

**PROCEDURAL STATUS OF CASES PENDING BEFORE THE INTERNATIONAL COURT  
OF JUSTICE WHICH RELATE TO THE LAW OF THE SEA**

**(Contribution covering the period from September 2014 to June 2015)**

As of 30 June 2015, there were 12 contentious cases in the Court's General List. This report gives details of five cases which wholly or partly involve issues relating to the law of the sea.

**1. *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)***

These proceedings were instituted by Bolivia on 24 April 2013 with regard to a dispute “relating to Chile’s obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean”.

The Application contains a summary of the facts — starting from the independence of Bolivia in 1825 and continuing to the present day — which, according to Bolivia, are “the main relevant facts on which [its] claim is based”. Bolivia states that the subject of the dispute lies in “(a) the existence of [the above-mentioned] obligation; (b) the non-compliance of that obligation by Chile and (c) Chile’s duty to comply with that obligation”. Asserting, *inter alia*, that “beyond its general obligations under international law, Chile has committed itself, more specifically through agreements, diplomatic correspondence and declarations attributable to its highest-level representatives, to grant Bolivia a fully sovereign access to the sea for Bolivia”, Bolivia considers that “Chile has not complied with its obligation” and . . . denies the existence of its obligation”. Bolivia accordingly requests the Court to “order Chile to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean” and to “declare that: (a) Chile has the obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean; (b) Chile has not complied with the said obligation; (c) Chile must perform that obligation, within a reasonable time and effectively, in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean”.

On the basis for the jurisdiction of the Court, Bolivia invokes Article XXXI of the Statute of the Court and the Convention on Pacific Settlement (1948), of 30 April 1948, to which both States are parties.

By an Order of 18 June 2013, the Court fixed 17 April 2014 and 18 February 2015 as the respective time-limits for the filing by Bolivia of a Memorial and a Counter-Memorial. The Memorial of Bolivia was filed on 17 April 2014, within the time-limit thus prescribed.

On 15 July 2014, Chile filed a preliminary objection to the jurisdiction of the Court, contending, *inter alia*, that Article XXXI of the Statute of the Court and the Convention on Pacific Settlement of 1948, which governs matters settled and governed by the 1904 Peace Treaty, do not confer jurisdiction on the Court. By an Order of 15 August 2014, the President of the Court fixed 14 November 2014 as the time-limit for the filing by Bolivia of a statement of its observations and submissions on the preliminary objection raised by Chile. Bolivia’s written statement was filed within the time-limit thus prescribed. At the end of the proceedings, Bolivia asked the Court to “reject the objection to its jurisdiction”.

continental shelf of Nicaragua beyond the 200-nautical-mile limit from the baselines from which



According to the Applicant, the President of Nicaragua indicated his country's willingness "to discuss issues relating to the implementation of the Court's Judgment" and its determination "to manage the situation peacefully", but the President of Colombia "rejected the dialogue".

Nicaragua bases the jurisdiction of the Court on Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) of 30 April 1948, to which "both Nicaragua and Colombia are Parties". It points out that "on 27 November 2012, Colombia gave notice that it denounced as of that date the Pact of Bogotá; and in accordance with Article LVI of the Pact, that denunciation will take effect after one year, so that the Pact remains in force for Colombia until 27 November 2013".

Additionally, Nicaragua argues, "moreover and alternatively, [that] the jurisdiction of the Court lies in its inherent power to pronounce on the actions required by its Judgments".

By an Order of 3 February 2014, the Court fixed 3 October 2014 and 3 June 2015 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus prescribed.

On 19 December 2014, Colombia raised certain preliminary objections to the jurisdiction of the Court. By an Order of 19 December 2014, the Court fixed 20 April 2015 as the time-limit for the filing by Nicaragua of a written statement of its observations and submissions on the preliminary objections raised by Colombia. At the end of its written statement, filed within the time-

Applicant,

The Applicant asserts that “Kenya’s current position on the maritime boundary is that it should be a straight line emanating from the Parties’ land boundary terminus, and extending due east along the parallel of latitude on which the land boundary terminus sits, through the full extent of the territorial sea, EEZ and continental shelf, including the continental shelf beyond 200 [nautical miles]”.

As basis for the Court’s jurisdiction, Somalia invokes the provisions of Article 36, paragraph 2, of the Court’s Statute, referring to the declarations recognizing the Court’s jurisdiction as compulsory made by Somalia on 11 April 1963 and by Kenya on 19 April 1965. In addition, Somalia submits that “the jurisdiction of the Court under Article 36, paragraph 2, of its Statute is underscored by Article 282 of UNCLOS”, which Somalia and Kenya both ratified in 1989.

Article 282 of UNCLOS provides that: “If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.”

By an Order of 16 October 2014, the President of the Court fixed 13 July 2015 and 27 May 2016 as the respective time-limits for the filing of a Memorial by Somalia and a Counter-Memorial by Kenya.

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