

INTERNATIONAL COURT OF JUSTICE

**APPLICATION**  
**INSTITUTING PROCEEDINGS**

filed in the Registry of the Court  
on 26 November 2013

**ALLEGED VIOLATIONS**  
**OF SOVEREIGN RIGHTS AND MARITIME SPACES**  
**IN THE CARIBBEAN SEA**

(NICARAGUA *v.* COLOMBIA)

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COUR INTERNATIONALE DE JUSTICE

**REQUÊTE**  
**INTRODUCTIVE D'INSTANCE**

enregistrée au Greffe de la Cour  
le 26 novembre 2013

**VIOLATIONS ALLÉGUÉES**  
**DE DROITS SOUVERAINS ET D'ESPACES MARITIMES**  
**DANS LA MER DES CARAÏBES**

(NICARAGUA *c.* COLOMBIE)

2013  
General List  
No. 155

I. LETTER FROM THE AGENT OF NICARAGUA TO THE REGISTRAR  
OF THE INTERNATIONAL COURT OF JUSTICE

26 November 2013.

I have the honour to accompany the original Application of the Republic of Nicaragua against the Republic of Colombia for violations of Nicaragua's sovereign rights and maritime zones declared by the Court's Judgment of 19 November 2012 and the threat of use of force by Colombia in order to implement these violations. This original document and its Annexes dated today is signed by the Ambassador of Nicaragua to The Netherlands and Agent named for these proceedings, with the purpose of its being filed with the Registry in accordance with Article 52, paragraph 1, of the Rules of Court.

This original Application and its Annexes is accompanied by a copy that the undersigned Agent certifies as identical to the original for purposes of communication to the other party in accordance with Article 43, paragraph 4, of the Statute.

In addition, I have the honour to accompany 20 copies of the Application and its Annexes for the discretionary use of the Court.

The annexed documents are certified as accurate and identical to the originals, and the translations are also certified as true and accurate translations into the English language.

*(Signed)* Carlos J. ARGÜELLO GÓMEZ,  
Agent of the Republic of Nicaragua.

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## II. APPLICATION INSTITUTING PROCEEDINGS

26 November 2013.

To the Registrar of the International Court of Justice,

The undersigned being duly authorized by the Republic of Nicaragua and being the Ambassador of the Republic of Nicaragua at The Hague has the honour to file the following Application:

1. The Republic of Nicaragua (“Nicaragua”) has the honour to submit to the Court, in accordance with Articles 36 and 40 of the Statute of the Court and Article 38 of the Rules of Court, this Application instituting proceedings against the Republic of Colombia (“Colombia”) in respect of the dispute described below.

### I. SUBJECT OF THE DISPUTE

2. The dispute concerns the violations of Nicaragua’s sovereign rights and maritime zones declared by the Court’s Judgment of 19 November 2012 and the threat of the use of force by Colombia in order to implement these violations.

### II. THE FACTS

3. Seized by an Application filed by Nicaragua on 6 December 2001, the Court, by a Judgment dated 19 November 2012, decided as follows:

“(1) Unanimously,

*Finds* that the Republic of Colombia has sovereignty over the islands at Alburquerque, Bajo Nuevo, East-Southeast Cays, Quitasueño, Roncador, Serrana and Serranilla;

(2) By fourteen votes to one,

*Finds* admissible the Republic of Nicaragua’s claim contained in its final submission I (3) requesting the Court to adjudge and declare that ‘[t]he appropriate form of delimitation, within the geographical and legal framework constituted by the mainland coasts of Nicaragua and Colombia, is a continental shelf boundary dividing by equal parts the overlapping entitlements to a continental shelf of both Parties’;

(3) Unanimously,

*Finds* that it cannot uphold the Republic of Nicaragua’s claim contained in its final submission I (3);

(4) Unanimously,

*Decides* that the line of the single maritime boundary delimiting the continental shelf and the exclusive economic zones of the Republic of Nicaragua and the Republic of Colombia shall follow lines connecting the points with co-ordinates:

Latitude north	Longitude west
1. 13° 46' 35.7"	81° 29' 34.7"
2. 13° 31' 08.0"	81° 45' 59.4"
3. 13° 03' 15.8"	81° 46' 22.7"
4. 12° 50' 12.8"	81° 59' 22.6"
5. 12° 07' 28.8"	82° 07' 27.7"
6. 12° 00' 04.5"	81° 57' 57.8"

From point 1, the maritime boundary line shall continue due east along the parallel of latitude (co-ordinates 13° 46' 35.7" N) until it reaches the 200-nautical-mile limit from the baselines from which the breadth of the territorial sea of Nicaragua is measured. From point 6 (with co-ordinates 12° 00' 04.5" N and 81° 57' 57.8" W), located on a 12-nautical-mile envelope of arcs around Albuquerque, the maritime boundary line shall continue along that envelope of arcs until it reaches point 7 (with co-ordinates 12° 11' 53.5" N and 81° 38' 16.6" W) which is located on the parallel passing through the southernmost point on the 12-nautical-mile envelope of arcs around East-Southeast Cays. The boundary line then follows that parallel until it reaches the southernmost point of the 12-nautical-mile envelope of arcs around East Southeast Cays at point 8 (with co-ordinates 12° 11' 53.5" N and 81° 28' 29.5" W) and continues along that envelope of arcs until its most eastward point (point 9 with co-ordinates 12° 24' 09.3" N and 81° 14' 43.9" W). From that point the boundary line follows the parallel of latitude (co-ordinates 12° 24' 09.3" N) until it reaches the 200-nautical-mile limit from the baselines from which the territorial sea of Nicaragua is measured;

(5) Unanimously,

*Decides* that the single maritime boundary around Quitasueño and Serrana shall follow, respectively, a 12-nautical-mile envelope of arcs measured from QS 32 and from low-tide elevations located within 12 nautical miles from QS 32, and a 12-nautical-mile envelope of arcs measured from Serrana Cay and the other cays in its vicinity;

(6) Unanimously,

*Rejects* the Republic of Nicaragua's claim contained in its final submissions requesting the Court to declare that the Republic of Colombia is not acting in accordance with its obligations under international law by preventing the Republic of Nicaragua from having access to natural resources to the east of the 82nd meridian."<sup>1</sup>

4. The very day when the Judgment was rendered, the Colombian authorities strongly criticized its contents and attacked the Court itself. Mr. Juan Manuel Santos, the Colombian President stated:

<sup>1</sup> *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2012 (II), pp. 718-720, para. 251.

“Today this Court rejected the claims of sovereignty of Nicaragua over our archipelago. It is a final and unappealable judgment on this issue.

.....

The Court, in its judgment draws a line that begins on the west of the archipelago, between our islands and the coast of Nicaragua.

While this is positive for Colombia, the Court, when drawing the maritime delimitation line, made serious mistakes that I must stress, and [those mistakes] affect us negatively.

