

QUESTION PUT BY JUDGE *AD HOC* GAJA

May Logwood Cay and Media Luna Cay be currently regarded as islands within the meaning of Article 121, paragraph 1, of the United Nations Convention on the Law of the Sea?

1. On 22nd March 2007 Counsel for Honduras provided a preliminary response in answer to the question from Judge *ad hoc* Gaja, on the basis of the evidence that was then available and before the Court (CR 2007/13, pages 44/45). Honduras also expressed the hope that it would be able to provide further information in its written response.
2. In exercise of its sovereignty over the areas Honduras has carried out a number of visits to the area, by air and naval patrol. A first visit was made by air on 21 March 2007, between 2200 and 2300 hours (UTC). A second visit was made by sea on 23 March 2007 between 0600 and 1800 hours (local time). A third visit was made by sea on 30 March 2007 between 0600 and 2300 hours (local time).
3. Visual observations during the course of these visits have confirmed that Logwood Cay (Cayo Palo de Campeche) is above water but that Media Luna Cay is submerged.
4. Attached as Annex A is a Notarial Statement (together with certified translation) of Mr. Douglas B. Diaz dated 2 April 2007, witnessing a declaration by Mr Hector Manuel Tercero Lopez, Commander DEMN of the Honduran Naval Force. It states in part:

“They sailed to Media Luna reef, reaching this section at 16:25 hours, then dropped anchor in position 15°11’52” N - 082°42’25”W; afterwards, a zodiac type boat was lowered from the ship in order to reach the exact position of Logwood Cay at 15°11’30” N - 082°41’45”W, confirming this as the location of such cay, which is above sea level and has an area of approximately 40 meters (see attached photographs);”¹
5. Copies of the photographs of Logwood Cay (Cayo Palo de Campeche) to which Commander Lopez has referred are attached as Annex B.

¹ On the basis of tidal information relating to the closest port (Guanaja, Honduras), the time at which Commander Lopez visited Logwood Cay (Cayo Palo de Campeche) was approaching high tide (the Caribbean Sea is known for the minimal amplitude of its tides). Honduras calculates that the tide at 17:00 hours on 30 March 2007 was .6948 feet above low tide for the day (or 8.34 inches), that high tide was still 116 minutes away, and that the increase from 17:00 to 18:56 would only be another .2651 feet (or 3.18 inches). This confirms that the feature in the photograph would remain above water at high tide, given an expected increase of only another 3 or 4 inches of anticipated tidal rise. The information relating to tides at Guanaja is attached at Annex D.

6. A close up of NIMA nautical chart 28140 is attached at Annex C. This identifies the location of the coordinates 15°11'30" N - 082°41'45"W, as referred to in the statement of Commander Lopez. It can be seen that GPS coordinates obtained during the site visit of 30 March 2007 of Logwood Cay (Palo de Campeche) align exactly with a small islet depicted on NIMA chart 28140, which is the only islet in close proximity to the name Logwood Cay.²
7. These considerations confirm that Logwood Cay (Cayo Palo de Campeche) may currently be regarded as an island, and that Media Luna Cay is a reef and not an island. These conclusions are consistent with the Landsat image (Plate PS3.7.1) taken on 12 January 2003, the details of which have been provided to the Court by letter dated 29 March 2007.
8. These findings cannot in any event affect Honduras' sovereignty over the islands that lie to the north of the 15th parallel. There is no disagreement between the parties that the evidence before the Court indicates that Logwood Cay (Cayo Palo de Campeche) and Media Luna Cay were islands *inter alia* in the period from 1936 to 1982, when they were first referred to in Honduran legislation and the Constitution. There is also no dispute between the parties that other features – including in particular Bobel Cay, Savanna Cay, Port Royal Cay and South Cay – are also islands within the meaning of Article 121(1) of the United Nations Convention on the Law of the Sea.

² On NIMA chart 28140 the name "Logwood Cay" is placed slightly north of this islet location (approximately 6/10ths of a nautical mile), in an area where there are no charted islets or islands. In preparing its charts in the written pleadings Honduras made use of the NIMA chart because it was published more recently (21 September 1985) than the first edition of BA chart 2425 (published on 29 June 1917 with major updates on 23 August 1929). Reliance on the much older BA chart indicates that the variance between the charted position and the actual position as observed is less than one nautical mile.



