

INTERNATIONAL COURT OF JUSTICE

APPLICATION
INSTITUTING PROCEEDINGS

filed in the Registry of the Court
on 8 December 1999

MARITIME DELIMITATION
BETWEEN NICARAGUA AND HONDURAS
IN THE CARIBBEAN SEA
(NICARAGUA *v.* HONDURAS)

COUR INTERNATIONALE DE JUSTICE

REQUÊTE
INTRODUCTIVE D'INSTANCE

enregistrée au Greffe de la Cour
le 8 décembre 1999

DÉLIMITATION MARITIME
ENTRE LE NICARAGUA ET LE HONDURAS
DANS LA MER DES CARAÏBES
(NICARAGUA *c.* HONDURAS)

APPLICATION OF THE REPUBLIC OF NICARAGUA

MINISTERIO DE RELACIONES EXTERIORES,
MANAGUA, NICARAGUA.

8 December 1999.

To the Registrar of the International Court of Justice, the undersigned being duly authorized by the Republic of Nicaragua:

1. The Republic of Nicaragua has the honour to submit a dispute to the Court in accordance with Article 36, paragraph 1, and Article 40 of the Statute, and Article 38 of the Rules of Court. The dispute consists of legal issues subsisting between the Republic of Nicaragua and the Republic of Honduras concerning maritime delimitation. In accordance with the provisions of Article 36, paragraph 1, of the Statute, jurisdiction exists by virtue of Article XXXI of the American Treaty on Pacific Settlement officially known, according to Article LX thereof, as the "Pact of Bogotá" signed on 30 April 1948. Both the Republic of Nicaragua and the Republic of Honduras have since 1950 been parties to the Pact, the former without any pertinent reservation, and the latter with no reservations.

In accordance with the provisions of Article 36, paragraph 2, of the Statute, jurisdiction also exists by virtue of the operation of the Declaration of the applicant State dated 24 September 1929 and the Declaration of Honduras dated 6 June 1986.

2. The remedies sought by Nicaragua relate to the question of the delimitation of the maritime areas appertaining to Nicaragua in the Caribbean Sea with those that appertain to Honduras in the same area.

Since 1945 general international law has developed in such a way as to encompass sovereign rights to explore and exploit the resources of the continental shelf together with rights to an exclusive economic zone two hundred miles in breadth. The provisions of the 1982 Law of the Sea Convention have recognized and confirmed these legal interests of coastal States.

In conformity with these developments, the Nicaraguan Constitution as early as 1948 affirmed that the national territory included the continental platforms on both the Atlantic and Pacific Oceans. The Decrees of 1958 relating to the exploitation of natural resources and to the exploration and exploitation of petroleum made it clear that the resources of the continental shelf belonged to the Nicaraguan State. In 1965 Nicaragua declared a "national fishing zone" of 200 nautical miles seaward on both the Pacific and Atlantic Oceans.

Consistent with these internal laws, the Government of Nicaragua has granted at different times petroleum concessions with respect to continental shelf in certain selected areas of its maritime domains in the Caribbean. In addition fishing boats of Nicaraguan nationality, or licensed by Nicaragua, fish in the waters adjacent to its eastern coasts.

3. The Nicaraguan-Honduran land boundary was delimited by the Arbitral Award made on 23 December 1906 by His Majesty the King of Spain. The King declared:

“that the dividing line between the Republics of Honduras and Nicaragua from the Atlantic to the Portillo de Teotecacinte . . . is now fixed in the following manner:

The extreme common boundary point on the coast of the Atlantic will be the mouth of the River Coco, Segovia or Wanks, where it follows out in the sea close to Cape Gracias a Dios, taking as the mouth of the river its principal arm between Hara and the Island of San Pío where said Cape is situated, leaving to Honduras the islets and shoals existing within said principal arm before reaching the harbour bar, and retaining for Nicaragua the southern shore of the said principal mouth with the said Island of San Pío, and also the bay and town of Cape Gracias a Dios and the arm or estuary called Gracias which flows to Gracias a Dios Bay, between the mainland and said Island of San Pío.

