

Montessori Model United Nations 2010

INTERNATIONAL COURT OF JUSTICE

Maritime Delimitation Dispute (Peru/Chile)

Summary of the Judgement of 1 March 2010

Judge Feris, President of the Court, Judge Pisani, Vice President of the Court, Judges McKenney, Khokher, Patterson, Manchester, Katavolos, Camp, Pena, Strauss, Higgins, Stewart, Harris, Coram and Nielson

THE CHAMBER,

Agrees to invoke the Treaty of Overlapping Waters and have the disputed maritime zone divided evenly between Peru and Chile. The Treaty also stipulates that a UN Maritime Border Patrol will ensure that neither country will violate the sovereign maritime territory that each country is awarded in this Treaty.

The case of maritime delimitation dispute was submitted by the Republic of Peru instituting the proceedings against the Republic of Chile and further clarified by the Peruvian Agents.

History of the proceedings and submissions of the Parties

Prior to the termination of the Saltpeter War (1879-1884), Bolivia shared nautical boundaries with Peru and Chile. All three nations had partial sovereignty over the Arica Valley, known for its enormous deposits of saltpeter and guano, the latter being a key component in trinitro toluene (TNT). Chile saw an opportunity to gain revenue from revenue from the exploitation and selling guano to other countries. In order to attain unhindered access to both the saltpeter and guano, Chile waged war on Bolivia. Threatened, Peru created a liason between itself and Bolivia to defend their respective claims in the Arica Valley, including Maritime rights. The result was that Chile was successful and Bolivia's borders were pushed eastward and Peru's borders moved further north. Chile did make a statement that it would return a portion of the land seized from Peru. This action has yet to happen.

An official nautical border between Peru and Chile was never established according to the Republic of Peru. The Republic of Chile contends that agreements in 1952 and 1954 pertaining to fishing rights also established formal nautical boundaries. Peru states that it has made attempts to resolve this issue with Chile over the past 30 years but has met with a minimum of cooperation. Furthermore, Chile withdrew its ambassador to Peru in 2007 as a result of the publication of an official Peruvian map showing that Peru owns the disputed maritime zone.

On behalf of the Government of Peru,

The Government of Peru submitted its concerns to the International Court of Justice on 16 January 2008 and has asked for the Court to make a decision regarding the ownership of the disputed maritime zone. Peru has asked the ICJ to "determine the course of the boundary between the maritime zones of the two states in accordance with international law". Peru, in its application, invokes the Pact of Bogota (30 April 1948) in which both countries are parties without reservation. This Article provides that all signatories are compelled to recognize the jurisdiction of the Court as compulsory ipso facto. With that in mind, the Court acknowledges that due to the unique geography in dispute, international law may be difficult to apply.

Admissibility of Conventions and Treaties

The Court is to apply the Treaty of Overlapping Waters as to be in effect ipso facto.

1. Treaty of Overlapping Waters (01 March 2010)

After deliberations and considering the evidence provided, the Court has determined that the overlapping maritime domains are to be divided equally with a border equidistant to their baselines. Due to the Pact of Bogota, both countries agree to abide by and implement the following terms.

- a) The construction of a lighthouse on the border between the countries,
- b) Respecting the borders or neighboring countries
- c) Respecting the sovereign maritime boundaries of each country
- d) Enforcing the maritime boundaries
- e) Limiting fishing amounts to a reasonable quota in accordance with term c
- f) The third violation of any of these terms by either country is to be brought to the Court to judge and render a decision

Application of Conventions and Treaties

To serve the purpose of enforcing the Treaty of Overlapping waters, a group called the Maritime Border Patrol (MBP) shall be created. A portion of the MBP will be delegated to patrolling the Peruvian/Chilean maritime border. Others will be stationed at various border markers along the determined border. The MBP will be composed of primarily UN volunteers. If the MBP observes any violation of the Treaty of Overlapping Waters, they shall assign a consequence in accordance with local maritime laws. If a third violation occurs, the incident will be brought before the Court.

