



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Maritime Delimitation in the Caribbean Sea and the Pacific Ocean **(Costa Rica v. Nicaragua)**

The Court determines the course of the single maritime boundaries between **Costa Rica and Nicaragua in the Caribbean Sea and the Pacific Ocean**

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Land Boundary in the Northern Part of Isla Portillos **(Costa Rica v. Nicaragua)**

The Court finds that Costa Rica has sovereignty over the whole northern part of Isla **Portillos, including its coast (with the exception of Harbor Head Lagoon and the** **sandbar separating it from the Caribbean Sea), and that Nicaragua** **must remove its military camp from Costa Rican territory**

THE HAGUE, 2 February 2018. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, delivered its Judgment today in the joined cases concerning Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua) and Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua).

In its Judgment, the Court ruled on the merits of two disputes submitted to it by Costa Rica against Nicaragua. The first, presented on 25 February 2014, concerned the “establishment of single maritime boundaries between the two States in the Caribbean Sea and the Pacific Ocean, respectively, delimiting all the maritime areas appertaining to each of them, in accordance with the applicable rules and principles of international law”. The second, which was brought before the Court on 16 January 2017, concerned “the precise location of the land boundary separating the Los Portillos/Harbor Head Lagoon sandbar from Isla Portillos” and “the . . . establishment of a military camp by Nicaragua on the beach of Isla Portillos”.

Reasoning of the Court

I. LAND BOUNDARY IN THE NORTHERN PART OF ISLA PORTILLOS

A. Issues concerning territorial sovereignty

The Court observes that the second dispute submitted to it (the case concerning the Land Boundary in the Northern Part of Isla Portillos) raises issues of territorial sovereignty which it is expedient to examine first, because of their possible implications for the maritime delimitation in the Caribbean Sea. The Court considers, first, that it is clear from the actual wording of the Judgment it rendered on 16 December 2015 in the case concerning Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) (see Press Release No. 2015/32) that no decision was taken by the Court on the question of sovereignty concerning the coast of the northern part of Isla Portillos, since that question had been expressly excluded. It follows that the issue of sovereignty over that part of the coast is not res judicata, and that Nicaragua's claim concerning sovereignty over the northern coast of Isla Portillos is admissible.

The Court then recalls that, according to its interpretation of the 1858 Treaty of Limits between Costa Rica and Nicaragua in its 2015 Judgment, "the territory under Costa Rica's sovereignty extends to the right bank of the Lower San Juan River as far as its mouth in the Caribbean Sea", but that, in 2015, there remained some uncertainty with regard to the configuration of the coast of Isla Portillos. Since then, however, the report submitted to the Court by the experts it appointed in the joined case concerning Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua) has dispelled all uncertainty about the geography of the area. The Court notes, in particular, that there is no longer any water channel connecting the San Juan River with Harbor Head Lagoon and that therefore there can be no boundary running along it.

The Court reaches the conclusion that Costa Rica has sovereignty over the whole of Isla Portillos up to the point at which the right bank of the San Juan River reaches the low-water mark of the coast of the Caribbean Sea. That point constitutes the starting-point of the land boundary and, on the day of delivery of the Judgment, is located at the end of the sandspit constituting the right bank of the San Juan River at its mouth. The area under Costa Rica's sovereignty does not, however, include the Harbor Head Lagoon and the sandbar separating it from the Caribbean Sea, which are under Nicaragua's sovereignty, within the boundary defined in paragraph 73 of the Judgment (see sketch-map No. 2).

B. Alleged violations of Costa Rica's sovereignty

The Court then examines the allegation that, by establishing and maintaining a military camp on the beach of Isla Portillos, Nicaragua has violated Costa Rica's sovereignty.

The Court notes in this regard that, according to the Court-appointed experts, the edge of the north-western end of Harbor Head Lagoon lies east of the place where the military camp was located. The installation of the camp thus violated Costa Rica's territorial sovereignty as defined above (see point I.A.). It follows that the camp must be removed from Costa Rica's territory. The Court considers that the declaration of a violation of Costa Rica's sovereignty and the order addressed to Nicaragua to remove its camp from Costa Rica's territory constitute appropriate reparation.

