



Birla Model United Nations Conference 2021

**Committee:**

# **INTERNATIONAL COURT OF JUSTICE**

Agenda: Nicaragua Vs. United States of America Case.

## Letter from the Executive Board

Greetings Members,

It's a pleasure for us to be presiding over the International Court of Justice in this edition of Birla Model United Nations. We assume the responsibility of helping out each and every delegate in the committee to perform to his/her best potential let alone going back with an award. In this simulation of the ICJ, we look forward to a debate backed with concrete facts, information and analysis not short of respect towards your foreign policy, speaking of which, do keep in mind that your country's foreign policy holds prime importance in the committee; just as much as the content you speak. Having all of the necessary aspects kept in mind, odds are that you would emerge as the proficient delegate you look for in yourself.

This guide was created to serve as a starting point to your research and to give you a brief overview of the subject matter. It is important that you use this document as a reference point for more research and not as an end in itself. Another important aspect of your preparation will be to analyse your research. Don't just read documents, understand how they fit into the larger context of world events related to the agenda. I would suggest that you take notes on your research. This will help you refer to it during committee as well as understand the underlying concept better once you translate it to words, you're comfortable in using. The committee, the Executive Board as well as the organisers want to make this as comfortable an experience for you as possible. Your comfort will be a priority for us at all times. Do not hesitate at any point to approach us with your doubts. As frivolous as they might sound in your head, trust me, we had them when we were starting out as well. Your confidence will grow bit by bit as you get accustomed to your surroundings in committee. Come with an open mind, come with a willingness to observe and most importantly come with a willingness to try. I have learnt that public speaking is somewhat addictive. Give yourself that first chance and it will grow on you. We wish you all the best and hope that we can make this an enriching experience for you. We can be reached to address your doubts and queries at all hours, please don't hesitate in contacting any one of us (however, please e-mail and not contact on Facebook as some of us are quite inactive on social media).

Regards

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About the Council: <https://www.icj-cij.org/en/court>

**IMPORTANT: Deliberate on the given situation in context of the current laws and treaties because Nicaragua has asked for a re-opening of the same. You have to provide us with proper insights into the same.**



## THE HISTORY OF THE SITUATION

- Under President Taft, the United States launched its first armed intervention in Nicaragua. He personally oversaw the assassination of Nicaraguan President José Santos Zelaya in 1909. A contingent of 2,300 US Marines landed at the port of Corinto in August and September 1912 and captured León and the railway connection to Granada. During the occupation, a pro-US administration was formed. The Bryan–Chamorro Treaty, signed ten days before the opening of the US-operated Panama Canal, granted the US perpetual canal rights in Nicaragua, barring anybody from building a competitor canal without the US's approval.
- Augusto César Sandino led a major peasant uprising against both the US occupation and the Nicaraguan establishment in 1927. The Marines left Nicaragua in 1933, putting the Nicaraguan National Guard in charge of internal security and elections. Anastasio Somoza Garca, the head of the National Guard, ordered his forces to kidnap and assassinate Sandino in 1934. Somoza assumed the presidency in 1937, while still in command of the National Guard, and established a dictatorship that lasted until 1979.
- The demise of the dictatorship is ascribed to the wasting of millions of dollars in international aid handed to the country in reaction to the 1972 earthquake. Many moderate supporters of the dictatorship abandoned it in the face of mounting revolutionary fervour. The Sandinista (FSLN) organisation coordinated relief efforts, grew in strength, and eventually took over as head of the revolution. Following a public uprising in 1979, the FSLN assumed control. The United States had long opposed the communist FSLN, and in the aftermath of the revolution, the Carter administration moved rapidly to provide financial and material support to the Somocistas. When Ronald Reagan was elected president, he increased direct backing for the Contras, an anti-Sandinista army composed of former dictatorship loyalists. When Congress outlawed further funding for the Contras, Oliver North continued to fund them through arms sales, which were previously prohibited by Congress.

