

**REQUEST FOR THE MODIFICATION OF THE COURT'S ORDER OF 8 MARCH 2011
ON PROVISIONAL MEASURES IN *CASE CONCERNING CERTAIN ACTIVITIES
CARRIED OUT BY NICARAGUA IN THE BORDER AREA (COSTA RICA v NICARAGUA)***

A. INTRODUCTION

1. I have the honour to refer to the Application submitted to the Court on 18 November 2010 by which proceedings were instituted on behalf of the Republic of Costa Rica (*Costa Rica*) against the Republic of Nicaragua (*Nicaragua*), the Request for the indication of provisional measures submitted to the Court by Costa Rica on 18 November 2010, and the Court's Order on provisional measures of 8 March 2011.
2. This Request to Modify the Court's Order on provisional measures of 8 March 2011 is prompted by Nicaragua's sending to the area indicated by the Court in its Order (the *Area*) and maintaining thereon large numbers of persons, and by the activities undertaken by these persons affecting that territory and its ecology. Costa Rica respectfully files this Request for modification of provisional measures in accordance with Article 41 of the Statute of the Court and Article 76, paragraph 1, of the Rules of Court.

B. JURISDICTION OF THE COURT

3. As set forth in the Application, the Court has jurisdiction over the present dispute pursuant to Article XXXI of the American Treaty on Pacific Settlement of Disputes, Bogotá, 30 April 1948 (the *Pact of Bogotá*) and in accordance with the declarations of acceptance of the Court's compulsory jurisdiction pursuant to Article 36(2) of the Statute of the Court made respectively by Costa Rica on 20 February 1973 and by Nicaragua on 24 September 1929 (as modified 23 October 2001). Nicaragua has not challenged the jurisdiction of the Court in the present case.

C. THE FACTS RELEVANT TO THIS REQUEST

4. Pursuant to Article 76, paragraph 2, of the Rules of Court, Costa Rica herewith sets out the change in the situation, as a result of which modification of the Court's Order of 8 March 2011 is required. On 18 November 2010, Costa Rica filed a Request for the indication of provisional measures prompted by the ongoing occupation and construction

of an artificial channel (the *caño*) on Costa Rican territory by Nicaragua and the related dredging activities affecting that territory and its ecology.

5. In its Order on provisional measures of 8 March 2011, the Court considered that Nicaragua “... does intend to carry out certain activities, *if only occasionally*, in the disputed territory, including on the *caño*” and that “this situation moreover gives rise to a real and present risk of incidents liable to cause irremediable harm in the form of bodily injury or death”.¹
6. The Court indicated the following provisional measures:
 - “(1) ... Each Party shall refrain from sending to, or maintaining in the disputed territory, including the *caño*, any personnel, whether civilian, police or security;
 - (2) ... Notwithstanding point (1) above, Costa Rica may dispatch civilian personnel charged with the protection of the environment to the disputed territory, including the *caño*, but only in so far as it is necessary to avoid irreparable prejudice being caused to the part of the wetland where that territory is situated; Costa Rica shall consult with the Secretariat of the Ramsar Convention in regard to these actions, give Nicaragua prior notice of them and use its best endeavours to find common solutions with Nicaragua in this respect;
 - (3) ... Each Party shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve;
 - (4) ... Each Party shall inform the Court as to its compliance with the above provisional measures.”
7. Since the indication of provisional measures by the Court, Nicaragua has sent to the Area, and maintained thereon, large numbers of Nicaraguan nationals and has done so on a continuous basis.² The continuous presence of these individuals is sponsored by Nicaragua, which is operating an academic program by which young Nicaraguan

¹ *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Provisional Measures, Order of 8 March 2011, *I.C.J. Reports 2011*, p. 24, para. 75 (emphasis added).

² See generally Letter from Costa Rica to the ICJ, 8 April 2011, Reference ECRPB 029-11 (with annexes); Letter from Costa Rica to the ICJ, 13 April 2011, Reference ECRPB-030-11; Letter from Costa Rica to the ICJ, 23 June 2011, Reference ECRPB-039-11; Letter from Costa Rica to the ICJ, 3 July 2012, ECRPB-024-12 (with annexes); Letter from Costa Rica to the ICJ, 29 April 2012, Reference ECRPB-034-12 (with annexes); Letter from Costa Rica to the ICJ, 21 November 2012, Reference ECRPB-045-12 (with annexes); and Letter from Costa Rica to the ICJ, 15 March 2013, Reference ECRPB-016-13 (with annexes). See also Note from Costa Rica to Nicaragua, 15 March 2012, Reference DM-AM-147-12, Annex CR7 to Letter from Costa Rica to the ICJ, 3 July 2012, Reference ECRPB-025-12.

nationals are sent to the Area for the purpose of carrying out activities thereon.³ Nicaraguan press reports indicate that more than 6,300 Nicaraguan nationals have visited the Area with the support of the Nicaraguan Government, with each contingent of Nicaraguan nationals spending two days in training in Nicaragua, followed by eight days in the Area.⁴ Costa Rica has kept the Court informed of the activities being carried out in the Area by Nicaraguan nationals, and has written to Nicaragua formally protesting against these activities on several occasions. These protests have been effectively ignored.

