

it is my opinion that the conclusions of the Court in the *Israel v. Bulgaria* case concerning the scope and effect of paragraph 5 of Article 36 of the Statute are not applicable to the case now decided, for the abundant reasons stated in the present Judgment.

Judge WELLINGTON KOO makes the following Declaration:

Since some of the grounds given in the Judgment relate to the decision of the Court in the case of the *Aerial Incident of July 27th, 1955 (Israel v. Bulgaria)*, *Preliminary Objections*, I desire to say that while I concur in the conclusion of the Court in the present case and generally in the reasoning which leads to it, I do not mean thereby to imply that I now concur or acquiesce in that decision but that, on the contrary, I continue to hold the views and the conclusion stated in the Joint Dissenting Opinion appended to that decision.

Indeed, I consider that on the basis of that Opinion Thailand's 1940 Declaration accepting the compulsory jurisdiction of the Permanent Court must be deemed to have been transformed, as had also admittedly been intended by Thailand, when she became a Member of the United Nations and therefore a party to the Statute on 16 December 1946, by operation of Article 36, paragraph 5, of the Statute, into an acceptance in relation to the present Court; and this fact constitutes an additional and simpler reason to meet Thailand's principal argument in support of her first objection.

This is clear, although it is equally true that since the circumstances of the two cases are essentially different, neither the fact, based on the said Opinion, that the said 1940 Declaration had been so transformed prior to its own terminal date, 6 May 1950, nor the fact, based upon the said 1959 decision of the Court, that it had lapsed on 19 April 1946 when the Permanent Court was dissolved, bears any determining legal effect on the only crucial question at issue in the present case, namely, the validity of Thailand's Declaration of 20 May 1950.

Judge Sir Gerald FITZMAURICE and Judge TANAKA make the following Joint Declaration:

Although we are in complete agreement with the substantive conclusion of the Court in this case and with the reasoning on which it is based, we have an additional and, for us, a more immediate reason for rejecting the first preliminary objection of Thailand.

This preliminary objection is based on the conclusion concerning the effect of paragraph 5 of Article 36 of the Statute which the