

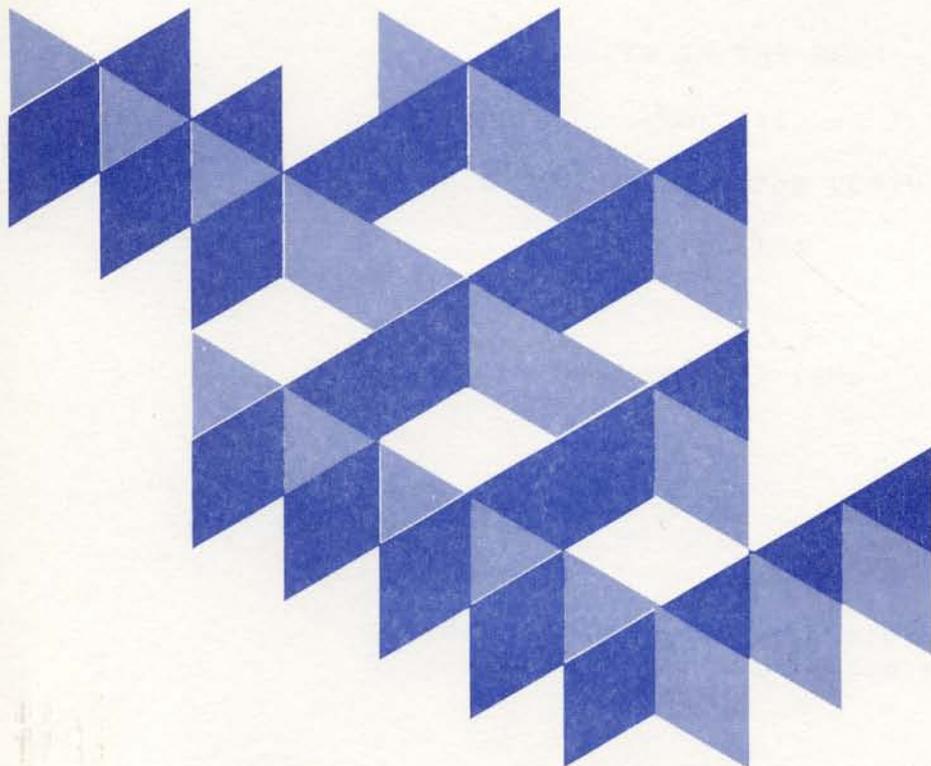
United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*



Limits in the Seas

No. 111

Straight Baseline Claim:
Costa Rica



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LIMITS IN THE SEAS

No. 111

STRAIGHT BASELINE CLAIM:

COSTA RICA

August 17, 1990

Office of Ocean Affairs
Bureau of Oceans and International
Environmental and Scientific Affairs

INTRODUCTION

This study analyzes the claim made by Costa Rica to establish straight baselines from which to measure its territorial sea. The basis for the analysis of this claim is Article 7 of the United Nations Law of the Sea (LOS) Convention which is reproduced at Annex 1. Paragraph 1 of this Article is the paramount paragraph that establishes the geographical conditions under which States may claim straight baselines:

"1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured."

Included in this study is a page-size map illustrating the straight baseline system. Larger scale maps and charts, however, were used for the analysis.

The Claim: On October 14, 1988, Costa Rica issued Decree No. 18581-RE creating straight baselines along its Pacific Ocean coastline. A translation of Article 1 of this Decree, which cites the particular basepoints follows (the entire Decree is found at Annex 2):

Article 1 - The breadth of the territorial sea of Costa Rica shall be measured, in the Pacific Ocean, from the following baselines:

A. The normal baseline method: From Punta San Francisco, also known as Madero (10° 17' 36" N., 85° 51' 19"W), to Punta Guiones (9° 54' 18" N., 85° 40' 15" W), and from Punta Llorona (8° 35' 03" N, 83° 43' 25" W.) to Punta Salsipuedes (8° 26' 32" N., 83° 34' 13" W.).

B. The straight baselines method: From a point coinciding with the extreme south of the line that encloses the mouth of Salinas Bay: a line determined by the Cleveland Decision, to Punta Descartes (11° 01' 25" N., 85° 45' 25" W) to Punta Blanca (10° 57' 02" N., 85° 53' 16" W); from Punta Blanca to Punta Santa Elena (10° 53' 29" N., 85° 57' 11" W); from Punta Santa Elena to the most westward islet of the Murcielago Islands (10° 51' 16" N., 85° 58' 50" W.); from the most westward islet of the Murcielago Islands to Cabo Velas or Morro Hermoso (10° 21' 25" N., 85° 52' 39" W.); from Cabo Velas or Morro Hermoso to Punta San Francisco (10° 17' 36" N., 85° 51' 19" W.); from Punta Guiones (9° 54' 18" N., 85° 40' 15" W) to the southwest tip of Cabo Blanco Island (9° 32' 20" N., 85° 06' 54" W.); from the southwest tip of Cabo Blanco Island to the southwest tip of Cano Island (8° 42' 24" N., 83° 53' 30" W.); from the southwest tip of Cano Island to Punto Llorona on the Osa Peninsula (8° 35' 03" N., 83° 43' 25" W.); from Punta Salsipuedes (8° 26' 32" N., 83° 34' 13" W.) to the extreme southern end of the international boundary line with Panama at Punta Burica.

