

consuming and therefore comes into conflict with the urgency of the matter coupled with the prospect of irreparable damage to the rights of the parties. It is this situation which furnishes the "raison d'être" of interim relief.

If, therefore, the Court, in this case, has granted interim measures of protection it is without prejudice to the substance whether jurisdictional or otherwise which cannot be prejudged at this stage and will have to be gone into further in the next phase.

Judge *ad hoc* Sir Garfield BARWICK makes the following declaration:

I have voted for the indication of interim measures and the Order of the Court as to the further procedure in the case because the very thorough discussions in which the Court has engaged over the past weeks and my own researches have convinced me that the General Act of 1928 and the French Government's declaration to the compulsory jurisdiction of the Court with reservations each provide, *prima facie*, a basis on which the Court might have jurisdiction to entertain and decide the claims made by Australia in its Application of 9 May 1973. Further, the exchange of diplomatic notes between the Governments of Australia and France in 1973 afford, in my opinion, at least *prima facie* evidence of the existence of a dispute between those Governments as to matters of international law affecting their respective rights.

Lastly, the material before the Court, particularly that appearing in the UNSCEAR reports provides reasonable grounds for concluding that further deposit in the Australian territorial environment of radio-active particles of matter is likely to do harm for which no adequate compensatory measures could be provided.

These conclusions are sufficient to warrant the indication of interim measures.

I agree with the form of the provisional measures indicated, understanding that the action prescribed is action on the part of governments and that the measures are indicated in respect only of the Australian Government's claim to the inviolability of its territory.

Judges FORSTER, GROS, PETRÉN and IGNACIO-PINTO append dissenting opinions to the Order of the Court.

(*Initialled*) F.A.

(*Initialled*) S.A.