

Yearbook of the United Nations

PART FOUR

Legal questions

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International Court of Justice

In 2014, the International Court of Justice (ICJ) delivered two judgments, made 12 orders and had 16 contentious cases pending before it. The ICJ President, Judge Peter Tomka, in an October address to the General Assembly, stressed that the Court continued to fulfil its role as the forum of choice for States to settle international disputes peacefully, and that the Court made every effort to meet in a timely manner the expectations of the parties appearing before it, particularly when presented with requests for the indication of provisional measures. He reiterated his call for increased recourse to the Court for the settlement of disputes and recognition of its compulsory jurisdiction by States.

Judicial work of the Court

During 2014, the Court delivered its judgment on the merits in the cases concerning *Maritime Dispute (Peru v. Chile)* and *Whaling in the Antarctic (Australia v. Japan)*.

The Court held public hearings in the cases concerning *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)* and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*.

The Court or its President made orders on the conduct of the proceedings in the cases concerning *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)*, *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)* (which had been joined with the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*), *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua)*, *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*, *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan)*, *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colom-*

bia) and *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*.

Pleadings were submitted within the fixed time limits in the cases concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)* and *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*.

While there were no new developments in the case concerning *Gabcikovo-Nagymaros Project (Hungary/Slovakia)* [YUN 1998, p. 1186], the parties kept the Court informed of progress made in their negotiations. In the case *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* [YUN 1999, p. 1209], the parties transmitted to the Court information concerning their negotiations to settle the question of reparation, as referred to in the 2005 judgment [YUN 2005, p. 1381]. Both cases remained pending.

The Court was seized of five new contentious cases in 2014. In addition, the Court Registrar received applications from the Marshall Islands against China, the Democratic People's Republic of Korea, France, Israel, the Russian Federation and the United States, filed simultaneously with its applications against India, Pakistan and the United Kingdom (see pp. 000-000) concerning their obligations with respect to the cessation of the nuclear arms race at an early date and to nuclear disarmament; as well as an application from Argentina against the United States concerning United States judicial decisions on the restructuring of the Argentine sovereign debt. No action was taken and the cases were not entered in the General List, pending the consent of those States to the Court's jurisdiction in the cases.

ICJ activities in 2014 were covered in two reports to the General Assembly for the periods 1 August 2013 to 31 July 2014 [A/69/4] and 1 August 2014 to 31 July 2015 [A/70/4]. On 30 October (**decision 69/510**), the General Assembly took note of the 2013/2014 report. In its **resolution 69/123** of 10 December, the Assembly called on States to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute.

Contentious proceedings

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Croatia v. Serbia*)

On 2 July 1999 [YUN 1999, p. 1210], Croatia instituted proceedings before the Court against Serbia, then known as the Federal Republic of Yugoslavia, for alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide [YUN 1948–49, p. 959] committed between 1991 and 1995. In its application, Croatia contended that by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of Croatia, Serbia was liable for ethnic cleansing of Croatian citizens. It requested the Court to adjudge and declare that Serbia had breached its legal obligations to Croatia under the Genocide Convention and that it had an obligation to pay to Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by those violations of international law in a sum to be determined by the Court.

As basis for the Court's jurisdiction, Croatia invoked article IX of the Genocide Convention, to which, it claimed, both States were parties.

By an order of 14 September 1999 [YUN 1999, p. 1210], the Court fixed 14 March and 14 September 2000 as the respective time limits for the filing of a memorial by Croatia and a counter-memorial by Serbia. Those limits were twice extended by orders made during 2000 [YUN 2000, p. 1219]. Croatia filed its memorial within the extended time limit. On 11 September 2002 [YUN 2002, p. 1268], within the extended time limit for filing its counter-memorial, Serbia filed certain preliminary objections on jurisdiction and admissibility. The proceedings on the merits were suspended, in accordance with article 79 of the Rules of Court. On 25 April 2003 [YUN 2003, p. 1304], within the time limit fixed by the Court, Croatia filed a statement of its observations and submissions on Serbia's preliminary objections.

At the conclusion of public hearings on the preliminary objections on jurisdiction and admissibility, held from 26 to 30 May 2008, the parties presented final submissions to the Court [YUN 2008, p. 1395].

In its judgment, rendered on 18 November 2008 [*ibid.*], the Court found that, subject to its statement concerning the second preliminary objection raised by Serbia, it had jurisdiction, on the basis of article IX of the Genocide Convention, to entertain Croatia's application, adding that Serbia's second preliminary objection did not possess an exclusively preliminary character. It then rejected the third preliminary objection submitted by Serbia.

By an order of 20 January 2009 [YUN 2009, p. 1270], the President of the Court fixed 22 March 2010 as the time limit for the filing of the counter-memorial by Serbia. That pleading, containing counterclaims, was filed within the time limit.

By an order of 4 February 2010 [YUN 2010, p. 1276], the Court directed the submission of a reply by Croatia and a rejoinder by Serbia concerning the claims presented by the parties. It fixed 20 December 2010 and 4 November 2011, respectively, as the time limits for the filing of those pleadings, which were filed within the time limits.

By an order of 23 January 2012 [YUN 2012, p. 1256], the Court authorized the submission by Croatia of an additional pleading relating solely to Serbia's counterclaims, and fixed 30 August 2012 as the time limit for the filing, which was filed within the time limit.

Public hearings on Serbia's objection and on the merits of the case were held from 3 March to 1 April 2014. At the close of the hearings, the parties presented their final submissions to the Court. Croatia requested the Court to adjudge and declare that the Court had jurisdiction over all the claims raised by Croatia and that the claims were admissible; and that Serbia had breached its obligations under the Genocide Convention by failing to prevent acts of genocide committed on the territory of Croatia against the Croat ethnic group by persons for whose conduct Serbia was responsible, bring to trial those suspected of involvement in such acts, and conduct an effective investigation into the fate of Croatian citizens missing as a result of such acts. Croatia further requested the Court to adjudge and declare that as a consequence of those breaches, Serbia was under the obligation to take immediate and effective steps to submit to trial those persons within its jurisdiction suspected of having committed acts of genocide; provide Croatia with information about the Croatian citizens missing as a result of such acts, and conduct joint investigation to determine their whereabouts; return to Croatia all items of cultural property within Serbia's jurisdiction or control seized in the course of the acts of genocide; and make reparations to Croatia for damages to persons and property, as well as to the Croatian economy caused by those violations of international law in a sum to be determined by the Court.

In addition, Croatia asked the Court to reject as not founded in fact or law Serbia's counterclaims relating to the breaches of international law by Croatia (see below).

