

HONDURAS
and
NICARAGUA

Agreement (with related documents) for submitting to the International Court of Justice their differences with respect to the Award of His Majesty the King of Spain of 23 December 1906. Signed at Tegucigalpa and at Managua on 21 and 22 June 1957, respectively

Agreement (with annexes A and B) on the procedure for submitting to the International Court of Justice their differences with respect to the Award of His Majesty the King of Spain of 23 December 1906. Signed at Washington, on 21 July 1957

Official text: Spanish.

Registered by Honduras on 28 September 1957.

HONDURAS
et
NICARAGUA

Accord (avec documents connexes) en vue de soumettre à la Cour internationale de Justice leur différend au sujet de la sentence arbitrale prononcée le 23 décembre 1906 par Sa Majesté le Roi d'Espagne. Signé à Tegucigalpa et à Managua les 21 et 22 juin 1957, respectivement

Accord (avec annexes A et B) sur la procédure à suivre pour soumettre à la Cour internationale de Justice le différend au sujet de la sentence arbitrale prononcée le 23 décembre 1906 par Sa Majesté le Roi d'Espagne. Signé à Washington, le 21 juillet 1957

Texte officiel espagnol.

Enregistrés par le Honduras le 28 septembre 1957.

[TRANSLATION — TRADUCTION]

No. 4005. AGREEMENT¹ BETWEEN HONDURAS AND NICARAGUA FOR SUBMITTING TO THE INTERNATIONAL COURT OF JUSTICE THEIR DIFFERENCES WITH RESPECT TO THE AWARD OF HIS MAJESTY THE KING OF SPAIN OF 23 DECEMBER 1906.² SIGNED AT TEGUCIGALPA AND AT MANAGUA ON 21 AND 22 JUNE 1957, RESPECTIVELY

JUDICIAL PROCEDURE

INTERNATIONAL COURT OF JUSTICE

The High Contracting Parties,

Following the recommendations of the Council of the Organization of American States acting provisionally as Organ of Consultation, which were actuated by the provisions of the Inter-American Treaty of Reciprocal Assistance³ that are applicable to controversies between American States, which provisions urge such States to take the necessary measures to reestablish peace and settle their controversies by pacific means; and

Desirous of reestablishing as soon as possible the harmonious fraternal relations that are a traditional characteristic of relations between the American Republics and particularly between countries that, like those of Central America, consider themselves to be linked by historic ties of solidarity;

Agree to carry out, through the application of the American Treaty on Pacific Settlement the "Pact of Bogotá"⁴ — and for the purpose of settling once and for all the difference that is separating them at this time, the judicial procedure outlined below :

(1) The Parties, having recognized and accepted in the Pact of Bogotá the jurisdiction of the International Court of Justice as *ipso facto* compulsory, shall submit thereto the disagreement existing between them with respect to the Arbitral Award handed down by His Majesty the King of Spain on 23 December 1906,² with the understanding that each, within the framework of its sovereignty, shall present such facets of the matter in disagreement as it deems pertinent.

(2) The procedure to be followed by the Court shall be that established in its Statute and Rules of Procedure.

¹ Came into force on 22 June 1957 by signature.

² De Martens, *Nouveau Recueil général de Traités*, deuxième série, tome XXXV, p. 563.

³ United Nations, *Treaty Series*, Vol. 21, p. 77; Vol. 26, p. 417; Vol. 82, p. 330, and Vol. 209, p. 330.

⁴ United Nations, *Treaty Series*, Vol. 30, p. 55; Vol. 87, p. 389, and Vol. 88, p. 433.

(3) The decision, after having been duly pronounced and officially announced to the Parties, shall decide the disagreement definitively and without right of appeal, and shall be carried out without delay.

(4) If one of the High Contracting Parties should fail to comply with the obligations imposed upon it by the decision of the International Court of Justice, the other, before having recourse to the United Nations Security Council, shall request a Meeting of Consultation of Ministers of Foreign Affairs of the American States to decide upon all the measures that it is appropriate to take to enable the decision of the Court to be carried out.

(5) If, as a result of the application of the afore-mentioned judicial procedure, all phases of the disagreement with respect to the Arbitral Award handed down by His Majesty the King of Spain on 23 December 1906 are not definitively settled, the High Parties shall, without delay, apply the arbitral procedure provided by the aforesaid Pact of Bogotá to settle definitively the new situation created between them, which shall be clearly defined in the additional agreement that the High Parties are to sign to this end within a period of three months from the date they are officially notified of the decision.

(6) In accepting the procedure set forth in this instrument and the pertinent application of the Pact of Bogotá to the case here considered, the High Contracting Party that made a reservation to the aforesaid international agreement declares that the aforesaid reservation shall not take effect.