Inexplicably — after recognizing the sovereignty of Colombia over the entire archipelago and holding that it [the archipelago] as a unit generated continental shelf and exclusive economic zone rights — the Court adjusted the delimitation line, leaving the Keys of Serrana, Serranilla, Quitasueño and Bajo Nuevo separated from the rest of the archipelago.

This is inconsistent with what the Court itself acknowledged, and is not compatible with the geographical conception of what is an archipelago.

*All of these are really omissions, errors, excesses, inconsistencies that we cannot accept.*

*Taking into account the above, Colombia — represented by its Head of State — emphatically rejects that aspect of the judgment rendered by the Court today.*

.....

The Government respects the rule of law but considers that the Court has committed serious mistakes in this matter.”<sup>2</sup> (Emphasis added.)

5. In a similar vein, Colombia’s Foreign Minister, María Angela Holguín, described the ICJ as an “enemy” of the region, claiming its unanimous Judgment was not based on the law. Foreign Minister Holguín stated that

“the enemy is the Court which did not base its decision on the law, that Judgment is full of inadequacies and one reads it and cannot believe that the States parties that conform the Court elected those judges to decide such an important Judgment”<sup>3</sup>.

6. On 27 November 2012, Colombia denounced the Pact of Bogotá, in a letter from the Colombian Minister of Foreign Affairs to the Secretary-General of the Organization of American States claiming that,

“I have the honour to address Your Excellency pursuant to Article LVI of the American Treaty on Pacific Settlement in order to give notice to the

<sup>2</sup> “Declaration of President Juan Manuel Santos on the judgment of the International Court of Justice”, 19 November 2012 (Annex 1) ([http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121119\\_02.aspx](http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121119_02.aspx)). See also: “ICJ ruling on San Andrés a ‘serious judgment error’: Santos”, *Colombia Reports*, 20 November 2012 (<http://colombiareports.co/icc-j-ruling-on-san-andres-a-serious-judgment-error-santos/>); “International Court Gives Nicaragua More Waters, Outlying Keys to Colombia”, *Diálogo*, 21 November 2012 ([http://dialogoamericas.com/en\\_GB/articles/rmisa/features/regional\\_news/2012/11/21/feature-ex-3687](http://dialogoamericas.com/en_GB/articles/rmisa/features/regional_news/2012/11/21/feature-ex-3687)), or “Caribbean Crisis: Can Nicaragua Navigate Waters It Won from Colombia? ”, *Time World*, 28 November 2012 (<http://world.time.com/2012/11/28/caribbean-crisis-can-nicaragua-navigate-waters-it-won-from-colombia/>) or BBC, United Kingdom, “Colombia pulls out of International Court over Nicaragua”, 28 November 2012 (<http://www.bbc.co.uk/news/world-latin-america-20533659>).

<sup>3</sup> “The Colombian Foreign Minister Calls The Hague an Enemy”, *El Nuevo Herald*, 28 November 2012 (Annex 2) (<http://www.elnuevoherald.com/2012/11/27/1353049/canciller-colombiana-califica.html>).

General Secretariat of the Organization of American States, which you head, as the successor to the Pan American Union, that the Republic of Colombia denounces as of today the ‘American Treaty on Pacific Settlement’, signed on 30 April 1948, whose instrument of ratification was deposited by Colombia on 6 November 1968.

The denunciation of the American Treaty on Pacific Settlement shall be in effect as of today with respect to procedures initiated after this notice, pursuant to the second paragraph of Article LVI, which reads: ‘The denunciation shall have no effect with respect to pending procedures initiated prior to the transmission of the particular notification.’<sup>4</sup>

7. Colombia’s denunciation of the Pact of Bogotá was explained the next day by President Santos:

“I have decided that the highest national interests demand that the territorial and maritime boundaries be fixed through treaties, as has been the legal tradition of Colombia, and not through judgments rendered by the International Court of Justice.

.....

This is why yesterday Colombia denounced the Pact of Bogotá. Proper notice was given to the Secretary-General of the Organization of American States. It will become effective for procedures that are initiated after the notification.

.....

The decision I have made obeys a fundamental principle: the boundaries between States should be fixed by States themselves. *Land borders and maritime boundaries between States should not be left to a Court, but rather must be fixed by States through treaties of mutual agreement.*”<sup>5</sup> (Emphasis added.)

8. President Daniel Ortega invited President Santos to meet with him in an effort to forge a constructive dialogue<sup>6</sup>. The meeting was held in Mexico City on 1 December 2012. President Ortega reiterated Nicaragua’s willingness to discuss issues relating to the implementation of the Court’s Judgment and its determination to manage the situation peacefully. President Santos rejected the dialogue by stating that his country would not abide by the Judgment until “we see that Colombian rights, that have been violated, are re-established and guaranteed in the future”<sup>7</sup>.

9. Since the Judgment was rendered on 19 November 2012, Colombia has consistently resorted to the threat of the use of force.

(a) During a meeting of Governors on the Island of San Andrés on 18 February 2013, President Santos told his audience:

<sup>4</sup> See letter from Colombia to Secretary-General of the Organization of American States dated 27 November 2012 (GACIJ No. 79357) (Annex 3).

<sup>5</sup> Declaration of President Juan Manuel Santos on the denunciation of the Pact of Bogotá, 28 November 2012 (Annex 4) ([http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121128\\_04.aspx](http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121128_04.aspx)).

<sup>6</sup> “Santos and Ortega will meet this Saturday in Mexico City”, *La República*, 29 November 2012 (Annex 5) ([http://www.larepublica.co/economia/santos-y-ortega-se-reunir%C3%A1-este-s%C3%A1bado-en-ciudad-dem%C3%A9xico\\_26792](http://www.larepublica.co/economia/santos-y-ortega-se-reunir%C3%A1-este-s%C3%A1bado-en-ciudad-dem%C3%A9xico_26792)).

<sup>7</sup> “Government of Colombia will not implement ICJ judgment until the rights of Colombians are not restored”, *El Salvador Noticias.net*, 3 December 2012 (<http://www.elsalvador-noticias.net/2012/12/03/gobierno-decolombia-no-aplicara-fallo-cij-mientras-no-se-restablezcan-derechos-de-colombianos/>).

“It should be] absolutely and totally clear that: I have given peremptory and precise instructions to the Navy; the historical rights of our fishermen are going to be respected no matter what. No one has to request permission to anybody in order to fish where they have always fished . . .

Colombia fishermen are going to be able to exercise their historical fishing rights — that is what we have been saying. We will make sure of that.

.....

