



**Montessori Model United Nations 2011**  
**INTERNATIONAL COURT OF JUSTICE**  
Treaty of Territorial Integrity Along Shared Borders  
Summary of the Judgment of April 14, 2011

Judge Pisani, President of the Court, Judge Lagarde, Vice President of the Court, Judges Shea, Asim, Grady, Francisco, Guyot, Pathirana, Hall, Schmaier, Brochinni, Zildjian, Zehr, Byrnes, and Hernandez.

**The Chamber,**

Agrees to invoke the Treaty of Territorial Integrity Along Shared Borders 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 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 the year 2000, the United States launched Plan Colombia; a long-term partnership between Colombia and the United States for the eradication of illicit plants used in the global drug trade by aerial herbicide spraying. In March of 2008, Ecuador formally complained to the ICJ about the spray drifting across its border with Colombia. Ecuador stated “the spraying has caused serious damage to people, to crops, to animals, and to the natural environment on the Ecuadorian side of the frontier, and poses a great risk of further damage over time.” Ecuador has further stated that “repeated and sustained efforts to negotiate an end to the fumigations” but that “these negotiations have proved unsuccessful”. Ecuador has brought an admissible claim to the International Court of Justice, and it has jurisdiction because of Article XXXI of the “Pact of Bogotá” of April 30, 1948 to which both states are parties. Ecuador also cites Article 32 of the 1988 “United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances”.

**On behalf of the government of Ecuador**

Ecuador has stated that the aerial dispersion of toxic herbicides, originating from Colombia, has already caused serious damage to human health, environment, and property of Ecuadorian citizens, and poses a grave risk of further damage over time. Ecuador, in its application, invokes both the 1948 Pact of Bogotá and The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988). Ecuador claims that they, in accordance with these two documents, have attempted to negotiate with Colombia concerning the dispute over aerial herbicide spraying. The negotiations have proved unsuccessful.



### **On behalf of the government of Colombia**

Colombia has been waging a war against the growing illicit drug trafficking in their country over the past few decades that has drawn international attention and condemnation. In an effort to curb this growing problem, Colombia has been active in the destruction of illegal plants because of a legal obligation to the world and in accordance to the UN Convention Against the Use of Illicit and Narcotic Drugs. In Article 14, Section 5, this convention states that “the Parties may also take necessary measures for early destruction or lawful disposal of the narcotic drugs.” Colombia has undertaken a number of initiatives, including Plan Colombia. In order with this plan, they have been spraying over the illicit drug plantations and working towards fulfilling its obligations to the Convention Against the Use of Illicit and Narcotic Drugs. Due to these facts, Colombia is not at fault for the damages done to Ecuador.

### **Admissibility of Conventions and Treaties**

The Court is to apply the Treaty of Territorial Integrity Along Shared Borders (14 APRIL 2011)

#### **I. The Treaty of Territorial Integrity Along Shared Borders**

1. Colombia is to abide to both the Treaty of Bogota and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and to respond to Ecuador’s concerns about continued aerial herbicide spraying and ensure that the basic human right to live a healthy life is respected.
2. Colombia must immediately respect a temporary 10 mile no spray zone from the shared Ecuador/ Colombia border, until reviewed by a mutually agreed upon third party that will determine the final no spray zone area within a 6 month period.
3. A mutually agreed upon third party to determine the amount damages done by Colombia’s herbicidal spray and what the various repayment timetables will be within a 6 month time period. (Monetary, aid based, and infrastructure) This will include a separate monetary fund to be created for future environmental assessment and potential damages.

### **Application of Conventions and Treaties**

The Treaty of Territorial Integrity Along Shared Borders will be upheld by the United Nations Environment Program. Ecuador and Colombia are to abide by the Treaty of Bogota and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. If any violations are witnessed in and or around the designated no spray zone between Ecuador and Colombia and are confirmed as legitimate infractions by the UNEP, it is to be submitted the International Court of Justice for further prosecution.



**Montessori Model United Nations 2011**  
**INTERNATIONAL COURT OF JUSTICE**  
Treaty of Extraterritorial Jurisdiction

Summary of the Judgment of April 15, 2011

Judge Pisani, President of the Court, Judge Lagarde, Vice President of the Court, Judges Shea, Asim, Grady, Francisco, Guyot, Pathirana, Hall, Schmaier, Brochinni, Zildjian, Zehr and Byrnes.

**The Chamber,**

Agrees to invoke the Treaty of Extraterritorial Jurisdiction 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 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 1982, Chadian native Hissene Habre became the head of state of Chad. In the eight years he held power, his administration allegedly committed 40 000 politically motivated murders. When he was lost power in 1990, he fled to the Republic of Senegal (hereinafter Senegal), where he continues to reside. He was indicted by Senegalese government officials on February 3, 2000. Citizens of the Kingdom of Belgium (hereinafter known as Belgium) of Chadian origin filed complaints against Mr. Habre between November 2000 and December 2001 in Belgium. The native Chadians filed complaints in Senegal all through 2000. On July 4, 2000, Senegalese officials dismissed these complaints for a variety of reasons. In 2001, a Belgian judge launched an investigation of Mr. Habre, which was concluded in 2005. Once this investigation was complete, Belgium requested extradition processes to begin. In 2005, Mr. Habre was arrested by Senegalese forces, though Senegal denied Belgium's request for extradition. The AU issued a mandate to Senegal, which instructed them to try Mr. Habre. Senegal passed legislation in February 2007 allowing them to prosecute crimes against humanity, even if they were not committed on Senegalese soil. Senegal amended its constitution to state that the law applies to crimes that were committed before the law was passed in July 2008. Senegal stated that they did not have sufficient funding to try Mr. Habre. However, on November 24<sup>th</sup> 2010, international donors granted Senegal a sum of 11.7 million US dollars for the purpose of funding the trial for Mr. Habre. On January 30<sup>th</sup> 2011 Senegal met with the rest of the AU. The AU submitted a plan for a special court of African judges to be formed to begin the trial of Mr. Habre.



