

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 Colombia has sovereignty over the maritime features in dispute and draws a single maritime boundary

THE HAGUE, 19 November 2012. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has today rendered its Judgment in the case concerning the Territorial and Maritime Dispute (Nicaragua v. Colombia).

In its Judgment, which is final, without appeal and binding on the Parties, the Court,

(1) finds, unanimously, that the Republic of Colombia has sovereignty over the islands at Alburquerque, Bajo Nuevo, East-Southeast Cays, Quitasueño, Roncador, Serrana and Serranilla;

(2) finds, by fourteen votes to one, admissible the Republic of Nicaragua's claim contained in its final submission I (3) requesting the Court to adjudge and declare that "[t]he appropriate form of delimitation, within the geographical and legal framework constituted by the mainland coasts of Nicaragua and Colombia, is a continental shelf boundary dividing by equal parts the overlapping entitlements to a continental shelf of both Parties";

(3) finds, unanimously, that it cannot uphold the Republic of Nicaragua's claim contained in its final submission I (3);

(4) decides, unanimously, that the line of the single maritime boundary delimiting the continental shelf and the exclusive economic zones of the Republic of Nicaragua and the Republic of Colombia shall follow geodetic lines connecting the points with co-ordinates:

Latitude north	Longitude west
1. 13° 46' 35.7"	81° 29' 34.7"
2. 13° 31' 08.0"	81° 45' 59.4"
3. 13° 03' 15.8"	81° 46' 22.7"
4. 12° 50' 12.8"	81° 59' 22.6"
5. 12° 07' 28.8"	82° 07' 27.7"
6. 12° 00' 04.5"	81° 57' 57.8"

From point 1, the maritime boundary line shall continue due east along the parallel of latitude (co-ordinates 13° 46' 35.7" N) until it reaches the 200-nautical-mile limit from the baselines from which the breadth of the territorial sea of Nicaragua is measured. From point 6

(with co-ordinates 12° 00' 04.5" N and 81° 57' 57.8" W), located on a 12-nautical-mile envelope of arcs around Alburquerque, the maritime boundary line shall continue along that envelope of arcs until it reaches point 7 (with co-ordinates 12° 11' 53.5" N and 81° 38' 16.6" W) which is located on the parallel passing through the southernmost point on the 12-nautical-mile envelope of arcs around East-Southeast Cays. The boundary line then follows that parallel until it reaches the southernmost point of the 12-nautical-mile envelope of arcs around East-Southeast Cays at point 8 (with co-ordinates 12° 11' 53.5" N and 81° 28' 29.5" W) and continues along that envelope of arcs until its most eastward point (point 9 with co-ordinates 12° 24' 09.3" N and 81° 14' 43.9" W). From that point the boundary line follows the parallel of latitude (co-ordinates 12° 24' 09.3" N) until it reaches the 200-nautical-mile limit from the baselines from which the territorial sea of Nicaragua is measured;

(5) decides, unanimously, that the single maritime boundary around Quitasueño and Serrana shall follow, respectively, a 12-nautical-mile envelope of arcs measured from QS 32 and from low-tide elevations located within 12 nautical miles from QS 32, and a 12-nautical-mile envelope of arcs measured from Serrana Cay and the other cays in its vicinity;

(6) rejects, unanimously, the Republic of Nicaragua's claim contained in its final submissions requesting the Court to declare that the Republic of Colombia is not acting in accordance with its obligations under international law by preventing the Republic of Nicaragua from having access to natural resources to the east of the 82nd meridian.

1. Sovereignty

The Court recalls that the dispute between the Parties concerns sovereignty over maritime features located in the Caribbean Sea, namely, the Alburquerque Cays, East-Southeast Cays, Roncador, Serrana, Quitasueño, Serranilla and Bajo Nuevo. All these remain above water at high tide and thus, as islands, they are capable of appropriation. However, as to Quitasueño, the Court finds that it comprises only one tiny island, referred to as QS 32, and a number of low-tide elevations (features which are above water at low tide but submerged at high tide).

