CASE 1: ARIEL HERBICIDE SPRAYING (ECUADOR V. COLOMBIA, 2008-2013)

BACKGROUND PAPER BY: STEPHANIE AL MHANA, MAIN CHAIR

TEAMUN

INTERNATIONAL COURT OF JUSTICE

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SOURCES.....

Dios, patria y libertad

Libertad y Orden

Background Paper: Historical and Legal Origins of the Transboundary Herbicide Dispute (1999–2008)

1. Introduction

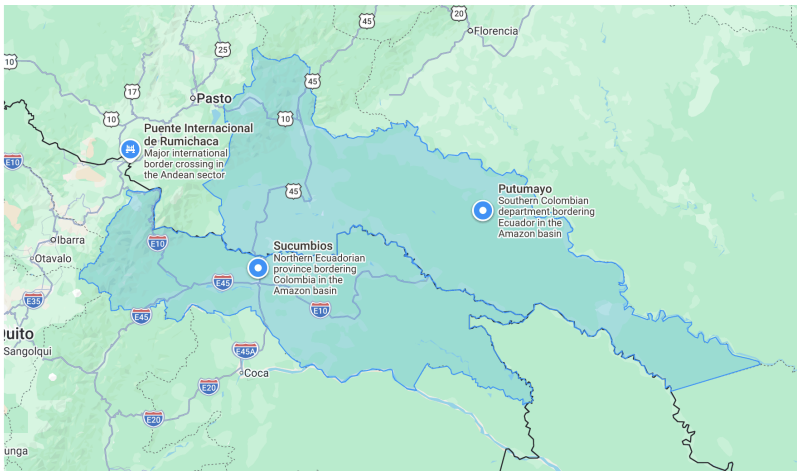
The international dispute over the **Ariel Herbicide Spraying** represents a landmark clash between domestic national security and the international law governing transboundary environmental harml. The conflict originates from the militarirzed anti-narcotics strategies conducted along the shared frontier. The conflict tests the limits of state soverignty as well as state accountability. The crisis has been formally brough to the attention of the **International Court of Justice** by the **applicant**, *the Republic of Ecuador (República del Ecuador)* against the **respondent**, *the Republic of Columbia (República de Colombia)I*. The roots of this dispute rely on the late 20th century as per the launch of Plan Columbia in 1999, an aggressive counter-narcotics strategy, and the subsequent

cross-border drift of toxic chemical compounds into Ecuadorian territory.

2. Geographical and Historical Foundations

2.1 The Shared Amazonian and Andean Borderland Region:

The border between Ecuador and Colombia extends across roughly 600 kilometers of highly complex terrain, shifting from rugged Andean peaks to the dense, structurally isolated ecosystems of the Amazon basin. Historically, this border zone has been home to various marginalized and low-income indigenous groups—such as the Awa community—who rely heavily on the local environmental network, dynamic rivers, and untreated natural surface waters for baseline survival.



2.2 Evolution of Frontier Security and Cross-Border Fluidity:

For decades following the formalization of boundaries post-decolonization, the frontier retained a highly fluid socio-economic profile. However, internal political instability

in Colombia, characterized by the rise of guerrilla factions like the FARC and illicit drug cartels—gradually transformed the physical borderlands into a volatile refuge for unauthorized movements, illicit crop cultivation, and cross-border security vulnerabilities.

3. The Emergence of Plan Colombia and the War on Drugs (1999–2000)

In 1999, the Colombian government, under the administration of President Andrés Pastrana and backed by substantial financial and military aid from the United States, officially instituted



Plan Colombia. Designed as a comprehensive strategy to combat drug cartels, dismantle armed insurgencies, and eliminate illicit drug crops, the initiative positioned the absolute eradication of illicit coca and opium poppy plantations as its primary national security directive.

4. The Mechanics and Geo-Political Reality of Aerial Fumigation

To scale up eradication capacity within the dense, inaccessible terrain of the rainforest borderlands, Colombia

relied heavily on aerial fumigations. Utilizing private military and aviation contractors, the Colombian Anti-Narcotics Directorate deployed low-flying aircraft to release highly concentrated chemical agents directly over target plantations. This aggressive operational strategy prioritized rapid tactical eradication over regional environmental consultations.

