



American Model United Nations

International Court of Justice

(23 November 2005)

Case Concerning The Gabčíkovo-Nagymaros Project
Hungary/Slovakia

Concurrent Opinion

Justice MaKieve

After signing the consensus draft, it seems significant to reiterate and re-emphasize certain postulated judgments.

- 1) The 1977 Treaty has vitality, for the Court has limited jurisdiction over the termination of treaties without mutual consent from the representative parties, as illustrated in Part V. Section 2. Articles 46 through 53 of the Vienna Convention on the Law of Treaties.
- 2) In order to proceed with a verdict, the Court must view the 1997 verdict prior to the scope of any additional judgments. However, verdict findings pertinent must be acknowledged as a measure for distinguishing pre and post circumstances.
 - a) Czechoslovakia was entitled to proceed in the “provisional solution” in 1991 by means of countermeasures, but was not entitled to put into operation the “provisional solution” due to being a material breach and incompatible with the 1977 Treaty.
 - b) Hungary and Slovakia were instructed to “negotiate in good faith, all necessary measures to ensure the achievement of the objectives” of the 1977 Treaty in accordance with agreed upon modalities.
 - c) A joint operational regime must be established.
 - d) Compensation, on the behalf of Hungary, will provide Slovakia with reparation for damages incurred due to the abandonment of the Nagymaros Project; Compensation, on the behalf of Slovakia, will provide Hungary with reparations for damages incurred due to the material breach by Variant C.
- 3) The Court’s decision is believed to have been in the interest of both Parties, for the continuation of belligerence is no longer acceptable. Furthermore, it seems significant to expand upon the considered interests. “Good faith” must be the outlook to bilateral relations between the Parties. In retrospect, one of the factors that allowed the responsibilities, illustrated in the 1977 Treaty, to be delegated in such a lopsided manner, in Hungary’s consideration of the economic standings of Czechoslovakia. Also, both Parties need to understand that they coexist in such a manner that economic and environmental discourses have direct affects upon one another. Additionally, ecological considerations become a responsibility of any and all states inhabiting this planet.
- 4) Moreover, joint operational regime must consider down stream entities and must establish a consistent, universal flow.

Justice MaKieve, Cuba