



American Model United Nations
International Court of Justice

1 **THE REPUBLIC OF NICARAGUA,**

2 **APPLICANT**

3 **V.**

4 **THE REPUBLIC OF COLOMBIA,**

5 **RESPONDENT**

6 **MEMORIAL OF THE REPUBLIC OF HONDURAS**

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

8 STATEMENT OF LAW:

9 The American Treaty on Pacific Settlement of 1948, binding all member states of the Ninth Inter-
10 national Congress of American States, including Nicaragua and Colombia, outlines relevant informa-
11 tion in settling dispute, namely reaffirming the validity of previously ratified treaties between states.

12 The Barcenas-Esguerra Treaty of 1928 outlines territorial limits and possessions between Nicaragua
13 and Colombia in the Caribbean Sea; relevant tenants of the agreement include the establishment of
14 the 82nd Meridian as the commercial maritime limit between both countries, and Nicaragua's renun-
15 ciation of claims to the atolls of Roncador Bank, Quitasueno Bank, and Serrano Bank.

16 Border and Transborder Armed Actions (Nicaragua v. Honduras), heard and decided in the
17 International Court of Justice, 1988 presents a similar case to the present issue, involving Honduran
18 failures to contain paramilitary groups operating along and across the border between the two coun-
19 tries.

20 STATEMENT OF FACT:

21 The Republic of Nicaragua claims commercial shipping and fishing rights west of 82nd Merid-
22 ian, as well as title to the atolls of Roncador, Quitasueno, and Serrano Banks, based on 1982 Con-
23 vention of the Law of the Sea, giving countries rights to landforms within 200 miles of their economic
24 zones. Furthermore, Nicaragua argues that the 1928 Barcenas-Esguerra Treaty between the Republics
25 of Nicaragua and Colombia is invalid, due to the former being under occupation by the United States
26 at the time of the Treaty's ratification. Thus, Treaty agreements establishing the commercial and mil-
27 itary maritime limit between the two countries as the 82nd Meridian is invalid, and Nicaragua's re-
28 nunciation of claims to the aforementioned Banks, are null and void. Colombia argues that it retains
29 exclusive rights to commercial maritime ventures west of the 82nd Meridian, and that it holds title to
30 the Roncador, Quitasueno, and Serrano Banks as outlined by the 1928 Treaty. It is argued that the
31 Barcenas Treaty is still binding, meaning that the Court lacks proper jurisdiction and that the issue is
32 resolved here. Per the American Treaty on Pacific Settlement of 1948 (also known as the Pact of Bogota),
33 adopted by Ninth International Congress of the Americas (of which both Nicaragua and Colombia are
34 both members). This agreement states that the issue cannot be resolved by international arbitration
35 or courts, and that treaties already in place at the time of the ATPS' adoption retain their legitimacy.
36 Colombia further argues that similar issues resolved in the 1988 ICJ case between Nicaragua and Hon-
37 duras/Costa Rica prohibit the Court from hearing the issue.

38 STATEMENT OF JURISDICTION:

39 Nicaragua brings forth this issue based on Article 36, Paragraph 1 of the International Court of
40 Justice Statutes: "The jurisdiction of the Court comprises all cases which the parties refer to it and all
41 matters specially provided for in the Charter of the United Nations or in treaties and conventions in
42 force."

43 Columbia argues the intervention of the Court in this dispute is specifically prohibited, pursuant
44 to Article VI of the American Treaty on Pacific Settlement of 1948: "The aforesaid procedures, further-
45 more, may not be applied to matters already settled by arrangement between parties, or by arbitral
46 award or by decision of an international court, or which are governed by agreements or treaties in
47 force on the date of the conclusion of the present Treaty."

48 However, based on Article XXXI of the same Treaty, recourse to the ICJ may be sought by Treaty
49 signatories, as happened in the 1988 Nicaragua v. Honduras Case.

50 Based on this, the Court has precedent in declaring the present dispute judiciable.

51 ARGUMENTS:

52 The Republic of Nicaragua's claim that the 1828 Barcenas-Esguerra Treaty is void, due to the
53 country being occupied by the United States, is not valid, and that the Treaty cannot be contested on
54 these grounds. Colombia retains its exclusive right to commercial maritime ventures west of the 82nd
55 Meridian, as well as proprietorship of the Roncador, Quitasueno, and Serrano Banks.

56 While the Court does not employ legal precedent in deciding its cases, decisions and findings
57 in the 1988 Borders Case between Nicaragua and Honduras contains relevant and useful information
58 for the Court to consider should they hear the dispute.

59 SUMMARY AND REQUESTS:

60 Reemphasizing the fact that the Barcenas-Esguerra Treaty of 1928 is a valid and binding agree-
61 ment between the Republic of Nicaragua and the Republic of Colombia, and that Colombia holds ex-
62 clusive rights to commercial maritime ventures west of the 82nd Meridian as well as territorial claim to
63 the Banks of Roncador, Quitasueno, and Serrano as per the Treaty, the Republic of Honduras prays that
64 the Court dismiss Nicaragua's case against Colombia. The Republic of Honduras further implores that
65 the Court reaffirms the Treaty's legitimacy, in keeping with Article VI of the American Treaty on Pacific
66 Settlement of 1948 passed by the Ninth International Conference of American States, in which both
67 Nicaragua and Colombia were voting members.