Analysis: For the most part, Costa Rica's Pacific Ocean coastline is relatively smooth, with three indentations - one at each end of the coast (Golfo Dulce in the south and Golfo de Papagayo in the north) and one in the middle (Golfo de Nicoya - see map). Along two portions of the coast (from Pta. San Francisco to Pta. Guiones and from Pta.

Llorona to Pta. Salsipuedes) Costa Rica uses the normal baseline method which means the territorial sea is measured from the low-water line.

Elsewhere along its Pacific coastline, Costa Rica has created 10 straight baseline segments (a closing line across Salinas Bay already existed). The first five segments (plus the Salinas Bay closing line), range from 2.7 nm (connecting Pta. Santa Elena to the westernmost islet of the Murcielago Islands) to 30.3 nm (from the Murcielago Islands to Cabo Velas) and enclose the area surrounding Golfo de Papagayo (see Table 1 for baseline lengths). This part of the coast can be viewed, under Article 7, as being deeply indented.

TABLE 1

COSTA RICA
Length of Baseline Segments

<u>Segment</u>	<u>Length (nautical miles)</u>
Pta. Descartes – Pta. Blanca	8.9
Pta. Blanca – Pta. Santa Elena	5.2
Pta. Santa Elena – Islas Murcielagos	2.7
Islas Murcielagos – Cabo Velas	30.3
Cabo Velas – Pta. San Francisco	4.0
Pta. Guiones – Cabo Blanco	39.5
Cabo Blanco – Isla del Cano	88.0
Isla del Cano – Pta. Llorona	12.4
Pta. Salsipuedes – land boundary terminus	47.0

From point 7 (Pta. San Francisco) to point 8 (Pta Guiones) the baseline follows the low-water line, since the coastline is quite smooth and regular and there are no fringing islands. The segment connecting Pta Guiones to a small island off Cabo Blanco is 39.5 nm long and is an improperly drawn line, since the coastline is neither deeply indented nor fringed with islands.

From Cabo Blanco lines are drawn to Isla del Cano (88.0 nm) and then to Pta Llorona (12.4 nm). These lines also exceed the criteria of Article 7 (1). These two straight baselines incorporate approximately 8,200 sq. kilometers (2,400 square n. miles) as internal waters that more properly should be either territorial seas or high seas. The Golfo de Nicoya could be enclosed by a 24 nm juridical bay closing line across its entrance.

From Pta Llorona to Pta. Salsipuedes the baseline follows the low-water line. From Pta. Salsipuedes a 47 nm line has been drawn to the Costa Rica-Panama land boundary terminus. This line does not meet the Article 7 criteria; a juridical bay closing line for Golfo Dulce could be drawn.¹

¹ The United States protested this claim on December 18, 1989, see Annex 3 for text of the note.

ANNEX 1**ARTICLE 7
UNITED NATIONS
LAW OF THE SEA CONVENTION**

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.

3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

ANNEX 2COSTA RICA
DECREE 18581-RE

The First Vice President and Acting President
of the Republic and the Minister of
Foreign Relations and Worship

Whereas

1. Article 6 of our Constitution establishes the complete and exclusive sovereignty of the Costa Rican State over its territorial waters to a distance of 12 miles from the low-water line along its coasts, in accordance with the principles of international law.

2. The principles and standards of international law in force recognize the right of the coastal states to establish the breadth of their territorial sea from the normal low-water line or from straight baselines that join the most salient points of the coast.

3. Our coasts on the Pacific Ocean present a special configuration because of the presence of islands and deep inlets that have historically constituted areas of great economic significance to the country.

4. This special configuration of our coasts on the Pacific Ocean makes it possible, with the application of the new principles of the Law of the Sea, to draw straight baselines that, joining the most salient points of the coast, create a region whose reality and economic significance are clearly demonstrated by its prolonged use. This region coincides in general with the superjacent waters of the continental shelf of our Pacific coast, i.e., with the 200-meter isobath.

5. The Ministry of Foreign Relations and Worship has already sent to the Legislative Assembly for processing and subsequent approval the United Nations Convention on the Law of the Sea, signed at Montego Bay, Jamaica, on December 19, 1982, by a vast majority of the countries that represent all the legal and political systems in the world.

