

STATUS OF CASES OF WHICH THE INTERNATIONAL COURT OF JUSTICE HAS BEEN SEISED
INVOLVING QUESTIONS RELATING TO THE LAW OF THE SEA

(Contribution covering the period from June 2021 to June 2022)

1. *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicaragua v. Colombia)*

These proceedings were instituted by Nicaragua against Colombia on 16 September 2013 with regard to boundaries between, on the one hand, the continental shelf of Nicaragua beyond the 200-nautical-mile limit from the baselines from which the breadth of the territorial sea of Nicaragua is measured, and on the other hand, the continental shelf

In its Application, Nicaragua made two requests. First, it asked the Court precise course of the maritime boundary between Nicaragua and Colombia in the areas of the continental shelf which appertain to each of them beyond the boundaries determined by the Court in its Judgment of 19 concerning *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. Second, it requested the Court to indicate international law that determine the rights and duties of the two States in relation to the area of overlapping continental shelf claims and the use of its resources, pending the delimitation of the maritime boundary between [it] had sought a declaration from the Court describing the course of the boundary

continental shelf throughout the area of the overlap between its continental shelf entitlement and that continental margin that extends beyond the 200 nautical mile from the baselines from which its territorial sea is measured, and that it was therefore not then in a position to delimit the continental

Noting in this regard that the it submitted to the Commission on the Limits of the Continental Shelf on 24 more than 200 nautical mile from the baselines from which the breadth of the territorial sea of Nicaragua is measured, and both (i) traverses an area that lies more than 200 nautical mile from Colombia and also (ii) partly overlaps with an area that lies within 200 nautical mile maintained between them in the area beyond 200 nautical mile has objected to continental shelf claims

invoked Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) signed on 30 April 1948.

By an Order of 9 December 2013, the Court fixed 9 December 2014 and 9 December 2015 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Colombia.

On 14 and the admissibility of the Application. After Nicaragua had filed a written statement of its observations and submissions on the preliminary objections raised by Colombia, and having held public hearings from 5 to 9 October 2015, the Court found, in its Judgment of 17 March 2016, that

it had jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to entertain the First Request put forward by Nicaragua in its Application, namely that the Court determine of the maritime boundary between Nicaragua and Colombia in the areas of the continental shelf which appertain to each of them beyond the boundaries determined by the Court in its Judgment of 19 this Request was admissible. The Court further found, however, that

maritime boundary beyond 200 nautical mile principles

baselines established by Decree No. 33-2013 of 19

The Court began by considering the incidents alleged by Nicaragua in the south-western Caribbean Sea. Upon examination of the evidence submitted by Nicaragua, it took the view that Nicaragua had failed to discharge its burden of proof with regard to some of the alleged incidents. However, it considered that a number of facts supporting _____ were established. Colombian naval vessels had, for instance, exercised _____ exclusive economic zone, conduct that had been carried out to give effect to a policy whereby Colombia had sought to continue to control fishing activities and the conservation of resources in that maritime area. The Court viewed as unfounded _____ actions were justified as an exercise of its freedoms of navigation and overflight and on the basis of its alleged international obligation to protect and preserve the marine environment of the s3(o2Tt)-4(h)] TJET00.00000

The Court was of the view that the 2012 Judgment did not delimit, expressly or otherwise, the contiguous zone of either Party. It noted that the establishment by one State of a contiguous zone is not incompatible with the existence of the exclusive economic zone of another State in the same area.

Having examined the arguments of the Parties relating to their conduct between 1979 and 2014, the Court concluded that Kenya had not consistently maintained its claim that the parallel of latitude constituted the single maritime boundary with Somalia and there was no compelling evidence that Somalia had acquiesced to the maritime boundary claimed by Kenya. Consequently, there was no agreed maritime boundary between the Parties at the parallel of latitude.

Maritime delimitation

The Court then dealt with the maritime delimitation between the Parties in the Indian Ocean.

The Court noted that both Somalia and Kenya are parties to the United Nations Convention on

present case was less pronounced than in some other cases, the Court considered that it was

The complete course of the maritime boundary is depicted on sketch-map No. 13 (reproduced below).

Alleged violations by Kenya of its international obligations

Finally, the Court turned to the alleged violations by Kenya of its international obligations.

sovereign rights and jurisdiction in
the exclusive economic zone and on the continental shelf.

The Court considered that when maritime claims of States overlap, maritime activities undertaken by a State in an area subsequently attributed to another State by a judgment cannot be activities were carried out before the judgment was delivered and if the area concerned was the subject of claims made in good faith by both States.

In the circumstances of the case, the Court concluded that it had not been established that me activities, including those that might have been conducted in parts of the disputed jurisdiction.

of Article 74, paragraph 3, and Article 83, paragraph 3, of UNCLOS. Under these provisions, States with opposite or adjacent coasts that have not reached an agreement on the delimitation of the exclusive economic zone or . . . during

rs to the period from the moment the maritime delimitation dispute has been established until a final delimitation by agreement or adjudication has been achieved. The Court considered that a maritime delimitation dispute between the Parties had been established since 2009.

In the circumstances of the case, the Court could not conclude that the activities carried out by Kenya in the disputed area after 2009 jeopardized or hampered the reaching of a final agreement on the delimitation of the maritime boundary, in violation of Article 74, paragraph 3, or Article 83, paragraph 3, of UNCLOS.

The Court thus rejected the submission made by Somalia concerning the allegation that Kenya, by its conduct in the disputed area, had violated its international obligations.

Sketch-maps reproduced:

Sketch-map No. 3: Starting-point for the Maritime Delimitation

-map No. 5: Delimitation of the Territorial Sea

-map No. 9: Construction of the provisional equidistance line

-map No. 11: The adjusted line

-map No. 13: Course of the maritime boundary

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The Court was seised of this case on 7 June 2019, following notification to the Registry, by Guatemala and Belize, of a concluded on 8 December 2008, and a Protocol
thereto dated 25 May 2015.

Under the Special Agreement and the Protocol, the two States had agreed, subject to approval

Convention on the delimitation of French and Spanish possessions in West Africa, on
pute the special