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Costa Rica Says Nicaragua Adds Insult to Injury, Maintains Diplomacy as Battlefield; ICJ Meets Again on Request for More Measures

by George Rodríguez

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Tension keeps rising between Costa Rica and Nicaragua on territorial issues. This is not new in the relations between the ever-quarreling Central American neighboring nations whose 309 km land border and their still undefined maritime limits now stand center stage, with the dispute regarding Isla Portillos—a spot making up the northern portion of Isla Calero, a wetlands area Nicaragua calls Harbor Head—covering some 3 sq km on the easternmost end of the border, constantly in the eye of the storm.

The Isla Portillos dispute, an issue dating back to October 2010, is being studied by the International Court of Justice (ICJ) in The Hague, Netherlands (NotiCen, Dec. 16, 2010).

The dispute broke when Costa Rica charged Nicaragua with having militarily invaded a portion of its territory in the border area—Isla Portillos—and of having caused environmental damage there, charges immediately denied by Nicaragua, who alleged its neighbor was actually being the invader of Nicaraguan territory.

Shortly after bringing the conflict before the ICJ, Costa Rica asked the court to issue precautionary measures aimed at keeping Nicaragua out of the dispute spot. On March 8, 2011, the ICJ issued the measures, to be in force while it studies the case (NotiCen, Jan. 20, 2011).

The court then ordered the two sides to withdraw security forces—military in Nicaragua’s case, police in Costa Rica's—to abstain from aggravating or extending the dispute, and to keep the court up to speed on compliance with the measures (NotiCen, March 15, 2012, and Jan. 31, 2013).

The ICJ also allowed Costa Rican civilians to enter the zone, "only insofar as it is necessary to avoid irreparable prejudice being caused to the part of the wetland where that territory is situated," in previous consultation with the secretariat of the international environmental organization Ramsar Convention, which protects wetlands worldwide.

For this, Costa Rica must also "give Nicaragua prior notice," and "use its best endeavours to find common solutions with Nicaragua in this respect," the court mandated.

Costa Rica has accused Nicaragua, time and again, of sending members of the ruling Frente Sandinista de Liberación Nacional (FSLN) youth movement, Guardabarranco, and even military personnel dressed as civilians, to Isla Portillos and has said that such presence goes against the measures ordered by the ICJ (NotiCen, Sept. 19, 2013).

However, Nicaragua has more recently gone before the ICJ to charge Costa Rica with having caused environmental damage to the Nicaraguan side of the border by building a dirt road next to it on the Costa Rican side.
The court’s next step was to join both cases into one, something Nicaragua had been hoping for.

**New accusations of canals in the area**
Rising tico-nica tension around Isla Portillos has reached new heights, triggered by events developing since last month.

On Sept. 17, Costa Rica’s President Laura Chinchilla and Foreign Minister Enrique Castillo broke the news, during the weekly government press conference, that, doubling what it had done at the start of the Isla Portillos dispute, Nicaragua had carved two artificial canals through the area, linking the Río San Juan—which flows eastward next to a major section of the border—to the Caribbean Sea.

The two drainage structures—one of them, some 20 to 30 meters wide, the other, half that width, both approximately 200 meters long—were captured in satellite photographs, and some of the images showed a dredge in one of the canals.

Chinchilla—who, among other high government positions, has served as security minister—and Castillo—a former ambassador of Costa Rica to the Organization of American States (OAS)—both reasserted the charges that Nicaragua shows no respect whatsoever for the ICJ and its rulings and that opening the new artificial canals has caused considerable damaged to the environment in the area.

Both officials told journalists that, in the face of the worsened situation, the Chinchilla administration had decided, as it is customary for Costa Rica, which abolished its army in 1948, to resort to international diplomacy and, once again, to the ICJ.

The first action was to address a protest note to the Nicaraguan government, headed by President Daniel Ortega, demanding that it explain why it began the work and to stop it immediately, they announced. Another decision was to report the new situation to the UN and to request top-level meetings with the UN, the OAS, and Ramsar.

**Costa Rican experts confirm damages**
Also, a team of experts of the Costa Rican Ministerio de Ambiente y Energía (MINAE) would carry out an on-the-ground evaluation of damage caused by the dredging, and its report would be the basis for new accusations to be filed against Nicaragua before Ramsar. Meanwhile, the Costa Rican government’s legal experts would analyze further action, added to what has already been done at the ICJ level.

The following morning, the MINAE team left the capital, San José, to carry out its mission. That evening, the administration issued a press release reporting that, "with the evidence gathered, the Costa Rican government will file a formal denunciation with the Ramsar Convention’s Secretariat for it to record the irreparable damage that has been inflicted on the Humedal Caribe Noreste." The evidence was obtained during an "overflight in a civilian helicopter which transported the environmental personnel," according to the official information.

"Though photographs, it was possible to prove" that the canals are "an artificial construction, for which the Nicaraguan government employs at least one dredge," something that "confirms the satellite evidence already made public and denies the Nicaraguan response [to the Costa Rican..."
protest note], which has suggested" the canals could have been opened "by effect of the rain" on the soft terrain, the government added.

Six days after the mission, Costa Rican Deputy Foreign Minister Gioconda Ubeda announced during a press conference that a request for new precautionary measures had been lodged with the ICJ, aimed at having Nicaragua retreat from the Costa Rican territory where the bilateral dispute is staged.

In an unusually prompt response, on Oct. 1 the world’s top legal body set the dates for the hearing—Oct. 14-17 at ICJ headquarters in The Hague.

**Nicaragua does about-face**

Hours after the start of the hearing’s first session, Ubeda called a press conference and reported that Nicaragua’s position took an unexpected turn, which actually backed Costa Rica’s hard evidence for requesting the court to set new precautionary measures. "This hard evidence has been ... quite reinforced by the statements" made by the Nicaraguan government since last week, she said.

In an Oct. 7 note, "it states that it did not recognize the work [digging both canals] had not been carried out by them, because it said that Pastora was not working for Nicaragua," Ubeda said.

The Costa Rican official referred to former Nicaraguan guerrilla Edén Pastora, presently the country’s minister of development of the Río San Juan basin, thus in charge of the river’s dredging which initially triggered the 2010 dispute and also of dredging the two canals.

"But, 24 hours later, [the Nicaraguan government] had to admit that, yes, the dredging of the two canals had been carried out by an agent appointed by them, who is, precisely, Mr. Edén Pastora," she went on to tell the press conference.

"And more recently, their agent before the International Court of Justice," Nicaraguan Ambassador to Holland Carlos Argüello, "has stated that Nicaragua did enter the zone, did carry out the dredging ... of the two artificial canals, that they admit this fact, and also that they commit themselves to not continuing to do it," Ubeda added.

Ubeda later told NotiCen, "What this reveals is that Nicaragua has been denying things it has done, and this, I believe ... should be assessed by the court."

-- End --