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A Case of Equitable Maritime Delimitation: Nicaragua and Colombia in the Western Caribbean Sea¹

Un caso de solución equitativa de delimitación de fronteras marítimas: Nicaragua y Colombia en el Mar Caribe Occidental

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Abstract: The unanimous judgment the International Court of Justice in November 2012 which resolved the boundary dispute between Nicaragua and Colombia in the western Caribbean Sea has generated considerable attention and commentary. Almost all of it has been highly favorable, with the sole exception of the reaction by Colombia, which purported to “reject” the Court’s Judgment and commenced procedures to withdraw its acceptance of ICJ jurisdiction in regard to future cases. This article demonstrates that the Court’s Judgment reflects the application of well-established legal principles of maritime boundary delimitation, and results in an equitable solution that is balanced and fair to both Parties. By analyzing the unique geographical circumstances of this case and discussing the methodologies and reasoning the Court employed in these circumstances to delimit the disputed maritime area, the article demonstrates that the delimitation line established by the Court was a creative solution to a difficult and complex geographic situation, which at the same time is firmly rooted in and consistent with well-established jurisprudence. As a result, the maritime boundary that the Court fixed between Nicaragua and Colombia allows the coasts of both States to generate maritime entitlements in a reasonable and mutually balanced way. Not only is the Court’s Judgment equitable to both Parties; it is also legally binding on them. There is no basis for either State to “reject” it, and no justification for refusing to entrust future cases to the Court, which remains an indispensable forum for the peaceful resolution of disputes between States according to the rule of law.

Keywords: International Court of Justice, equitable solution, maritime boundary delimitation, exclusive economic zone, continental shelf.

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² The Author is grateful to Yuri Parkhomenko, his colleague at Foley Hoag and on the Nicaragua legal team, for his valuable contributions to this article.

Resumen: *El fallo unánime de la Corte Internacional de Justicia de noviembre de 2012 que resolvió la disputa fronteriza entre Nicaragua y Colombia en el oeste del mar Caribe ha generado una gran atención y comentarios. Casi todos han sido favorables, con la única excepción de la reacción por Colombia, que pretendía “rechazar” la sentencia de la Corte e inició un procedimiento de retirada de su aceptación de la jurisdicción de la CIJ respecto de los casos futuros. En este artículo se demuestra que la sentencia de la Corte refleja la aplicación de los principios jurídicos bien establecidos de la delimitación de fronteras marítimas, dando lugar a una solución equitativa que es equilibrada y justa para ambas partes. Mediante el análisis de las circunstancias geográficas únicas de este caso y la discusión de las metodologías y del razonamiento empleados por la Corte en estas circunstancias para delimitar la zona marítima en disputa, el artículo demuestra que la línea de delimitación establecida por la Corte fue una solución creativa para una situación geográfica difícil y compleja, que al mismo tiempo está firmemente enraizada y en consonancia con la jurisprudencia bien establecida. Como resultado, la frontera marítima que la Corte fijó entre Nicaragua y Colombia permite a las costas de ambos Estados generar derechos marítimos de una manera razonable y mutuamente equilibrada. No solo es la sentencia de la Corte equitativa para ambas partes, sino que también es jurídicamente vinculante para ambas. No hay ninguna base para que cualquiera de los Estados la “rechace” y no hay justificación para negarse a someter futuros litigios ante la Corte, que sigue siendo un foro indispensable para la solución pacífica de las controversias entre los Estados de acuerdo con el estado de derecho.*

Palabras clave: *Corte Internacional de Justicia, solución equitativa, delimitación de fronteras marítimas, zona económica exclusiva, plataforma continental.*

I. Introduction

On 19 November 2012, the International Court of Justice rendered its unanimous Judgment in the case formally known as: *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. The Judgment, in which the two distinguished Ad Hoc Judges appointed by the Parties joined with 14 sitting Judges to produce a rare 16-0 decision, constitutes the most recent, and in many ways the most interesting, ruling to date by the Court on the delimitation of maritime boundaries between coastal States. What makes the Judgment so notable are the unusual geographical circumstances of the disputed area the Court was called upon to delimit, and the Court’s ingenuity in applying its well established rules of maritime delimitation to achieve a solution that was equitable to both Parties.

Even in the short time since the Judgment was issued, it has generated considerable attention and commentary, almost all of it highly favorable. The main exception is the reaction by Colombia, whose President and other senior officials harshly criticized the Judgment, and attacked the Court itself, in terms seldom, if ever, used in response to an international judicial or arbitral ruling, even by States disappointed in the outcome. The President of Colombia called the Judgment “seriously wrong,” filled with “omissions, errors, excesses and inconsistencies,”³ and declared that “Colombia emphatically rejects the ruling by the Court”⁴. These statements were followed by Colombia’s withdrawal from the Pact of Bogota, which included its longstanding (since 1948) acceptance of the Court’s compulsory jurisdiction in disputes with other Latin American States. By this action Colombia went beyond rejecting the Court’s Judgment. It rejected the Court itself.

Colombia’s extreme reaction to the Judgment is difficult to understand. As indicated by the formal title of the case, it addressed the Parties’ territorial, as well as their maritime, dispute. In regard to territory, Nicaragua and Colombia each claimed sovereignty over a number of small islands, cays and sand banks scattered across the Western Caribbean Sea approximately 100 nautical miles from Nicaragua’s coastline, and more than 350 nautical miles from the Colombian mainland.⁵ The Court awarded all of these insular features to Colombia, by a similar 16-0 vote. Colombia could hardly complain about that aspect of the Judgment.

In regard to maritime delimitation, the Court divided the waters within 200 nautical miles of Nicaragua’s coast in a manner that gave approximately 78% of the area to Nicaragua and 22% to Colombia, based on Nicaragua’s disproportionately longer mainland coastline, which was found to be more than eight times longer than the combined circumferences of all of the islands awarded to Colombia. Applying the longstanding principle that “the land dominates the sea,” the Court unsurprisingly decided that Nicaragua’s much

³ ROGERS, T. “Caribbean Crisis: Can Nicaragua Navigate Waters It Won from Colombia?”, *Time* (Nov. 28, 2012) (<http://world.time.com/2012/11/28/caribbean-crisis-can-nicaragua-navigate-waters-it-won-from-colombia/>).

⁴ HUTT, D., “Nicaragua and Colombia Dispute Continues over Caribbean Territory”, *The Argentina Independent* (Dec. 13, 2012) (<http://www.argentinaindependent.com/currentaffairs/nicaragua-and-colombia-dispute-continues-over-caribbean-territory/>).

⁵ These maritime features include the islands of San Andres, Providencia and Santa Catalina; the cays of Alburquerque, Bajo Nuevo, East-Southeast, Roncador, Serrana and Serranilla; and the bank of Quitasueño.

longer mainland coast entitled it to a greater proportion of the disputed waters.⁶ I had the privilege of serving as Nicaragua's Counsel and Advocate, and was responsible for arguing Nicaragua's case on maritime delimitation at the oral hearings before the Court, in company with my eminent colleagues: Professors Alain Pellet of the University of Paris North and Professor Vaughn Lowe of Oxford University. While I am not impartial, I submit that an objective observer, versed in international law and especially law of the sea, would have great difficulty reaching any conclusion other than that the Court properly applied the law to the geography of the disputed maritime area, and divided it equitably between Nicaragua and Colombia.

My submission has three parts: first, a description of the unique geographical circumstances of this case; second, a discussion of the methodologies and reasoning the Court employed in these circumstances to fix the maritime boundary between the two Parties in a manner that was equitable to both of them; and third, some brief concluding remarks.

II. The Geographical Circumstances

It is customary in maritime delimitation cases to begin by setting out the geographical context in which the delimitation is to be performed, since every delimitation is unique to and dependent upon the particular geography of the area to be delimited.

The area within which this delimitation was carried out lies in the western Caribbean Sea (See sketch-map N° 1).⁷ As is immediately apparent from this map, the Court had to carry out the delimitation in very unusual and complicated geographic circumstances. This is because the delimitation was not between the mainland coasts of two States; it was between Nicaragua's extensive mainland coast—the dominant geographic feature in the area—and several small Colombian islands, many nautical miles apart from each other in front of the Nicaraguan coastline, and wholly detached and far removed from Colombia's mainland.

⁶ The Court also addressed Nicaragua's claims to an extended continental shelf beyond 200 nautical miles from its coast, and agreed with Colombia that Nicaragua's claims were premature and unsupported by definitive scientific and technical evidence of the geophysical existence of a shelf beyond 200 nautical miles. But it left the door open to Nicaragua to return to the Court after it obtains the missing evidence.

⁷ Sketch-map N° 1 corresponds to sketch-map N° 1 depicted in the Court's Judgment at p. 16.

The largest of the islands, and the only ones that were populated, were *San Andrés*, *Providencia* and *Santa Catalina*. *San Andrés* is approximately 105 nautical miles from Nicaragua. *Providencia* and *Santa Catalina* are located some 47 nautical miles north-east of *San Andrés* and approximately 125 nautical miles from Nicaragua. All three islands are approximately 380 nautical miles from the mainland of Colombia.

All of the other insular features were tiny, uninhabitable, and incapable of sustaining economic activity of any kind. Starting from the south-west and moving to the north-east, there were the cays of *Alburquerque*, East-Southeast, *Roncador* and *Serrana*, the bank of *Quitassueño*, and the cays of *Serranilla* and *Bajo Nuevo*.

The complexity of this geographical situation was compounded by the fact that Colombia regarded the west-facing coasts of these islands and cays as if they were a continuous mainland coast stretching for over 100 nautical miles. In Colombia's view, they constituted "a wall" blocking all access for Nicaragua to the substantial area between the east coasts of those islands and the line drawn 200 nautical miles from Nicaragua's coasts. Nicaragua argued that its extensive mainland coast generated entitlements under customary international law to an Exclusive Economic Zone and Continental Shelf out to the 200 nautical mile line, which could not be cut off by tiny and widely dispersed islands belonging to another State (Colombia) far removed from that State's mainland⁸.

