SPEECH BY H.E. JUDGE PETER TOMKA, PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE, TO THE SIXTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS

30 October 2014

Mr. President,
Excellencies,
Ladies and Gentlemen,

May I begin by taking this opportunity to congratulate His Excellency Mr. Sam Kahamba Kutesa on his election as President of the Sixty-ninth Session of the United Nations General Assembly. I wish him every success in this distinguished office.

I would like to thank the General Assembly for continuing the practice of allowing the President of the International Court of Justice to present a review of the Court's judicial activities for the previous year. This practice reflects the interest in and support for the Court shown by your eminent Assembly. During the last 12 months, the Court has continued to fulfil its role as the forum of choice of States for the peaceful settlement of every kind of international dispute over which it has jurisdiction. As illustrated in the report that I have the honour to present to you today, the Court has made every effort to meet the expectations of the parties appearing before it in a timely manner, particularly when it has been presented with requests for the indication of provisional measures.

During the reporting period, the total number of contentious cases pending before the Court was 13 (and it now stands at 14). In four cases, the Court held hearings. First, the Court held hearings on three requests for provisional measures: in October 2013 in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* (joined with the case concerning the *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*); in November 2013 in the case concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica); and* in January 2014 in *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste* v. *Australia)*. Then, in March 2014, it held hearings on the merits in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*.

The Court is now deliberating that case, and is currently in the process of drafting its Judgment, which it plans to deliver ahead of the triennial renewal of its composition next February.

During the reporting period, the Court also delivered three Judgments: the first in the case concerning the *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the* Temple of Preah Vihear (Cambodia *v.* Thailand) *(Cambodia* v. *Thailand)*, the second in the case concerning the *Maritime Dispute (Peru* v. *Chile)* and the third in the case concerning *Whaling in the Antarctic (Australia* v. *Japan)*. In addition, it made three Orders on requests for the indication of provisional measures.

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As is traditional, I shall now report briefly on the main decisions of the Court during the past year. I shall deal first with each of the three aforementioned Judgments, before turning to the Orders made in the cases concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* and the *Construction of a Road in Costa Rica along the San Juan*

River (Nicaragua v. *Costa Rica)*, and in that concerning *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste* v. *Australia)*.

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The first Judgment delivered by the Court during the period under review was given on 11 November 2013 in the case concerning the *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the* Temple of Preah Vihear (Cambodia *v.* Thailand) *(Cambodia* v. *Thailand)*. The proceedings were instituted on 28 April 2011 by the Kingdom of Cambodia, which requested the Court to interpret the Judgment delivered by the Court on 15 June 1962 in the case concerning the *Temple of Preah Vihear (Cambodia* v. *Thailand)*. The Court was seised following incidents between Cambodia and Thailand in the border area close to the Temple. In its Application, Cambodia contended that, even though "Thailand d[id] not dispute Cambodia's sovereignty over the Temple", it nevertheless called into question the 1962 Judgment in its entirety by "refus[ing] Cambodia's sovereignty over the area beyond the Temple as far as its 'vicinity'". The Applicant therefore asked the Court to interpret its 1962 Judgment, in which it had stated, in the second operative paragraph, that Thailand was under an obligation to withdraw any personnel stationed by it "at the Temple, or in its vicinity on Cambodian territory".

In its Judgment of 11 November 2013, the Court first considered whether it had jurisdiction and whether Cambodia's Request for interpretation was admissible. That Request was made pursuant to Article 60 of the Statute of the Court, which provides that "[i]n the event of dispute as to the meaning or scope of [a] judgment, the Court shall construe it upon the request of any party". After examining whether the conditions set out in Article 60 were satisfied, the Court concluded that there was a dispute between the Parties as to the meaning and scope of the 1962 Judgment. It noted in this respect that the principal dispute concerned the territorial scope of the second operative paragraph, namely the territorial extent of the "vicinity" of the Temple of Preah Vihear.

The Court considered that, from the reasoning in the 1962 Judgment, seen in the light of the pleadings in the original proceedings, the second operative paragraph of the 1962 Judgment required Thailand to withdraw from the whole of the territory of the promontory of Preah Vihear any Thai personnel stationed there. Accordingly, the Court concluded that the terms "vicinity on Cambodian territory" had to be construed as extending at least to the area where, at the time of the original proceedings, a Thai police detachment was found to have been stationed. The Court observed that that conclusion was confirmed by a number of other factors, and in particular the fact that the area around the Temple is located on an easily identifiable geographical feature — a promontory. To the east, south and south-west, the promontory drops in a steep escarpment to the Cambodian plain. The Parties were in agreement in 1962 that this escarpment, and the land at its foot, were under Cambodian sovereignty in any event. To the west and north-west, the land drops in a slope, less steep than the escarpment but nonetheless pronounced, into the valley which separates Preah Vihear from the neighbouring hill of Phnom Trap, a valley which itself drops away in the south to the Cambodian plain.