This afternoon the Minister of Defence will arrive, the Commander of the Navy is coming [too] and I am going to reiterate this in front of all the San Andrés people: You do not have to request permission from anybody in order to fish where you have traditionally fished.”<sup>8</sup>

- (b) On 13 August 2013, the newly designated Commander of the Navy, Vice Admiral Hernando Willis, reaffirmed President Santos’ orders and manifested that its biggest challenge would be in relation to the waters that were the subject of the 19 November 2012 Judgment, as it was necessary to “protect the fishermen in the area where they have historically exercised that task, as well as to maintain permanent presence”<sup>9</sup>.
- (c) On 23 August 2013 the Vice-President of Colombia, Mr. Angelina Garzón, stated that the Judgment of the Court was not binding for Colombia. He emphasized that “the judgment of the Court of The Hague is unenforceable in our country”<sup>10</sup>.
- (d) On 19 September 2013, President Santos ordered the Colombian Navy to defend the continental shelf “a capa y espada” (cloak and sword). The Commander of the Navy, Vice-Admiral Hernando Willis, answered the President’s speech by emphasizing that his forces would comply with the orders of the Head of State to exercise sovereignty in the entire Colombian Caribbean Sea including up to the 82 meridian. For her part, the Governor of San Andrés, Mrs. Aury Guerrero, addressed President Santos saying that “the whole territory, including the 82 [meridian], is yours and we count on its defence”<sup>11</sup>.

10. These declarations by the highest Colombian authorities culminated with the enactment of a decree that openly violated Nicaragua’s sovereign rights over its maritime areas in the Caribbean. Article 5 of this Presidential Decree 1946, reads as follows:

“Article 5

*Contiguous zone of the Western Caribbean Sea  
insular territories*

1. Without prejudice to that which is established in Number 2 of the present Article, the contiguous zone of the Western Caribbean Sea insular territo-

<sup>8</sup> “Declaration of President Juan Manuel Santos during the Summit of Governors in San Andres”, 18 February 2013 (Annex 6) ([http://wsp.presidencia.gov.co/Prensa/2013/Febrero/Paginas/20130218\\_09.aspx](http://wsp.presidencia.gov.co/Prensa/2013/Febrero/Paginas/20130218_09.aspx)).

<sup>9</sup> “Waters of San Andres, main challenge of new Commander of the Navy”, *Blue Radio.com*, 13 August 2013, (<http://www.bluradio.com/38934/aguas-de-san-andres-principal-reto-del-nuevo-comandante-de-la-armadana-nacional>).

<sup>10</sup> “World Court ruling on maritime borders unenforceable in Colombia: Vice President”, *Colombia Reports*, 23 August 2013, (<http://colombiareports.co/hague-judgment-unenforceable-colombia-vice-president/>).

<sup>11</sup> “Santos orders to defend the continental shelf with cloak and sword”, *El Espectador*, 19 September 2013 (Annex 7) (<http://www.elespectador.com/noticias/politica/santos-ordena-defender-plataforma-continental-capay-es-articulo-447445>).

ries of Colombia extends to a distance of 24 nautical miles measured from the baselines referred to in Article 3 of this Decree.

2. The contiguous zones adjacent to the territorial sea of the islands that conform the Western Caribbean Sea insular territories of Colombia, except those of the Serranilla and Bajo Nuevo Islands, upon intersecting create a contiguous zone and uninterrupted zone of the whole of the San Andrés, Providencia and Santa Catalina Archipelago Department over which the competent national authorities shall exercise their powers as recognized by international law and the Colombian laws mentioned in Number 3 of the present article.

With the objective of ensuring the due administration and the orderly management of the whole San Andrés, Providencia and Santa Catalina Archipelago, its islands, keys and other formations and their maritime areas and resources, as well as to avoid the existence of irregular shapes or contours that make difficult their practical implementation, the lines that indicate the outer limits of the contiguous zones shall be joined by geodesic lines. Similarly, these shall be joined to the contiguous zone of Serranilla Island by geodesic lines that shall follow the direction of parallel 14° 59' 08" N through to meridian 79° 56' 00" W, and from there to the north, thus conforming the Integral Contiguous Zone of the San Andrés, Providencia and Santa Catalina Archipelago Department.

3. Further to what is established in the above provision, the Colombian State shall exercise in the established Integral Contiguous Zone, its sovereign authority and the powers for the implementation and the necessary control regarding:
  - (a) Prevention and control of violations of laws and by-laws regarding the integral security of the State, including piracy, drug trafficking, as well as behaviours that endanger security at sea and national maritime interests, customs, fiscal, immigration and health matters committed in its insular territories or in their territorial sea. Similarly, violations of laws and by-laws regarding environmental protection, cultural patrimony and the exercise of historic rights to fishing held by the State of Colombia, shall be prevented and controlled.
  - (b) Punishment of violations of laws and by-laws regarding the matters mentioned in (a) above, and that were committed in the insular territories or their territorial sea.”<sup>12</sup>

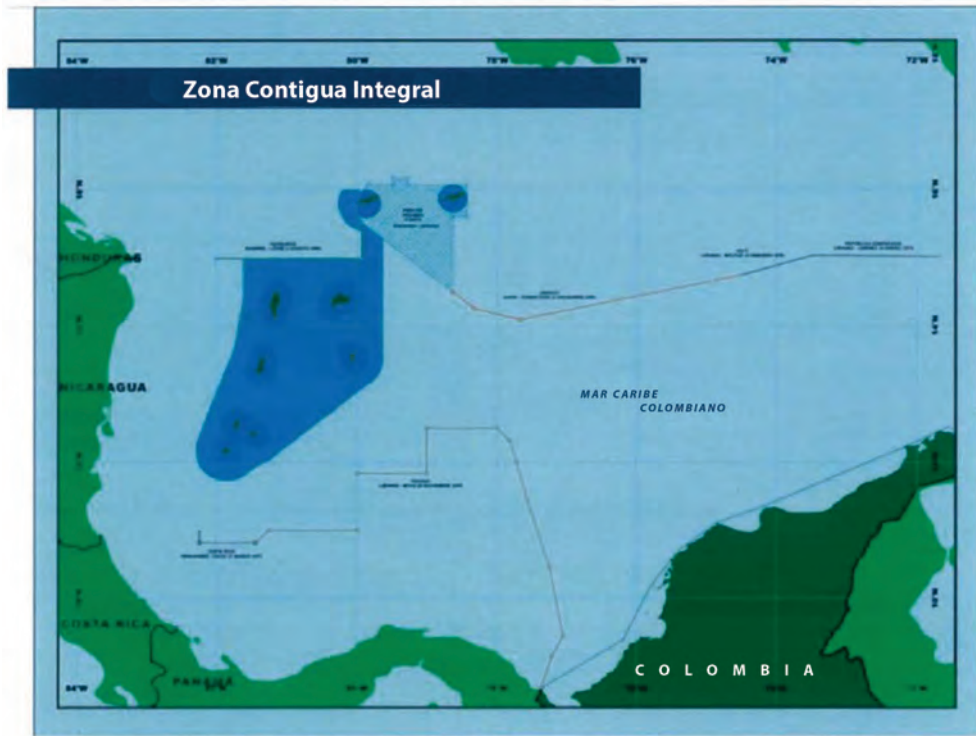
11. Colombia’s self-proclaimed maritime boundaries in the Western Caribbean, pursuant to this Decree, were depicted in the following map, published by the Colombian Government<sup>13</sup>.