The Court then notes that, under the terms of the 1928 Treaty concerning Territorial Questions at Issue between Colombia and Nicaragua, Colombia has sovereignty not only over San Andrés, Providencia and Santa Catalina, but also over the other islands, islets and reefs "forming part" of the San Andrés Archipelago. Thus, in order to determine sovereignty, the Court must first ascertain what constitutes the San Andrés Archipelago. The Court, however, concludes that neither the 1928 Treaty nor the historical records is conclusive as to the composition of that Archipelago.

The Court therefore proceeds to examine arguments and evidence which are not based on the composition of the Archipelago under the 1928 Treaty. The Court finds that neither Nicaragua nor Colombia has established that it had title to the disputed maritime features by virtue of uti possidetis juris (a principle according to which, upon independence, new States inherit territories and boundaries of former colonial provinces), because nothing clearly indicates whether these features were attributed to the colonial provinces of Nicaragua or of Colombia. The Court therefore turns to the question whether sovereignty can be established on the basis of a State's acts manifesting a display of authority on a given territory (effectivités). The Court finds that for many decades Colombia continuously and consistently acted à titre de souverain in respect of the maritime features in dispute. This exercise of sovereign authority was public and there is no evidence that it met with any protest from Nicaragua prior to 1969, when the dispute crystallized.

Moreover, the evidence of Colombia's acts of administration with respect to the islands is in contrast to the absence of any evidence of acts à titre de souverain on the part of Nicaragua. The facts thus provide very strong support for Colombia's claim of sovereignty over the maritime features in dispute. The Court also notes that, while not being evidence of sovereignty, Nicaragua's conduct with regard to the maritime features in dispute, the practice of third States and maps afford some support to Colombia's claim.

The Court concludes that Colombia, and not Nicaragua, has sovereignty over the islands at Alburquerque, Bajo Nuevo, East-Southeast Cays, Quitasueño, Roncador, Serrana and Serranilla.

2. Admissibility of Nicaragua's claim for delimitation of a continental shelf extending beyond 200 nautical miles

The Court notes that in its Application and Memorial, Nicaragua requested the Court to determine the "single maritime boundary" between the continental shelf areas and exclusive economic zones appertaining respectively to Nicaragua and Colombia in the form of a median line between the mainland coasts of the two States. In its Reply and in its final submission I (3) Nicaragua requested the Court to effect a continental shelf boundary dividing by equal parts the overlapping entitlements of the Parties — extended continental shelf of Nicaragua beyond 200 nautical miles and 200-nautical-mile continental shelf of Colombia. This is a new claim, but this fact does not, in itself, render the claim inadmissible. This claim still concerns the delimitation of the continental shelf, arises directly out of the Parties' dispute and does not transform its subject-matter. The Court concludes that the claim contained in final submission I (3) by Nicaragua is admissible.

3. Consideration of Nicaragua's claim for delimitation of a continental shelf extending beyond 200 nautical miles

The Court observes that, in its recent jurisprudence, it has stated that "any claim of continental shelf rights beyond 200 miles [by a State party to the 1982 United Nations Convention on the Law of the Sea (UNCLOS)] must be in accordance with Article 76 of UNCLOS and reviewed by the Commission on the Limits of the Continental Shelf". Given the object and purpose of UNCLOS, as stipulated in its Preamble, the fact that Colombia is not a party thereto does not relieve Nicaragua of its obligations under Article 76. The Court notes that Nicaragua submitted to the Commission only "Preliminary Information" which, by its own admission, falls short of meeting the requirements for the Commission to be able to make a recommendation. As the Court was not presented with any further information, it finds that, in the present proceedings, Nicaragua has not established that it has a continental margin that extends far enough to overlap with Colombia's 200-nautical-mile entitlement to the continental shelf, measured from Colombia's mainland coast. The Court thus is not in a position to delimit the boundary between an extended continental shelf of Nicaragua and Colombia's continental shelf. The Court concludes that Nicaragua's claim contained in its final submission I (3) cannot be upheld.