The Court found that Phnom Trap lay outside the disputed area and that the 1962 Judgment did not address the question whether it was located in Thai or Cambodian territory. Accordingly, the Court considered that the promontory of Preah Vihear ended at the foot of the hill of Phnom Trap, that is to say: where the ground begins to rise from the valley. In the north, it concluded that the reasoning in the 1962 Judgment showed that the Court considered Cambodia's territory to extend as far as the line on the map annexed to its pleadings in the original proceedings (the "Annex I map"), which had been accepted by the Parties. It therefore ruled that, in the north, the limit of the promontory is the Annex I map line, from a point to the north-east of the Temple where

that line abuts the escarpment to a point in the north-west where the ground begins to rise from the valley, at the foot of the hill of Phnom Trap.

The Court then examined the relationship between the second operative paragraph and the rest of the operative part. It considered that the territorial scope of the three operative paragraphs was the same: the finding in the first paragraph that "the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia" must be taken as referring, like the second and third paragraphs, to the whole of the territory of the promontory of Preah Vihear.

Finally, the Court observed that the Temple of Preah Vihear is a site of religious and cultural significance for the peoples of the region and is now listed by UNESCO as a world heritage site. In this respect, it recalled that under Article 6 of the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage, to which both States are parties, Cambodia and Thailand must co-operate between themselves and with the international community in the protection of the site as a world heritage. In addition, each State is under an obligation not to "take any deliberate measures which might damage directly or indirectly" such heritage. In the context of these obligations, the Court emphasized the importance of ensuring access to the Temple from the Cambodian plain.

In the operative part of its Judgment, the Court found that Cambodia had sovereignty over the whole territory of the promontory of Preah Vihear, as previously defined, and that, in consequence, Thailand was under an obligation to withdraw from that territory the Thai military or police forces, or other guards or keepers, that were stationed there.

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Also during the review period, on 27 January 2014 the Court handed down a second judgment, on delimitation of the boundary between the maritime zones of Peru and Chile in the Pacific Ocean (*Maritime Dispute (Peru* v. *Chile)*).

Peru argued that no agreed maritime boundary existed between itself and Chile, and asked the Court to draw a boundary line using the equidistance method in order to achieve an equitable result. Chile, on the other hand, contended that it was not for the Court to draw a boundary line, since an international maritime boundary agreed between the parties already existed: it followed the parallel of latitude passing through the starting-point of the Peru-Chile land boundary and extended to a minimum of 200 nautical miles [see sketch-map No. 2: maritime boundaries claimed respectively by Peru and Chile].

In order to resolve the dispute, the Court first sought to ascertain whether, as Chile claimed, an agreed maritime boundary already existed. For that purpose, it examined various instruments submitted to it by the Parties, and in particular the 1947 Proclamations whereby Peru and Chile had each unilaterally proclaimed certain maritime rights extending 200 nautical miles from their respective coasts, as well as the 1952 Santiago Declaration, in which Chile, Ecuador and Peru "proclaim[ed] as a norm of their international maritime policy that they each possess[ed] exclusive sovereignty and jurisdiction of the sea along the coasts of their respective countries to a minimum distance of 200 nautical miles from these coasts". The Court found, however, that none of these instruments established a maritime boundary between Peru and Chile.

The Court then proceeded to examine a series of subsequent agreements and arrangements between Peru, Chile and Ecuador. In particular, it analysed a document dating from 1954, the Special Maritime Frontier Zone Agreement, which established a zone of tolerance, starting at a distance of 12 nautical miles from the coast, "of 10 nautical miles on either side of the parallel

which constitutes the maritime boundary". The Court found that the terms of that instrument acknowledged, in a binding international agreement, that a maritime boundary already existed. The Court noted, however, that the text did not indicate when and by what means that boundary had been agreed upon. The Court therefore concluded that the Parties' express acknowledgement of the existence of a maritime boundary could only reflect a tacit agreement which they had reached earlier, and that this had been "cemented" by the 1954 Special Maritime Frontier Zone Agreement. The Court observed, however, that that Agreement gave no indication of the nature of the maritime boundary. Nor did it indicate its extent, although its terms made it clear that the maritime boundary extended beyond 12 nautical miles from the coast.

In light of that finding, the Court then addressed the question of the nature of the agreed maritime boundary. Pointing out that the tacit agreement between the Parties must be understood in the context of the 1947 Proclamations and the 1952 Santiago Declaration, which expressed claims to the sea-bed and to the waters above the sea-bed and their resources, with no distinction having been drawn by the Parties between these spaces, the Court concluded that the maritime boundary was an all-purpose one.

The Court then sought to determine the extent of the agreed maritime boundary. It began by examining the practice of the Parties in the early and mid-1950s, starting with fishing potential and activity. The Court noted that the information referred to by the Parties showed that the species which were being taken in the early 1950s were generally to be found within a range of 60 nautical miles from the coast. While recalling that, given the maritime boundary's all-purpose nature, evidence concerning fisheries activity could not in itself be determinative of its extent, the Court believed that those activities appeared to indicate that, at the time when the Parties acknowledged the existence of an agreed maritime boundary between them, they were unlikely to have considered that it extended all the way to the 200-nautical-mile limit.

