



## INFORMATION NOTE

*Regarding* **Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast**

# DEHUKAM

ANKARA ÜNİVERSİTESİ  
**DENİZ HUKUKU**  
ULUSAL ARAŞTIRMA MERKEZİ

ANKARA UNIVERSITY  
NATIONAL CENTER FOR THE  
SEA AND MARITIME LAW

+90 312 212 11 89

[f](#) [t](#) [i](#) [in](#) /dehukamtr



[www.dehukam.org](http://www.dehukam.org)  
[info@dehukam.org](mailto:info@dehukam.org)



Emek Mahallesi, 19. Sokak. No:84,  
06590 Çankaya/Ankara, Türkiye



[www.dehukam.org](http://www.dehukam.org)



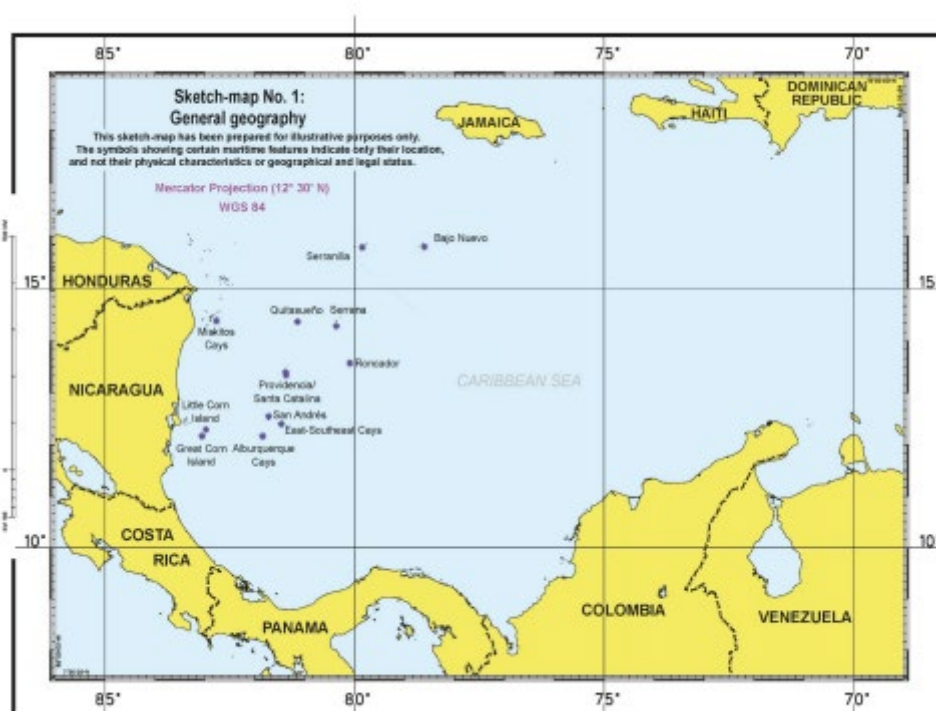
## INFORMATION NOTE

*(Regarding **Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast**)*

### I. INTRODUCTION

The International Court of Justice (ICJ), the principal judicial organ of the UN, delivered its judgment on the merits in the case concerning *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia* beyond 200 nautical miles (230 statute miles, 370 kilometres) from the Nicaraguan Coast on 13 July 2023.

The areas under consideration in these proceedings are situated in a body of water known as the Caribbean Sea, which is connected to the Atlantic Ocean and *partially enclosed by several islands* to the north and east. On its south and west, it is bordered by the countries of South and Central America. Nicaragua's eastern coast is positioned towards the southwestern region of the Caribbean Sea. To the north of Nicaragua is Honduras, while to the south, there are Costa Rica and Panama. In the northeast, Nicaragua faces Jamaica, and to the east, it looks towards the mainland coast of Colombia. Colombia is situated to the south of the Caribbean Sea and shares its western border with Panama and the eastern border with Venezuela. There are some Colombian islands named San Andrés, Providencia, and Santa Catalina, which are located in the southwestern part of the Caribbean Sea, approximately 100 to 150 nautical miles east of the Nicaraguan coast.