⁸ The case was governed by customary international law rather than the 1982 United Nations Convention on the Law of the Sea because, while Nicaragua is a party to the UN Convention, Colombia is not. However, as the Court has made clear in prior cases, the UN Convention and customary law are similar in regard to the entitlements of coastal States and the delimitation of maritime boundaries within 200 nautical miles of the coast. (See e.g., *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar v. Bahrain*), *Merits, Judgment*, I.C.J. Reports 2001, p. 91, (hereinafter "*Qatar v. Bahrain*") paras. 167 *et seq.*; *Maritime Delimitation in the Black Sea* (*Romania v. Ukraine*), *Judgment*, I.C.J. Reports 2009 (hereinafter "*Romania v. Ukraine*"), para. 120.) Under both the Convention and customary law, coastal States are entitled to declare a Territorial Sea of up to 12 nautical miles from their coastal baselines, and an Exclusive Economic Zone and Continental Shelf of up to 200 nautical miles; and, where the entitlements of opposite or adjacent coastal States overlap, delimitation is to be effected either by agreement of the parties, or in a manner that produces an equitable solution. (Article 3, Article 57, Article 74, Article 76 and Article 83 of the 1982 UN Convention on the Law of the Sea).

III. The Delimitation of the Maritime Boundary

The task of the Court was to equitably delimit the maritime area within 200 nautical miles of Nicaragua's coast, where both Nicaragua and Colombia (by virtue of its Caribbean islands and cays) had overlapping entitlements to a Territorial Sea, Exclusive Economic Zone and Continental Shelf. As its first step, the Court identified the Parties' "relevant coasts," that is, the coasts that generated maritime entitlements in the area to be delimited, as well as the "relevant area" where these entitlements overlapped and delimitation was required.

Since the maritime entitlements of a coastal State are based on the principle that the land dominates the sea through the projection of its coast seaward,⁹ it is necessary in each delimitation case to identify the coasts that are relevant to the delimitation, namely, "those coasts the projections of which overlap, because the task of delimitation consists in resolving the overlapping claims by drawing a line of separation of the maritime areas concerned".¹⁰ Identification of the relevant coasts is necessary for two different though closely related legal reasons: first, to determine where overlapping entitlements exist and, second, to check in the final stage of delimitation whether any disproportionality exists when the ratios of the coastal lengths of each State are compared with the ratios of the maritime areas falling on either side of the delimitation line.¹¹ If no substantial disproportionality between these ratios is found to exist, the delimitation is deemed to be equitable.

For Nicaragua, the Court found that the relevant coast was its entire Caribbean coast, with the exception of the short stretch of coast near *Punta de Perlas*, which faces due south and thus does not project eastward into the area of overlapping entitlements. The Court also considered that Nicaragua's entitlement to a 200-nautical mile Exclusive Economic Zone and Continental Shelf had to be measured from the islands fringing the Nicaraguan coast: the Corn Islands in the south and the *Miskitos* Cays in the north, because "fringing islands" are routinely considered an integral part of a mainland coast.

⁹ *Romania v. Ukraine*, para. 77; *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. 19 November 2012 (hereinafter "*Nicaragua v. Colombia*"), para. 140.

¹⁰ *Nicaragua v. Colombia*, para. 141.

¹¹ *Romania v. Ukraine*, para. 78; *Nicaragua v. Colombia*, para. 141.

Because the east-facing coasts of the Nicaraguan islands are parallel to the mainland, the Court found that they did not add to the length of the relevant coast, although they contributed to the coastal baselines from which Nicaragua's 12 and 200 nautical mile entitlements should be measured¹².

In identifying Colombia's relevant coast, the Court looked only to the insular features facing Nicaragua's coast, since only they generated entitlements that overlapped with Nicaragua's. To be sure, Colombia's mainland coast generated maritime entitlements, but it was located too far from Nicaragua's coast – more than 400 nautical miles away – to generate any entitlements that overlapped with Nicaragua's. The relevant Colombian coast thus consisted of the coasts of *San Andrés*, *Providencia* and *Santa Catalina* Islands, and *Alburquerque*, East-Southeast, *Roncador* and *Serrana* Cays. The Court accepted Colombia's argument that the entire coastline of each of these features, not merely the west-facing coasts (i.e. those facing Nicaragua), had to be taken into account because their radial projections generated entitlements to the east, as well as to the west, that overlapped with Nicaragua's entitlements within 200 nautical miles of its mainland coast. The Court disregarded *Quitassueño*, *Serranilla* and *Bajo Nuevo* for the purposes of determining Colombia's relevant coast. *Quitassueño*, for example, was ignored because it is so small in size that it "cannot make any difference to the length of Colombia's coast".¹³

On that basis, the Court found that the lengths of the relevant coasts were 531 km for Nicaragua and 65 km for Colombia, a ratio of approximately 1:8.2 in favor of Nicaragua.

Once the relevant coasts were established, the next step was to determine the relevant area: the area to be delimited, consisting of that part of the maritime space in which the entitlements generated by the relevant coastlines of both Parties overlap. Nicaragua and Colombia disagreed on the extent of the relevant area. For Nicaragua, the relevant area necessarily included all of the maritime space lying between its mainland coast and Colombia's islands, as well as the area beyond (eastward of) those islands out to a distance of 200 nautical miles from Nicaragua's relevant coast. Colombia tried to limit the relevant maritime area –and the area to be delimited– to the space between (westward of) its islands and Nicaragua's coast. By this argument, Colombia hoped to reserve all

¹² *Nicaragua v. Colombia*, para. 145.

¹³ *Nicaragua v. Colombia*, para. 152.

of the space eastward of its islands (but still within 200 nautical miles of Nicaragua's coast) for itself. In Colombia's view, the scattered islands served as an unbroken wall that prevented Nicaragua's coast from projecting beyond them and cut off Nicaragua's maritime entitlements. (See sketch-map N° 2)¹⁴.

Colombia's argument contradicted a long line of case law, which included not only the Court's own jurisprudence, but the precedents established by other international courts and arbitral tribunals, to the effect that small islands cannot block the seaward projection of mainland coasts or otherwise cut off the maritime entitlements generated by those coasts.¹⁵ As the Court explained, Nicaragua's coast, and the Nicaraguan islands adjacent thereto, project a maritime entitlement across the water column and underlying seabed for 200 nautical miles. This entitlement thus extends east of the Colombian islands, where it overlaps with the competing entitlements of Colombia derived from those islands: "the relevant area extends from the Nicaraguan coast to a line in the east 200 nautical miles from the baselines from which the breadth of Nicaragua's territorial sea is measured"¹⁶.

To avoid affecting the interests of third States both to the north and to the south, the Court excluded from the relevant area where Nicaragua's and Colombia's entitlements overlapped the areas claimed by Jamaica, Panama and Costa Rica pursuant to agreements that those States had reached previously with Colombia. Thus defined, the relevant area

¹⁴ Sketch-map N° 2 corresponds to sketch-map N° 5 depicted in the Court's Judgment at p. 54.

¹⁵ *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, Judgment, I.C.J. Reports 1984, pp. 329-330 (hereinafter "*Gulf of Maine*"), para. 201; *Continental Shelf (Libyan Arab Jamahiriya v. Malta)*, Judgment, I.C.J. Reports 1985, p. 46 (hereinafter "*Libya v. Malta*"), para. 64; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, pp. 88-89 (hereinafter "*Tunisia/Libya*"), paras. 128-129; *Romania v. Ukraine*, para. 149; *Dispute concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal*, Judgment of 14 March 2012 (hereinafter "*Bangladesh/Myanmar*"), paras. 317-319; *Dubai/Sharjah Border Arbitration*, Award, 19 Oct. 1981, reprinted in 91 *ILR* 543, p. 668 (hereinafter "*Dubai/Sharjah*"), paras. 263, 265; *Limits of the Offshore Areas between Newfoundland and Labrador and Nova Scotia, Second Phase*, Award of 26 March 2002, *ILR*, Vol. 128, (hereinafter "*Newfoundland/Nova Scotia*"), paras. 5.14-5.15; *Delimitation of the Continental Shelf between France and the United Kingdom*, Decision, 30 June 1977, reprinted in 18 *RIAA* 3 (hereinafter "*Anglo-French Continental Shelf Case*"), paras. 196, 199; *Delimitation of Maritime Areas between Canada and France (St. Pierre et Miquelon)*, Decision, 10 June 1992, reprinted in 31 *ILM* 1149, (hereinafter "*St. Pierre and Miquelon*"), paras. 67, 69, 70. See also D. Bowett, "Islands, Rocks, Reefs and Low-Tide Elevations in Maritime Boundary Delimitations," in J. Charney and L.M. Alexander (eds.), *International Maritime Boundaries*, 1993, Vol. 1, p. 151.

¹⁶ *Nicaragua v. Colombia*, para. 159.

to be delimited between Nicaragua and Colombia measured approximately 209,280 sq km.¹⁷ (See sketch-map N° 3, depicting the relevant area according to the Court)¹⁸.

2. The Methodology of Delimitation

In its prior decisions, the Court established a standard methodology to employ in delimiting overlapping entitlements to Territorial Seas, Exclusive Economic Zones and Continental Shelves within 200 nautical miles, which consists of three stages¹⁹.

In the first stage, a provisional delimitation line is constructed in the relevant area using techniques that are geometrically objective and appropriate for the geography of the area. This task consists of plotting a provisional equidistance line where the relevant coasts are adjacent, or a median line between the two coasts that are opposite, unless in either case the establishment or use of an equidistance or median line is not feasible or inappropriate²⁰.

In the second stage of the process, the Court considers whether there are any “relevant circumstances” that may call for an adjustment or shifting of the provisional equidistance/median line so as to achieve an equitable delimitation. If the Court concludes that such circumstances are present, it may adjust or shift the equidistance/median line as necessary

¹⁷ More specifically, the Court concluded that the limit of the relevant to be area in the north follows the maritime boundary between Nicaragua and Honduras, laid down in the Court’s Judgment of 8 October 2007, until it reaches latitude 16 degrees north. It then continues due east until it reaches the boundary of the Colombia-Jamaica “Joint Regime Area”. From that point, it follows the boundary of that Area, skirting a line 12 nautical miles from Serranilla, until it intersects with the line 200 nautical miles from Nicaragua. In the south, the boundary of the relevant area begins in the east at the point where the line 200 nautical miles from Nicaragua intersects with the boundary line agreed between Colombia and Panama. It then follows the Colombia-Panama line to the west until it reaches the line agreed between Colombia and Costa Rica. It follows that line westwards and then northwards, until it intersects with a hypothetical equidistance line between the Costa Rican and Nicaraguan coasts. *Nicaragua v. Colombia*, paras. 164-165.

