



IN THE INTERNATIONAL COURT OF JUSTICE

ECUADOR V. COLOMBIA

MEMORIAL OF THE REPUBLIC OF COLOMBIA

COMES NOW the Republic of Colombia and the Memorial to the Court states the following:

STATEMENT OF LAW

1. Colombia and Ecuador both signed the American Treaty on Pacific Settlement also known as the “Pact of Bogotá” on 30 April. This document states that states would defer to the ICJ for judgment only if all other peaceful means had been exhausted.
2. According to article 99 of the Inter-American judicial committee “The purpose ...to promote the progressive development and the codification of international law; and to study juridical problems related to the integration of the developing countries of the Hemisphere.”
3. According to the UN A/RES/44/142 operative clause 1 the UN “strongly condemns the crime of drug trafficking in all forms and urges all states to remain steadfast in their political commitment to the concerted international struggle to put an end to it.”
4. According to the UN A/RES/44/142 operative clause 3 “problem(s) requires efficient and co-ordinated international co-operation in keeping with the principles that of respect for national sovereignty.

STATEMENT OF FACT

Colombia began large scale herbicidal spraying under “Plan Colombia”. Plan Colombia was developed by former President Pastrana (1998-2002) as a six-year plan to end Colombia’s long armed conflict, eliminate drug trafficking, and promote economic and social development. This plan was heavily supported by the United States and was thought of as some to be the “Marshall Plan of Colombia. Colombia was acting to stop a drug epidemic within its own borders and acted in a sovereign fashion. However Ecuador contested that some of the herbicide was crossing the 10 kilometer border and damaging the Health of its citizens. Even though The use of large scale pesticide use is the most efficient way for Colombia to eradicate drugs, Colombia temporarily suspended spraying in the area bordering Ecuador in January 2006. After testing was and the Organization of American states agreed that this spraying was harmless Colombia began spraying again. Despite that, 43,000 hectares were eradicated by hand in 2006 and over the past few years more than 160,000 hectares have been sprayed.

STATEMENT OF JURISDICTION

The court does not have the jurisdiction to hear this case because Ecuador has already brought this case before several other forums. This case has been brought to be studied before three scientific panels two having inconclusive findings. Also because of the United States involvement in Plan Colombia this falls under the jurisdiction of the Organization of American States. The OAS charter states in Chapter XIV article 99 that the purpose of the Inter-American Juridical Committee is to “study juridical problems related to the integration of the developing countries of the Hemisphere”.

ARGUMENTS

1. The studies on the health risks of the herbicide used for aerial spraying by Colombia have been minimal if inconclusive.

Studies conducted by the CICAD as well as the US EPA both found the side effects to humans from exposure to herbicidal glyphosate to be minimal and not life threatening. According to the EPA’s study “there was reasonable certainty that exposure to glyphosate did not pose health risks or have an adverse impact on humans or the environment.” The study by the CICAD found that “Exposures to glyphosate and adjuvants as used in the poppy and coca eradication programs do not cause acute adverse effects to humans exposed via a number of routes.

1. This case does not fall under the jurisdiction of the ICJ

The case has already been brought to Inter-American Juridical Committee and has been copiously negotiated in bi-lateral talks between Colombia and Ecuador. Furthermore Colombia has acted in good faith and worked with Ecuador to resolve this dispute. For example Colombia halted aerial herbicide spraying in 2006 to allow for studies to be conducted on the health and environmental risks posed by such activities. Colombia only restarted its program of herbicidal spraying in 2007 when the afore mentioned study came to inconclusive results.

2. Aerial herbicide spraying is the most efficient means of decreasing the production of illicit poppy and coca plants and the drugs refined from them.

To penalize Colombia for acting within its sovereignty and for upholding its commitment

to all nations to stop the production and trafficking of narcotics would be a grave injustice.