



American Model United Nations

## International Court of Justice

(November 21 2005)

Oil Platforms

Islamic Republic of Iran v. United States of America

PRESENT: President Billerbeck (Venezuela), Vice President Eldridge (Haiti), Justice Brown (Denmark), Justice Coronel (Uruguay), Justice Roberts (Cambodia), Justice Melo (Brazil), Justice Van De Walker (Indonesia), Justice MaKieve (Cuba), Justice Berg (South Africa), Justice Setchfield (Chile), Justice Maher (Ireland), Justice Bechtel (Iraq)

*The Court,*

*As composed above,*

*Delivers the following judgement*

1. Article XXI of the 1955 Amity Treaty grants jurisdiction to the Court for two reasons: First, the second clause of Article XXI states that any dispute in regard to this treaty shall be brought to the International Court of Justice. Second, because there is a clear dispute between the two nations regarding the interpretation and application of Articles IV and X. The Court also notes that the 1980 trade embargo created a uniquely tense situation of commerce between the two nations, whereupon the conduct of diplomatic relations was clearly unsatisfactory. At this point, the second clause of Article XXI indicates that the lack of diplomacy necessitates adjudication by the Court, and thus, proving adequate jurisdictional grounds. In addition, the Court finds it necessary to reference the international obligation of the United States under customary international law, based on Resolution 56/83 concerning about the responsibility of states for international wrongful acts. In its Article 1, “every internationally wrongful act of the state entails the international responsibility of that state”. In the same resolution it is stated that there is an internationally wrongful act of a state when its conduct consists of an action or a mission, which is attributable to the state under international law and which constitutes a breach of an international obligation of the State. The Court finds that both requirements are present in this case because the United States already admitted that it committed these attacks on the platforms, and argues that it was in self-defense. In addition, the second requirement is fulfilled by the bilateral treaty between the parties in the Amity Treaty of 1955, which outlines in Article IV, paragraph 2, that the properties of both parties must be protected, “in no case less than it is required by international law”. In this context, in observing the Vienna Convention of the Law of Treaties, Article XXVI, every treaty must be performed in conformity with the principle *pacta sunt servada*, as well as in good faith, considering the context and purposes of the treaty as stated in Article XXXI of the same Convention.
2. Because the Court cannot ascertain proof that Iran did or did not conduct missile

- attacks upon the Kuwaiti ship flying the US flag, the attacks upon the oil platforms by the United States will be evaluated individually with the interpretation of Articles IV, VIII, X, XX, and XI, as well as the concept of self-defense in these instances.
3. Article IV of the 1955 Amity Treaty indicates that “the companies and nationals of both parties, as well as their property, transportation, navigation and conduction of commerce, shall be protected.” In order to determine whether the attacks of the United States violate these protections, the Court must determine if each of the attacks upon Iran violate freedom of commerce and navigation. The Court wishes to apply this basis to the consideration towards the violation of freedom of commerce, articulated in Article IV of the Amity Treaty, that which grants “protection of property, transportation, production, and commercial structures that are of the party nations.” Because the oil platforms represent commercial structures, as well as dwellings and commercial property, the initial attack then demonstrates a violation of their guaranteed freedoms and protections, particularly because the United States has not been able to demonstrate a just cause. Article X of the 1955 Amity Treaty indicates that there shall be freedom of commerce and navigation between the territories of Iran and the United States, and continues to articulate that vessels flying the flag of a party nation and carrying the proper identification papers will enjoy protection from molestation. The Court notes that although the Kuwaiti vessel displayed the flag of the United States, without the proper identification papers, the vessel did not enjoy the protection that is articulated by the treaty. With this in mind, the Court concludes that the initial attack upon the Iranian oil platforms could not be justified as a form of self-defense, simply because the United States was in fact not defending itself but rather the interests of Kuwait. In addition, despite the fact that the oil platform was inactive at the time of the attack, the Court believes that the fundamental principles of trade articulated under customary international law justify the application of the freedoms of the Amity Treaty. Absent any sort of just cause and due to its violation of fundamental trade principles, the United States stands as an aggressor and is thus guilty of suppressing freedom of commerce between the two nations, as well as a nation’s ability to participate in international trade.
  4. The Amity Treaty also necessitates the protection of indirect trade, explained by Article VIII. In regards to the application of Articles IV and X in the instance of the first attack upon Iranian oil platforms, the Court finds that the attacks do violate freedom of commerce between the two nations for two distinct reasons. Initially, the Court wishes to reiterate that the oil platforms represent a structure of commerce between the two nations, but they also represent the major international oil industry in which most nations participate. Because Article VIII requires protection of third party trade for both nations, the destruction of the oil platforms violates the freedom of third party commerce that is guaranteed to Iran. Second, Article VIII substantiates the endorsements of fundamental trade principles that the Court believes are critical to the freedom of commerce. There is the question of whether the embargo created by Reagan’s executive order in 1987 invalidates interpretation of freedom of commerce because the embargo ceased all trade between the two nations. The Court believes that despite the fact that the embargo

brought oil trade between Iran and the US to a halt, the second attack by the United States clearly violates the freedom of commerce of Iran for two reasons. First, the oil platform was operating at that point in time, and the complete destruction of the platform eliminates an avenue of third party oil trade, which is granted to both nations under Article VIII. Second, although direct oil commerce between the US and Iran was not in action, the attack violated the fundamental principles of trade. The court's obligation to fulfill customary international law regarding trade as explained above requires that the Court consider the ability to freely trade, which is clearly exemplified by the destruction of the oil platforms.

5. Although the Court concludes that the United States was justified in defense of its own vessels, the Court has yet to find any reason why self-defense is a proper basis for aggression. The concept of self-defense that is used by the United States to justify both of the attacks is found to be inapplicable in both instances. The initial attack upon the oil platforms was not in the defense of an American tanker but a Kuwaiti tanker that was flying the American flag, making it inadmissible. The second attack was uniquely disproportionate to the act that prompted it, particularly because the Court has found no admissible proof that the mines were laid by Iran.
6. These attacks did not have an extensive effect upon American commerce, and because the demands are specific to lost revenue, the Court does not find it appropriate to demand reparations of Iran when the only party that experienced extensive damage was, in fact, Iran. However, because freedom of commerce was uniquely violated by the United States, the Court does find it necessary to recommend reparations paid by the United States for the purpose of reconstructing the avenues of commerce that were damaged by the bombings.

7. For these reasons,

The Court,

By seven (7) votes to five (5)

Find that the United States of America has violated the freedoms of commerce as articulated under the Amity Treaty of 1955, as well as the obligations of customary international law.

Justices Brown, MaKieve, Maher, Bechtel, and Eldridge append a joint dissenting opinion.

Justice Billerbeck

Justice Melo

Justice Berg

Justice Coronel

Justice Roberts

Justice Setchfield

Justice Van de Walker