¹⁸ Sketch-map N° 3 corresponds to sketch-map N° 7 depicted in the Court’s Judgment at p. 64.

¹⁹ *Libya v. Malta*, para. 60; *Romania v. Ukraine*, paras. 115-122. See also *Bangladesh/Myanmar*, paras. 239-240.

²⁰ *Romania v. Ukraine*, para. 116; *Territorial and Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007 (II), p. 745 (hereinafter “*Nicaragua v. Honduras*”), para. 281.

to take account of those circumstances.²¹ Where the relevant circumstances so require, the provisional equidistance/median line may be abandoned altogether, and other techniques, such as use of an angle bisector to divide the area of overlapping entitlements, or construction enclaves around isolated islands, may be employed to effect an equitable delimitation.²² In the third and final stage, a “disproportionality” test is conducted to verify that the line (most commonly a provisional equidistance/median line which may or may not have been adjusted by taking into account the relevant circumstances) does not, as it stands, lead to an inequitable result by reason of any marked disproportion between the ratio of the Parties’ coastal lengths and the ratio of their maritime areas resulting from the delimitation. In the absence of a substantial disproportionality between these two ratios, the delimitation will normally be deemed equitable²³.

The three-stage process, as the Court has repeatedly emphasized, “is not, of course, to be applied in a mechanical fashion and...it will not be appropriate in every case to begin with a provisional equidistance/median line”.²⁴ The question of whether it was appropriate to start with a median line in the geographical circumstances of this case took center stage. Colombia insisted on the application of a strict, unmodified median line between the west-facing coasts of its islands and the Nicaraguan coastline.²⁵ Its proposed boundary line is depicted in sketch-map N° 4.²⁶ Nicaragua saw that approach as inherently inequitable: the line so drawn would cut off the eastward projection of Nicaragua’s extensive mainland coast and deprive it of any maritime entitlements east of the hypothetical “line” formed by Colombia’s small islands, thus leaving some three quarters of what the Court determined to be the relevant area on the Colombian side of the line of delimitation, and confining Nicaragua only to a narrow band of sea extending only some 55 nautical miles from its mainland (and even less from its fringing islands). In percentage terms, Colombia’s proposed delimitation line divided the relevant area by giving Colombia 72 per cent and Nicaragua 28 per cent. Despite a coastal length ratio of

²¹ *Libya v. Malta*, para. 63; *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)* Judgment, I.C.J. Reports 1993, p.38 (hereinafter “*Jan Mayen*”), paras. 91-92.

²² *Romania v. Ukraine*, paras. 119-121; *Nicaragua v. Honduras*, para. 281; *Delimitation of the maritime boundary between Guinea and Guinea-Bissau*, Decision of 14 February 1985, *ILR*, Vol. 77, p. 635.

²³ *Romania v. Ukraine*, para. 122.

²⁴ *Nicaragua v. Colombia*, para. 194; *Nicaragua v. Honduras*, para. 272; *Romania v. Ukraine*, para. 116.

²⁵ *Nicaragua v. Colombia*, para. 206.

²⁶ Sketch-map N° 4 corresponds to sketch-map N° 3 depicted in the Court’s Judgment at p. 49.

1:8.2 in Nicaragua's favor, as the Court found, Colombia's delimitation line would have given Colombia between two and three times more of the relevant area than Nicaragua.

To avoid this inequity and produce a delimitation that would give the Parties maritime areas that more closely reflected the differences in lengths of their relevant coasts, Nicaragua argued that the provisional equidistance/median line should be abandoned in favor of a set of 12 nautical mile enclaves around Colombia's islands that would leave the rest of the relevant area to Nicaragua. Had the Court adopted this approach, the ratio of the Parties' maritime areas would have been 1:11 in favor of Nicaragua, a ratio not substantially different from the 1:8.2 ratio (in Nicaragua's favor) of the lengths of the Parties' relevant coasts. However, Nicaragua anticipated that the Court might be reluctant to enclave all of Colombia's islands, especially the larger ones such as San Andres, which, by virtue of the Court's jurisprudence, could reasonably be found to merit its own 200 nautical mile Exclusive Economic Zone and Continental Shelf. Thus, during the oral hearings, Nicaragua alluded to a potential scenario in which *San Andres* and *Providencia* Islands would be given half weight in the construction of the provisional equidistance/median line, while only the smaller and uninhabitable features would be enclaved. The delimitation produced by this formula is shown on sketch-map N° 5.²⁷ This solution apportioned the Parties' potential overlapping entitlements in a ratio of 1:2.3 in favor of Nicaragua, while still reserving for Colombia a large maritime area compared to the size of Colombia's insular features. Although it was not adopted by the Court, the solution that the Court did adopt was not very dissimilar, as is clear from a comparison between the "half-weight line + enclaves" proposal (sketch map N° 5) and the final delimitation depicted by the Court on sketch-map N° 6²⁸.

The Court decided not to abandon the standard methodology it regularly employed in prior cases, and commenced the delimitation process, as has become customary, by constructing a provisional median line in the area between Nicaragua's coast and Colombia's islands (as Colombia had proposed). This approach was criticized by some of the Judges, including Judge Xue, in her separate Declaration, who did not believe the Court should have mechanically followed the three-step process, or wedded itself to a provisional equidistance/median line which it had to substantially modify to achieve an

²⁷ Sketch-map N° 5 was displayed by Nicaragua during the second round of the oral pleadings.

²⁸ Sketch-map N° 6 corresponds to sketch-map N° 11 depicted in the Court's Judgment at p. 127.

equitable delimitation. However, Judge Xue and the other Judges uncomfortable with the Court's reliance on this approach agreed that the result achieved by the Court was an equitable one, and endorsed it in the end. In particular, all of the judges agreed that there were overlapping entitlements to the east of the Colombian islands, from which area Nicaragua could not be excluded, and that the considerable disparity of coastal lengths (in Nicaragua's favor) had to be taken into account in determining the course of the maritime boundary. However, as reflected in the Judgment, a majority concluded that those factors must be considered in the second stage of the delimitation process and "do not justify discarding the entire methodology and substituting an approach in which the starting-point is the construction of enclaves for each island, rather than the construction of a provisional median line".²⁹ At the same time, the Judgment emphasizes that following the three-step approach, starting with a provisional median/equidistance line, "does not preclude very substantial adjustment to, or shifting of, the provisional line in an appropriate case, nor does it preclude the use of enclaving in those areas where the use of such a technique is needed to achieve an equitable result"³⁰.

The Court thus proceeded in accordance with its standard methodology in three stages: constructing a provisional equidistance/median line, considering relevant circumstances calling for the adjustment of the provisional line (and shifting the line accordingly), and conducting the disproportionality test to confirm that its proposed solution was equitable.

(i) Construction of the provisional median line

Consistent with its prior decisions, the Court constructed a provisional median line between the opposite coasts of Nicaragua's mainland (including Nicaragua's fringing islands) and Colombia's islands, by reference to the base points it considered appropriate.³¹

For the Nicaraguan coast, the Court used base points located on Edinburgh Reef, *Muerto* Cay, the Miskito Cays, Ned Thomas Cay, *Roca* Tyra, Little Corn Island and Great Corn Island. For the Colombian coast, the Court placed base points on *Santa*

²⁹ *Nicaragua v. Colombia*, para. 196.

³⁰ *Nicaragua v. Colombia*, para. 196.

³¹ *Nicaragua v. Colombia*, para. 200 (the Court reaffirmed that it "should not base itself solely on the choice of base points made" by one of the disputing parties; it "must...select base points by reference to the physical geography of the relevant coasts").

Catalina, Providencia and *San Andrés* Islands and on *Alburquerque Cay*, deciding that *Quitassueño, Serrana* and *Low Cay* (where Colombia had proposed the placement of base points) were insignificant features that should not contribute to the construction of the provisional median line.

The Court's unwillingness to allow the placement of base points on tiny insular features goes back at least as far as the *Gulf of Maine* case, decided more than 20 years ago. In that Judgment, the Chamber warned of "the potential disadvantages inherent in any method which takes tiny islands, uninhabited rocks or low-tide elevations, sometimes lying at a considerable distance from terra firma, as a basepoint for the drawing of a line intended to effect an equal division of a given area".³² The Chamber expressly objected to "making a series of such minor features the very basis for the determination of the dividing line, or for transforming them into a succession of basepoints for the geometrical construction of the entire line".³³ Similarly, in *Libya v. Malta*, the Court ruled that "the equitableness of an equidistance line depends on whether the precaution is taken of eliminating the disproportionate effect of certain 'islets, rocks and minor coastal projections'"³⁴. The Court thus found it equitable not to take account of a small Maltese islet, *Filfla*, in the construction of the provisional median line. The Court similarly held in *Romania v. Ukraine* that it was inappropriate to place any base point on Ukraine's tiny *Serpents' Island*, because it lay alone and at a distance of some 20 nautical miles from the mainland coast of Ukraine, and its use as a part of the relevant coast "would amount to grafting an extraneous element onto Ukraine's coastline; the consequence would be a judicial refashioning of geography, which neither the law nor practice of maritime delimitation authorizes"³⁵.

Building upon its prior decisions, the Court reasoned that the same considerations applied to *Quitassueño, Serrana* and *Low Cay*. For example, *Quitassueño*, in addition to being a tiny feature, lies considerably north of *Santa Catalina*, and its use in the construction of the provisional median line would have pushed that line significantly closer to Nicaragua and blocked the seaward projection of Nicaragua's coast north of the main

³² *Gulf of Maine*, para. 201.

³³ *Gulf of Maine*, para. 201.

