

## **IN THE INTERNATIONAL COURT OF JUSTICE**

**THE REPUBLIC OF COLOMBIA**

**V.**

**THE REPUBLIC OF ECUADOR**

### **MEMORIAL OF THE REPUBLIC OF COLOMBIA**

COMES NOW the Republic of Colombia and for their Memorial to the Court States the following:

#### **STATEMENT OF LAW:**

1. Colombia has entered into the Pact of Bogota (American Treaty on Pacific Settlement), which states in Article VII that the “Contracting Parties bind themselves not to make diplomatic representations in order to protect their nationals, or to refer a controversy to a court of international jurisdiction for that purpose, when the said nationals have had available the means to place their case before competent domestic courts of the respective state.”
2. As a nation continually committed to further pursuing measures to eradicate all forms of the drug trade in the international community, Colombia is a member of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Colombia recognizes “that eradication of illicit traffic is a collective responsibility of all States and that, to that end, coordinated action within the framework of international cooperation is necessary.”
3. Colombia is also a member of the Convention of Biological Diversity, “determined to conserve and sustainably use biological diversity for the benefit of present and future generations.” In recognizing the importance of eradicating the drug trade and its devastating impact on Colombian and Ecuadorian biodiversity alike, Colombia reiterates its commitment to international biodiversity.

#### **STATEMENT OF FACT**

Since 2000, Colombia has taken part in the extensive spraying of aerial spraying of the pesticide, glyphosate, on illegal coca fields in 23 of the 32 Colombian provinces. Areas targeted by the aerial spray were not discriminatory towards border regions, coca plants were targeted throughout the nation. Colombia has succeeded in reducing coca cultivation by 65.1% in its territory according to a report of the United Nations Office on Drugs and Crime in 2011. Aerial spraying has been the method of choice for eradicating coca plants because “the spray mixture has been subject to comprehensive analyses carried out by the OAS CICAD, by the United States’ EPA and the State Department.” Glyphosate has been the most commonly used herbicide in the world since 1971, and the toxicity does not pose a significant threat to humans, environment, or water sources, and drift has proven to be at most tens of meters downwind. The likelihood of accidental spraying landing on non-target areas is less than 1%. Due to the combined lack of significant toxicity with the inability for the mixture to drift significantly, Colombia feels confident in its continual use of glyphosate. There is no alternative method to the

elimination of coca fields that does not either fail to secure the safety of Colombian personnel or fail to effectively eliminate the fields.

Interdiction on the illegal drug trade in Colombia has been an extensive financial cost for Colombia. A Brookings Institution report found that Colombia has spent 1.1% of its GDP per year from 2003 to 2008 on fighting the trade. The country also deals with 3,800 homicides a year connected to the trade of cocaine and other drugs. Although Colombia is committed to the eradication of the drug trade within its own borders, it is important to note that 120 metric tons of cocaine are transferred through Ecuador each year. Colombia's dedication to combat the spread of cocaine is a global good that benefits the international community, including being largely beneficial to Ecuador. According to the embassy of the United States in Bogota, "the spray program adheres to all Colombian and US Environmental Laws."

#### **STATEMENT OF JURISDICTION:**

1. The pact of Bogota, of which both countries are a signatory, states in Article VI: "The aforesaid procedures, furthermore, may not be applied to matters already settled by arrangement between the parties, or by arbitral award or by decision of an international court, or which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty."
2. Ecuador has disregarded obligations under the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Article 32 to exhaust all regional options before bringing a case to the International Court of Justice. Colombia requests further attempts be made to facilitate a conclusion of this issue with "negotiation, enquiry, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of the parties choosing."
3. As is stated in the Convention on Biological Diversity Annex II Article 2, "In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal". Arbitration is necessary before submission to the ICJ. Both Ecuador and Colombia are members of this Convention.

#### **ARGUMENTS**

1. Ecuador's unique interpretation of the scope of the Pact of Bogota, expressed when signing the document in 2008, would infringe on state sovereignty if applied to Colombia. The pact of Bogota states that signing parties have a general obligation to settle disputes by Pacific means. That Ecuador has taken reservation with this provision should not obligate Colombia to do so.
2. Colombia believes that the ICJ does not have clear recourse for jurisdiction, and would encourage this matter to be resolved through further diplomatic discussions and be brought in front of competent regional courts.
3. According to studies done by the OAS-CICAD, the Ministry of the Environment, and other scientific bodies, the toxicity of the herbicide being sprayed has been evaluated and

found that the spray mixture causes no significant adverse effects on humans, animals or the environment.

4. The Republic of Colombia has been fighting to eradicate the source of a large portion of the world's cocaine. In a span of ten years, aerial herbicide spraying has reduced the overall area of coca cultivation by 65.1% according to the 2011 Report of the United Nations Office on Drugs and Crime. In compliance with international commitments towards drug trafficking eradication, Colombia is committed to continue providing a global service through the eradication of the coca plant.

## **SUMMARY AND REQUESTS**

Reiterating that Colombia has adhered to all regulations within applicable treaties and accords thus far, the Republic of Colombia requests that the International Court of Justice denies the case brought forth by Ecuador because it is not in accordance with the nature of the court.

Furthermore, due to the lack of significant toxicity of the herbicide along with the inability for the mixture to drift significantly, Colombia feels confident and justified in its continual use of glyphosate. Because there is no more secure or effective alternative in ending the drug trade residing in Colombia, limiting Colombia's practices would negatively affect the people and environment of Colombia and Ecuador in the long run. We affirm that the end of the drug trade is of the utmost importance. The Republic of Colombia prays that the court orders Ecuador to bring any further grievances regarding this issue to other regional bodies, or otherwise be in support of our pursuit in ending the drug trade that belittles the biological diversity in our countries and hinders national security.