Serbia requested the Court to adjudge and declare that the Court lacked jurisdiction to entertain Croatia's requests in relation to acts committed prior to 27 April 1992, the date when Serbia came into existence as a State and became bound by the Genocide Convention, or that those requests were inadmissible; and to reject Croatia's requests relating to acts

and omissions that took place after 27 April 1992 as lacking any basis either in law or in fact. In the alternative, Serbia asked the Court to declare Croatia's requests as inadmissible with regard to acts and omissions that took place prior to 8 October 1991, the date when Croatia came into existence as a State and became bound by the Genocide Convention; or to adjudge and declare that the requests concerning acts committed prior to 27 April 1992 were only admissible insofar as they related to acts and omissions that took place before 8 October 1991, and to reject those requests as lacking any basis either in law or in fact.

The Court was further requested to adjudge and declare that Croatia had breached its obligations under the Genocide Convention by committing acts with intent to destroy the Serb national and ethnical group in Croatia, inciting and attempting to commit genocide and failing to punish acts of genocide against that group; and that Croatia must immediately take effective steps to punish such acts committed on its territory, remove from its list of public holidays the "Day of Victory and Homeland Gratitude" and the "Day of Croatian Defenders", pay compensation to the members of the Serb national and ethnical group from Croatia for damages caused by the acts of genocide in a sum to be determined by the Court, and ensure conditions for their safe and free return to a normal life in Croatia.

Maritime Dispute (*Peru v. Chile*)

On 16 January 2008 [YUN 2008, p. 1399], Peru filed an application instituting proceedings against Chile concerning a dispute in relation to the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean, beginning at a point on the coast called Concordia, the terminal point of the land boundary established pursuant to the Treaty of 3 June 1929; and in relation to the recognition in favour of Peru of a maritime zone lying within 200 nautical miles of its coast, and thus appertaining to Peru, but which Chile considered to be part of the high seas.

Peru maintained that the maritime zones between Chile and Peru had never been delimited by agreement or otherwise. Peru stated that, since the 1980s, it had consistently endeavoured to negotiate the issues in dispute, but had constantly met with a refusal from Chile to enter into negotiations. It asserted that a note of 10 September 2004 from the Minister for Foreign Affairs of Chile to the Minister for Foreign Affairs of Peru made further attempts at negotiation impossible.

Peru consequently requested the Court to determine the course of the boundary between the maritime zones of the two States, and to adjudge and declare that Peru possessed exclusive sovereign rights in the maritime area situated within the limit of 200 nautical miles from its coast, but outside Chile's exclusive economic zone or continental shelf.

As the basis for the Court's jurisdiction, Peru invoked article XXXI of the Pact of Bogotá of 1948, to which both States were parties.

By an order of 31 March 2008 [ibid.], the Court fixed 20 March 2009 and 9 March 2010 as the respective time limits for the filing of a memorial by Peru and a counter-memorial by Chile. Those pleadings were filed within the time limits. Bolivia, Colombia and Ecuador requested copies of the pleadings and annexed documents produced in the case. The Court, after ascertaining the views of the parties, acceded to those requests.

By an order of 27 April 2010 [YUN 2010, p. 1279], the Court authorized the submission of a reply by Peru and a rejoinder by Chile. It fixed 9 November 2010 and 11 July 2011 as the respective time limits for the filing of those pleadings, which were filed within the time limits.

Public hearings were held from 3 to 14 December 2012 [YUN 2012, p. 1258], at the end of which the parties presented their final submissions to the Court. Peru requested the Court to adjudge and declare that the delimitation between the respective maritime zones was a line starting at "Point Concordia" (defined as the intersection with the low-water mark of a 10-kilometre radius arc, having as its centre the first bridge over the River Lluta of the Arica-La Paz railway) and equidistant from the baselines of both parties, up to a point 200 nautical miles from those baselines; and that, beyond the point where the common maritime border ended, Peru was entitled to exercise exclusive sovereign rights over a maritime area lying out to 200 nautical miles from its baselines.

Chile requested the Court to dismiss Peru's claims in their entirety, and adjudge and declare that the respective maritime zone entitlements of Chile and Peru had been fully delimited by agreement; that they were delimited by a boundary following the parallel of latitude passing through the most seaward marker of the land boundary between Chile and Peru, known as Hito No. 1, having a latitude of 18° 21' 00" S under WGS84 Datum; and that Peru had no entitlement to any maritime zone extending to the south of that parallel.

In its judgment of 27 January 2014, the Court, by 15 votes to 1, decided that the starting point of the single maritime boundary delimiting the respective maritime areas between Peru and Chile was the intersection of the parallel of latitude passing through Boundary Marker No. 1 with the low-water line, and that the boundary's initial segment followed the parallel of latitude passing through Boundary Marker No. 1 westward. The Court further decided, by 10 votes to 6, that the initial segment ran up to a point (Point A) situated at a distance of 80 nautical miles from the starting point of the single maritime boundary, from which the boundary continued

south-westward along the line equidistant from both parties' coasts, as measured from that point, until its intersection (at Point B) with the 200-nautical-mile limit measured from the baselines from which the territorial sea of Chile was measured; from Point B, the single maritime boundary continued southward along that limit until it reached the point of intersection (Point C) of the 200-nautical-mile limits measured from the baselines from which both parties' territorial seas were measured. By 15 votes to 1, the Court decided that it did not need to rule on Peru's request for exclusive sovereign rights over a maritime area lying out to 200 nautical miles from its baselines.

Appended to the judgment were declarations by five judges and one ad hoc judge; a joint dissenting opinion by three judges and one ad hoc judge, and another dissenting opinion by one judge; and a separate opinion by one judge and another, partly concurring and partly dissenting, by one ad hoc judge.

Whaling in the Antarctic (*Australia v. Japan*)

On 31 May 2010 [YUN 2010, p. 1284], Australia instituted proceedings against Japan, alleging that Japan's continued pursuit of a large-scale programme of whaling under the Second Phase of its Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II) was in breach of obligations assumed by Japan under the International Convention for the Regulation of Whaling, as well as its other international obligations for the preservation of marine mammals and the marine environment.

Australia requested the Court to adjudge and declare that Japan was in breach of its international obligations in implementing JARPA II in the Southern Ocean, and to order that Japan cease implementation of JARPA II; revoke any authorisations, permits or licences allowing the activities which were the subject of the application to be undertaken; and provide assurances and guarantees that it would not take any further action under JARPA II or any similar programme until such programme had been brought into conformity with its obligations under international law.

As the basis for the Court's jurisdiction, Australia referred to the declarations recognizing the Court's jurisdiction as compulsory made by Australia on 22 March 2002 and by Japan on 9 July 2007.

By an order of 13 July 2010 [ibid.], the Court fixed 9 May 2011 as the time limit for the filing of a memorial by Australia and 9 March 2012 as the time limit for the filing of a counter-memorial by Japan, which were filed within the time limits. The Court subsequently decided that the filing of a reply by Australia and a rejoinder by Japan was not necessary.

