

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,  
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE RELATIVE À DES USINES DE PÂTE  
À PAPIER SUR LE FLEUVE URUGUAY

(ARGENTINE c. URUGUAY)

ARRÊT DU 20 AVRIL 2010

**2010**

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,  
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING PULP MILLS  
ON THE RIVER URUGUAY

(ARGENTINA v. URUGUAY)

JUDGMENT OF 20 APRIL 2010

Mode officiel de citation:

*Usines de pâte à papier sur le fleuve Uruguay (Argentine c. Uruguay),  
arrêt, C.I.J. Recueil 2010, p. 14*

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case and the extensive independent evidence put before the Court by Uruguay. Uruguay also strongly contests Argentina's argument that the precautionary approach of the 1975 Statute would imply a reversal of the burden of proof, in the absence of an explicit treaty provision prescribing it as well as Argentina's proposition that the Statute places the burden of proof equally on both Parties.

162. To begin with, the Court considers that, in accordance with the well-established principle of *onus probandi incumbit actori*, it is the duty of the party which asserts certain facts to establish the existence of such facts. This principle which has been consistently upheld by the Court (*Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, I.C.J. Reports 2009, p. 86, para. 68; *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, Judgment, I.C.J. Reports 2008, p. 31, para. 45; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007 (I), p. 128, para. 204; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984, p. 437, para. 101) applies to the assertions of fact both by the Applicant and the Respondent.

163. It is of course to be expected that the Applicant should, in the first instance, submit the relevant evidence to substantiate its claims. This does not, however, mean that the Respondent should not co-operate in the provision of such evidence as may be in its possession that could assist the Court in resolving the dispute submitted to it.

164. Regarding the arguments put forward by Argentina on the reversal of the burden of proof and on the existence, vis-à-vis each Party, of an equal onus to prove under the 1975 Statute, the Court considers that while a precautionary approach may be relevant in the interpretation and application of the provisions of the Statute, it does not follow that it operates as a reversal of the burden of proof. The Court is also of the view that there is nothing in the 1975 Statute itself to indicate that it places the burden of proof equally on both Parties.

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165. The Court now turns to the issue of expert evidence. Both Argentina and Uruguay have placed before the Court a vast amount of factual and scientific material in support of their respective claims. They have also submitted reports and studies prepared by the experts and consultants commissioned by each of them, as well as others commissioned by the International Finance Corporation in its quality as lender to the project. Some of these experts have also appeared