

IN THE INTERNATIONAL COURT OF JUSTICE

**THE ARGENTINE REPUBLIC,
APPLICANT**

**V. THE EASTERN REPUBLIC OF URUGUAY,
RESPONDENT**

MEMORIAL OF THE ARGENTINE REPUBLIC

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

STATEMENT OF JURISDICTION:

1. Argentina maintains that the Court does have jurisdiction to deal with the present case based on Article 60 of the 1975 [River Uruguay Statute](#) signed by both parties in February of 1975, of which stating, “Any dispute concerning the interpretation or application of the Treaty and the Statute which cannot be settled by direct negotiation may be submitted by either Party to the International Court of Justice.”
2. The court has the jurisdiction to rule on the question submitted by Argentina - whether Uruguay violated the Statute by failing to meet binding obligations as agreed upon in the Statute.

STATEMENT OF FACT:

The sudden announcements of the future construction of two pulp mills on the River Uruguay is what is pushing the Argentine Republic (hereinafter “Argentina”) into pursuing this present case with a neighboring state with whom Argentina shares deep historical, social, and cultural ties, the Eastern Republic of Uruguay (hereinafter “Uruguay”).

Without the obligatory notification and consultation of Argentina, as agreed upon in the 1975 Statute of the River Uruguay, Uruguay unilaterally authorized the construction of two pulp mills. One authorization occurred in October 2003 to the Spanish company ENCE, who plans were to construct a large pulp mill on the left bank of the River Uruguay, around 30 km from the city of Gualeguaychú of Argentina (which inhabits nearly 100,000) and 12 km from the Argentine resort of Ñandubaysal. This project was entitled “Celulose de M’Bopicuá” (hereinafter “CMB”). Swiftly following this authorization, in February 2005 Uruguay authorized the construction of a pulp mill with an even greater capacity, called “Orion,” to a Finnish company,

just 7 km from ENCE. Both of these authorizations are in breach of the Statute of the River Uruguay, which established co-operation between the two Parties, which can be noted by the procedure of prior notification and consultation laid down by Articles 7 to 13.

As pulp mills are polluting in nature, this is a cause for concern for the aquatic environment of the River Uruguay, as well as the well-being of the communities living on both sides of the river. The city of Gualeguaychú and its surrounding region are opposite of the chosen site of the mills and are hubs for agriculture and rapidly developing ecological tourism. The city of Gualeguaychú particularly has long been invested in protecting the environment, which is also a tradition of the Argentine province of Entre Ríos.

The Court, in its Order of 13 July 2006, stressed for both parties to “implement in good faith the consultation and co-operation procedures provided by the 1975 Statute, with CARU (Administrative Commission of the River Uruguay) constituting the envisaged forum in this regard.” Despite that, Uruguay authorized the Finnish company to commission the port associated with Orion without presenting the authorization to CARU and without consultation with Argentina.

STATEMENT OF LAW:

1. Articles 1 and 7 to 13 creates the procedural obligations for implementation of the 1975 Statute.
2. Article 27 guarantees each Party the right to use water from the river for “domestic, sanitary, industrial and agricultural purposes”, as long as it does not harm “the quality of its waters”.
3. Article 41, section A creates the obligation to “protect and preserve the aquatic environment and, in particular, to prevent its pollution, by prescribing appropriate rules and measures”
4. Article 41, section C creates the obligation to “inform on another of any rules which they plan to prescribe with regard to water pollution in order to establish equivalent rules in their respective legal systems”.

ARGUMENTS:

1. Uruguay breached many procedural obligations prescribed in Chapter 2 of the 1975 Statute. Uruguay has authorized all construction plans without consulting CARU, therefore violating paragraphs 1 and 2 of Article 7 of the 1975 Statute which establishes

an obligation to inform the other Party of any works which are liable to affect “the regime of the river or the quality of its waters.” Uruguay was clearly liable to that, as pulp mills do pose harmful effects on the environment. Subsequently, Uruguay violated Articles 8 to 12 by not following the agreed upon procedural obligations.

2. Uruguay authorized and granted the Finnish company for the amount of 60,000,000 m³ of the River Uruguay’s water per annum or at a flow rate of 1,900 litres per second. This use is indisputably liable to affect the regime of the river or the quality of its waters. This violates Article 27 of the 1975 Statute, “The right of each Party to use the waters of the river, within its jurisdiction, for domestic, sanitary, industrial and agricultural purposes shall be exercised without prejudice to the application of the procedure laid down in articles 7 to 12 when the use is liable to affect the régime of the river or the quality of its waters.”
3. Uruguay also violated Article 41, (a). Article 41 falls under Chapter X entitled “Pollution.” Article 41 (a) contains each Party’s obligations to protect and preserve the aquatic environment and prevent its pollution. Uruguay failed to meet this obligation by not providing a study of the impact of the discharges from the Orion mill, proving that those discharges do not constitute pollution and will not be liable to the effect of the quality of the waters.
4. Argentina contends that Uruguay will continue to disregard its obligations to the 1975 River Uruguay Statute, as they have indicated clearly by their own actions. This is even after warnings from the Court in its Order of 13 July 2006.

SUMMARY AND PRAYER FOR RELIEF:

Reiterating the fact that Uruguay has breached multiple articles from the 1975 Statute of the River Uruguay, Argentina implores the Court to adjudge and declare that Uruguay was in violation of the multiple Articles listed previously. Argentina requests the Court order Uruguay to suspend work on the mills and resume compliance with the 1975 Statute, and begin to protect and conserve the aquatic environment around the mills.