



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)

Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)

Conclusion of the public hearings

The Court to begin its deliberation

THE HAGUE, 1 May 2015. The public hearings in the joined cases concerning Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and the Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica) were concluded today. The Court will now begin its deliberation.

During the hearings, which opened on Tuesday 14 April 2015 at the Peace Palace, seat of the Court, the delegation of the Republic of Costa Rica was led by H.E. Mr. Edgar Ugalde Álvarez, Ambassador on Special Mission, as Agent; and the delegation of the Republic of Nicaragua was led by H.E. Mr. Carlos José Argüello Gómez, Ambassador of Nicaragua to the Kingdom of the Netherlands, as Agent and Counsel.

The Court will pronounce on the cases at a public sitting, the date of which will be announced in due course.

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Final submissions of the Parties

The final submissions presented by the Parties at the end of the oral proceedings are annexed to this press release.

Internal judicial practice of the Court with respect to deliberations

Deliberations take place in private in accordance with the following procedure. The Court first holds a preliminary deliberation, during which the President outlines the issues which, in his

opinion, require discussion and decision by the Court. Each judge then prepares a written Note setting out his or her views; these Notes are exchanged among the judges. A full deliberation is subsequently held, at the end of which a drafting committee is chosen by secret ballot, taking account of the views expressed. That committee consists in principle of two judges holding the majority view of the Court, together with the President, unless it appears that his views are in the minority. The committee prepares a preliminary draft text, which is the subject of written amendments. Two further drafts are produced in turn, each of which is subject to a detailed reading. In the meantime, judges who wish to do so may prepare a declaration, a separate opinion or a dissenting opinion, which are communicated to the other judges. The final vote is taken after adoption of the final text of the judgment at the second reading.

Note: The Court's press releases do not constitute official documents. The complete verbatim records of the hearings held from 14 April to 1 May 2015 are published on the website of the Court (www.icj-cij.org).

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the "World Court", it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other mostly criminal judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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At the end of the oral proceedings in the case concerning Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua), the Parties presented the following final submissions to the Court:

For Costa Rica (on Tuesday 28 April 2015):

“For the reasons set out in the written and oral pleadings, the Republic of Costa Rica requests the Court to:

- (1) reject all Nicaraguan claims;
- (2) adjudge and declare that:
 - (a) Sovereignty over the ‘disputed territory’, as defined by the Court in its Orders of 8 March 2011 and 22 November 2013, belongs to the Republic of Costa Rica;
 - (b) By occupying and claiming Costa Rican territory, Nicaragua has breached:
 - (i) the obligation to respect the sovereignty and territorial integrity of the Republic of Costa Rica, within the boundaries delimited by the 1858 Treaty of Limits and further defined by the Demarcation Commission established by the Pacheco-Matus Convention, in particular by the first and second Alexander Awards;
 - (ii) the prohibition of the threat or use of force under Article 2 (4) of the Charter of the United Nations and Article 22 of the Charter of the Organization of American States;
 - (iii) the prohibition to make the territory of other States the object, even temporarily, of military occupation, contrary to Article 21 of the Charter of the Organization of American States; and
 - (iv) the obligation of Nicaragua under Article IX of the 1858 Treaty of Limits not to use the San Juan River to carry out hostile acts.
 - (c) By its further conduct, Nicaragua has breached:
 - (i) the obligation to respect Costa Rica’s territory and environment, including its wetland of international importance under the Ramsar Convention ‘Humedal Caribe Noreste’, on Costa Rican territory;
 - (ii) Costa Rica’s perpetual rights of free navigation on the San Juan in accordance with the 1858 Treaty of Limits, the 1888 Cleveland Award and the Court’s Judgment of 13 July 2009;
 - (iii) the obligation to inform and consult with Costa Rica about any dredging, diversion or alteration of the course of the San Juan River, or any other works on the San Juan River that may cause damage to Costa Rican territory (including the Colorado River), its environment, or Costa Rican rights, in accordance with the 1888 Cleveland Award and relevant treaty and customary law;
 - (iv) the obligation to carry out an appropriate transboundary environmental impact assessment, which takes account of all potential significant adverse impacts on Costa Rican territory;
 - (v) the obligation not to dredge, divert or alter the course of the San Juan River, or conduct any other works on the San Juan River, if this causes damage to Costa Rican territory

(including the Colorado River), its environment, or to Costa Rican rights under the 1888 Cleveland Award;

- (vi) the obligations arising from the Orders of the Court indicating provisional measures of 8 March 2011 and 22 November 2013;
 - (vii) the obligation to consult with Costa Rica on the implementation of obligations arising from the Ramsar Convention, in particular the obligation to co-ordinate future policies and regulations concerning the conservation of wetlands and their flora and fauna under Article 5 (1) of the Ramsar Convention; and
 - (viii) the agreement between the Parties, established in the exchange of Notes dated 19 and 22 September 2014, concerning navigation on the San Juan River by Costa Rica, close to the eastern caño constructed by Nicaragua in 2013.
- (d) Nicaragua may not engage in any dredging operations or other works if and to the extent that these may cause damage to Costa Rican territory (including the Colorado River) or its environment, or which may impair Costa Rica's rights under the 1888 Cleveland Award, including its right not to have its territory occupied without its express consent.
- (3) to order, in consequence, that Nicaragua must:
- (a) repeal, by means of its own choosing, those provisions of the Decree 079-2009 and the Regulatory Norms annexed thereto of 1 October 2009 which are contrary to Costa Rica's right of free navigation under Article VI of the 1858 Treaty of Limits, the 1888 Cleveland Award, and the Court's Judgment of 13 July 2009;
 - (b) cease all dredging activities on the San Juan River in the vicinity of Delta Costa Rica and in the lower San Juan River, pending:
 - (i) an appropriate transboundary environmental impact assessment, which takes account of all potential significant adverse impacts on Costa Rican territory, carried out by Nicaragua and provided to Costa Rica;
 - (ii) formal written notification to Costa Rica of further dredging plans in the vicinity of Delta Costa Rica and in the lower San Juan River, not less than three months prior to the implementation of any such plans; and
 - (iii) due consideration of any comments made by Costa Rica upon receipt of said notification.
 - (c) make reparation in the form of compensation for the material damage caused to Costa Rica, including but not limited to:
 - (i) damage arising from the construction of artificial caños and destruction of trees and vegetation on the 'disputed territory';
 - (ii) the cost of the remediation measures carried out by Costa Rica in relation to those damages, including but not limited to those taken to close the eastern caño constructed by Nicaragua in 2013, pursuant to paragraph 59 (2) (E) of the Court's Order on Provisional Measures of 22 November 2013;
- the amount of such compensation to be determined in a separate phase of these proceedings;
- (d) provide satisfaction so to achieve full reparation of the injuries caused to Costa Rica in a manner to be determined by the Court;

