

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

DÉLIMITATION MARITIME DANS LA MER
DES CARAÏBES ET L'OCÉAN PACIFIQUE

(COSTA RICA c. NICARAGUA)

FRONTIÈRE TERRESTRE DANS LA PARTIE
SEPTENTRIONALE D'ISLA PORTILLOS

(COSTA RICA c. NICARAGUA)

ORDONNANCE DU 2 FÉVRIER 2017

2017

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

MARITIME DELIMITATION IN THE
CARIBBEAN SEA AND THE PACIFIC OCEAN

(COSTA RICA v. NICARAGUA)

LAND BOUNDARY IN THE NORTHERN PART
OF ISLA PORTILLOS

(COSTA RICA v. NICARAGUA)

ORDER OF 2 FEBRUARY 2017

Mode officiel de citation :

*Délimitation maritime dans la mer des Caraïbes
et l'océan Pacifique (Costa Rica c. Nicaragua) — Frontière terrestre
dans la partie septentrionale d'Isla Portillos (Costa Rica c. Nicaragua),
ordonnance du 2 février 2017, C.I.J. Recueil 2017, p. 91*

Official citation :

*Maritime Delimitation in the Caribbean Sea
and the Pacific Ocean (Costa Rica v. Nicaragua) — Land Boundary
in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua),
Order of 2 February 2017, I.C.J. Reports 2017, p. 91*

ISSN 0074-4441
ISBN 978-92-1-157315-2

N° de vente:	1117
Sales number	

2 FÉVRIER 2017

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YEAR 2017

2 February 2017

2017
2 February
General List
Nos. 157 and 165MARITIME DELIMITATION IN THE
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LAND BOUNDARY IN THE NORTHERN PART
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(COSTA RICA v. NICARAGUA)

ORDER

Present: President ABRAHAM; Vice-President YUSUF; Judges OWADA, TOMKA, CAÑADO TRINDADE, GREENWOOD, XUE, DONOGHUE, GAJA, SEBUTINDE, ROBINSON, GEVORGIAN; Registrar COUVREUR.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 31 and 47 of the Rules of Court,

Makes the following Order:

Whereas:

1. By an Application filed in the Registry of the Court on 25 February 2014, the Republic of Costa Rica (hereinafter “Costa Rica”) instituted proceedings against the Republic of Nicaragua (hereinafter “Nicaragua”) with

regard to a dispute concerning “the establishment of single maritime boundaries between the two States in the Caribbean Sea and the Pacific Ocean, respectively, delimiting all the maritime areas appertaining to each of them, in accordance with the applicable rules and principles of international law” (hereinafter “the case concerning *Maritime Delimitation*”).

2. Pursuant to Article 40, paragraph 2, of the Statute, the Registrar immediately communicated a signed copy of the Application to the Government of Nicaragua; and, in accordance with paragraph 3 of that Article, all States entitled to appear before the Court were notified that the Application had been filed.

3. By an Order dated 1 April 2014, the Court fixed 3 February 2015 and 8 December 2015 as the respective time-limits for the filing of a Memorial by Costa Rica and a Counter-Memorial by Nicaragua. The Memorial and the Counter-Memorial were filed within the time-limits thus prescribed.

4. At a meeting held by the President with the representatives of the Parties on 28 January 2016, the Parties agreed that it was not necessary to file a Reply and a Rejoinder.

5. By letters dated 13 April 2016, the Registrar informed the Parties, pursuant to Article 67, paragraph 1, of the Rules of Court, that the Court was considering arranging for an expert opinion in accordance with Articles 48 and 50 of its Statute, entrusted to one or several experts, asking such experts to collect, by conducting a site visit, all the factual elements relating to the state of the coast between the point located on the right bank of the San Juan River at its mouth and the land point closest to Punta de Castilla, as those two points can be identified today.

6. After hearing the Parties, the Court decided, by an Order dated 31 May 2016, that an expert opinion would be obtained under Articles 48 and 50 of its Statute. It stated that this expert opinion would be entrusted to two independent experts appointed by Order of the President of the Court; these experts should visit the site in order to provide the Court with their views on the state of the coast between the point suggested by Costa Rica and the point suggested by Nicaragua in their written pleadings as the starting-point of the maritime boundary in the Caribbean Sea.

7. After consulting the Parties, the President of the Court appointed the two experts by an Order of 16 June 2016.

8. A first site visit took place from 4 to 9 December 2016.

9. On 16 January 2017, Costa Rica instituted proceedings against Nicaragua with regard to a dispute concerning “the precise location of the land boundary separating the Los Portillos/Harbor Head Lagoon sandbar from Isla Portillos” and the “establishment of a military camp by Nicaragua on the beach of Isla Portillos” (hereinafter “the case concerning *Isla Portillos*”).

