

## **BACKGROUND ON UNLAWFUL HAITIAN CANAL DIVERTING DOMINICAN DAJABÓN RIVER\***

**Excerpt of President Luis Abinader's Speech to the UN General Assembly  
September 20, 2023**

Haiti today not only suffers from an environmental tragedy, but also from political and social instability that can become a threat to the entire region. It is not a pleasure for me to remember the appeal I made two years ago to this General Assembly, when I said, 'Since this government took office, we have been announcing the possibility that the Haitian situation could go beyond the borders of that country, affecting as a factor of insecurity in the region. Hence the need for this community of nations to undertake, once and for all, the Haitian issue as one of the highest priorities and to provide permanent monitoring.'

Today the harsh reality of that warning is confirmed. **A small group of Haitian individuals has resumed the construction of an illegal decanting canal in Haitian territory to extract water from the Dajabón River, in violation of the Dominican-Haitian border treaties.**

**The international community should know that the Dajabón River starts in Loma de Cabrera, and most of its 55 km runs through our territory until it ends into Manzanillo Bay, in Montecristi. Only 2 km enters Haitian territory.** That small stretch on the Haiti side is where they are building the canal. The information we have indicates that it is a maneuver to control water by a small economic-political elite to profit from its sale to small producers in the area.

The idea of this project was never officially communicated to the Dominican government, nor was documentation provided regarding its size, its environmental impact, and the identity of its final beneficiaries. Despite the limited information available, the tests we have carried out show that the works **puts at risk the access to water of hundreds of Dominican and Haitian farming families downstream from where the canal is being built.**

**Furthermore, the project puts at risk of flooding both the CODEVI industrial park, 300 meters downstream of the canal, and its 19,000 Haitian workers, as well as a part of the inhabitants of the border cities of Dajabón and Juana Méndez. And last**

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*\* This material was compiled and distributed by Vision Americas LLC on behalf of the Dominican government. Additional information is available at the Department of Justice, Washington, DC.*

but not least, it would have harmful ecological effects, affecting the Saladillo Lagoon, one of the main wetlands in the Dominican Republic.

Since April 2021, our government has repeatedly asked the Haitian authorities to stop the unilateral and illegal construction of said work. The Haitian government itself has indicated that it is not a government project, but it has not stopped it as a result of institutional weakness and the crisis of public order and security in that country. The situation has already led to complicated animosity on both sides of the border.

Faced with this international illicit act, committed by individuals in a part of the river that is located in Haitian territory, the Dominican government has been forced to put in place strong measures, such as the closure of the border with Haiti, to guarantee security and national interest, as well as to protect our rivers, environment, and agricultural production.

We do not have, nor do we desire to seek a confrontation with the Haitian people, but we are indeed confronting the uncontrollable actors who maintain insecurity in Haiti for their particular interests, and who now also conspire against the stability of their government and the security of water resources. [END EXCERPT]

### **Background on the Unlawful Canal and Diplomatic Dispute**

*Based on Dominican Diplomatic Note (July 6, 2021)*

[C]onsiderations on the case of the canal that [Haitian citizens are] building with the intention of connecting it to the Dajabón or Masacre River...

First of all, it must be established that the Haitian government has never officially communicated with the Dominican government regarding the beginning of the construction of said canal, nor has it provided the technical documents that allow verifying the objective of said canal and carrying out an evaluation of its environmental impact.

Informally, at the meeting of the technical table of the Dominican-Haitian Joint Commission of both governments, held on May 27<sup>th</sup> at our ministry, a Haitian official delivered a brief five-page summary prepared by a company called DINVAI, entitled "The current status of the diversion project to the Maribaroux irrigation system." This document has allowed to establish that the construction works began in 2018 and that it is not an irrigation channel, but a transfer channel. That is, the objective of the canal is to divert part of the river flow to the aforementioned irrigation system.

**Given the magnitude of what this transfer channel implies, it was the obligation of the Haitian government to deliver in a timely manner to the Dominican**

**the technical and environmental impact studies that would allow verifying the safety of the work, the scope of its possible consequences, the risk mitigation measures that would be taken, among multiple technical aspects.**

[D]espite the absence of official information, our technicians have been able to verify some critical aspects of the work, such as, for example, that the canal under construction has a height at least 2.5 meters higher than the level of the Dajabón or Masacre rivers. **This would imply the need to build a diversion dam that raises the level of the river at the point where it would connect with the canal. That point is less than 200 meters from the border between the two countries** and about 300 meters downstream from the land occupied by the Codevi plant. Moreover, the area where the connection is intended to be built is right between the cities of Dajabón and Ouanaminthe. **Our technicians have determined, with the available information, that such a dam would imply a serious danger of flooding in the rainy season for Dajabón and Ouanaminthe, including the Codevi plant that employs 14,000 Haitians and 1,000 Dominicans.**

During episodes of extreme hydrological events the effects of floods could be potentially catastrophic, increasing the depth of water in the river considerably.... With the meager technical documentation available ... it is not possible to form a positive assessment that would dispel the technical doubts that have arisen. It is assumed that the design of a project of this type in current times, with greater demands of safety and environmental standards, has gone through that rigor of appropriate hydrological-hydraulic-environmental studies and designs, and would much contribute to elucidate this current situation if the competent authorities of the Government of Haiti provided the documentation of the studies they have carried out for the design of the works of this project.

