

**PERMANENT COURT OF ARBITRATION**

Peace Palace, Carnegieplein 2,  
2517 KJ The Hague, The Netherlands

Telephone : +31 70 302 4165  
Facsimile : +31 70 302 4167  
E-mail : [bureau@pca-cpa.org](mailto:bureau@pca-cpa.org)  
Website : [www.pca-cpa.org](http://www.pca-cpa.org)



**COUR PERMANENTE D'ARBITRAGE**

Palais de la Paix, Carnegieplein 2,  
2517 KJ La Haye, Pays-Bas

Téléphone : +31 70 302 4165  
Télécopie : +31 70 302 4167  
Courriel : [bureau@pca-cpa.org](mailto:bureau@pca-cpa.org)  
Site Internet : [www.pca-cpa.org](http://www.pca-cpa.org)

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**PRESS RELEASE**

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**ARBITRATION BETWEEN THE REPUBLIC OF CROATIA AND THE REPUBLIC OF SLOVENIA**

**THE HAGUE, 29 June 2017**

**Tribunal Determines Land and Maritime Boundaries in Final Award**

In the arbitration concerning a territorial and maritime dispute between the Republic of Croatia and the Republic of Slovenia, the Tribunal issued a unanimous Final Award on 29 June 2017. The Award was delivered by the Tribunal at a public sitting at the Peace Palace, The Hague. The sitting was webcast live on the Internet.

A copy of the Tribunal's formal decisions (*dispositif*) in the Final Award is annexed to this press release. An electronic copy of the full Award is available on the Case Repository of the Permanent Court of Arbitration, which acts as registry for the proceedings (<https://pcacases.com/web/view/3>).

**History of the Proceedings**

On 4 November 2009, the Prime Ministers of Croatia and Slovenia signed an [Arbitration Agreement](#), by which Croatia and Slovenia submitted their territorial and maritime dispute to arbitration. The Arbitration Agreement was subsequently ratified by Croatia and Slovenia in accordance with their respective constitutional procedures.

Article 3 of the Arbitration Agreement tasks an Arbitral Tribunal to determine (a) “the course of the maritime and land boundary between the Republic of Slovenia and the Republic of Croatia”; (b) “Slovenia’s junction to the High Sea”; and (c) “the regime for the use of the relevant maritime areas.”

Article 4 of the Arbitration Agreement mandates that the Tribunal apply (a) “the rules and principles of international law” for the determinations in respect of the course of the maritime and land boundary, and (b) “international law, equity and the principle of good neighbourly relations in order to achieve a fair and just result by taking into account all relevant circumstances” for the determinations in respect of “Slovenia’s junction to the High Sea” and the regime for the use of the relevant maritime areas.

Article 7 of the Arbitration Agreement provides that “[t]he award of the Arbitral Tribunal shall be binding on the Parties and shall constitute a definitive settlement of the dispute.” Moreover, “[t]he Parties shall take all necessary steps to implement the award, including by revising national legislation, as necessary, within six months after the adoption of the award.”

On 17 January 2012, the Parties agreed to appoint Judge Gilbert Guillaume as the presiding arbitrator, and Professor Vaughan Lowe QC and Judge Bruno Simma as arbitrators. In addition, Croatia and Slovenia each appointed a further arbitrator, namely Professor Budislav Vukas and Dr. Jernej Sekolec.

Following a first procedural meeting on 13 April 2012, Croatia and Slovenia exchanged three rounds of extensive written submissions, which were accompanied by over two thousand documentary exhibits and maps.

From 2 to 13 June 2014, a hearing was held at the premises of the PCA at the Peace Palace, in the course of which both Parties presented their positions. The delegation of Croatia was led by Professor Maja Seršić, Head of the Chair of International Law, Faculty of Law, University of Zagreb, as Agent; and Ms. Andreja Metelko-Zgombić, Ambassador, Director General for EU Law, International Law and Consular Affairs, Ministry of Foreign and European Affairs of Croatia, as Co-Agent. Ms. Vesna Pusić, then First Deputy Prime Minister and Minister of Foreign and European Affairs of Croatia, addressed the Tribunal on the day of the opening of the hearing.

The delegation of Slovenia was led by Professor Mirjam Škrk, Head of the Chair of International Law, Faculty of Law, University of Ljubljana, former Judge and Vice-President of the Constitutional Court of Slovenia, as Agent; and Ms. Simona Drenik, LL.M., Minister Plenipotentiary, Legal Advisor, Cabinet of the Minister, Ministry of Foreign Affairs of Slovenia, as Agent. Mr. Karl Erjavec, Deputy Prime Minister and Minister of Foreign Affairs of Slovenia, addressed the Tribunal on the day of the closing of the hearing.

The Tribunal subsequently began its internal deliberations. On 9 July 2015, the Tribunal informed the Parties that it intended to render an award in the present proceedings on 17 December 2015.

On 22 July 2015, it was reported that telephone conversations concerning the Tribunal's internal deliberations between one of the Agents for Slovenia and the arbitrator originally appointed by Slovenia had been intercepted. Both individuals resigned from their functions. On 30 July 2015, the arbitrator originally appointed by Croatia also resigned. On the same date, Croatia informed Slovenia that it considered itself entitled to terminate the Arbitration Agreement and added that "from the date of this note the Republic of Croatia ceases to apply the Arbitration Agreement". On 13 August 2015, Slovenia informed the Tribunal that it had objected to Croatia's notification of the termination of the Arbitration Agreement and stated that the Tribunal had the power and the duty to continue the proceedings.

On 25 September 2015, the Tribunal was recomposed in accordance with the procedure prescribed in the Arbitration Agreement through the appointment of Ambassador Rolf Einar Fife and Professor Nicolas Michel. In its new composition, the Tribunal invited further written submissions from the Parties concerning the legal implications of the contacts between Slovenia's former Agent and the arbitrator originally appointed by Slovenia. A hearing on these matters was held on 17 March 2016.

On 30 June 2016, the Tribunal issued a unanimous [Partial Award](#), in which the Tribunal held that Slovenia had acted in violation of provisions of the Arbitration Agreement. However, these violations were not of such a nature as to entitle Croatia to terminate the Arbitration Agreement, nor did they affect the Tribunal's ability, in its new composition, to render a final award independently and impartially. In this regard, the Tribunal found that the notes that the arbitrator originally appointed by Slovenia had circulated within the Tribunal contained no argument or information that was not already on the record. The Tribunal also clarified that, in any event, it would take no account of the views expressed by the two arbitrators originally appointed by Croatia and Slovenia, who had resigned from their office. Rather, the Tribunal would proceed to a *de novo* consideration of all aspects of the case.

On 29 June 2017, the Tribunal rendered its Final Award. The main conclusions reached by the Tribunal in its Final Award are summarized in the following.

