



American Model United Nations
of Chicago

International Court of Justice

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

JAPAN vs. RUSSIA

ARGUED: November 11, 1993
DECIDED: November 13, 1993

The Majority opinion was signed by and agreed to by Justice Welch of Italy, Justice Brilon of United States, Justice Campbell of the Russian Federation, Justice Luty of Algeria, Justice Weatherwax of the United Kingdom, Justice Seely of France, Justice Zilligen of Norway, Justice Schmidt of Poland, and Justice Stotts of Madagascar.

The court has jurisdiction over the case based on the sovereignty issue based on chapter sections one and four of the United Nations Charter, the interpretation of treaties issue in Article 36 section 2a of the International Court of Justice rules. Since the court is being asked to interpret and/or analyze the Treaties of Russo-Japanese Neutrality Pact, Yalta, Potsdam, and the San Francisco Peace treaty, the court feels that we have jurisdiction under the above statutes.

The court was also asked to examine the treaties of Shimoda, St. Petersburg, and the Cairo Declaration. The court feels that these treaties were not relevant to the arguments because they were nullified by later treaties and/or agreements. Therefore they were not considered in regard to the issues of the case or the issue of jurisdiction.

The petitioner and the respondent have demonstrated conclusive evidence that the issues surrounding the Kuril islands are sufficiently complex and cannot be resolved by the simple reassignment of territory. Specifically this evidence includes the disputed terms of the Potsdam Declaration of 1945 and the San Francisco Peace Treaty of 1951.

The opinion and explanation of reasons of the court is as follows:

The Kuril Islands have no clear original inhabitants and thus no original owners. According to the Potsdam Agreement Japan agreed to allow the Allied Powers, excluding the Soviet Union, to define territory to be divided after World War II. In the 1951 San Francisco Peace Treaty, Japan renounced all claims to the Kuril Islands. At that time no specific country was declared to have sovereignty over the islands. Having Russian inhabitants the present government on the islands was instituted by the USSR and the USSR laid sovereign claim to the islands. The Japanese have only recently taken legal action to reobtain the islands, and then only many years after their agreement in the San Francisco Peace Treaty of 1951. During this time Russia gained acquiescence of the islands by controlling them for a considerable length of time. Although Russia may have taken the islands forcibly, they did so because Japan violated the neutrality terms of the Russo-Japanese Neutrality pact by allying themselves with Germany. Thus, a state of war existed between the USSR and Japan and the USSR took over the islands as an act of war. Furthermore, the takeover of the island was performed before the San Francisco Peace Treaty. In fact, right after the end of World War II the Soviets reaffirmed their claim to the islands which they were promised by both the Yalta and the Potsdam treaties. Though this was an act of force and aggression, the circumstances of the time allowed this occupation to come about without dispute. Russia has since offered to give Japan Shikotan and the Habomai island group if Japan signs a peace treaty with Russia. Japan has refused to do so and demands control of the entire chain. The court finds no clear geographical or other difference among the islands which would divide them up clearly between the nations.

Therefore, the court orders the following:

First, that Japan will have possession and control of the islands of Shikotan and Habomai. Sufficient time shall be given to the inhabitants to relocate or decide upon their citizenship, if necessary, as well as for the removal of any property by Russia which was brought to or constructed upon the island by Russia. If an agreement involving these subjects can not be reached by the two countries through incompetence, ignorance, or other incapacities, the International Court of Justice will settle any such dispute. Russia will maintain possession and control of the rest of the Kuril islands.

Second, the court orders that the islands of Iturup, Kunashir, Shikotan, and Habomai be declared a military and nuclear free zone in order to reduce any Russo-Japanese tensions in the region. This demand is made in the interest and requirement of the maintenance of peace and stability in the area in hopes of assurance that conflicts such as the one which resulted in the possession of the Kuril islands by Russia, shall be avoided in the future.

Third, the court strongly recommends the signing of an official peace treaty between Japan and Russia.

Fourth, on the issue of reparations, the court finds that no reparations shall be paid by either party involved. Specifically, Japan demonstrated no clear need or concise purpose for which the \$1 billion was requested, nor was the derivation of the stated amount proclaimed.

Fifth, the court orders that before each nation claims the territory awarded to it, (as specified in the first declaration) that the representative nation comply with all international laws and agreements upon environmental concerns. This particular point is particularly relevant to this case because of the use of the land and surrounding waters for their natural (both land and marine) resources.

Last, the court fiercely condemns armed conquest as a way of resolving conflicts and encourages all nations to solve any differences in a peaceful manner and to respect individual national sovereignty.