### **On behalf of the government of Belgium**

Belgium filed an Application instituting proceedings against Senegal in respect of a dispute concerning “Senegal’s compliance with its obligation to prosecute Mr. Hissène Habré, former President of the Republic of Chad, or to extradite him to Belgium for the purposes of criminal proceedings”. Belgium bases its claims on the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (hereinafter “the Convention against Torture”), as well as on customary international law.

Belgium refers to the declarations made under Article 36, paragraph 2, of the Statute, by Belgium on 17 June 1958 and by Senegal on 2 December 1985, and to Article 30, paragraph 1, of the Convention against Torture.

Belgium maintains that Senegal, where Mr. Habré has resided since 1990, has taken no action on its repeated requests to see the former President of Chad prosecuted in Senegal, failing his extradition to Belgium, for acts characterized as including crimes of torture and crimes against humanity, allegedly perpetrated during his presidency between 7 June 1982 and 1 December 1990. Belgium refers to complaints filed in Senegal in 2000 against Mr. Habré by seven natural persons and one legal person, to complaints filed with the Belgian judicial authorities between 30 November 2000 and 11 December 2001 by a Belgian national of Chadian origin and by Chadian nationals, and to an international arrest warrant issued against Mr. Habré by the Belgian investigating judge responsible for the case. Belgium notes that the complaints filed in Senegal were dismissed by the Chambre d’accusation of the Dakar Court of Appeal on 4 July 2000.

Belgium asks the court to rule that the Republic of Senegal is obliged to bring criminal proceedings against Mr. Habre and that, if the Republic of Senegal fails to prosecute Mr. Habre, he should be extradited to Belgium where they will institute criminal proceedings against him.

### **On behalf of the government of Senegal**

Senegal believes that they have many legitimate reasons for not moving forward with Mr. Habre’s case. Senegalese appeals courts ruled that they could not prosecute crimes committed outside of Senegal by a foreigner, because it was not in their legislation. They also had little criminal law concerning crimes against humanity. This was changed in 2008, so that Senegal can now extend its jurisdiction against human rights violations, acts of genocide, war crimes, and torture even if they are outside of Senegal and committed by a non-Senegalese.

Another reason is that they previously lacked sufficient funding from international donors for the costs of the trial. Senegal has kept Mr. Habré under house arrest and heavy surveillance while the money was being gathered. Finally, at the time of the crimes, Mr. H. Habré was the Head of State in his home country of Chad, which implies that he should receive immunity from being prosecuted, as the Senegalese appeals court ruled. Belgium’s extradition request is not valid because Senegal referred the dispute to the African Union, which responded by proposing a special court made with judges appointed by the AU to try Mr. Habré. Therefore, Senegal has fulfilled its obligations under the 1984 United Nations Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.



### **Admissibility of Conventions and Treaties**

The Court is to apply the Treaty of Extraterritorial Jurisdiction (15 APRIL 2011)

- I. The Treaty of Extraterritorial Jurisdiction
  1. In conformity with Belgium's application, Senegal is to comply with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984, Article 6, Paragraphs 1 and 4, with the African Union, a trial for Mr. H. Habré to begin within a four-month period.
  2. Senegal must immediately begin final preparations to begin Mr. H. Habre's trial, and begin the trial before the deadline.
  3. In the event that Senegal fails to meet this deadline, Mr. H. Habré shall be extradited to the Kingdom of Belgium immediately.
  4. Failure to comply with the points outlined in this treaty will result in Mr. Habre's case being moved to the International Criminal Court.
- II. Both Senegal and Belgium must abide by the regulations laid out by the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984.

### **Application of Conventions and Treaties**

The Treaty of Extraterritorial Jurisdiction will be upheld by the United Nations Crime Prevention and Criminal Justice Commission. Belgium and Senegal are to abide by the United Nations Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment and follow the International Court of Justice's Treaty of Extraterritorial Jurisdiction. If Senegal does not comply with either initiating trial preparation or the extradition of Mr. Habre to Belgium, this case is immediately referred to the International Criminal Court for consideration.

### **Annex**

Concurring Opinion

Judge Hernandez

I concur with the Court's conclusion with one respectful exception. The Court finds that Senegal has had ample time to initiate court proceedings against Mr. Habre and that the United Nations Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment clearly states that Senegal must extradite Mr. Habre immediately. Senegal has not made any significant attempts to prosecute Mr. Habre over an 11 year period from the initial charges being brought against him. As a result, the Court believes that Mr. Harbre should be extradited immediately to Belgium so that court proceedings can proceed in an established court that has great experience in international trials.

