



American Model United Nations International

THE INTERNATIONAL COURT OF JUSTICE

Justice Higman of Japan,
Justice McIntosh of Rwanda,
Justice Tague of Germany,

Submit the following dissenting opinion.

Though we agree with our fellow justices in regard to the issue of compensation against Slovakia for employing Variant C, we must respectfully dissent on whether the Treaty of 1977 regarding the Gabčíkovo-Nagymaros dam project (hereafter referred to as the Treaty) was valid. Although our fellow justices declare that the Treaty is valid, we oppose this declaration, and contend that it was not valid for three specific reasons.

The first of these specific reasons is the discussion brought forth by Hungary highlighting the influence of the Soviet Union over the nation of Hungary at the time of the Treaty being signed. Under this contention, the Soviet Union heavily influenced the signing of the Treaty. In regard to this contention, we agree. In history, there are many points upon which a person can show the Soviet Union's influence. One of these many points were prevalent in the year of 1955, one year after Hungary was recognized by the United Nations a sovereign nation, as defined by the United Nations Charter, Article 2. Czechoslovakia was also recognized under this same definition in 1945. However, each of these nations, at the time of the Treaty was under influence of the Soviet Union, as highlighted by the Brezhnev Doctrine, brought forth by Hungary in their memorial. In fact, the Soviet Union crushed an attempt at revolution in 1956, led by anticommunist demonstrations, and the Soviets instituted a new "puppet government" led by Prime Minister Imre Nagy, their choice for this. As a result of this influence of the Soviet Union, the treaty of 1977 was invalid under Articles 48 and 52, specifically Article 48 of the Vienna Convention of the Law of Treaties.

Secondly, the Vienna Convention on the Law of Treaties needs to be addressed on two faces. However, it is important to address Article 1 before addressing the substance of objections to the validity of the Convention under the other Articles. Article 1 of the Vienna Convention on the Law of Treaties "applies to treaties between States." This is important to address because during deliberation, the question of Hungary's sovereignty, while under influence of the Soviet Union, was brought forth. In order to establish the use of the Convention, we must first distinguish Czechoslovakia and Hungary as States, as defined by the United Nations Charter. Indeed they are both States as defined by this Charter. Also, both parties are subject to the Vienna Convention on the Law of Treaties because they are both signatories to this Convention.

To begin discussing the substance of the argument, it is necessary to look at Article 52 of the Vienna Convention. Article 52 states "a treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations." This Article is most important to discuss because, by focusing upon the words "threat...of force," because Hungary, in their memorial, addressed the threat of force by the Soviet Union at the time of the signing of the Treaty. Hungary contended, and we agree, that the Soviet Union's influence was indeed a threat of force at the time of the signing of the Treaty, thus making the Treaty void as it stands.

A final point, and the most decisive, is in regard to Article 48 of the Vienna Convention. This Article states "A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was *assumed* by that State to exist at the time when the treaty was concluded..." (italics added for emphasis). According to this Article and based on Hungary's assumption of the situation with the Soviet Union at the time, it is clear that the Treaty was invalid.

Therefore, we respectfully dissent with the ruling of the majority in regard to the validity of the Treaty of 1977.

Justice Higman of JAPAN

Justice McIntosh of RWANDA

Justice Tague of GERMANY