³⁴ *Libya v. Malta*, para. 64.

³⁵ *Romania v. Ukraine*, para. 149.

islands. *Serrana*, another tiny feature, was also discounted because it lies at a considerable distance from any of the other Colombian islands, and placing a base point on it would have produced a marked effect upon the course of the provisional median line out of all proportion to its size and significance. The same conclusion was reached in regard to Low Cay, a small, uninhabited feature near *Santa Catalina*. However, while the Court disregarded those minor maritime features in constructing a provisional median line, it ruled that they were each still entitled to a 12-nautical mile Territorial Sea.

The provisional median line constructed from the selected base points is depicted on sketch-map N° 7³⁶.

(ii) Consideration of the relevant circumstances

The Parties invoked different considerations they deemed relevant to the achievement of an equitable solution: the marked disparity in the lengths of the relevant coasts, the cut-off effects of Colombia's islands, and other considerations such as conduct of the parties, security and law enforcement interests, equitable access to natural resources, and delimitations already effected in the area with third States. However, they drew opposite conclusions from their analyses of those considerations. Colombia argued that the provisional median line afforded an equitable solution and therefore required no adjustment or shifting; Nicaragua argued that the inequity resulting from that line called for an entirely different approach. The Court evaluated all of these factors to determine whether they called for adjustment (or abandonment) of the provisional median line.

a) Disparity in the lengths of the relevant coasts

Nicaragua emphasized that its coast is significantly longer than that of the Colombian islands and argued that this must be taken into account in order to arrive at an equitable solution. Colombia naturally sought to downplay this factor. The Court's jurisprudence establishes that, while "the respective length of coasts can play no role in identifying the equidistance line which has been provisionally established,"³⁷ it is nevertheless true that "a *substantial* difference in the lengths of the parties' respective coastlines may be a factor

³⁶ Sketch-map N° 7 corresponds to sketch-map N° 8 depicted in the Court's Judgment at p. 76.

³⁷ *Romania v. Ukraine*, para. 163.

to be taken into consideration in order to adjust or shift the provisional delimitation line”.³⁸ Indeed, in all prior cases where disparities in the lengths of coasts were particularly marked, the Court treated that fact of geography as a relevant circumstance requiring some adjustments to the provisional equidistance line. In the *Jan Mayen* case, for example, the Court found that the disparity between the lengths of the coasts of Norway’s Jan Mayen Island and Greenland (approximately 1:9) constituted a “special circumstance” requiring modification of the provisional median line in favor of Greenland (Denmark), by moving it closer to the coast of Jan Mayen, to avoid inequitable results³⁹. In *Libya v. Malta*, the Court found that the difference in the lengths of the relevant coasts of Malta and Libya (by a ratio 1:8) “is so *great* as to justify the adjustment of the median line”⁴⁰.

Drawing on its prior decisions, the Court found that the coastal length ratio of 1:8.2 in favor of Nicaragua “is undoubtedly a substantial disparity” that “requires an adjustment or shifting of the provisional line, especially given the overlapping maritime areas to the east of the Colombian islands”⁴¹. The Court noted that a maritime boundary that followed the course of the provisional median line, as Colombia proposed, would have left Colombia in possession of “a markedly larger portion of the relevant area than that accorded to Nicaragua, notwithstanding the fact that Nicaragua has a far longer relevant coast”⁴². To avoid that inequitable result, the Court reasoned that the ultimate boundary “should be such that the portion of the relevant area accorded to each State takes account of the disparity between the lengths of their relevant coasts”⁴³.

b) The cut-off effect

It is a basic principle of maritime delimitation that a State should not be wholly cut off, or blocked, from the maritime areas into which its coastline projects, particularly by the

³⁸ *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Judgment, I.C.J. Reports 2002, p. 446 (hereinafter “*Cameroon v. Nigeria*”), para. 301; *Jan Mayen*, para. 61; *Libya v. Malta*, paras. 74-75; *Gulf of Maine*, para. 185; *Romania v. Ukraine*, para. 164.

³⁹ *Jan Mayen*, para. 61.

⁴⁰ *Libya v. Malta*, paras. 68, 74-75. (emphasis added).

⁴¹ *Nicaragua v. Colombia*, para. 211.

⁴² *Nicaragua v. Colombia*, para. 229.

⁴³ *Nicaragua v. Colombia*, para. 229.

presence of small islands belonging to another State.⁴⁴ Nicaragua advanced that settled principle in response to Colombia's attempt to treat the western coasts of *Alburquerque*, *San Andrés*, *Providencia*, *Santa Catalina* and *Serrana* as "a wall" blocking all access for Nicaragua to the substantial area between the east coasts of those features and the line 200 nautical miles from Nicaragua's coast.

The Court followed its standard approach that "the achievement of an equitable solution requires that, so far as possible, the line of delimitation should allow the coasts of the Parties to produce their effects in terms of maritime entitlements in a reasonable and mutually balanced way".⁴⁵ It was thus troubled that the effect of the provisional median line was to cut Nicaragua off from some three quarters of the area into which its coast naturally projects. Moreover, that cut-off effect was produced by a few small islands and cays spread over many nautical miles, which "should not be treated as though they were a continuous mainland coast stretching for over 100 nautical miles and cutting off Nicaraguan access to the sea-bed and waters to their east"⁴⁶.

The Court therefore concluded that the cut-off effect of Colombia's islands was a relevant circumstance calling for adjustment of the provisional median line in Nicaragua's favor in order to produce an equitable result. However, that conclusion was not one-sided. The Court also stated that "any adjustment or shifting of the provisional median line must not have the effect of cutting off Colombia from the entitlements generated by its islands in the area to the east of those islands"⁴⁷. Rather, the solution should be one "in which neither Party is cut off from the entirety of any areas into which its coasts project"⁴⁸. Otherwise, the effect would have been "to remedy one instance of cut-off by creating another"⁴⁹.

⁴⁴ *Gulf of Maine*, para. 201; *Libya v. Malta*, para. 64; *Tunisia/Libya*, paras. 128-129; *Romania v. Ukraine*, para. 149; *Bangladesh/Myanmar*, paras. 317-319; *Dubai/Sharjah*, p. 668, paras. 263, 265; *Newfoundland/ Nova Scotia*, paras. 5.14-5.15; *Anglo-French Continental Shelf Case*, paras. 196, 199; *St. Pierre and Miquelon*, paras. 67, 69, 70. See also D. Bowett, "Islands, Rocks, Reefs and Low-Tide Elevations in Maritime Boundary Delimitations," in J. Charney and L.M. Alexander (eds.), *International Maritime Boundaries*, 1993, Vol. 1, p. 151.

⁴⁵ *Romania v. Ukraine*, para. 201.

⁴⁶ *Nicaragua v. Colombia*, para. 215.

⁴⁷ *Nicaragua v. Colombia*, para. 216.

⁴⁸ *Nicaragua v. Colombia*, para. 229.

⁴⁹ *Nicaragua v. Colombia*, para. 216.

c) **Other circumstances**

The Court considered other circumstances that either Nicaragua or Colombia deemed relevant to the delimitation, including: conduct of the parties, security and law enforcement requirements, equitable access to natural resources, and delimitations already effected in the area. Each was evaluated by the Court.

Conduct of the parties may constitute a relevant circumstance in an appropriate case. However, the jurisprudence of the Court and of arbitral tribunals in delimitation cases shows that conduct will not normally have an effect on delimitation, unless it is of an exceptional character⁵⁰. On the facts of the case, the Court did not consider that the conduct of the Parties was “so exceptional as to amount to a relevant circumstance which itself requires it to adjust or shift the provisional median line”⁵¹.

Legitimate security concerns may constitute a relevant circumstance if the maritime delimitation is effected close to the coast of a State⁵². The Court stated that it was mindful of that consideration in determining what adjustment to make to the provisional median line in this case and deliberately avoided shifting it too close to Colombia’s main islands.

Access to natural resources “[has] been treated more cautiously by the decisions of international courts and tribunals, which have not generally applied this factor as a relevant circumstance”⁵³. Consistent with that proposition and taking into account that neither Party offered evidence that access (or denial of access) to natural resources was a particularly significant factor in this case, the Court considered that there was no basis to warrant treating it as a relevant circumstance⁵⁴.

As for delimitations already effected in the area, the Court accepted that Panama’s agreement with Colombia amounted to recognition by Panama of Colombian claims to the

⁵⁰ *Jan Mayen*, para. 86; *Cameroon v. Nigeria*, para. 304; *Romania v. Ukraine*, para. 198.

⁵¹ *Nicaragua v. Colombia*, para. 220.

⁵² *Nicaragua v. Colombia*, para. 222; *Romania v. Ukraine*, para. 204; *Libya v. Malta*, para. 51.

⁵³ *Arbitration between Barbados and the Republic of Trinidad and Tobago, relating to the delimitation of the exclusive economic zone and the continental shelf between them*, Award of 11 April 2006, *RIAA*, Vol. XXVII, p. 214, (hereinafter “*Barbados/Trinidad and Tobago*”), para. 241; *Romania v. Ukraine*, para. 198.

⁵⁴ *Nicaragua v. Colombia*, para. 223.

area north and west of the boundary line laid down in that agreement. Similarly, the unratified treaty between Colombia and Costa Rica entailed at least potential recognition by Costa Rica of Colombian claims to the area north and east of the boundary line which it establishes, while the Colombia-Jamaica agreement constituted recognition by Jamaica of Colombian claims to the area south-west of the boundary of the Colombia-Jamaica “Joint Regime Area”. However, the Court did not agree that these recognitions amounted to a relevant circumstance to be taken into account in effecting a maritime delimitation between Colombia and Nicaragua. That decision was based on the fundamental principle that a treaty between two States cannot, by itself, affect the rights of a third State.⁵⁵ On that basis, the Court concluded that the treaties which Colombia concluded with Jamaica and Panama and the treaty which it signed with Costa Rica did not confer upon Colombia rights against Nicaragua and, in particular, did not entitle it, vis-à-vis Nicaragua, to a greater share of the area in which its maritime entitlements overlap with those of Nicaragua⁵⁶.