**EMBASSY OF HONDURAS TO THE KINGDOM
OF THE NETHERLANDS**

CERTIFICATION

The undersigned, Co-Agent of the Republic of Honduras, in accordance with Article 51 paragraph 3 of the Rules of Court, certifies that the documents contained in this file and listed hereunder, are true and accurate copies of the original of the documents, one of them fully translated into English. These documents are provided to the Court as part of the written reply of the Honduran Government to the question put by Judge ad hoc Gaja to both Parties at the public sitting held on 16 March 2007 in the case concerning the Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras).

List of documents

1. Notarial Certificate dated 2 April 2007, issued by Mr. Douglas B. Diaz G., Notary Public, registered in the Bar Association of Honduras under licence number 766, witnessing the declaration of Mr. Hector Manuel Tercero López, Commander DEMN of the Honduran Naval Force (Annex A).
2. Copies of photographs of Logwood Cay taken on 30 March 2007 by the the crew of the coastguard vessel L.P. CHAMELECON, Registration No. FHN-8501 of the Naval Force of Honduras (Annex B).
3. Close-up of NIMA nautical chart 28140 (Annex C).
4. Information relating to tides at Guanaja, Honduras (Annex D).

In witness whereof, I issue this Certification on 5 April 2007 in The Hague.

Julio Rendón Barnica
Co-Agent of the Republic of Honduras

ANNEX A

NOTARIAL CERTIFICATE DATED 2 APRIL 2007, ISSUED BY MR. DOUGLAS B. DIAZ G., NOTARY PUBLIC, REGISTERED IN THE BAR ASSOCIATION OF HONDURAS UNDER LICENCE NUMBER 766, WITNESSING THE DECLARATION OF MR. HECTOR MANUEL TERCERO LÓPEZ, COMMANDER DEMN OF THE HONDURAN NAVAL FORCE.

CERTIFIED COPY
OF
PUBLIC DEED

NUMBER 35

NOTARIAL CERTIFICATE

REQUESTED BY: RAMÓN VALLADARES SOTO,
DIRECTOR-GENERAL OF BOUNDARIES AND
INTERNATIONAL WATERS OF THE MINISTRY OF FOREIGN AFFAIRS

FOR: HIMSELF

AUTHORIZED BY THE NOTARY
DOUGLAS B. DIAZ G.
Licence No. 766

Tegucigalpa, M.D.C., 2 April 2007

Tegucigalpa, M.D.C.
[Stamp, seal and signature]

Official Paper No. 3059605

CERTIFIED COPY

“PUBLIC DEED NUMBER THIRTY FIVE (35). In the city of Tegucigalpa, Municipality of the Central District, on the second day of April of the year Two Thousand and Seven. I, Douglas B. Díaz, Notary Public with domicile in Colonia Florencia Sur, Second Street, house number three thousand six hundred forty one (3641), Boulevard Suyapa, Tegucigalpa, registered in the Bar Association of Honduras under number Zero Seven Six Six (0766) and registered as Notary at the Supreme Court of Justice under number Five Hundred Forty Nine (549), state that on this date I was requested by Mr. Ramón Valladares Soto, of legal age, widower, a Lawyer and Notary Public by profession, Honduran, identity card number 0705-1917-00098, and with domicile in this Central District, who expresses that in his condition as Director-General of Boundaries and International Waters of the Ministry for Foreign Affairs of Honduras and upon instructions of the Minister for Foreign Affairs, Attorney Milton Jiménez Puerto, he asks that I, the Notary, certify the following facts. To that effect, I personally went to the said Ministry and certify that in my presence, Mr. HECTOR MANUEL TERCERO LOPEZ, Commander DEMN Honduran Naval Force FNHO-1947, declared that: on 30 March 2007 at 0600 hours, the ship L.P. CHAMELECON with registration number FNH-8501, length of 85 feet, breadth of 13 feet, draught of 6 feet, two motors Detroit Diesel 16V of 900 HP, gray color, Coastguard type, set sail from the NAVAL BASE OF CARATASCA with the following crew: Claudio Hazael Paz Cortes, Midshipman C.G., series FNHO-3294, identity card number 0318-1983-01828; Juan Ramón Vallecillo, Officer, series FNHSO-0081, identity card number 1807-1974-00731; Bruce Windell Bodden Sanchez, Master III, identity card number 1101-1984-00092; Luis Alonso Mejía Moreno, Master III, identity 0501-1985-00257; Edixon Romero García, Master III, identity number 0205-1986-01272; Irvin Didier Viera, Petty Officer, identity number 0506-1987-01610; Rene Alexander Renau, Petty Officer, identity number 0506-1986-00022; Fernando Enrique López Torres, sailor, identity number 0501-1985-02810; Pedro Daniel Enrique Castellanos, sailor, identity number 0401-1988-00621; Juan Agustín Avila Gil, sailor, identity number 0207-1985-00106. They were accompanied by Engineer Miguel Tosta Appel and Mr. Rolando Meza Rubí, topographer, both members of the Commission of Sovereignty and Boundaries of the Ministry for Foreign Affairs. They sailed to Media Luna reef, reaching this section at 16:25 hours, then dropped anchor in position 15°11'52" N - 082°42'25"W; afterwards, a zodiac type boat was lowered from the ship in order to reach the exact position of Logwood Cay at 15°11'30" N - 082°41'45"W, confirming this as the location of such cay, which is above sea level and has an area of approximately 40 meters (see attached photographs); after this verification, we have returned to the L.P. CHAMELECON thirty minutes later, raising the zodiac type boat. Minutes later, the ship weighed anchor and sailed to Media Luna Cay, reaching the