*(Figure 1. Sketch-map of Area's geography)*

### II. GENERAL BACKGROUND OF THE DISPUTE AND OVERVIEW OF THE PARTIES' POSITIONS

The case, initiated by Nicaragua in September 2013, sought the Court's intervention in delimiting the boundaries of the continental shelf between Nicaragua and Colombia beyond the 200-nautical-mile limit

from the baselines of Nicaragua's territorial sea. Nicaragua made three specific requests in its written pleadings, outlining its desired delimitation and entitlements.

**Nicaragua argues** that it has an entitlement to a continental shelf beyond 200 nautical miles of its coast. In order to substantiate its claim, Nicaragua relies on the submission that it presented to the Commission on the Limits of the Continental Shelf (hereinafter CLCS) on 24 June 2013, which, in its view, contains “**complete technical information**” that enables the Commission to review that submission and make its recommendations under Article 76, paragraph 8, of UNCLOS on the outer limits of Nicaragua’s continental shelf.

- Relies on "complete technical information" and contends that it has established the existence of a natural prolongation of its land territory up to the outer edge of the continental margin and that there is both **geological and geomorphological continuity** between its landmass and the sea-bed and subsoil beyond 200 nautical miles from its baselines.
- Defines the outer edge of the continental margin, wherever the margin extends beyond 200 nautical miles of its coast, by reference to the formulae and criteria contained in Article 76, paragraphs 4 to 6, of UNCLOS which according to Nicaragua reflect **customary international law**. It asserts that the CLCS (Commission on the Limits of the Continental Shelf) applies these provisions to determine the existence of a State’s entitlement to a continental shelf beyond 200 nautical miles.
- Notes that Colombia only claims, with respect to its mainland, a continental shelf up to 200 nautical miles from its baselines. Nicaragua proposes, with respect to Colombia’s mainland, a provisional delimitation line which Nicaragua refers to as the “**provisional mainland-mainland delimitation line**”. This line divides equally the area of overlap between the 200-nautical-mile limit of the continental shelf entitlement generated by Colombia’s mainland coast and the outer limits of the extended continental shelf as described by Nicaragua in its submission to the CLCS.