4. Maritime boundary

The Court notes that notwithstanding its decision regarding Nicaragua's final submission I (3), it is still called upon to effect a delimitation between the overlapping maritime entitlements of Colombia and Nicaragua within 200 nautical miles of the Nicaraguan coast.

The Court begins by determining what the relevant coasts of the Parties are, namely, those coasts the projections of which overlap. For Nicaragua, the relevant coast is its whole coast with the exception of the short stretch of coast near Punta de Perlas. For Colombia, the relevant coast is

the entire coastline of its islands, except Quitasueño, Serranilla and Bajo Nuevo. The Court then considers the extent of the relevant maritime area in which the potential entitlements of the Parties overlap. This area extends 200 nautical miles eastwards from the Nicaraguan coast. In the north and south, the limits of the relevant area were determined in such a way so as not to encroach upon any existing boundaries or interests of third States (see sketch-map No. 7: The relevant maritime area as identified by the Court).

To effect the delimitation, the Court follows the three-stage methodology employed in its case law.

First, the Court selects base points and constructs a provisional median line between the Nicaraguan coast and the western coasts of the relevant Colombian islands, which are opposite to the Nicaraguan coast (see sketch-map No. 8: Construction of the provisional median line).

Secondly, the Court examines the relevant circumstances which may require an adjustment or shifting of the provisional median line to produce an equitable result. It notes that the substantial disparity between the relevant Colombian coast and that of Nicaragua (1:8.2), as well as the need to avoid any cut-off effect of the delimitation line vis-à-vis the Parties' coastal projections, are such circumstances. The Court further notes that, while legitimate security concerns will be borne in mind in determining whether the provisional median line should be adjusted or shifted, the conduct of the Parties, issues of access to natural resources and delimitations already effected in the area are not relevant circumstances in the present case.

Having thus identified the relevant circumstances applicable in the present case, the Court proceeds by way of shifting the provisional median line. In this context, the Court draws a distinction between that part of the relevant area which lies between the Nicaraguan mainland and the western coasts of Alburquerque Cays, San Andrés, Providencia and Santa Catalina, where the relationship is one of opposite coasts, and the part which lies to the east of those islands, where the relationship is more complex. In the first western part of the relevant area, the relevant circumstances call for the provisional median line to be shifted eastwards. For this purpose, the base points located on the Nicaraguan and Colombian islands, respectively, should have different weights, namely, a weighting of one to each of the Colombian base points and a weighting of three to each of the Nicaraguan base points. The weighted line, constructed on this basis, has a curved shape with a large number of turning points (see sketch-map No. 9: Construction of the weighted line). The Court therefore reduces the number of turning points and connects them by geodetic lines (see sketch-map No. 10: The simplified weighted line).

The Court considers, however, that to extend that line further north and south would not lead to an equitable result because it would still leave 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; and it would cut off Nicaragua from the areas east of the principal Colombian islands into which the Nicaraguan coast projects.

The Court considers that an equitable result is achieved by continuing the boundary line along the parallels of latitude to 200 nautical miles from the Nicaraguan coast. In the north, this line follows the parallel passing through the northernmost point of the 12-nautical-mile territorial sea of Roncador. In the south, the maritime boundary will first follow the 12-nautical-mile territorial sea of Alburquerque Cays and East-Southeast Cays and then, from the most eastward point of the latter's territorial sea, the parallel of latitude. As Quitasueño and Serrana would consequently be left on the Nicaraguan side of the boundary line, the line of the maritime boundary around each of these features follows the 12-nautical-mile territorial sea around them (see sketch-map No. 11: Course of the maritime boundary).

Thirdly, the Court notes that the boundary line has the effect of dividing the relevant area between the Parties in a ratio of approximately 1:3.44 in Nicaragua's favour, while the ratio of relevant coasts is approximately 1:8.2. The question therefore is whether, in the circumstances of the present case, this disproportion is so great as to render the result inequitable. The Court concludes that, taking account of all the circumstances of the present case, the result achieved by the maritime delimitation does not entail such a disproportionality as to create an inequitable result.