Having thus identified relevant circumstances, and concluded that a maritime boundary following the course of the provisional median line would not produce an equitable result, the Court proceeded to adjust the line.

(iii) Adjustment of the Provisional Median Line in Light of the Relevant Circumstances

The extent and the manner of adjusting the provisional delimitation line were determined in light of the marked disparity of the coastal lengths and the need to avoid cut-off effects for either Party. With those matters in mind, the Court drew a distinction between the part of the relevant area which lies between Nicaragua’s mainland and Colombia’s islands, where the relevant coasts are opposite one another, and the part which lies to the east of those islands, where the relationship is more complex – a combination of adjacency and oppositeness.

⁵⁵ As it was held in the *Island of Palmas*: “it is evident that whatever may be the right construction of a treaty, it cannot be interpreted as disposing of the rights of independent third Powers”. (UNRIIA, Vol. II, p. 842).

⁵⁶ *Nicaragua v. Colombia*, para. 227.

In the first –western– part of the relevant area, the Court found that the disparity in the lengths of the relevant coasts called for the provisional median line to be shifted eastward (toward Colombia’s islands). According to the Court, the disparity in coastal lengths was “*so marked as to justify a significant shift*”⁵⁷. At the same time, the Court ruled that “the line...cannot be shifted so far that it cuts across the 12-nautical-mile territorial sea around any of the Colombian islands”⁵⁸. Noting that there are various techniques which allow for relevant circumstances to be taken into consideration in order to reach an equitable solution, the Court considered that to arrive at such a solution in this case, the base points attributed to Nicaragua and Colombia, respectively, should be accorded different weights. This was done by constructing an adjusted median line each point on which was three times as far from the controlling base point on the Nicaraguan coast as it was from the controlling base point on the Colombian coast (instead of being equidistant from the controlling base points). Because the resulting weighted line had a curved shape with a large number of turning points, the Court further adjusted it to avoid difficulties in its practical application. That produced a simplified weighted line, as depicted on sketch-map N° 8⁵⁹. The simplified weighted line is roughly equivalent to an adjusted median line giving full effect to Nicaragua’s mainland coast and one-quarter effect to Colombia’s islands.

While the simplified weighted line in the western sector represented a shifting of the provisional median line that went some way toward compensating for the disparity in coastal lengths, it would have, if extended northward and southward, still left Colombia with a significantly larger share of the relevant area than that accorded to Nicaragua, notwithstanding the fact that Nicaragua’s relevant coast is more than eight times the length of Colombia’s relevant coast. According to the Court, it would have given insufficient weight to the first relevant circumstance: the significant disparity in coastal lengths. The Court further reasoned that by cutting off Nicaragua from the areas east of the principal Colombian islands into which the Nicaraguan coast projects, such a boundary would fail to take into account the second relevant consideration: avoidance of a cut-off effect.

⁵⁷ *Nicaragua v. Colombia*, para. 233 (emphasis added).

⁵⁸ *Nicaragua v. Colombia*, para. 233.

⁵⁹ The sketch-map N° 8 corresponds to the sketch-map N° 10 depicted in the Court’s Judgment at p. 87.

The Court thus considered that, taking proper account both of the disparity in coastal lengths and the need to avoid cutting either State off from the maritime spaces into which its coasts project, an equitable result which “gives proper weight to those relevant considerations is achieved by continuing the boundary line out to the line 200 nautical miles from the Nicaraguan baselines along lines of latitude”.⁶⁰ As illustrated on sketch-map N° 9,⁶¹ the delimitation lines thus established run as follows. *First*, from the northernmost point of the simplified weighted line (point 1), which is located on the parallel passing through the northernmost point on a 12-nautical-mile arc around Roncador Cay, the delimitation line follows the parallel of eastward latitude until it reaches the 200M limit from Nicaragua’s coastal baselines (endpoint A). *Second*, from the southernmost point of the simplified weighted line (point 5), the line of delimitation runs in a south-east direction until it intersects with the 12–nautical–mile arc around Albuquerque Cay (point 6). It then follows that arc until it reaches the point of intersection with the parallel passing through the southernmost point on the arc (point 7). The boundary then follows that parallel eastward until it reaches the southernmost point of the 12-nautical-mile arc around East-Southeast Cay (point 8) and continues along that arc until its most eastward point (point 9). From that point, the boundary follows the parallel of latitude until it reaches the 200 nautical mile limit from Nicaragua’s coast (endpoint B).

The way the Court drew the boundary left *Quitassueño* and *Serrana* outside the corridor between two parallels of latitude that it established for Colombia, to allow San Andres and *Providencia* to project eastward to the 200 nautical mile limit. *Quitassueño* and *Serrana* fell to the north of the corridor, in waters given by the Court to Nicaragua. To have expanded the Colombian corridor northward, so as to encompass these features, would have been to allow small, isolated features, which are located at a considerable distance from the larger Colombian islands, to disproportionately affect the boundary. Accordingly, the Court concluded that the most equitable solution in that part of the relevant area was to enclave *Quitassueño* and *Serrana*, giving each of those features full entitlement to a 12 nautical mile Territorial Sea, but no more.

⁶⁰ *Nicaragua v. Colombia*, para. 236.

⁶¹ The sketch-map N° 9 corresponds to the sketch-map N° 11 depicted in the Court’s Judgment at p. 89.

The resulting delimitation - consisting (in summary) of (i) an adjusted median line in the west, whose endpoints in the north and south are connected by straight lines running along parallels of latitude to another north-south line 200 nautical miles from Nicaragua's coast, and (ii) 12 nautical mile enclaves surrounding *Quitassueño* and *Serrana* - represents a complex (and creative) solution to a complex (and unique) geographical situation. It can be viewed as an adjusted median line (with several different adjustments in different parts of the relevant area), or as a combination of different methodologies: modified equidistance in the west, a corridor created by parallels of latitude in the north and south, and enclavement of small islands determined to be too insignificant to otherwise affect the delimitation. However it is viewed methodologically, there is little doubt that the Court strove to achieve a solution that was equitable to both Parties, and that in the opinion of all 16 judges, including the distinguished Ad Hoc Judge appointed by Colombia itself, it succeeded in doing so.

(iv) Conducting a Disproportionality Test

In testing for disproportionality, the Court has consistently stated that “it is not applying a principle of strict proportionality”⁶² because “maritime delimitation is not designed to produce a correlation between the lengths of the Parties’ relevant coasts and their respective shares of the relevant area”.⁶³ Instead, the task is “to check for a significant disproportionality” in order to “to ensure that there is not a disproportion so gross as to ‘taint’ the result and render it inequitable”⁶⁴.

The case law reflects that the Court and other tribunals have displayed considerable caution in the application of the disproportionality test. In *Libya v. Malta* the ratio of relevant coasts was approximately 1:8, a figure almost identical to that in the present case (1:8.2). At the second stage of its analysis in that case, the Court found that this disparity required an adjustment of the provisional median line in Libya's favor. Although the Court did not calculate the precise division of shares of the relevant area resulting from its delimitation (arguably because of the difficulty of determining the limits of the relevant area due to the overlapping interests of third States), nonetheless it is clear that

⁶² *Nicaragua v. Colombia*, para. 240.

⁶³ *Nicaragua v. Colombia*, para. 240.

⁶⁴ *Nicaragua v. Colombia*, paras. 240, 242.

the resulting maritime areas of Libya and Malta did not approach a ratio of 1:8; although Libya's share of the area delimited was substantially increased from what it would have been had the boundary followed the provisional median line, it was considerably less than eight times as large as the area received by Malta⁶⁵. Similarly in *Jan Mayen*, where the ratio of relevant coasts was approximately 1:9 in Denmark's favor and led the Court to shift the provisional median line, the delimitation produced by the Court divided the relevant area in a manner that gave Denmark an advantage of approximately 1:2.7; that is, although Greenland's relevant coast was nine times longer than Jan Mayen's, Greenland (Denmark) received only between two and three times more of the relevant area as Jan Mayen (Norway)⁶⁶.

As regards Nicaragua and Colombia, the Court calculated that the delimitation it produced divided the relevant area as between the Parties in a ratio of approximately 1:3.44 in Nicaragua's favor. This division was not as favorable to Nicaragua as the ratio of lengths of the parties' relevant coasts (1:8.2), but it was close enough, in the Court's opinion, so as not to be markedly disproportionate to either Party, and to thereby pass the disproportionality test. This conclusion was consistent with the Court's prior rulings, especially in *Libya v. Malta* and *Jan Mayen*. As a consequence, neither Party could justifiably complain about the result. It was an equitable solution, in conformity with the long line of maritime delimitation cases decided by the Court and other international tribunals.

IV. Concluding Remarks

The maritime boundary established by the Court was a creative solution to a difficult and complex geographic situation. Yet the Court's decision is firmly rooted in and consistent with its well-established jurisprudence. The result –the division of the relevant maritime area between Nicaragua and Colombia– allows the coasts of both States to generate maritime entitlements in a reasonable and mutually balanced way. This is the equitable solution that international law requires.

⁶⁵ *Nicaragua v. Colombia*, para. 245.