II. MARITIME DELIMITATION IN THE CARIBBEAN SEA

A. Starting-point of the maritime delimitation

Having been called on to delimit the maritime boundary between the Parties in the Caribbean Sea, the Court first turns to the question of the starting-point of the delimitation.

It observes here that since the starting-point of the land boundary is, on the date of the Judgment, located at the end of the sandspit bordering the San Juan River at its mouth (see above, point I.A. and sketch-map No. 2), the same point would normally be the starting-point of the maritime delimitation. However, the great instability of the coastline in this area, as indicated by the Court-appointed experts, prevents the identification on the sandspit of a fixed point that would be suitable as the starting-point of the maritime delimitation. The Court therefore considers it preferable to select a fixed point at sea and connect it to a starting-point on the coast (defined below) by a mobile line. Taking into account the fact that the prevailing phenomenon characterizing the coastline at the mouth of the San Juan River is recession through erosion from the sea, the Court deems it appropriate to place the fixed point at sea at a distance of two nautical miles from the coast on the median line (point FP on sketch-map No. 5).

B. Delimitation of the territorial sea

In accordance with Article 15 of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter “UNCLOS”) and the Court’s jurisprudence, the Court delimits the territorial sea in two stages: first, it draws a provisional median line; second, it considers whether any special circumstances exist which justify adjusting that line.

To draw the provisional median line, the Court uses points located on the natural coast, including on islands or rocks. It uses only points situated on solid land, however, since they have a relatively higher stability than those placed on sandy features.

The Court then examines whether any special circumstances exist which justify adjusting that line. It considers, first, that the combined effect of the concavity of Nicaragua’s coast west of the mouth of the San Juan River and of the convexity of Costa Rica’s coast east of Harbor Head Lagoon is of limited significance and does not represent a special circumstance. However, the Court takes the view that, as already noted, the high instability and narrowness of the sandspit near the mouth of the San Juan River prevent it from placing a base point there. The Court therefore deems it appropriate for the fixed point at sea (point FP mentioned above) to be connected by a mobile line to the point on solid land on Costa Rica’s coast which is closest to the mouth of the river. Under the circumstances prevailing on the day of delivery of the Judgment, the latter point has been identified by the experts as point Pv, but there may be geomorphological changes over time. On the date of the Court’s decision, the delimitation line in the territorial sea thus extends from the fixed point at sea landwards to the point on the low-water mark of the coast of the Caribbean Sea that is closest to point Pv. From the fixed point seawards, the delimitation line in the territorial sea is the median line as determined by the base points selected in relation to the situation of the coast as it exists on the day of delivery of the Judgment (see sketch-map No. 5).

The Court then considers that another special circumstance is relevant for the delimitation of the territorial sea. In its view, the instability of the sandbar separating Harbor Head Lagoon from the Caribbean Sea and its situation as a small enclave within Costa Rica’s territory call for a special solution. Noting that, should territorial waters be attributed to the enclave, they would be of little use to Nicaragua, while breaking the continuity of Costa Rica’s territorial sea, the Court decides that the delimitation in the territorial sea between the Parties will not take into account any entitlement which might result from the enclave.

The Court thus obtains, in the territorial sea, the delimitation line illustrated on sketch-map No. 5.

C. Delimitation of the exclusive economic zone and the continental shelf

The Court then turns to the delimitation of the exclusive economic zones and continental shelves appertaining to Costa Rica and Nicaragua, for which both Parties requested the Court to draw a single delimitation line.

Following its well-established jurisprudence, the Court begins by identifying the relevant coasts and area it will take into account for the purposes of the delimitation.

In the circumstances of the present case, the Court must also examine the relevance of bilateral treaties and judgments involving third States. In the area of the Caribbean Sea in which the Court is requested to delimit the maritime boundary between the Parties, third States may also have claims. The Court notes, in particular, that the treaty concluded in 1976 between Panama and Colombia involves third States and cannot be considered relevant for the delimitation between the Parties. It further observes that, with regard to the treaty concluded in 1977 between Costa Rica and Colombia (but not ratified by Costa Rica), there is no evidence that a renunciation by Costa Rica of its maritime entitlements, if it had ever taken place, was intended to be effective with regard to a State other than Colombia.