The Court then moved on to the broader context and examined the development of the law of the sea at the start of the 1950s. In particular, it observed that claims to a maritime zone of at least 200 nautical miles, such as those made by the Parties in the 1952 Santiago Declaration, did not correspond to the international law of the period.

On the basis of the Parties' fishing activities at that time (which were conducted up to a distance of some 60 nautical miles from the main ports in the area), the relevant practice of other States and the work of the International Law Commission on the Law of the Sea, the Court considered that the evidence at its disposal did not allow it to conclude that the agreed maritime boundary along the parallel extended beyond 80 nautical miles from its starting-point.

In light of that tentative conclusion, the Court examined further elements of practice, for the most part subsequent to 1954, but concluded that they did not lead it to change its position.

The Court then turned to the question of the starting-point of the agreed maritime boundary. After paying particular attention to the documents having led to the conclusion of arrangements whereby, in 1968-1969, the parties decided to construct light houses "to materialise the parallel of the maritime frontier originating at" the first boundary marker along the land frontier, the Court concluded that the starting-point of the maritime boundary between the Parties was located at the intersection of the low-waterline with the parallel of latitude passing through Boundary Marker No. 1.

The Court next proceeded to its determination of the course of the maritime boundary from the endpoint of the agreed line. For that purpose, it applied its usual method, as explained in detail in its 2009 Judgment in the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*. It is a process involving three stages.

The Court begins by selecting base points and constructing a provisional equidistance line between the Parties' relevant coasts, namely those whose seaward projections overlap. Applying this method to the case before it, the Court selected base points and drew a provisional equidistance line from the endpoint of the existing maritime boundary. This resulted in an equidistance line running almost in a straight line, reflecting the smooth character of the two coasts. It ran in a general south-west direction, until it reached the 200-nautical-mile limit measured from the Chilean baselines; seaward of that point the 200-nautical-mile projections of the Parties' coasts no longer overlapped, and the final segment of the maritime boundary followed the 200-nautical-mile limit of Chile's maritime entitlement, running in a generally southward direction, as far as the point where the 200-nautical-mile limits of the Parties' maritime entitlements intersected.

The Court's second step is to ascertain whether there are any relevant circumstances calling for an adjustment of the provisional equidistance line, with a view to achieving an equitable result. In the present case, the Court concluded that there was no such circumstance.

The Court's third step is to determine whether the provisional equidistance line produces a result which is significantly disproportionate in terms of the maritime zones attributed to each Party in the relevant area (i.e., that part of the maritime area in which the Parties' entitlements overlap) and the lengths of their relevant coasts. The Court concluded that in this case no significant disproportion was evident, such as would call into question the equitable nature of the provisional equidistance line.

The Court accordingly concluded that the maritime boundary between the Parties starts at the intersection of the parallel of latitude passing through Boundary Marker No. 1 with the low-waterline, and extends for 80 nautical miles along that parallel of latitude to Point A. From this point the maritime boundary runs along the equidistance line to Point B, and then along the 200-nautical-mile limit measure from the Chilean baselines to Point C. [See sketch-map No. 4: course of the maritime boundary.]

Before concluding my summary of this case, I would draw your attention to Peru's second submission, in which it requested the Court to adjudge and declare that, beyond the point where the common maritime boundary ended, it was entitled to exercise sovereign rights over a maritime area lying out to a distance of 200 nautical miles from its baselines (this claim was in relation to the area in a darker shade of blue in sketch-map No. 2). The Court held, however, that, since it had already concluded that the agreed boundary ended at 80 nautical miles from the coast, and that it had further decided that, beyond that point it would delimit the Parties' maritime entitlements by drawing an equidistance line, this second submission by Peru had become moot. The Court therefore did not rule on it.

In light of the particular circumstances of the case, the Court determined the course of the maritime boundary between the Parties without specifying its precise geographical co-ordinates. It recalled that the Parties had not requested it to do so in their final submissions. The Court accordingly invited Peru and Chile to determine those co-ordinates in accordance with its Judgment, in a spirit of good neighbourliness; and the two States indeed proceeded to do so, just a few months after the Court had handed down its decision. It is thus worth emphasizing that, within two months from delivery of the Judgment, the two Parties and their Governments reached a joint agreement on the precise geographical co-ordinates of their maritime boundary on the basis of the description set out in the Court's Judgment.

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On 31 March 2014 the Court handed down a third judgment, in the case concerning *Whaling in the Antarctic* between Australia and Japan, with New Zealand intervening under Article 63, paragraph 2, of the Statute.

The proceedings had been instituted on 31 May 2010 by Australia, who accused Japan of the

> "continued pursuit of a large-scale program of whaling under the Second Phase of its Japanese Whale Research Program under special permit in the Antarctic ('JARPA II'), 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".

The Court began by addressing the issue of its jurisdiction, which Japan contested, on the ground that the dispute fell within the scope of a reservation in Australia's declaration of acceptance of the Court's compulsory jurisdiction. In the Court's view, however, that reservation applied only where there was a dispute between the parties over maritime delimitation, which was not the case here. The Court accordingly concluded that Japan's objection to jurisdiction could not be upheld.