On 20 November 2012 [YUN 2012, p. 1262], New Zealand filed a declaration of intervention in the case under article 63 of the Court's Statute. New Zealand

contended that, as a party to the International Convention for the Registration of Whaling, it had a direct interest "in the construction that might be placed upon the Convention by the Court in its decision in these proceedings", in particular in respect of article VIII of the Convention, which provided Contracting Governments with the authority to grant any of its nationals a special permit to kill, take and treat whales for purposes of scientific research subject to such restrictions as the Contracting Government thinks fit. At the end of its declaration, New Zealand provided a summary of its interpretation of article VIII and underlined that it did not seek to become a party to the proceedings.

In accordance with article 83 of the Rules of Court, Australia and Japan were invited to furnish observations on New Zealand's declaration by 21 December 2012, which were filed within the time limit.

By an order of 6 February 2013 [YUN 2013, p. 1274], the Court, taking note of Japan's concerns about the equality of the parties, recalled that intervention under Article 63 of the Statute was limited to submitting observations on the construction of the convention in question and did not allow entities that were not parties to the proceedings to deal with any other aspect of the case before the Court. The Court considered that such an intervention could not affect the equality of the parties, and concluded that New Zealand's declaration of intervention was admissible.

By the same order, the Court fixed 4 April 2013 as the time limit for the filing by New Zealand of the observations referred to in article 86, paragraph 1, of the Rules of Court; authorized the filing by Australia and Japan of their observations on New Zealand's observations; and fixed 31 May 2013 as the time limit for such filings, which were filed within the time limits.

Public hearings were held from 26 June to 16 July 2013 [ibid.], at the end of which the parties presented their final submissions to the Court.

Australia requested the Court to adjudge and declare that Japan was in breach of its international obligations in authorizing and implementing JARPA II in the Southern Ocean and that, by its conduct, Japan had violated its obligations pursuant to the International Convention for the Regulation of Whaling to observe the zero-catch limit in relation to the killing of whales for commercial purposes; refrain from undertaking commercial whaling of fin whales in the Southern Ocean Sanctuary; observe the moratorium on taking, killing or treating of whales, except minke whales, by factory ships or whale catchers attached to factory ships. The Court was also requested to adjudge and declare that JARPA II was not a programme for purposes of scientific research within the meaning of Article VIII of the Convention, and that Japan must refrain from authorizing or implementing any special permit whaling; cease with

immediate effect the implementation of JARPA II; and revoke any authorization, permit or licence allowing such implementation.

Japan requested the Court to adjudge and declare that the Court lacked jurisdiction over the claims brought against Japan by Australia and that, consequently, the application of New Zealand for permission to intervene in the proceedings lapsed; in the alternative, the Court was requested to reject Australia's claims.

New Zealand presented its oral observations to the Court on 8 July 2013.

In its judgment delivered on 31 March 2014, the Court unanimously found that it had jurisdiction to entertain the application filed by Australia. By 12 votes to 4, the Court found that the special permits granted by Japan in connection with JARPA II did not fall within the provisions of article VIII of the International Convention for the Regulation of Whaling; Japan, by granting special permits to kill, take and treat fin, humpback and Antarctic minke whales in pursuance of JARPA II, had not acted in conformity with its obligations under paragraph 10 (e) of the Schedule to the Convention; and in pursuance of JARPA II, Japan had not acted in conformity with its obligations under paragraph 10 (d) of the Schedule in relation to the killing, taking and treating of fin whales, and under paragraph 7 (b) of the Schedule in relation to the killing, taking and treating of fin whales in the Southern Ocean Sanctuary. The Court further found, by 13 votes to 3, that Japan had complied with its obligations under paragraph 30 of the Schedule with regard to JARPA II; and decided, by 12 votes to 4, that Japan must revoke any extant authorization, permit or licence granted in relation to JARPA II, and refrain from granting any further permits in pursuance of that programme.

Appended to the judgment were dissenting opinions by four judges, separate opinions by five judges and one ad hoc judge, and a declaration by one judge.

Certain Activities carried out by Nicaragua in the Border Area (*Costa Rica v. Nicaragua*)

On 18 November 2010 [YUN 2010, p. 1285], Costa Rica instituted proceedings against Nicaragua in respect of an alleged incursion into, occupation of and use by Nicaragua's army of Costa Rican territory, as well as alleged breaches of Nicaragua's obligations towards Costa Rica under a number of international treaties and conventions. Costa Rica charged Nicaragua with having occupied, in two separate incidents, the territory of Costa Rica in connection with the construction of a canal across Costa Rican territory from the San Juan River to Laguna los Portillos (also known as Harbor Head Lagoon), and with having carried out related works of dredging on the San Juan

River. Costa Rica stated that the ongoing and planned dredging and the construction of the canal would seriously affect the flow of water to the Colorado River of Costa Rica, and would cause further damage to Costa Rican territory, including the wetlands and national wildlife protected areas in the region.

Costa Rica, accordingly, requested the Court to adjudge and declare that Nicaragua was in breach of its international obligations regarding the incursion into and occupation of Costa Rican territory, the damage inflicted to its protected rainforests and wetlands, and the damage intended to the Colorado River, wetlands and protected ecosystems, as well as the dredging and canalization activities being carried out by Nicaragua on the San Juan River. In particular, Costa Rica requested the Court to adjudge and declare that Nicaragua, by its conduct, had breached the territory of Costa Rica, as agreed and delimited by the 1858 Treaty of Limits, the Cleveland Award and the first and second Alexander Awards; the fundamental principles of territorial integrity and the prohibition of use of force under the UN Charter and the Charter of the Organization of American States; the obligation imposed on Nicaragua by article IX of the 1858 Treaty of Limits not to use the San Juan River to carry out hostile acts; the obligation not to damage Costa Rican territory; the obligation not to artificially channel the San Juan River away from its natural watercourse without Costa Rica's consent; the obligation not to prohibit the navigation on the San Juan River by Costa Rican nationals; the obligation not to dredge the San Juan River if that caused damage to Costa Rican territory, including the Colorado River, in accordance with the 1888 Cleveland Award; the obligations under the Ramsar Convention on Wetlands; and the obligation not to aggravate and extend the dispute by adopting measures against Costa Rica, including the expansion of the invaded and occupied Costa Rican territory. The Court was also requested to determine the reparation to be made by Nicaragua.

As the basis for the Court's jurisdiction, Costa Rica invoked Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá), as well as the declarations of acceptance of the compulsory jurisdiction of the Court made by Costa Rica on 20 February 1973 and by Nicaragua on 24 September 1929 (amended on 23 October 2001).