5. Nicaragua's request for a declaration

In addition to its claims regarding a maritime boundary, in its final submissions, Nicaragua requested that the Court adjudge and declare that "Colombia is not acting in accordance with her obligations under international law by stopping and otherwise hindering Nicaragua from accessing and disposing of her natural resources to the east of the 82nd meridian".

The Court observes that Nicaragua's request for this declaration is made in the context of proceedings regarding a maritime boundary which had not been settled prior to the decision of the Court. The consequence of the Court's Judgment is that the maritime boundary between Nicaragua and Colombia throughout the relevant area has now been delimited as between the Parties. In this regard, the Court observes that the Judgment attributes to Colombia part of the maritime spaces in respect of which Nicaragua seeks a declaration regarding access to natural resources. In this context, the Court considers that Nicaragua's claim is unfounded.

Composition of the Court

The Court was composed as follows: President Tomka; Vice-President Sepúlveda-Amor; Judges Owada, Abraham, Keith, Bennouna, Skotnikov, Caçado Trindade, Yusuf, Greenwood, Xue, Donoghue, Sebutinde; Judges ad hoc Mensah, Cot; Registrar Couvreur.

Judge OWADA appends a dissenting opinion to the Judgment of the Court; Judge ABRAHAM appends a separate opinion to the Judgment of the Court; Judges KEITH and XUE append declarations to the Judgment of the Court; Judge DONOGHUE appends a separate opinion to the Judgment of the Court; Judges ad hoc MENSAH and COT append declarations to the Judgment of the Court.

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A summary of the Judgment appears in the document "Summary No. 2012/5". This press release, the summary, and the full text of the Judgment can be found on the Court's website (www.icj-cij.org), under the heading "Cases".

Note: The Court's press releases do not constitute official documents.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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- Sketch-map No. 7: The relevant maritime area as identified by the Court;
- Sketch-map No. 8: Construction of the provisional median line;
- Sketch-map No. 9: Construction of the weighted line;
- Sketch-map No. 10: The simplified weighted line;
- Sketch-map No. 11: Course of the maritime boundary.

