

## DECLARATION OF JUDGE PARRA-ARANGUREN

1. Notwithstanding my vote in favour of the operative clause of the Judgment, I feel it necessary to make the following point.

2. Paragraph 136 of the Judgment states: “the Court considers that the provisions of the Pact of Bogotá and the declarations made under the optional clause represent two distinct bases of the Court’s jurisdiction which are not mutually exclusive”.

3. The conclusion reached in paragraph 136 is supported by making reference to the Judgment in the case *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, *Jurisdiction and Admissibility (Judgment, I.C.J. Reports 1988, p. 85, para. 36)* and to a quotation from the 1939 Judgment of the Permanent Court in the case *Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria) (Judgment, 1939, P.C.I.J., Series A/B, No. 77, p. 76)*.

4. However, the *Armed Actions* decision does not support this conclusion in the present Judgment, because as is indicated in paragraph 134, “the Court was merely responding to and rejecting the arguments by Honduras”.

5. The quotation from the *Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria)* Judgment of 1939 is not applicable, because in the present case there is no “multiplicity of agreements concluded accepting the compulsory jurisdiction” of the Court.

6. As indicated in paragraph 122 of the Judgment, Nicaragua and Colombia made declarations on 24 September 1929 and 30 October 1937 respectively, under Article 36 of the Statute of the Permanent Court of International Justice, which are deemed to be acceptances of the compulsory jurisdiction of this Court under Article 36, paragraph 5, of its Statute. However, they made a new declaration under Article 36, paragraph 2, of the Statute of the Court as prescribed in Article XXXI of the Pact of Bogotá when they ratified the latter in 1950 and 1968 respectively. In my opinion, it is not possible for two different declarations to continue to be simultaneously in force in the relations between Nicaragua and Colombia, because the second declaration necessarily replaced the first one in their reciprocal relations.

7. Therefore I consider that the optional clause declarations made by Nicaragua and Colombia in 1929 and 1937 respectively are no longer in force, and for this reason they cannot be invoked as a basis for the jurisdiction of the Court.

(Signed) Gonzalo PARRA-ARANGUREN.