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World Court Settles San Juan River Dispute; Nicaragua And Costa Rica Both Claim Victory

by LADB Staff

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An on and off disagreement that has ranged between a tiff and a call to war since Central America's independence from Spain in 1821 has been settled between Costa Rica and Nicaragua, and both sides seem happy with the results. The International Court of Justice (ICJ), or World Court, as the UN's top tribunal is otherwise known, has handed down a verdict on who gets to do what on the San Juan River, the waterway that runs from Lake Nicaragua to the Caribbean, roughly defining the border between the countries. It was not the border that was in dispute; it was the treaty rights on the river. It is established that the river is in Nicaragua, but the bank on the Costa Rican side is Costa Rica. Nicaragua's former President Arnaldo Aleman (1997-2002) is usually credited with fomenting the latest dustup. In 1998, he banned Costa Rican armed patrols on the river, exacting tolls or fines on Costa Rican boats, and otherwise irritating his southern neighbor to the point that the Costa Ricans took the case to the ICJ in 2005 (see NotiCen, 2005-11-03). Both sides claimed victory with the July 13 decision from The Hague, but Costa Rica claims to have had more victory than Nicaragua. The Costa Ricans had their rights to navigate for commercial purposes upheld and the right to subsistence fishing on their side of the river. An 1858 treaty extended navigation rights to Costa Rica, but Nicaragua denied that passenger travel and fishing were part of the deal. The court ruled that Costa Ricans on the river were not required to have Nicaraguan tourist cards or visas as Nicaragua alleged but, in a nod to the Nicaraguans, ruled that Costa Rican boats and passengers have to stop at the first and last Nicaraguan port along their route. They must also have an identity document or passport. Nicaragua can also impose timetables on Costa Rican traffic. Nicaragua may require Costa Rican boats to display the flag of Nicaragua but may not charge them for departure clearance from its ports. These were all specific items of contention brought to the court in the 2005 filing. The part of the judgment Nicaragua has waxed triumphal about, said Deputy Foreign Minister Valdrack Jaentschke, was its recognition of Nicaraguan sovereignty and a ban on Costa Rica patrolling the river with armed police. This last was an important provocation for Nicaragua (see NotiCen, 1998-08-03). Lacking an army, Costa Rica has a very formidable and heavily armed police establishment. With that off the river, "It's been made extremely clear. The waters are Nicaragua's, and that's one of the arguments that Nicaragua wanted to confirm," said Jaentschke. Jaentschke's Costa Rican homologue Edgar Ugalde explained his country's satisfaction with the outcome, saying, "We didn't have any rights when we came to the court." But he figured his side came away with "around 70% of what we asked for." His boss, Foreign Minister Bruno Stagno, said the most important aspect of the decision was Costa Rica's recovery of navigation rights and the benefits to the population living in the zone. The judgment involved 21 different and separate rulings and appears to have been finely tuned to the circumstances. For instance, subsistence fishing was upheld as a "customary right" supported by Costa Ricans making their livelihoods "undisturbed and unquestioned," but commercial fishing was seen as a different matter not meeting those criteria and was disallowed. In like manner, while armed police patrols were denied Costa Rica, government use of the waterway to provide essential services was permitted, and individuals were granted the right to put their boats on the water for similar reasons. A final reason that both

sides have peacefully accepted the decision of the 14 judges hailing from all parts of the world and sitting half a world away is that they have to. The decision is binding, and cannot be appealed.

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