Nautical Miles 250 125 0 50 100 Nautical Miles

15°

10°

75°

75°

80°

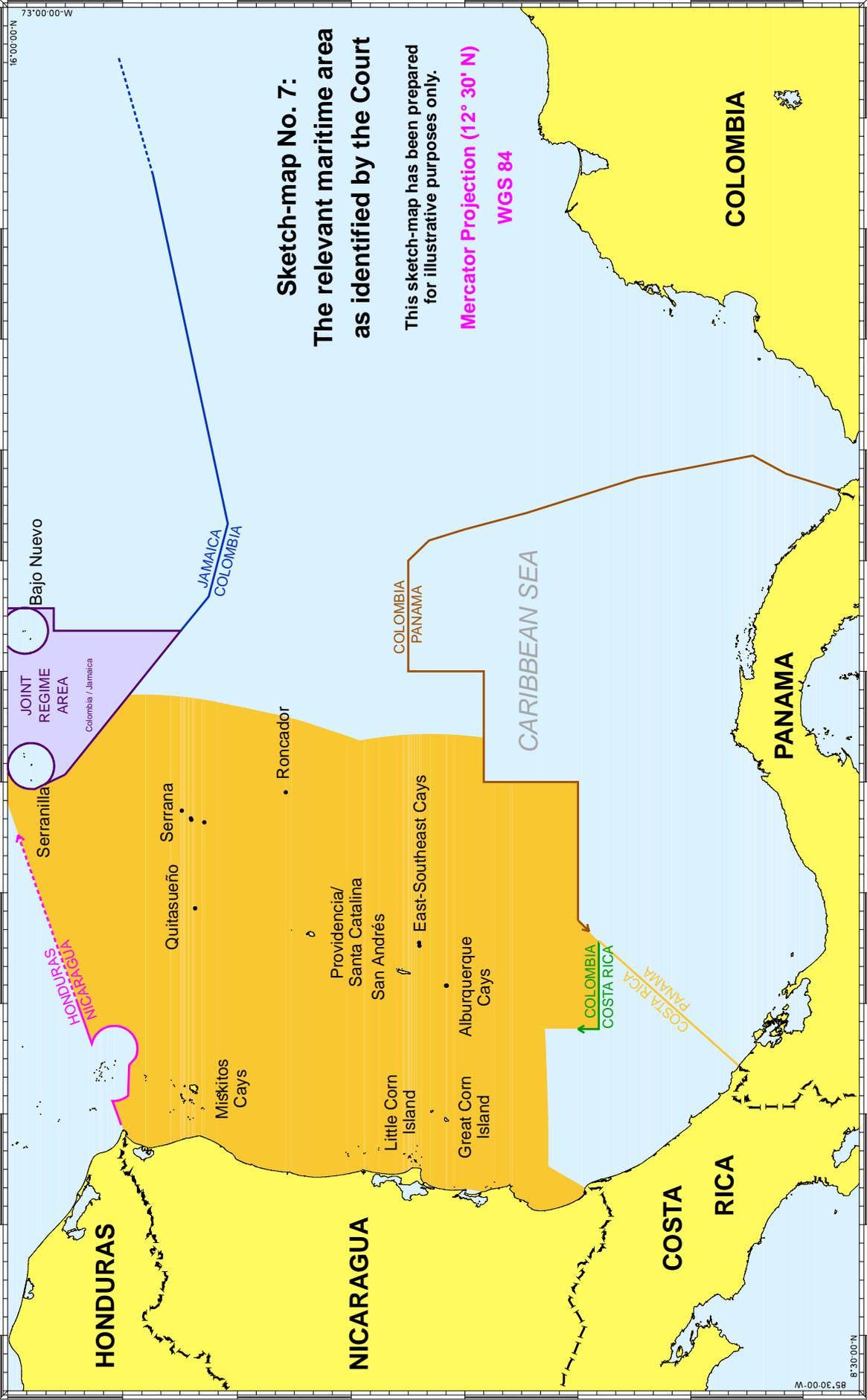
80°

85°

85°

15°

10°



**Sketch-map No. 7:
The relevant maritime area
as identified by the Court**

This sketch-map has been prepared
for illustrative purposes only.