## **The Land Boundary**

### *Task of the Tribunal and Applicable Law*

At the outset, the Tribunal notes that the Parties have agreed, in the Arbitration Agreement, that the boundary should be determined in accordance with international law. The Tribunal is thus required to decide the matter from the legal, and not from the historical or political or sociological perspective. Specifically, the Tribunal observes that both Croatia and Slovenia have endorsed the application of the *uti possidetis* principle to the determination of their borders. Accordingly, the former borders of the two republics within the Socialist

Federal Republic of Yugoslavia (SFRY), as they stood on the date of independence on 25 June 1991, are now the international borders between the Republic of Croatia and the Republic of Slovenia.

The Tribunal further recalls that, in their submissions, the Parties have proceeded on the basis that most of the land boundary is not in dispute. According to the Parties' submissions, the location of over 90% of the land boundary is agreed. In undisputed areas, the cadastral limits of neighbouring Croatian and Slovenian districts coincided and were "aligned" at the time of the independence in 1991. This was also observed in 1991-1996 by an expert group established by the Parties.

The Tribunal infers from this practice that the Parties were agreed that the cadastral limits in principle represent the boundaries of the Republic. Accordingly, there is a working presumption that the boundary of each Republic is the outer limit of the peripheral districts as indicated on the relevant cadastre. This approach is consistent with the fact that, under the applicable municipal law of the SFRY, cadastral limits were required to conform to the boundaries of the republics.

The Tribunal concludes that the alignment of the cadastres of Croatia and Slovenia provides a *prima facie* indication of the boundary in a particular area. The Tribunal accordingly examines, in respect of each area where the boundary is in dispute, whether the cadastral limits of Croatia and Slovenia were aligned at the time of the independence in 1991. The Tribunal then considers whether there are reasons for relying on other evidence of legal title, such as historical sources or agreements reached between the Parties. Finally, in cases in which no title can be established, the Tribunal bases its decision on *effectivités*—the conduct of administrative authorities as proof of effective exercise of territorial jurisdiction.

#### *Mura River Region*

In respect of the Mura River region, the Tribunal determines that generally, the international boundary follows the aligned cadastral limits. The Tribunal notably finds that the 1931 Constitution of the Kingdom of Yugoslavia, invoked by Slovenia, did not define the limit between the Drava and Sava *banovine* as the Mura River. Rather, at that time, the limit of the *banovine* was already the outer limit of the peripheral districts of these *banovine*, which corresponded, and still corresponds, to the cadastral limits.

With respect to the hamlet of Brezovec-del/Murišće, the Tribunal notes that the cadastral limits indicated on the geoportals of Croatia and Slovenia, as shown by Parties at the hearing in 2014, do not coincide with each other. Reviewing the evidence on record, the Tribunal concludes that neither side has adduced conclusive proof of legal title. Turning therefore to the *effectivités* alleged by the Parties, the Tribunal notes that such *effectivités*, which include Slovenian electoral registers, the application of the Slovenian legislation in respect of military conscription and taxes, and documents of the surveying and mapping authority of Slovenia, on the whole support Slovenia's claim. Accordingly, the Tribunal determines that the boundary between Croatia and Slovenia runs to the south-east of the settlement, at a location more precisely identified by the Tribunal on a sketch map contained in the Award.

With respect to the boundary in the areas of Novakovec, Ferketinec, and Podturen in Croatia and Pince in Slovenia, the Parties differ as to whether an attempted modification of the limits in 1956/1957 was legally valid. The Tribunal notes that the relevant legislation authorised mixed commissions comprising representatives of the cadastral districts concerned to fix the limits of cadastral districts. The cadastral limits of peripheral districts of the republics provide a *prima facie* indication of where the boundary lies. The Tribunal accordingly considers the legal validity of the jointly signed minutes of the commissions in each of the three areas in accordance with the applicable municipal law. The Tribunal determines that in the areas of Podturen/Pince and Novakovec/Pince, the boundary follows the cadastral limits as validly modified in 1956 and 1957. In contrast, in the area of Ferketinec/Pince, the Tribunal considers the purported modifications to be invalid because only one representative from the Slovenian side was present and signed the minutes although the applicable legislation required the assent of two representatives of each side. The boundary thus continues to follow the limits of the cadastres of Croatia and Slovenia as they stood before the purported modifications in 1956.

With respect to Mursko Središće and Peklenica, the Tribunal determines that the boundary is in the middle of the Mura River as recorded in the agreed 1956 Minutes on the Determination of the Borders of the Cadastral District of Peklenica.

### *Central Region*

Turning to the boundary in the Slovenske gorice, in the Central region, the Tribunal determines that the boundary in the Razkrižje area follows the aligned cadastral limits. The Tribunal observes in this regard that a modification of the cadastral limits, as contemplated by the Federal Control Commission in 1946 at the request of some inhabitants, was never implemented.

The Tribunal further determines, with respect to Robadje/Globoka, that the minutes of a 1955 survey, which purported to modify the cadastral limits, did not contain the signatures of the representatives of the municipalities concerned, as was required under the applicable legislation. They thus cannot be taken into account, and the boundary follows the cadastral limits as they were before the purported modification, as reproduced in the cadastre of Slovenia.

In respect of the Santavec River and Zelena River areas, the Tribunal does not accord any probative value to the contention that natural features of the region generally determine the course of the land boundary. The Tribunal thus decides that the boundary follows the Parties' aligned cadastres.

Noting that the remaining part of the boundary in Slovenske gorice is undisputed between the Parties, the Tribunal determines that the boundary is fixed accordingly.

With respect to certain disputed areas along the Drava River, the Tribunal determines that the boundary follows the aligned cadastral limits, which run along a series of historic boundary stones recorded in a 1904 protocol.

With respect to a disputed area in the Slovenian region of Macelj and the Croatian region of Haloze, the Tribunal determines that the 1914 maps resulting from a 1912-1913 survey reflect the boundary in the disputed area in question; these limits are as set out in Slovenia's cadastre.

With respect to certain disputed areas along the Sotla River, the Tribunal notes that the cadastral limits are generally aligned, providing a *prima facie* indication of the location of the boundary. The Tribunal does not consider that the evidence on the record demonstrates that there was agreement between the Parties that the boundary should instead run along the midpoint of the main channel of the Sotla River. Accordingly, the Tribunal determines that the boundary follows the cadastral limits to the extent such limits are aligned.

This leaves the Tribunal with two disputed areas—numbered 5.1 and 5.2—in which the cadastres of the Parties do not align. In one of these areas, the Tribunal relies on an 1862 survey and determines that the boundary follows the limits of the Croatian district of Laduč. In the other area, the Tribunal refers to an earlier finding by an expert group appointed by the Parties and determines that the boundary depicted in Croatia's cadastral register stands as the agreed boundary.

With respect to a disputed area along the Sava River, the Tribunal relies on a 1909 statement by a joint commission to the effect that a newly proposed border would coincide with the existing border in the middle of the River. The border as proposed by the joint commission was subsequently recognized by Hungary.

With respect to a disputed area at the junction between the Sava and Bregana Rivers, the Tribunal observes that the evidence submitted by Slovenia does not point to any agreed delimitation in that area. Noting that the cadastral limits in the area are aligned, the Tribunal determines that the boundary follows these aligned limits. The Tribunal adds that Croatian *effectivités* support this conclusion.

