

Republic of Panama

Ministry of Foreign Affairs
Office of the Minister
DGPE/DG/665/22013

30 September 2013

Sir,

I have the honour to address you with reference to the request dated 24 June 2013 submitted by the Republic of Nicaragua to the Commission on the Limits of the Continental Shelf, pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea, with a view to extending its continental shelf beyond 200 nautical miles.

Panama wishes to make the following comments in connection with that request because it affects Panamanian maritime space. We thus consider it advisable to make some relevant legal and technical points relating to Panamanian maritime boundaries, so that the Commission on the Limits of the Continental Shelf can take them into account as it weighs the matter.

In its Judgment of 19 November 2012 entitled “Territorial and Maritime Dispute (Nicaragua v. Colombia)”, the International Court of Justice recognized the right of the Republic of Panama over its maritime areas and specifically stated the following:

“155. [...] For Nicaragua, the southern boundary of the relevant area is formed by the demarcation lines agreed between Colombia and Panama and Colombia and Costa Rica (see paragraph 160 below) on the basis that, since Colombia has agreed with those States that it has no title to any maritime areas to the south of those lines, they do not fall within an area of overlapping entitlements.” [...]

[...]

“163. The Court recalls that the relevant area *cannot extend beyond the area in which the entitlements of both Parties overlap*. Accordingly, if either Party has no entitlement in a particular area, whether because of an agreement it has concluded with a third State or because that area lies beyond a judicially determined boundary between that Party and a third State, that area cannot be treated as part of the relevant area for present purposes. *Since Colombia has no potential entitlements to the south and east of the boundaries which it has agreed with Costa Rica and Panama, the relevant area cannot extend beyond those boundaries.*” [*italics added*].

Moreover, the Court recognized the delimitation treaties of 1976 between Colombia and Panama which lay down the coordinates for the maritime boundary between the two countries. It likewise stated the following:

His Excellency Ban Ki-moon
Secretary-General
United Nations
New York

“160. In both the north and the south, the interests of third States become involved.”

“[...] The endpoint of that boundary was not determined but ‘the Court made a clear determination [in paragraphs 306-319 of the 2007 Judgment] that *the bisector line would extend beyond the 82nd meridian until it reached the area where the rights of a third State may be affected*’ [...].”

“In the south, the Colombia-Panama Agreement (*UNTS*, Vol. 1074, p. 221) was signed in 1976 and entered into force on 30 November 1977. It *adopted a step-line boundary as a simplified form of equidistance in the area between the Colombian islands and the Panamanian mainland*. Colombia and Costa Rica signed an Agreement in 1977, which adopts a boundary line that extends from the boundaries agreed between Colombia and Panama (described above) and between Costa Rica and Panama. [...]” [*italics added*].

It must be pointed out that, throughout, the International Court of Justice paid special attention to the limited application of its Judgment and its impact on neighbouring States, determining that both must respect rights previously recognized and agreed between countries. Consequently the result of the decision resolving the maritime and territorial conflict between Nicaragua and Colombia may not compromise the law protecting Panama’s maritime territorial extension. Furthermore, as stipulated in article 59 of the Statute of the Court, the decision of the Court has no binding force except between the parties and in respect of that particular case, meaning that decisions of the Court neither benefit nor prejudice third States.

In order to make available the technical considerations provided by the Tommy Guardia National Geographic Institute on which our comments are based, and in order to allow the Commission to consider them in its evaluation, we attach herewith a map showing the full extent of the maritime space of the Republic of Panama, delimited by the boundary treaties signed with the Republic of Costa Rica and the Republic of Colombia, and the indisputable overlap caused by the Republic of Nicaragua’s request for an extension of its continental shelf. Also attached is a certified copy of the relevant bilateral treaties signed with neighbouring States.

Consequently, in view of the foregoing, I have the honour to request that the present note should be included in the documentation for the agenda of the Commission on the Limits of the Continental Shelf when it formulates its observations regarding the request submitted by the Republic of Nicaragua.

Accept, Sir, the renewed assurances of our highest consideration.

(Signed) Fernando Núñez Fábrega
Minister for Foreign Affairs

MARITIME BORDERS OF THE REPUBLIC OF PANAMA

Overlap on the maritime space of the Republic of Panama resulting from the proposal of the Republic of Nicaragua to extend the limits of its continental shelf

