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José-Miguel Júdice

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Assunto: [cbar_lista] GAR: Brazilian bank prevails against Ecuador
Anexos:

Brazilian bank prevails against Ecuador

Sebastian Perry

Thursday, 03 February 2011

An ICC tribunal has dismissed a claim by an Ecuadorean state power utility against Brazil's national development bank, BNDES.

Ecuador's Hidropastaza [filed a claim](#) against BNDES in November 2008, seeking to review the interest on a US\$243 million loan the bank had granted eight years earlier to fund the construction of a major hydropower plant - built by an international consortium led by Brazilian engineering group Odebrecht. The Ecuadorean utility brought the claim under a 1982 convention governing loans between member states of ALADI, the Latin American trade integration association.

Although the ruling has not been made public, the bank said in a statement of 19 January that the tribunal had recently dismissed all Hidropastaza's claims. BNDES said the utility had continued to meet its payment obligations during the proceedings.

The proceedings are thought to have taken place in Rio de Janeiro, in Portuguese, governed by Brazilian law. Hidropastaza was represented by Guillermo Aguilar-Alvarez of Weil Gotshal & Manges, who has since moved to King & Spalding.

Counsel to both sides did not respond to a request for comment.

The ICC claim was part of a diplomatic row between the two countries that arose when the hydro plant broke down within a year of opening. Ecuador's president, Rafael Correa, had the plant taken over by the military and ordered Odebrecht to be expelled from the country. Hidropastaza then filed a US\$250 million arbitration claim against the Odebrecht consortium in a local chamber of commerce. That feud was finally [settled in October](#), when the consortium agreed to pay for repairs to the plant and the claim against it was withdrawn.

ICC tribunal

- **José-Miguel Júdice** (Portugal)
- **David Arias** (Spain)
- **Hermes Marcelo Huck** (Brazil)

Counsel to Banco Nacional de Desenvolvimento Econômico e Social (BNDES)

- L O Baptista Advogados

Partners **Luiz Olavo Baptista**, **Maurício Almeida Prado**, **Adriana Braghetta** and **Eduardo Felipe Matias** and associates **Sílvia Julio Bueno de Miranda** and **Daniel Aun**

Counsel to Hidropastaza

- Weil Gotshal & Manges LLP

Guillermo Aguilar-Alvarez (no longer with the firm)

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