The Court then turned to the core of the case: the interpretation and application of Article VIII of the International Convention for the Regulation of Whaling, of which the relevant part of paragraph 1 reads as follows:

> "Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit."

In regard to the interpretation of that provision, the Court began by observing that, although Article VIII gave discretion to a State party to the Convention to reject a request for a special permit or to specify the conditions for the grant of such a permit, the question whether the killing, taking and treatment of whales pursuant to a requested special permit was for purposes of scientific research could not depend simply on that State's perception. The Court then discussed the meaning of the phrase "for purposes of scientific research" in that Article, concluding that the two elements of that phrase were cumulative. As a result, even if a whaling programme involved scientific research, the killing, taking and treating of whales pursuant to such a programme did not fall within Article VIII unless those activities were "for purposes of" scientific research.

Regarding the application of paragraph 1 of Article VIII, the Court found that JARPA II could generally be characterized as a "scientific research" programme. The Court then sought to ascertain whether the use of lethal methods was for purposes of scientific research, and to that end it considered whether the elements of the programme's design and implementation were reasonable in relation to its stated scientific objectives. In this connection, the Court *inter alia* examined the following elements: decisions regarding the use of lethal methods; the scale of the programme's use of lethal sampling; the methodology used to select sample sizes; a comparison of the target sample sizes and the actual take; the time-frame associated with a programme; the programme's scientific output; and the degree to which the programme co-ordinated its activities with related research projects.

From its examination, the Court concluded that, while JARPA II, taken as a whole, involved activities that could broadly be characterized as scientific research, "the evidence [did] not establish that the programme's design and implementation [were] reasonable in relation to achieving its stated objectives". The Court concluded that the special permits granted by Japan for the killing,

taking and treating of whales in connection with JARPA II were not "for purposes of scientific research" pursuant to Article VIII, paragraph 1, of the Convention.

The Court next turned to the implications of that conclusion, in light of Australia's contention that Japan had breached several provisions of the Schedule appended to the Convention.

In the view of the Court, despite differences in wording, all whaling activities (with the exception of aboriginal subsistence whaling) which did not fall within the terms of Article VIII of the Convention were covered by three specific provisions of the Schedule. The Court accordingly concluded that Japan had breached: (i) the moratorium on commercial whaling, for each of the years in which it had set catch limits above zero for minke whales, fin whales and humpback whales under JARPA II; (ii) the factory ship moratorium, for each of the seasons during which fin whales were taken, killed and treated under JARPA II; and (iii) the ban on commercial whaling in the Southern Ocean Sanctuary, for each of the JARPA II seasons during which fin whales had been taken. However, the Court held that, contrary to what Australia had claimed, Japan had met the requirements of a further provision of the Schedule, whereby every Contracting Government must make proposed permits available to the International Whaling Commission, in sufficient time to permit review and comment by the Scientific Committee.

In light of its findings, the Court then addressed the issue of remedies. The Court noted that JARPA II was an ongoing programme and that measures going beyond declaratory relief were warranted. It therefore ordered Japan to revoke any extant authorization, permit or licence to kill, take or treat whales in relation to JARPA II, and refrain from granting any further permits under Article VIII, paragraph 1, of the Convention in pursuance of that programme. On the other hand, the Court saw no need to order the additional remedy requested by Australia, which would require Japan to refrain from authorizing or implementing any special-permit whaling which was not for purposes of scientific research within the meaning of Article VIII. In the Court's view, that obligation already applied to all State parties.

At this point, I should also like to take the opportunity to draw the Assembly's attention to the fact that the Court has made increasing use of the deliberation procedure provided for in Article 1 of the Resolution concerning the Internal Judicial Practice of the Court, in particular its first paragraph, which provides that, "[a]fter the termination of the written proceedings before the beginning of the oral proceedings, a deliberation is held at which the judges exchange views concerning the case, and bring to the notice of the Court any point in regard to which they consider it may be necessary to call for explanations during the course of the oral proceedings". This deliberation effectively enables the Court to identify any issue on which it would like further explanation or clarification during the hearings on the substance of the case. Thus, once it has completed its deliberation, the Court communicates its queries to the parties, with a view to directing their oral presentations towards providing the additional information needed by the Court at the hearings. It is a procedure that is particularly useful in cases with a high scientific content, or where the factual background is a particularly complex one. The Court did indeed hold such a deliberation in the *Whaling* case, as well as in the case between Ecuador and Colombia concerning *Aerial Herbicide Spraying*, which was settled by the Parties before the opening of the hearings on the merits.

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As I have already said, during the reporting period the Court also handed down three Orders, which I will briefly present in chronological order.