RELATED DOCUMENTS

C-d-578

SITUATION BETWEEN HONDURAS AND NICARAGUA

Document approved by the Government of Honduras

“AD HOC” COMMITTEE OF THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES ACTING PROVISIONALLY AS ORGAN OF CONSULTATION

Special Delegation

Tegucigalpa, D. C., 21 June 1957

Your Excellency,

We have the honour to enclose the text of the Instrument¹ which was considered at the meetings held today between the members of the Military Council of Government — General Roque J. Rodríguez, Colonel Héctor Caraccioli and Major Roberto Gálvez Barnes — yourself and the undersigned.

¹ See p. 170 of this volume.

We trust that the enclosed document will receive the formal approval of the Government of Honduras, and, if so, we would be very grateful if you would be so good as to confirm the same in reply to our communication and to send to us, with your reply, a copy of the said document with each of its paragraphs duly initialled by you in your capacity of Minister of Foreign Affairs.

We have the honour to be, etc.

(Signed) Luis QUINTANILLA
Ambassador of Mexico
and Vice-Chairman
of the *Ad Hoc* Committee

(Signed) Eduardo A. GARCIA
Ambassador of Argentina and member
of the *Ad Hoc* Committee

His Excellency Dr. Jorge Fidel Durón
Minister of Foreign Affairs
Tegucigalpa, D.C.

C-d-579

SITUATION BETWEEN HONDURAS AND NICARAGUA

Document approved by the Government of Nicaragua

“AD HOC” COMMITTEE OF THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES
ACTING PROVISIONALLY AS ORGAN OF CONSULTATION

Special Delegation

Managua, D.N., 22 June 1957

Your Excellency,

We have the honour to enclose the text of the Instrument¹ which was considered at the meetings held today with His Excellency Don Luis A. Somoza D., President of the Republic of Nicaragua, and yourself.

We trust that the enclosed document will receive the formal approval of the Government of Nicaragua, and, if so, we would be very grateful if you would be so good as to confirm the same in reply to our communication and to send to us, with your reply, a copy of the said document with each of its paragraphs duly initialled by you in your capacity of Minister of Foreign Affairs.

We have the honour to be, etc.

(Signed) Luis QUINTANILLA
Ambassador of Mexico
and Vice-Chairman
of the *Ad Hoc* Committee

(Signed) Eduardo A. GARCÍA
Ambassador of Argentina and member
of the *Ad Hoc* Committee

His Excellency Dr. Alejandro Montiel Argüello
Minister of Foreign Affairs
Managua, D.N.

¹ See p. 170 of this volume.

C-d-578

MILITARY COUNCIL OF GOVERNMENT
REPUBLIC OF HONDURAS

Tegucigalpa, D.C., 21 June 1957

Your Excellencies,

We have been apprised, through the Minister of Foreign Affairs of Honduras, of the contents of your note of today's date in which you, on behalf of the *Ad Hoc* Committee of the Council of the Organization of American States acting provisionally as Organ of Consultation, laid before us for consideration the text of a draft agreement outlining the procedure of submitting the existing disagreement between Honduras and Nicaragua to the International Court of Justice.

In reply, we have pleasure in enclosing the definitive text of the draft in question, duly approved, for submission to the Council of the Organization of American States.

The said Instrument received our approval because it strengthens and guarantees the observance and application of the Arbitral Award of His Majesty the King of Spain, dated 23 December 1906, in conformity with the guiding principles of the inter-American regional system which maintains inviolable the absolute respect of arbitral awards.

We have the honour to be, etc.

Military Council of Government :

(Signed) General Roque J. RODRÍGUEZ*(Signed)* Major Roberto GÁLVEZ B. *(Signed)* Colonel Héctor CARACCIOLI

Their Excellencies Dr. Luis Quintanilla
Ambassador of Mexico and Vice-Chairman
of the *Ad Hoc* Committee

Dr. Eduardo A. García
Ambassador of Argentina and member
of the *Ad Hoc* Committee

Tegucigalpa, D.C.

C-d-579

PRESIDENCY OF THE REPUBLIC
MANAGUA, NICARAGUA

Managua, D.N., 22 June 1957

Your Excellencies,

Through the Minister of Foreign Affairs I have received the draft which you submitted to him with reference to the judicial procedure for the settlement of the disagreement between Nicaragua and the Republic of Honduras.

