INTERNATIONAL COURT OF JUSTICE

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Aerial Herbicide Spraying (Ecuador v. Colombia)

The Court directs Ecuador to submit a Reply and Colombia to submit a Rejoinder and fixes time-limits for the filing of these pleadings

THE HAGUE, 2 July 2010. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has directed the Republic of Ecuador to submit a Reply and the Republic of Colombia to submit a Rejoinder.

By an Order dated 25 June 2010, the Court fixed 31 January 2011 and 1 December 2011 as the respective time-limits for the filing of these written pleadings.

The Court made its decision taking account of the agreement of the Parties and of the circumstances of the case. The subsequent procedure has been reserved for further decision.

History of the proceedings

On 31 March 2008, Ecuador seised the Court of a dispute between itself and Colombia concerning the alleged "aerial spraying [by Colombia] of toxic herbicides at locations near, at and across its border with Ecuador".

In its Application, Ecuador states that "the spraying has already caused serious damage to people, to crops, to animals, and to the natural environment on the Ecuadorian side of the frontier, and poses a grave risk of further damage over time". It further contends that it has made "repeated and sustained efforts to negotiate an end to the fumigations" but that "these negotiations have proved unsuccessful".

Ecuador accordingly requests the Court "to adjudge and declare that:

(a) Colombia has violated its obligations under international law by causing or allowing the deposit on the territory of Ecuador of toxic herbicides that have caused damage to human health, property and the environment;

(b) Colombia shall indemnify Ecuador for any loss or damage caused by its internationally unlawful acts, namely the use of herbicides, including by aerial dispersion, and in particular:

(i) death or injury to the health of any person or persons arising from the use of such herbicides; and

(ii) any loss of or damage to the property or livelihood or human rights of such persons; and

(iii) environmental damage or the depletion of natural resources; and

(iv) the costs of monitoring to identify and assess future risks to public health, human rights and the environment resulting from Colombia's use of herbicides; and

(v) any other loss or damage; and

(c) Colombia shall:

(i) respect the sovereignty and territorial integrity of Ecuador; and

(ii) forthwith, take all steps necessary to prevent, on any part of its territory, the use of any toxic herbicides in such a way that they could be deposited onto the territory of Ecuador; and

(iii) prohibit the use, by means of aerial dispersion, of such herbicides in Ecuador, or on or near any part of its border with Ecuador."

As a basis for the Court's jurisdiction, Ecuador invokes, in its Application, Article XXXI of the American Treaty on Pacific Settlement of 30 April 1948 (officially known as the "Pact of Bogotá"), to which both States are parties. Ecuador also refers to Article 32 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

In its Application, Ecuador reaffirms its opposition "to the export and consumption of illegal narcotics" but stresses that the issues it presents to the Court "relate exclusively to the methods and locations of Colombia's operations to eradicate illicit coca and poppy plantations — and the harmful effects in Ecuador of such operations".

By an Order of 30 May 2008, the Court fixed 29 April 2009 as the time-limit for the filing of a Memorial by Ecuador and 29 March 2010 as the time-limit for the filing of a Counter-Memorial by Colombia. Those two pleadings were duly filed by the Parties within the time-limits thus prescribed.

The full texts of the Court's Orders are available on the Court's website. You are, however, reminded that written pleadings remain confidential until the Court decides to make them accessible to the public, generally at the opening of the oral proceedings.

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