10. In its Application, Costa Rica requested the Court to join the new proceedings with those in the case concerning *Maritime Delimitation*, pursuant to Article 47 of the Rules of Court.

11. In accordance with Article 40, paragraph 2, of the Statute, the Registrar immediately communicated a signed copy of the said Application to the Government of Nicaragua; and, pursuant to paragraph 3 of that Article, all States entitled to appear before the Court were notified that the Application had been filed.

12. At a meeting held by the President with the representatives of the Parties on 26 January 2017, the Parties were invited to make known their Governments' views both on the question of time-limits for the filing of pleadings in the case concerning *Isla Portillos* and on the appropriateness of joining the proceedings in the latter case with those in the case concerning *Maritime Delimitation*.

13. Costa Rica stated that it maintained its request for a joinder of the proceedings, observing in particular that it was necessary for the Court to settle all of the questions at issue between the Parties concerning the northern part of *Isla Portillos*. It was therefore in favour of short time-limits being granted for the filing of written pleadings in the new proceedings, so as to allow the Court to deal with both cases in its current composition. To that end, Costa Rica proposed that each Party be given a time-limit of 45 days, or a maximum of two months, in which to prepare its written pleading. It further suggested that the experts' report in the case concerning *Maritime Delimitation* should not be communicated to the Parties until after the filing of the written pleadings in the case concerning *Isla Portillos*.

14. For its part, Nicaragua stated that in its opinion the conclusions reached by the experts in the case concerning *Maritime Delimitation* would be essential to the case concerning *Isla Portillos*, and that therefore it would not be logical for Costa Rica to file its Memorial in the second case before reading the said report. Nicaragua added that it would not be able to comment on the appropriateness of a joinder or determine the time needed to prepare its Counter-Memorial until it was in possession of the experts' report and Costa Rica's Memorial. It was currently of the view that, in any event, each Party should be given a time-limit of six months to prepare its written pleading.

* *

15. In light of the information obtained by the President pursuant to Article 31 of the Rules of Court, and taking into account the nature of the case, the Court considers that the Parties should each have a period of one month and a half at their disposal, from the filing of the Application, in which to prepare their respective written pleadings in the case concerning *Isla Portillos*.

* *

16. With regard to the question of joining the proceedings in the *Maritime Delimitation* and the *Isla Portillos* cases, the Court recalls that, under Article 47 of the Rules, “[t]he Court may at any time direct that the proceedings in two or more cases be joined”. This provision leaves the Court a broad margin of discretion. Where the Court, or its predecessor, the Permanent Court of International Justice, has exercised its power to join proceedings, it has done so in circumstances where joinder was consonant not only with the principle of the sound administration of justice, but also with the need for judicial economy (see, for example, *Legal Status of the South-Eastern Territory of Greenland, Order of 2 August 1932, P.C.I.J., Series A/B, No. 48*, p. 268; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands), Order of 26 April 1968, I.C.J. Reports 1968*, p. 9; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua), Joinder of Proceedings, Order of 17 April 2013, I.C.J. Reports 2013*, p. 170, para. 18; *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), Joinder of Proceedings, Order of 17 April 2013, I.C.J. Reports 2013*, p. 187, para. 12). As the Court has had occasion to recall, any decision to that effect must be taken in light of the specific circumstances of each case.

17. In the present case, the Court considers that, in view of the claims made by Costa Rica in the case concerning *Isla Portillos* and the close link between those claims and certain aspects of the dispute in the case concerning *Maritime Delimitation*, the proceedings in the two cases should be joined. Such a joinder will allow the Court to address simultaneously the totality of the various interrelated and contested issues raised by the Parties, including any questions of fact or law that are common to the disputes presented.

* * *

18. For these reasons,

THE COURT,

(1) *Fixes* the following time-limits for the filing of written pleadings in the case concerning the *Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua)*:

2 March 2017 for the Memorial of the Republic of Costa Rica;

18 April 2017 for the Counter-Memorial of the Republic of Nicaragua;

(2) *Decides* to join the proceedings in the cases concerning *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua)* and the *Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua)*;

(3) *Reserves* the subsequent procedure for further decision.

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this second day of February, two thousand and seventeen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of Costa Rica and the Government of the Republic of Nicaragua, respectively.

(*Signed*) Ronny ABRAHAM,
President.

(*Signed*) Philippe COUVREUR,
Registrar.
