

Oil Platforms
(Islamic Republic of Iran v. United States of America)

Decision of the Court

THE HAGUE, 6 November 2003. Today the International Court of Justice (ICJ), principal judicial organ of the United Nations, delivered its Judgment in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America).

In its Judgment, which is final, without appeal and binding on the Parties, the Court finds first, by fourteen votes to two, that "the actions of the United States of America against Iranian oil platforms on 19 October 1987 and 18 April 1988 cannot be justified as measures necessary to protect the essential security interests of the United States of America under Article XX, paragraph 1 (d), of the 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, as interpreted in the light of international law on the use of force", but the Court "cannot however uphold the submission of the Islamic Republic of Iran that those actions constitute a breach of the obligations of the United States of America under Article X, paragraph 1, of that Treaty, regarding freedom of commerce between the territories of the parties, and that, accordingly, the claim of the Islamic Republic of Iran for reparation also cannot be upheld".

The Court further finds, by fifteen votes to one, that "the counter-claim of the United States of America concerning the breach of the obligations of the Islamic Republic of Iran under Article X, paragraph 1, of the above-mentioned 1955 Treaty, regarding freedom of commerce and navigation between the territories of the parties, cannot be upheld; and accordingly, that the counter-claim of the United States of America for reparation also cannot be upheld".

Reasoning of the Court

In its Judgment, the Court, after recalling the history of the proceedings, observes that its task is to determine whether or not there have been breaches of the Treaty of Amity, Economic Relations and Consular Rights signed in 1955 between the United States and Iran and to draw the appropriate consequences therefrom in light of the submissions of the Parties.

Iran contends that, in attacking and destroying on 19 October 1987 and 18 April 1988 three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, the United States violated freedom of commerce between the territories of the Parties as guaranteed by the Treaty. It seeks reparation for the injury thus caused. For its part, the United States argues in a counter-claim that it is Iran which violated the 1955 Treaty by attacking vessels in the Gulf and otherwise engaging in military actions that was dangerous and detrimental to commerce and navigation between the United States and Iran. The United States likewise seeks reparation for the injury suffered.

The Court begins by considering whether the actions by American naval forces against the Iranian oil complexes were justified under the 1955 Treaty as measures necessary to protect the essential security interests of the United States (Article XX, paragraph 1 (d), of the Treaty). The Court states that it must interpret that provision of the Treaty in light of the relevant rules of international law. It accordingly concludes that the United States was only entitled to have recourse to force under the provision in question if it was acting in a self-defence. The Court further states that the United States could exercise such a right of self-defence only if it had been the victim of an armed attack by Iran and makes it clear that, if so, the United States actions must have been necessary and proportional to the armed attack against it. After carrying out a detailed examination of the evidence provided by the Parties, the Court finds that the United States has not succeeded in showing that these various conditions were satisfied in the present case, and it accordingly concludes that the United States was therefore not entitled to rely on the provisions of Article XX, paragraph 1 (d), of the 1955 Treaty.

The Court then examines the issue of whether the United States, in destroying the platforms, impeded their normal operation, thus preventing Iran from enjoying freedom of commerce "between the territories of the two High Contracting Parties" as guaranteed by the 1955 Treaty (Article X, paragraph 1). It concludes that, as regards the attack of 19 October 1987, the Reshadat and Resalat platforms were under repair and not operational and that at that time there was thus no trade in crude oil from those platforms between Iran and the United States. Accordingly, in the Court's view, the attack on those platforms cannot be considered as having affected freedom of commerce between the territories of the two States. The Court reaches the same conclusion in respect of the attacks on the Salman and Nasr complexes on 18 April 1988, since all trade in crude oil between Iran and United States had been suspended as a result of an embargo imposed by an Executive Order adopted on 29 October 1987 by the American authorities. In light of the foregoing, the Court finds that the United States did not breach its obligations to Iran under Article X, paragraph 1, of the 1955 Treaty and rejects Iran's claim for reparation.

In regard to the United States counter-claim, the Court, after rejecting the objections to jurisdiction and admissibility raised by Iran, considers whether the incidents attributed by the United States to Iran infringed freedom of commerce or navigation between the territories of the Parties as guaranteed by Article X, paragraph 1, of the 1955 Treaty. The Court finds that none of the ships alleged by the United States to have been damaged by Iranian attacks was engaged in commerce or navigation between the territories of the two States. Nor does the Court accept the generic claim by the United States that the actions of Iran had made the Persian Gulf unsafe for shipping, concluding that, according to the evidence before it, there was not, at the relevant time, any actual impediment to commerce or navigation between the territories of Iran and the United States. The Court accordingly rejects the United States counter-claim for reparation.

Composition of the Court

The Court was composed as follows: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka; Judge ad hoc Rigaux; Registrar Couvreur.

Vice-President Ranjeva and Judge Koroma append declarations to the Judgment of the Court; Judges Higgins, Parra-Aranguren and Kooijmans append separate opinions to the Judgment of the Court; Judge Al-Khasawneh appends a dissenting opinion to the Judgment of the Court; Judge Buergenthal appends a separate opinion to the Judgment of the Court; Judge Elaraby appends a dissenting opinion to the Judgment of the Court; Judges Owada and Simma and Judge ad hoc Rigaux append separate opinions to the Judgment of the Court.

A summary of the Judgment is published in the document entitled "Summary No. 2003/2", to which a summary of the declarations and opinions is attached. The present Press Release, the summary and the full text of the Judgment also appear on the Court's website under the "Docket" and "Decisions" headings (www.icj-cij.org).