The first of them was issued on 22 November 2013 in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)* [which had been joined with the case concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*]. That decision followed a request for the indication of new provisional measures submitted on 24 September 2013 by Costa Rica, protesting against Nicaragua's construction of two new canals *(caños)* in the "disputed territory", as defined by the Court in an Order for the indication of provisional measures of 8 March 2011: namely "the northern part of Isla Portillos, that is to say, the area of wetland of some 3 sq km between the right bank of the [2011] disputed *caño*, the right bank of the San Juan River up to its mouth at the Caribbean Sea and the Harbour Head lagoon".

In its Order of 22 November 2013, the Court held that there was sufficient evidence before it for it to conclude that, given the length, width and location of a trench dug close to the larger of the two new canals — the eastern *caño* — there was a real risk of its reaching the Caribbean Sea as a result of either natural or human action, or of a combination of the two. This could cause the San Juan River to change its course, with serious consequences for the rights claimed by Costa Rica in the case. The Court thus decided not only to reiterate the provisional measures indicated by it in its Order of 8 March 2011, but also to order new measures. It stated that Nicaragua must refrain from any dredging and other activities in the disputed territory, and must, in particular, refrain from work of any kind on the two new *caños* and fill in the trench on the beach north of the eastern *caños*.

A few weeks later, on 13 December 2013, the Court handed down an Order in the case concerning the *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*, which had been joined in 2013 with the preceding case. In its request for the indication of provisional measures, Nicaragua stated that it was seeking to protect certain rights which it claimed were threatened by road works being carried out by Costa Rica, in particular the resultant transboundary movement of sediment and other debris.

The Court, however, found that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power to indicate provisional measures. In particular, the Court considered that Nicaragua had not established that the construction works had led to a substantial increase in the sediment load in the river, and had not presented evidence as to any long-term effect on the river by aggradations of the river channel allegedly caused by additional sediment from the construction of the road. Nor had the Applicant explained how certain species in the river's wetlands could be endangered by the road works, or identified with precision which species were likely to be affected.

Lastly, on 3 March 2014 the Court handed down a third Order for the indication of provisional measures, in the case concerning *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste* v. *Australia)*. That decision followed a request submitted on 17 December 2013 by Timor-Leste on account of the seizure, on 3 December 2013, and subsequent detention, by "Agents of Australia of documents, data and other property which belongs to Timor-Leste and/or which Timor-Leste has the right to protect under international law". Timor-Leste claimed that the items seized included, *inter alia*, documents, data and correspondence between Timor-Leste and its legal advisers relating to the pending *Arbitration under the Timor Sea Treaty of 20 May 2012* between Timor-Leste and Australia. In its decision of 3 March 2014, the Court took the view that, if Australia failed to immediately safeguard the confidentiality of the material seized by its Agents on 3 December 2013, the right of Timor-Leste to conduct arbitral proceedings and negotiations without interference could suffer irreparable harm. The Court noted, however, that the Attorney-General of Australia had given a written undertaking on 21 January 2014 which included an assurance that the seized material would not be made available to any part of the Australian Government for any purpose in connection with the exploitation of resources in the Timor Sea or related negotiations, or in connection with the conduct of the current case before the Court of the proceedings of the Timor Sea Treaty Tribunal. Nonetheless, after

taking cognizance of the fact that, in certain circumstances involving national security, the Government of Australia envisaged the possibility of making use of the seized material, the Court took the view that, while the written undertaking made a significant contribution towards mitigating the imminent risk of irreparable prejudice to Timor-Leste's rights caused by the seizure of the above-mentioned material, it did not remove this risk entirely. The Court accordingly concluded that the conditions required by its Statute for it to indicate provisional measures had been met.

Furthermore, on 3 September last the Court decided to accept a joint request from the Parties for the oral proceedings between Timor-Leste and Australia to be postponed. Those proceedings had been due to open on Wednesday 17 September 2014 and to close on Wednesday 24 September 2014.

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Having recalled the principal decisions handed down by the International Court of Justice in the course of the past year, I now come to the new cases submitted to it.

In addition to the proceedings between Timor-Leste and Australia commenced on 17 December 2013, which I have just discussed, the Court had, on 16 September 2013, received an Application from Nicaragua instituting proceedings against Colombia, in which it requested the Court: (i) to determine "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"; and (ii) to state the "principles and rules of international law that determine 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". On 27 November 2013 the Court was seised of further proceedings by Nicaragua against Colombia in a dispute concerning — and I quote — "violations of Nicaragua's sovereign rights of maritime zones declared by the Court's Judgment of 19 November 2012 [*Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*] and the threat of the use of force by Colombia in order to implement these violations" — end of quote.

Next, on 25 February 2014, the Court was seised of a dispute between Costa Rica and Nicaragua concerning maritime delimitation between the two countries in the Caribbean Sea and the Pacific Ocean. It is, moreover, noteworthy that this was the first time in the Court's history that it had been asked to carry out a maritime delimitation between two States on either side of their respective mainland territories, delimitation being requested in both the Caribbean Sea and the Pacific Ocean.

Then, on 24 April 2014, the Marshall Islands filed nine Applications with the Court's Registry, in which it accused nine States of failing to perform their obligations with respect to nuclear disarmament and cessation of the nuclear arms race at an early date.