exact position of 15°08'15" N - 082°41'45" W at 18:20 hours, confirming that in this position there is not any cay; once the verification was completed, we dropped anchor due to mechanical failures in the turbine and at 23:00 hours we weighed anchor and sailed to Naval Base of Caratasca, and berthed at the quay of this base on 31 March 2007 at 0700 hours, with the aforementioned report. This mission required the consumption of 500 gallons of diesel, 100 gallons of water and 10 gallons of gasoline. Witnessed this morning at eleven hours. Thus having read the contents of this notarial certificate to the requesting person, and finding it in accordance with the statements therein, he ratifies it, finger-prints it and signs it, in the presence of the undersigned Notary. Witnessed. Signature and Finger-Print. RAMÓN VALLADARES SOTO. Signature and Notarial Seal. DOUGLAS B. DIAZ."

And at the request of Mr. RAMÓN VALLADARES SOTO, in his condition as Director-General of Boundaries and International Waters of the Ministry of Foreign Affairs of Honduras, I issue, sign and seal this first copy, in the same city and date of its issuance, on the corresponding official paper, with its original remaining filed in my official registry for this year, where I recorded the issuance of this copy.

(Signature and Seal of the Notary Public)

[Stamp]
APOSTILLE
3541/2007
Ministry of Foreign Affairs

[SEAL]
MINISTRY FOR FOREIGN AFFAIRS
OF THE REPUBLIC OF HONDURAS

[STAMP]

[Seal] S.R.E.

HONDURAS

3541/2007

This Ministry is not
responsible for the contents of
the document

Apostille

(Convention de la Haye du 5 octobre 1961)

Duties Lps. 150.00

Receipt No.....

In Honduras the present public document has been signed by:

DOUGLAS B. DIAZ G.

Who acts in his condition as:

ATTORNEY AT LAW AND NOTARY PUBLIC

And it is stamped with the seal that is used by:

DOUGLAS B. DIAZ G.

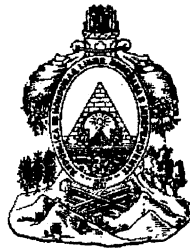
Certified in: TEGUCIGALPA M.D.C. by JUAN RAMON RIVERA
Secretary-General of the Ministry for Foreign Affairs

HONDURAS C.A. the 2nd of April of 2007

[Signed and stamped]

Signature

TESTIMONIO



DE LA ESCRITURA PUBLICA

No. 35

De ACTA NOTARIAL

Otorgado por RAMON VALLADARES SOTO, DIRECTOR GENERAL DE LIMITES
Y AGUAS INTERNACIONALES, DEPENDENCIA DE LA SECRETARIA DE
ESTADO EN EL DESPACHO DE RELACIONES EXTERIORES DE HONDURAS

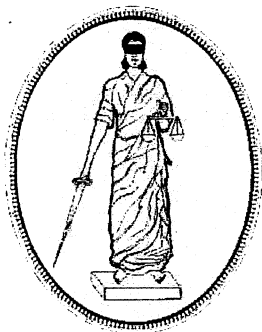
A favor de EL MISMO

AUTORIZADA POR EL NOTARIO

DOUGLAS B. DIAZ G.

