

INTERNATIONAL COURT OF JUSTICE

Press Release

30 April 2018

Palau institutes proceedings against Brazil

THE HAGUE, 30 April 2018. On the morning of 27 April 2018, the Republic of Palau instituted proceedings against the Federative Republic of Brazil before the International Court of Justice (ICJ), the principal judicial organ of the United Nations, with regard to a dispute concerning the alleged 'growing deforestation in the Brazilian Amazon rainforest participating significantly in global warming and causing, inter alia, its disappearance due to rising sea levels'.

In its Application, Palau claims that 'by increasing its deforestation activities in the Amazon, Brazil is violating its obligation under the customary law to not to cause harm to the territory of other States, or to the areas beyond national jurisdiction and other international obligations'. Palau further argues that deforestation in the Amazon never reached the low recorded in 2012 and is still far away from the targets for slowing climate change. Remembering the importance of the Amazon rainforest for absorbing carbon emissions and defying climate change, Palau thus 'respectfully requests the Court to adjudge, order and declare as follows:

- a) That the Court has jurisdiction under article 14, § 2.a of the United Nations Framework Convention on Climate Change (UNFCCC – 1992) to entertain the dispute and to rule upon the claims submitted by Palau;
- b) That, by increasing its deforestation activities, Brazil breaches its international obligation to not to cause harm to the territory of other States, or to the areas beyond national jurisdiction as well as its obligation under article 3 § 3 of the UNFCCC;
- c) That Brazil must take measures to decrease deforestation in the Amazon;
- d) That, with regard to reparation, Palau has the right to satisfaction in the form of entrance facilities for its population in the Brazilian territory; and
- e) Any other remedy the Court may deem appropriate.'

Note: The Court's press releases are prepared by its Registry for information purposes only and do not constitute official documents.

Observations:

- ✚ This is a fictive case with almost no similar precedent in the jurisprudence of international tribunals.
- ✚ As regards interest to act, there is already a case in the jurisprudence of the ICJ, which we had the opportunity to discuss at the class. However, at that decision, the ICJ did not discuss the interest to act, but declared the case admissible.
- ✚ None of the Parties recognize the jurisdiction of the Court as compulsory. Thus, Brazil might discuss the jurisdiction based on the UNFCCC. However, it had ratified the treaty unreservedly.
- ✚ The content of an obligation under international environmental law is not always easy to determine.
- ✚ A State may be responsible under international law when there is a wrongful act (breach of an obligation) attributable to the State (its agents or under the State's effective control).
- ✚ Consequences of the State's responsibility are:
 - ❖ To cease the wrongful act (if it has a continuous character).
 - ❖ The guarantee and assurance of non-repetition (depending on the circumstances)
 - ❖ Reparation
 - Restitution (*Restitutio in integrum*)
 - Compensation
 - Satisfaction
- ✚ The International Law Commission's Draft articles on State Responsibility for wrongful acts (2001) may be useful for your doubts.