



*American Model United Nations*  
**International Court of Justice**

**INTERNATIONAL COURT OF JUSTICE  
OF THE  
AMERICAN MODEL UNITED NATIONS**

ARGUED: November 18, 2007

DECIDED: November 19, 2007

THE REPUBLIC OF COSTA RICA v THE REPUBLIC OF NICARAGUA

PRESENT: President Gender, Vice President Banas, Justices Bauer-Nilsen, Campbell, Champagne, Chatel, Forsberg, Fritz, Howard, Meyer, O'Brien, Stinyard, Sutcliffe, Vajpeyi, and Vatan

*The Court,*

*Composed as above,*

*Delivers the following judgement,*

**On the matter of Jurisdiction:**

1. According to Vienna Convention of the Law of Treaties, Article 19

*“A state may when signing, ratifying, accepting, approving, or acceding to a treaty formulate a reservation unless:*

*a) a reservation is prohibited by the treaty;*

*b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or*

*c) in cases not failing under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.”*

Sub clause (c) explicitly states that a state that has signed and ratified this convention may not formulate a reservation that compromises the object and purpose of a certain treaty. The Republic of Nicaragua has signed and ratified the Vienna Convention

of the Law of Treaties and therefore is held accountable to fulfilling the requirements of making a reservation.

2. Nicaragua's reservation filed with the Security General the on 24 October 2001 states "*Nicaragua will not accept the jurisdiction or competence of the International Court of Justice in relation to any matter or claim based on interpretations of treaties or arbitral awards that were signed and ratified or made, respectively, prior to 31 December 1901.*"

This reservation is considered by this court to be annulled because it compromises the object and purpose of the Pact of Bogota 1848, which is to establish the International Court of Justice as a legitimate body to facilitate the disputes in the region. Both the Republic of Nicaragua and the Republic of Costa Rica were signatories to this Treaty. The object and purpose are exemplified in Article 31 which states "*The high contracting parties declare that they recognize in relation to any other American state, the jurisdiction of the court as compulsory ipso facto, without the necessity of any special agreement so long as the present treaty is in force, in all disputes of juridical nature that arise among them:*

- a) *The interpretation of a treaty;*
- b) *Any question of international law;*
- c) *The existence of any fact which if established, would constitute the breach of an international obligation;*
- d) *The nature of extent of the reparation to be made of the breach of an international obligation.*"

Also in Article 32 which states "*When the consultation procedure previously established in the present treaty or by agreement of the parties doesn't lead to solution and the set parties have not agreed upon an arbitral procedure, either of them shall be entitled to have recourse to the International Court of Justice in the manner described in article 40 of the statute thereof. The court shall have compulsory jurisdiction in accordance to article 36, paragraph 1 of the said statute.*

And lastly Article 33 which states "*If the parties fail to agree as to whether the court has jurisdiction over the controversy the court itself shall first decide their question.*"

3. While recognizing the fact that the Republic of Nicaragua has asserted that they are open to a bilateral diplomatic decision on the matter, this court firmly believes that due to the statements of the advocates, and previously failed diplomatic efforts such as the Tovar-Caldera agreement of 2002, it is pertinent for a third party to conduct the necessary arbitration to resolve this matter.

This court therefore finds that it does hold jurisdiction in this case.

**Arguments of the Case:**

1. The Republic of Costa Rica argued that the Republic of Nicaragua violated the Costa Rican navigational rights of the San Juan River according to the Treaty of Limits and the interpretation of this by the Cleveland Award.

The Treaty of Limits Article 6 states that “*The vessels of both countries shall have the power to land indiscriminately on both sides of the river at the portion thereof where the navigation is common; and no charges of any kind or duties shall be collected unless when levied by mutual consent of both governments.*” The Republic of Nicaragua by charging Costa Rican boats and their passengers, obligating Costa Rican boats to stop at a Nicaraguan post on the Nicaraguan bank of the river to report the names of passengers, imposing timetables of navigation of the river, and limited free moorage along the river, the court finds the Republic of Nicaragua has violated the Treaty of Limits.

2. The Republic of Costa Rica has requested that reparation be given on the basis that fines and other economic damages ensued from the violations of the Treaty of Limits by the Republic of Nicaragua. Therefore the court affirms that reparations should be made from the Republic of Nicaragua to the Republic of Costa Rica equal to the amount of damages accrued. This will be determined by the appropriate United Nations body.

4. The court affirms the applicability of the Treaty of Limits and recommends that a bilateral monitoring system be implemented to further ensure the enforcement of the Treaty of Limits.

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Vice President Banas

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Justice Howard

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Justice Forsberg

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Justice Bauer-Nilsen

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Justice Chatel

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Justice Vajpeyi

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Justice Sutcliffe

Justice O'Brien