

SEPARATE OPINION OF JUDGE RUDA

I have voted in favour of the decision of the Court declining to indicate interim measures of protection in the case. Since I have reached the same conclusions, but for different reasons, I feel it is incumbent upon me to explain very briefly what my reasons are.

In my view, the Court cannot decide on a request for interim measures of protection, without having first considered, at least *prima facie*, the basic question of its own jurisdiction to entertain the merits of the dispute. I fully share the views so well expressed by Sir Hersch Lauterpacht on this point in his separate opinion in the *Interhandel* case (*I.C.J. Reports 1957*, pp. 118-119).

Therefore, in this preliminary phase of the proceedings, I have given, in the first place, the fullest possible consideration to the material and arguments submitted by Greece and Turkey. I have not found, *prima facie*, that the provisions and instruments invoked by the Applicant appear to afford any basis on which the jurisdiction of the Court might be founded.

Of course, this conclusion is reached only on a *prima facie* and provisional basis and, therefore, does not prejudge in any way any final decision on the jurisdiction of the Court to deal with the merits of the dispute.

(Signed) J. M. RUDA.