Also on 18 November 2010, Costa Rica requested the Court to order provisional measures so as to rectify the ongoing breach of its territorial integrity and to prevent further irreparable harm to its territory, pending the determination of the case on the merits.

Public hearings on the request for the indication of provisional measures were held from 11 to 13 January 2011 [YUN 2011, p. 1237].

On 8 March 2011 [ibid.], the Court delivered its decision on Costa Rica's request for the indication of provisional measures. In its order, it unanimously found that each party should refrain from sending to, or maintaining in the disputed territory, including the *caño* (the canal cut by Nicaragua), any personnel, whether civilian, police or security. By 13 votes to 4, it found that notwithstanding the point above, Costa Rica could dispatch civilian personnel charged with protecting the environment to the disputed territory, including the *caño*, but only insofar as it was necessary to avoid irreparable prejudice being caused to the part of the wetland where that territory was situated; Costa Rica should consult with the Secretariat of the Ramsar Convention in regard to those actions, give Nicaragua prior notice of them and find common solutions with Nicaragua in that respect. It unanimously found that each party should refrain from any action that might aggravate or extend the dispute or make it more difficult to resolve; and that each party should inform the Court as to its compliance with the provisional measures. Appended to the order were separate opinions by two judges and an ad hoc judge, and declarations by three judges and an ad hoc judge.

By an order of 5 April 2011 [ibid., p. 1238], the Court, taking account of the views of the parties, fixed 5 December 2011 and 6 August 2012, respectively, as the time limits for the filing of a memorial by Costa Rica and a counter-memorial by Nicaragua, which were filed within the fixed time limits.

In its counter-memorial [YUN 2012, p. 1264], Nicaragua submitted four counterclaims. It requested the Court to declare that Costa Rica bore responsibility to Nicaragua for the impairment and possible destruction of navigation on the San Juan River caused by the construction of a road next to its right bank, and that Nicaragua had become the sole sovereign over the area formerly occupied by the Bay of San Juan del Norte. The Court was also requested to find that Nicaragua had a right to free navigation on the Colorado Branch of the San Juan de Nicaragua River, until the conditions of navigability existing at the time of the conclusion of the 1858 Treaty were re-established. In its fourth counterclaim, Nicaragua alleged that Costa Rica had failed to implement the provisional measures indicated in the Court's order of 8 March 2011.

By two separate orders of 17 April 2013 [YUN 2013, p. 1275], the Court joined the proceedings in the cases concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* ("the *Costa Rica v. Nicaragua* case") and the *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)* ("the *Nicaragua v. Costa Rica* case") (see p. 000), in conformity with the principle of the sound administration of justice and the need for judicial economy.

By an order of 18 April 2013 [ibid., p. 1276], the Court found unanimously that Nicaragua's first counterclaim had become without object after the proceedings of the two cases had been joined, and that it would be examined as a principal claim in the context of the joined proceedings; that Nicaragua's second and third counterclaims were inadmissible under the current proceedings; and that there was no need to examine the fourth counterclaim as any question relating to the implementation of provisional measures could be taken up by the parties in the further course of the proceedings.

On 23 May 2013, Costa Rica requested the modification of the Court's order of 8 March 2011 [YUN 2011, p. 1237], referring to Article 41 of the Statute of the Court and article 76 of the Rules of the Court. Costa Rica complained of Nicaragua's sending to and maintaining in the disputed area large numbers of persons undertaking activities that affected that territory and its ecology. In Costa Rica's view, those actions, which had occurred since the Court decided to indicate provisional measures, created a new situation necessitating further provisional measures in order to prevent the presence of any individual in the disputed territory other than civilian personnel sent by Costa Rica to protect the environment.

In its observations filed within the time limit fixed as 14 June 2013, Nicaragua asked the Court to reject Costa Rica's request and to modify its 8 March 2011 order on the basis of article 76 of the Rules of the Court, in order to allow both parties to dispatch civilian personnel charged with the protection of the environment to the disputed territory. According to Nicaragua, this modification was necessitated by the change in the factual and legal situations as a result of both the construction by Costa Rica of a 160-kilometre-long road along the right bank of the San Juan River and the joinder of the proceedings in the two cases. In its observations filed within the time limit fixed as 20 June, Costa Rica asked the Court to reject Nicaragua's request, asserting that no part of the road in question was in the disputed area and that the joinder of the proceedings did not give rise to one proceeding which should be the subject of joint orders.

In its order of 16 July 2013 [YUN 2013, p. 1276], the Court, by 15 votes to 2, found that the circumstances did not require the modification of its March 2011 order; unanimously reaffirmed the provisional measures indicated in that order, in particular, the requirement to refrain from any action that might aggravate or extend the dispute or make it more difficult to resolve; reminded the parties that those measures had binding effect and therefore created international legal obligations; and underlined that the order of 16 July was without prejudice to the parties' compliance with the March 2011 order. Appended to the order were dissenting opinions of one judge and one ad hoc judge.

On 24 September 2013, Costa Rica filed a request for the indication of new provisional measures. After holding public hearings on that request from 14 to 17 October 2013, the Court, in its order of 22 November 2013 [ibid.], unanimously reaffirmed the provisional measures indicated in its 8 March 2011 order and decided that Nicaragua should refrain from any dredging and other activities in the disputed territory, in particular, from work on the two new *caños* (canals); that it should fill, within two weeks, the trench on the beach north of the eastern *caño*; and that it should immediately inform the Court of the completion of this work and submit a detailed report, including photographic evidence, within one week from the completion. The Court further found, unanimously, that Nicaragua should remove any civilian, police or security personnel or private persons under its jurisdiction or control from the disputed territory, and prevent any such personnel or persons from entering it. It held by 15 votes to 1 that, following consultation with the secretariat of the Ramsar Convention and after giving Nicaragua prior notice, Costa Rica might take appropriate measures related to the two new *caños*, to the extent necessary to prevent irreparable prejudice to the environment of the disputed territory and that, in taking these measures, Costa Rica should avoid any adverse effects on the San Juan River. The Court also unanimously decided that the parties should inform it at three-month intervals about their compliance with the provisional measures.

Construction of a Road in Costa Rica along the San Juan River (*Nicaragua v. Costa Rica*)

On 22 December 2011 [YUN 2011, p. 1239], Nicaragua instituted proceedings against Costa Rica with regard to violations of Nicaraguan sovereignty and major environmental damages to its territory. Nicaragua contended that Costa Rica was carrying out major construction works along most of the border area between the two countries with grave environmental consequences.

