

Bratislava, 28 January 2010

Sir,

In January 2009, the agents of the Parties to the Gabčíkovo-Nagymaros Project case met the former President of the Court, Honourable Judge Higgins. In light of the fact that twelve years had passed since the Judgement of the ICJ was rendered in September 1997 without finding an agreement on the modalities of the implementation of the judgment Judge Higgins suggested that agents of the Parties should declare their intentions concerning the status of the Case and to provide information concerning the negotiations between the both parties to the case.

We have the honour to attach to this letter a joint statement of the agents of both parties to the case, which contains, inter alia, brief summary of negotiations between both parties.

Accept, Sir, the assurances of our highest consideration.



Drahošlav Štefánek
Agent of Slovakia



István E. Gereelyes
Agent of Hungary

Encls.

Mr. Philippe Couvreur
Registrar
International Cour of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

*Joint statement of the
Agent of the Republic of Hungary and the Agent of the Slovak Republic on the state of
affairs in the Case Concerning the Gabčíkovo-Nagymaros Project*

1. The meeting of the Agents of the Republic of Hungary, Mr. István Gerelyes and the Slovak Republic, Mr. Drahošlav Stefanek with the then President of the International Court of Justice, Judge Rosalyn Higgins on 26 January 2009 led to the conclusion that the Court would welcome a brief joint statement reflecting the intentions of the Parties to the longest pending case in the docket. This agreed statement serves the purpose of informing the Court about progress made in the implementation of the Judgment in the Case Concerning the Gabčíkovo-Nagymaros Project on 25 September 1997, delivered on 25 September 1997 and on the plans of the parties concerning the future.

I. Brief history of the events between 1997-2009

2. Following the Judgment of the International Court of Justice Parties have started negotiations on the implementation of the modalities of the Judgment in autumn of 1997 and initialled a text of a draft framework agreement by two Heads of delegation on 27 February 1998. Even though on 10 March 1998, the Government of Slovakia gave its consent to sign the text of the draft Framework Agreement the Government of Hungary did not, therefore the Agreement was not signed.
3. Subsequently, on 3 September 1998, Slovakia submitted a request for an additional Judgment. Hungary has filed the written statement of her position by 7 December 1998 as requested by the Court. No further move has been taken in the pending case as the Parties have in a joint letter informed the Court that on 27 November 1998 they resumed their negotiations. The Court on 14 December 1998 in its response acknowledged the receipt of that letter and requested to be kept informed by the Parties. Accordingly, the Court has been duly informed of all negotiation rounds and the agreed minutes adopted at them by the Agents of the Parties. Additionally both Parties maintain websites which make the results of their negotiations accessible to the public (www.bosnagymaros.hu; www.gabcikovo.gov.sk).
4. Shortly after the delivery of the Judgment of the ICJ, both parties agreed to extend the application of the “Agreement between the Government of the Slovak Republic and the Government of the Republic of Hungary Concerning Certain Temporary Technical Measures and Discharges in the Danube and Mosoni Branch of the Danube” (1995 Agreement), which otherwise was to be terminated after the delivery of the Judgment, until negotiations on the implementation of the modalities of the Judgment conclude. The joint monitoring, carried out since 1995, consist of observations of surface water flow rates, levels and quality, groundwater levels and quality observations, observations of soil moisture, forest stands and terrestrial and aquatic fauna and flora. Data are mutually exchanged. Annually the Slovak and Hungarian Parties prepare National Reports on Environmental Monitoring as well as a Joint Report The latter is elaborated in English.
5. Between 1998 and 2002 seven meetings of the Governmental Delegations were held as well as nine consultations at expert level. In December 1999 the Hungarian Party handed

over its proposal with a package of technical documentations and a document entitled : “Legal principles of the settlement proposal” . The Slovak response to this proposal was handed over to the Hungarian Party in December 2000. On 2 April 2001, the Hungarian delegation handed over the Draft Agreement based on the two previously mentioned documents for the purpose of giving effect to the ICJ Judgment of 25 September 1997. On 5 June 2001 the Parties agreed on the need of further negotiations on the documentation prepared by Hungary and commented by Slovakia in December 2000. They were also in agreement on the necessity of negotiations in expert groups to solve specific issues and for this reasons they established a legal and a technical expert group on 29 June 2001.