12. The violation of Nicaragua’s sovereign rights to its maritime areas in the Caribbean as established by the Court’s Judgment may be appreciated in the following graphic, which superimposes the maritime zones proclaimed as Colombian

<sup>12</sup> Presidential Decree 1946 of 9 September 2013 (Annex 8) (<http://wsp.presidencia.gov.co/Normativa/Decretos/2013/Documents/SEPTIEMBRE/09/DÉCRETO%201946%20DEL%2009%20DE%20SEPTIEMBRE%20DE%202013.pdf>)

<sup>13</sup> Map presented by President Juan Manuel Santos, 9 September 2013 <http://www.cancilleria.gov.co/newsroom/video/allocucion-del-presidente-juan-manuel-santos-sobre-la-estrategia-integral-colombia>.





by its Decree 1946 (in green and purple), on the Court’s sketch-map No. 11, depicting the course of the maritime boundary established by the Judgment :

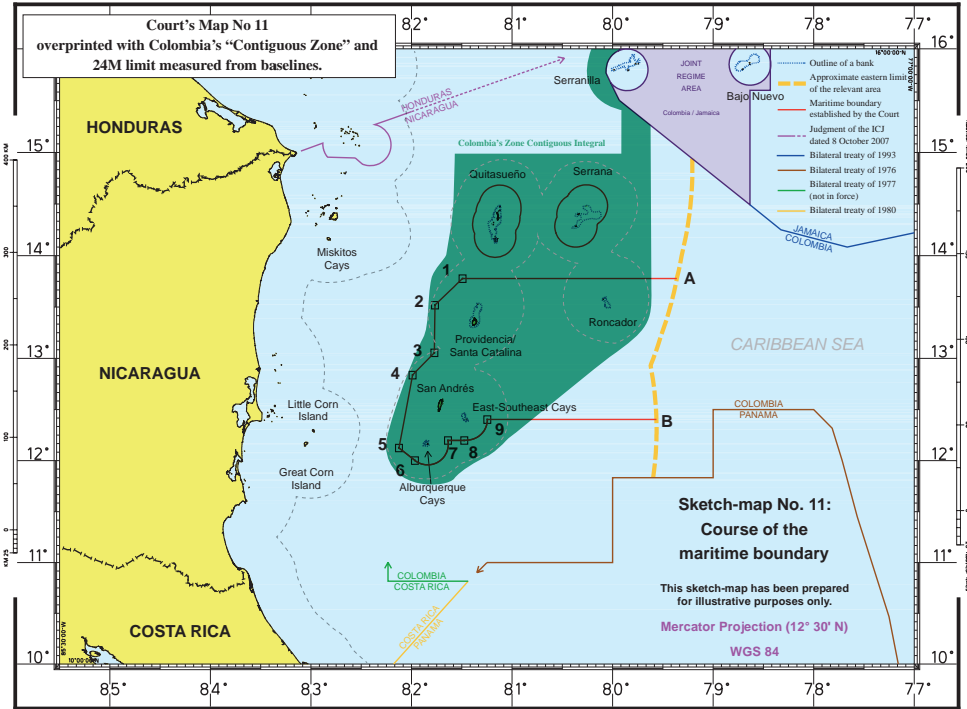
13. The same day the Colombian Decree was issued, President Santos explained :

“All the people of our country continue to feel indignant about the International Court of Justice’s judgment.

.....  
Article 101 of our Constitution states that ‘the borders defined as provided in this Constitution shall be subject to modification only by virtue of treaties approved by Congress and duly ratified by the President of the Republic.’

On its part, the Constitutional Court, has clearly stated that these treaties — that is to say, those that refer to the borders and demarcation of Colombia — should always be approved by our Congress.

.....  
*I repeat the decision I have made: The judgment of the International Court of Justice IS NOT APPLICABLE without a treaty.*  
.....



[B]ased on Colombia's laws and taking into account clear principles of international law, by way of this decree and as recognized to us by international law, we are establishing jurisdictional and control rights over the mentioned zone.

And we declare the existence of an Integral Contiguous Zone through which we have unified the contiguous zones of all our islands and keys in the Western Caribbean Sea.

.....

This integral area allows us to continue to adequately administrate the Archipelago and its surrounding waters — as an archipelago rather than unconnected territories, thus being able to control our security and protect our resources and environment in the zone.

The Integral Contiguous Zone we have established covers maritime spaces that extend from the south, where the Alburquerque and East-Southeast Keys are situated, and to the north, where Serranilla Key is located.

Of course, it includes the San Andrés, Providencia and Santa Catalina, Quitasueño, Serrana and Roncador Islands, and the other formations in the area.

.....

In this Integral Contiguous Zone we will exercise jurisdiction and control over all areas related to security and the struggle against delinquency, and

over fiscal, customs, environmental, immigration and health matters and other areas as well.

.....  
*First: We decided that without a treaty, the sentence is not applicable.*

Second: By declaring the zone an Integral Contiguous Zone we have consolidated our Archipelago.

Third: We are making progress in the environmental and social protection of the Seaflower Reserve.

And Fourth: We have stopped Nicaragua’s expansionist ambitions by declaring the unity of two continental shelves which together extend from San Andrés to Cartagena.”<sup>14</sup> (Emphasis added.)

14. Later, President Santos persevered in his rejection of the Court’s Judgment. On 18 September 2013, on the occasion of a military “exercise of sovereignty” in the Caribbean Sea, off the coasts of San Andrés Island, he stated unambiguously:

*“Colombia considers that the judgment of The Hague is not applicable, and we will not apply it, just as we said it then and I repeat it today, until we have a new treaty. And we will not make any action, in any direction, until the Constitutional Court has not pronounced, after the suit filed by me personally against the Pact of Bogotá.”*<sup>15</sup> (Emphasis added.)

15. Prior and especially subsequent to the enactment of Decree 1946, the threatening declarations by Colombian authorities and the hostile treatment given by Colombian naval forces to Nicaraguan vessels have seriously affected the possibilities of Nicaragua for exploiting the living and non-living resources in its Caribbean exclusive economic zone and continental shelf. When even Nicaraguan fishermen are reluctant to enter certain areas that are patrolled by Colombian naval vessels, the effect on vital foreign investment is extremely damaging. These matters will be documented and detailed in the course of these proceedings.

### III. THE JURISDICTION OF THE COURT

16. The jurisdiction of the Court in this case is based on Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) of 30 April 1948. This provision reads as follows:

“In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recog-

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<sup>14</sup> “Declaration of President Juan Manuel Santos on the integral strategy of Colombia on the Judgment of the International Court of Justice”, 9 September 2013 (Annex 9) ([http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130909\\_04-Palabras-Santos-Colombia-presenta-su-Estrategia-Integral-frente-al-fallo-de-La-Haya.aspx](http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130909_04-Palabras-Santos-Colombia-presenta-su-Estrategia-Integral-frente-al-fallo-de-La-Haya.aspx) or, for the video, <http://wsp.presidencia.gov.co/Videos/2013/Septiembre/Paginas/Septiembre.aspx>).