In its application, Nicaragua claimed that Costa Rica's unilateral actions threatened to destroy the San Juan de Nicaragua River and its fragile ecosystem, including the adjacent biosphere reserves and internationally protected wetlands that depended upon the clean and uninterrupted flow of the river for their survival. According to Nicaragua, the most immediate threat to the river and its environment was posed by Costa Rica's construction of a road running parallel and in close proximity to the southern bank of the river, and extending for at least 120 kilometres, from Los Chiles in the west to Delta in the east. It was also stated that those works had caused and would continue to cause significant economic damage to Nicaragua.

Nicaragua, accordingly, requested the Court to adjudge and declare that Costa Rica had breached its ob-

ligation not to violate Nicaragua's territorial integrity as delimited by the 1858 Treaty of Limits, the Cleveland Award of 1888 and the five awards of the umpire Edward Porter Alexander of 30 September 1897, 20 December 1897, 22 March 1898, 26 July 1899 and 10 March 1900; its obligation not to damage Nicaraguan territory; and its obligations under international law and environmental conventions, including the Ramsar Convention on Wetlands, the Agreement over the Border Protected Areas between Nicaragua and Costa Rica (International System of Protected Areas for Peace Agreement), the Convention on Biological Diversity and the Convention for the Conservation of the Biodiversity and Protection of the Main Wild Life Sites in Central America. Furthermore, Nicaragua requested the Court to adjudge and declare that Costa Rica must restore the situation to the status quo ante; pay for all damages caused, including the costs added to the dredging of the San Juan River; not undertake any future development in the area without an appropriate transboundary environmental impact assessment, to be presented to Nicaragua for its analysis and reaction; cease all the constructions under way that affected or might affect the rights of Nicaragua; and produce and present to Nicaragua an adequate environmental impact assessment with all the details of the works.

As the basis for the Court's jurisdiction, Nicaragua invoked Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá), as well as the declarations of acceptance of the compulsory jurisdiction of the Court made by Nicaragua on 24 September 1929 (as amended on 23 October 2001) and by Costa Rica on 20 February 1973. Nicaragua asserted that Costa Rica had repeatedly refused to give it appropriate information on the construction works and had denied that it had any obligation to provide to Nicaragua an environmental impact assessment allowing for an evaluation of the works. Nicaragua therefore requested the Court to order Costa Rica to produce such a document and to communicate it to Nicaragua. It added that in all circumstances, and particularly if that request did not produce results, it reserved its right to request provisional measures.

Nicaragua also stated that as the legal and factual grounds of the application were connected to the ongoing case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* (see p. 000), it reserved its rights to consider whether to request that the proceedings in both cases should be joined.

By an order of 23 January 2012 [YUN 2012, p. 1265], the Court fixed 19 December 2012 and 19 December 2013 as the respective time limits for the filing of a memorial by Nicaragua and a counter-memorial by Costa Rica. The memorial of Nicaragua was filed within the time limit.

By two separate orders of 17 April 2013 [YUN 2013, p. 1277], the Court joined the proceedings in the *Costa Rica v. Nicaragua* and *Nicaragua v. Costa Rica* cases (see p. 000). In the context of those joined proceedings, the Court, by its orders dated 18 April and 16 July [ibid.], ruled, respectively, on the counterclaims submitted by Nicaragua in its counter-memorial filed in the *Costa Rica v. Nicaragua* case and on the requests made by Costa Rica and Nicaragua for the modification of the provisional measures indicated in the Court's order of 8 March 2011 [YUN 2011, p. 1237] in the *Costa Rica v. Nicaragua* case.

On 11 October 2013, Nicaragua filed a request for the indication of provisional measures. After holding public hearings on that request from 5 to 8 November 2013, the Court, in its order of 13 December 2013 [ibid.], unanimously found that the circumstances did not require the indication of provisional measures.

By an order of 3 February 2014, the Court fixed 4 August 2014 and 2 February 2015 as the respective time limits for the submission of a reply by Nicaragua and a rejoinder by Costa Rica. The reply by Nicaragua was filed within the time limit.

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

On 24 April 2013 [YUN 2013, p. 1277], Bolivia instituted proceedings against Chile concerning a dispute in relation 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.

In its application, Bolivia stated that the subject of the dispute was the existence of that obligation, Chile's non-compliance with it and Chile's duty to comply with it. Bolivia asserted that, beyond its general obligations under international law, Chile had committed itself through agreements, diplomatic practice and a series of declarations attributable to its highest-level representatives to negotiate a sovereign access to the sea for Bolivia, but had not complied with that obligation and denied its existence. Bolivia accordingly requested the Court to adjudge and declare that Chile had the obligation to negotiate with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean; that Chile had breached that obligation; and that Chile must perform the said obligation in good faith, promptly, formally, within a reasonable time and effectively, to grant Bolivia a fully sovereign access to the Pacific Ocean. Bolivia also reserved the right to request that an arbitral tribunal be established in accordance with the obligation under article XII of the Treaty of Peace and Friendship concluded with Chile on 20 October 1904 and the Protocol of 16 April 1907, in the case of any claims arising out of that Treaty.

As the basis for the Court's jurisdiction, Bolivia invoked article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá), to which both States were parties.

By its order of 18 June 2013 [ibid., p. 1278], the Court fixed 17 April 2014 and 18 February 2015 as the respective time limits for the filing of a memorial by Bolivia and a counter-memorial by Chile. The memorial by Bolivia was filed within the time limit.

On 15 July 2014, Chile, referring to article 79, paragraph 1, of the Rules of the Court, filed a preliminary objection to the jurisdiction of the Court in the case. In accordance with paragraph 5 of the same article, the proceedings on the merits were then suspended.

By an order of 15 July, the President of the Court fixed 14 November 2014 as the time limit for the filing by Bolivia of a written statement of its observations and submissions on the preliminary objection raised by Chile, which was filed within the time limit.

Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (*Nicaragua v. Colombia*)

On 16 September 2013 [YUN 2013, p. 1278], Nicaragua instituted proceedings against Colombia with regard to the delimitation of the boundaries between the continental shelf of Nicaragua beyond the 200-nautical-mile limit from the baselines from which the breadth of Nicaragua's territorial sea was measured, and the continental shelf of Colombia.

In its application, Nicaragua requested the Court to adjudge and declare the precise course of the maritime boundary between Nicaragua and Colombia in the areas of the continental shelf which appertained to each of them beyond the boundaries determined by the Court in its judgment of 19 November 2012 [YUN 2012, p. 1257] in the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. The Court was further requested to state the principles and rules of international law that determined the rights and duties of the two States in relation to the area of overlapping continental shelf claims and the use of its resources, pending the delimitation of the maritime boundary between them beyond 200 nautical miles from Nicaragua's coast.