8. The activities being carried out in the Area by Nicaraguan nationals include the following:
 - (a) deliberately interfering with a site visit, which was conducted in accordance with the Court's Order of 8 March 2011, by harassing and verbally abusing technical Costa Rican personnel charged with protection of the environment;⁵
 - (b) carrying out works in an attempt to keep the artificial *caño* open;⁶
 - (c) engaging in the uncontrolled planting of trees in the Area;⁷

³ See Note from Costa Rica to Nicaragua, 17 August 2011, Reference DM-AM-461-11, Annex 94 to CRM; Note from Costa Rica to Nicaragua, 15 March 2012, DM-AM-147-12, to Letter from Costa Rica to the ICJ, 3 July 2012, Reference ECRPB-025-12; Note from Costa Rica to Nicaragua, 15 May 2012, DM-AM-301-12, Annex CR8 to Letter from Costa Rica to the ICJ, 3 July 2012, Reference ECRPB-025-12; and Note from Costa Rica to Nicaragua, 13 June 2012, DM-AM-386-12, Annex CR10 to Letter from Costa Rica to the ICJ, 3 July 2012, Reference ECRPB-025-12.

⁴ See the Nicaraguan Press Reports from El 19 Digital, 'Movimiento Guardabarranco, fighting for nature in Nicaragua', 17 March 2013, Annex CRPM-3; and Prensa Latina, 'Movimiento Guardabarranco, fighting for nature in Nicaragua', 17 March 2013, Annex CRPM-4. See also Note from Costa Rica to Nicaragua, 20 March 2013, Reference DM-AM-161-13, Annex CRPM-2; and Letter from Costa Rica to the ICJ, 15 March 2013, Reference ECRPB-016-13 (with annexes).

⁵ See Note from Costa Rica to Nicaragua, 13 May 2011, Reference DM-AM-299-11, Annex 90 to CRM; Note from Costa Rica to Nicaragua, 6 April 2011, Reference DM-235-11, Annex 81 to CRM ("Upon arrival they found not only Nicaraguan civilians shouting insults and slogans on vessels stationed on the San Juan River, but also, as graphic evidence taken by the press shows, these Nicaraguans landed on the north side of Isla Portillos, some of them journalists from that country, and harassed members of the technical mission, who were followed while conducting their scientific work, trying to prevent the normal conduct of scheduled the technical work"); see also Note from Costa Rica to Nicaragua, 9 February 2012, Reference DM-AM-076-12, Annex CR3 to Letter from Costa Rica to the ICJ, 3 July 2012, Reference ECRPB-025-12; and Note from Costa Rica to the Secretary General of the United Nations, 14 December 2011, Reference DM-AM-663-2011, Annex CRPM-1.

⁶ See Letter from Costa Rica to the ICJ, 15 March 2013, Reference ECRPB-016-13 (with annexes).

(d) raising of cattle in the Area,⁸ and

(e) erecting wire fences in the Area to the north of and running alongside the *caño*.⁹

9. Nicaragua has asserted that it has complied with the Court's Order on provisional measures and that it "took immediate action in order to implement it."¹⁰ However, Nicaragua has refused all requests to take effective and necessary measures to prevent individuals accessing the Area from Nicaraguan territory. All efforts to resolve the dispute by diplomatic means have failed.

10. Nicaragua's position is that the provisional measures indicated by the Court do not prevent its citizens from accessing the Area and carrying out activities thereon. According to Nicaragua:

"The people of Nicaragua, upon becoming aware of what Costa Rica would be doing in this area, went by their own means to express their injured feelings by the show that was intended in the territory considered by all Nicaraguans as their national territory. The Nicaraguan authorities do not have the obligation to contain or impede the legitimate expression of the feelings of the Nicaraguans."¹¹

Nicaragua has even celebrated the actions of these Nicaraguan nationals, stating as recently as 5 March 2013 that it "sees [it] with great pleasure".¹²

11. In its Counter-Memorial, Nicaragua recognizes the presence of its nationals in the Area. It also acknowledges the "environmental action" of these nationals in the Area. Its only excuse is that their actions cannot be attributed to the State. Nicaragua states:

"In fact, the private individuals present in the area in dispute are members of the Guardabarranco Environmental Movement. Although some of them are also members of the Sandinista Youth, the Guardabarranco Environmental Movement is an

⁷ See Letter from Costa Rica to the ICJ, 15 March 2013, Reference ECRPB-016-13 (with annexes).

⁸ See Letter from Costa Rica to the ICJ, 21 November 2012, Reference ECRPB-045-12 (with annexes).

⁹ See Letter from Costa Rica to the ICJ, 21 November 2012, Reference ECRPB-045-12 (with annexes); see also Letter from Costa Rica to the ICJ, 15 March 2013, Reference ECRPB-016-13 (with annexes).

¹⁰ See Letter from Nicaragua to the ICJ, 23 July 2012, Reference 23072012-01.

¹¹ See Note from Nicaragua to Costa Rica, 8 April 2011, Reference MRE/DVM/AJST/121/04/11, Annex 84 to CRM. See also NCM, paras 7.15-7.33.

¹² See Note from Nicaragua to Costa Rica, 5 March 2012, Reference MRE/DM-AJ/127/03/13, Annex 2 to Letter from Costa Rica to the ICJ, 15 March 2013, Reference ECRPB-016-13.

independent organisation with the main objective of protecting the environment throughout Nicaragua.”¹³

“In the present case, the persons who have been present in the disputed territory are the members of the Guardabarranco Environmental Movement, ‘whose main objective is to implement environmental conservation programmes and projects.’”¹⁴

12. The following statements by the President of Nicaragua, Mr. Daniel Ortega, and Nicaraguan First Lady and Minister of Communication, Mrs Rosario Murillo, and the comments made by Nicaragua in its Counter-Memorial in respect of those statements speak for themselves:

“President Ortega’s [*sic*] stated that the ‘youngsters’ had a right to demonstrate and to ‘defend this wetland’; and that: ‘[w]e are obliged to defend our territory, and the Army has an obligation to protect the area (of the Harbour Head wetland).’” However, the relevant passages of the extracts of the President’s declarations read as follows:

- ‘They decided to go to face up to what is, in effect, an invasion. How? In a peaceful, unarmed way, simply because who better to take care of a wetland than environmentalists?’ said Ortega.