Having examined the said draft and heard the unanimous expression of opinion of the representatives of the various sectors of the nation, I have pleasure in informing you that my Government accepts it on the following understanding :

(a) With regard to paragraph (1) : inasmuch as Nicaragua relies on what it contends is a sufficient answer to the claim — for it is Honduras which maintains the validity of the Royal Arbitral Award and is asking for its application — Honduras should be regarded as the plaintiff;

(b) With regard to paragraph (3) : this paragraph should not be construed as excluding whatever recourse is permissible under the Statute and Rules of the International Court of Justice in connexion with judgements of the said Court; and

(c) With regard to paragraph (6) : the sole object of the stipulation contained in that paragraph is to establish clearly the competence of the International Court of Justice to deal with the matter, and the terms of the paragraph in question will be incapable of being interpreted to mean that Nicaragua departs in any way from the position it has taken with respect to the substance of the question, that is, the withdrawal of the reservation referred to does not imply acceptance of the Royal Arbitral Award on the part of Nicaragua.

In communicating to you the foregoing, I have pleasure in sending herewith the draft submitted by you, with each of its paragraphs initialled by the Minister of Foreign Affairs.

At the same time I have pleasure in informing you that my Government is profoundly grateful to you, to the *Ad Hoc* Committee of the Council of the Organization of the American States and to the Council itself, for the co-operation which my country has received from you and from them in the settlement of its disagreement with the Republic of Honduras, and is most gratified by the success achieved, in conformity with the traditional policy of Nicaragua to submit its differences with other States to the modes of pacific settlement which are indicated by international law.

The submission to the International Court of Justice will afford Nicaragua an opportunity to prove its contention in law that the Arbitral Award of His Majesty the King of Spain is void and not in any way binding and that conse-

quently the status of the question of the frontiers between Nicaragua and Honduras is the same as it was prior to the said Award.

I have the honour to be, etc.

(Signed) Luis A. SOMOZA D.
President of the Republic

Their Excellencies Ambassador Dr. Luis Quintanilla
and Ambassador Dr. Eduardo A. García
Members of the *Ad Hoc* Committee of the Council
of the Organization of American States
City

C-d-581

COUNCIL OF THE ORGANIZATION OF AMERICAN STATES ACTING PROVISIONALLY AS
ORGAN OF CONSULTATION

Decisions taken at the meeting held on July 5, 1957

The Council passed the following resolution :

The Council of the Organization of American States acting provisionally as Organ of consultation,

Having seen:

The report of the *Ad Hoc* Committee charged with collaborating with the Governments of Honduras and Nicaragua in accordance with the resolutions approved on May 17 and May 24, 1957, by this Council acting provisionally as Organ of consultation; and

Considering:

That the regional system has demonstrated its effectiveness in carrying out its noble purpose of guaranteeing the sovereignty and independence of the American Republics and fraternal relations between them;

That, in accordance with the letter and the spirit of the Inter-American Treaty of Reciprocal Assistance — the Rio Treaty — the application of this instrument should lead not only to the elimination of any armed conflict but also to the promotion of measures for the pacific settlement of the controversy that is considered to have given rise to such a situation;

That the American Treaty on Pacific Settlement — the Pact of Bogotá — which has been ratified by the Governments of Honduras and Nicaragua, provides procedures that are applicable to the case under consideration; and

Pursuant to and in execution of the Rio Treaty,

Resolves:

1. To express its satisfaction at the voluntary and simultaneous acceptance by the Governments of Honduras and Nicaragua of the procedure of pacific settlement that, with the collaboration of the *Ad Hoc* Committee, was subscribed to by both Parties, and the text of which is as follows :

[See p. 170 of this volume]

2. To express its appreciation to the Governments concerned for the active and effective cooperation they gave to the Council acting provisionally as Organ of Consultation and the *Ad Hoc* Committee, to enable the procedural agreement whose text has been quoted in the preceding paragraph to be reached.

3. To request the Governments of Honduras and Nicaragua to maintain the present *status quo*, without thereby altering any of the legitimate rights claimed by both Parties, until a definitive settlement of the controversy is achieved by the application of rules of law and without at any time disrupting the peace between the Parties.

4. To state that the Honduran-Nicaraguan Joint Military Committee is empowered to deal with any differences that might arise during the period mentioned in the preceding paragraph, with respect to the agreement referred to in its current Regulations.

5. To transmit this document with each Party's note of acceptance to the Secretary-General of the United Nations and, through him, to the International Court of Justice.

6. To express its strong hope that the procedure set forth in the first paragraph of this resolution will settle, once and for all, the disagreement that has temporarily separated two countries like Honduras and Nicaragua, which are linked in a very special way by geographic and historic ties and called upon by destiny to maintain and strengthen their cordial relations in this important region of the Americas.