Nicaragua recalled that the Court's 2012 judgment defined the single maritime boundary between the continental shelf and the exclusive economic zones of Nicaragua and of Colombia within the 200-nautical-mile limit from the baselines from which the breadth of Nicaragua's territorial sea was measured, but that the Court was not in a position at the time to delimit the continental shelf throughout the area of the overlap between Nicaragua's continental shelf entitlement and that of Colombia, as requested by Nicaragua, con-

sidering that Nicaragua had not then established that it had a continental margin extending beyond 200 nautical miles from the baselines from which its territorial sea was measured. Nicaragua contended that its submission to the Commission on the Limits of the Continental Shelf on 24 June 2013 demonstrated that its continental margin extended more than 200 nautical miles from the baselines from which the breadth of its territorial sea was measured, both traversing an area beyond 200 nautical miles from Colombia and partly overlapping with an area within 200 nautical miles of Colombia's coast. Nicaragua also observed that the two States had not agreed upon a maritime boundary between them in the area beyond 200 nautical miles from Nicaragua's coast and that Colombia objected to continental shelf claims in that area.

As the basis for the Court's jurisdiction, Nicaragua invoked article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá), noting that it was constrained into taking action rather sooner than later because Colombia had denounced the Pact of Bogotá on 27 November 2012, with effect from 27 November 2013 in accordance with article LVI of the Pact, which would accordingly remain in force for Colombia until that date. Nicaragua also contended that the subject-matter of its application remained within the Court's jurisdiction established in the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, instituted in 2001 [YUN 2001, p. 1195], as in its 2012 judgment the Court did not definitively determine the delimitation of the continental shelf between Nicaragua and Colombia in the area beyond 200 nautical miles from the Nicaraguan coast.

By its order of 9 December 2013 [YUN 2013, p. 1278], the Court fixed 9 December 2014 and 9 December 2015 as the respective time limits for the filing of a memorial by Nicaragua and a counter-memorial by Colombia.

On 14 August 2014, Colombia, referring to article 79 of the Rules of Court, raised certain preliminary objections to the jurisdiction of the Court and to the admissibility of the application. In accordance with paragraph 5 of the same article, the proceedings on the merits were then suspended.

By an order of 19 September, the Court fixed 19 January 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.

Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)

On 26 November 2013 [YUN 2013, p. 1278], Nicaragua instituted proceedings against Colombia with regard to violations of Nicaragua's sovereign rights and maritime zones as declared by the Court's judgment

of 19 November 2012 [YUN 2012, p. 1257] in the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, and the threat of the use of force by Colombia in order to implement those violations.

In its application, Nicaragua requested the Court to adjudge and declare that Colombia had breached its obligations not to use or threaten to use force under the UN Charter and international customary law, not to violate Nicaragua's maritime zones as delimited in the Court's 2012 judgment, as well as Nicaragua's sovereign rights and jurisdiction in those zones, and not to violate Nicaragua's rights under customary international law as reflected in parts V and VI of the 1982 United Nations Convention on the Law of the Sea. Nicaragua also requested the Court to adjudge and declare that, consequently, Colombia was bound to comply with the 2012 judgment, to wipe out the legal and material consequences of its internationally wrongful acts, and to make full reparation for the harm caused by those acts. In support of its claim, Nicaragua cited declarations reportedly made between 19 November 2012 and 18 September 2013 by the President, the Vice-President and the Minister for Foreign Affairs of Colombia, as well as by the Commander of the Colombian Navy, claiming that those declarations represented a "rejection" by Colombia of the Court's judgment and a decision to consider it "not applicable".

Nicaragua also referred to Colombia's Presidential Decree 1946 establishing an "Integral Contiguous Zone" which, according to Nicaragua quoting the President of Colombia, covered maritime spaces extending from the south, where the Albuquerque and East-Southeast keys were situated, and to the north, where Serranilla Key was located, and included the San Andrés, Providencia and Santa Catalina, Quitasueño, Serrana and Roncador islands, as well as the other formations in the area. Nicaragua stated that the Decree violated Nicaragua's sovereign rights over its maritime areas in the Caribbean, quoting the President of Colombia's declaration that Colombia would exercise jurisdiction and control in the Integral Contiguous Zone over all areas related to security and the struggle against delinquency, and over fiscal, customs, environmental, immigration and health matters and other areas as well. According to Nicaragua, the threatening declarations by Colombian authorities and the hostile treatment of Nicaraguan vessels by Colombian naval forces had seriously affected Nicaragua's possibilities for exploiting the living and non-living resources in its Caribbean exclusive economic zone and continental shelf, while attempts at dialogue to discuss the implementation of the Court's 2012 judgment were rejected by Colombia.

As the basis for the Court's jurisdiction, Nicaragua invoked article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá), pointing out that Colombia had denounced the Pact of Bogotá on 27 November 2012, with effect from 27 November

2013 in accordance with article LVI of the Pact, which would accordingly remain in force for Colombia until that date. Nicaragua further argued that the Court's jurisdiction rested 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 by Nicaragua was filed within the time limit.

On 19 December, Colombia, referring to article 79 of the Rules of Court, raised certain preliminary objections to the jurisdiction of the Court. In accordance with paragraph 5 of the same article, the proceedings on the merits were then suspended.

By an order of 19 December, the President of 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.

Questions relating to the Seizure and Detention of Certain Documents and Data (*Timor-Leste v. Australia*)

On 17 December 2013 [YUN 2013, p. 1279], Timor-Leste filed an application instituting proceedings with regard to the seizure and subsequent detention by Australia of documents, data and other property which belonged to Timor-Leste and which Timor-Leste had the right to protect under international law.

Timor-Leste contended that, on 3 December 2013, officers of the Australian Security Intelligence Organization, allegedly acting under a warrant issued by Australia's Attorney-General, seized from the business premises of a legal adviser to Timor-Leste in Canberra documents and data containing correspondence between the Government of Timor-Leste and its legal advisers, notably relating to a pending arbitration under the 2002 Timor Sea Treaty between Timor-Leste and Australia.

Timor-Leste, accordingly, requested the Court to adjudge and declare that the seizure and continuing detention by Australia of the documents and data violated Timor-Leste's sovereignty, as well as its property and other rights under international law and any relevant domestic law; and that Australia must immediately return to Timor-Leste those documents and data, destroy beyond recovery every copy of such documents and data that was in Australia's possession or control, and ensure the destruction of every copy that Australia had directly or indirectly passed to a third person or third State. The Court was also requested to adjudge and declare that Australia should afford satisfaction to Timor-Leste in respect of those violations of its rights under international law and any relevant domestic law, in the form of a formal apology as well as the costs

incurred by Timor-Leste in preparing and presenting the current application. As basis for the Court's jurisdiction, Timor-Leste invoked the declarations of the two countries, recognizing the compulsory jurisdiction of the Court.