- ‘Don’t young people have the right to demonstrate? Don’t they have the right to defend this wetland? Isn’t it their duty to defend their Nicaraguan heritage? Ortega mused.’

- ‘Nicaragua’s First Lady and Minister of Communication, Rosario Murillo, stated how proud she is of the work of the Sandinista Youth taken to defend the environment of Nicaragua, and of the boys and girls located on the San Juan River.’ Again, this may indicate that Ms Rosario Murillo approves of the actions of the young people, but it clearly demonstrates that they are not under the control of the Government of Nicaragua.”¹⁵

13. Costa Rica considers Nicaragua’s conduct to be in breach of the Court’s Order. The presence of large numbers of Nicaraguans, unilaterally undertaking activities in an area from which the police forces of Costa Rica are excluded by the Court’s Order, is incompatible with the object and purpose which the Court sought to achieve in its Order. It may also be recalled that, in the Court’s words, “Nicaragua asserted at the hearings that

¹³ NCM, para. 7.14.

¹⁴ NCM, para. 7.19 (footnote omitted).

¹⁵ Quoted in NCM, para. 7.32 (footnotes omitted).

the cleaning and clearing operations in respect of the *caño* were over and finished”.¹⁶ It was on the basis *inter alia* of that representation that the Court formulated its Order. Yet since 8 March 2011 Nicaragua has systematically sponsored such operations – or at the very least, it has done nothing whatsoever to prevent them. It is impossible to believe that more than 6,300 young people have, unaided, made their way to the Area and been fed and housed without Nicaraguan logistical support and funding. This is subversive of the Court’s Order and contemptuous of its authority.

14. It is not the purpose of this Request to address the question of the legality of the presence of Nicaraguans in the Area and that of the appropriate remedies for Nicaragua’s non-compliance with the Order: these are matters to be settled by the Court at the merits stage of the proceedings.¹⁷ However, the presence of, and the activities being carried out by large numbers of Nicaraguan nationals in the Area creates a new situation that requires modification of the Court’s Order of 8 March 2011.

D. THE RIGHTS COSTA RICA IS SEEKING TO PROTECT

15. In accordance with Article 41 of the Court’s Statute, the object of provisional measures is to preserve the respective rights of the parties pending the Court’s decision on the merits.¹⁸ Costa Rica’s rights that are the subject of the dispute are set out in the Request for provisional measures submitted to the Court on 18 November 2010.
16. The Costa Rican rights that are subject to this Request to Modify the Court’s Order on provisional measures of 8 March 2011 are its right to sovereignty, to territorial integrity, and to non-interference with its lands and its environmentally-protected areas.
17. By sending to, allowing to enter, and maintaining the presence of its nationals in the Area, Nicaragua has created a new situation requiring the modification of the Court’s Order of 8 March 2011 in the manner specified in paragraph 21 below. This Request is

¹⁶ *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Provisional Measures, Order of 8 March 2011, *I.C.J. Reports 2011*, p. 24, para. 71.

¹⁷ As noted by the Court in *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Counter-Claims, Order of 18 April 2013, para. 70.

¹⁸ See e.g., *Armed Activities on the territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Provisional Measures, Order of 1 July 2000, *I.C.J. Reports 2001*, p. 127, para. 39.

made to prevent irreparable prejudice to Costa Rican rights at issue in the present proceedings.

E. URGENCY

18. The present application is of real urgency. Nicaraguan nationals continue to be present in large numbers in the Area, in breach of Costa Rica's sovereign rights and the Court's Order. These Nicaraguan nationals are carrying out activities in the Area that cause harm to the territory of Costa Rica, posing a serious threat to its internationally-protected wetlands and forests. Of particular concern to Costa Rica is the real and present risk of incidents liable to cause irreparable harm in the form of bodily injury or death. Costa Rica recalls that its police force is prevented from entering the Area in accordance with the Court's Order of 8 March 2011. To date Costa Rica has prevented its residents from entering the Area. It cannot, however, prevent persons from outside its territory from entering the Area.
19. Nicaragua has refused to take measures to ensure that persons from its territory do not enter the Area. To the contrary, Nicaragua has taken, and continues to take measures to send to the Area and maintain a constant presence thereon of substantial numbers of Nicaraguan persons, performing the activities described in paragraph 8 above. There is a real risk that without a modification of the Court's Order of 8 March 2011, action prejudicial to the rights of Costa Rica will occur before the Court has the opportunity to render its final decision on the questions for determination set out in the Application.¹⁹
20. Furthermore, these Nicaraguan nationals have subjected Costa Rican environmental personnel – who are entitled to visit the Area in accordance with the Court's Order and whose monitoring is necessary to avoid irreparable prejudice being caused to the wetland – to harassment and verbal abuse. There is a real and present risk of incidents liable to cause irreparable harm in the form of bodily injury or death as a result of the presence of large numbers of Nicaraguan persons in the Area.

¹⁹ Cf., *Passage through the Great Belt (Finland v. Denmark)*, Provisional Measures, Order of 29 July 1991, *I.C.J. Reports 1991*, p. 17, para. 23; *Certain Criminal Proceedings in France (Republic of the Congo v. France)*, Provisional Measure, Order of 17 June 2003, *I.C.J. Reports 2003*, p. 107, para. 22; and *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, Order of 23 January 2007, *I.C.J. Reports 2007*, p. 11, para. 32.