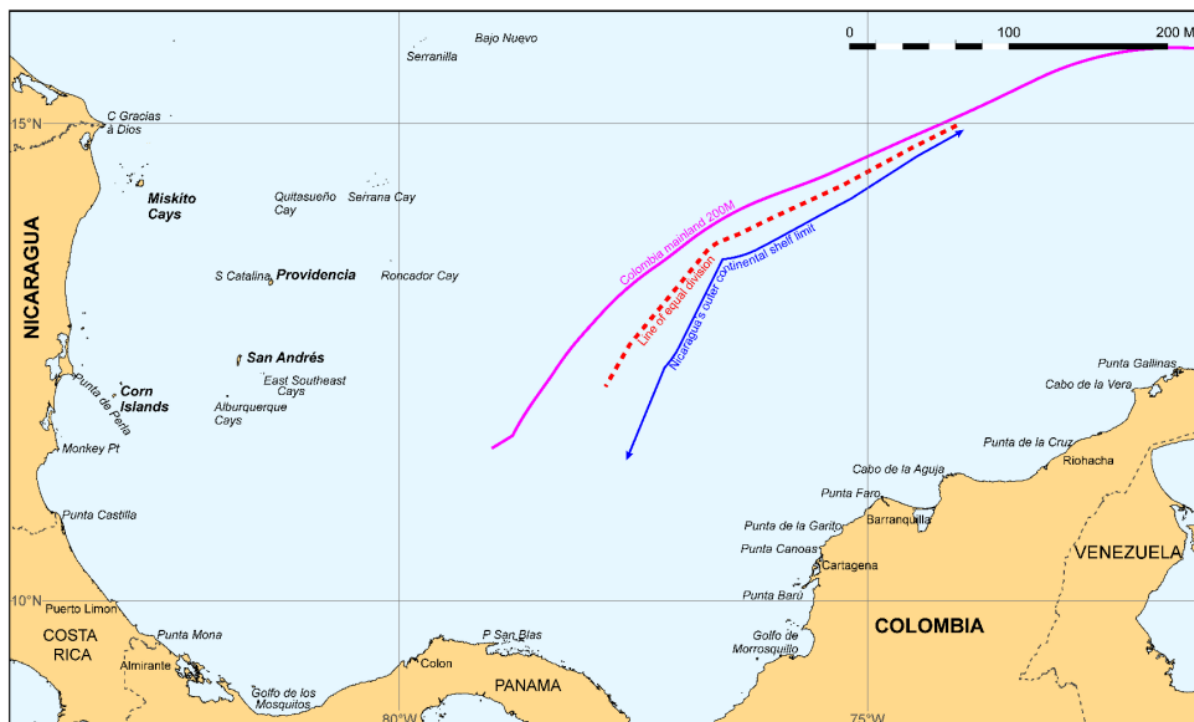
**Colombia argues** in particular that, as a matter of customary international law, a State may not claim a continental shelf beyond 200 nautical miles from its baselines that encroaches on another State’s entitlement to a 200-nautical-mile exclusive economic zone and continental shelf measured from its mainland coast and islands. With respect to the alleged entitlement, Colombia argues that the Applicant erroneously assumes that its **submission to the CLCS is in itself proof of the existence of its extended continental shelf**.

- According to Colombia, **Article 76, paragraphs 2 to 6**, which set out precise scientific and technical formulae for fixing limits beyond which an extended continental shelf may not be claimed, **do not reflect customary international law**. The Respondent contends that a coastal State’s entitlement to a continental shelf beyond **200 nautical miles must be based on the natural prolongation** of its land territory as evidenced by the physical characteristics of the shelf based on geological and geomorphological factors. In this regard, Colombia argues that Nicaragua **fails to demonstrate with scientific certainty** the existence of the natural prolongation of its land territory beyond 200 nautical miles of its coast. Colombia claims that there are a number of fundamental geomorphological disruptions and geological discontinuities in the physical continental shelf that terminate the natural prolongation of Nicaragua’s land territory well before the 200-nautical-mile limit from the Nicaraguan coast is reached.
- Shifting to its own entitlements, Colombia asserts its entitlements, citing adherence to customary international law., both its mainland and its islands are entitled to a 200-nautical-mile exclusive economic zone with its “**attendant**” **continental shelf**. It recalls that, in the 2012 Judgment, the Court ruled that San Andrés, Providencia and Santa Catalina generated a territorial sea, an exclusive economic zone and a continental shelf, and that they possessed substantial entitlements to the east of the 200-nautical-mile line from Nicaragua’s baselines.

Colombia further asserts that Roncador, Serrana, Serranilla and Bajo Nuevo **are not rocks** and are thus entitled to an exclusive economic zone with its “attendant” continental shelf, including in areas lying more than 200 nautical miles from Nicaragua’s baselines. It contends that **all these islands are capable of sustaining human habitation or**

*economic life of their own*. It adds that, even if Serrana, Roncador, Serranilla and Bajo Nuevo were deemed not to be entitled to an exclusive economic zone and continental shelf, Nicaragua’s claim *would still fail* because **its extended continental shelf cannot “leapfrog” over or “tunnel” under the exclusive economic zone and “attendant” continental shelf** of San Andrés, Providencia and Santa Catalina.

The Court determined, by a majority vote, that under customary international law, a state's entitlement to a continental shelf beyond the 200-nautical-mile limit may not extend within 200-nautical miles from the baselines of another state. Consequently, the Court concluded that Nicaragua's requests for delimitation could not be upheld.