<sup>15</sup> “Declaration of President Juan Manuel Santos during the sovereignty exercises performed in the Caribbean Sea”, 18 September 2013 (Annex 10) ([http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130918\\_09-Palabras-Presidente-Juan-Manuel-Santos-durante-ejercicio-soberania-que-cumplio-en-el-Mar-Caribe.aspx](http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130918_09-Palabras-Presidente-Juan-Manuel-Santos-durante-ejercicio-soberania-que-cumplio-en-el-Mar-Caribe.aspx) or, for the video, <http://wsp.presidencia.gov.co/Videos/2013/Septiembre/Paginas/Septiembre.aspx>).

nize, in relation to any other American State, the jurisdiction of the Court as compulsory *ipso facto*, without the necessity of any special agreement so long as the present Treaty is in force, in all disputes of a juridical nature that arise among them concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute the breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.”

Both Nicaragua and Colombia are Parties to the Pact of Bogotá. No reservation in force at the present date has been made by either Nicaragua or Colombia under the Pact.

17. As explained above<sup>16</sup>, on 27 November 2012, Colombia gave notice that it denounced as of that date the Pact of Bogotá; and in accordance with Article LVI of the Pact, that denunciation will take effect after one year, so that the Pact will cease to be in force for Colombia after 27 November 2013.

18. Moreover and alternatively, the jurisdiction of the Court lies in its inherent power to pronounce on the actions required by its Judgments.

#### IV. THE LEGAL GROUND FOR NICARAGUA’S REQUEST

19. In Paragraphs 4 and 5 of the *dispositif* of its Judgment of 19 November 2012, the Court unanimously determined the course of the single maritime boundary delimiting the continental shelf and the exclusive economic zones of the Republic of Nicaragua and the Republic of Colombia. In conformity with Articles 59 and 60 of the Court’s Statute, this Judgment is final and without appeal and has binding force between the Parties. By itself, the decision made by Colombia not to comply with it is a breach of that State’s obligations under international law, which entails its responsibility<sup>17</sup>.

20. Moreover, by its decision not to comply with the Court’s Judgment, Colombia is also in breach of its obligations, and violates Nicaragua’s rights, under customary international law, as reflected in Parts V and VI of the UNCLOS.

21. These breaches are all the more worrying and serious as they are accompanied by clear threats to use force, in breach of Article 2 (4) of the UN Charter according to which:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.”

This provision reflects a peremptory norm of general international law.

<sup>16</sup> See para. 6 above.

<sup>17</sup> *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, *I.C.J Reports 2009*, p. 213, para. 148 (“[The] obligation to cease wrongful conduct derives both from the general obligation of each State to conduct itself in accordance with international law and from the specific obligation upon States parties to disputes before the Court to comply with its judgments, pursuant to Article 59 of its Statute.”)

## V. DECISION REQUESTED

22. On the basis of the foregoing statement of facts and law, Nicaragua, while reserving the right to supplement, amend or modify this Application, requests the Court to adjudge and declare that Colombia is in breach of:

- its obligation not to use or threaten to use force under Article 2 (4) of the UN Charter and international customary law;
- its obligation not to violate Nicaragua's maritime zones as delimited in paragraph 251 of the ICJ Judgment of 19 November 2012 as well as Nicaragua's sovereign rights and jurisdiction in these zones;
- its obligation not to violate Nicaragua's rights under customary international law as reflected in Parts V and VI of UNCLOS;
- and that, consequently, Colombia is bound to comply with the Judgment of 19 November 2012, wipe out the legal and material consequences of its internationally wrongful acts, and make full reparation for the harm caused by those acts.

23. Pursuant to Article 31 of the Statute of the Court and Article 35, paragraph 1 of its Rules, the Republic of Nicaragua will exercise the power conferred by Article 31 of the Statute and choose a person to sit as judge and will so inform the Court in due course.

24. Nicaragua, reserves its right to supplement, amend or modify this Application.

25. The Government of Nicaragua has designated the undersigned as its Agent for the purposes of these proceedings. All communications relating to this case should be sent to the Office of the Agent of the Republic of Nicaragua, Statenlaan 52, 2582 GP, The Hague.

Respectfully submitted,

*(Signed)* Carlos J. ARGÜELLO GÓMEZ,  
Ambassador of the Republic of Nicaragua,  
Agent of the Republic of Nicaragua.

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## CERTIFICATION

26 November 2013.

The undersigned Agent of the Republic of Nicaragua certifies that the documents hereunder listed are true copies and conform to the original documents and that the translations into English made by Nicaragua are accurate translations of the documents annexed to the Application by the Republic of Nicaragua instituting proceedings against the Republic of Colombia for violations of Nicaragua's sovereign rights and maritime zones declared by the Court's Judgment of 19 November 2012 and the threat of use of force by Colombia in order to implement these violations.

(Signed) Carlos J. ARGÜELLO GÓMEZ,  
Agent of the Republic of Nicaragua.

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**Annex 1**

**DECLARATION OF PRESIDENT JUAN MANUEL SANTOS  
ON THE JUDGMENT OF THE INTERNATIONAL COURT OF JUSTICE,  
19 NOVEMBER 2012<sup>1</sup>**

Bogotá, 19 November 2012.

“ Today this Court rejected the claims of sovereignty of Nicaragua over our archipelago. It is a final and unappealable judgment on this issue.

.....

The Court, in its judgment draws a line that begins on the west of the archipelago, between our islands and the coast of Nicaragua.

While this is positive for Colombia, the Court, when drawing the maritime delimitation line, made serious mistakes that I must stress, and [those mistakes] affect us negatively.

.....

Inexplicably — after recognizing the sovereignty of Colombia over the entire archipelago and holding that it [the archipelago] as a unit generated continental shelf and exclusive economic zone rights — the Court adjusted the delimitation line, leaving the Keys of Serrana, Serranilla, Quitasueño and Bajo Nuevo separated from the rest of the archipelago.

This is inconsistent with what the Court itself acknowledged, and is not compatible with the geographical conception of what is an archipelago.

*All of these are really omissions, errors, excesses, inconsistencies that we cannot accept.*

*Taking into account the above, Colombia — represented by its Head of State — emphatically rejects that aspect of the judgment rendered by the Court today.*

.....

The Government respects the rule of law but considers that the Court has committed serious mistakes in this matter.” (Emphasis added.)



<sup>1</sup> Source:  
[http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121119\\_02.aspx](http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121119_02.aspx).

**Annex 2**

THE COLOMBIAN FOREIGN MINISTER  
CALLS THE HAGUE AN ENEMY”,  
*EL NUEVO HERALD*, 28 NOVEMBER 2012<sup>1</sup>

“The enemy is the Court which did not base its decision on the law, that Judgment is full of inadequacies and one reads it and cannot believe that the States parties that conform the Court elected those judges to decide such an important Judgment.”

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<sup>1</sup> *Source:*  
<http://www.elnuevoherald.com/2012/11/27/1353049/canciller-colombiana-califica.html>.