F. THE MEASURES REQUESTED

21. Pursuant to Article 76 of the Rules of Court, Costa Rica respectfully requests the Court as a matter of urgency to modify its Order on provisional measures of 8 March 2011 so as to prevent the presence of any person in the Area other than persons whose presence is authorized by paragraph 86(2) of the Order, thereby preventing irreparable harm to individuals and further irreparable harm to the Area, pending its determination of this case on the merits. In particular, Costa Rica respectfully requests the Court as a matter of urgency to modify its Order by including in it the following provisional measures:

- (1) the immediate and unconditional withdrawal of all Nicaraguan persons from the Area indicated by the Court in its Order on provisional measures of 8 March 2011;**
- (2) that both Parties take all necessary measures to prevent any person (other than the persons whose presence is authorized by paragraph 86(2) of the Order) coming from their respective territory from accessing the area indicated by the Court in its Order on provisional measures of 8 March 2011; and**
- (3) that each Party shall inform the Court as to its compliance with the above provisional measures within two weeks of the issue of the modified Order.**

22. Costa Rica reserves the right to amend this Request and the measures sought.

.....

Jorge Urbina

Co-Agent of the Government of Costa Rica

21 May 2013

Certification

I certify that the following documents annexed to this letter of 21 May 2013 are true copies and conform to the original documents and that the translations into English made by Costa Rica are accurate translations.

Signature

List of Annexes

Annex Reference	Description
Diplomatic Correspondence	
CRPM-1	Note from Costa Rica to the Secretary General of the United Nations, 14 December 2011, Reference DM-AM-663-2011
CRPM-2	Note from Costa Rica to Nicaragua, 20 March 2013, Reference DM-AM-161-13
Media Reports	
CRPM-3	El 19 Digital, 'Movimiento Guardabarranco, fighting for nature in Nicaragua', 17 March 2013
CRPM-4	Prensa Latina, 'Movimiento Guardabarranco, fighting for nature in Nicaragua', 17 March 2013

(Translation from the Spanish text)

The Minister of Foreign Affairs and Worship

14 December 2011
DM-AM-663-2011

His Excellency, the Secretary General,

Since the month of October 2010, the Republic of Costa Rica has been a victim of the violation of its territorial integrity by the action of the government of Nicaragua, who through the use of its armed forces, occupied the northern part of Isla Portillos, and then tried to justify its alleged territorial sovereignty over that territory. Isla Portillos is Costa Rican territory, recognized as such by an arbitration award issued by Edward Porter Alexander, an Engineer from the United States of America, dating from 1897. From then until the unlawful act of Nicaragua in 2010, cartography and the official conduct of the parties had always been in accordance to the provisions of the Arbitration Award.

As Your Excellency knows, the Republic of Costa Rica filed a case before the International Court of Justice against the Republic of Nicaragua on 18 November 2010, as a result of the activities carried out by Nicaragua in the border area between the two republics.

On 8 March 2011, the International Court of Justice issued an order prescribing Provisional Measures, most notably the withdrawal from the territory declared as "disputed" [ex hypothesi] of all civilian and security personnel of both states, and providing that Costa Rica, in consultation with the Secretariat of the Ramsar Convention, could send civilian personnel in charge of environmental protection to this area in order to avoid irreparable damage from occurring to the wetland located there.

As Costa Rica has reported to the Security Council, the Republic of Nicaragua, through civilians supported and organized by the Government of that country, sought to prevent, by physical acts of harassment, that technical personnel from the Ramsar Convention Secretariat and the Government of Costa Rica, could carry out a task mission between 5 and 6 April 2011, in order to prevent irreparable damage to the wetland, in compliance with the order of the International Court of Justice.

Since that time, organized and supported by the Government of Nicaragua, youngsters from that country who sympathize with the ruling party, have been settled by Nicaragua in the territory subject to the order of the International Court of Justice, in open violation of what has been provided for in the order. Keeping people in this area by Nicaragua is a clear violation not only of the territorial integrity of Costa Rica, but also of the obligations set for in the order of the International Court of Justice of 8 March 2011.

In view of the continuity of the hostile acts of the Government of Nicaragua, with special attention to those events that gave rise to the case filed by Costa Rica before the International Court of Justice, Costa Rica made a declaration of national emergency in order to facilitate actions to defend its territorial integrity.

Among the actions that the Republic of Costa Rica is carrying out, includes certain works in its territory to give security to the area disputed by Nicaragua, in accordance with paragraph 78 of the order of 8 March 2011.

Also, as part of these works is the construction of a road, parallel to the international border, and entirely within Costa Rican territory, with the purpose to allow the Republic of Costa Rica to fully exercise its sovereignty in the border areas, safeguard its territorial integrity, and to repel any hostile action against the nation.

This action is justified in Nicaragua's repeated violations to international order, and in the statements made by the authorities of that country, about their decision to ignore the current international border regime, and disregard the principle of stability and finality of borders.

Given a defamatory campaign against Costa Rica that Nicaragua is conducting as a result of these actions, which is carried out in the media of that country and in international organizations, Costa Rica considers necessary to inform the United Nations of the situation that has forced Costa Rica to carry out those actions of defense and to refute the accusations that are being proffered against the country.

Finally, I request that through your good offices, the Security Council be informed of this communication, which content and purpose is made under the provisions of Chapter VII of the Charter of the United Nations.