### III. WHAT ARE THE FOCAL POINTS UTTERED BY THE CHAMBER?

The two questions that were formulated and answered in The Hague:

- 1. Under customary international law, can a state’s right to a continental shelf beyond 200 nautical miles from the baselines from which the breadth of its territorial sea is measured extend within 200 nautical miles? counted from the baselines of another State?**
- 2. What are the customary international law criteria for determining the limit of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured? And, in this regard, do paragraphs 2 to 6 of article 76 of the United Nations Convention on the Law of the Sea reflect customary international law?”**

The first question has a preliminary character in order to ascertain whether the Court may proceed to the delimitation requested by Nicaragua and, consequently, whether it is necessary to consider the scientific and technical questions that would arise for the purposes of such a delimitation. As the Court has indicated previously, “*an essential step in any delimitation is to determine whether there are entitlements, and whether they overlap*”. Determining whether there is any area of overlap between the entitlements of two States, each founded on a distinct legal title, is the first step in any maritime delimitation, because “*the task of delimitation consists in resolving the overlapping claims by drawing a line of separation of the maritime areas concerned*”. The ICJ instructed Nicaragua and Colombia to

base their arguments on customary international law, which the Court held as applicable to the case because, unlike Nicaragua, Colombia is not a party to UNCLOS. In its decision, the ICJ only considered the first preliminary question (see paras 35 to 79), noting that its verdict on that question precluded the need for it to address the second question. The Court observed that, as a matter of State practice, the vast majority of States parties to UNCLOS to have made submissions to the Commission on the Limits of the Continental Shelf (“CLCS”) have chosen not to assert outer limits of their continental shelves that extend within 200nm of the baselines of other States. The ICJ regarded this practice as indicative of *opinio juris* in *paragraph 77*, in which there is a lot to unpack. The Court therefore concluded (by thirteen votes to four) that, *as a matter of customary international law, a state’s entitlement to an extended continental shelf beyond 200nm may not impinge on the rights of another State within its own 200nm limit*. In reaching the above determination, the ICJ confirmed the customary international law nature of various UNCLOS provisions, and consequently their applicability to non-signatory States. Notwithstanding the ICJ’s determination that Nicaragua’s continental shelf must be maintained at its existing limits, Colombia remains under an obligation to comply with ICJ’s 2012 judgment regarding Nicaragua’s sovereign rights over certain maritime areas.

#### **IV. WHAT IS SPECIAL CHAMBER’S JUDGEMENT?**

- The legal regime of the continental shelf beyond 200 nautical miles that Nicaragua invokes *should not be considered as part of customary international law* and, therefore, it is not opposable to Colombia.
- Under customary international law, Colombia’s rights to an exclusive economic zone with its corresponding 200 nautical mile continental shelf *prevail over Nicaragua’s extended continental shelf claims*.
- Nicaragua *has not scientifically demonstrated* that it has a continental shelf that extends beyond 200 nautical miles from the baselines from which the breadth of its territorial sea is measured and in the direction of Colombia.
- Nicaragua has not respected the conventional procedure before the Commission on the Limits of the Continental Shelf nor has it fulfilled its burden of proof in the process.
- The rights of third States would be directly affected by the Nicaraguan claim in the Southwestern Caribbean.

#### **V. CONCLUSION**

The International Court of Justices’ judgments are final and cannot be appealed. Verily, this judgment stands as a momentous milestone in the annals of international law, elucidating the legal framework that governs the delimitation of continental shelves beyond the confines of the 200-nautical-mile limit. The ICJ’s pronouncement in this instance will undoubtedly wield far-reaching consequences for other nations embroiled in analogous contentions regarding their own continental shelves. It serves as a poignant reminder of the pivotal role that international courts assume in upholding the sanctity of the rule of law and fostering the peaceful resolution of conflicts.