



SEMAPHORE

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Nicaraguan Continental Shelf Claim Denied

An application by Nicaragua to extend its continental shelf boundaries into the corresponding baselines of Colombia has been denied by the International Court of Justice (ICJ).

Nicaragua filed the application in September 2013 on a long-standing dispute between the nations understood to be centred on a desire for ownership of mineral and fish-rich waters in the Caribbean Sea.

A key conclusion reached in the judgment was that “under customary international law, a state’s entitlement to a continental shelf beyond 200 nautical miles from the baselines from which the breadth of its territorial sea is measured may not extend within 200 nautical miles from the baselines of another state”.

The judgment also observed that the vast majority of states party to the United Nations Convention on the Law of the Sea that have made submissions to the Commission on the Limits of the Continental Shelf (CLCS) have “chosen not to assert, therein, outer limits of their extended continental shelf within 200 nautical miles of the baselines of another state”.

“The Court considers that the practice of States before the CLCS is indicative of *opinio juris*, even if such practice may have been motivated in part by considerations other than a sense of legal obligation,” it stated.

“Furthermore, the Court is aware of only a small number of states that have asserted in their submissions a right to an extended continental shelf encroaching on maritime areas within 200 nautical miles of other states, and in those instances the states concerned have objected to those submissions. Among the small number of coastal states that are not states parties to the Convention, the Court is not aware of any that has claimed an extended continental shelf that extends within 200 nautical miles from the baselines of another state.

“Taken as a whole, the practice of states may be considered sufficiently widespread and uniform for the purpose of the identification of customary international law. In addition, given its extent over a long period of time, this state practice may be seen as an expression of *opinio juris*, which is a constitutive element of customary international law.

“Indeed, this element may be demonstrated ‘by induction based on the analysis of a sufficiently extensive and convincing practice’ (*Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, Judgment, ICJ Reports 1984, p 299, para 111).”

The following verdicts were reached by the Court (the first two by 13 votes to four and the third by 12 votes to 5):

- rejects the request made by the Republic of Nicaragua that the Court adjudge and declare that the maritime boundary between the Republic of Nicaragua and the Republic of Colombia in the areas of the continental shelf which, according to the Republic of Nicaragua, appertain to each of them beyond the boundary determined by the Court in its Judgment of 19 November 2012 follows geodetic lines connecting the points 1 to 8, the co-ordinates of which are referred to in paragraph 19
- rejects the request made by the Republic of Nicaragua that the Court adjudge and declare that the islands of San Andrés and Providencia are entitled to a continental shelf up to a line consisting of 200-nautical-mile arcs from the baselines from which the breadth of the

territorial sea of Nicaragua is measured connecting the points A, C and B, the co-ordinates of which are referred to in paragraph 19

- rejects the request made by the Republic of Nicaragua with respect to the maritime entitlements of Serranilla and Bajo Nuevo.

Commentators have described the judgment as notable in being the first time the Court has addressed whether a state's entitlement to an outer continental shelf may overlap with another state's entitlement to maritime zones within 200 nautical miles.

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