6. The regulations of the Convention that refer to the zones of national jurisdiction, including the system of drawing straight baselines, reflect contemporary international practice and have been considered to derive from prevailing international customary law.

7. In accordance with international law, the coastal state may determine the baselines from which the breadth of its territorial sea is measured, combining normal baselines with straight baselines depending on the circumstances.

Decrees

Article 1 - The width of the territorial sea of the Republic will be measured, in the Pacific Ocean, from the following baselines:

A. In accordance with the normal baseline method: from San Francisco Point, also known as Medero (10° 17' 36" N., 85° 51' 19"W), to Punta Guiones (9° 54' 18" N., 85° 40' 15" W), and from Punta Llorona (8° 35' 03" N, 83° 43' 25" W.) to Punta Salsipuedes (8° 26' 32" N., 83° 34' 13" W.).

B. In accordance with the straight baselines method: from a point that coincides with the southern extreme of the line that encloses the mouth of Salinas Bay, the line, as determined by the Cleveland Award, to Punta Descartes (11° 01' 25" N., 85° 45' 25" W) to Punta Blanca (10° 57' 02" N., 85° 53' 16" W); from Punta Blanca to Punta Santa Elena (10° 53' 29" N., 85° 57' 11" W); from Santa Elena to the westernmost key of the Murcielago Islands Group (10° 51' 16" N., 85° 58' 50" W.); from the westernmost key of the Murcielago Islands to Cabo Velas or Morro Hermoso (10° 21' 25" N., 85° 52' 39" W.); from Cabo Velas or Morro Hermoso to Punta San Francisco (10° 17' 36" N., 85° 51' 19" W.); from Punta Guiones (9° 54' 18" N., 85° 40' 15" W) to the southwest tip of Cabo Blanco Island (9° 32' 20" N., 85° 06' 54" W.); from the southwest tip of Cabo Blanco Island to the southwest tip of Isla Del Cano (8° 42' 42" N., 83° 53' 30" W.); from the southwest tip of Isla Del Cano to Punta Llorona on the Osa Peninsula (8° 35' 03" N., 83° 43' 25" W.); from Punta Salsipuedes (8° 26' 32" N., 83° 34' 13" W.) to the extreme southern end of the international border line with Panama at Punta Burica.

Article 2 - The National Geographic Institute will draw these lines to adequate scale or scales to make the locations clear on maps, in accordance with the geographic coordinates corresponding to the geodesic datum known as "Ocotepeque." The state will make such maps public.

Article 3 - Waters situated inside these straight baselines form part of the internal waters of the Republic. However, taking into account that in these waters are located several important ports on the Pacific coast, the right of innocent passage to ships of all nations is permitted, in accordance with the principles and norms of international law.

Article 4 - The locations of normal and straight baselines described above are indicated on a map at 1:500,000 scale prepared by the Geographic Institute of Costa Rica. This map, duly authenticated by the Ministry of Foreign Relations and Worship, forms an integral part of this decree.

Article 5 - This Decree is valid from the 15th of November, 1988 inclusive.

Given in the Presidency of the Republic, San Jose, on the 14th of October 1988.

Jorge Manuel Dengo

The Minister of Foreign Relations and Worship, A. I.
Carlos Rivera Bianchini

Source: La Gaceta No. 221, November 21, 1988.

ANNEX 3**TEXT OF UNITED STATES PROTEST NOTE
TO COSTA RICA
December 18, 1989**

...refers to Costa Rica's Decree No. 18581-RE of October 14, 1988, which seeks to establish straight baselines for sectors of Costa Rica's Pacific coast.