With respect to the area of Gorjanci/Žumberak, the Tribunal notes at the outset that there was no historic Austro-Hungarian boundary in that area. The cadastral limits however largely coincide. The Tribunal concludes that, in the absence of authoritative maps or other evidence of title to the contrary, the boundary follows these aligned limits. In respect of one particular area—numbered 7.1—in which the cadastral limits do not coincide, the Tribunal first examines the evidence of legal title submitted by the Parties. While that evidence is of high quality, neither Party's evidence is to be preferred *per se*. The Tribunal accordingly turns to *effectivités* and concludes that the area lies within Slovenia's territory, with the boundary running along Slovenia's cadastral limits.

Turning to the area of the settlement of Drage, the Tribunal notes that the area was for more than 40 years part of the Sekulići/Sekuliči Slovenian cadastral district and that Slovenia acted *à titre de souverain* in the area without Croatia's objection. The Tribunal further observes that Drage was not mentioned in the records of Croatian cadastral districts. Considering these findings, the Tribunal determines the boundary to be the eastern limit of Slovenia's Sekulići/Sekuliči cadastral district.

In respect of the Trdinov Vrh/Sveta Gera area, the Tribunal notes that the cadastral limits coincide and correspond to the administrative limits of the Croatian and Slovenian districts. The Tribunal thus regards it as established that the aligned cadastral limits are the boundary in the area. The Tribunal also considers Croatia's request for a declaration that "no Slovenian personnel, whether military, civilian, police or security, shall be entitled to remain at the facility located at Sveta Gera in the Croatian municipality of Ozalj." While the Tribunal determines that the area is part of Croatian territory, it observes that it has no jurisdiction to address Croatia's request for a declaration as to the presence of Slovenian civilian and military personnel in that area.

In respect of a disputed area along the Kamenica River, the Tribunal finds that the evidence before it does not indicate conclusively whether the cadastres in respect of the area are aligned. The Tribunal accordingly examines the historic evidence adduced by the Parties in respect of their claims of legal title. The Tribunal finds a particular map from the Josephine period, which supports Croatia's claim, to be the most precise and authoritative evidence of the location of the boundary.

In respect of two disputed areas along the Čabranka River, near the settlements of Osilnica and Plešče, the Tribunal observes that the cadastral records of the Parties are aligned, and that the *effectivités* adduced by Slovenia do not lead to a different result. The Tribunal thus finds that the boundaries follow the Parties' cadastral limits.

With respect to a disputed area near the settlement Črneča Vas, the Tribunal notes that the cadastres appear to be aligned. No evidence of legal title to the contrary has been presented to the Tribunal, and the fact that certain road management activities by Slovenia may have extended up to a road intersection to the south-east of the cadastral limit is of little probative value for legal title. The Tribunal determines that the boundary follows the aligned cadastral limits.

The Tribunal observes that two areas near the hamlets of Draga and Novi Kot in Slovenia and Prezid in Croatia are no longer in dispute between the Parties. The Tribunal determines that the boundary follows the aligned limits of the Parties' cadastres in these areas. With respect to an area near Babno Polje in Slovenia and Prezid in Croatia, which remains disputed, the Tribunal observes that the boundary has remained unchanged since it was demarcated in 1913 and confirmed by a survey in 1918. The Tribunal thus concludes that the boundary is as indicated on the 1918 survey map.

### *Istria Region*

In the Istria region, the Tribunal considers a series of disputed areas near Leskova Dolina and Snežnik in Slovenia and Prezid in Croatia. These areas have been referred to by the Parties as the "Tomšič plots", on account of their former owner. The Tribunal analyses whether the boundary between the Parties may be based on the 1920 Treaty of Rapallo although the Treaty was rejected by partisan organisations in 1943 as well as by subsequent legislation in 1946 and 1947. The Tribunal finds those declarations or Yugoslav legislation could

not have nullified the international boundary established by the Treaty of Rapallo. As a consequence, the former boundary between Italy and Yugoslavia, as it stood from 1920 to 1947, became the border between the two Republics and is now the boundary between the Parties. The disputed areas referred to as the “Tomšič plots” are thus located in Slovenia.

With respect to a disputed area near the settlement of Gomance, the Tribunal notes that Croatia, while asserting that the cadastral limits in the region are generally aligned, presents no specific evidence. Official topographic maps presented by Slovenia however support Slovenia’s claim to this area. Concluding that the Tribunal must give more weight to Slovenia’s clear and specific evidence of title than to Croatia’s unsubstantiated assertion of cadastral alignment, the Tribunal determines that the disputed area forms part of Slovenia’s territory.

In respect of certain disputed areas near Klana and Zabiče on the one hand and Lisac and Sušak on the other hand, the Tribunal was presented with cadastral maps dating from different time periods. While it appears that at the time of an 1820 survey the cadastral limits were aligned, later maps, dated 1877 and 1878, differ. After discussing the evidence adduced by the Parties, the Tribunal observes that the position on the ground of a boundary stone corresponds to the limit recorded on the 1878 cadastral map of Lisac, which was presented in the proceedings by Croatia. The Tribunal concludes that the stone serves to confirm the authority of that map and determines that the boundary is as depicted on that map.

In respect of the area of Kučibreg/Topolovec, the Tribunal observes that the creation of the Free Territory of Trieste (FTT) in 1947 resulted in a new delimitation line dividing the cadastral municipality of Topolovec. This line served as the boundary between the FTT and the Federal Peoples Republic of Yugoslavia, and thereby became an international border from 1947 until the *de facto* dissolution of the FTT in 1954. The Tribunal notes that Slovenia accepts that after this *de facto* dissolution “the entire territories concerned, on both sides of the former delimitation line between the FTT and Yugoslavia, had become part of Croatia.” It observes that this amounts to an implicit acceptance of Croatia’s authority to determine the limits of the settlements which were to be transferred from Croatia to Slovenia on the recommendation of a 1955 border commission. Accordingly, the Tribunal determines that the boundary in that area follows the outer limits of the settlements transferred in 1956, as reflected in the cadastral records and maps provided by Croatia at the time of the transfer.

With respect to Merišće and Krkavče as well as the Lower Dragonja region, the Tribunal notes that the dispute in respect of these areas arose between the Parties with the enactment of the 1952 Ordinance on Administrative Division of the Istrian County into Districts and Municipalities, and that it remained unresolved after the abolition of the Istrian County in 1952. Recalling that Slovenia requested on 17 June 1955 the formation of a special Border Commission to settle the issue of delimitation in this area, the Tribunal considers the significance of Slovenia’s request and the subsequent proposal of the Border Commission. The Tribunal notes that the Border Commission “unanimously concluded to propose to the Executive Council of Slovenia that the boundary be determined on the Dragonja River, that is according to the actual situation”. The Executive Council of Slovenia accepted this proposal, as did the Executive Council of Croatia. Agreement was thus reached between the Parties. That agreement confirmed in law the boundary existing in fact. Therefore, it was not subject to approval by the Federal Assembly but fixed the boundary. Thus, as contended by Croatia, the boundary follows the Dragonja River, ending at a point in the middle of the channel of the St Odoric Canal.