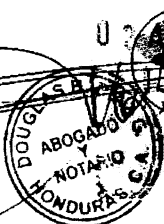
COLEGIADO N° 766

TEG.M.D.C., 02 ABRIL 2007
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PAPEL SELLADO OFICIAL
CINCO LEMPIRAS
2004 - 2007

TEGUCIGALPA, M.D.C.



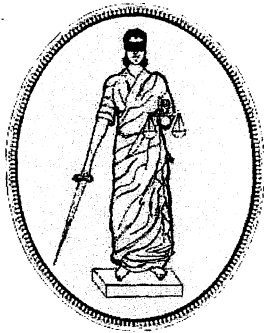
Nº 3059605

TESTIMONIO

1 INSTRUMENTO NUMERO TREINTA Y CINCO (35). En la Ciudad de Tegucigalpa,
2 Municipio del Distrito Central a los dos días del mes de abril del dos mil siete, Yo Douglas B.
3 Diaz, Notario Público, con domicilio profesional en la Colonia Florencia Sur, segunda calle, casa
4 tres mil seiscientos cuarenta y uno (3641), Boulevard Suyapa, Tegucigalpa, inscrito en el Colegio
5 de Abogados de Honduras con el Número cero siete seis seis (0766), con Exequatur de Notario
6 extendido por la Honorable Corte Suprema de Justicia número quinientos cuarenta y nueve (549),
7 fui requerido por el Señor Ramón Valladares Soto, mayor de edad, soltero por viudez, Abogado y
8 Notario Público, hondureño, con Tarjeta de Identidad Número 0705-1917-00098, con domicilio
9 en este Distrito Central, quien en su carácter de Director General de Limites y Aguas
10 Internacionales, Dependencia de la Secretaria de Estado en el Despacho de Relaciones Exteriores
11 de Honduras, quien actúa con instrucciones del Señor Secretario de Estado, Abogado Milton
12 Danilo Jiménez Puerto, para que el suscrito Notario de fe de los hechos que adelante constato. A
13 tal efecto, me personé en el Despacho antes referido y doy fe que en mi presencia el señor
14 Capitan de Fragata DEMN HECTOR MANUEL TERCERO LOPEZ Comandante FNHO-1947,
15 me manifestó lo siguiente: Que con fecha 300600MAR007 zarpó del muelle de la BASE
16 NAVAL de CARATASCA la L.P. CHAMELECON, con registro FNH-8501 de 85 pies de
17 eslora, 13 pies de manga, calado de 6 pies, dos maquinas propulsoras Detroit Diesel 16V de 900
18 HP, color gris, tipo guardacostas, con la siguiente tripulación: Alf. de frag. C.G. Claudio Hazael
19 Paz Cortes, serie FNHO-3294, identidad No. 0318-1983-01828; Sub Oficial Juan Ramón
20 Vallecillo, serie FNHSO-0081, identidad No. 1807-1974-00731; Maestre III Bruce Windell
21 Bodden Sanchez, Iden. 1101-1984-00092; Maestre III Luis Alonso Mejia Moreno 0501-1985-
22 00257; Maestre III Edixon Romero Garcia 0205-1986-01272; Cabo Esp. Irvin Didier Viera 0506-
23 1987-01610; Cabo Esp. Rene Alexander Renau 0506-1986-00022; Mno. Esp. Fernando Enrique
24 Lopez Torres 0501-1985-02810; Mno. Esp. Pedro Daniel Enrique Castellanos 0401-1988-00621;