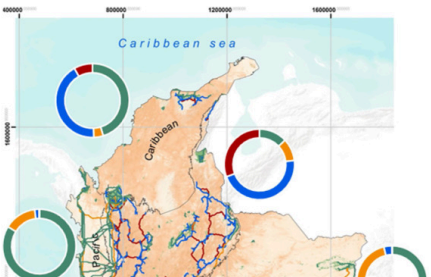
5. Transboundary Environmental Drift and the Glyphosate Crisis (2000–2007)

5.1 5.1 Scientific Composition and Spraying Parameters:

The primary agent selected for the aerial operations was **glyphosate,** a broad-spectrum systemic herbicide commercially mixed with chemical surfactants to maximize plant absorption. Because the spray runs frequently occurred during highly volatile Andean wind patterns and high-altitude mountain shifts, the chemical mist routinely drifted across the border line, translating to a physical chemical deposit inside Ecuadorian territory.

5.2 Impacts on Human Health, Indigenous Communities, and Biodiversity:

The resulting transboundary drift produced severe ecological and social fallout inside



Ecuador. The deposition caused massive, immediate destruction of legal food crops (such as subsistence banana and tuber plantations) and triggered widespread health maladies among local populations—including chronic skin lesions, respiratory distress, eye burning, and suspected infant fatalities.

5.3 The Diplomatic Standoff:

Between 2000 and 2007, Ecuador issued repeated diplomatic notes requesting detailed chemical data and demanding that Colombia observe a strict **10-kilometer exclusion buffer zone** along the border. Colombia systematically refused to provide the full chemical mixtures or halt border operations, arguing that Plan Colombia was an essential defensive barrier protecting both nations from narcoterrorism and that the spray remained safely within Colombian territory.

6. EXPERT CASULATIES AND PIL PRECEDENTS: THE TRAIL SMELTER ECHOES

As bilateral talks consistently broke down, legal scholars and environmentalists quickly labeled the dispute as the modern successor to the iconic **Trail Smelter case (USA v. Canada).** The dispute brings a pivotal international doctrine to the forefront: *sic utere tuo ut alienum non laedas* (use your own property in such a manner as not to injure that of another). The

looming legal showdown highlights a stark gap in Public International Law (PIL): the challenge of regulating a state's right to execute domestic security programs when those actions generate severe transboundary pollution, alongside the application of the **Precautionary Principle** when scientific consensus on chemical safety is highly contested.

7. To the Brink of International Action: The Total Collapse of Bilateral Diplomacy (2007–2008)

By late 2007, bilateral relations completely disintegrated. Ecuador maintained that Colombia's ongoing aerial spray missions constituted a physical violation of its territorial sovereignty and an international tort causing extensive human and environmental suffering. Colombia countered that its sovereign right to defend its territory from armed narco-traffickers overrode unproven claims of transboundary drift, maintaining that the flawed maps and data provided by Ecuador did not justify halting its national security mandates.

With direct bilateral negotiations reaching a permanent, toxic stalemate, the frontier has militarized, and diplomatic channels have frozen. Ecuador has reached the limit of its diplomatic patience, leaving international judicial intervention

at the International Court of Justice as the only remaining avenue to resolve the sovereignty and environmental impasse.

Chair's Note: ICJ is a special procedure committee; therefore, it is not expected that the delegate arrives with any prepared material. Ensure that the background is understood to a degree and that you have read through this specific part as to understand the flow of debate. ANY AND ALL RESEARCH MUST BE REFFERING TO EVENTS OCCURING BEFORE THE COURT DATE (31 MARCH 2008) OR IT WILL BE DISMISSED.

COMMITTEE ROLES

- **Advocates (Ecuador & Colombia):** You are the legal teams. Your job is to fight for your state's sovereignty. You will deliver speeches, introduce evidence, and question the Expert Witnesses. *No pre-written speeches or materials are required; you will build your arguments live based on the background brief.*
- **Expert Witnesses:** You are scientific or regional specialists called by the Advocates. You will present technical testimony (e.g., about glyphosate drift, crop damage, or health impacts) and must answer questions from

both sides and the Judges from the perspective of your role.