Excellency, please accept the assurances of my highest consideration,

Enrique Castillo Barrantes
Minister of Foreign Affairs and Worship
Republic of Costa Rica

His Excellency
Ban Ki-Moon
Secretary General
United Nations
City of New York

El Ministro de Relaciones Exteriores y Culto

14 de diciembre de 2011

DM-AM-663-2011

Excelentísimo señor Secretario General,

La República de Costa Rica es víctima, desde el mes de octubre de 2010, del quebrantamiento de su integridad territorial por la acción del gobierno de Nicaragua, quien mediante el uso de sus Fuerzas Armadas, ocupó la parte norte de Isla Portillos, y luego trató de justificar su pretendida soberanía territorial sobre ese territorio. Isla Portillos es territorio costarricense, reconocido como tal por un Laudo Arbitral emitido por el Ingeniero de los Estados Unidos de América, Edward Porter Alexander, que data de 1897. Desde entonces y hasta el acto ilícito de Nicaragua en 2010, la cartografía y el comportamiento oficial de las partes siempre había sido conforme a lo dispuesto por el Laudo Arbitral.

Como Vuestra Excelencia conoce, la República de Costa Rica presentó una demanda contra la República de Nicaragua ante la Corte Internacional de Justicia, el 18 de noviembre de 2010, como resultado de tales actividades de Nicaragua en la zona fronteriza entre ambas repúblicas.

El 8 de marzo de 2011, la Corte Internacional de Justicia dictó una Providencia ordenando Medidas Provisionales, entre las que destaca el retiro de todo personal civil o de seguridad de la zona declarada "en disputa" [*ex-hipotesis*] de ambos estados, y disponiendo que Costa Rica podrá enviar personal civil a cargo de la protección ambiental a esa zona, con el objeto de evitar que se generen daños irreparables al humedal ahí localizado, en consulta con la Secretaría de la Convención Ramsar.

Como Costa Rica ha informado al Consejo de Seguridad, la República de Nicaragua, por intermedio de civiles apoyados y organizados por el Gobierno de aquel país, intentó evitar mediante actos físicos de hostigamiento que personal técnico de la Convención Ramsar y del Gobierno de Costa Rica realizaran una misión de trabajo con el objeto de prevenir daños irreparables al humedal, entre el 5 y 6 de abril de 2011, en cumplimiento con lo dispuesto por la Corte Internacional de Justicia.

Desde esa fecha, organizados y apoyados por el Gobierno de Nicaragua, jóvenes de aquel país afines al partido de gobierno han sido asentados por Nicaragua en el territorio sujeto a la Providencia de la Corte Internacional de Justicia, en abierta violación a lo ordenado en ésta. El mantenimiento de individuos en esa zona por parte de Nicaragua constituye una abierta violación no solo de la integridad territorial de Costa Rica, sino también de las obligaciones establecidas en la referida Providencia de la Corte Internacional de Justicia de 8 de marzo de 2011.

En vista de la continuidad de los actos hostiles del Gobierno de Nicaragua, con especial atención a aquellos actos que dieron origen a la demanda interpuesta por Costa Rica ante la Corte Internacional de Justicia, Costa Rica hizo una declaratoria de emergencia nacional, con el objeto de facilitar las acciones de defensa de la integridad territorial de Costa Rica.

Dentro de las acciones que la República de Costa Rica realiza, se incluye la conducción de obras en el territorio costarricense para dar seguridad a la zona disputada por Nicaragua, de conformidad con el párrafo 78 de la Providencia del 8 de marzo de 2011.

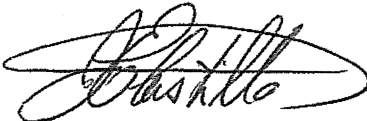
Asimismo, como parte de esas obras figura la construcción de una vía de comunicación, paralela a la frontera internacional, íntegramente en territorio costarricense, cuyo objeto es permitirle a la República de Costa Rica ejercer plenamente su soberanía en las áreas de frontera, resguardar su integridad territorial, y repeler acciones hostiles contra la Nación.

Esta acción se justifica en las reiteradas violaciones nicaragüenses al orden internacional, y en los pronunciamientos hechos por parte de las autoridades de aquel país, sobre su decisión de desconocer el régimen fronterizo internacional vigente, y desaplicar el principio de estabilidad y finalidad de fronteras.

Ante una campaña difamatoria que Nicaragua desarrolla contra Costa Rica por estas acciones, que se lleva a cabo en medios de prensa de aquel país y en organismos internacionales, Costa Rica estima necesario informar a la Organización de las Naciones Unidas de la situación que ha obligado a Costa Rica a realizar esas acciones de defensa, y desmentir las acusaciones que se profieren contra el país.

Finalmente, ruego que por su intermedio se le informe al Consejo de Seguridad de la presente comunicación, cuyo contenido y propósito se realiza con arreglo a lo dispuesto en el Capítulo VII de la Carta de las Naciones Unidas.

Excelencia, le ruego aceptar las seguridades de mi mayor consideración y estima.


Enrique Castillo Barrantes
Ministro de Relaciones Exteriores y Culto
República de Costa Rica



**Excelentísimo
Ban Ki-moon
Secretario General
Organización de las Naciones Unidas
Ciudad de Nueva York**

TRANSLATION

The Minister of Foreign Affairs and Worship

20 March 2013
Ref. DM-AM-161-13

Dear Minister,

I refer to the notes sent by you, and which my country received on 5 March 2013, with reference numbers MRE/DM-AJ/127-03-13, MRE/DM-AJ/128-03-13, and MRE/DM-AJ/129-03-13.