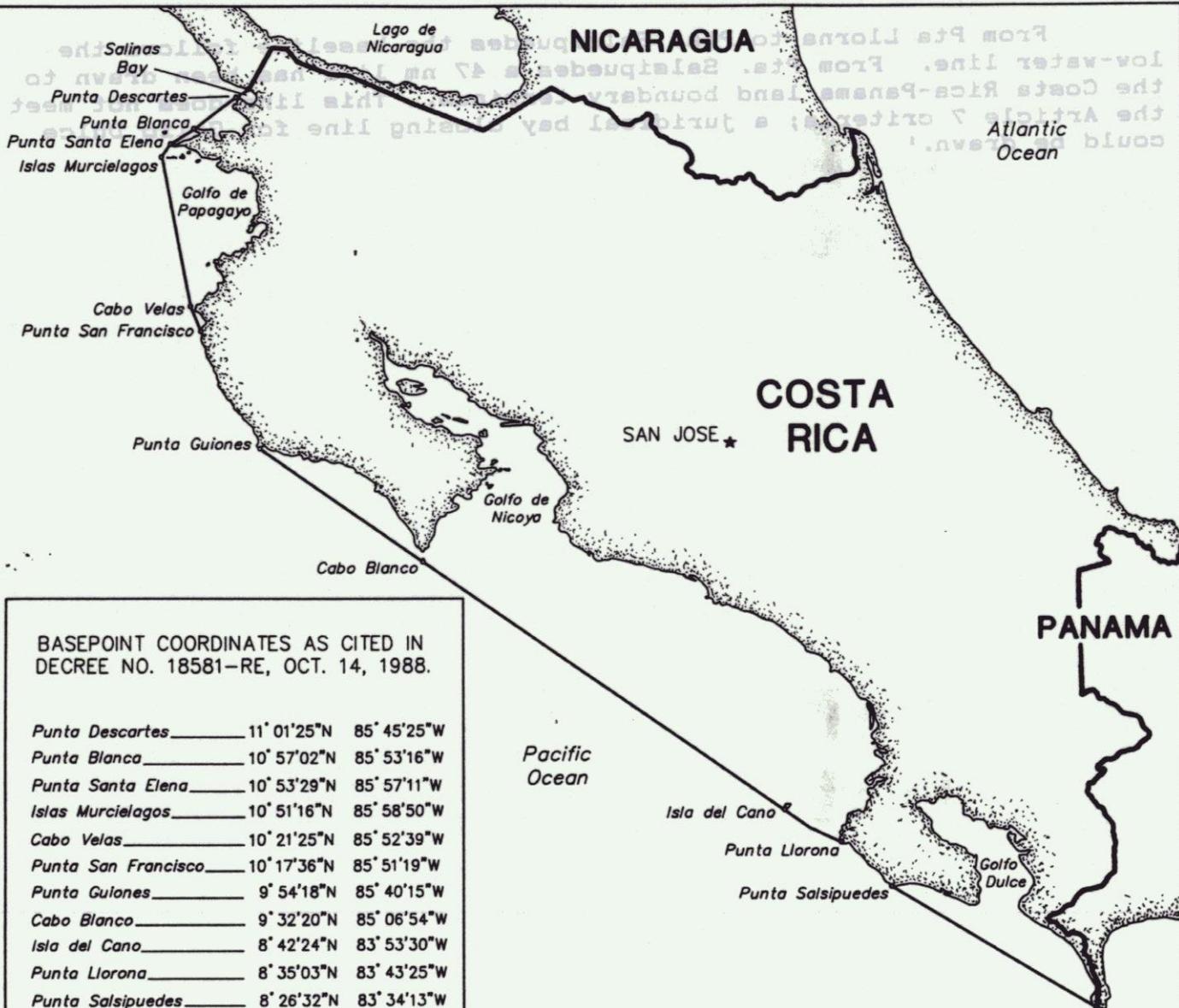
The Government of the United States wishes to recall to the Government of Costa Rica that, as recognized in customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea, unless exceptional circumstances exist, baselines are to conform to the low-water line along the coast as marked on a state's official large-scale charts. Straight baselines may only be employed in localities where the coastline is deeply indented and cut into, or where there is a fringe of islands along the immediate vicinity of the coast. Additionally, baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.

While the Pacific coastline of Costa Rica contains two embayments, it is neither deeply indented and cut into, nor fringed with many islands, as those standards are employed and understood in international law. Furthermore, several segments, which close off geographical bays, are longer than twenty-four nautical miles and therefore exceed the juridical bay closing line length that is permitted under international law.

It is therefore the view of the Government of the United States that the straight baseline system established by the Government of Costa Rica does not meet the criteria for straight baselines nor do those lines properly constitute juridical bay closing lines in the circumstances that are recognized in customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

The Government of the United States therefore objects to the claim described above and made by Costa Rica's Decree No. 18581-RE of October 14, 1988, which is not valid in international law, and reserves its rights and those of its nationals in this regard.

COSTA RICA: STRAIGHT BASELINE CLAIM



BASEPOINT COORDINATES AS CITED IN
DECREE NO. 18581-RE, OCT. 14, 1988.

<i>Punta Descartes</i>	11° 01'25"N	85° 45'25"W
<i>Punta Blanca</i>	10° 57'02"N	85° 53'16"W
<i>Punta Santa Elena</i>	10° 53'29"N	85° 57'11"W
<i>Islas Murcielagos</i>	10° 51'16"N	85° 58'50"W
<i>Cabo Velas</i>	10° 21'25"N	85° 52'39"W
<i>Punta San Francisco</i>	10° 17'36"N	85° 51'19"W
<i>Punta Guiones</i>	9° 54'18"N	85° 40'15"W
<i>Cabo Blanco</i>	9° 32'20"N	85° 06'54"W
<i>Isla del Cano</i>	8° 42'24"N	83° 53'30"W
<i>Punta Llorona</i>	8° 35'03"N	83° 43'25"W
<i>Punta Salsipuedes</i>	8° 26'32"N	83° 34'13"W