, the Order of 22 June

1973 indicating interim measures of protection ceases to be operative and the measures in question lapse (para. 61 of Judgment).

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For the purposes of the Judgment the Court was composed as follows: President Lachs; Judges Forster, Gros, Bengzon, Petrán, Onyeama, Dillard, Ignacio-Pinto, de Castro, Morozov, Jiménez de Aréchaga, Sir Humphrey Waldock, Nagendra Singh and Ruda; Judge *ad hoc* Sir Garfield Barwick.

The President appended a declaration to the Judgment, and Judges Bengzon, Onyeama, Dillard, Jiménez de Aréchaga and Sir Humphrey Waldock a joint declaration.

Of the nine Members of the Court who voted for the decision, Judges Forster, Gros, Petrán and Ignacio-Pinto appended separate opinions.

Of the six judges who voted against the decision, Judges Onyeama, Dillard, Jiménez de Aréchaga and Sir Humphrey Waldock have appended a joint dissenting opinion, and Judges de Castro and Sir Garfield Barwick dissenting opinions.

These opinions make known and substantiate the positions adopted by the judges in question. (See also the following summary for further analysis.)