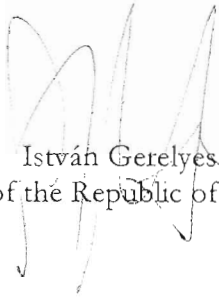
6. Elections in both countries took place in 2002. The delegation of the Slovak Republic remained to function in the same composition and in a letter of the Minister of Foreign Affairs of Slovakia dated 19 November 2002, addressed to the Minister of Foreign Affairs of Hungary expressed its readiness to resume negotiations right in 2002. After having restructured the institutional background responsible for the negotiations on the Hungarian side, negotiations on governmental level were resumed on 13 April 2004. During those negotiations, both Parties agreed to continue their negotiations on the commenced expert level. A third expert group dealing with economic questions was established at this meeting.
7. A third expert group dealing with economic questions was established at this meeting.
8. The three expert groups entrusted with the elaboration of the modalities of the implementation of the Judgment had several rounds of negotiations, exchanged a great number of working documents but finally could not reach agreement on the technical interventions or on the legal and economic issues pending between the Parties. Their closing reports were adopted at the meeting of the Governmental Delegations on 5 October 2006.
9. Negotiations continued at the governmental level. The Slovak Party submitted a new Draft Agreement in 2006 suggesting to freeze temporarily the status quo in order to allow more time and to create constructive spirit to find a final solution, to which the Hungarian Party responded in February 2007 with its proposals amending the text. Further documents concerning the wide divergence of the views of the Parties were exchanged in 2007. Because of the fact that in the meantime Parties have agreed to carry out a joint - so called - Strategic Environmental Assessment (SEA), and in light of a number of differences concerning the Draft Agreement, upon a proposal of Hungary the parties have agreed to suspend negotiations on the documents concerning the Draft Agreement during the SEA process. However, they have not excluded the option to resume negotiations at the expert level. This is stated in the Agreed Minutes of the meeting of the governmental delegations on 19 March 2009.
10. The joint Strategic Environmental Assessment is a *sui generis* project, the implementation of which was decided at the meeting of the Governmental Delegations on 19 December 2006. The preparatory working group for the joint SEA was set up at the 7 March 2007 meeting of those delegations. The SEA working group has elaborated the Statute of the Steering Group (and thereby the task of itself), which was formally adopted at the meeting of the Governmental Delegations on 12 August 2008. Its article on goals, tasks and methods describes the Parties' activity in 2009. Parties have agreed that „*If no final and conclusive approval of the common Environmental Report is reached by the Steering Committee by 22*

December 2009 this procedure of the joint Strategic Environmental Assessment shall be discontinued".
On 15 December 2009, at the request of the Slovak party the deadline was extended to 30 April 2010.

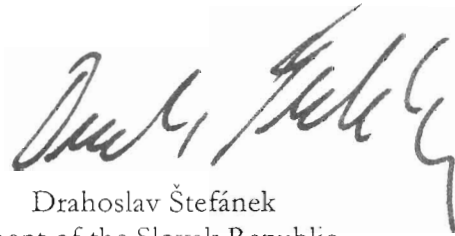
II. The Parties' intentions concerning the future

11. The parties jointly affirm that this statement does not affect their respective legal positions in the case pending in front of the International Court of Justice or in any other context and does not prejudice or pre-empt any claim they may have. It mostly serves information purposes as requested by the President of the Court.
12. Therefore the Republic of Hungary and the Slovak Republic are of the shared opinion that any move concerning their case pending in front of this respected Court would be premature right now. They are in agreement that in charting their road to the longer term future they are willing to rely on the advice and contribution of the Court, whichever form it will take when the time comes.

Bratislava, 28 January 2010.



István Gerelyes
Agent of the Republic of Hungary



Drahoslav Štefánek
Agent of the Slovak Republic