

**NUCLEAR TESTS CASE (NEW ZEALAND V FRANCE)**

**(Application of 9 May 1973)**

**FURTHER REQUEST FOR THE INDICATION OF PROVISIONAL  
MEASURES**

**CASE TO WHICH THIS REQUEST RELATES**

1. I have the honour to refer to the proceedings commenced by the Application filed by New Zealand against France on 9 May 1973 in the case entitled *Nuclear Tests Case (New Zealand v France)*. These proceedings led to an Order of the Court on 22 June 1973 indicating interim measures of protection and to a Judgment of the Court of 20 December 1974. New Zealand has today filed with the Court, within the framework of the proceedings begun on 9 May 1973 and in accordance with paragraph 63 of the 1974 Judgment, a Request for an Examination of the Situation arising out of a proposed action announced by France which will, if carried out, affect the basis of the 1974 Judgment.

2. As a matter of priority and urgency, New Zealand now additionally requests the Court in accordance with Article 33 of the General Act for the Pacific Settlement of International Disputes, done at Geneva on 26 September 1928, and Article

41 of the Statute of the Court to indicate further provisional measures to preserve its rights, pending the final decision of the Court in the Case.

### RIGHTS TO BE PROTECTED

3. The rights of New Zealand to be protected at this stage are (1) the rights that would be adversely affected by entry into the marine environment of radioactive material in consequence of the further tests to be carried out at Mururoa or Fangataufa Atolls, and (2) the right to the protection and benefit of a properly conducted environmental impact assessment.

### GROUND OF REQUEST

4. The grounds on which the further interim measures are sought are:
- first that the proposed nuclear tests will breach the rights referred to in paragraph 3; in particular, radioactive material may be introduced into the marine environment with irreparable consequences; the information and safeguards provided by an environmental impact assessment will be completely denied to the Applicant; and the denial of these rights cannot be repaired by any action by France, including the payment of damages, taken after the event.
  - second that all the indications are that the nuclear tests will begin in the very near future.

**INTERIM MEASURES REQUESTED**

5. New Zealand requests the Court to exercise its power to indicate the following provisional measures to protect the rights of New Zealand set out in paragraph 3 above pending the final decision of the Court in the proceedings:

(1) that France refrain from conducting any further nuclear tests at Mururoa and Fangataufa Atolls;

(2) that France undertake an environmental impact assessment of the proposed nuclear tests according to accepted international standards and that, unless the assessment establishes that the tests will not give rise to radioactive contamination of the marine environment, France refrain from conducting the tests;

(3) that France and New Zealand ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court or prejudice the rights of the other Party in respect of the carrying out of whatever decisions the Court may give in this case.

6. New Zealand is separately requesting the President of the Court to exercise his powers under the Rules pending the exercise by the Court of its powers.