The Applications filed against India, Pakistan and the United Kingdom were entered on the Court's General List, since those States have accepted the Court's compulsory jurisdiction under Article 36, paragraph 2, of the Statute. However, in the case of the six other Applications — against, in alphabetical order, China, the Democratic People's Republic of Korea, France, Israel, the Russian Federation and the United States of America — that was not possible. In respect of each of these Applications, the Republic of the Marshall Islands stated that it sought, in accordance with Article 38, paragraph 5, of the Rules of Court, to base the Court's jurisdiction on the consent

of the State concerned [under the doctrine of *forum prorogatum*]. Without that consent, none of the Applications could be entered on the Court's List.

Finally, on 28 August last the Federal Republic of Somalia instituted proceedings against the Republic of Kenya with regard to a "dispute concerning maritime delimitation in the Indian Ocean". Specifically, Somalia claims that the two States disagree on the course of their common maritime boundary and requests the Court "to determine, on the basis of international law, the complete course of the single maritime boundary dividing all the maritime areas appertaining to Somalia and to Kenya in the Indian Ocean, including in the continental shelf beyond 200 [nautical miles]". It should be noted that both States have filed a declaration accepting the Court's compulsory jurisdiction under Article 36, paragraph 2, of its Statute.

This thus brings to seven the number of new cases submitted during the period under review, and to 14 the total number of cases currently on the Court's docket.

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As I have just shown, the Court always strives to ensure that the disputes submitted to it are settled promptly, in order to reduce its judicial backlog, or even eliminate it entirely. Hearings have been held and deliberations are underway in every case on the Court's General List in which the written procedure has closed. The Court is thus committed to fulfilling its high judicial mission impartially and effectively, relying on the co-operation of the parties to the disputes brought before it so as to resolve them in a timely manner. By way of example, I need only remind you that the Court had made all the necessary preparations for public hearings to be held this September in the case concerning *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste* v. *Australia)*. It was only after receiving a joint request from the Parties to postpone the hearings that it decided to adjourn the proceedings.

The Court has also continued its extrajudicial activities this past year, notably the organization of a conference to celebrate the Centenary of the Peace Palace on 23 September 2013. That conference, which centred on the theme of "The ICJ in the Service of Peace and Justice", gave the Court the opportunity to welcome prominent figures and to present speakers of the highest quality at the conference's round tables. It was a very full, but well-balanced programme, encouraging speakers and audience alike not only to focus on the past and present of international justice, but also to reflect on the future and the challenges that lie ahead, particularly for the Court. I am delighted to inform this eminent Assembly that, in July of this year, a collective work entitled *Enhancing the Rule of Law through the International Court of Justice* was published — an outcome of the conference held to mark the Centenary of the Peace Palace. This work, which includes contributions from Members of the Court and respected public law specialists who attended the conference, is published by Brill and was edited by Judge Giorgio Gaja and his Associate Legal Officer. Moreover, it also contains contributions from young academics who answered the call for papers issued by the Court in the context of the Conference, with a view to encouraging the participation of the younger generation.

More recently, Members of the Court and their support staff have had to relocate to new offices and premises following the discovery of asbestos in the judges' building of the Peace Palace. Since mid-September, Members of the Court have thus been working in a building belonging to a bank in The Hague, where the new temporary offices have been installed. The

Court is also continuing its efforts — in close collaboration with the Carnegie Foundation and the Host Country — to ensure that the appropriate steps are taken to uncover the full extent of the asbestos contamination in the judges' building and to resolve the situation. The Court is grateful for the support of the Netherlands and the United Nations during this difficult time.

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Mr. President,
Excellencies,
Ladies and Gentlemen,

By way of conclusion, I should like to recall that the Court must do its utmost to serve the noble purposes and goals of the United Nations with modest resources, bearing in mind that Member States award it less than 1 per cent of the Organization's regular budget. Nevertheless, I hope that I have shown that the recent contributions of the Court are not to be measured in terms of its financial resources, but against the great progress made by it in the advancement of international justice and the peaceful settlement of disputes between States.

I would like, however, to draw attention to the importance of the role of Member States in the composition of the Court. A great responsibility is placed on Member States, for it is they who are called upon to choose and elect the Members of the Court — who will be tasked with carrying out a high and noble judicial mission. Thus, to a large extent, the quality of the principal judicial organ of the United Nations is dependent on the contribution of Member States in this respect. In a similar vein, I would like to take this opportunity to remind your eminent Assembly that, despite various appeals, and the adoption of texts by the General Assembly, the number of States having made a declaration recognizing the jurisdiction of the Court as compulsory under Article 36, paragraph 2, of its Statute has remained at 70 during the period under review.

