

**ARMED ACTIVITIES ON THE TERRITORY OF THE CONGO
Democratic Republic of the Congo v Burundi; Uganda; Rwanda**

BACKGROUND

On 23 June 1999 Congo instituted proceedings in the International Court of Justice against Burundi, Uganda and Rwanda for:

acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the Organisation of African Unity ("OAU").

In its Applications, Congo contended that the invasion of its territory by Burundian, Ugandan and Rwandan troops on 2 August 1998 constituted:

[a] violation of [its] sovereignty and of [its] territorial integrity [as well as a] threat to peace and security in central Africa in general and in the Great Lakes region in particular.

Congo made the following claims:

1. The above acts of the three respondent states constituted an invasion that currently involves fighting in seven provinces.
2. The respondents had attempted to "capture Kinshasa through Bas-Congo, in order to overthrow the Government of National Salvation and assassinate President Laurent Désiré Kabila, with the object of establishing a Tutsi régime or a régime under Tutsi control".
3. The respondents were guilty of "violations of international humanitarian law and massive human rights violations" including massacres, rapes, abductions and murders.
4. The respondents were guilty of looting of large numbers of public and private institutions.
5. By causing massive electric power cuts, the respondents made themselves responsible "for very heavy losses of life [in] the city of Kinshasa...and the surrounding area".
6. By shooting down a Boeing 727 aircraft on 9 October 1998, the property of Congo Airlines, and thus causing the death of 40 civilians, the respondents violated certain international treaties relating to civil aviation.

As a result Congo requested the Court to declare the following:

1. That the armed forces of Burundi, Uganda and Rwanda must “forthwith vacate the territory” of the Congo.
2. That the said states “shall secure the immediate and unconditional withdrawal from Congolese territory of [their] nationals, both natural and legal persons”.
3. That Congo “is entitled to compensation...in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable” to the states concerned.

BASIS FOR THE COURT'S JURISDICTION

Congo v Uganda

As the basis for the jurisdiction of the Court, Congo invoked the declarations by which both states accepted the compulsory jurisdiction of the Court in relation to any other state accepting the same obligation under Article 36(2) of the Statute of the Court.

Since Uganda did not raise objections at this stage of the proceedings, by an Order dated 21 October 1999 the Court fixed time limits for the filing of written pleadings on the merits of the dispute.

Congo v Burundi; Congo v Rwanda

As the basis for the jurisdiction of the Court in these two Applications, Congo invoked the following bases:

1. Article 36(1) of the Statute of the Court. This provision states that “the jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force”.
2. Article 38(5) of the Rules of Court. This provision contemplates the situation where a state files an application against another state, which had not accepted the jurisdiction of the Court.
3. The New York Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984.

4. The Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971.

In these cases, Burundi and Rwanda, as respondents, indicated their intention to raise preliminary objections to the jurisdiction of the Court and the admissibility of the Application. Accordingly, the Court decided that the written proceedings should first address those questions. By Orders dated 21 October 1999, the Court fixed time limits for the filing of written pleadings in the above cases.

The Jurisdiction of the Court

A meeting was held between the President of the Court, Schwebel J and all the parties on 19 October 1999 to address the issue of the Court's jurisdiction to deal with the cases. All three respondents had denied that the Court had jurisdiction to deal with Congo's Applications.

CONGO v UGANDA

Taking into account the agreement of Congo and Uganda during the meeting, the Court fixed 21 July 2000 as the time limit for the filing of a Memorial by Congo and fixed 21 April 2001 as the time limit for the filing of a Counter Memorial by Uganda.

CONGO v BURUNDI

Burundi expressed the opinion that the Court had no jurisdiction to entertain the Application. Accordingly, the parties agreed to request the Court to determine separately the questions of jurisdiction and admissibility before any proceedings on the merits. This was on the understanding that Burundi would first present a Memorial dealing exclusively with those questions and that Congo would reply to this in a Counter Memorial confined to the same questions.

Taking into account the agreement between Congo and Burundi, the Court decided that the written proceedings should first address the questions of jurisdiction of the Court to entertain the Application and of its admissibility. The Court fixed 21 April 2000 as the time limit for the filing of a Memorial by Burundi, and fixed 23 October 2000 as the time limit for the filing of a Counter Memorial by Congo.

CONGO v RWANDA

At the meeting Rwanda indicated that in its opinion the Court had no jurisdiction to entertain the Application. Accordingly, Congo and Rwanda agreed to request the Court to determine separately the questions of jurisdiction and admissibility before any proceedings on the merits. This was on the understanding that Rwanda would first present a Memorial dealing exclusively with those questions and that Congo would reply to it in a Counter Memorial confined to the same questions.

Taking into account the agreement between the parties, the Court decided that the written proceedings should first address the questions of jurisdiction of the Court to entertain the Application and of its admissibility. It fixed 21 April 2000 as the time limit for the filing of a Memorial by Rwanda and fixed 23 October 2000 as the time limit for the filing of a Counter Memorial by the Democratic Republic of the Congo.