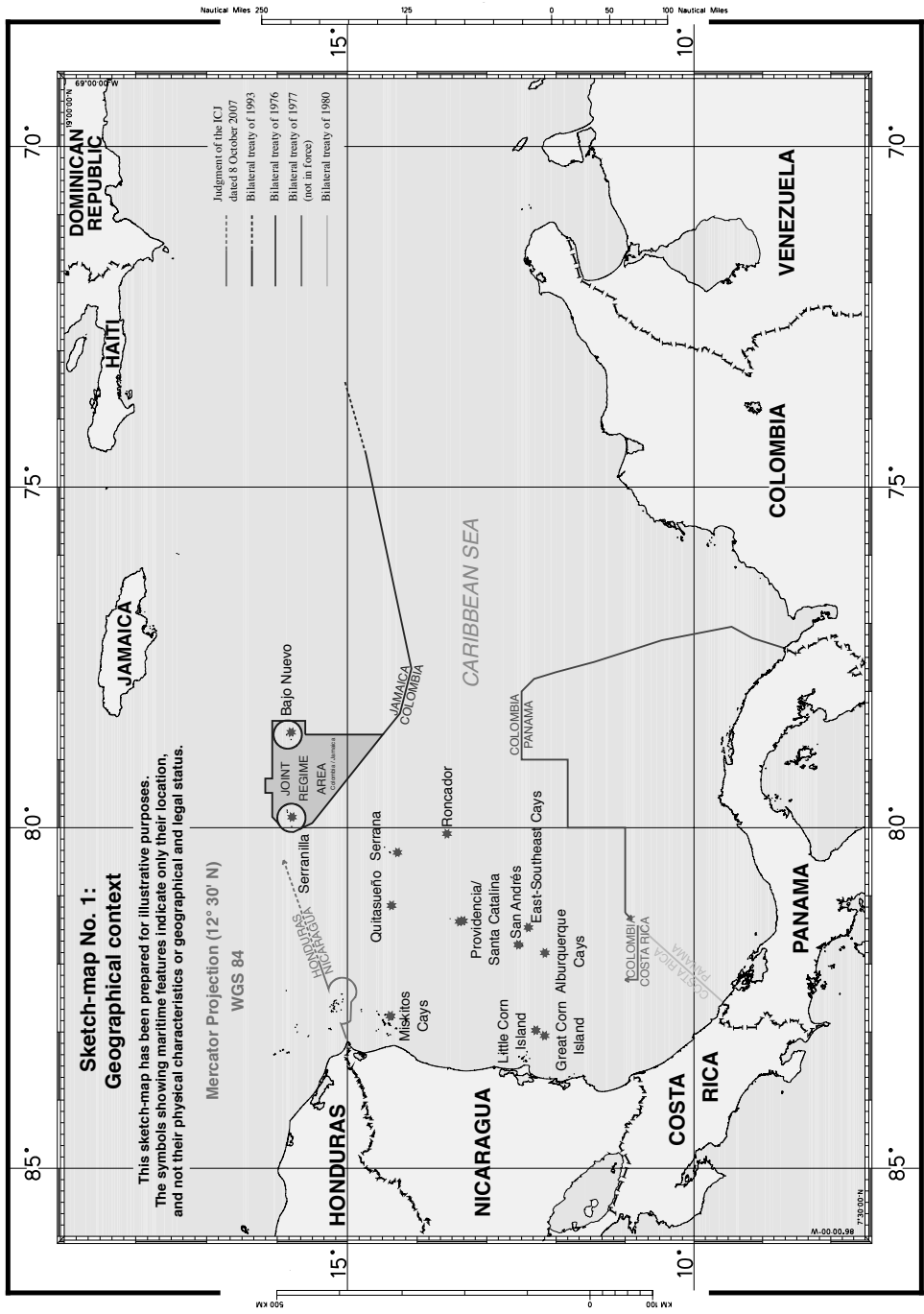
⁶⁶ *Nicaragua v. Colombia*, para. 245.

As the foregoing review of the Court's approach, methodology, reasoning and final (unanimous) decision demonstrates, the Court has once again distinguished itself for its legal acumen, its fairness to the Parties, and its vital role in facilitating the peaceful resolution of international disputes according to the rule of law. In this case, the International Court of Justice has once again lived up to its name.

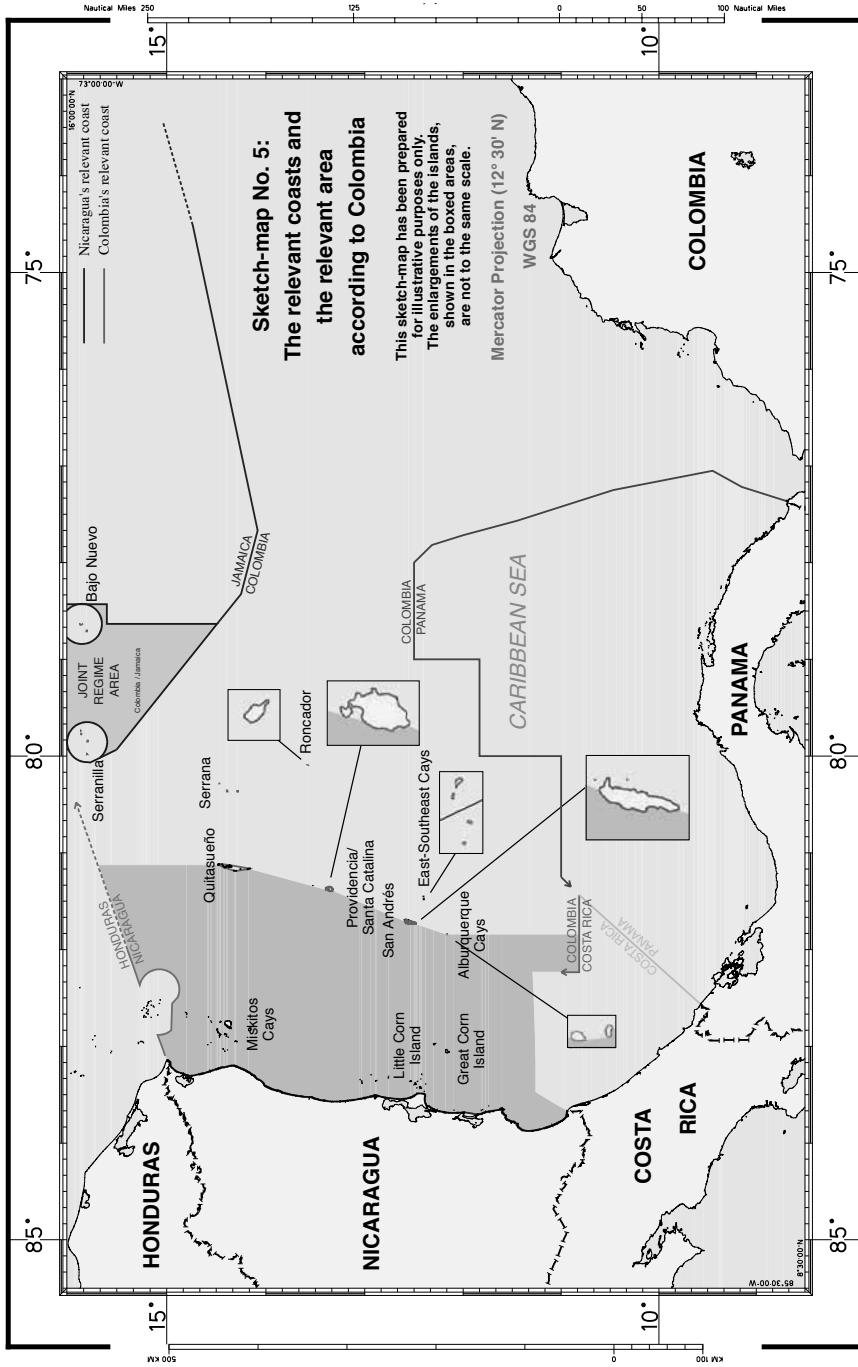
Now it is for the Parties to live up to their good names. The Judgment of the Court is not only equitable to both Parties; it is also legally binding on them. International law mandates their full compliance with it. To defy the Court and its Judgment is to become an outlaw State. Nicaragua has already committed itself to compliance. Colombia is too great a State to act otherwise. It will come to its senses eventually.