It is to be hoped that the statements by certain States expressing a desire to recognize the jurisdiction of the principal judicial organ of the United Nations — and the documents adopted to the same end — will give rise to wider recognition of the Court's jurisdiction within the international community, in the form of declarations under Article 36, paragraph 2. I believe that, as distinguished diplomats working specifically within the community of nations, you are in a privileged position to promote this ideal among the governments whom you represent in this Assembly. I therefore reiterate my invitation to you to seek to encourage recourse to the Court for the settlement of disputes, as well as increased recognition of its compulsory jurisdiction, as means of achieving peaceful resolutions to international conflicts and more harmonious inter-State relations. I should like to thank the delegations of Switzerland, the Netherlands, Uruguay, the United Kingdom, Japan and Botswana for having taken the initiative to prepare a manual on acceptance of the compulsory jurisdiction of the International Court of Justice, which has just been published in five languages. I take this opportunity to offer its authors my heartiest congratulations on the production of this extremely helpful work.

I would like to thank you for this opportunity to address you today. May I wish you every success for this Sixty-ninth Session of the Assembly.

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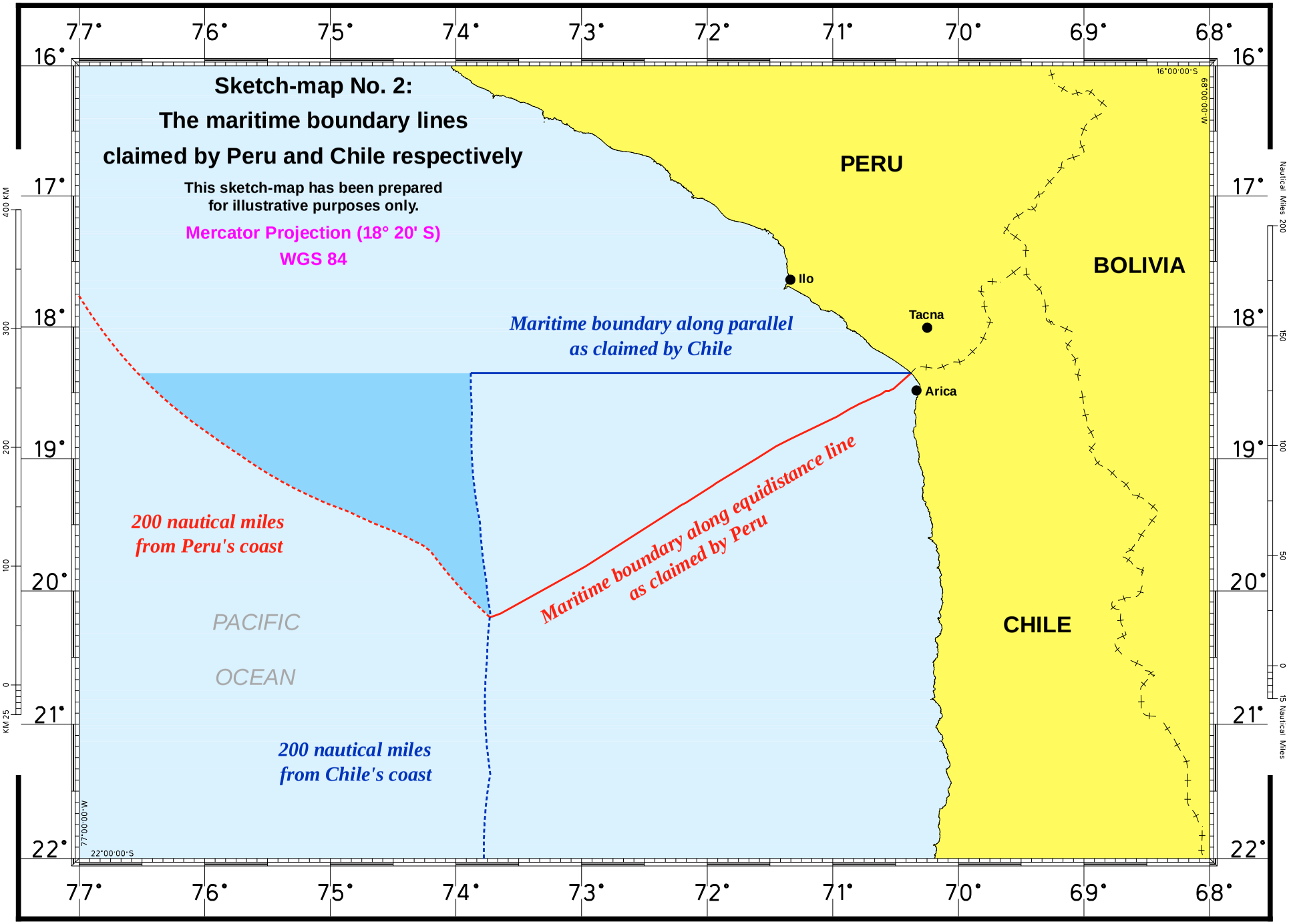
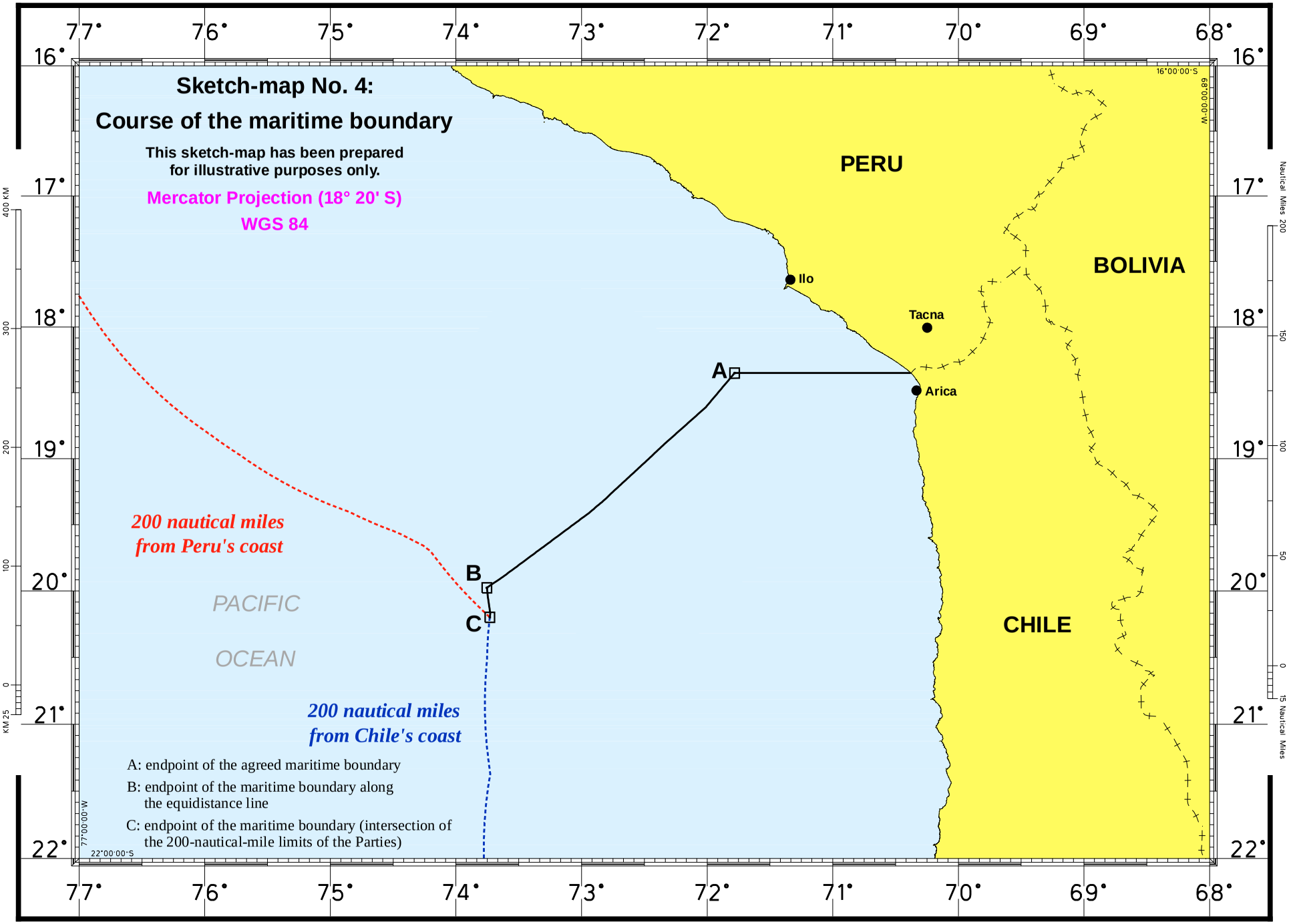

