



American Model United Nations

International Court of Justice

(November 21, 2005)

Case Concerning Oil Platforms (Historical)
Islamic Republic of Iran v. United States of America

Dissenting Opinion of the Court

1. The appropriation upon the infringement of freedom of commerce is of the utmost importance for deliberation. This means that the Court's duties are limited to evidence pertaining to violations of specific Articles in the 1955 Treaty of Amity. The Dissent seeks to ascertain good faith mends of diplomacy and discretion over articles addressed by the High Contracting Parties. Evidence determining offensive and defensive measures taken by either party are irrelevant due to ambiguity and lack of direct correlation to Article X of the 1955 Treaty of Amity. This further implies that actions taken previous to the destruction of both Iranian oil complexes are outside of the Court's scope and not within means of consideration. From this point, it becomes the responsibility of the Court to address violations of one, the other or both parties in terms of commerce solely.

2. However, before further evaluations and formulations of arguments, jurisdiction needs to be addressed. While other and fellow Justices seek external justification of jurisdiction; it might be an effort beyond necessity and *res ipsa loquitur*. External principles of International Law, Norm, Convention, or Precedence would be of excess to this particular case in light of Article XXI (2) as it pertains to both parties and their allegations. Additionally, this Article confirms the current context and circumstance of allegations, where by both party's consent that diplomacy became unsatisfactory. Article XXI (2) is necessary and sufficient, therefore any further justification is of excess.

4. Within the timeframe of our scope there are two matters of consideration that determine the content of the dissenting opinion. The first concerns the existing embargo that was placed upon the Islamic Republic of Iran by the United States prior to destruction of the oil platforms. This embargo effectively ended commercial relations between the two High Contracting Parties before the timeframe considered. Therefore, there were no commercial relations to be affected between the two High Contracting Parties within the timeframe considered. The second consideration is that we cannot verify that the oil platforms were engaged in the production of oil or in any transitory stages of commerce. In the absence of active commerce, it was not possible for either party to violate "freedom of commerce" as stated in Article X. Consequently, the Dissent concludes that there were no violations of commerce committed by the United States of America in this case.

3. Commerce includes commercial activities in general, as well as, immediate act of purchase and sale, but also the ancillary activities integrally related to commerce. In light of insufficient evidence, the Dissent cannot determine to what extent the destruction of

the oil platforms affects commercial production. Furthermore, the scope of commerce, according to the 1955 Treaty of Amity, is limited to immediate “actions” of purchase, sale and transport between the two High Contracting Parties.

4. Given the fact that our jurisdiction is limited to the consideration of the violation of the aforementioned questions of commerce and is not concerned with determining culpability regarding actions of force previous to the destruction of both oil complexes, the Dissent cannot suggest appropriate reparations. Additionally, the “previous actions of force” are characterized by military interactions, however, by confining the scope to the 1955 Treaty of Amity, i.e. “commercial” interactions, reparations cannot be considered in lieu of the “no violation of commerce” conclusion.

5. In summary, the Dissent does not find that there were violations of the 1955 Treaty of Amity by the High Contracting Parties. Furthermore, given the lack of evidence concerning the events in question the Court cannot ascertain whether the actions of the United States of America were justified.

** In advisory to the Islamic Republic of Iran, Dissenting judgments do not exclude the possibility of further legal proceedings concerning reparations, as applied to discussions of force.

Justice MaKieve (Cuba)

Justice Bechtel (Iraq)

Justice Maher (Ireland)

Justice Eldridge (Haiti)

Justice Brown (Denmark)