### **Bay of Piran – Bay of Savudrija/Piran**

The Tribunal next turns to the boundary in the bay that is alternatively referred to by the Parties as the Bay of Piran or the Bay of Savudrija/Piran.

Slovenia submits that the Bay had the status of internal waters as a juridical bay (or alternatively, as an historic bay) prior to the dissolution of Yugoslavia. It kept that status as a consequence of the principle of automatic succession to boundaries and boundary regimes and to historic titles. Slovenia argues that the delimitation in the area must be based on the principle of *uti possidetis*, which it says is in favour of Slovenia for the whole Bay.

Croatia contests all the points thus made by Slovenia. It submits that the Bay has never been, is not, and cannot be internal waters. It was territorial waters of Yugoslavia and remained so. It must thus be delimited in conformity with Article 15 of the United Nations Convention on the Law of the Sea (UNCLOS). In the absence of any special circumstances, this delimitation must be made along the equidistance line.

#### *Status of the Bay*

In light of those submissions, the Tribunal first considers whether the Bay consisted of internal waters prior to the dissolution of Yugoslavia. At the time of the SFRY, the coasts of the Bay belonged to a single State, and it met the conditions of the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone to be proclaimed internal waters by Yugoslavia.

The Tribunal then observes that, in 1987, the SFRY enacted an Act Concerning the Coastal Sea and the Continental Shelf. It is not contested that the Bay enters within the purview of the definition of internal waters given by that Act. Croatia, however, submits that Yugoslavia never drew the closing line of the Bay and never published any corresponding official map. As a consequence, according to Croatia, the Bay never became internal waters.

The Tribunal notes that, contrary to Croatia's allegations, the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone did not set out any requirement to publish such maps. Moreover, in the present case, there could be no significant doubt on the course of the closing line. The argument of Croatia cannot be upheld.

The Tribunal therefore concludes that, until 25 June 1991, the date of independence of Croatia and Slovenia, the Bay was Yugoslav internal waters. Its closing line was a line joining the low water marks of Cape Madona and Cape Savudrija.

The Tribunal next considers the effect of the dissolution of the SFRY on the status of the Bay. A comparable question was addressed in 1992 by the International Court of Justice in relation to the Gulf of Fonseca bordering El Salvador, Honduras and Nicaragua. In that case, the Court noted that the Gulf, having been internal waters before 1821, kept that status after decolonization. Similarly, in the present case, the Bay was internal waters before the dissolution of the SFRY and it remained so after 1991 within its pre-existing limits. The dissolution, and the ensuing legal transfer of the rights of Yugoslavia to Croatia and Slovenia as successor States, did not have the effect of altering the acquired status.

#### *Delimitation within the Bay*

Having thus decided that the Bay has the status of internal waters, the Tribunal then determines the rules applicable to the delimitation of such waters. In the absence of any provision on the question in UNCLOS, the Tribunal considers that such delimitation is to be made on the basis of the same principles as are applicable to the delimitation of land territories. In the present case, the delimitation must thus be made on the basis of *uti possidetis*.

In the present case, the Parties agree that there had been no formal division of the Bay between the two Republics prior to the dissolution of Yugoslavia, and that neither State inherited legal title from that time. They also agree that no condominium had ever been established in the Bay. The delimitation must thus be made on the basis of the *effectivités* at the date of independence. Both Parties invoke *effectivités*, mainly relating to fisheries and police patrol.

The Tribunal first notes the existence in the eastern part of the Bay of a fishing reserve. That reserve was established by Slovenia in 1962 and by Croatia in 1976. The Tribunal observes that local authorities in Piran (Slovenia) and Buje (Croatia) each requested the agreement of the other before fixing the limits of the fishing reserves. This implies that they considered they did not have exclusive jurisdiction to establish such a reserve, but it provides no indication of the territorial extent of the rights recognized as belonging to the other Party.

However, the limits of the reserve were fixed by Slovenia as early as 1962 and endorsed by Croatia in 1976, without any discussion. The Tribunal further notes that the Slovenian authorities organized the management of the reserve in detail during the whole period from 1962 to 1991. By contrast, Croatia did not adopt any regulation concerning the reserve and did not organize its management.

The Parties further discuss their respective role regarding police patrols in the Bay. The Tribunal regards it as established that the Bay was patrolled by the Koper police station (in Slovenia) with two vessels. To that effect a permanent radio link was established between the Savudrija Army observatory and the Slovenian authorities. Moreover on two occasions, at least, the Slovenian authorities drew the attention of the Croatian authorities to risks of illegal immigration or smuggling originating from their coast and requested action in this respect.

The Tribunal then examines the evidence submitted by Croatia to establish that the Umag police station (in Croatia) also patrolled the Bay. In particular, Croatia refers to a marine accident that occurred in 1973 in respect of an Italian tanker, the *Nonno Ugo*, which grounded near the Croatian coast of the Bay. The Tribunal observes that the accident occurred in the immediate vicinity of the Croatian coast and that the necessary measures were taken by agreement of both Parties. The Tribunal finds that no conclusion can be drawn from those events with respect to Slovenian *effectivités* in the immediate vicinity of the Croatian coast or Croatian *effectivités* in the rest of the Bay. The response to the accident shows, however, that at the time the Slovenian police were more active in the Bay than the Croatian police and that Slovenia was more immediately involved than Croatia in addressing the risk of pollution.

In conclusion, the Tribunal notes that, on the occasion of the creation of a fishing reserve by Croatia, Slovenia recognized that it had no exclusive jurisdiction over the whole Bay. The Tribunal is also convinced that Croatia did not exercise jurisdiction over the whole area south of the median line. Taking into account the various *effectivités* previously analysed, the Tribunal concludes that the boundary in the Bay is to follow a line drawn to join the end of the land boundary in the mouth of the Dragonja River to a point on the closing line of the Bay, which is at a distance from Cape Madona that is three times the distance from that same point to Cape Savudrija. The line is illustrated on Award Map II, which is reproduced on the following page.



## **Other Maritime Areas**

The Tribunal then turns to the remaining maritime areas on which it is required to take a decision.

### *The Tribunal's Approach*

In the proceedings, the Parties have advanced different interpretations of Articles 3 and 4 of the Arbitration Agreement concerning the Tribunal's task and the applicable law. While Croatia has taken the view that the Tribunal must first definitively determine the course of the maritime boundary under Article 3(1)(a) before turning to the other maritime aspects of its task under Article 3(1)(b) and (c), Slovenia has urged the Tribunal to determine the course of the maritime boundary under Article 3(1)(a) of the Agreement in tandem with its determination of Slovenia's junction to the High Sea under Article 3(1)(b), to achieve a coherent and workable result.

