

IN THE INTERNATIONAL COURT OF JUSTICE

THE REPUBLIC OF NICARAGUA V. THE REPUBLIC OF COSTA RICA

COUNTER-MEMORIAL OF THE REPUBLIC OF NICARAGUA

COMES NOW the Republic of Nicaragua and for their Memorial to the Court states the following:

STATEMENT OF JURISDICTION

1. While Nicaragua recognizes and respects the jurisdiction of the Court in matters of international disputes and interpretations of treaties, we believe that the current dispute with Costa Rica has been negotiated previously and agreed upon in the Treaty of Limits in 1858 and the Cleveland Award of 1888.

STATEMENT OF FACT

The San Juan River, which flows through Costa Rica and Nicaragua, has been in dispute for over a century. Approximately 35 km before reaching its delta, the river bifurcates into the San Juan to the north and the Rio Colorado to the south. The Rio Colorado flows almost entirely through Costa Rican territory. The branch that retains the San Juan name and flows to the north is politically and economically vital to Nicaragua as one of the only river outlets to the Caribbean Sea that flows through its territory.

Costa Rica and Nicaragua came to a bilateral agreement regarding the San Juan River in the Treaty of Limits in 1858. While the Treaty of Limits grants sovereignty over the portions of the San Juan that border Nicaragua to Costa Rica, Costa Rica claims that it also grants them certain “important rights,” among these the perpetual right of free navigation for commercial purposes. Further international agreements between the two states regarding this matter include the ruling of the Central American Court of Justice in 1916 and Article IV of the Agreement Supplementary to Article IV of the Pact of Amity, 1956.

Nicaragua claims that its sovereignty over the San Juan River, confirmed in connection with the separate International Court of Justice case that was decided in 2009, also grants Nicaragua the right to improve the navigability of the river through its dredging work and through the construction of the canal. Additionally, Nicaragua claims that no invasion of Calero Island occurred because Nicaragua has sovereignty over the island and cannot invade its own territory. Finally, Nicaragua contends that its activities are not causing harm to Costa Rica and that Nicaragua has complied with its obligations under international environmental law, namely the completion of an environmental impact study prior to beginning its work on the canal and associated dredging

STATEMENT OF LAW

1. Under the Treaty of Limits between Costa Rica and Nicaragua of 15 April 1858 (hereinafter the “Treaty of Limits”) Nicaragua and Costa Rica formalized bilateral agreement. The Treaty of Limits established a framework under which the San Juan River due to the Treaty granted Nicaragua the sovereignty over the portion of the San Juan River that bordered Nicaragua and Costa Rica.

1. Article VI:

The Republic of Nicaragua shall have exclusive dominion and sovereign jurisdiction over the waters of the San Juan River from the outlet of Lake to its mouth in the Atlantic, but the Republic of Costa Rica shall have in those waters

perpetual rights of free navigation, from the expressed mouth, three English miles before reaching the Old Castle purposes of commerce either Nicaragua or within Costa Rica, for Rivers of San Carlos or Sarapiquí, or any other appropriate manner of the party on the banks of San Juan set or match this Republic. The vessels of either country may land indiscriminately on the riverbanks, in the part where navigation is common without paying any kind of taxes, unless established by agreement between the two governments.

2. Cleveland Award of 1888 states the Republic of Costa Rica is not bound to concur with the republic of Nicaragua in the expenses necessary to prevent the bay of San Juan del Norte from being obstructed; to keep the navigation of the river or port free and unembarrassed, or to improve it for the common benefit.

ARGUMENTS

1. In reference to Costa Rica's first charge on Nicaragua, the Calero Island is Nicaraguan land by right. There could not have been an incision of any kind by Nicaraguan military when it is Nicaraguan territory. It is physically impossible for a country to invade its own territory.
2. We as a country do have rights to improve the navigability of the San Juan River without any sort of consultation with Costa Rica, specified in the Cleveland Award of 1888, which may require armed forces to prevent Costa Rica from interfering.
3. In the case of Costa Rica, they have limited power on the current state of the San Juan River. Costa Rica is in fact in violation of the Cleveland Award because of their attempt to interfere with the building of the canal on the San Juan River to improve navigability.

SUMMARY AND REQUEST

In summation, The Republic of Nicaragua does not find the present case to be relevant to the International Court of Justice as the only relevant treaties present in this case are the Treaty of Limits of 1858 as well as the Cleveland Award of 1888. The Republic of Nicaragua requests that the International Court of Justice dismiss this case because it has already been decided previously and this is just a repetition of previous cases.