



INTERNATIONAL COURT OF JUSTICE

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Press Release

Unofficial

No. 2001/34

6 December 2001

Nicaragua institutes proceedings against Colombia with regard to “legal issues subsisting” between the two States “concerning title to territory and maritime delimitation” in the western Caribbean

THE HAGUE, 6 December 2001. Today, Nicaragua instituted proceedings against Colombia with regard to “legal issues subsisting” between the two States “concerning title to territory and maritime delimitation” in the western Caribbean.

In its Application, Nicaragua *inter alia* claims that “the islands and keys of San Andres and Providencia pertain to those groups of islands and keys that in 1821 [date of independence from Spain] became part of the newly formed Federation of Central American States and, after the dissolution of the Federation in 1838, . . . came to be part of the sovereign territory of Nicaragua”. It considers in this connection that the Barcenas-Esquerria Treaty of 24 March 1928 “lacks legal validity and consequently cannot provide a basis of Colombian title with respect to the Archipelago of San Andres”. Nicaragua adds that in any case, that treaty was “not . . . a treaty of delimitation”.

Nicaragua recalls that its Constitution as early as 1948 affirmed that the national territory included the continental platforms on both the Atlantic and Pacific oceans, and that by decrees of 1958, it made it clear that the resources of the continental shelf belonged to it. In 1965 it moreover declared a national fishing zone of 200 nautical miles. Nicaragua goes on to state that, by claiming sovereignty over the islands of Providencia and San Andres and keys which, according to it, “have a total of land area of 44 square kilometres and an overall coastal length that is under 20 kilometres, Colombia claims dominion over more than 50,000 square kilometres of maritime space that appertain to Nicaragua”, which represents “more than half” the maritime spaces of Nicaragua in the Caribbean Sea. It contends that the current situation is “seriously imperilling the livelihood of the Nicaraguan people, particularly those of the Caribbean coast that traditionally have had a great dependence on natural resources of the sea” and observes that the Colombian navy has been intercepting and capturing a number of fishing vessels “in areas as close as 70 miles off the Nicaraguan coast”, east of the 82 meridian. Nicaragua finally maintains that diplomatic negotiations have failed.

Nicaragua therefore requests the Court to adjudge and declare:

“First, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);

Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary”.

Nicaragua further indicates that it “reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title”. It also “reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua”.

As a basis for the Court’s jurisdiction, Nicaragua invokes Article XXXI of the American Treaty on Pacific Settlement (officially known as the “Pact of Bogotá”), signed on 30 April 1948, to which both Nicaragua and Colombia are parties. Nicaragua also refers to the declarations under Article 36 of the Statute of the Court, by which Nicaragua and Colombia accepted the compulsory jurisdiction of the Court, in 1929 and 1937 respectively.

The full text of Nicaragua’s Application will shortly be available on the Court’s website at the following address: <http://www.icj-cij.org>

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