**Annex 3**

**LETTER FROM THE MINISTER OF FOREIGN AFFAIRS OF COLOMBIA  
TO THE SECRETARY-GENERAL OF THE ORGANIZATION OF AMERICAN STATES,  
27 NOVEMBER 2012**

I have the honour to address Your Excellency pursuant to Article LVI of the American Treaty on Pacific Settlement in order to give notice to the General Secretariat of the Organization of American States, which you head, as the successor to the Pan American Union, that the Republic of Colombia denounces as of today the “American Treaty on Pacific Settlement”, signed on 30 April 30 1948, whose instrument of ratification was deposited by Colombia on 6 November 1968.

The denunciation of the American Treaty on Pacific Settlement shall be in effect as of today with respect to procedures initiated after this notice, pursuant to the second paragraph of Article LVI, which reads: “The denunciation shall have no effect with respect to pending procedures initiated prior to the transmission of the particular notification.”

*(Signed)* María Angela HOLGUÍN CUELLAR,  
Minister of Foreign Affairs.

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**Annex 4**

**DECLARATION OF PRESIDENT JUAN MANUEL SANTOS  
ON THE DENUNCIATION OF THE PACT OF BOGOTÁ,  
28 NOVEMBER 2012<sup>1</sup>**

“I have decided that the highest national interests demand that the territorial and maritime boundaries be fixed through treaties, as has been the legal tradition of Colombia, and not through judgments rendered by the International Court of Justice.

.....  
This is why yesterday Colombia denounced the Pact of Bogotá. Proper notice was given to the Secretary-General of the Organization of American States. It will become effective for procedures that are initiated after the notification.

.....  
The decision I have made obeys to a fundamental principle: the boundaries between States should be fixed by States themselves. *Land borders and maritime boundaries between States, should not be left to a Court, but rather must be fixed by States through treaties of mutual agreement.*” (Emphasis added.)

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<sup>1</sup> *Source:*  
[http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121128\\_04.aspx](http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121128_04.aspx).

**Annex 5**

**“SANTOS AND ORTEGA WILL MEET THIS SATURDAY IN MEXICO CITY”,  
*LA REPÚBLICA*, 29 NOVEMBER 2012<sup>1</sup>**

“I want to shake hands with President Santos and say that I and the people of Nicaragua want to fix this situation as fraternally as brothers, as these two people have been throughout the history of Latin America”, said Daniel Ortega, President of Nicaragua, according to Caracol TV.

Nicaragua’s Ambassador to Mexico, Tamara Hawkins, contacted the Colombian Ambassador Gabriel José Ortiz, in order to organize the meeting with President Juan Manuel Santos.

The announcement follows statements by President Santos in which he said that he “will not apply that judgment of The Hague Court until it is guaranteed that the rights of the Colombians are well defined”.

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<sup>1</sup> *Source:*  
[http://www.larepublica.co/economia/santos-y-ortega-se-reunir%C3%A1n-este-s%C3%A1bado-en-ciudad-de-m%C3%A9xico\\_26792](http://www.larepublica.co/economia/santos-y-ortega-se-reunir%C3%A1n-este-s%C3%A1bado-en-ciudad-de-m%C3%A9xico_26792).

**Annex 6**

**DECLARATION OF PRESIDENT JUAN MANUEL SANTOS  
DURING THE SUMMIT OF GOVERNORS IN SAN ANDRÉS,  
18 FEBRUARY 2013<sup>1</sup>**

“It should be absolutely and totally clear that: I have given peremptory and precise instructions to the Navy; the historical rights of our fishermen are going to be respected no matter what. No one has to request permission to anybody in order to fish where they have always fished.  
.....

Colombia fishermen are going to be able to exercise their historical fishing rights — that is what we have been saying. We will make sure of that.  
.....

This afternoon the Minister of Defence will arrive, the Commander of the Navy is coming [too] and I am going to reiterate this in front of all the San Andrés people: You do not have to request permission from anybody in order to fish where you have traditionally fished.”



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<sup>1</sup> *Source:*  
[http://wsp.presidencia.gov.co/Prensa/2013/Febrero/Paginas/20130218\\_09.aspx](http://wsp.presidencia.gov.co/Prensa/2013/Febrero/Paginas/20130218_09.aspx).

**Annex 7**

“SANTOS ORDERS TO DEFEND THE CONTINENTAL SHELF  
WITH CLOAK AND SWORD”,  
*EL ESPECTADOR*, 19 SEPTEMBER 2013<sup>1</sup>

That’s the order that he gave to the military forces patrolling the waters in dispute with Nicaragua.

The President of the Republic, Juan Manuel Santos, ordered to the high command of the Armed Forces to defend with “cloak and sword” the continental shelf that Colombia has in the Caribbean Sea.

During the speech by the Navy Commander, Vice Admiral Hernando Wills, he reiterated that his forces comply with the order of the Head of State to exercise sovereignty throughout the Colombian Caribbean Sea.

The high command even said that the Colombian frigates operate in the 82 meridian, and added that the judgment of The Hague is inapplicable and that his duty is to defend all the Colombian maritime space.

Meanwhile, the Governor of San Andrés, Aury Guerrero, reiterated that the Caribbean waters over which The Hague gave Nicaragua economic rights have been and are Colombian waters.

“The whole territory, including the 82 [meridian], is yours and we count on its defence”, said Guerrero to President Santos, addressing him as Head of State.

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<sup>1</sup> *Source:*  
<http://www.elespectador.com/noticias/politica/santos-ordena-defender-plataforma-continental-capa-y-es-articulo-447445>.

**Annex 8****PRESIDENTIAL DECREE 1946 OF 9 SEPTEMBER 2013<sup>1</sup>**

Which serves to regulate Articles 1, 2, 3, 4, 5, 6 and 9 of Law 10 of 1978 and 2 and 3 of Law 47 of 1993 as regards territorial sea, the contiguous zone, some aspects of the continental shelf of the insular Colombian territories in the Western Caribbean Sea and the integrity of the San Andrés, Providence and Santa Catalina Archipelago Department,

*The President of the Republic of Colombia*

In exercise of her constitutional and legal powers, in particular those extended in Article 189, Roman numeral 11 of the Political Constitution and in the implementation of stipulations of Law 10 of 1978 and Law 47 of 1993,

*Considering*

That Article 101 of the Political Constitution states that “besides its continental territory, the San Andrés, Providencia and Santa Catalina and Malpelo Archipelago, as well as their islands, islets, key and banks, are part of Colombia”;

That the same Article establishes that they “are also part of Colombia the subsoil, the territory sea, the contiguous zone, the continental shelf, the exclusive economic zone, the airspace, the part consisting of the geostationary orbit, the electromagnetic sphere and the space it affects, in conformity with international law and Colombian laws due to the absence of international norms”;

That Article 309 of the Political Constitution converted into a department the authority corresponding to the “San Andrés, Providencia and Santa Catalina Archipelago” and established that “the property and rights under any title which belonged to the authorities and commissaries will continue to be the property of the respective departments”;

