

ARMED ACTIVITIES ON THE TERRITORY OF THE CONGO

(Democratic Republic of the Congo v Burundi)

(Democratic Republic of the Congo v Rwanda)

These two cases are still pending.¹

The cases concern proceedings that the Congo initiated against three Respondents originally, namely, Burundi, Rwanda, and Uganda. The Congo had alleged that the Respondents had committed acts of armed aggression, perpetrated in flagrant violation of the United Nations Charter and the Charter of the Organization of African Unity. On 1 July 2000, the Court handed down an Order indicating provisional measures in the case against Uganda.²

In these two remaining cases, by Orders dated 20 October 2000, the Court extended the time-limit to February 2001 for the filing of the Counter-Memorials by the Congo on the questions of jurisdiction and admissibility. Both Respondents did not object to the Congo's request. However, from the outset, they had informed the Court of their intention to raise preliminary objections to the Court's jurisdiction and the admissibility of the Applications. Consequently, by Orders dated 21 October 1999, the Court had decided that the written proceedings in these cases should first address the questions of jurisdiction and admissibility.

THE CONGO'S CLAIMS

The Congo alleged that Burundi and Rwanda had engaged in acts of armed aggression against it and invaded its territory, in flagrant breach of the United Nations Charter and the Charter of the Organization of African Unity (OAU). This violated its sovereignty and territorial integrity, and was a "threat to peace and security in central Africa in general and in the Great Lakes region in particular". The Congo accused the Respondents of attempting to "seize Kinshasa through the lower Congo, in order to overthrow the Government of Public Salvation and assassinate President Laurent Désiré Kabila, with the object of installing a Tutsi régime or a régime under Tutsi control".

¹ For background information on these cases, refer [1999] *Australian International Law Journal* 334-337.

² The proceedings against Uganda are found at 309-329 above.

The Congo also accused the Respondents of violations of international humanitarian law, massive violations of human rights and the looting of large numbers of public and private institutions. These actions breached the 1949 Geneva Conventions and their 1977 Additional Protocols. It claimed further that the Respondents had given assistance to the Congolese rebellion or rebellions and that the issue of frontier security were mere pretexts designed to enable the Respondents to seize the assets of the territories invaded and hold the civilian population to ransom.

The Congo made a number of other claims against the Respondents. For example, the Congo alleged that the Respondents had taken possession of the Inga hydroelectric dam by force, and had deliberately and regularly caused massive electric power cuts. In addition, the Congo alleged that the Respondents were responsible for shooting down a Boeing 727 aircraft on 9 October 1998, the property of Congo Airlines, which caused the death of 40 civilians and violated international agreements on the safety of civil aviation.

The Congo requested the Court to declare that the armed forces of Burundi, and Rwanda (including Uganda) must “forthwith vacate the territory” and immediately and unconditionally withdraw from Congolese territory. The Congo claimed also that it was entitled to compensation in respect of all acts of looting, destruction, removal of property and persons, and other unlawful acts attributable to the Respondents.

As the basis for the Court’s jurisdiction, the Congo invoked Article 36(1) of the Court’s Statute, Article 38(5) of the Rules of Court, the 1984 New York Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.