Next, the Court recalls that, in order to define the single maritime boundary concerning the exclusive economic zone and the continental shelf, it has to “achieve an equitable solution” according to Articles 74 and 83 of UNCLOS. To this end, it uses its established three-stage methodology. First, it provisionally draws an equidistance line using the most appropriate base points on the Parties’ relevant coasts. Second, it considers whether there exist relevant circumstances which are capable of justifying an adjustment of the equidistance line provisionally drawn. Third, it assesses the overall equitableness of the boundary resulting from the first two stages by checking whether there exists a marked disproportionality between the length of the Parties’ relevant coasts and the maritime areas found to appertain to them.

First, to draw the provisional equidistance line, the Court uses base points located on the Parties’ natural coasts, including the Corn Islands, Palmenta Cays and Paxaro Bovo.

Second, it finds that, in view of their limited size and significant distance from the mainland coast, the Corn Islands should be given only half effect, but it rejects the other arguments advanced by the Parties to support an adjustment of the provisional equidistance line. Since the resulting line is complex, however, the Court considers it more appropriate to adopt a simplified line, on the basis of the most significant turning points on the adjusted equidistance line, which indicate a change in the direction of that line.

Third, the Court notes that the attribution of some maritime space to a third State will affect the part of the relevant area that appertains to each Party. Since the maritime space appertaining to third States cannot be identified in these proceedings, it is impossible for the Court to calculate precisely the part of the relevant area of each Party. However, for the purpose of verifying whether the maritime delimitation shows a gross disproportion, an approximate calculation of the relevant area is sufficient. In the present case, the Court finds it appropriate to base this calculation on the “notional extension of the Costa Rica-Panama boundary”, on which basis the relevant area would be divided with a resulting ratio of 1:2.4 in favour of Nicaragua. The comparison with the ratio of coastal lengths (1:2.04 also in favour of Nicaragua) does not therefore show any “marked disproportion”.

The Court thus finds that the delimitation concerning the exclusive economic zone and the continental shelf between the Parties in the Caribbean Sea follows the line illustrated on sketch-map No. 13.

III. MARITIME DELIMITATION IN THE PACIFIC OCEAN

The Court then turns to the delimitation in the Pacific Ocean. As with the maritime delimitation in the Caribbean Sea, the Court was requested to delimit the boundary between the Parties for the territorial sea, the exclusive economic zone and the continental shelf.

A. Starting-point of the maritime delimitation

Since Costa Rica and Nicaragua agree that the starting-point of the maritime boundary in the Pacific Ocean is the midpoint of the closing line of Salinas Bay, the Court fixes the starting-point of its delimitation at that location.

B. Delimitation of the territorial sea

As it did in the Caribbean Sea, the Court proceeds to delimit the boundary for the territorial sea in two stages (see point II.B. above). Having observed that both Parties selected the same base points, the Court decides to use those points to draw the provisional median line.

It then considers whether there are special circumstances which would justify an adjustment of the provisional median line and, more specifically, whether locating base points on the Santa Elena Peninsula has a significant distorting effect on that line which would result in a cut-off of Nicaragua's coastal projections. Finding that, in the vicinity of Salinas Bay, the Santa Elena Peninsula cannot be considered to be a minor coastal projection that has a disproportionate effect on the delimitation line, the Court concludes that there is no need to adjust the provisional line.

For the territorial sea, the Court thus arrives at the delimitation line illustrated on sketch-map No. 15.

C. Delimitation of the exclusive economic zone and the continental shelf

For the purpose of delimiting the exclusive economic zone and the continental shelf, the Court uses the three-stage methodology it has adopted in its jurisprudence, as it did for the Caribbean Sea (see point II.C. above).

Having identified the relevant coasts and area for the delimitation, the Court first proceeds to draw a provisional equidistance line. Since the Court is satisfied that the base points selected by the Parties are appropriate, it uses those points.

Second, the Court finds that the effect of the Santa Elena Peninsula on the provisional equidistance line (for the exclusive economic zone and the continental shelf) is disproportionate and results in a significant cut-off of Nicaragua's coastal projections. It considers that an appropriate method to abate this cut-off is to give half effect to the Santa Elena peninsula. It is of the view, however, that placing base points on the Nicoya Peninsula does not lead to an inequitable solution and that no adjustment is necessary on account of the presence of that peninsula.

