



Costa Rica brings a case against Nicaragua to the Court in a dispute concerning navigational and related rights of Costa Rica on the San Juan River

THE HAGUE, 29 September 2005. Today Costa Rica brought a case against Nicaragua to the International Court of Justice (ICJ), the principal judicial organ of the United Nations, in a dispute concerning navigational and related rights of Costa Rica on the San Juan River.

In its Application, Costa Rica states that “[it] seeks the cessation of [the] Nicaraguan conduct which prevents the free and full exercise and enjoyment of the rights that Costa Rica possesses on the San Juan River, and which also prevents Costa Rica from fulfilling its responsibilities” under certain agreements between itself and Nicaragua.

According to Costa Rica, “Nicaragua has – in particular since the late 1990s – imposed a number of restrictions on the navigation of Costa Rican boats and their passengers on the San Juan River”, in violation of “Article VI of the Treaty of Limits [, signed in 1858 between Costa Rica and Nicaragua, which] granted to Nicaragua sovereignty over the waters of the San Juan River, recognizing at the same time important rights to Costa Rica”. Costa Rica maintains that these rights were confirmed and interpreted by an arbitral award issued by the President of the United States of America, Mr. Grover Cleveland, on 28 March 1888, and by a judgment of the Central American Court of Justice of 1916, as well as by the “Agreement Supplementary to Article IV of the [1949] Pact of Amity, Washington, 9 January 1956”.

It also contends that “these restrictions are of a continuing character”.

Costa Rica further argues that on 28 September 2005 the National Assembly of Nicaragua passed a resolution (No. 17-2005), “threatening to impose economic sanctions against Costa Rica in the event of its bringing the present dispute to the Court”, to which is annexed “the text of a draft law which would impose an import tax of 35 per cent on all goods and services of Costa Rican origin”.

The applicant adds that “[it] has proposed many times to Nicaragua a diplomatic solution as well as the use of available mechanisms of peaceful resolution of differences, including mediation through the Organization of American States and international arbitration”, but that “[t]he Government of Nicaragua has rejected all those alternatives”.

Accordingly, Costa Rica now requests the Court “to adjudge and declare that, by its conduct, Nicaragua has violated:

- (a) the obligation to facilitate and expedite traffic on the San Juan River within the terms of the Treaty of 15 April 1858 and its interpretation given by arbitration on 22 March 1888;
- (b) the obligation to allow Costa Rican boats and their passengers to navigate freely and without impediment on the San Juan River for commercial purposes, including the transportation of passengers and tourism;
- (c) the obligation to allow Costa Rican boats and their passengers while engaged in such navigation to moor freely on any of the San Juan River banks without paying any charges, unless expressly agreed by both Governments;



- (d) the obligation not to require Costa Rican boats and their passengers to stop at any Nicaraguan post along the river;
- (e) the obligation not to impose any charges or fees on Costa Rican boats and their passengers for navigating on the river;
- (f) the obligation to allow Costa Rica the right to navigate the river in accordance with Article Second of the Cleveland Award;
- (g) the obligation to allow Costa Rica the right to navigate the San Juan River in official boats for supply purposes, exchange of personnel of the border posts along the right bank of the San Juan River, with their official equipment, including the necessary arms and ammunitions, and for the purposes of protection, as established in the pertinent instruments;
- (h) the obligation to collaborate with Costa Rica in order to carry out those undertakings and activities which require a common effort by both States in order to facilitate and expedite traffic in the San Juan River within the terms of the Treaty of Limits and its interpretation given by the Cleveland Award, and other pertinent instruments;
- (i) the obligation not to aggravate and extend the dispute by adopting measures against Costa Rica, including unlawful economic sanctions contrary to treaties in force or general international law, or involving further changes in the régime of navigation and associated rights on the San Juan River not permitted by the instruments referred to above.

Further, the Court is requested to determine the reparation which must be made by Nicaragua.”

As a basis for the Court’s jurisdiction Costa Rica invokes the declarations of acceptance of the Court’s jurisdiction (under Article 36, paragraph 2, of its Statute) made by Costa Rica on 20 February 1973 and by Nicaragua on 24 September 1929, as well as the Tovar-Caldera Agreement signed between the Parties on 26 September 2002. Costa Rica further invokes Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of Article XXXI of the “Pact of Bogotá” of 30 April 1948.

Costa Rica points out that both States had agreed a three-year standstill period between them under the Tovar-Caldera Agreement, during which Nicaragua would maintain the legal status existing with respect to its declaration of acceptance of the jurisdiction of the Court while Costa Rica would not initiate any action before the Court. Costa Rica states that during this period, “the two Parties were indeed able to make progress on a number of important issues for the Central American region, to their mutual benefit. Unfortunately, however, the dispute over Costa Rica’s navigational and related rights on the San Juan River remains unresolved.”

CASA
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DE NICARAGUA

MONITOREO ESPECIAL

The full text of Costa Rica's Application will be available shortly on the Court's website (<http://www.icj-cij.org>).

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