**NOTE: Nicaragua requested an end to such activities as well as compensation from the US for the harm done to its people, property, and economy. It's worth noting that the United States was the sole party to challenge the court's ruling, claiming that the court made a decision over which it "lacked both power and competence to render." Members who sided with the US in opposing Nicaragua's claims raised no objections to the court's jurisdiction, rulings, or the case's fundamental merits.**

## THE SITUATION'S FACTS

- On April 9, 1984, Nicaragua filed an application to begin proceedings against the United States of America, as well as a request for the designation of interim remedies in a dispute over accountability for military and paramilitary activity in and against Nicaragua. The Court issued an order specifying provisional measures on May 10, 1984. One of these procedures demands the US to immediately cease and desist from any action obstructing access to Nicaraguan ports, including the deployment of mines. The Court also stated that Nicaragua's right to sovereignty and political independence, like any other countries, should be fully respected and not jeopardised by activities that violate the prohibition on the threat or use of force, as well as the principle of non-interference in a country's internal affairs. The Court further directed in the aforementioned Order that the proceedings commence with questions of the Court's jurisdiction and the admissibility of the Nicaraguan Application. Just before the written

proceedings in this phase completed, El Salvador submitted a statement of intervention in the matter under Article 63 of the Statute, requesting authorisation to claim that the Court lacked jurisdiction to consider Nicaragua's Application. In an order dated 4 October 1984, the Court ruled that El Salvador's statement of intervention was inadmissible insofar as it related to the jurisdictional phase of the proceedings.

- The Court issued a verdict on November 26, 1984, declaring that it had jurisdiction to hear the matter and that Nicaragua's application was acceptable after hearing arguments from both parties during public hearings held from October 8 to October 18, 1984. It determined, in particular, that Nicaragua's 1929 declaration was legitimate, and that Nicaragua was thus allowed to rely on the 1946 US declaration as the basis for the Court's jurisdiction (Article 36, paragraphs 2 and 5, of the Statute). The following sessions were held in the absence of the United States, which stated on January 18, 1985, that it "intends not to engage in any future proceedings in connection with this case." From September 12 to September 20, 1985, the Court heard Nicaragua's oral argument as well as the testimony of the five witnesses it had presented. On June 27, 1986, the Court issued its verdict on the merits. The findings included a rejection of the United States' justification for collective self-defense in relation to military or paramilitary activities in or against Nicaragua, as well as a declaration that the US had violated customary international law obligations not to intervene in the affairs of another State, not to use force against another State, and not to infringe on another State's sovereignty. The Court also concluded that the United States had violated the duties imposed by a bilateral Pact of Friendship, Commerce, and Navigation signed in 1956, and that it had done so in such a way that the pact had lost its object and purpose.
- It was determined that the United States had an immediate duty to cease and desist from all acts constituting breaches of its legal obligations, and that it had an obligation to compensate Nicaragua for all harm caused by breaches of obligations under customary international law and the 1956 Treaty, with the amount of compensation to be determined in subsequent proceedings if the Parties were unable to reach an agreement. Despite the United States' reluctance to engage in the case, the Court imposed time limits for the Parties to file formal pleadings on the form and amount of compensation in an Order, and the Memorial of Nicaragua was filed on March 29, 1988. Nicaragua informed the Court, among other things, that it did not wish to continue the proceedings in September 1991. The United States told the Court that it was happy with the ruling, and the case was removed from the Court's docket by President's Order dated September 26, 1991.

**The concerns that must be addressed and the questions that must be answered are as follows:**

- Is the International Court of Justice competent to hear a dispute between two nations if both acknowledge the Court's jurisdiction?
- Can a state file an application with the International Court of Justice if there are no grounds to deny it?
- Whether the Court should rule on claims involving the use of force in international relations, despite the fact that its jurisdiction is limited to problems "arising under" the United Nations Charter and the Charter of the Organization of American States, and, if so, which applicable treaty law to apply.
- Whether the United States breached its pledge not to interfere in Nicaraguan domestic matters by training, equipping, arming, supporting, and supplying the contra rebels.



- Whether the United States' use of force breached its international law commitment not to use force; and whether any of those operations also violated or were intended to undermine the 1956 US-Nicaragua FCN Treaty.
- Whether the United States violated international humanitarian law by issuing a training handbook for Nicaraguan insurgents in 1983.
- Whether the United States' intervention in Nicaragua and embargo against Nicaragua violated applicable law, and, if so, whether the intervention was justified by El Salvador, Honduras, and Costa Rica's alleged requests for collective self-defence, or whether any other circumstances justified the intervention.
- Whether the United States should compensate Nicaragua for violations of international treaties and customary international law.

### Other Important Links

- <https://www.icj-cij.org/en/case/70/institution-proceedings>
- <https://www.icj-cij.org/en/case/70/provisional-measures>
- <https://www.icj-cij.org/en/case/70/jurisdiction-admissibility>
- <https://www.icj-cij.org/en/case/70/orders>
- <https://www.icj-cij.org/en/case/70/press-releases>
- <https://www.icj-cij.org/en/case/70/discontinuance>