With respect to the first note, Costa Rica regrets that Nicaragua has failed to comply with the Order of the International Court of Justice of 8 March 2011, but rather conceals its involvement, direction and control over the presence of Nicaraguan citizens in the area indicated by the Court, despite the abundant evidence of these facts, including the manifestation of authority by your Government which accepts its participation vis-à-vis the presence of these citizens in the said area.

Moreover, it is so clear and obvious that your Government has participated in these violations of the Court's Order that press reports have recently confirmed what we already know, namely that the presence of Nicaraguans in the said area is organised and financed by the Government of Nicaragua. In this regard, both El 19 Digital and Prensa Latina reported on 17 March 2013 the following: "Through the organisation of Guardabarranco, and backed by the Sandinista Government, more than six thousand 300 youths from all over Nicaragua, in groups of 25 per week, have progressed through a learning process in both theory and practice by travelling to this significant waterway bordering Costa Rica." And, furthermore, both press outlets also noted that: "This includes two days in the classroom, increasing [their] knowledge, and eight days in Harbour Head Island (*sic*), located in the expanded waterway south of Nicaragua."

With regard to your second note, Costa Rica has taken particular care to comply with the Order of the International Court of Justice, which permits Costa Rican personnel for the protection of the environment to be sent to the area indicated by the Court. This was done in consultation with the Secretariat of the Ramsar Convention, and with prior notice to your country and the International Court of Justice. Similarly, Costa Rica has acted with the greatest willingness to achieve the most cooperation possible with Nicaragua, but your country refuses to cooperate with Costa Rica. This is evident from the aforementioned violations of the provisional measures indicated by the Court.

In relation to your third note, which concerns the proceedings that your country initiated before the International Court of Justice about the construction of a road on Costa Rica territory, my Government regrets the lack of willingness and readiness of Nicaragua to allow sampling of the San Juan River in order to establish with sound

scientific criteria the true state of the waters of the River. Despite this attitude, Costa Rica has made a new request to your country, through the intermediary of the International Court of Justice, in order that the said monitoring can be jointly undertaken. It is hoped that on this occasion your Government will be willing to cooperate if it really is the case that Nicaragua wishes to protect the environment of the San Juan River.

Moreover, Costa Rica strongly rejects the position of Nicaragua not to recognise the scope of the Judgment of the International Court of Justice of 13 July 2009, concerning the right of Costa Rica to navigate the San Juan River. The navigation of Costa Rican technicians, referred to in my note DM-AM-063-13 of 6 February 2013, is in essence navigation for commercial purposes, as a private boat is paid in exchange for the service of transporting the length of the river along which Costa Rica has a right of navigation. Costa Rica reserves its right to exercise its right of navigation in accordance with the terms provided by the International Court of Justice.

I take this opportunity to reiterate the assurances of my highest consideration.

Enrique Castillo Barrantes

His Excellency
Samuel Santos López
Minister of Foreign Relations
Republic of Nicaragua

El Ministro de Relaciones Exteriores y Culto

20 de marzo de 2013
DM-AM-161-13

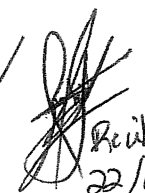
Estimado señor Ministro:

Me refiero a las comunicaciones enviadas por usted, y recibidas por mi país el pasado 5 de marzo de 2013, comunicaciones números MRE/DM-AJ/127-03-13, MRE/DM-AJ/128-03-13, y MRE/DM-AJ/129-03-13.

En cuanto a la primera comunicación, Costa Rica lamenta que Nicaragua no dé cumplimiento a la orden de la Corte Internacional de Justicia de 8 de marzo de 2011, y que más bien busque disimular su participación, dirección y control sobre la presencia de ciudadanos de Nicaragua en la zona señalada por la Corte, a pesar de la abundante prueba sobre esos hechos, incluyendo las propias manifestaciones de autoridades de su Gobierno, que aceptan su participación para que esos ciudadanos tengan presencia ahí.

Más aún, es tan clara y evidente la participación de su Gobierno en estas violaciones a la orden de la Corte, que medios periodísticos recientemente confirmaban lo que todos ya sabemos: que la presencia de nicaragüenses en esa zona es organizada y financiada por el Gobierno de Nicaragua. En ese sentido, tanto el medio El 19 Digital como el medio Prensa Latina, señalaban el pasado 17 de marzo de 2013 lo siguiente: *“Por gestión de Guardabarranco, con el respaldo del gobierno sandinista, más de seis mil 300 jóvenes de toda Nicaragua, a razón de 25 cada semana, transitaron por un proceso de aprendizaje en torno a esa significativa vía fluvial limítrofe con Costa Rica, tanto desde la teoría como desde la práctica”*. Y, seguidamente, ambos medios también señalaron que: *“Este contempla dos días en el aula, acrecentando conocimientos, y ocho jornadas en la isla de Harbour Heard (sic), situada en esa avenida hídrica expandida al sur de Nicaragua.”*

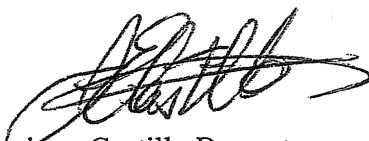
Sobre su segunda nota, Costa Rica ha cumplido con especial atención la orden de la Corte Internacional de Justicia, que permite el envío de personal costarricense para la protección del ambiente a la zona señalada por la Corte. Ello se ha hecho de común acuerdo con la Secretaría de la Convención Ramsar, y dando previo aviso a su país y a la Corte Internacional de Justicia. Asimismo, Costa Rica ha tenido la mejor voluntad de lograr la mayor cooperación posible con Nicaragua, pero ha sido su país el que rechaza cooperar con Costa Rica. Evidencia de esa posición son las violaciones antes mencionadas a las medidas provisionales dictadas por la Corte.