The Tribunal considers that the Arbitration Agreement requires it to conduct a sequential analysis of the tasks set out in Article 3(1) of the Arbitration Agreement. Such an approach follows from the structure of Article 3, which describes each task in a separate subparagraph, thus implying distinct steps of analysis. The immediate context of Article 3—the “applicable law” clause of Article 4—confirms this interpretation. It would be difficult to implement the deliberate distinction between determinations to be made in accordance with international law, on the one hand, and those to be made in accordance with international law, equity, and the principle of good neighbourly relations, on the other hand, if all tasks were to be performed in a combined fashion. In the Tribunal's view, a sequential analysis does not preclude the achievement of a “coherent and workable result,” which Slovenia rightly demands.

Accordingly, the Tribunal addresses, in turn, the delimitation of the territorial sea between Croatia and Slovenia, the determination of “Slovenia's junction to the High Sea” and the regime for the use of the relevant maritime areas.

### *Delimitation of the Territorial Sea*

The rule applicable to the delimitation of the territorial sea between Croatia and Slovenia is set out in UNCLOS Article 15. Referring to the settled jurisprudence of the International Court of Justice, the Tribunal observes that international law calls for the application of an equidistance line, unless another line is required by special circumstances. The Tribunal accordingly begins the task of maritime delimitation by considering the equidistance line between Croatia and Slovenia.

The Tribunal then considers whether the equidistance line should be adopted as the definitive maritime boundary, or whether “it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith” and to adjust the equidistance line accordingly.

The Tribunal observes that, in a delimitation of the territorial sea, it is necessary to accommodate two fundamental principles. The first is the principle of natural prolongation of the land territory into the sea. The second principle is, in the words of the International Court of Justice, that “the effects of an incidental special feature from which an unjustifiable difference of treatment could result” should be abated when effecting a maritime delimitation.

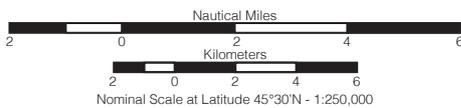
The Tribunal does not consider that the great difference between the lengths of the coastal fronts of Croatia and Slovenia is a special circumstance that calls for a departure from the equidistance line. Nor does it consider that the existence of historic titles that would warrant a departure from the equidistance line has been established. The Tribunal does, however, consider that features of the coastal configuration produce an exaggeratedly adverse effect if the strict equidistance line is used, and do constitute a special circumstance. The Tribunal observes in this regard that the coastline of Croatia turns sharply southwards around Cape

Savudrija, so that the Croatian basepoints that control the equidistance line are located on a very small stretch of coast whose general (north-facing) direction is markedly different from the general (southwest-facing) direction of much of the greater part of the Croatian coastline, and deflect the equidistance line very significantly towards the north, greatly exaggerating the “boxed-in” nature of Slovenia’s maritime zone.

The Tribunal has decided that the equidistance line must be modified in order to attenuate the “boxing in” effect that results from this geographic configuration. The maritime boundary as determined by the Tribunal is illustrated on Map VI, which is reproduced on the following page.



**MARITIME BOUNDARY**



**Map VI**

Projection / Datum:  
Mercator / ETRS89

Base map: © OpenStreetMap contributors.  
This map is for illustrative purposes only.

### *Determination of “Slovenia’s Junction to the High Sea”*

The Tribunal then turns to its task under Article 3(1)(b) of the Arbitration Agreement, the determination of “Slovenia’s junction to the High Sea”. For this purpose, it examines the meaning to be given to the phrase “High Sea” and the word “junction” in the context of the Arbitration Agreement.

The Tribunal first observes that there is no area anywhere in the Mediterranean Sea in which the High Sea regime *stricto sensu* would be applicable if every Mediterranean State claimed the EEZ to which it is entitled. This point did not escape the attention of the Parties, who have in effect invited the Tribunal to treat sea areas lying beyond territorial seas as high seas for the purposes of this case. The characteristics of the High Sea on which the Parties focus are the freedoms of communication embodied in UNCLOS Articles 58 and 87.

The Tribunal notes that the effect of Article 58(1) is to assimilate the EEZ and the high seas in so far as concerns “the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms.” Since the Tribunal regards the high seas freedoms established by Article 58 as particularly relevant in this case, the Tribunal interprets the phrase “High Sea” to mean that area in which those freedoms are established by law—that is, the area lying beyond the territorial sea.

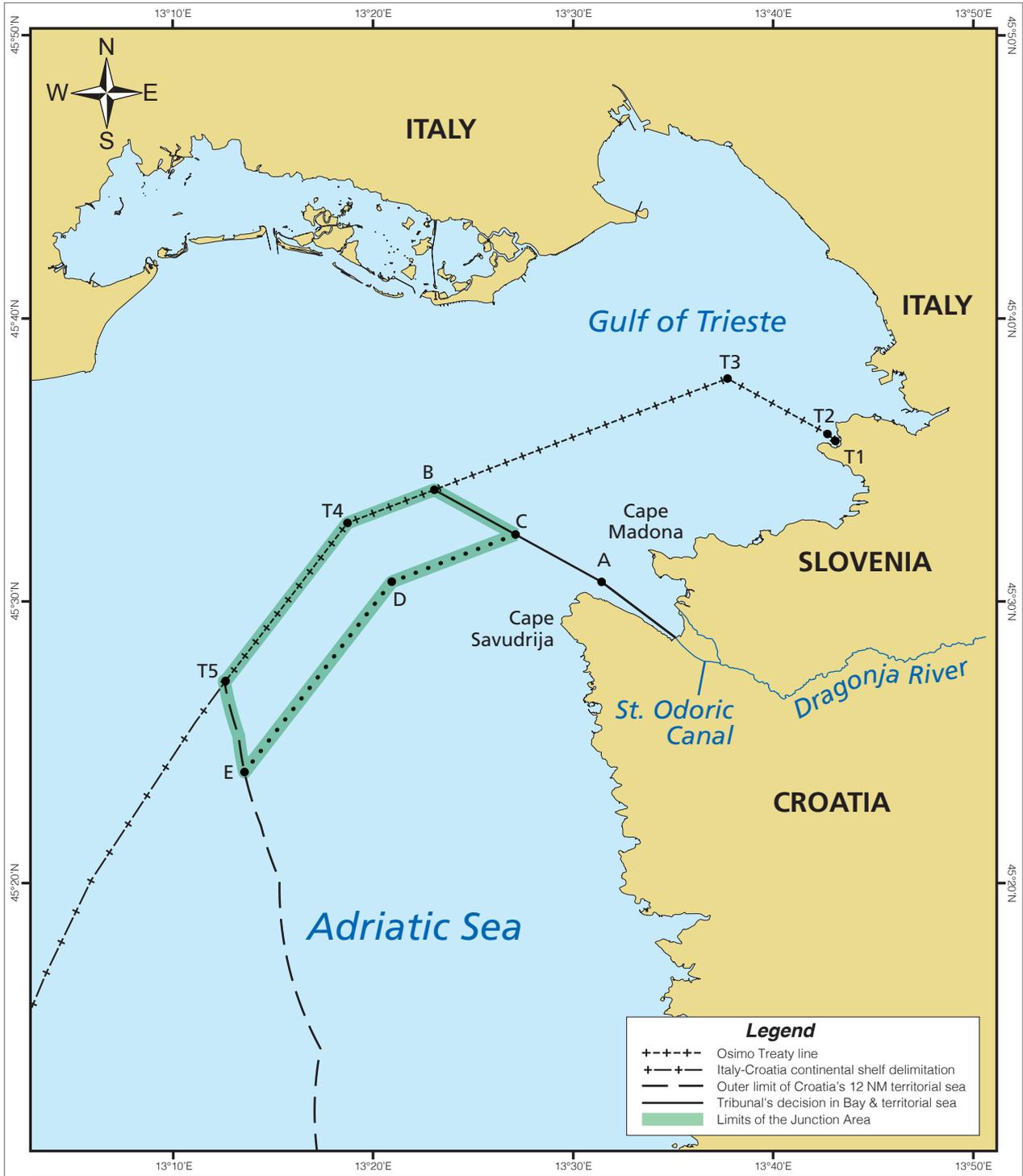
The Tribunal then observes that the Parties are deeply divided over the question of whether the reference to a “junction” in the Arbitration Agreement signifies that Slovenia’s maritime zones must abut and have a boundary with an area of high seas (as Slovenia maintains) or whether a “junction” requires, not physical contiguity, but only that there should be secure and uninterrupted access between the high seas and Slovenia’s maritime zones (as Croatia maintains).