Mercator Projection (12° 30' N)
WGS 84

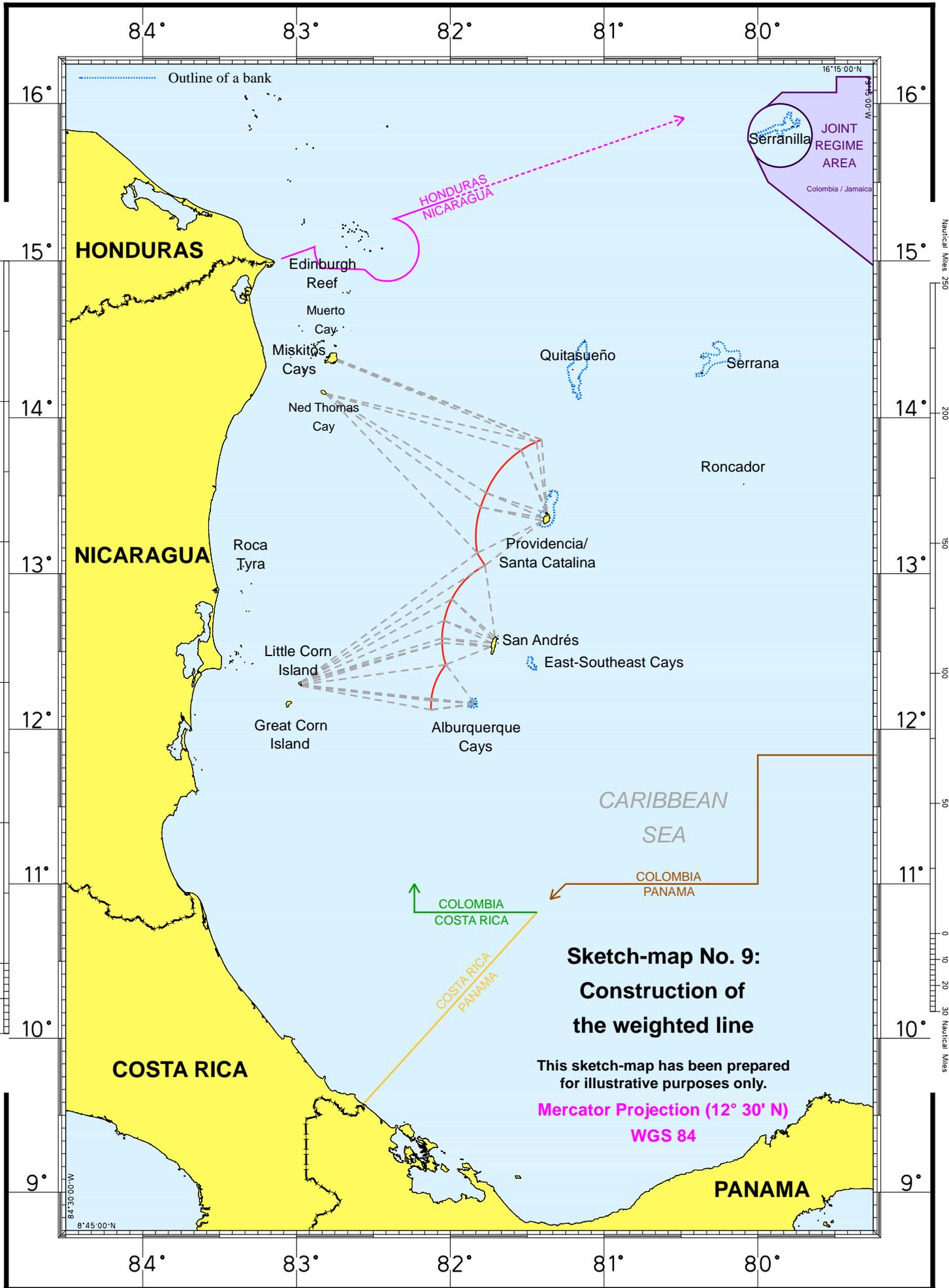
16°00'00"N

73°00'00"W

M.00.0E.98
8°30'00"N

500 KM

0 100 KM



..... Outline of a bank

HONDURAS

NICARAGUA

COSTA RICA

PANAMA

HONDURAS
NICARAGUA

Serranilla

JOINT
REGIME
AREA

Colombia / Jamaica

Edinburgh
Reef

Muerto
Cay

Miskitos
Cays

Ned Thomas
Cay

Roca
Tyra

Little Corn
Island

Great Corn
Island

Albuquerque
Cays

San Andrés

East-Southeast
Cays

Providencia/
Santa Catalina

Quitasueño

Serrana

Roncador

CARIBBEAN
SEA

COLOMBIA
PANAMA

COLOMBIA
COSTA RICA

COSTA RICA
PANAMA

**Sketch-map No. 9:
Construction of
the weighted line**

This sketch-map has been prepared
for illustrative purposes only.