Given the complexity of the resulting line, the Court considers it more appropriate to adopt a simplified line, on the basis of the most significant turning points on the adjusted equidistance line, which indicate a change in the direction of that line.

Third, the Court notes that the ratio between the maritime areas found to appertain to the Parties is 1:1.30 in Costa Rica's favour. Since the two relevant coasts stand in a ratio of 1:1.42 in favour of Costa Rica, the Court considers that, taking into account all the circumstances of the case, the maritime boundary established between Costa Rica and Nicaragua in the Pacific Ocean does not result in gross disproportionality and achieves an equitable solution.

Consequently, the Court concludes that the delimitation concerning the exclusive economic zone and the continental shelf between the Parties in the Pacific Ocean shall follow the line illustrated on sketch-map No. 22.

IV. OPERATIVE PART

In its Judgment, which is final, without appeal and binding on the Parties, the Court

(1) Finds, by fifteen votes to one, that the Republic of Nicaragua's claim concerning sovereignty over the northern coast of Isla Portillos is admissible;

(2) Finds, by fourteen votes to two, that the Republic of Costa Rica has sovereignty over the whole northern part of Isla Portillos, including its coast up to the point at which the right bank of the San Juan River reaches the low-water mark of the coast of the Caribbean Sea, with the exception of Harbor Head Lagoon and the sandbar separating it from the Caribbean Sea, sovereignty over which appertains to Nicaragua within the boundary defined in paragraph 73 of the Judgment;

(3) (a) Finds, by fourteen votes to two, that, by establishing and maintaining a military camp on Costa Rican territory, the Republic of Nicaragua has violated the sovereignty of the Republic of Costa Rica;

(b) Finds, unanimously, that the Republic of Nicaragua must remove its military camp from Costa Rican territory;

(4) Decides, unanimously, that the maritime boundary between the Republic of Costa Rica and the Republic of Nicaragua in the Caribbean Sea shall follow the course set out in paragraphs 106 and 158 of the Judgment;

(5) Decides, unanimously, that the maritime boundary between the Republic of Costa Rica and the Republic of Nicaragua in the Pacific Ocean shall follow the course set out in paragraphs 175 and 201 of the Judgment.

Composition of the Court

The Court was composed as follows: President Abraham; Vice-President Yusuf; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Gevorgian; Judges ad hoc Simma, Al-Khasawneh; Registrar Couvreur.

Judge TOMKA appends a declaration to the Judgment of the Court; Judge XUE appends a separate opinion to the Judgment of the Court; Judge SEBUTINDE appends a declaration to the Judgment of the Court; Judge ROBINSON appends a separate opinion to the Judgment of the Court; Judge GEVORGIAN appends a declaration to the Judgment of the Court; Judge ad hoc SIMMA appends a declaration to the Judgment of the Court; Judge ad hoc AL-KHASAWNEH appends a dissenting opinion and a declaration to the Judgment of the Court.

A summary of the Judgment appears in the document entitled “Summary No. 2018/2”. This press release, the summary and the full text of the Judgment are available on the Court’s website (www.icj-cij.org), under the heading “Cases”.

Note: The Court’s press releases do not constitute official documents.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Court (ICC, the only permanent international criminal court, which was established by treaty and does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an international judicial body with an independent legal personality, established by the United Nations Security Council upon the request of the Lebanese Government and composed of Lebanese and international judges), the Mechanism for International Criminal Tribunals (MICT, mandated to take over residual functions from the International Criminal Tribunal for the former Yugoslavia and from the International Criminal Tribunal for Rwanda), the Kosovo Specialist Chambers and Specialist Prosecutor’s Office (an ad hoc judicial institution which has its seat in The Hague), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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- Sketch-map No. 2: Land Boundary in the Northern Part of Isla Portillos.
- Sketch-map No. 5: Delimitation of the Territorial Sea (Caribbean Sea).
- Sketch-map No. 13: Course of the maritime boundary (Caribbean Sea).
- Sketch-map No. 15: Delimitation of the Territorial Sea (Pacific Ocean).
- Sketch-map No. 22: Course of the maritime boundary (Pacific Ocean).









