



INTERNATIONAL COURT OF JUSTICE

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Nicaragua institutes proceedings against Costa Rica with regard to “violations of Nicaraguan sovereignty and major environmental damages to its territory”

THE HAGUE, 22 December 2011. Today, the Republic of Nicaragua instituted proceedings against the Republic of Costa Rica with regard to “violations of Nicaraguan sovereignty and major environmental damages to its territory”.

Nicaragua contends that Costa Rica is carrying out major construction works along most of the border area between the two countries with grave environmental consequences.

In its Application, Nicaragua claims inter alia that “Costa Rica’s unilateral actions . . . threaten to destroy the San Juan de Nicaragua River and its fragile ecosystem, including the adjacent biosphere reserves and internationally protected wetlands that depend upon the clean and uninterrupted flow of the River for their survival”.

According to the Applicant, “[t]he most immediate threat to the River and its environment is posed by Costa Rica’s construction of a road running parallel and in extremely close proximity to the southern bank of the River, and extending for a distance of at least 120 kilometres, from Los Chiles in the west to Delta in the east”.

Nicaragua contends that the construction works “have already resulted in dumping in the River of substantial volumes of sediments — soil, uprooted vegetation and felled trees — produced by the clearing and levelling of the land that now serves as the road bed”. It adds that “the felling of trees and the removal of topsoil and vegetation close to the River bank facilitate erosion, and the leeching of even greater amounts of sediments into the river”.

The Applicant states that “[t]he sedimentation of the River poses a clear and imminent danger to water quality, to aquatic life (including several endangered species), and to rare and diverse fauna and flora that populate the river banks on both sides, especially those areas that form parts of the Biosphere Reserve Indio Maiz, forming one of the most extensive biological nuclei of the Mesoamerican Biological Corridor”.

Nicaragua claims that “[t]he road will have a major impact on the environment by further degrading the soil already devastated by deforestation due principally to agricultural and industrial developments on Costa Rica’s territory and causing substantial damage and silting of the San Juan

River as well as altering the landscape and threatening the biodiversity”. It is stated in the Application that “[t]hese works have already caused and will continue to cause significant economic damage to Nicaragua”.

Nicaragua accordingly

“requests the Court to adjudge and declare that Costa Rica has breached:

- (a) its obligation not to violate Nicaragua’s territorial integrity as delimited by the 1858 Treaty of Limits, the Cleveland Award of 1888 and the five Awards of the Umpire EP Alexander of 30 September 1897, 20 December 1897, 22 March 1898, 26 July 1899 and 10 March 1900;
- (b) its obligation not to damage Nicaraguan territory;
- (c) its obligation 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.

Furthermore, Nicaragua requests the Court to adjudge and declare that Costa Rica must:

- (a) restore the situation to the status quo ante;
- (b) pay for all damages caused including the costs added to the dredging of the San Juan River;
- (c) 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.

Finally, Nicaragua requests the Court to adjudge and declare that Costa Rica must:

- (a) cease all the constructions underway that affect or may affect the rights of Nicaragua;
- (b) produce and present to Nicaragua an adequate Environmental Impact Assessment with all the details of the works.”

As the basis for the jurisdiction of the Court, the Applicant invokes Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of Article XXXI of the American Treaty on Pacific Settlement of 30 April 1948 (“Pact of Bogotá), as well as the declarations of acceptance made by Nicaragua on 24 September 1929 (modified on 23 October 2001) and by Costa Rica on 20 February 1973, pursuant to Article 36, paragraph 2, of the Statute of the Court.

Nicaragua asserts that Costa Rica has repeatedly refused to give Nicaragua appropriate information on the construction works it is undertaking and has denied that it has any obligation to prepare and provide to Nicaragua an Environmental Impact Assessment, which would allow for an evaluation of the works. The Applicant therefore requests the Court to order Costa Rica to produce such a document and to communicate it to Nicaragua. It adds that “in all circumstances and particularly if this request does not produce results, [it] reserves its right to formally request provisional measures”.

Nicaragua also states that as “the legal and factual grounds of the [Application] are connected to the ongoing case concerning Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)”, it “reserves its rights to consider in a subsequent phase of the present proceedings . . . whether to request that the proceedings in both cases should be joined”.

The full text of the Application will be available shortly on the Court’s website (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. It is assisted by a Registry, its international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English.

The ICJ, a civil 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 institution 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 institution founded in 1899, which is independent of the United Nations.

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