Montessori Model United Nations 2010

INTERNATIONAL COURT OF JUSTICE

Racial Discrimination Dispute (Georgia/Russia)

Summary of the Judgment of 2 March 2010

Judge Feris, President of the Court, Judge Pisani, Vice President of the Court, Judges McKenney, Khokher, Patterson, Manchester, Katavolos, Camp, Pena, Strauss, Stewart, and Harris

THE CHAMBER,

Agrees to invoke the Treaty of Elimination of Discrimination having considered the facts, opinions, and laws, pertaining to the case. The treaty entails that the International Court of Justice and other organs of the UN are to be called upon to enforce the regulations set by the treaty, should any signing party breach any of the following statements:

History of the proceedings and submissions of the Parties

In 1864, the Russian Federation annexed the territory Abkhazia. Much later in 1991, Georgia declared its independence from the Russian Federation. As a result the regions of South Ossetia and Abkhazia attempted to break away from Georgia and become their own independent states. By 1993 violence escalated between Georgia and the two estranged states with the result being Georgian forces being expelled from Abkhazia. At this time both South Ossetia and Abkhazia declared they were now independent and no longer associated with Georgia.

In 2004 the new Georgian President Saakashvili vowed to return Abkhazia and South Ossetia to Georgian control. However, violence and war erupted between Georgia and South Ossetia leaving 35,000 displaced Georgian refugees from South Ossetia and Abkhazia in 2008. It was at this time that the Russian Federation formally recognized the independence of South Ossetia and Abkhazia as individual states. The ethnic Georgians in these territories who tried to return to their homes were subjected to racial discrimination by Russian military. Georgia brought their case to the Court in 2008.

Georgia and Russia, both acknowledging and respecting the regulations laid down by the CERD, did not in fact settle their dispute via “negotiations or... the procedure expressly provided for in this Convention,” and therefore the Court does hold jurisdiction in this case.

On behalf of the Government of Georgia

Georgia has claimed that Russia is responsible for serious violations of the Convention on the Elimination of All Forms of Racial Discrimination (CERD) of 1965. The violations include, but are not limited to, discrimination against ethnic Georgians living in South Ossetia and Abkhazia, the denial of ethnic Georgians to return to their homes, discriminatory treatment by means of violence and failure to discipline those individuals actively expelling or otherwise intimidating ethnic Georgians in and around the separatist States of South Ossetia and Abkhazia supporting of discriminatory treatment of ethnic Georgians.

On behalf of the Government of Russia

Russia has countered that this case should be removed from the Court. Russia believes that this case is not a dispute that can be applied to the 1965 Convention. Even if it did apply, Articles 2 and 5 are not

applicable extraterritorially. Also if the Convention was applicable, the procedural requirements of Article 22 have not been met. With these arguments in mind, Russia further states that the Court lacks authority to consider this case.

Admissibility of Conventions and Treaties

The Court is to apply the Treaty of Elimination of Discrimination (2 MARCH 2010)

I. Treaty of Elimination of Discrimination

1. Russia is to enforce, as is its obligation to the CERD, regulations against racial discrimination and stop supplying South Ossetian and Abkhazian militias, military aid until they stop discriminatory actions and allow ethnic Georgians to return to their homes.
2. Georgia must immediately and permanently cease all violent actions for which the aim is to recapture the separatist state of South Ossetia and/or the separatist state of Abkhazia and accept the succession of the two aforementioned states.
3. Russia and Georgia must uphold their promises to remain neutral in regards to the issue of the two separatist states.
4. Georgia and Russia will both be subject to prosecution by the ICJ and/or other organ(s) of the UN upon violation of this treaty.
5. All parties must engage in peace talks with the European Union President Sarkozy as a mediator.
6. Failure to comply with this treaty will result in investigations by the Security Council and the possibility of embargos and other measures.

II. Both Georgia and Russia are held to abide by all of the regulations laid down by the CERD.

Application of Conventions and Treaties

The treaty of Elimination of Discrimination will be upheld by UN peacekeepers, stationed on South Ossetia and Abkhazia. If any violations are witnessed in and or around the separatist states of South Ossetia or Abkhazia and are confirmed as legitimate breaches by the Human Rights Council and decide to place the perpetrator in the hands of competent authorities. The Russian Federation and Georgia are to also abide by the Convention of the Elimination of all forms of Racial Discrimination (CERD). If any of the CERD terms is violated it is to be submitted to the International Court of Justice for further prosecution.

Annex

Dissenting Opinions of Judges Corum, Nielson and Higgins

Justice Corum and Nielson acknowledge that the Russian Federation may have violated parts of the 1965 Convention, but that Georgia does not have a legitimate reason to submit an application about racial discrimination. We believe that the Court has jurisdiction over this case, but the application lacks strong evidence to support the racial discrimination allegations. We believe that allegation of the violation of Article 5 is not directly collaborated by the evidence against the Russian Federation. Article 2 cannot be applied to the Russian Federation as the violations occurred in South Ossetia. We believe there is not enough evidence for Georgia to make these claims in the Court against the Russian Federation.