**In addition, our preliminary analyses indicate that the work as a whole would jeopardize the flow of the river in the lower zone, which would negatively affect Dominican and Haitian farmers and ranchers who currently use the downstream irrigation canals.**

Surely you are aware that the four water intakes built in Dominican territory downstream of La Aduana, the last one erected in 2000, irrigate around 14,000 *tareas* (a small plot of about 600 square meters) in Dominican territory and about 10,000 *tareas* in Haitian territory. This is the result of a coexistence agreement between the producers of both countries that allows Haitians to use the water captured by the Dominican intakes three days a week. Affecting this customary use, which benefits about 266 Dominican farmers and some 125 Haitian producers who have irrigation from the canal called "La Línea," would seriously affect the livelihoods of these communities and would imply a bad precedent in terms of water rights.

There is also the risk of ecological values. Based on objective reasoning, the reduction of the flow of the river means that this work would cause damage to the Saladilla Lagoon, one of the main wetlands of the country, as this is the main source of this vital freshwater lake ecosystem. This lagoon is a wildlife refuge protected by Article 16 of our Constitution that declares protected areas, their ecosystems and species as "heritage assets of the Nation," as well as by the Sectoral Law of Protected Areas, No. 202-04. According to our technicians, given the current flow of the river, greater water extraction could significantly reduce the level and volume of water in the aforementioned lagoon, one of the most important and diverse ecosystems of the island.

Additionally, we have well-founded doubts about the main beneficiaries of the project.... For the Dominican government, it is a matter of principle that the dispute that has arisen between our States be clarified with a view to strengthening a relationship of good neighborliness, mutually beneficial, and always within the framework of our national norms, bilateral treaties, Public International Law, as well as international jurisprudence on this matter.

**The Dajabón or Masacre River, which rises in Dominican territory, is a border watercourse that in some sections serves as a boundary between both States. In this sense, and in accordance with article 10 of the Treaty of Peace and Perpetual Friendship and Arbitration of 1929, works that may change the flow of the river are prohibited, although both States do have the right to use this river "in a fair and equitable manner, within the limits of their respective territories," for "the irrigation of the lands and other agricultural and industrial purposes."**

[T]he equitable use of boundary and transboundary waters is a principle of international law on shared waters that implies rights and obligations common to States that share basins, such as the Dajabón or Masacre River. Equitable use obliges both countries to seek a balance of interests, which considers the needs of both parties.

Likewise, the law of shared waters is also governed by the principles of harm prevention and sustainability. **These oblige us to take all necessary measures to minimize the environmental impact of the use of a shared basin, prioritizing its sustainability and protecting other States from possible damage.** Moreover, these relate to the precautionary principle of environmental law, which creates the responsibility to take all necessary measures to prevent the environmental impact of any intervention, even in the absence of scientific certainty about the impact of such action.

**Consequently, the [canal project is] a violation of international law and, above all, the Treaty of 1929, which implicitly imply the obligation to agree in advance to the construction of any work such as the canal in question.** Above all, in an ecosystem that has been so degraded and that today is under a high level of environmental stress.

It is true that, in the past, the Dominican State allowed the construction of some water intakes for irrigation and agricultural and livestock use. However, it is necessary to emphasize that the last of these works was carried out 20 years ago, when the water reality, due to the flow that existed at that time, was drastically different. Moreover, successive Haitian governments have not only given tacit acquiescence to these works, but, as indicated above, these works have also benefited Haitian farmers through coexistence agreements that allow the use of water by their compatriots. By contrast, in the case at hand, **from the moment we learned of the construction of the canal in Haitian territory, we have expressed diplomatic and public opposition to that unilateral construction and requested several times the immediate halt of the work....**

[T]he Dominican Republic and Haiti signed in 1978 the Agreement for the construction of the International Diversion Dam on the Pedernales River, which has been a successful model and could well have been an example to emulate in the case of the Dajabón River or Masacre. [T]he Dominican government will do everything in its power to guarantee the continued use of the Dajabón or Masacre River by our citizens under the current conviviality schemes. Likewise, it will take all necessary measures to prevent the ecosystem of the river and related bodies of water and the integrity of the areas from being affected by the construction of this work.

[T]he Haitian government must immediately stop the construction of the canal and open a dialogue with our government. The purpose of this dialogue would be to explore other options for the generation of alternative water resources that provide a benefit for the population of both States. [END EXCERPT]