- (e) provide appropriate assurances and guarantees of non-repetition of Nicaragua's unlawful conduct, in such a form as the Court may order; and
- (f) pay all the costs and expenses incurred by Costa Rica in requesting and obtaining the Order on Provisional Measures of 22 November 2013, including, but not limited to, the fees and expenses of Costa Rica's counsel and experts, with interest, on a full indemnity basis."

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For Nicaragua (on Wednesday 29 April 2015):

"In accordance with Article 60 of the Rules and the reasons given during the written and oral phase of the pleadings the Republic of Nicaragua respectfully requests the Court to:

- (a) Dismiss and reject the requests and submissions of the Republic of Costa Rica.
- (b) Adjudge and declare that:
 - (i) Nicaragua enjoys full sovereignty over the caño joining Harbor Head Lagoon with the San Juan River proper, the right bank of which constitutes the land boundary as established by the 1858 Treaty as interpreted by the Cleveland and Alexander Awards;
 - (ii) Costa Rica is under an obligation to respect the sovereignty and territorial integrity of Nicaragua, within the boundaries delimited by the 1858 Treaty of Limits as interpreted by the Cleveland and Alexander Awards;
 - (iii) Nicaragua is entitled, in accordance with the 1858 Treaty as interpreted by the subsequent arbitral awards, to execute works to improve navigation on the San Juan River as it deems suitable, and that these works include the dredging of the San Juan de Nicaragua River;
 - (iv) The only rights enjoyed by Costa Rica on the San Juan de Nicaragua River are those defined by said Treaty as interpreted by the Cleveland and Alexander Awards."

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At the end of the oral proceedings in the case concerning the Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), the Parties presented the following final submissions to the Court:

For Nicaragua (on Thursday 30 April 2015):

- "1. In accordance with Article 60 of the Rules and the reasons given during the written and oral phase of the pleadings the Republic of Nicaragua respectfully requests the Court to adjudge and declare that, by its conduct, the Republic of Costa Rica has breached:
 - (i) Its obligation not to violate the integrity of Nicaragua's territory as delimited by the 1858 Treaty of Limits as interpreted by the Cleveland Award of 1888 and the five Awards of the Umpire E. P. Alexander of 30 September 1897, 20 December 1897, 22 March 1898, 26 July 1899, and 10 March 1900;

- (ii) Its obligation not to damage Nicaraguan territory;
 - (iii) Its obligations under general international law and the relevant environmental conventions, including the Ramsar Convention on Wetlands, the Agreement over the Border Protected Areas between Nicaragua and Costa Rica (International System of Protected Areas for Peace [SI-A-PAZ] Agreement), the Convention on Biological Diversity and the Convention for the Conservation of the Biodiversity and Protection of the Main Wild Life Sites in Central America.
2. Nicaragua also requests the Court to adjudge and declare that Costa Rica must:
- (i) Cease all its continuing internationally wrongful acts that affect or are likely to affect the rights of Nicaragua;
 - (ii) Inasmuch as possible, restore the situation to the status quo ante, in full respect of Nicaragua's sovereignty over the San Juan de Nicaragua River, including by taking the emergency measures necessary to alleviate or mitigate the continuing harm being caused to the River and the surrounding environment;
 - (iii) Compensate for all damages caused in so far as they are not made good by restitution, including the costs added to the dredging of the San Juan de Nicaragua River, with the amount of the compensation to be determined in a subsequent phase of the case.
3. Furthermore, Nicaragua requests the Court to adjudge and declare that Costa Rica must:
- (i) Not undertake any future development in the area without an appropriate transboundary Environmental Impact Assessment and that this assessment must be presented in a timely fashion to Nicaragua for its analysis and reaction;
 - (ii) Refrain from using Route 1856 to transport hazardous material as long as it has not given the guarantees that the road complies with the best construction practices and the highest regional and international standards of security for road traffic in similar situations.
4. The Republic of Nicaragua further requests the Court to adjudge and declare that Nicaragua is entitled:
- (i) In accordance with the 1858 Treaty as interpreted by the subsequent arbitral awards, to execute works to improve navigation on the San Juan River and that these works include the dredging of the San Juan de Nicaragua River to remove sedimentation and other barriers to navigation.”

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For Costa Rica (on Friday 1 May 2015):

“For the reasons set out in the written and oral pleadings, Costa Rica requests the Court to dismiss all of Nicaragua’s claims in this proceeding.”