The Tribunal considers that the term “junction” has an essentially spatial meaning and connotation. In the standard dictionaries of the English language, the core meaning of “junction” is a place where two or more things come together or join. The Tribunal finds that dictionaries offer no substantial support to the contention that there is an agreed ordinary meaning of the term “junction” that signifies a destination or direction (as is suggested by Croatia), rather than the location of a physical connection. In conclusion, the Tribunal determines that the term “junction” signifies the physical location of a connection between two or more areas. In the present case, the Tribunal defines the term “junction” as the connection between the territorial sea of Slovenia and an area beyond the territorial seas of Croatia and Italy. The Tribunal adds that the term “junction” may be understood literally to mean either a geographical point or line, without spatial extension, or an area.

Turning to the geographical location of that connection between Slovenia (*i.e.* Slovenia’s territorial sea) and the “High Sea”, the Tribunal observes that no part of the boundary of Slovenia’s territorial sea, as determined by the Tribunal, directly abuts upon an area of high seas or of exclusive economic zone. There is thus no place where at present Slovenia’s territorial sea is immediately adjacent to an area in which the applicable legal regime preserves the freedoms referred to in UNCLOS Article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms.

The Tribunal’s task pursuant to the Arbitration Agreement to determine Slovenia’s junction so as to “achieve a fair and just result by taking into account all relevant circumstances,” requires the Tribunal to consider what modifications might be necessary in order to achieve that fair and just result. In this regard, the Tribunal has noted in particular the importance attached by both Parties to the question of rights of access to and from Slovenia by sea and by air, and of the exercise of jurisdiction over ships and aircraft exercising that right, viewed in the context of the geography of the northern Adriatic Sea. The Tribunal thus determines that the junction between the Slovenian territorial sea and the “High Sea” is an area in which ships and aircraft enjoy essentially the same rights of access to and from Slovenia as they enjoy on the high seas. That area connects the Slovenian territorial sea with the area that is beyond the 12 NM territorial sea limits of Croatia and Italy. Such a connection results from the identification of an area of Croatia’s territorial sea adjacent to the boundary with Italy established by the Treaty of Osimo within which a special legal regime applies, as is set out below. The Tribunal will refer to this area as the “Junction Area”.

The Junction Area shall be approximately 2.5 NM wide, and be immediately adjacent to the boundary laid down by the Treaty of Osimo in Croatia's territorial sea. The limits of the Junction Area are indicated on Map VII, which is reproduced on the following page.



<p><b>JUNCTION AREA</b></p> <p style="text-align: center;">Nautical Miles</p> <p style="text-align: center;">Kilometers</p> <p style="text-align: center;">Nominal Scale at Latitude 45°30'N - 1:400,000</p>	<p><b>Map VII</b></p>	<p>Projection / Datum: Mercator / ETRS89</p>
<p>Base map: © OpenStreetMap contributors. This map is for illustrative purposes only.</p>		

### *Regime of the Junction Area*

The Tribunal then turns to the regime that shall apply to the Junction Area. The Tribunal recalls again that it is directed by the Parties, by Article 4 of the Arbitration Agreement, to determine the regime for the use of the relevant maritime areas applying “international law, equity and the principle of good neighbourly relations in order to achieve a fair and just result by taking into account all relevant circumstances.” In the light of the submissions of the Parties, the framework established by UNCLOS, and the geography of the northern Adriatic Sea, it has determined the following regime.

#### The Content and Scope of the Freedoms of Communication

The Tribunal emphasizes that the regime of the Junction Area is intended to guarantee both the integrity of Croatia’s territorial sea and Slovenia’s freedoms of communication between its territory and the high seas. To that end, the Tribunal considers it essential that, in the Junction Area, there is freedom of communication for the purposes of uninterrupted and uninterruptible access to and from Slovenia, including its territorial sea and its airspace. That freedom consists in the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines.

These freedoms apply to all ships and aircraft, civil and military, of all flags or States of registration, equally and without discrimination on grounds of nationality. The Tribunal regards an extension of these rights to ships and aircraft of all States, and not just to Slovenian ships and aircraft, as necessary for the practical realization of rights of access to and from Slovenia’s ports and waters, which is a matter that relates not only to Slovenian vessels and aircraft but also to vessels sailing and aircraft flying under the flags of all countries other than Slovenia.

Ships and aircraft are entitled to the freedoms of communication in the Junction Area described above when travelling to or from Slovenia, including its territorial sea and its airspace.

The Tribunal clarifies that the freedoms of communication in the Junction Area do not include the freedom to explore, exploit, conserve or manage the natural resources, whether living or non-living, of the waters or the seabed or the subsoil in the Junction Area. Nor do they include the right to establish and use artificial islands, installations or structures, or the right to engage in marine scientific research, or the right to take measures for the protection or preservation of the marine environment.

Further, the Tribunal specifies that, unlike innocent passage, the freedoms of communication in the Junction Area are not conditioned upon any criterion of innocence and are not suspendable under any circumstances. The freedoms of communication in the Junction Area are not subject to any duty of submarine vessels to navigate on the surface, nor to any coastal State controls or requirements other than those permitted under the legal regime of the EEZ established by UNCLOS.

The Tribunal further explains that, unlike transit passage, the freedoms of communication in the Junction Area are exercisable as if they were high seas freedoms exercisable in an exclusive economic zone. They include the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms. The laying of submarine cables and pipelines is subject to the conditions set out in UNCLOS Article 79, including the right of Croatia under Article 79(4) to establish conditions for such cables and pipelines entering other parts of Croatia’s territorial sea.