Starting from the mouth of the Segovia or Coco the frontier line will follow the watercourse or thalweg of this river upstream . . .” (*I.C.J. Pleadings, Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)*, Vol. I, pp. 25-26.)

The validity of this Award was submitted to the consideration of the International Court of Justice that found that the Award was valid and binding (*Arbitral Award Made by the King of Spain on 23 December 1906, Judgment of 18 November 1960, I.C.J. Reports 1960*, p. 192, at p. 217).

Furthermore, the Court in its reasoning indicated that it was obvious that “the thalweg was contemplated in the Award as constituting the boundary between the two States even at the ‘mouth of the river’” (p. 216).

Certain final details were settled after the Judgment of the Court by means of the Interamerican Peace Commission of the Organization of American States (OAS) in 1962. Nicaragua, which had *de facto* occupied up to that point in time territories situated to the north of the River Coco and its mouth that were awarded to Honduras, then withdrew to the south to the delimitation line drawn by the King of Spain.

4. Nicaragua has since then maintained the position that its maritime Caribbean border with Honduras has not been determined. Honduras maintains the position that there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in the Award on the mouth of the Coco river.

This position adopted by Honduras has been constantly opposed by Nicaragua and has brought about repeated confrontations and mutual capture of vessels of both nations in and around the general border area.

5. Diplomatic negotiations have failed. The last attempt occurred on 28 November of this year, when the President of Nicaragua, H.E. Doctor Arnoldo Alemán Lacayo, called his Honduran counterpart, H.E. Mr. Carlos Roberto Flores Facusse, and requested a bilateral meeting of Foreign Ministers in order to try to reach agreements on the questions separating their nations. In this context, it was agreed that the Foreign Minister of Honduras would visit Nicaragua the following day; that is, on Monday 29 November 1999. This visit was later cancelled by the Honduran Foreign Minister without any clear justification.

6. It is against this background that the Government of Nicaragua has decided to ask the Court for assistance in removing the legal uncertainties

which still exist in this area of the Caribbean and thus to enhance the legal security of those seeking to go about their lawful business in the region.

Accordingly, *the Court is asked 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 accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary.

This request for the determination of a single maritime boundary is subject to the power of the Court to establish different delimitations, for shelf rights and fisheries respectively, if, in the light of the evidence, this course should be necessary in order to achieve an equitable solution.

7. Whilst the principal purpose of this Application is to obtain a declaration concerning the determination of the maritime boundary or boundaries, the Government of Nicaragua reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua, found to the north of the parallel of latitude 14° 59' 08" claimed by Honduras to be the course of the delimitation line. Nicaragua also reserves the right to claim compensation for any natural resources that may have been extracted or may be extracted in the future to the south of the line of delimitation that will be fixed by the Judgment of the Court.

8. The Government of Nicaragua, further, reserves the right to supplement or to amend the present Application as well as to request the Court to indicate provisional measures which might become necessary in order to preserve the rights of Nicaragua.

9. For the purposes of Article 31 of the Statute of the Court and Article 35 (1) of its Rules, the Republic of Nicaragua declares its intention of exercising the right of designating an *ad hoc* judge.

The Government of Nicaragua has designated the undersigned as its Agent for the purposes of these proceedings. All communications relating to this case should be sent to the Embassy of the Republic of Nicaragua, located at Sumatrastraat 336, 2585 CZ The Hague.

Respectfully submitted,

(Signed) Carlos J. ARGÜELLO GÓMEZ,
Agent of the Republic of Nicaragua.

The undersigned *Chargé d'affaires a.i.* of the Embassy of Nicaragua in the Netherlands, pursuant to Article 38 (3) of the Rules of Court, certifies that the above signature corresponds to that of the Agent of Nicaragua, Ambassador Carlos J. Argüello Gómez.

The Hague, 8 December 1999.

(Signed) [Illegible]
Chargé d'affaires a.i.,
Embassy of Nicaragua.

[There follows the seal of the Embassy.]