Mercator Projection (12° 30' N)
WGS 84

Nautical Miles 250
200
150
100
50
0
10
20
30
Nautical Miles

500 KM
400
300
200
100
0
25
100
500 KM

84° 83° 82° 81° 80°

16° 15° 14° 13° 12° 11° 10° 9°

84° 83° 82° 81° 80°

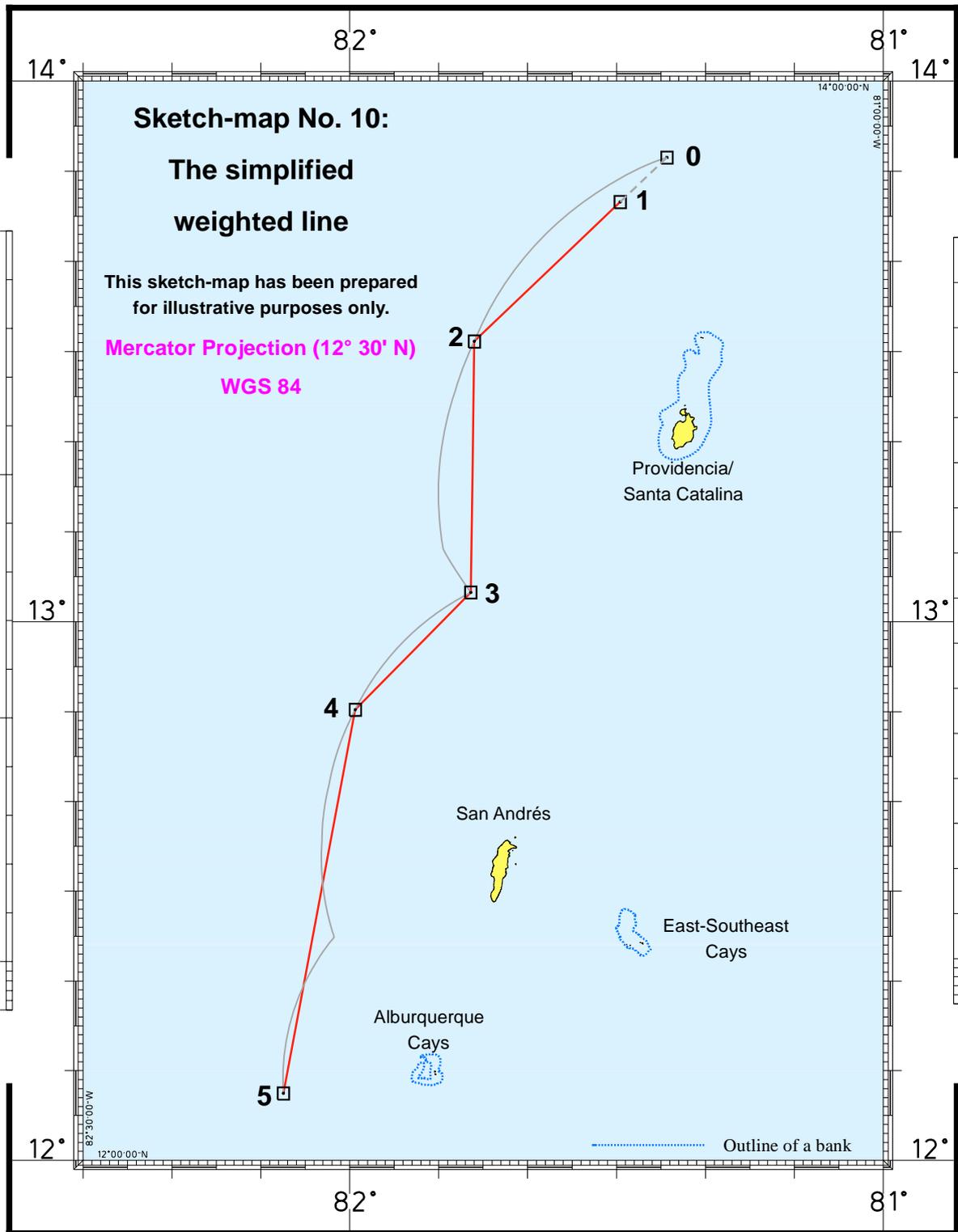
9° 10° 11° 12° 13° 14° 15° 16°

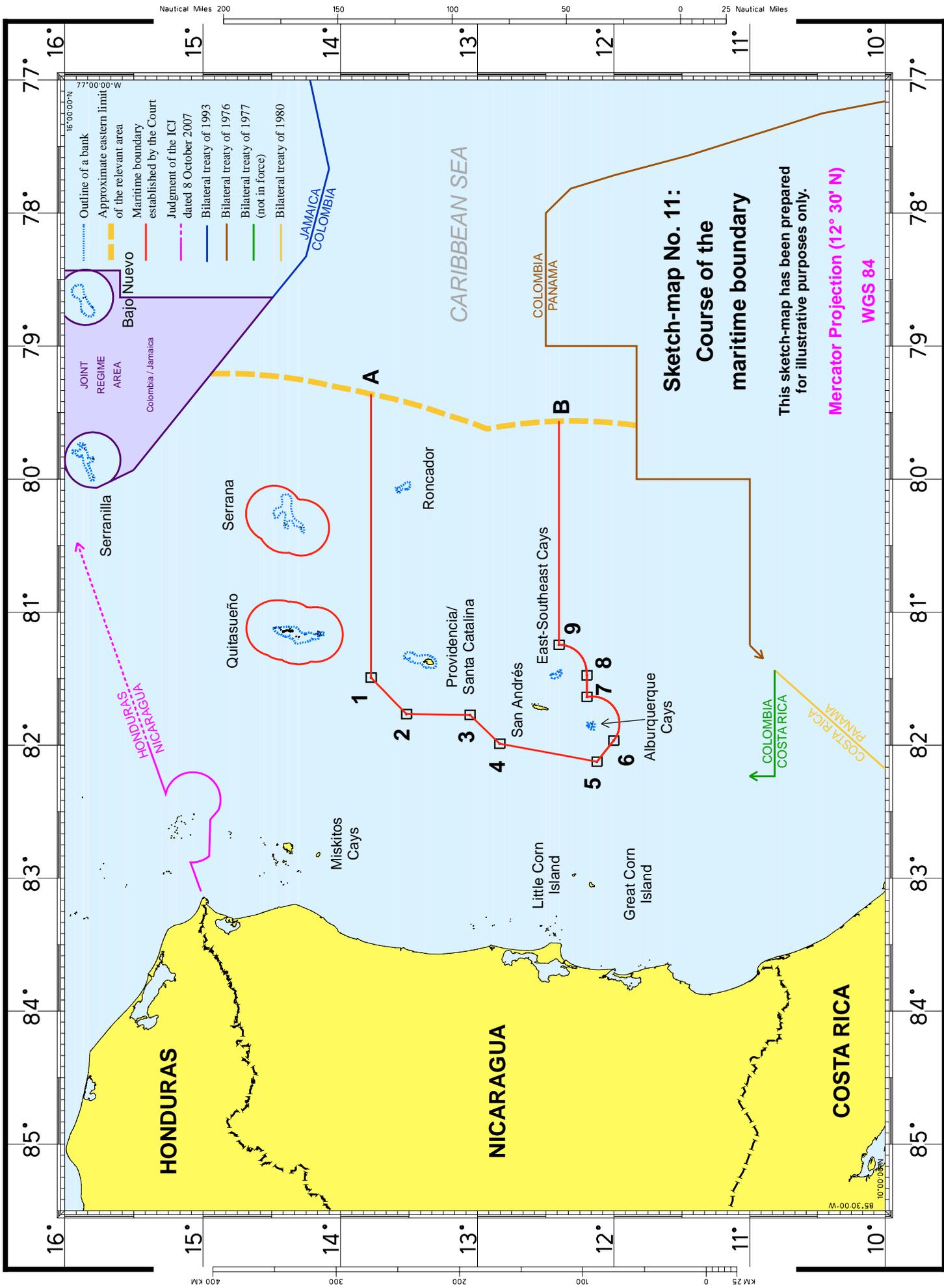
84° 30' 00" N
84° 45' 00" N

16° 15' 00" N

M-00-50-54

M-00-50-54





NICARAGUA
HONDURAS

JOINT REGIME AREA
Colombia / Jamaica

Bajo Nuevo

**Sketch-map No. 11:
Course of the maritime boundary**

This sketch-map has been prepared for illustrative purposes only.

Mercator Projection (12° 30' N)
WGS 84

COLOMBIA
COSTA RICA

COLOMBIA
PANAMA

JAMAICA
COLOMBIA

COLOMBIA
PANAMA

COLOMBIA
PANAMA

M-00.00.58
10:00:00W