Annex

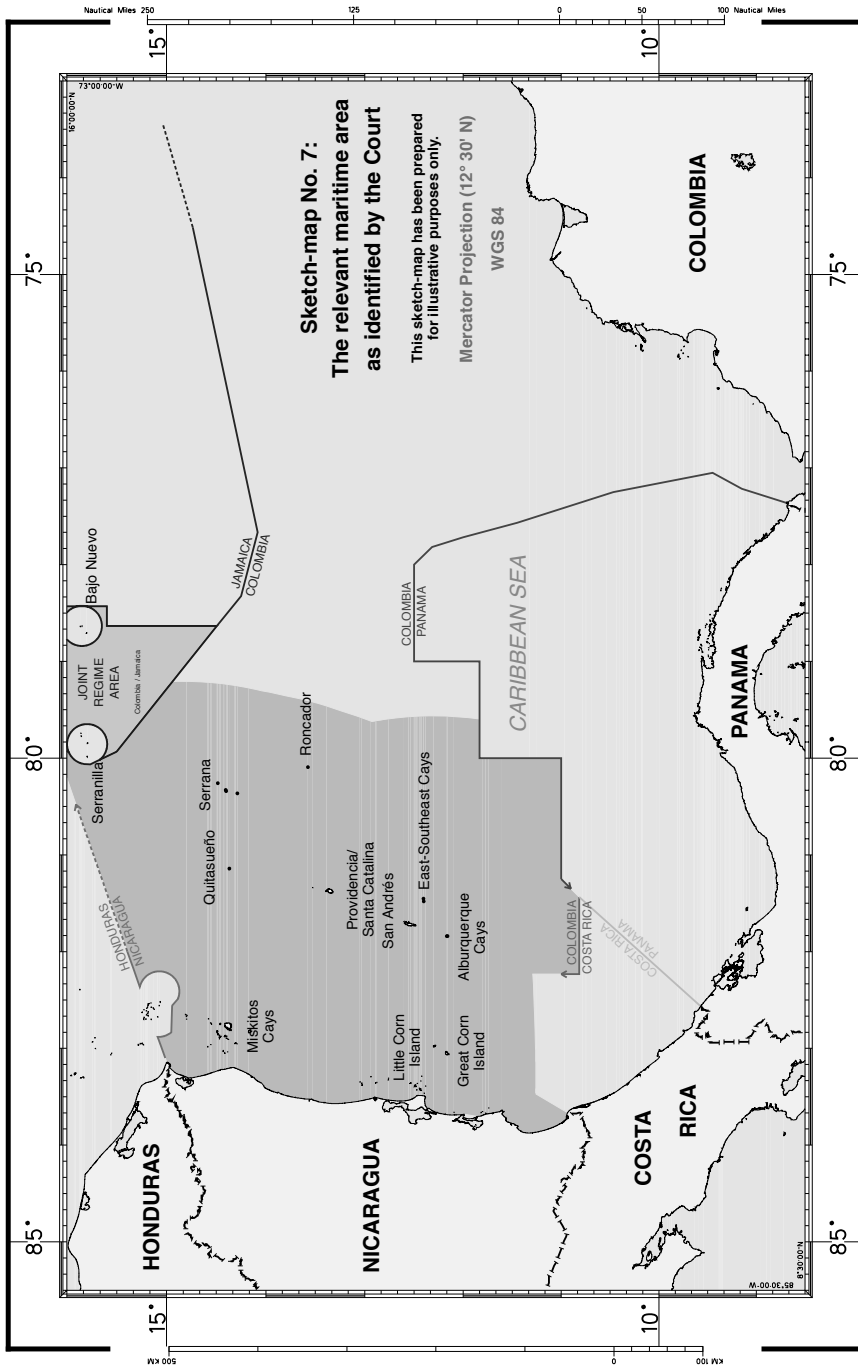
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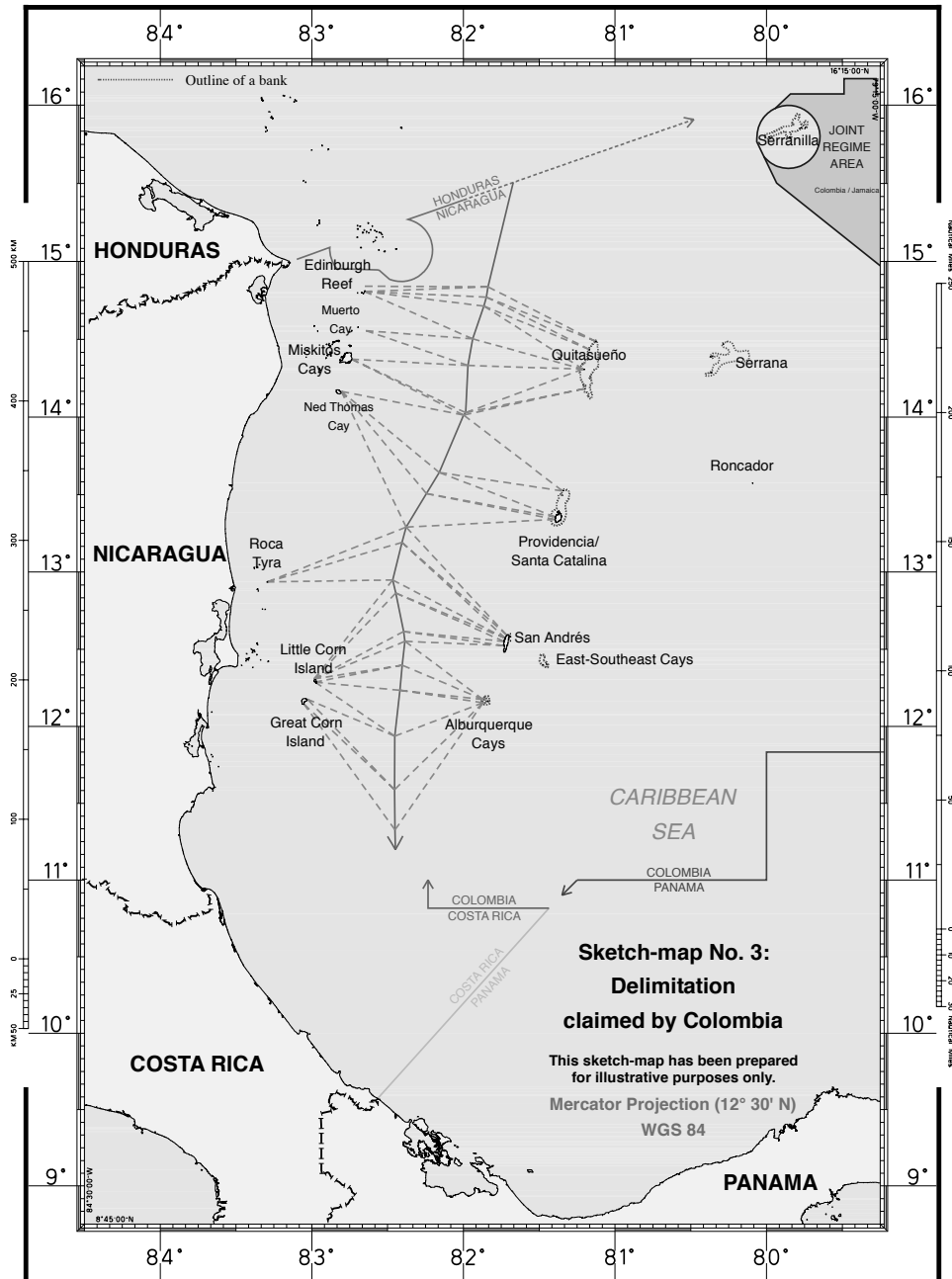
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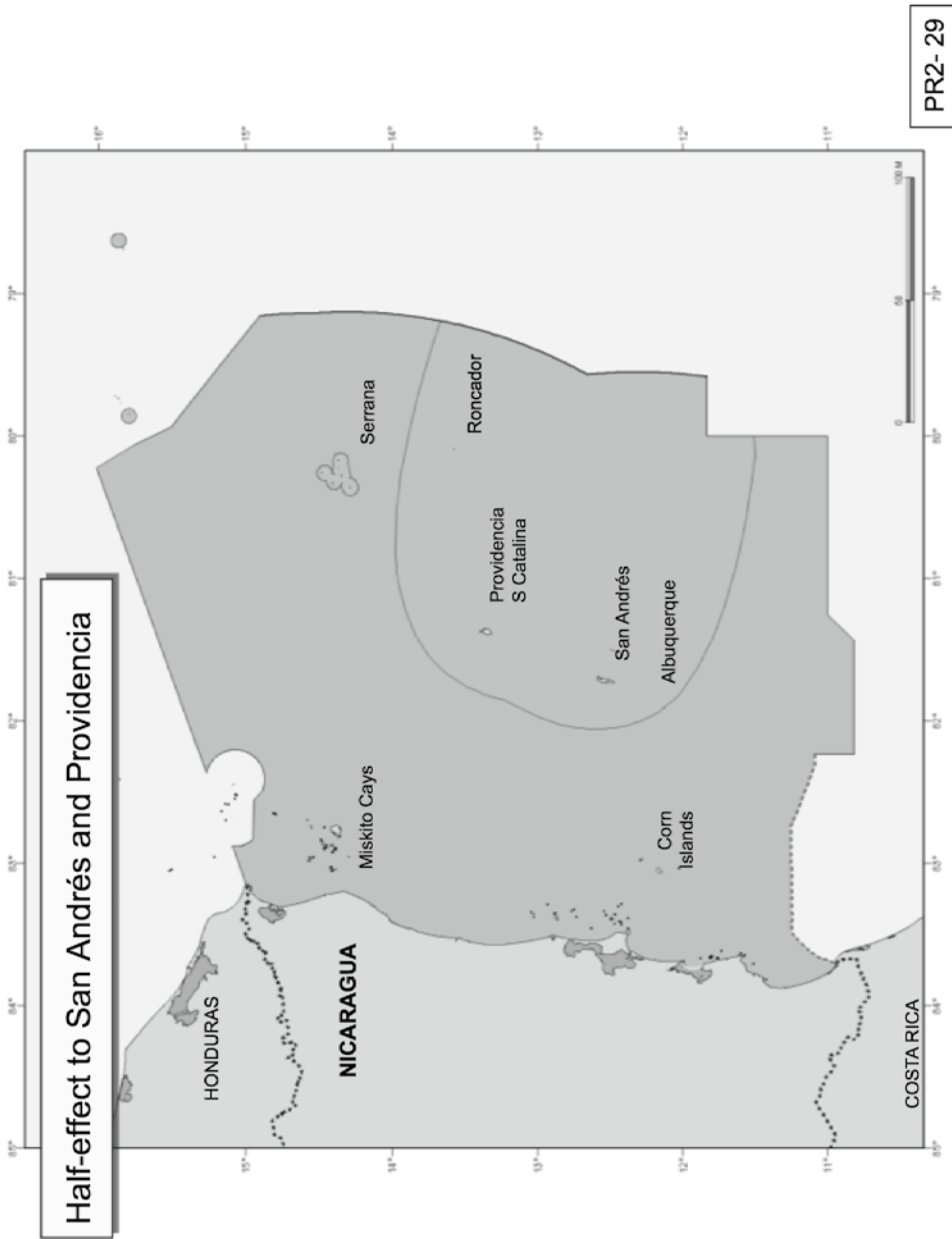
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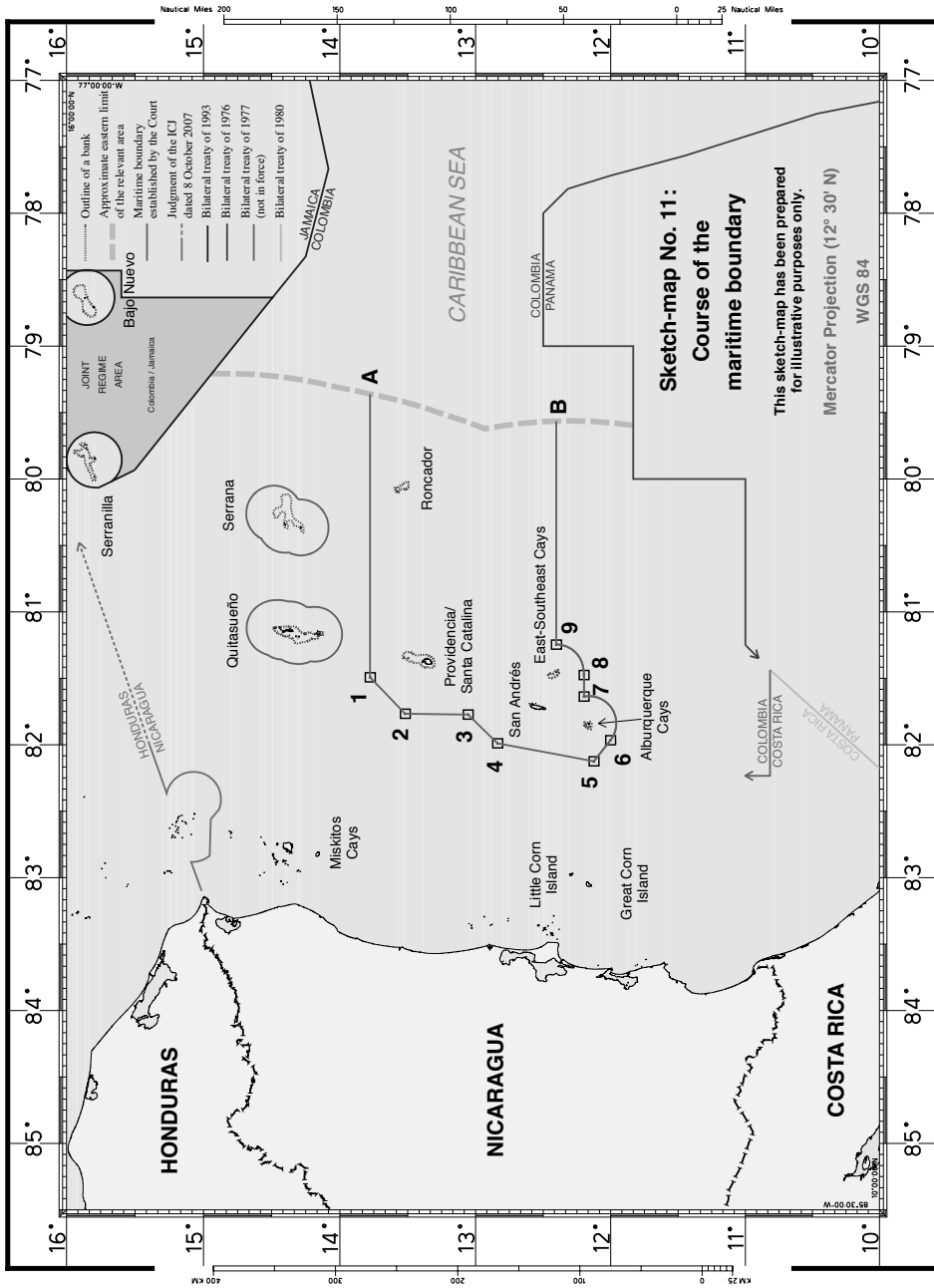