1 Mno. Esp. Juan Agustín Ávila Gil 0207-1985-00106. Acompañados por el Ingeniero Miguel
2 Tosta Appel y el ciudadano don Rolando Meza Rubi, topógrafo, ambos miembros de la Comisión
3 de Soberanía y Frontera de la Secretaría de Relaciones Exteriores. Se tomó rumbo con destino al
4 arrecife Media Luna, llegando a este sector a las 16:25 horas y procediendo a realizar la maniobra
5 de anclaje en la posición 15°11'52" N. 082°42'25"W.; posteriormente se arrió la lancha tipo
6 zodiac para llegar hasta la posición exacta del Cayo Logwood, 15°11'30" N. 082°41'45"W., con
7 novedad de confirmar que en esta posición se encuentra el mencionado cayo, sobresaliendo
8 sobre el nivel del mar una área de 40 mts. cuadrados aproximadamente (ver fotografías adjuntas
9 del mismo); luego de esta verificación se regresó a la L.P. Chamelecon 30 minutos más tarde
10 izando la lancha tipo zodiac. Minutos más tarde se procedió a levar ancla tomando rumbo con
11 destino al Cayo Media Luna, llegando exactamente a la posición proporcionada 15°08'15" N.
12 082°41'45"W, a las 18:20 horas, confirmando que en esta posición no existe ningún cayo;
13 terminada la verificación se procedió a realizar la maniobra de anclaje debido a fallas mecánicas
14 del generador, levando ancla a las 23:00 horas y tomando rumbo a las Base Naval de Caratasca,
15 atracando al muelle de esta Base a las 310700MAR007 con las novedades anteriores. En dicha
16 misión se consumieron 500 galones de diesel, 100 galones de agua y 10 galones de gasolina. Así
17 paso siendo las once de la mañana. Y enterado el requirente del contenido de la presente acta,
18 encontrándola conforme, la ratifica y firma y coloca su huella digital del dedo índice en presencia
19 del Suscrito Notario que da fe. **FIRMA Y HUELLA DIGITAL. F) RAMÓN VALLADARES**
20 **SOTO. FIRMA SELLO NOTARIAL; DOUGLAS B. DIAZ.**
21 Y a requerimiento del señor RAMÓN VALLADARES SOTO, en su carácter de Director
22 General de Límites y Aguas Internacionales, Dependencia de la Secretaría de Estado en el
23 Despacho de Relaciones Exteriores de Honduras, libro, firma y sello esta primera copia, en el
24 mismo lugar y fecha de su otorgamiento, en el papel sellado correspondiente, quedando su
25 original en en mi Protocolo corriente que llevo en el presente año con el cual concuerda y en



PAPEL SELLADO OFICIAL
CINCO LEMPIRAS
2004 - 2007

Nº 3059605

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D. JOSÉ B. OJEDA
ABOGADO
Y
NOTARIO
HONDURAS S.A.

APOSTILLA
3541/2007
SECRETARIA DE RELACIONES
EXTERIORES





SECRETARIA DE RELACIONES EXTERIORES
DE LA REPUBLICA DE HONDURAS

	Honduras	3541 / 2007
	Apostille (Convention de la Haye du 5 octobre 1961)	<small>POPA SECRETARIA DE RELACIONES EXTERIORES SECRETARIA DE RELACIONES EXTERIORES COMUNISTAS</small>
S.R.E.	Derechos	Lps. 150.00
	No. Recibo:	
En Honduras el presente documento público ha sido firmado <u>DOUGLAS B. DIAZ G.</u> quién actúa en calidad de: <u>ABOGADO Y NOTARIO PUBLICO</u> y esta revestido del sello correspondiente a: <u>DOUGLAS B. DIAZ G.</u>		
Certificado en: <u>TEGUCIGALPA M.D.C.</u> por: <u>JUAN RAMON RIVERA</u> Secretario General de la Secretaría de Relaciones Exteriores		
HONDURAS C. A. el <u>2</u> de <u>ABRIL</u> de 20 <u>07</u>		
Firma		

ANNEX B

COPIES OF PHOTOGRAPHS OF LOGWOOD CAY TAKEN ON 30 MARCH 2007
BY THE THE CREW OF THE COASTGUARD VESSEL L.P. CHAMELECON,
REGISTRATION NO. FHN-8501 OF THE NAVAL FORCE OF HONDURAS.

