



Pulp Mills on the River Uruguay (Argentina v. Uruguay)

ARGUED: 21 November 2021

DECIDED: 22 November 2021

1 This dissenting opinion was signed and agreed to by Justice Gibson of Japan, Justice Mendoza of Estonia,
2 and Justice Rook of Turkmenistan.

3 The Court has jurisdiction over this case based on Article 60 of the 1975 River Uruguay Statute which states
4 “Any dispute concerning the interpretation or application of the Treaty and the Statute which cannot be settled by
5 direct negotiation may be submitted by either Party to the International Court of Justice.” Since no agreement was
6 able to be met through negotiation, the Court upholds its jurisdiction to rule on the case

7 Given this, an important issue to ask when addressing this case is whether Uruguay violated any of the
8 articles within the treaty with special attention given to Article 7 as this is the most contentious, important and
9 foundational of the articles in question.

10 Violation of Article 7 occurs if any of the following conditions are met as outlined in the 1975 Statute: “If one
11 Party plans to construct new channels, substantially modify or alter existing ones or carry out any other works which
12 are liable to affect navigation, the regime of the river or the quality of its waters, it shall notify the Commission,
13 which shall determine on a preliminary basis and within a maximum period of 30 days whether the plan might cause
14 significant damage to the other Party.”

15 Furthermore, the ICF analysis showed that ENCE and Botania plants were found to satisfy the CARU water
16 quality standards and regulations.

17 As no substantive proof was shown that the pulp mills substantially modified or altered the existing channels
18 or affected the navigation and quality of the water, the dissenting opinion is that no notification was necessary.
19 Substantive evidence was not provided in oral arguments and nothing shown to the Court that would justify this
20 claim. Furthermore, the language of the treaty is ambiguous as the Argentine Republic has not provided the extent
21 of the word “substantially.” Therefore, the Oriental Republic of Uruguay can not be found to be in violation of the
22 River Uruguay Statue. Given that the input flow rate of the pulp mill amounts to approximately 1,900 litres per
23 second, and the output of the River Uruguay has an output of approximately 599,131 liters per second, it would
24 be unfair to say that the mill has had any substantial effect to the flow rate of the river or its navigation. This is
25 because the water use of the pulp mill amounts to approximately 0.32% of the total discharge of the river which in
26 no way can be defined as having a substantial effect.

27 A similar issue exists in interpreting the term “quality” as the term outlines how something will be measured
28 based on a held standard and comparison of things of a similar nature. The quality of water at hand is thought
29 about when it comes to the discharge of any materials in the water. The ones that are produced through pulp mills
30 are both chlorine and phosphorus. However, there is a system presented to prevent any discharge of chlorine, but
31 when it comes to the topic of phosphorus discharge in the river, there was not a standard set by CARU on this.
32 Argentina does not have a standard set on this either on their side, so this is not something that can be argued as
33 harming the quality of water, because once again, Argentina did not wish to set a standard and even then, it has
34 been found that there is more discharge present on Argentine’s side of the waters. So Argentina does not have an
35 argument against Uruguay for the concern of polluting the water quality or affecting the water flow.

36 Additionally, CARU has equal parts members from both Argentina and Uruguay when it came to establishing
37 any standards set to represent the collective. Part of that same organization by which the standard was set, consists
38 of the Naval Hydrography Service of Argentina and the Oceanography, Hydrography and Meteorological Service
39 of the Navy and the National Hydrography Administration, both of Uruguay. There are more organizations from

40 Uruguay present and so, would understandably correlate to them understanding the need to keep the environment
41 in mind.

42 We dissent with the majority opinion that the mill production should not be stopped or halted in any
43 manner. After reviewing the facts at hand, and the statement of the law, we did not see any violations of Article 7
44 in which it requires notification if a project would cause harm to the river or alter the flow. The Court would like to
45 encourage the Oriental Republic of Uruguay to run more studies on the effects of pollution on the river out of good
46 faith.

Signed By



Justice Austin Rook



Justice Mackenze Gibson



Justice Anthony Mendoza