Also on 17 December 2013, Timor-Leste filed a request for the indication of provisional measures, stating that the purpose of the request was to protect its rights and to prevent the use of seized documents and data by Australia against Timor-Leste's interests and rights in the pending arbitration and with regard to other matters concerning the Timor Sea and its resources.

Timor-Leste, accordingly, requested the Court to indicate as provisional measures that the documents and data seized by Australia on 3 December 2013 be immediately sealed and delivered into the Court's custody, and that Australia immediately deliver to Timor-Leste and to the Court a list of all documents and data or the information that it had disclosed or transmitted to any person, as well as a list of the identities and current positions held by such persons; deliver within five days to Timor-Leste and to the Court a list of all copies that it had made of the seized documents and data; destroy all copies of the seized documents and data, secure the destruction of all copies that it had transmitted to any third party, and inform Timor-Leste and the Court of the steps taken in pursuance of that order for destruction; and give an assurance that it would not intercept or cause or request the interception of communications between Timor-Leste and its legal advisers, whether within or outside Australia or Timor-Leste.

Timor-Leste further requested that, pending the Court's decision on its request for the indication of provisional measures, the President of the Court exercise his power under article 74 of the Rules of Court to call upon Australia to act in such a way as would enable any order the Court might make on the said request to have its appropriate effects.

In his 18 December 2013 communication to the Prime Minister of Australia [ibid., p. 1280], the ICJ President drew attention of the Australian Government to the need to act in such a way as to enable any order the Court would make on the request for provisional measures to have its appropriate effects, in particular, to refrain from any act which might cause prejudice to the rights claimed by Timor-Leste in the current proceedings. By the same communication, the President of the Court fixed 20–22 January 2014 as the dates for public hearings on the request for the indication of provisional measures.

At the end of public hearings thus held, Timor-Leste confirmed the provisional measures it had requested the Court to indicate; while Australia asked the Court to refuse Timor-Leste's request and to stay the proceedings until the Arbitral Tribunal rendered its judgment in the arbitration under the Timor Sea Treaty.

In its order of 3 March, the Court, by 12 votes to 4, decided that Australia had to ensure the content of the seized material was not in any way or at any time used to the disadvantage of Timor-Leste, pending the conclusion of the case, and that Australia had to keep under seal the seized documents and electronic data and any copies thereof until further decision of the Court was reached. The Court, by 15 votes to 1, decided that Australia should not interfere in any way in communications between Timor-Leste and its legal advisers in connection with the pending arbitration under the 2002 Timor Sea Treaty, with any future bilateral negotiations concerning maritime delimitation, or with any other related procedure between the two States, including this case.

Appended to the order were dissenting opinions of two judges and one ad hoc judge, and separate opinions by two judges.

By an order of 28 January, the Court fixed 28 April 2014 and 28 July 2014 as the respective time limits for the filing of a memorial by Timor-Leste and a counter-memorial by Australia, which were filed within the time limits.

On 17 June, the Registrar transmitted to the parties the list of public hearings scheduled to take place from 17 to 24 September. By a joint letter dated 1 September, the parties requested the Court to adjourn the hearing in order to enable them to seek an amicable settlement. On 3 September, the Court decided to grant the parties' request to postpone the oral proceedings.

Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (*Costa Rica v. Nicaragua*)

On 25 February 2014, Costa Rica filed an application instituting proceedings against Nicaragua with regard to a dispute concerning maritime delimitation in the Caribbean Sea and the Pacific Ocean.

In its application, Costa Rica requested the Court to determine the complete course of a single maritime boundary between all the maritime areas appertaining, respectively, to Costa Rica and to Nicaragua in the Caribbean Sea and the Pacific Ocean, and the precise geographical coordinates of the single maritime boundaries in the Caribbean Sea and the Pacific Ocean. According to Costa Rica, the coasts of the two States generated overlapping entitlements to maritime areas in both the Caribbean Sea and the Pacific Ocean, and there had been no maritime delimitation between the two States in either body of water. It further maintained that the two States had exhausted diplomatic means to resolve their maritime boundary disputes, following various failed attempts to settle the issue between 2002 and 2005, and in 2013.

According to Costa Rica, the divergence between the proposals presented by the two States during negotiations with regard to a single maritime boundary

in the Pacific Ocean to divide their respective territorial seas, exclusive economic zones and continental shelves demonstrated an overlap of claims. With respect to the Caribbean Sea, both States focused on the location of the initial land boundary marker on the Caribbean side, but were unable to reach agreement on the starting point of the maritime boundary. In Costa Rica's view, the existence of a dispute between the two States as to the maritime boundary in the Caribbean Sea had been affirmed by the positions expressed by both States during Costa Rica's request to intervene in the case *Territorial and Maritime Dispute (Nicaragua v. Colombia)* [YUN 2010, p. 1277]; in exchanges of correspondence following Nicaragua's submissions to the Commission on the Limits of the Continental Shelf; by Nicaragua's publication of oil exploration and exploitation material; and by a 2013 decree declaring straight baselines, in which Nicaragua claimed as internal waters areas of Costa Rica's territorial sea and exclusive economic zone in the Caribbean Sea, and which was protested by Costa Rica in a letter to the United Nations Secretary-General dated 23 October 2013. Costa Rica claimed that although Nicaragua accepted in 2013 the invitation to resume negotiations, it took no further action to restart the process.

As the basis for the Court's jurisdiction, Costa Rica invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, made on 20 February 1973, and a declaration made by Nicaragua on 24 September 1929 (as amended on 23 October 2001), as well as article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá).

By an order of 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.

Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (*Marshall Islands v. India*)

On 24 April 2014, the Marshall Islands filed an application instituting proceedings against India, accusing it of not fulfilling its obligations with respect to the cessation of the nuclear arms race at an early date and to nuclear disarmament.

In its application, the Marshall Islands, which acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on 30 January 1995, asserted that the obligations enshrined in article VI of the NPT were not merely treaty obligations, but also existed separately and applied to all States under customary international law. It stated that India, by engaging in conduct that directly conflicted with the obligations of nuclear disarmament and cessation of the nuclear arms race at an early date, had breached and continued

to breach its legal duty to perform in good faith its obligations under customary international law, even though it had not ratified the NPT. The Marshall Islands requested the Court to order India to take all steps necessary to comply with the said obligations within one year of the judgment, including the pursuit—by initiation if necessary—of negotiations in good faith aimed at concluding a convention on nuclear disarmament in all its aspects under strict and effective international control.

As the basis for the Court's jurisdiction, the Marshall Islands referred to the declarations, accepting the Court's compulsory jurisdiction, made by the Marshall Islands on 24 April 2013 and by India on 18 September 1974.