That Article 310 of the Political Constitution establishes that “besides norms established in the Constitution and laws regarding other departments, the San Andrés, Providencia and Santa Catalina Archipelago Department shall be ruled by special norms on public administration, immigration, fiscal matters, foreign commerce, exchange, finances and economic development established by the legislature”;

That Article 3 of Law 47 of 1993 establishes that the territory of the San Andrés, Providencia and Santa Catalina Archipelago Department is conformed by the islands of San Andrés, Providencia and Santa Catalina, by the Alburquerque, East South Southeast, Roncador, Serrana, Quitasueño, Bajo Nuevo, Bancos de Serranilla and Alicia the other islands, islets, keys, banks and reefs which conform the former Special Authority of San Andrés and Providencia;

That Article 2 of Law 47 of 1993 recognizes the territorial, cultural, administrative, economic and political unity of the Archipelago by establishing that “the San

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<sup>1</sup> *Source:*  
<http://wsp.presidencia.gov.co/Normativa/Decretos/2013/Documents/SEPTIEMBRE/09/DECRETO%201946%20DEL%2009%20DE%20SEPTIEMBRE%20DE%202013.pdf>.

Andrés, Providencia and Santa Catalina Archipelago Department is a territorial entity created by the Constitution and the law and has the right to govern itself through its own authorities; to exercise the pertinent competences, to integrate the national revenue system; to administrate its resources and establish the taxes necessary for compliance with its functions”;

That Article 9 of Law 10 of 1978 established that the Government shall proceed to establish for the San Andrés, Providencia and Santa Catalina Archipelago Department and other insular territories the baselines from which shall be measured the diverse maritime spaces over which the Colombian nation exercises sovereignty, sovereign rights and jurisdiction in conformity with customary international law, it orders that these be incorporated into its official maritime cartography in conformity with international norms on this subject matter;

That in carrying out that which is established in Article 101 of the Political Constitution and Law 10 of 1978, and in the context of the Political Constitution, it is the responsibility of the State to determine the extension of the territorial sea and the contiguous zone generated by the islands that conform Western Caribbean insular Colombian territories and the reach of the corresponding maritime jurisdiction in order to facilitate their adequate administration, the orderly management of the waters and the exercise of the country’s sovereignty or sovereign rights;

That according to international customary law and in carrying out that which is established in Article 101 of the Political Constitution and Law 10 of 1978, the Republic of Colombia has a right to the formations that comprise the San Andrés, Providencia and Santa Catalina Archipelago to generate territorial sea and a contiguous zone without prejudice to its rights over the exclusive economic zone and the continental shelf;

That in conformity with customary international law as regards the contiguous zone, States may exercise sovereign rights and jurisdiction and control in the areas of security, drug trafficking, environmental protection, fiscal and customs matters, immigration, health and other matters;

That the extension of the contiguous zone of insular territories conforming the Western Caribbean has to be determined, specifically of those insular territories that conform the San Andrés, Providencia and Santa Catalina Archipelago, so that the orderly management of the Archipelago and its maritime spaces may be guaranteed thereby ensuring protection of the environment and natural resources and maintenance of comprehensive security and public order;

That the Colombian State is responsible for the preservation of the Archipelago’s ecosystems which are fundamental to the ecological equilibrium of the area and in order to preserve its inhabitants’ historic, traditional, ancestral, environmental and cultural rights, and their right to survival.

*It is decreed*

#### *Article 1*

##### *Western Caribbean Sea insular territories of Colombia*

1. The Western Caribbean Sea insular territories of Colombia are comprised of the San Andrés, Providencia and Santa Catalina Archipelago Department and the rest of its islands, islets, keys and banks.

2. The San Andrés, Providencia and Santa Catalina Archipelago Department is comprised of the following islands:

- (a) San Andrés;
- (b) Providencia;

- (c) Santa Catalina;
- (d) The Alburquerque Keys;
- (e) The East Southeast Keys;
- (f) The Roncador Keys;
- (g) The Serrana Keys;
- (h) The Quitasueño Keys;
- (i) The Serranilla Keys;
- (g) The Bajo Nuevo Keys;
- (k) the remaining island, islets, keys, banks, low-tide elevations and reefs adjacent to each of these islands and which conform the San Andrés, Providencia and Santa Catalina Archipelago Department.

3. The Republic of Colombia exercises full sovereignty over its insular territories and it also exercises jurisdiction and sovereign rights over the maritime spaces these create under the norms of international law, the Political Constitution, Law 10 of 1978 and this Decree.

#### *Article 2*

##### *Maritime spaces created by the Western Caribbean Sea insular territories of Colombia*

In conformity with Article 101 of the Political Constitution, customary international law, and Laws 10 of 1978, and 47 of 1993, the territorial sea, the contiguous zone, the continental shelf and the exclusive economic zone created by its Western Caribbean Sea insular territories are a part of Colombia.

The continental shelf and the eastern exclusive economic zone generated by the Western Caribbean Sea insular territories of Colombia that overlap with the continental shelf and the exclusive economic zone generated towards the northwest along Colombia's Atlantic coast.

#### *Article 3*

##### *Drawing of baselines in the Western Caribbean Sea insular territories of Colombia*

1. In carrying out that which is established in Law 10 of 1978, the Government shall determine the points and baselines from which the breadth of the territorial waters, the contiguous zone and diverse maritime spaces created by the islands comprising the Western Caribbean Sea insular territories of Colombia are measured.

2. The drawing shall be carried out in conformity with the criteria recognized in customary international law including those related to islands situated in atolls or islands having fringing reefs in which the baseline for measuring the breadth of the territorial sea is the seaward low water-line of the reef.

3. Straight baselines may be used in the event of situations foreseen in Article 4 of Law 10 of 1978.

4. Waters situated between the baselines and insular territories are considered internal waters.

#### *Article 4*

##### *Territorial waters of the Western Caribbean Sea insular territories of Colombia*

1. The territorial sea of the Western Caribbean Sea insular territories of Colombia, over which the Republic of Colombia exercises full sovereignty, extends from the territory of each one of the islands mentioned in Article 1 and their inner waters, to the distance established in number 2 of the present Article.



2. The outer limit of the territorial sea shall be conformed by a line in which the points that comprise such line are at a distance equal to 12 nautical miles measured from the baselines.

3. National sovereignty is equally exercised in the airspace above the territorial sea, as well as in the sea-bed and subsoil of this sea.

4. The ships of any State enjoy the right of innocent passage in the territorial sea, in conformity with customary international law and other peaceful uses which customary international law recognizes.

The transit through its territorial waters of warships, submarines, nuclear-powered ships and any other naval transport carrying nuclear substances or other substances harmful or potentially dangerous to the environment, is subject to prior authorization by the competent authorities of the Republic of Colombia.

*Note:* For the effects of the present Decree and in conformity with that which was established in Article 1 of Law 10 of 1978, it is understood that one nautical mile is equivalent to 1.852 kilometres.