Cayo Logwood



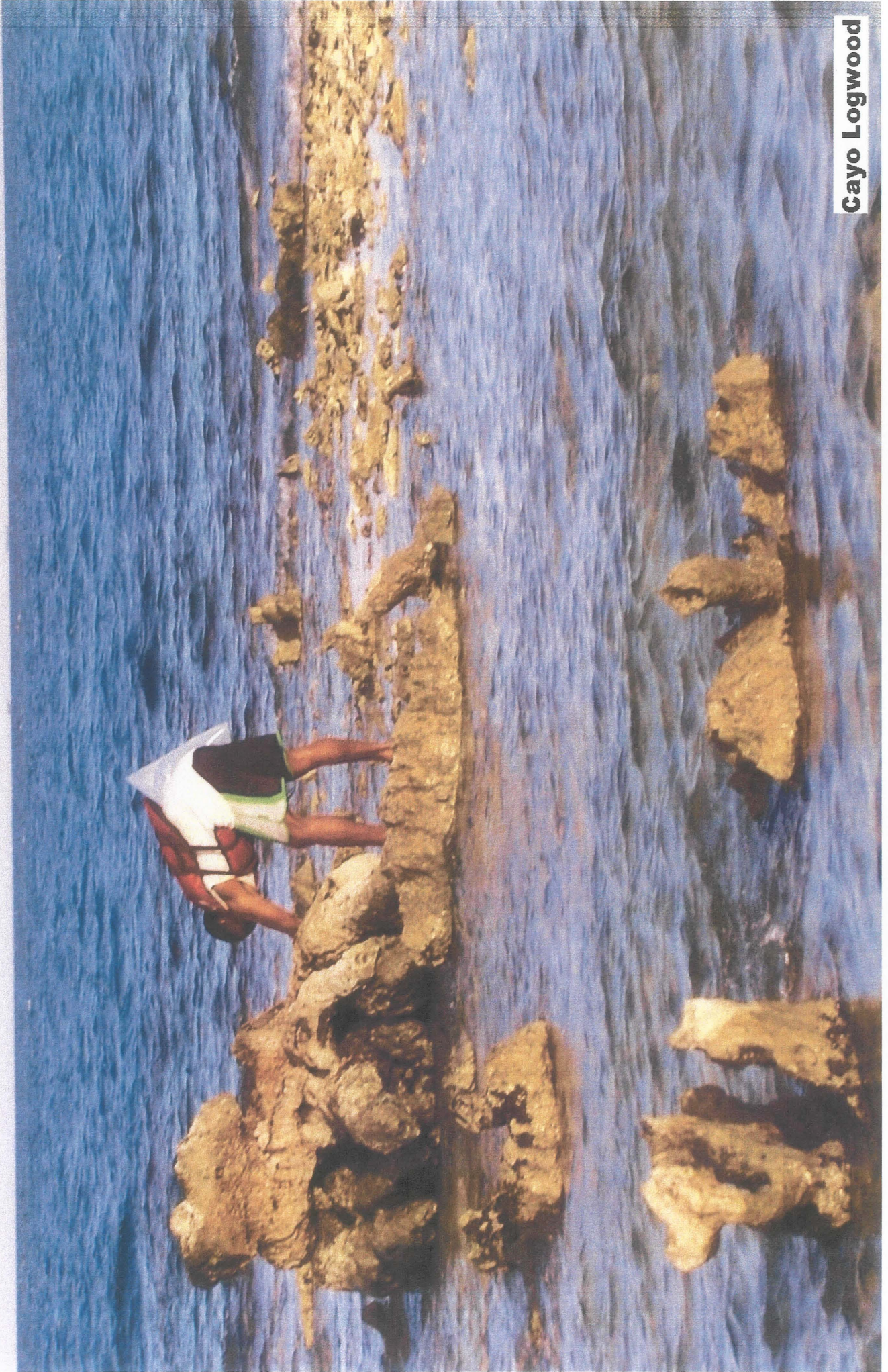




Arena

Cayo Logwood

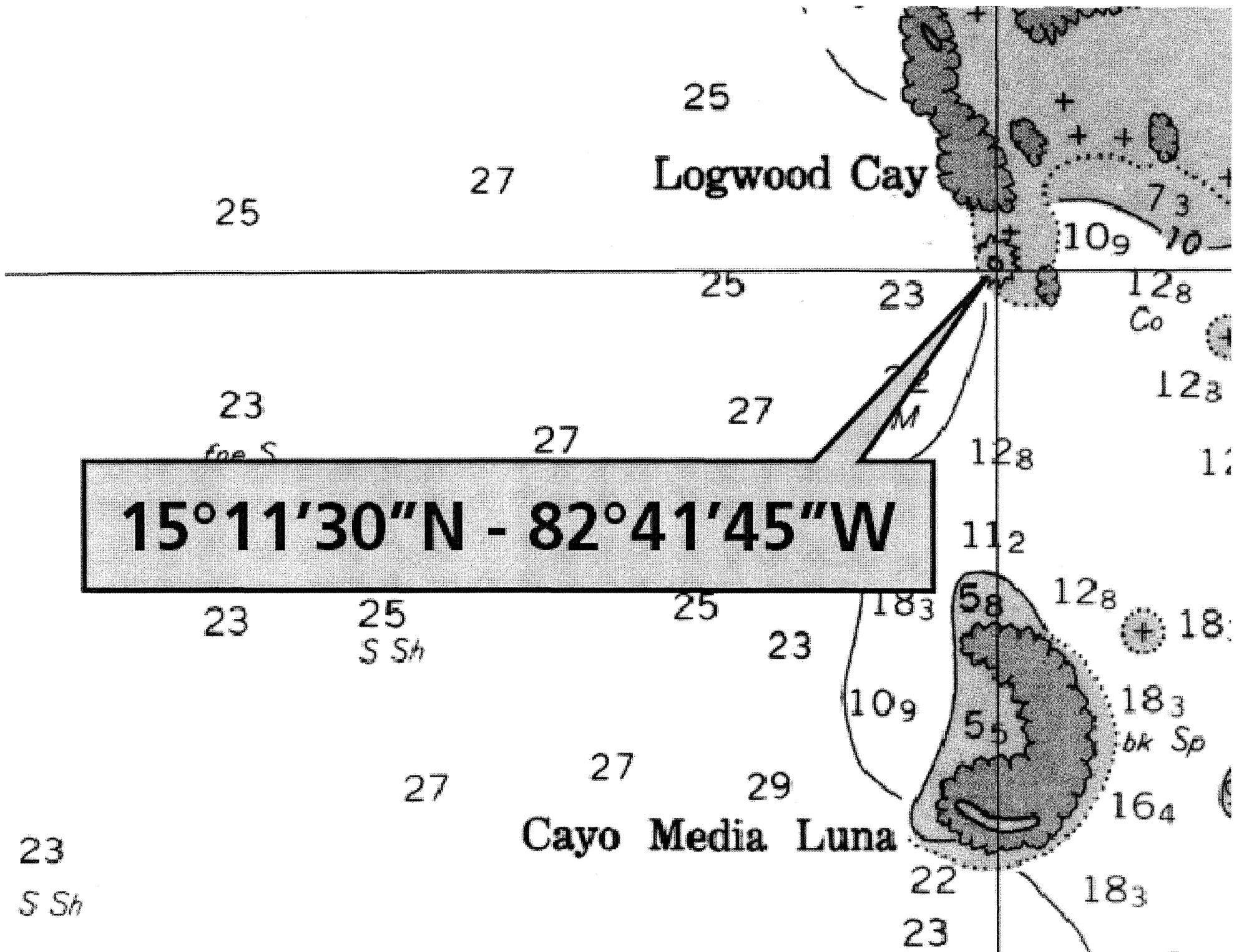




Cayo Logwood

ANNEX C

CLOSE UP OF NIMA NAUTICAL CHART 28140



15°11'30"N - 82°41'45"W

ANNEX D

INFORMATION RELATING TO TIDES AT GUANAJA, HONDURAS

Isla de Guanaja, Honduras
 16.4833° N, 85.9000° W

2007-03-30	12:08 AM CST	0.01 feet	Low Tide
2007-03-30	5:40 AM CST	Sunrise	
2007-03-30	6:56 AM CST	0.84 feet	High Tide
2007-03-30	11:56 AM CST	0.12 feet	Low Tide
2007-03-30	5:56 PM CST	Sunset	
2007-03-30	6:56 PM CST	1.08 feet	High Tide
2007-03-31	12:37 AM CST	0.04 feet	Low Tide
2007-03-31	5:39 AM CST	Sunrise	
2007-03-31	7:19 AM CST	0.94 feet	High Tide
2007-03-31	12:41 PM CST	0.01 feet	Low Tide
2007-03-31	5:56 PM CST	Sunset	
2007-03-31	7:36 PM CST	1.05 feet	High Tide
2007-04-01	1:03 AM CST	0.07 feet	Low Tide
2007-04-01	5:38 AM CST	Sunrise	
2007-04-01	7:40 AM CST	1.03 feet	High Tide
2007-04-01	1:21 PM CST	-0.08 feet	Low Tide
2007-04-01	5:56 PM CST	Sunset	
2007-04-01	8:12 PM CST	1.02 feet	High Tide
2007-04-02	1:28 AM CST	0.11 feet	Low Tide
2007-04-02	5:38 AM CST	Sunrise	
2007-04-02	8:01 AM CST	1.11 feet	High Tide
2007-04-02	11:15 AM CST	Full Moon	
2007-04-02	1:58 PM CST	-0.14 feet	Low Tide
2007-04-02	5:56 PM CST	Sunset	
2007-04-02	8:47 PM CST	0.98 feet	High Tide
2007-04-03	1:52 AM CST	0.16 feet	Low Tide