- **Judges:** You are neutral evaluators of international law. You must listen to both sides, question the Advocates and Expert Witnesses to clarify details, debate the legal merits in private, and vote to write the final binding verdict.

Please note your role transitions: Delegates assigned as a **Judge** for Case 1 will switch roles to serve as an **Advocate or Expert Witness** for Case 2. Conversely, those acting as Advocates or Expert Witnesses in Case 1 will take on the role of a **Judge** for Case 2, ensuring everyone experiences both sides of the bench.

ICJ PROCEDURAL FLOW

Phase 1: Administrative Opening & Fact-Checking

- **Roll Call:** The Chair takes attendance of all Judges, Advocates, and Expert Witnesses.
- **Opening Statement of the Court:** The Chair calls the session to order and officially reads the case title (*Ecuador v. Colombia*).
- **Deliberation & Creation of Stipulations: The floor is opened for all delegates (Judges and Advocates) to**

negotiate and finalize the Stipulations Paper. Delegates review the background brief together to isolate and formally vote on the facts they all agree to accept as truth.

- **Reading of Stipulations:** The Chair reads the completed, undisputed facts of the case into the official record.

Phase 2: Oral Arguments & Evidence

- **Opening Statements:** First, the Applicant (Ecuador) presents its core claims. Next, the Respondent (Colombia) presents its defense.
- **Presentation of Evidence (Applicant): Ecuador introduces its Evidence Paper to the court,** establishing their physical and scientific data before questioning its own **Expert Witness** (*Direct Examination*).
    - Colombia questions Ecuador's Expert Witness (*Cross-Examination*).
    - **Judges** ask questions to the witness and Ecuador's Advocates.
- **Presentation of Evidence (Respondent): Colombia introduces its Evidence Paper to the court,** presenting their counter-data before questioning its own **Expert Witness** (*Direct Examination*).

- Ecuador questions Colombia’s Expert Witness (*Cross-Examination*).
- **Judges** ask questions to the witness and Colombia's Advocates.

Phase 3: Closing the Floor

- **Closing Statements:** Ecuador summarizes its case and reads its requested remedies. Colombia follows with its final defensive summary.
- **Rebuttals:** Ecuador delivers a short speech targeting Colombia’s closing points. Colombia responds with a final counter-speech (*Surrebuttal*).

Phase 4: Deliberations & Verdict

- **Closed Deliberations:** Advocates and Witnesses leave the floor. **Judges enter a private session to debate the evidence, review the legal merits, and collaboratively draft the clauses of the final Judgment Paper.**
- **Voting & Reading: Judges** vote on each legal clause. The court reopens to the public, and the Chair reads the final verdict.

GUIDE TO COURT PAPERS

During the simulation, the court relies on specific official documents to manage the dispute. Because delegates are not expected to arrive with prepared materials, these papers will be collaborated on, drafted, and agreed upon dynamically during committee sessions:

- **The Stipulations Paper:** A document outlining the undisputed, foundational facts of the case. **All parties (Applicant, Respondent, and Judges) must collectively agree on these facts before oral arguments begin** so that committee time is spent debating legal principles and contested evidence rather than historical timelines.
- **The Evidence Paper:** A curated packet or index presented by each legal team containing data, scientific reports (e.g., glyphosate toxicological studies, wind pattern reports), maps, or diplomatic correspondences. It serves as the physical proof used to back up advocate speeches and witness testimonies.
- **The Final Judgment (Verdict):** Written exclusively by the Judges during closed deliberations, this paper outlines the court's official findings, whether international law was violated, and what binding remedies or damages must be awarded.

SOURCES:

.. = Purely for reference, official court documents, may not be used for evidence

.. = Scientific Data & Environmental Impact

.. = Legal commentary, perspectives, and grievances.

- https://www.icj-cij.org/case/138
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