#### Guarantees of, and Limitations to, the Freedoms of Communication

The Tribunal considers that, in order to guarantee the freedoms of communication as defined above, it is necessary that ships and aircraft of all flags and of all kinds, civil and military, exercising the freedom of

communication are not subject to boarding, arrest, detention, diversion or any other form of interference by Croatia while in the Junction Area.

The Tribunal draws a distinction between, on the one hand, Croatia's right to prescribe laws and regulations for ships and aircraft within the Junction Area and, on the other hand, Croatia's right to take action to enforce its laws and regulations in that area. The Tribunal considers it fair, just and practical for Croatia to remain entitled to adopt laws and regulations applicable to non-Croatian ships and aircraft in the Junction Area, giving effect to the generally accepted international standards in accordance with UNCLOS Article 39(2) and (3). Ships and aircraft exercising any aspect of the freedom of communication would be under an obligation to comply with such Croatian laws and regulations.

The Tribunal also considers that, in order to ensure a fair, just and practical result, it is necessary that in the Junction Area Croatia should retain the right to respond to a request made by the master of a ship or by a diplomatic agent or consular officer of the flag State for the assistance of the Croatian authorities and also, exceptionally, that Croatia should retain the right to exercise in the Junction Area powers under UNCLOS Article 221 in respect of maritime casualties.

#### Duty of Cooperation and Other Agreements between the Parties

The Tribunal emphasizes that the rights and obligations of the Parties under the regime of the Junction Area must be exercised in good faith and with due regard for the rights and obligations of other States. The Tribunal observes that, given the small size of the Junction Area and its proximity to adjacent States, this obligation is a particularly important element of the legal regime of the Junction Area. The Tribunal recalls, in addition, the express obligations under UNCLOS Articles 123 ("Cooperation of States bordering enclosed or semi-enclosed seas"), 300 ("Good faith and abuse of rights"), and 301 ("Peaceful uses of the seas") on all States.

Finally, the Tribunal clarifies that its Award is without prejudice to any existing or future agreements between the Parties. Nor does anything in this Award affect the Traffic Separation Scheme of the International Maritime Organization in the northern Adriatic Sea, or international rules applicable to air navigation. Similarly, nothing in this Award purports to address any rights or obligations of the Parties arising under European Union law.

#### Costs

Finally, the Tribunal addresses the costs of the arbitration. In this regard, the Tribunal takes note of Article 6(7) of the Arbitration Agreement, which provides that "[t]he costs of the Arbitral Tribunal shall be borne in equal terms by the two Parties." The Tribunal further notes that neither side has requested the Tribunal to make any other determination on costs or presented any submission on costs to the Tribunal.

In these circumstances, the Tribunal decides that the costs of the Tribunal and the Registry shall be borne by the Parties in equal shares.

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The Tribunal's Awards, further information regarding the proceedings, and photographs of the public sitting as well as the hearings held in 2014 and 2016 are available on the PCA Case Repository (<https://pcacases.com/web/view/3>).

The PCA is an independent intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Contracting Parties, including Croatia and Slovenia. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties.

The PCA has acted as Registry in numerous arbitrations and conciliations between States, investor-State arbitrations and contract-based arbitrations.

\* \* \*

Contact: Permanent Court of Arbitration  
E-mail: [bureau@pca-cpa.org](mailto:bureau@pca-cpa.org)

Annex

## VIII. DISPOSITIF

**For the foregoing reasons, the Arbitral Tribunal unanimously,**

### **I. In relation to the land boundary between Croatia and Slovenia,**

#### **A. Determines that the boundary in the **Mura River Region** runs as follows:**

1. In the area of Brezovec-del/Murišće, as set out in paragraph 413, the boundary follows a line along the southern wayside of a path to the south of that settlement, as illustrated on Award Map I;
2. In the areas of Podturen/Pince and Novakovec/Pince, as set out in paragraph 440, the boundary follows the cadastral limits as modified in 1956 and 1957;
3. In the area of Ferketinec/Pince, as set out in paragraph 440, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia as they stood before 1956;
4. In the area of Mursko Središće/Peklenica, as set out in paragraph 446, the boundary is as recorded in the 1956 Minutes on the Determination of the Borders of the Cadastral District of Peklenica;
5. In all other areas, to the extent that the boundary is disputed, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;

#### **B. Determines that the boundary in the **Central Region** runs as follows:**

1. In the Slovenske gorice,
  - a. In the area of Razkrižje, as set out in paragraph 473, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;
  - b. In the area of Robadje/Globoka, as set out in paragraph 478, the boundary follows the limits recorded in the cadastre of Slovenia;
  - c. In certain areas in the vicinity of the Santavec River, as set out in paragraph 482, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;

- d. In the vicinity of the Zelena River, as set out in paragraph 485, the boundary follows the aligned cadastral limits of Croatia and Slovenia.
2. In the area of the Drava River, as set out in paragraph 495, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;
3. In the area of Haloze-Macelj, as set out in paragraph 505, the boundary follows the boundaries as depicted on maps dated 1914, corresponding to the limits of the cadastre of Slovenia;
4. Within the Sotla River area,
  - a. In area 5.1, as set out in paragraph 521, the boundary follows the limits of the cadastre of Croatia;
  - b. In area 5.2, as set out in paragraph 522, the boundary follows the limits recorded in the cadastre of Croatia;
5. Within the areas of the Sava and Bregana Rivers,
  - a. In area 6.1, as set out in paragraph 531, the boundary follows the middle of the Sava River;
  - b. In the area of the junction of the Sava and Bregana Rivers, as set out in paragraph 540, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;
6. Within the area of Gorjanci/Žumberak,
  - a. In area 7.1, as set out in paragraph 564, the boundary follows the limits of the cadastre of Slovenia;
  - b. In area 6.3, as set out in paragraph 578, the boundary follows the eastern limit of the Sekulići/Sekuliči Slovenian cadastral district;

- c. In the area of Trdinov Vrh/Sveta Gera, as set out in paragraph 586, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;
  - 7. Within the areas of the Kamenica, Kupa/Kolpa and Čabranka Rivers,
    - a. In the Kamenica River area, as set out in paragraph 608, the boundary is as shown on Map 23 of Volume III of Croatia's Counter-Memorial and on Map 59 of Volume III of Croatia's Reply;
    - b. In the Kupa/Kolpa River area, as set out in paragraph 614, the boundary is as concurrently depicted on the Parties' claim maps in the present proceedings;
    - c. In the Čabranka River area, as set out in paragraph 624, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;
  - 8. In the area to the east of the settlement of Črneča Vas, as set out in paragraph 630, the boundary follows the aligned cadastral limits of Croatia and Slovenia.
  - 9. Within the area of Novi Kot/Prezid, Draga/Prezid, Babno Polje/Prezid,
    - a. In the areas of Novi Kot/Prezid and Draga/Prezid, as set out in paragraph 636, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;
    - b. In the area of Babno Polje/Prezid, as set out in paragraph 642, the boundary is as indicated on an Imperial-Royal field sketch of June 1918 of the provincial boundary between Carniola and Croatia;
- C. Determines that the boundary in the **Istria Region** runs as follows:
- 1. In areas 9.3 and 9.4, as set out in paragraph 688, the boundary follows the course of the former boundary between Italy and Yugoslavia as it stood from 1920 to 1947;
  - 2. The area of 2 ha immediately south of Gomance, as set out in paragraph 696, forms part of the territory of Slovenia;

