



American Model United Nations
International Court of Justice

IN THE INTERNATIONAL COURT OF JUSTICE

THE ARGENTINE REPUBLIC
APPLICANT

V.

THE ORIENTAL REPUBLIC OF URUGUAY
RESPONDENT

MEMORIAL OF THE ARGENTINE REPUBLIC

COMES NOW the Argentine Republic and for their Memorial to the Court states the following:

STATEMENT OF FACT:

The River Uruguay flows from Brazil, becoming the border between Uruguay and Argentina. For a unified management of the river between Uruguay and Argentina, the two countries adopted the Statute of the River Uruguay, which went into effect in 1966 and was amended for the creation of the Commission in 1975. The Statute stands to ensure a unified approach to issues of the environment, safety and general management of the waterway between the two nations.

On 9 October 2003 the Government of Uruguay approved the construction of pulp mill on the river by Spanish-based company ENCE without notifying CARU; thereby breaching the 1975 Statute, despite the assurance of then President of Uruguay Jorge Battle to Argentine President Néstor Kirchner that such an authorization would not occur. Instead, Uruguay presented Argentina with an impact statement eighteen days after authorizing the construction of the mill.

The impact statement submitted by Uruguay to the Argentine embassy on 27 October 2003 was seriously lacking in support. On the same day and in accordance to the 1975 Statute, Argentina requested further documentation from Uruguay as to the ecological impact of the mill. Uruguay has refused any requests to create a sufficient impact statement, instead choosing to blatantly violate the 1975 Statute a second time with the authorization of Finnish company Botnia's bid to construct a second mill named Orion in October 2004.

After repeated attempts to arbitrate the matter between the nations, Presidents Vázquez and Kirchner of Uruguay and Argentina respectively formed the High-Level Technical Group (hereafter GTAN) to resolve the matter. Uruguayan negotiators failed to produce information requested by Argentine officials after 12 meetings and 179 days, thus prompting the Argentine representatives to pursue the matter at the International Court of Justice.

STATEMENT OF JURISDICTION

1. This argument is brought under Article 36, paragraph 2, part a of the Statute of the International Court of Justice: “The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning: (a) the interpretation of a treaty”.
2. Article 12 of the 1975 Statute states that a dispute unresolved after 180 days is pursuant to the procedure in chapter XV [Article 60]: “Should the Parties fail to reach agreement within 180 days following the notification referred to in article 11, the procedure indicated in chapter XV shall be followed.”
3. Article 60 of the 1975 Statute directs that any dispute concerning the application of the treaty be submitted to the International Court of Justice: “Any dispute concerning the interpretation of application of the Treaty and the Statute which cannot be settled by direct negotiations may be submitted by either party to the International Court of Justice.”

STATEMENT OF LAW:

a) On 7 April 1961 Uruguay and Argentina signed a treaty at Montevideo regulating the shared waterway of the Uruguay River, which took effect on 19 February 1966. In 1975, Uruguay and Argentina signed the Statute of the River Uruguay to further regulate the river. The following elements of the 1975 Statute regarding the process for the creation of new facilities on the river state that:

a. *Article 7*: If one party plans to construct new channels, substantially modify or alter existing ones or carry out any other works which are liable to affect navigation, the régime of the river or the quality of its waters, it shall notify the commission, which shall determine on a preliminary basis and within a maximum period of 30 days whether the plan might cause significant damage to the other party.

If the commission finds this to be the case or if its decision cannot be reached in that regard, the party concerned shall notify the other party of the plan through the said commission.

Such notification shall describe the main aspects of the work and, where appropriate, how it is to be carried out and shall include any other technical data that will enable the notified party to assess the probable impact of such works on navigation, the regime of the river or the quality of its waters.”

b. *Article 42* - Each Party shall be liable to the other for damage inflicted as a result of pollution caused by its own activities or by those carried out in its territory by individuals or legal entities.

c. *Article 50* - The Commission shall be made a legal entity in order to perform its functions.

The Parties shall provide it with the necessary resources and all of the information and facilities essential to its operations.

ARGUMENTS

a) The Oriental Republic of Uruguay has blatantly violated its obligation to submit any plans for development on the Uruguay River to CARU under Article

7, paragraph 1 of the 1975 Treaty.

b) The Oriental Republic of Uruguay has also violated its obligation to the environmental standards of the Uruguay River under Article 42 through its continued pollution through both mills.

c) In failing to comply with the Argentine Republic's request for more information regarding the environmental effects of the mills, the Oriental Republic of Uruguay has failed in its obligation under *Article 50* of the 1975 Statute to provide CARU with all information deemed necessary by the organization.

d) The Oriental Republic of Uruguay has further violated its obligation to CARU *Article 7* of the 1975 Treaty by allowing a second pulp mill to begin construction on the river before seeking permission from CARU.

SUMMARY AND REQUESTS

Noting the fact that the Oriental Republic of Uruguay has failed in its obligations to the 1975 Statute under Articles 7, 42, and 50, the Argentine Republic prays the court to adjudge and declare the Oriental Republic of Uruguay's violation of the preceding agreements. The Argentine Republic further requests that Uruguay cease its wrongful conduct, comply without fail with the 1975 Statute, and repay all injuries incurred through the existence of the pulp mills created by Uruguay's breach of the statute.