AGREEMENT¹ BETWEEN THE MINISTERS OF FOREIGN AFFAIRS OF HONDURAS AND NICARAGUA ON THE PROCEDURE FOR SUBMITTING TO THE INTERNATIONAL COURT OF JUSTICE THEIR DIFFERENCES WITH RESPECT TO THE AWARD OF HIS MAJESTY THE KING OF SPAIN OF 23 DECEMBER 1906.² SIGNED AT WASHINGTON, ON 21 JULY 1957

On 5 July 1957, the Council of the Organization of American States, acting provisionally as Organ of Consultation, adopted a resolution³ expressing satisfaction at the voluntary and simultaneous acceptance by the Governments of Honduras and Nicaragua of the procedure of pacific settlement to which they saw fit to subscribe. The provisions of the said procedure appear in the above-mentioned resolution.

In accordance with the resolution in question, the Parties, having undertaken to apply the American Treaty on Pacific Settlement — the “Pact of Bogotá”⁴ — and to make use of the procedures specified in that Pact, agree to abide by the following rules of procedure :

1. The Governments of Honduras and Nicaragua shall submit to the International Court of Justice, in accordance with the provisions of the Statute and Rules of Procedure of the Court, the disagreement existing between them with respect to the Arbitral Award handed down by His Majesty the King of Spain on 23 December 1906,² with the understanding that each, within the framework of its sovereignty, shall present such facets of the matter in disagreement as it deems pertinent.

2. The Government of Honduras shall, within a period of not more than ten months from 15 September 1957, and in accordance with Article 40 of the Statute of the International Court of Justice, submit to the Court a written application bringing the case before it and stating the claim, and shall give fourteen clear days’ notice to the Government of Nicaragua of the date on which it intends to submit the application.

3. Within two months of the notification to be given by the Court concerning the said written application, the Government of Nicaragua shall consider itself duly notified and shall appoint an agent or agents to represent it before the said Court.

¹ Came into force on 21 July 1957 by signature.

² De Martens, *Nouveau Recueil général de Traités*, Deuxième série, tome XXXV, p. 563.

³ See p. 180 of this volume.

⁴ United Nations, *Treaty Series*, Vol. 30, p. 55; Vol. 87, p. 389, and Vol. 88, p. 433.

4. The decision, after having been duly pronounced and officially announced, shall decide the disagreement definitively and without right of appeal, and shall be carried out without delay :

5. Should any of the situation arise which are envisaged in the Agreement between the two Governments embodied in the resolution adopted on 5 July 1957 by the Council acting provisionally as Organ of Consultation, the two Governments shall have recourse to the measures specified in that Agreement.

6. In giving practical effect to the provisions of the present Agreement, the Government of Honduras and the Government of Nicaragua are actuated by the lofty sentiments expressed in the sixth paragraph of the resolution adopted on 5 July 1957 by the Council acting provisionally as Organ of Consultation. The resolution stressed the special ties of geography and history linking Honduras and Nicaragua within the Central American community.

Washington, D.C., 21 July 1957

Dr. Jorge FIDEL DURÓN
Minister of Foreign Affairs
of the Republic of Honduras

Dr. Alejandro MONTIEL ARGÜELLO
Minister of Foreign Affairs
of the Republic of Nicaragua

ANNEX « A »

DECLARATION BY THE MINISTER OF FOREIGN AFFAIRS OF HONDURAS ON THE POSITION TAKEN BY HIS GOVERNMENT IN HAVING RE- COURSE TO THE INTERNATIONAL COURT OF JUSTICE

Honduras brings before the International Court of Justice its claim against Nicaragua asking for the application of the Arbitral Award of His Majesty the King of Spain of 23 December 1906 on the grounds that this Award is valid and unassailable. Honduras has maintained and continues to maintain that Nicaragua's failure to comply with the Award constitutes a breach of an international obligation within the meaning of Article 36 of the Statute of the International Court of Justice and under the rules of international law.

The above statement of the position of Honduras in this dispute is purely general in character and does not in any way constitute a definition or a delimitation of the matters to be submitted to the Court; nor does it constitute a formula restricting in any way the exercise of the rights which Honduras will uphold in the proceedings before the Court.

ANNEX « B »

DECLARATION BY THE MINISTER OF FOREIGN AFFAIRS OF NICARAGUA
ON THE POSITION TAKEN BY HIS GOVERNMENT IN APPEARING
BEFORE THE INTERNATIONAL COURT OF JUSTICE

Nicaragua, in appearing before the International Court of Justice, will answer the claim by Honduras, submitting such arguments, claims and facts, and raising such objections, as it may deem appropriate in order to challenge the validity of the Arbitral Award of 23 December 1906 and its binding force, and invoking such rights as it may be in its interest to invoke. Nicaragua has maintained and continues to maintain that the legal status of the question of its frontiers with Nicaragua is the same as it was prior to the said Award.

The foregoing statement of the position of Nicaragua in this dispute is purely general in character and does not in any way constitute a definition or delimitation of the matters to be submitted to the Court; nor does it constitute a formula restricting in any way the exercise of the rights which Nicaragua will uphold before the Court.
