

Letter dated 13 June 1995 from the Ambassador of Finland, together with
Written Statement of the Government of Finland

EMBASSY OF FINLAND

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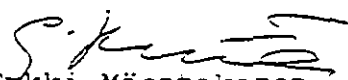
The Hague, 13 June 1995

No. 1185

Dear Sir,

Referring to your letter of 8 February 1995 please find enclosed the answer of the Ministry for Foreign Affairs of Finland.

Accept, Sir, the assurances of my highest consideration.


Erkki Mäentakanen
Ambassador of Finland

Encis.

H.E. Mr. M. Bedjaoui
President of the International
Court of Justice
T h e H a g u e

MINISTRY FOR FOREIGN AFFAIRS
OF FINLAND

In response to the letter of 8 February 1995 from the Registrar of the International Court of Justice to the Minister for Foreign Affairs of Finland regarding the request for an advisory opinion made by the United Nations General Assembly, the Government of Finland has the honour to refer to its response submitted to the Court on 10 June 1994 concerning a similar request made by the World Health Assembly, and to state the following:

The request made by the General Assembly seeks to attain an in abstracto determination of the legality, or otherwise, of the use of nuclear arms in war or other armed conflict. It ignores the complexity of the technical, strategic and moral aspects of the problem posed by the existence of nuclear weapons. It fails to recognize the fact that effective security arrangements can only be attained through agreements which take into account all relevant circumstances including the specific security interests of each State. During the years, Finland has actively promoted the conclusion of such agreements and will do so in the future.

It would thus be improper for the Court to give the opinion requested by the General Assembly. In view of the Court's long-standing practice in the matter of advisory opinions, such impropriety would seem to be constituted by two factors:

1. Answering the request the Court could not remain faithful to its character as a judicial organ

This factor has to do with the hypothetical, future-oriented character of the request. In the absence of a concrete factual situation, the Court would itself be required to analyze different types of nuclear weapons and to entertain various hypotheses about situations in which they might conceivably be used and the factual consequences of their use. This would require analyzing extremely complex and controversial pieces of technical, strategic and scientific information. The counter-factual character of such speculation would make any hypothesis uncertain. Entering such speculation, the Court would not be able to remain faithful to the requirements of its character as a judicial organ.

2. No reply to the substance of the request would constitute a useful service to the United Nations of which the Court is the principal judicial organ

A statement in abstracto on the legal status of the use of nuclear weapons would seriously intervene in the diplomatic negotiations being conducted on various bilateral and multilateral fora to limit and reduce the threat posed by nuclear weapons. It would create blanket support for one or another disputed position and fail to respect the comprehensive give-and-take character of such negotiations - even make them

seem altogether superfluous. During recent years, a number of important agreements on the limitation, prohibition or control of specific types of armaments have been attained, among them the 1993 Convention on Chemical Weapons, and the 1995 decision on the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons. To undermine such negotiations by a judicial fiat would not constitute a useful service by the Court to the efforts of the United Nations in this field.