



## THE INTERNATIONAL COURT OF JUSTICE

November 22, 2004

Nicaragua v. Colombia

PRESENT: President: Goodwin, Vice President: Sahai, Justices: Birach, Choate, Cottingham, Davis, Essenberg, Fillippova, Gilliam, Morozink, Rahmani, Schiwek, Schroeder, Simpson, Wagner

*The Court,  
composed as above,  
delivers the following Judgment*

1. The foremost issue in this case is jurisdiction. Nicaragua claims that the Court does have jurisdiction in this case because both countries are members states of the UN, sworn to be committed by agreement for the settlement of their differences and/or controversies, and through their signature and ratification accepted the compulsory jurisdiction of the Court. Both parties possess membership and any member of the United Nations may bring dispute or any situation of the nature referred to in Article 34. According to Article 36, paragraph 2 of the Statute of the International Court of Justice, both states have accepted the compulsory jurisdiction of the Court. Colombia argues that the Court does not have jurisdiction because Article II of the Pact of Bogotá limits recourse to the ICJ to situations where a matter, "cannot be settled by direct negotiations through the usual diplomatic channels." Sections 280 and 283 of the Law of the Sea require the claimant party to prove that negotiations have failed and no other recourse could have settled the dispute.
2. Nicaragua asks the Court to recognize sovereignty over the islands of Providencia, San Andreas, and Santa Catalina, and the relevant keys of Roncador, Serrana, and Quitaseueno. Nicaragua also seeks the Court to determine a single maritime boundary between the continental shelf and exclusive economic zone respectively to Nicaragua and Colombia. Colombia seeks the Court to recognize their legitimate sovereignty of the islands of Providencia, San Andreas, and Santa Catalina, and the relevant keys of Roncador, Serrana, and Quitaseueno. Colombia asks the Court to recognize that they have exercised their legitimate right to sovereignty over these islands and relevant keys within the bounds of international law.
3. Nicaragua has requested the Court to award monetary compensation from Colombia to Nicaragua for damages sustained for captured boats and lost commerce. Colombia claims the seizures were within their economic zone and some of the seizures occurred for security purposes, as the boats were allegedly holding arms or weapons.

### THE COURT

Unanimously

*Finds* that the Court does in fact maintain jurisdiction in this case, seeing as it is a dispute between two sovereign states under Article 36 of the Statute of the International Court of Justice. In response to Colombia's claim that not all options have been exhausted, we reject this, seeing as an impasse exists between the two states and prior attempts to cooperate have been futile, without this court's decision as to the ownership of the territories in question.

## THE COURT

Unanimously

*Finds* that the Barcenas-Esguerra Treaty, as signed on 1928 and ratified in 1930 by both Nicaragua and Colombia, is a valid treaty. Although Nicaragua has rejected the treaty and has simply declared it as invalid, Nicaragua does not have grounds to ignore it. Since neither state has officially withdrawn from this treaty, it remains in effect. We do not accept Nicaragua's claim that the treaty was invalid because it was signed in 1928 under U.S. occupation. Considering that Nicaragua ratified the Barcenas-Esguerra Treaty in 1930, after U.S. occupation forces had left the country, the Court finds that this treaty is still binding. Therefore, since the Barcenas -Esguerra Treaty remains valid, the islands of Providencia and San Andreas do in fact belong to Colombia as agreed to in the treaty by both states.

## THE COURT

Unanimously

*Finds* the current maritime boundary is based on the Court's decision of *Nicaragua v. Honduras* in the case titled *Border and Trans-border Armed Activities* of 1992. Using that maritime border, extend to the next maritime border. From that point, the border is to extend to the border of Colombia and Jamaica at the Serranilla Bank. From that point to the northernmost point of the existing Colombia-Costa Rica border, create a maritime border extending from tangent to tangent of the Colombian contiguous zones of the territories under dispute. This border now defines the exclusive economic zone of Nicaragua and the previous activities of both countries within that zone.

## THE COURT

Unanimously

*Finds* that the Nicaraguan ships were seized within the exclusive economic zone of Colombia. The islands of San Andres and Providencia are the sovereign territory of Colombia according to the Barcenas-Esguerra Treaty of 1928. Around these islands is an exclusive economic zone. However, the economic zones of Nicaragua and Colombia would overlap (the distance between the coast of Nicaragua and the island coasts is less than 200 nautical miles). When exclusive economic zones overlap, the area is divided equally according to article 15 of the Convention on the Law of the Sea. The ships were seized 70 miles off the coast of Nicaragua. The exclusive economic zone of Nicaragua would have only been 55 nautical miles off the coast. For this reason, Colombia was justified in seizing the boats. The ships that were seized for suspicion of containing arms or economic violations can be seized under Article 15 of the Convention on the Law of the Sea. and Article 73 of the Law of the Sea, respectively. While Colombia did not ratify the Convention, the court finds that it can still apply according to international custom. However, Colombia does not have a legal basis for causing damage to the ships in either instance. Therefore, Colombia is ordered to pay reparations for the damages to the ships in question, as well as any costs incurred in retrieving the ships.