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En relación con su tercera comunicación, que concierne el caso que su país llevó a la Corte Internacional de Justicia por la realización de un camino en territorio de Costa Rica, mi Gobierno lamenta la falta de voluntad y disposición de Nicaragua de permitir la toma de muestras de las aguas del río San Juan, con el objeto de establecer, con criterios científicos sólidos, la verdadera situación de las aguas del río. A pesar de esa actitud, Costa Rica ha transmitido un nuevo pedido a su país, por intermedio de la Corte Internacional de Justicia, para que esos monitoreos se puedan realizar conjuntamente. Esperamos que en esta oportunidad su Gobierno esté dispuesto a cooperar si lo que realmente Nicaragua desea es la protección ambiental del Río San Juan.

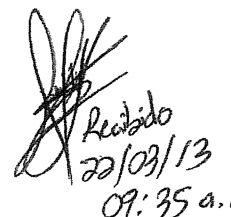
Por otra parte, Costa Rica rechaza con total firmeza, la posición de Nicaragua de desconocer los alcances del fallo de la Corte Internacional de Justicia de 13 de julio de 2009, sobre los derechos de navegación de Costa Rica en el río San Juan. La navegación de técnicos costarricenses referida en mi nota DM-AM-063-13 de 6 de febrero de 2013 es, en esencia, una navegación comercial, pues se paga a un botero privado por el servicio de transporte a lo largo del sector del río donde Costa Rica tiene derecho a navegarlo. Costa Rica hace ver que se reserva el derecho de hacer uso de su derecho de navegación, en los términos señalados por la Corte Internacional de Justicia.

Aprovecho la ocasión para reiterar las seguridades de mi consideración.



Enrique Castillo Barrantes

Excelentísimo señor
Samuel Santos López
Ministro de Relaciones Exteriores
República de Nicaragua



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NATIONAL NEWS

Movimiento Guardabarranco, fighting for nature in Nicaragua

March 17, 2013 | Prensa Latina



For the members of Movimiento Ambientalista Guardabarranco, of Juventud Sandinista 19 de Julio (Sandinista Youth Group 19 de Julio), defending Nicaragua today means preserving its environmental wealth, specifically San Juan River.

We have abundant natural beauty in Nicaragua, and we must take care of it, for its protection and conservation, but mainly we need educate ourselves, the national coordinator of said organization, Ana Carmen Martínez, declared to Prensa Latina.

Since the movement originated in 2009 we have worked to change the population's awareness regarding cleaning, caring for our beaches, our animals and flora, she explained.

According to the Philology and Communications Student at Universidad Nacional Autónoma de Nicaragua- Managua, the members of Guardabarranco also work to care for the numerous water resources of this nation and directly participate in reforestation activities.

A number of these activities take place in cities across the country; however, what probably made this youth group more visible was their direct assumption of a mission that is sensitive for Nicaraguans: taking care of San Juan River.

By initiative of Guardabarranco, with the support of the Sandinista government, over six thousand three hundred youth from all over Nicaragua, at a rate of 25 per week, went through a learning process, covering both theory and practice, regarding this important river that borders with Costa Rica.

At the beginning a lot more were going, but the river's conditions, which are decreasing due to the dredging being performed to readjust its riverbed, we had to decrease the numbers, Martínez commented.

She added that during this year more youth from autonomous regions in the South Atlantic and North will be joining, while those from the rest of the country will continue to participate.

During their stay in the area the members of our group created a plant nursery, worked on reforestation, raising awareness among the inhabitants of that region, and this is part of our job, multiplying everywhere the knowledge that we acquire, the youth leader highlighted.

To gain clarity on the history of this strategically important site, the flora and fauna that grows around it and the reasons why it must be preserved, Guardabarranco implemented the Certified Course on the San Juan River Biosphere Reserve.

It contemplates two days in the classroom, increasing knowledge, and eight days on Harbour Head Island, located on this water avenue in southern Nicaragua.

The preparation of group number 87 concluded yesterday, which travelled to the area. This area was recognized by the Convention on Wetlands of International Importance (Ramsar, Iran, 1971) as it is one of the most important biological corridors of Central America.

The most significant aspect is that our youth "go there to recognize San Juan River as our heritage as Nicaraguans, a natural heritage and heritage for humanity," Martínez considered.

The main purpose of these trips is to reverse the damages caused by Costa Rica to over 23 thousand species of flora and fauna surrounding the riverbed, as they insist on building a rural highway on the southern bank.

According to specialists, the variety of plants and animals threatened amounts to thirteen thousand fifty-two at this strategic site, where critical points of potential landslides during the rainy season increased, to the detriment of the population.

Nicaragua is a country of youth, as they make up sixty percent of its six million seventy-one thousand forty-five inhabitants, and Guardabarranco is proving this sector's commitment to defending the nation's assets.

The name of the movement derived from the turquoise-browed motmot (*eumomota superciliosa*), a type of bird from the Coraciiformes order and Momotidae family, which inhabits from Yucatán Peninsula -where it is called Toh bird- until Costa Rica.

In Nicaragua this species is called guardabarranco, and since 1980 it is considered the national bird, although this became official until June 13, 2012 through a mandate of the National Assembly.

NACIONALES

Movimiento Guardabarranco, contienda por la naturaleza en Nicaragua

17 de Marzo de 2013 | Prensa Latina



Para los miembros del Movimiento Ambientalista Guardabarranco, de la Juventud Sandinista 19 de Julio, la defensa de Nicaragua hoy pasa por la preservación de su riqueza medioambiental y en particular, de su río San Juan.

