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INTERNATIONAL COURT OF JUSTICE

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**New Zealand's 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)**

The Hague, September 22. The International Court of Justice today handed down its decision that New Zealand's 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), made on 21 August 1995, "does not fall within the provisions of the said paragraph 63 and must consequently be dismissed."

Consequently, New Zealand's request for provisional measures and the applications for permission to intervene submitted by Australia, Samoa, Solomon Islands, the Marshall Islands and the Federated States of Micronesia as well as the declarations of intervention made by the last four States, all of which are proceedings incidental to New Zealand's main request, likewise had to be dismissed.

The Court limited the present proceedings to the examination of the following question: "Do the Requests submitted to the Court by the Government of New Zealand on 21 August 1995 fall within the provisions of paragraph 63 of the Judgment of the Court of 20 December 1974 in the case concerning Nuclear Tests (New Zealand v. France)?" In the Court's view that question has two elements. The first element concerns the courses of procedure envisaged by the Court in paragraph 63 of its 1974 Judgment, when it stated that "the Applicant could request an examination of the situation in accordance with the provisions of the Statute"; the other concerns the question whether the "basis" of that Judgment has been "affected" within the meaning of paragraph 63 thereof.

In its examination of that question the Court found in the first place that by inserting in paragraph 63 the above-mentioned phrase, the Court did not exclude a special procedure for access to it (unlike those mentioned in the Court's Statute, like the filing of a new application, or a request for interpretation or revision, which would have been open to the Applicant in any event). Secondly, however, the Court found that that special procedure would only be available to the Applicant if circumstances were to arise which affected the basis of the 1974 Judgment. And that, it found, was not the case, as the basis of that Judgment was France's undertaking not to conduct any further atmospheric nuclear tests and only a resumption of nuclear tests in the atmosphere would therefore have affected it.

Today's decision was taken by 12 votes to 3. Three declarations, one separate opinion and three dissenting opinions were appended to the Order.