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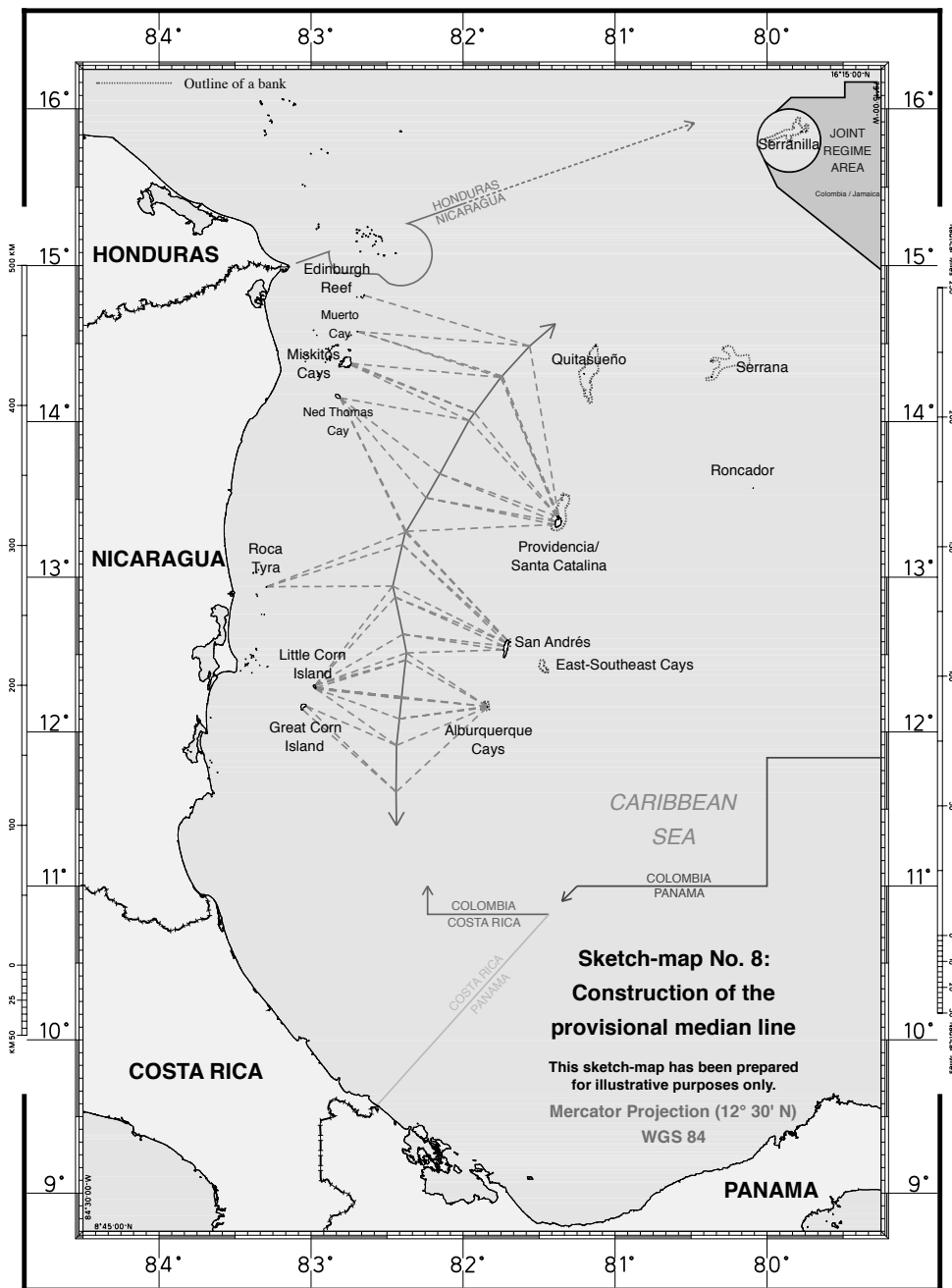
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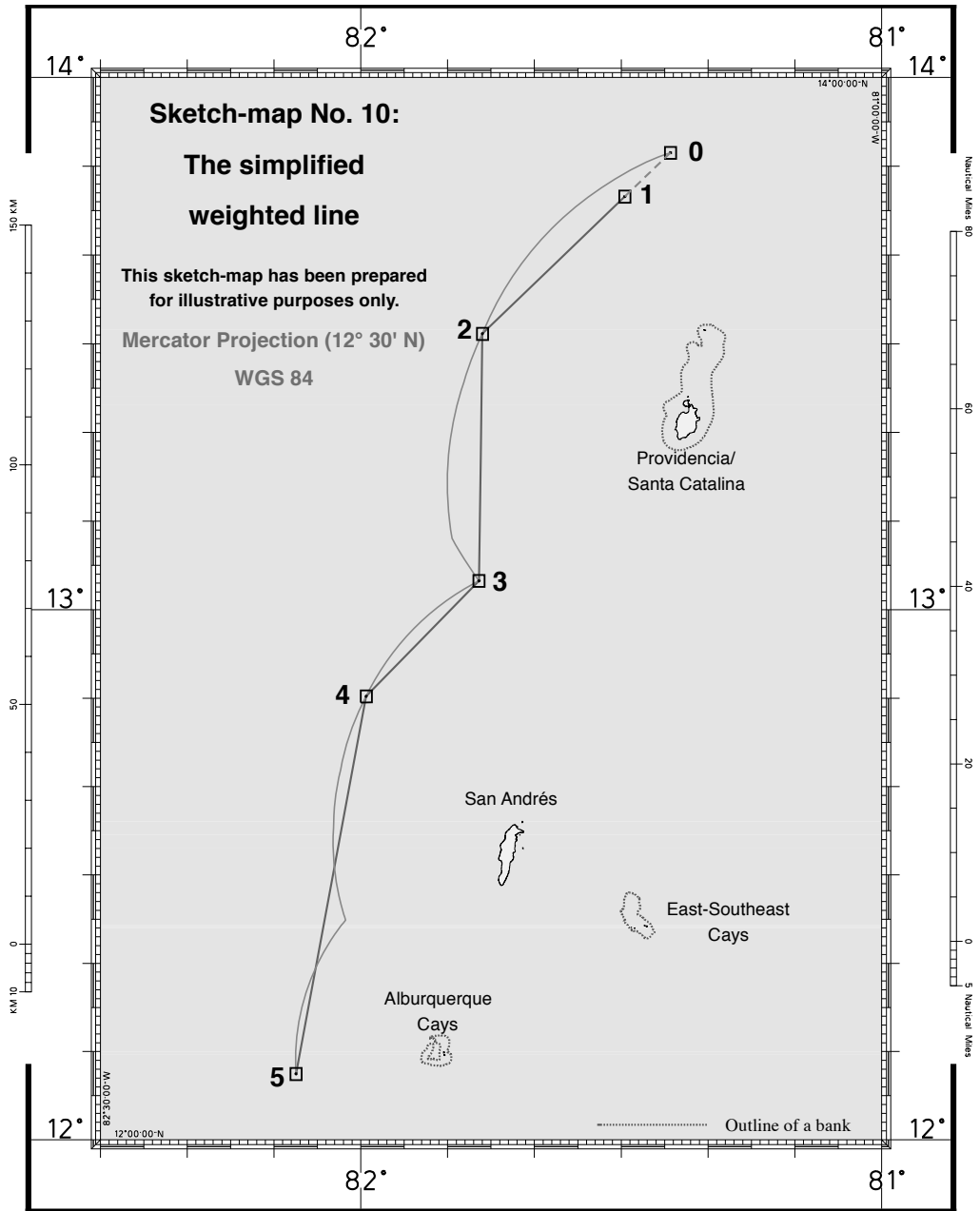
Sketch-Map No. 6



Sketch-Map No. 7



Sketch-Map No. 8



Sketch-Map No. 9