Tenemos muchas bellezas naturales en Nicaragua y tenemos que cuidarlas, protegerlas, conservarlas, pero, sobre todo educarnos, declaró a Prensa Latina la coordinadora nacional de esa organización, Ana Carmen Martínez.

Desde que surgió el movimiento, en 2009, trabajamos a favor de cambiar la conciencia de la población en el tema de la limpieza, el cuidado de nuestras playas, de nuestros animales de nuestra flora, explicó.

De acuerdo con la estudiante de Filología y Comunicación en la Universidad Nacional Autónoma de Nicaragua- Managua, los integrantes de Guardabarranco trabajan también por el cuidado de los cuantiosos recursos hídricos de esta nación e intervienen de manera directa en acciones de reforestación.

Muchas de esas actividades tienen lugar en las ciudades de distintos lugares del país, pero quizás lo que más renombre dio a esta tropa juvenil fue la asunción directa de una misión particularmente sensible para los nicaraguenses: el cuidado del río San Juan.

Por gestión de Guardabarranco, con el respaldo del gobierno sandinista, más de seis mil 300 jóvenes de toda Nicaragua, a razón de 25 cada semana, transitaron por un proceso de aprendizaje en torno a esa significativa vía fluvial limítrofe con Costa Rica, tanto desde la teoría como desde la práctica.

Al inicio salían muchos más, pero las condiciones del río, que va bajando como resultado del dragado al cual es sometido para reajustar su cauce, tuvimos que disminuir esa cantidad, comentó Martínez.

En este año, agregó, se sumarán a esta estrategia más jóvenes de las regiones autónomas del Atlántico Sur y Norte en la misma medida en que continuarán participando los del resto del país.

Durante su estancia en el área los miembros de nuestro grupo crearon un vivero, trabajaron en la reforestación, en la sensibilización con los pobladores de esa región y eso es parte de nuestro trabajo, multiplicar por todas partes el saber que vamos adquiriendo, subrayó la dirigente juvenil.

Para ganar en claridad acerca de la historia de ese sitio de importancia estratégica, la flora y fauna que crece en sus alrededores y las razones por las cuales hay que preservarlo, Guardabarranco implementó el Diplomado Río San Juan Reserva de la Biosfera.

Este contempla dos días en el aula, acrecentando conocimientos, y ocho jornadas en la isla de Harbour Heard, situada en esa avenida hídrica expandida al sur de Nicaragua.

La víspera concluyó la preparación del contingente número 87 que viajó a esa zona reconocida por la Convención sobre los Humedales de Importancia Internacional (Ramsar, Irán, 1971), por ser uno de los corredores biológicos más importantes de Mesoamérica.

Lo más significativo es que los jóvenes "van allá a reconocer nuestro río San Juan como un patrimonio de nosotros los nicaragüenses, un patrimonio natural y un patrimonio de la humanidad", a juicio de Martínez.

Propósito esencial de esas movilizaciones es revertir los daños causados por Costa Rica a más de 23 mil especies de flora y fauna en el entorno del cauce debido al empeño en construir una carretera rural en su margen sur.

Según los especialistas, la variedad de plantas y animales amenazados asciende a 13 mil 52 en ese sitio estratégico, donde aumentaron los puntos críticos con posibilidades de deslizamientos de tierra en tiempos de lluvia en detrimento de la población.

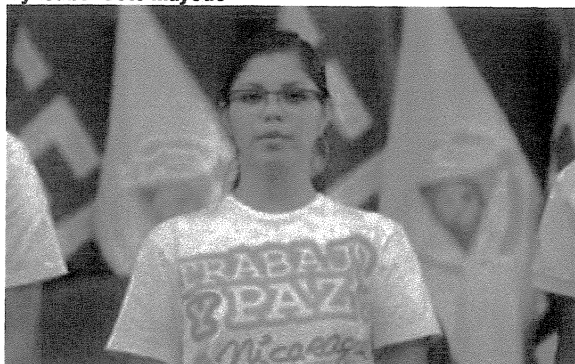
Nicaragua es un país de jóvenes, estos constituyen más del 60 por ciento de sus seis millones 71 mil 45 habitantes, y Guardabarranco prueba el compromiso de ese sector con la defensa de los bienes de la nación.

El nombre del movimiento derivó del momoto ceja turquesa (eumomota superciliosa), especie de ave coraciiforme de la familia Momotidae, que habita desde la Península de Yucatán -donde se le denomina pájaro Toh- hasta Costa Rica.

En Nicaragua a esta especie le llaman guardabarranco y desde los años 1980 la consideran el ave nacional, aunque su oficialización como tal ocurrió el 13 de junio de 2012 por mandato de la Asamblea Nacional.

Movimiento Guardabarranco, fighting for nature in Nicaragua

By Isabel Soto Mayedo



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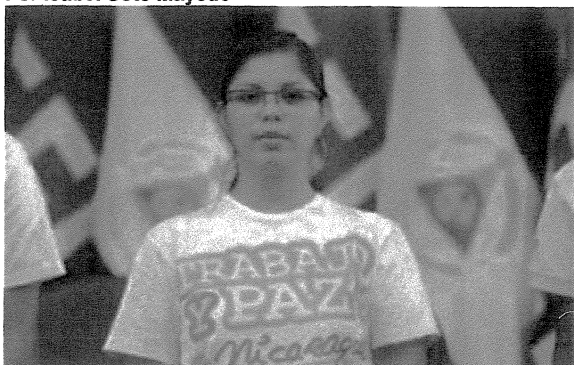
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