

## **IN THE INTERNATIONAL COURT OF JUSTICE**

**THE REPUBLIC OF NICARAGUA,  
APPLICANT**

**V.**

**THE REPUBLIC OF COLOMBIA,  
RESPONDENT**

### **MEMORIAL OF THE REPUBLIC OF HONDURAS**

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

#### **STATEMENT OF LAW:**

1. The American Treaty on Pacific Settlement of 1948, binding all member states of the Ninth International Congress of American States, including Nicaragua and Colombia, outlines relevant information in settling dispute, namely reaffirming the validity of previously ratified treaties between states.
2. The Barceñas-Esguerra Treaty of 1928 outlines territorial limits and possessions between Nicaragua and Colombia in the Caribbean Sea; relevant tenants of the agreement include the establishment of the 82nd Meridian as the commercial maritime limit between both countries, and Nicaragua's renunciation of claims to the atolls of Roncador Bank, Quitasueno Bank, and Serrano Bank.
3. Border and Transborder Armed Actions (Nicaragua v. Honduras), heard and decided in the International Court of Justice, 1988 presents a similar case to the present issue, involving Honduran failures to contain paramilitary groups operating along and across the border between the two countries.

#### **STATEMENT OF FACT:**

The Republic of Nicaragua claims commercial shipping and fishing rights west of 82nd Meridian, as well as title to the atolls of Roncador, Quitasueno, and Serrano Banks, based on 1982 Convention of the Law of the Sea, giving countries rights to landforms within 200 miles of their economic zones. Furthermore, Nicaragua argues that the 1928 Barceñas-Esguerra Treaty between the Republics of Nicaragua and Colombia is invalid, due to the former being under occupation by the United States at the time of the Treaty's ratification. Thus, Treaty agreements establishing the commercial and military maritime limit between the two countries as the 82nd Meridian is invalid, and Nicaragua's renunciation of claims to the aforementioned Banks, are

null and void. Colombia argues that it retains exclusive rights to commercial maritime ventures west of the 82nd Meridian, and that it holds title to the Roncador, Quitasueno, and Serrano Banks as outlined by the 1928 Treaty. It is argued that the Barcenas Treaty is still binding, meaning that the Court lacks proper jurisdiction and that the issue is resolved here. Per the American Treaty on Pacific Settlement of 1948 (also known as the Pact of Bogota), adopted by Ninth International Congress of the Americas (of which both Nicaragua and Colombia are both members). This agreement states that the issue cannot be resolved by international arbitration or courts, and that treaties already in place at the time of the ATPS' adoption retain their legitimacy. Colombia further argues that similar issues resolved in the 1988 ICJ case between Nicaragua and Honduras/Costa Rica prohibit the Court from hearing the issue.

#### **STATEMENT OF JURISDICTION:**

1. Nicaragua brings forth this issue based on Article 36, Paragraph 1 of the International Court of Justice Statutes: "The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force."
2. Columbia argues the intervention of the Court in this dispute is specifically prohibited, pursuant to Article VI of the American Treaty on Pacific Settlement of 1948: "The aforesaid procedures, furthermore, may not be applied to matters already settled by arrangement between parties, or by arbitral award or by decision of an international court, or which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty."
3. However, based on Article XXXI of the same Treaty, recourse to the ICJ may be sought by Treaty signatories, as happened in the 1988 Nicaragua v. Honduras Case.
4. Based on this, the Court has precedent in declaring the present dispute judiciable.

#### **ARGUMENTS:**

1. The Republic of Nicaragua's claim that the 1828 Barcenas-Esguerra Treaty is void, due to the country being occupied by the United States, is not valid, and that the Treaty cannot be contested on these grounds. Colombia retains its exclusive right to commercial maritime ventures west of the 82nd Meridian, as well as proprietorship of the Roncador, Quitasueno, and Serrano Banks.
2. While the Court does not employ legal precedent in deciding its cases, decisions and findings in the 1988 Borders Case between Nicaragua and Honduras contains relevant and useful information for the Court to consider should they hear the dispute.

## **SUMMARY AND REQUESTS:**

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