Courting a nuclear fight

**Undeterred.**

New Zealand is among 25 countries challenging the concept of nuclear deterrence at The Hague this week.

By HANK SCHOUTEN

NEW ZEALAND's recent ill-fated World Court bid to force France to stop its nuclear testing programme was a dry run for another legal scrap over nuclear weapons starting this week.

On the face of it, New Zealand is one of a group of nations challenging the whole concept of nuclear deterrence -- the foundation of superpower defence strategy since atomic weapons were first deployed in 1945.

But it is a far more limited action than that World Court, a body with no power to enforce its rulings and whose jurisdiction is not accepted by nations including France and the United States, is merely being asked to give an advisory opinion on whether it is legal to use or threaten to use nuclear weapons.

The court has a record of side-stopping controversial issues, but it does conclude that the use or threatened use is illegal will be a moral victory for the disarmament movement.

It will be another small step in the long struggle, as far less than a successful battle to rid the world of nuclear weapons, an indication of how international law might evolve on this issue.

It will do little to threaten the nuclear bomb's status as a symbol of power and authority -- the ultimate defence or projection of national intelligence and the badge of office for each of the five powers which make up the permanent membership of the United Nations Security Council.

The International Court of Justice at The Hague begins 13 days of public hearings on the issue today.

ON THE TRAIL -- Kate Dewes and retired magistrate Harold Evans, who began the campaign to ask the World Court to rule on the legality of nuclear weapons.

Twenty-five countries -- ranging from the world's most powerful to the smallest states -- have indicated they will make submissions. Each has been given up to 80 minutes to put their arguments in daily three-hour public sessions running until November 15.

New Zealand is part of a strong Pacific representation to the court and is being joined by Australia, the Philippines, and the tiny island states of the Marshall Islands, Western Samoa, Nauru and the Solomon.

Adding emotional weight will be a Japanese delegation including the mayors of Hiroshima and Nagasaki, and representatives of the hibakusha -- survivors of the two bombs which were dropped on Japan at the end of the Second World War.

Carrying the message for New Zealand will be Attorney-General Paul East, making his second appearance before the court this year, and Foreign Affairs legal adviser Alan Cranfield.

Also travelling to The Hague to watch proceedings closely will be Kate Dewes of Christchurch and Pauline Tangiora representing the small group of New Zealanders for whom this hearing is the culmination of a nine-year crusade.

**"It will do little to threaten the nuclear bomb's status as a symbol of power and authority."**

Dewes, who has travelled the world on a speaking tour to publicise its case, says it was started by retired Christchurch magistrate Harold Evans. The idea was inspired by a visiting professor of international law at Princeton University, Richard Falk, who visited Christchurch in 1986.

Evans initially wrote to then Prime Minister David Lange and then Australian Prime Minister Bob Hawke. First responses were encouraging but the campaign, backed by lawyers and doctors groups, never took off.

Wellington doctor, the late Erich Geringer, played a significant role in getting the issue on the agenda at the World Health Organisation Assembly. And representatives of International Physicians for the Prevention of Nuclear Wars were also present.

Mr Beacham also asked what would happen if the court ruled nuclear weapons were legal.

"Where would you be then?" World New Zealand be prepared to be in violation of a decision of the International Court of Justice by keeping tactical nuclear weapons out of your country when the World Court has declared they are legal?"

It was a curious argument -- on the one hand said the US would not be able to take any action. On the other, the World Court would have no jurisdiction over New Zealand on any sovereignty or a convention.

The nuclear powers, with the exception of the United States, are not making submissions, are expected to argue the court should not attempt to make a ruling.

Back-up arguments from the nuclear powers are likely to include the claim that its unlimited extension of the Non-proliferation Treaty, which New Zealand supported earlier this year, sanctions their possession of nuclear weapons. The court is not, however, being asked to consider possession. Its advisory opinion is narrowly confined to use or threatened use.

Counter arguments are expected to include the point that international treaties already preclude the deployment of tactical nuclear weapons in certain situations.