

## IN THE INTERNATIONAL COURT OF JUSTICE

**NEW ZEALAND,  
APPLICANT**

**VS.**

**FRANCE,  
RESPONDENT**

### MEMORIAL OF NEW ZEALAND

COMES NOW New Zealand before this International Court of Justice and presents for its memorial to the court the following:

#### STATEMENT OF LAW

- 1) *Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under water (1963)*. Any nation, group, or organization to test nuclear weapons that may cause radioactive debris and or explosion of any nuclear bomb in atmosphere, outer space, or underwater is to be considered illegal.
- 2) *Treaty for Protection of Natural Resources and Environment of South Pacific ("the Noumea Convention")*. Obliges all parties to take any appropriate measurement to prevent, reduce and control pollution in convention areas resulting from nuclear testing.
- 3) *General Act of Arbitration for the Pacific Settlement of International Disputes Article 17*. All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under Article 39, be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal. It is understood that the disputes referred to above include

in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

- 4) *Statute of the Court, Article 37.* Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.
- 5) *Statute of the Court, Article 36.1* The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.
- 6) *Statute of the Court, Article 36.5.* Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.
- 7) *Statute of the Court, Article 36.2.* Allows states to declare that they recognize as compulsory ipso facto and without special agreement, the jurisdiction of the Court in disputes relating to interpretation of treaties, questions of international law, breaches of international obligation, and the nature or extent of the reparations to be made for such breaches.
- 8) *UN Charter* Chapter 1, article 2.1, state that the United Nations is an organization based on the principal of the sovereign equality of all its member nations. Every nation has rights to protect its people, land, and sovereignty from endangerment from any nation, group, or organization.

## **STATEMENT OF FACT**

- 1) New Zealand became a nation by gaining its sovereignty from United Kingdom on 26<sup>th</sup> September 1907.
- 2) The United Nations allowed New Zealand to become a part of the United Nations on 24<sup>th</sup> October 1945.
- 3) The purpose and principle of the United Nations is to maintain international peace and security by prevention and removal of threats against peace, bringing out peaceful means and conventionality by use of principles of justice and international law and or resolution of international disputes, which lead to a breach of peace.
- 4) France uses Mururoa Atoll in the Tuamotu Archipelago, 2500 miles north of New Zealand, as grounds for testing nuclear weapons.
- 5) Radioactive fallouts and radioactive containment has bridged international waters, the Pacific Ocean, from the nuclear testing.
- 6) This debris, from the testing of nuclear weapons, harms the health of the people, environment, and animals of the area.

## **ARGUMENTS**

I) France is violating international law with the testing of Nuclear Weapons near to the country of New Zealand.

New Zealand, a sovereign nation since 1907 and part of UN since 1945, has attended and mandated all international laws to help ensure peace and a good relationship with all countries. In 1963, when France moved their nuclear weapon testing site from Reggane Firing Ground to the Mururoa Atoll in the Tuamotu Archipelago, about 2500 miles North of New Zealand, New Zealand was insured a body of water and surrounding land by Mururoa Atoll to explore for the good of the Nation. Also in 1963 the Treaty Banning Nuclear Testing in the Atmosphere, in Outer Space and Underwater was created. From its creation to present day, France has therefore been using the island for testing under clear violation of this treaty.

II) France is harming the environment and the people by the continued testing of Nuclear Weapons.

During the duration of these tests New Zealand has found evidence, proving lack of responsibility by France towards the environment and other nations near the testing site. These tests have created much disturbance. Debris from nuclear weapons has made it impossible for nations like New Zealand to travel the ocean or fly any aircraft over the region where nuclear weapons are tested. Seeing as at high tide, all of the radioactive materials would be distributed directly into the Pacific Ocean, this is severely harmful to our nation and the surrounding areas. In addition to violating sovereignty, the testing practices are a violation of Noumea Convention in which there is a general movement towards the protection of the environment.

III) This testing of Nuclear Weapons is a breach of New Zealand's right to sovereignty.

According the Chapter 1, Article 2.1 of the UN Charter, the Organization of the United Nations is based on the principle of the sovereign equality of all its members. When France consistently and harmfully tests nuclear weapons, they are diplomatically failing to abide by international law as well as many different treaties. This testing of nuclear weapons harms New Zealand and many other countries not only physically, but also economically. Seeing as both France and New Zealand are members of the United Nations, France has a duty to respect the rights of New Zealand. The systematic failure to do so is unacceptable by the standards of the International Court of Justice.

It has also been shown that the debris has infringed on our borders, in direct challenge of our sovereign decision to remain a nuclear free nation. Not only has France shown lack of responsibility to the environment and the nations that surrounds Mururoa Atoll, France has shown lack of responsibility to follow and abide by the UN treaties and the charter adopted by all participating nations of the UN. After many attempts by New Zealand to show courteous diplomacy France still continues to test Nuclear Weapons in the South Pacific Region.

## **STATEMENT OF JURISDICTION**

New Zealand finds that this case is under the jurisdiction of the court under many terms. Citing Article 36 of the Court Statute, this case is a matter of international law. When a country breaches or violates a treaty, as France is doing through their nuclear testing, the matter is referred to and within the jurisdiction of the International Court of Justice. This also applies within Article 36 because France is continually breaching their international obligation and reparations should be made. This is the role of the ICJ.

Additionally, this case falls under the General Act of Pacific Settlement, Article 17 of that act refers matter of arbitration to the ICJ unless another tribunal is agreed upon by all parties. As this is not the case, we have brought the matter before the ICJ. Article 37 of the Court Statute refers this matter to the court. Finally Chapter 2 Article 2.1 states that the court is based upon the principles of sovereign equality amongst all member states. New Zealand feels that these tests do in fact violate our sovereignty and our safety and having exhausted other diplomatic means we wish to peacefully resolve the issue within the court.

## **SUMMARY AND PRAYER FOR RELIEF**

New Zealand believes that its rights as a sovereign and neutral nation have been infringed upon. By allowing France to continue nuclear testing in the South Pacific we will miss out on many wonderful opportunities to explore the region, opportunities made impossible by their testing. It is New Zealand's hope that the court will declare that the testing is an infringement of our sovereign rights, and that these rights will be violated by further tests.