



# INTERNATIONAL COURT OF JUSTICE

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## Press Release

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### Territorial and Maritime Dispute (Nicaragua v. Colombia)

#### The Court finds that the Application for permission to intervene filed by Costa Rica cannot be granted

THE HAGUE, 4 May 2011. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, today delivered its Judgment on whether to grant the Application for permission to intervene filed by Costa Rica in the case concerning the Territorial and Maritime Dispute (Nicaragua v. Colombia).

In its Judgment, the Court

“By nine votes to seven,

Finds that the Application for permission to intervene in the proceedings filed by the Republic of Costa Rica under Article 62 of the Statute of the Court cannot be granted.

IN FAVOUR: President Owada; Vice-President Tomka; Judges Koroma, Keith, Sepúlveda-Amor, Bennouna, Skotnikov, Xue; Judge ad hoc Cot;

AGAINST: Judges Al-Khasawneh, Simma, Abraham, Cançado Trindade, Yusuf, Donoghue; Judge ad hoc Gaja.”

The Judgment of the Court was read by the President of the Court, Judge Hisashi Owada, at a public sitting which took place at the Peace Palace in The Hague, where the Court has its seat. At another public sitting, immediately following the delivery of this Judgment, the President of the Court read another Judgment concerning the application for permission to intervene filed by Honduras in the same case.

### **History of the proceedings**

The history of the proceedings can be found in paragraphs 1 to 18 of the Judgment, which is available on the website of the Court ([www.icj-cij.org](http://www.icj-cij.org)).

## **Reasoning of the Court**

After a brief procedural history, the Court begins by recalling that Costa Rica sought to intervene in the case as a non-party for the “purpose of informing the Court of the nature of [its] legal rights and interests and of seeking to ensure that the Court’s decision regarding the maritime boundary between Nicaragua and Colombia does not affect those rights and interests”. The Court adds that, intervention being a procedure incidental to the main proceedings before the Court, it is, according to the Statute and the Rules of Court, for the State seeking to intervene to set out the interest of a legal nature which it considers may be affected by the decision in that dispute, the precise object it is pursuing by means of the request, as well as any basis of jurisdiction which is claimed to exist as between it and the parties. The Court then examines in turn these constituent elements of the request for permission to intervene, as well as the evidence in support of that request.

### **I. LEGAL FRAMEWORK OF INTERVENTION (paras. 21-51)**

Firstly, the Court notes that the legal framework and conditions for intervention are provided for under Article 62 of the Statute and Article 81 of the Rules of Court. The Court observes that the State seeking to intervene shall set out its own **interest of a legal nature which may be affected** by the decision of the Court in the main proceedings. The Court observes that, whereas the parties to the main proceedings are asking it to recognize certain of their rights in the case at hand, a State seeking to intervene is, by contrast, contending, on the basis of Article 62 of the Statute, that the decision on the merits could affect its interests of a legal nature. The State seeking to intervene as a non-party therefore does not have to establish that one of its rights may be affected; it is sufficient for that State to establish that its interest of a legal nature may be affected. The Court notes that the interest to be shown is not limited to the dispositif alone of a Judgment, but may also relate to the reasons which constitute the necessary steps to the dispositif.

Secondly, the Court explains that the **precise object of intervention** certainly consists in informing the Court of the interest of a legal nature which may be affected by the decision of the Court in the main proceedings, but also in contributing to the protection of that interest. The Court goes on to stress that proceedings on intervention are not an occasion for the State seeking to intervene or for the Parties to discuss questions of substance relating to the main proceedings.

Thirdly, while reviewing the **basis and extent of its jurisdiction**, the Court notes that its Statute does not require, as a condition for intervention, the existence of a basis of jurisdiction between the parties to the main proceedings and the State which is seeking to intervene as a non-party.

Fourthly, the Court refers to the specific provision of the Rules of Court guiding the submission of **evidence** in support of a request to intervene. The Court recalls that, since the State seeking to intervene bears the burden of proving the interest of a legal nature which it considers may be affected, it is for that State to decide which documents, including illustrations, are to be attached to its application. The Court adds that, should it reject the application for permission to intervene, it is however not prevented “from taking note of the information provided to it at this stage of the proceedings”.

### **II. EXAMINATION OF COSTA RICA’S APPLICATION (paras. 52-90)**

The Court appended a sketch-map to its Judgment, which is reproduced herewith for illustrative purposes only.

The Court recalls that Costa Rica claims to have an **interest of a legal nature** in the exercise of its sovereign rights and jurisdiction in maritime area in the Caribbean Sea to which it is entitled under international law by virtue of its coast facing on that sea. The Court notes that, although Nicaragua and Colombia differ in their assessment as to the limits of the area in which Costa Rica may have a legal interest, they recognize the existence of Costa Rica's interest of a legal nature in at least some areas claimed by the Parties to the main proceedings. The Court observes that it is not called upon to examine the exact geographical parameters of the maritime area in which Costa Rica considers it has an interest of a legal nature, and that Costa Rica has indicated the maritime area in which it considers it has an interest of a legal nature which may be affected by the decision of the Court in the main proceedings. The Court notes that the indication of this maritime area is however not sufficient in itself to grant Costa Rica's Application for permission to intervene.

The Court then examines whether Costa Rica has established that the interest of a legal nature which it has set out is also **one which may be affected** by the decision of the Court in the main proceedings. It recalls that Costa Rica has contended that the area in which it has an interest of a legal nature overlaps with the area in dispute between the Parties to the main proceedings, and that this is sufficient to demonstrate that the decision on maritime delimitation in those proceedings may affect its interest of a legal nature. The Court adds that Costa Rica has further contended that the southern terminus of the boundary to be delimited in the main proceedings may affect its interest of a legal nature inasmuch as that southern endpoint may be placed in its potential area of interest.

The Court observes that, to succeed with its request for permission to intervene in the main proceedings, Costa Rica must show that its interest of a legal nature needs a protection that is not provided by Article 59 of the Statute, which reads as follows: "The decision of the Court has no binding force except between the parties and in respect of that particular case." However, the Court concludes that Costa Rica has not demonstrated that the interest of a legal nature which it has asserted is one which may be affected by the decision in the main proceedings because the Court, when drawing a line delimiting the maritime areas between the Parties to the main proceedings, will, if necessary, end the line in question before it reaches an area in which the interests of a legal nature of third States may become involved.

### **Composition of the Court**

The Court was composed as follows: President Owada; Vice-President Tomka; Judges Koroma, Al-Khasawneh, Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov, Cañado Trindade, Yusuf, Xue, Donoghue; Judges ad hoc Cot, Gaja; Registrar Couvreur.

Judges Al-Khasawneh and Abraham appended dissenting opinions to the Judgment of the Court; Judge Keith appended a declaration to the Judgment of the Court; Judges Cañado Trindade and Yusuf appended a joint dissenting opinion to the Judgment of the Court; Judge Donoghue appended a dissenting opinion to the Judgment of the Court; Judge ad hoc Gaja appended a declaration to the Judgment of the Court.

Annex: sketch-map

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A summary of the Judgment is published in the document entitled "Summary No. 2011/3", to which summaries of the declarations and opinions attached to the Judgment are annexed.

The present Press Release, the summary and the full text of the Judgment also appear on the Court's website ([www.icj-cij.org](http://www.icj-cij.org)) under "Cases".

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