3. In the areas of Klana/Lisac and Zabiče/Sušak as well as Lisac/Sušak, as set out in paragraphs 719 and 720, the boundary follows the boundary between Lisac and Sušak as depicted on a 1878 map of Lisac;
4. In the area of Kućibreg/Topolovec, as set out in paragraph 737, the boundary follows the outer limits of the settlements transferred from Croatia to Slovenia in 1956, as reflected in cadastral records and maps maintaining the 1947 delimitation line as the new cadastral limits;
5. In the area of Merišće/Krkavče and in the Lower Dragonja region, as set out in paragraph 769, the boundary follows the Dragonja River up to a point in the middle of the channel of the St Odoric Canal with the coordinates 45°28'42.3"N, 13°35'08.2"E;<sup>2208</sup>

D. Determines that, in **all areas not specifically mentioned above**, the boundary is as agreed by the Parties in the course of the present proceedings; in the absence of such agreement, the boundary follows the aligned limits of the cadastres of Croatia and Slovenia;

E. Decides further that:

1. The Tribunal has no jurisdiction to address Croatia's request that the Tribunal adjudge and declare that "no Slovenian personnel, whether military, civilian, police or security, shall be entitled to remain at the facility located at Sveta Gera in the Croatian Municipality of Ozalj";
2. Croatia's request that the Tribunal adjudge and declare that "Slovenia shall not hinder communication between the Croatian municipality of Sveti Martin na Muri, including the area of Murišće" is moot, and no decision by the Tribunal is accordingly called for;

## II. In relation to the Bay,

A. Finds that the Bay had the status of internal waters prior to the dissolution of the SFRY and determines that it retained that status after the independence of Croatia and Slovenia;

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<sup>2208</sup> The geographical coordinates used in this Award are referenced to the ETRS89, unless otherwise indicated. See note 615.

- B. Determines that the closing line of the Bay (dividing internal waters from territorial sea) runs from Cape Madona, Slovenia (45°31'49.3"N, 13°33'46.0"E) to Cape Savudrija, Croatia (45°30'19.2"N, 13°30'39.0"E);
- C. Determines that the boundary between Croatia and Slovenia in the Bay shall be a straight line joining a point in the middle of the channel of the St Odoric Canal with the coordinates 45°28'42.3"N, 13°35'08.2"E, to point A with the coordinates 45°30'41.7"N, 13°31'25.7"E;

**III. In relation to the maritime boundary between Croatia and Slovenia,**

Determines that the maritime boundary between the territorial seas of Croatia and Slovenia is a geodetic line joining Point A with the coordinates 45°30'41.7"N, 13°31'25.7"E, with an initial geodetic azimuth of 299°04'45.2", to Point B on the line established by the Treaty of Osimo;

**IV. In relation to the Junction Area,**

- A. Establishes a Junction Area whose limits consist of the five geodetic lines joining the following six points in the order given:

Point T5, being a point on the boundary established by the Treaty of Osimo;

Point T4, being a point on the boundary established by the Treaty of Osimo;

Point B, being the tripoint on the boundary between the maritime zones of Croatia and Slovenia, and the boundary established by the Treaty of Osimo, at 45°33'57.4"N, 13°23'04.0"E;

Point C, being a point on the boundary between the maritime zones of Croatia and Slovenia, at 45°32'22.5"N, 13°27'07.7"E;

Point D, being a point landward of the turning point T4 on the Treaty of Osimo boundary, at 45°30'42.2"N, 13°20'56.3"E;

Point E, being a point on the outer limit of Croatia's territorial sea, lying 12 NM from the coast of Croatia, at 45°23'56.6"N, 13°13'34.6"E;

and the line from Point E along the outer limit of Croatia's territorial sea to Point T5.

- B. Determines that, in the Junction Area, the following usage regime shall apply:

- a. Freedom of communication shall apply to all ships and aircraft, civil and military, of all flags or States of registration, equally and without discrimination on grounds of nationality, for the purposes of access to and from Slovenia, including its territorial sea and its airspace;
- b. The freedom of communication shall consist in the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines;
- c. The freedom of communication shall not be conditioned upon any criterion of innocence, shall not be suspendable under any circumstances, and shall not be subject to any duty of submarine vessels to navigate on the surface or to any coastal State controls or requirements other than those permitted under the legal regime of the EEZ established by UNCLOS;
- d. The laying of submarine cables and pipelines shall be subject to the conditions set out in UNCLOS Article 79, including the right of Croatia under Article 79(4) to establish conditions for such cables and pipelines entering other parts of Croatia's territorial sea;
- e. The freedom of communication shall not include the freedom to explore, exploit, conserve or manage the natural resources, whether living or non-living, of the waters or the seabed or the subsoil in the Junction Area, nor shall it include the right to establish and use artificial islands, installations or structures, or the right to engage in marine scientific research, or the right to take measures for the protection or preservation of the marine environment;
- f. Ships and aircraft exercising the freedom of communication shall not be subject to boarding, arrest, detention, diversion or any other form of interference by Croatia while in the Junction Area, but Croatia shall remain entitled to adopt laws and regulations applicable to non-Croatian ships and aircraft in the Junction Area, giving effect to the generally accepted international standards in accordance with UNCLOS Article 39(2) and (3);
- g. Croatia shall retain the right in the Junction Area to respond to a request made by the master of a ship or by a diplomatic agent or consular officer of the flag State for the

assistance of the Croatian authorities and also the exceptional right to exercise in the Junction Area powers under UNCLOS Article 221 in respect of maritime casualties;

- h. The rights and obligations of the Parties referred to in sub-paragraphs (a) to (g) shall be exercised in good faith and with due regard for the rights and obligations of other States;
- C. Notes that this regime is without prejudice to any existing or future agreements regarding the usage of relevant maritime areas between the Parties, and that nothing in this Award affects the IMO Traffic Separation Scheme in the northern Adriatic Sea, or international rules applicable to air navigation, or any rights or obligations of the Parties arising under EU law;
- D. Affirms that the rights and obligations of Croatia and Slovenia, in accordance with UNCLOS, in all areas of their respective territorial seas and other maritime zones apart from the Junction Area are unaffected, except to the extent necessary to ensure the application of the regime established by this Award;
- E. Decides that, in view of the decisions set out above, no further determinations in respect of maritime matters are necessary or appropriate;

**V. In relation to the permanence of the rights and obligations of the Parties under the Award,**

Notes that the land boundary as well as the boundary between the territorial seas of Croatia and Slovenia, the special regime for the Junction Area, and the rights and obligations of Croatia and Slovenia established by this Award shall subsist unless and until they are modified by agreement between those two States;

**VI. In relation to the costs of the arbitration,**

Decides that the costs of the Tribunal and the Registry shall be borne by the Parties in equal shares.