By its order of 16 June 2014, the Court decided that the written pleadings would first be addressed to the question of the Court's jurisdiction, and fixed 16 December 2014 and 16 June 2015 as the respective time limits for the filing of a memorial by the Marshall Islands and a counter-memorial by India. The memorial by the Marshall Islands was filed within the time limit.

Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament
(Marshall Islands v. Pakistan)

On 24 April 2014, the Marshall Islands filed an application instituting proceedings against Pakistan, accusing it of not fulfilling its obligations with respect to the cessation of the nuclear arms race at an early date and to nuclear disarmament.

In its application, the Marshall Islands, which acceded to the Treaty on the Non-Proliferation of Nuclear Weapons on 30 January 1995, asserted that the obligations enshrined in article VI of the NPT were not merely treaty obligations, but also existed separately and applied to all States under customary international law. It stated that Pakistan, by engaging in conduct that directly conflicted with the obligations of nuclear disarmament and cessation of the nuclear arms race at an early date, had breached and continued to breach its legal duty to perform in good faith its obligations under customary international law, although it had not ratified the NPT. The Marshall Islands requested the Court to order Pakistan to take all steps necessary to comply with the said obligations within one year of the judgment, including the pursuit—by initiation if necessary—of negotiations in good faith aimed at concluding a convention on nuclear disarmament in all its aspects under strict and effective international control.

As the basis for the Court's jurisdiction, the Marshall Islands referred to the declarations, accepting the Court's compulsory jurisdiction, made by the Marshall Islands on 24 April 2013 and by Pakistan on 13 September 1960.

By an order of 10 July 2014, the President of the Court decided that the written pleadings would first be addressed to the question of the Court's jurisdiction and the admissibility of the application, and fixed 12 January 2015 and 17 July 2015 as the respective time limits for the filing of a memorial by the Marshall Islands and a counter-memorial by Pakistan.

Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament
(Marshall Islands v. United Kingdom)

On 24 April 2014, the Marshall Islands filed an application instituting proceedings against the United Kingdom, accusing it of not fulfilling its obligations with respect to the cessation of the nuclear arms race at an early date, and to nuclear disarmament.

In its application, the Marshall Islands invoked breaches by the United Kingdom of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, which provided that “[e]ach of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control”. The Marshall Islands contended that by not pursuing such negotiations and engaging instead in conduct that directly conflicted with those legally binding commitments, the United Kingdom had breached and continued to breach its legal duty to perform in good faith its obligations under the NPT and customary international law. It requested the Court to order the United Kingdom to take all steps necessary to comply with its obligations under article VI of the NPT and under customary international law within one year of the judgment, including the pursuit—by initiation if necessary—of negotiations in good faith aimed at concluding a convention on nuclear disarmament in all its aspects under strict and effective international control.

As the basis for the Court's jurisdiction, the Marshall Islands referred to the declarations, accepting the Court's compulsory jurisdiction, made by the Marshall Islands on 24 April 2013 and by the United Kingdom on 5 July 2004.

By an order of 16 June 2014, the Court fixed 16 March 2015 and 16 December 2015 as the respective time limits for the filing of a memorial by the Marshall Islands and a counter-memorial by the United Kingdom.

Maritime Delimitation in the Indian Ocean
(Somalia v. Kenya)

On 28 August 2014, Somalia filed an application instituting proceedings against Kenya with regard to

a dispute concerning the delimitation of maritime spaces claimed by both States in the Indian Ocean.

In its application, Somalia contended that both States disagreed about the location of the maritime boundary in the area where their maritime entitlements overlapped, and that the diplomatic negotiations that took place between them had failed to resolve that disagreement. It requested the Court to determine the complete course of the single maritime boundary dividing all the maritime areas appertaining to Somalia and to Kenya in the Indian Ocean, including the continental shelf beyond 200 nautical miles, and the precise geographical coordinates of the single maritime boundary in the Indian Ocean.

Somalia expressed the view that the maritime boundary between the parties in the territorial sea, exclusive economic zone and continental shelf should be established in accordance with, respectively, articles 15, 74 and 83 of the United Nations Convention on the Law of the Sea; the boundary line in the territorial sea should be a median line as specified in article 15, since no special circumstances existed to justify departure from such a line; and the boundary in the exclusive economic zone and continental shelf should be established according to the three-step process the Court had consistently employed in its application of articles 74 and 83. According to Somalia, Kenya maintained the position that the maritime boundary 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, exclusive economic zone and continental shelf, including the continental shelf beyond 200 nautical miles.

As basis for the Court's jurisdiction, Somalia referred to the declarations, recognizing the Court's compulsory jurisdiction, made by Somalia on 11 April 1963 and by Kenya on 19 April 1965, as well as article 282 of the Convention on the Law of the Sea ratified by both States in 1989.

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.

Other questions

Functioning and organization of the Court

Composition of the Court

Election of judges

On 4 August [A/69/230-S/2014/520], the Secretary-General notified the General Assembly and the

Security Council that the terms of office of five members of the Court would expire on 5 February 2015, and therefore the Assembly and the Council should elect five judges for a nine-year term of office, beginning on 6 February 2015. On the same date [A/69/253-S/2014/521 & A/69/254-S/2014/522], the Secretary-General submitted the list of candidates, nominated by national groups, and their curricula vitae.

On 6 November, the Assembly and the Council elected four members of the Court to fill the vacancies occurring on 6 February 2015. On 12 November [A/69/575-S/2014/808], Argentina communicated to the Secretary-General, the Assembly and the Council its decision to withdraw one candidate for the position of judge. On 17 November, the Assembly and the Council elected one additional member to fill the remaining vacancy (**decision 69/406**).

Trust Fund to Assist States in the Settlement of Disputes

In August [A/69/337 & Corr.1], the Secretary-General reported on the activities and status of the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice since the submission of his 2013 report [YUN 2013, p. 1280]. The Fund, established in 1989 [YUN 1989, p. 818], provided financial assistance to States for expenses incurred in connection with a dispute submitted to the Court by way of a special agreement or by the application of its Statute, or the execution of a judgment of the Court.

During the period under review (1 July 2013 to 30 June 2014), the Fund received applications from Burkina Faso and the Niger relating to a dispute between the two States concerning a section of their common boundary. Both States requested financial assistance to implement the Court's judgment of 16 April 2013 in the case *Frontier Dispute (Burkina Faso/Niger)* [YUN 2013, p. 1274] by carrying out the demarcation of the pertinent section of their common boundary on the basis of the Court's delimitation. A panel of experts, set up in accordance with paragraph 9 of the Terms of Reference of the Fund, was tasked with examining the applications and advising the Secretary-General on the parameters of the financial assistance.

Two States contributed to the Fund, which as at 30 June had a balance of \$3.15million. Noting that the number of contributions remained low, the Secretary-General urged States and other entities to consider making substantial contributions to the Fund on a regular basis.