



INTERNATIONAL COURT OF JUSTICE

Peace Palace, Carnegieplein 2, 2517 KJ The Hague, Netherlands

Tel.: +31 (0)70 302 2323 Fax: +31 (0)70 364 9928

Website: www.icj-cij.org

Press Release

Unofficial

No. 2007/23

8 October 2007

Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

The Court finds that Honduras has sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay and draws a single maritime boundary between Nicaragua and Honduras

THE HAGUE, 8 October 2007. The International Court of Justice (ICJ), principal judicial organ of the United Nations, today rendered its Judgment in the case concerning Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras).

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

- finds unanimously that Honduras has sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay;
- decides by fifteen votes to two that the starting-point of the single maritime boundary that divides the territorial sea, continental shelf and exclusive economic zones of the Republic of Nicaragua and the Republic of Honduras shall be located at a point with the co-ordinates 15° 00' 52" N and 83° 05' 58" W;
- decides by fourteen votes to three that, from this starting-point, the delimitation line continues along the bisector until it reaches the outer limit of the 12-nautical-mile territorial sea of Bobel Cay. It then traces this territorial sea round to the south until it reaches the median line in the overlapping territorial seas of Bobel Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua). The delimitation line continues along this median line until it reaches the territorial sea of South Cay, which for the most part does not overlap with the territorial sea of Edinburgh Cay. The line then traces the arc of the outer limit of the 12-nautical-mile territorial sea of South Cay round to the north until it again connects with the bisector, whereafter the line continues along that azimuth until it reaches the area where the rights of certain third States may be affected;
- finds by sixteen votes to one that the Parties must negotiate in good faith with a view to agreeing on the course of the delimitation line of that portion of the territorial sea located between the endpoint of the land boundary as established by the 1906 Arbitral Award and the starting-point of the single maritime boundary as determined by the Court.

Reasoning of the Court

The Court begins by stating the subject-matter of the dispute. It notes that Nicaragua asked it to determine the course of the single maritime boundary between the areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras in the Caribbean Sea. Nicaragua maintains that this maritime boundary has never been delimited. Honduras contends that there already exists in the Caribbean Sea a traditionally recognized boundary, along the 15th parallel, between the maritime spaces of Honduras and Nicaragua, having its origin in the principle of uti possidetis juris (pursuant to which boundaries inherited upon decolonization must be respected). Honduras asks the Court to confirm this maritime boundary. The Court further notes that during the oral proceedings Nicaragua made a specific request that the Court pronounce on sovereignty over islands located in the disputed area to the north of the 15th parallel. Although this claim is formally a new one, the Court considers it to be admissible because it is inherent in the original claim. During the oral proceedings Honduras also asked the Court to find that sovereignty over the islands north of the 15th parallel lay with Honduras.

The Court turns to the legal nature of the maritime features in the disputed area. It notes that Bobel Cay, Savanna Cay, Port Royal Cay and South Cay remain above water at high tide and that they thus fall within the definition of islands under Article 121 of the 1982 United Nations Convention on the Law of the Sea. Not having received sufficient information as to the other maritime features, the Court states that it can pronounce only upon the four islands named above.

In respect of sovereignty over the four islands, the Court points out that the principle of uti possidetis juris definitely applies to the territorial delimitation between Nicaragua and Honduras, both former Spanish colonial provinces, and may also apply to offshore possessions and maritime spaces. It must however be shown in the present case that the Spanish Crown had allocated the disputed islands to one or the other of its colonial provinces. As the Parties have neither provided evidence clearly showing whether the islands were attributed to the colonial provinces of Nicaragua or of Honduras prior to or upon independence nor persuaded the Court of the existence of colonial effectivités (defined as the conduct of the administrative authorities as proof of the effective exercise of territorial jurisdiction in the region during the colonial period), the Court concludes that it has not been established that either Honduras or Nicaragua had title to these islands by virtue of uti possidetis.

The Court next seeks to identify any post-colonial effectivités. After considering the evidence put forward by the Parties, the Court observes that several effectivités invoked by Honduras “constitute a modest but real display of authority over the four islands”. Thus, Honduras has shown that in the islands it has applied and enforced its criminal law and civil law, has regulated immigration, fisheries activities and building activity and has exercised its authority in respect of public works. The Court accordingly concludes that Honduras has sovereignty over the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay.

As for the delimitation of the maritime areas between the two States, the Court finds that no boundary exists along the 15th parallel on the basis of either uti possidetis juris or a tacit agreement between the Parties. The Court must therefore itself draw the boundary.

The Court observes that, given the geographical configuration of Cape Gracias a Dios (a sharply convex territorial projection abutting a concave coastline on either side and the point where the two States’ coastal fronts meet) and the unstable nature of the mouth of the River Coco (the endpoint of the land boundary), it is impossible for the Court to apply the equidistance method, even for the delimitation of the territorial sea. It accordingly decides to use a bisector, that is to say the line formed by bisecting the angle created by the linear approximations of coastlines. For use

in drawing the bisector, the Court identifies the Honduran coastal front from Cape Gracias a Dios to Punta Patuca and the Nicaraguan coastal front from Cape Gracias a Dios to Wouhnta as the relevant coasts. The resulting bisector line has an azimuth of 70° 14' 41.25".

Having accorded a 12-mile breadth of territorial sea to the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay (Honduras), the Court takes this into account and adjusts the course of its line by drawing a median line to resolve the issue of overlap between the territorial seas of these islands and that of the island of Edinburgh Cay (Nicaragua).

In specifying the starting-point of the maritime boundary between Nicaragua and Honduras, the Court, taking account of the continuing eastward accretion of Cape Gracias a Dios as a result of alluvial deposits by the River Coco, decides to fix the point on the bisector described above at a distance of 3 nautical miles out to sea from the point which a mixed demarcation commission in 1962 then identified as the endpoint of the land boundary in the mouth of the River Coco.

As the exact site of the mouth remains uncertain, the Court instructs the Parties to negotiate in good faith with a view to agreeing on the course of a line between the present endpoint of the land boundary and the starting-point of the maritime boundary now determined by the Court.

In respect of the endpoint of the maritime boundary, the Court states that the line which it has drawn continues until it reaches the area where the rights of certain third States may be affected.

Composition of the Court

The Court was composed as follows: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judges ad hoc Torres Bernárdez, Gaja; Registrar Couvreur.

Judges Ranjeva and Koroma have appended their separate opinions to the Judgment of the Court; Judge Parra-Aranguren has appended a declaration to the Judgment of the Court; Judge ad hoc Torres Bernárdez has appended a dissenting opinion to the Judgment of the Court; Judge ad hoc Gaja has appended a declaration.

A summary of the Judgment appears in the document "Summary No. 2007/4", to which summaries of the declarations and opinions are annexed. In addition, this press release, the summary and the full text of the Judgment can be found on the Court's website (www.icj-cij.org) under "Press Room" and "Cases".

Information Department:

Mrs. Laurence Blairon, Secretary of the Court, Head of Department (+31 (0)70 302 2336)
Messrs. Boris Heim and Maxime Schouppe, Information Officers (+31 (0)70 302 2337)
Ms Joanne Moore, Assistant Information Officer (+31 (0)70 302 2394)