Sketch-map No. 2:
The maritime boundary lines
claimed by Peru and Chile respectively
This sketch-map has been prepared
for illustrative purposes only.
Mercator Projection (18° 20' S)
WGS 84
PERU
BOLIVIA
CHILE
Ilo
Tacna
Arica
Maritime boundary along parallel
as claimed by Chile
Maritime boundary along equidistance line
as claimed by Peru
200 nautical miles
from Peru's coast
200 nautical miles
from Chile's coast
PACIFIC
OCEAN
77°00'00"W
22°00'00"S
16°00'00"S
68°00'00"W
77°
76°
75°
74°
73°
72°
71°
70°
69°
68°
16°
17°
18°
19°
20°
21°
22°
400 KM
300
200
100
0
KM 25
Nautical Miles 200
150
100
50
0
15 Nautical Miles


Sketch-map No. 4:
Course of the maritime boundary
This sketch-map has been prepared for illustrative purposes only.
Mercator Projection (18° 20' S)
WGS 84
PERU
BOLIVIA
CHILE
Ilo
Tacna
Arica
A
B
C
200 nautical miles from Peru's coast
200 nautical miles from Chile's coast
PACIFIC
OCEAN
A: endpoint of the agreed maritime boundary
B: endpoint of the maritime boundary along the equidistance line
C: endpoint of the maritime boundary (intersection of the 200-nautical-mile limits of the Parties)
77°00'00"-W
22°00'00"-S
16°00'00"-S
68°00'00"-W
Nautical Miles 200
150
100
50
0
15 Nautical Miles
400 KM
300
200
100
0
KM 25