#### *Article 5*

#### *Contiguous zone of the Western Caribbean Sea insular territories of Colombia*

1. Without prejudice to that which is established in Number 2 of the present Article, the contiguous zone of the Western Caribbean Sea insular territories of Colombia extends to a distance of 24 nautical miles measured from the baselines referred to in Article 3 of this Decree.

2. The contiguous zones adjacent to the territorial sea of the islands that conform the Western Caribbean Sea insular territories of Colombia, except those of the Serranilla and Bajo Nuevo Islands, upon intersecting create a continuous zone and uninterrupted zone of the whole of the San Andrés, Providencia and Santa Catalina Archipelago Department over which the competent national authorities shall exercise their powers which are recognized by international law and the Colombian laws mentioned in Number 3 of the present article.

With the objective of ensuring the due administration and orderly management of the whole San Andrés, Providencia and Santa Catalina Archipelago, its islands, keys and other formations and their maritime areas and resources, as well as to avoid the existence of irregular shapes or contours that make difficult their practical implementation, the lines that indicate the outer limits of the contiguous zones shall be joined by geodesic lines. Similarly, these shall be joined at the contiguous zone of Serranilla Island by geodesic lines that shall follow the direction of parallel 14°59' 08" N through to meridian 79°56' 00" W, and from there to the north, thus conforming the Integral Contiguous Zone of the San Andrés, Providencia and Santa Catalina Archipelago Department.

3. In consistency with what is established in the above provision, the Colombian State shall exercise in the established Integral Contiguous Zone its sovereign authority and the powers for the implementation and the necessary control regarding:

(a) Prevention and control of violations of laws and by-laws regarding integral security of the State, including piracy, drug trafficking, as well as behaviour that endangers security at sea and national maritime interests, customs, fiscal, immigration and health matters committed in its insular territories or in their territorial sea. Similarly, violations of laws and by-laws regarding environmental protection, cultural patrimony and the exercise of historic rights to fishing held by the State of Colombia, shall be prevented and controlled.

- (b) Punishment of violations of laws and by-laws regarding the matters enumerated in (a) above and that were committed in the insular territories or their territorial sea.

*Article 6*

*Elaboration of maps*

The points and baselines referred to in Article 3 of this Decree, shall be published in the official nautical cartography of the Republic of Colombia which is elaborated by the General Maritime Directorate, which shall take place within the three (3) months following issuance of the present Decree. That which is relevant to it shall be sent to the Agustín Codazzi Geographic Institute. Due publication shall be given to these instruments.

The Integral Contiguous Zone established by virtue of Article 3 of this Decree shall be reflected in the official nautical cartography of the Republic of Colombia elaborated by the General Maritime Directorate, which should take place within the two (2) months following publication of the instruments referred to in Article 3 of the present Decree. That which is relevant to it shall be sent to the Agustín Codazzi Geographic Institute. Due publication shall be given to these instruments.

Once determined, the points and baselines, as well as the other spaces referred to in the present Decree, shall be established through a decree to be issued by the national Government.

*Article 7*

*The rights of third States*

Nothing established herein shall be understood to affect or limit the rights and responsibilities derived from the “Treaty on Maritime Delimitation between the Republic of Colombia and Jamaica” signed between these States on 12 November 1993, nor shall the rights of other States be affected or limited.

*Article 8*

*Applicability*

The present Decree shall govern from the date of its issuance; it precludes all norms and regulations which are contrary to its content.

Bogotá, on 9 September 2013.

(Signed) Fernando CARRILLO FLÓREZ,  
Minister of the Interior.

(Signed) Juan Carlos PINZÓN BUENO,  
Minister for National Defence.

(Signed) María Angela HOLGUÍN CUÉLLAR,  
Minister for Foreign Relations.

(Signed) Alejandro GAVIRIA URIBE,  
Health and Social Protection Minister.

(Signed) Mauricio CÁRDENAS SANTAMARÍA,  
Minister of Finance  
and Public Credit.

(Signed) Juan Gabriel URIBE VEGALARA,  
Minister for the Environment  
and Sustainable Development.

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### Annex 9

## DECLARATION OF PRESIDENT JUAN MANUEL SANTOS ON THE INTEGRAL STRATEGY OF COLOMBIA ON THE JUDGMENT OF THE INTERNATIONAL COURT OF JUSTICE, 9 SEPTEMBER 2013<sup>2</sup>

### COLOMBIA PRESENTS ITS INTEGRAL STRATEGY REGARDING THE HAGUE SENTENCE

1. *We decided that without a treaty, the sentence is not applicable.*
2. *We consolidated our archipelago by declaring an Integral Contiguous Zone.*
3. *We advanced in environmental and social protection in the Seaflower Reserve.*
4. *We stopped Nicaragua's expansionist plans by declaring the unification of two continental sea-beds which jointly extend from San Andrés to Cartagena.*

Bogotá, 9 September 2013.

What follows is a public statement from the President of the Republic, Juan Manuel Santos, on Colombia's integral strategy regarding the sentence of the International Court of Justice in The Hague:

"Fellow Colombians:

All the people of our country continue to feel indignant about the International Court of Justice sentence.

Our Government, which inherited work in a process that had been going on for more than a decade, was the one to receive the decision and take measures to face the situation it created.

We did this with several actions we took from the beginning.

We designed and put in motion an ambitious investment plan to the benefit of San Andrés' people, including programmes in the areas of health, education, housing, technology, infrastructure and energy. We also strengthened protection of the fishing community.

These investments, which we decided together with the people of the island based on their priorities, are more than twice the historical investment in this department. They are now a reality and are being carried out quickly.

The objective is to make the Archipelago a sustainable region that extends development opportunities to its people.

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<sup>2</sup> *Source:*  
[http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130909\\_04-Palabras-Santos-Colombia-presenta-su-Estrategia-Integral-frente-al-fallo-de-La-Haya.aspx](http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130909_04-Palabras-Santos-Colombia-presenta-su-Estrategia-Integral-frente-al-fallo-de-La-Haya.aspx).

We also denounce the Bogotá Pact, or rather, we withdrew from this treaty which recognized the jurisdiction of the Court at The Hague.

We have also diligently committed to the development of a juridical and political strategy for reinforcing and consolidating the rights of Colombians over the San Andrés, Providencia and Santa Catalina Archipelago.

Toward this end we have had the support of renown national and foreign lawyers, and we examined and evaluated different opinions, different concepts and theses which served to design this integral strategy.

Today I would like to inform you of this strategy.

In the **FIRST PLACE** — and after analysis of the juridical studies and concepts — I reiterate what I stated the very day the sentence was emitted.

I was elected to defend and uphold the Constitution of Colombia. That was my oath which I will not and cannot violate.

My constitutional responsibilities include protection and guarantee of the rights of Colombians, to defend our borders and honour the treaties Colombia has subscribed with other States.

Article 101 of our Constitution states that ‘the borders defined as provided in this Constitution shall be subject to modification only by virtue of treaties approved by Congress and duly ratified by the President of the Republic’.

On its part, the Constitutional Court, has clearly stated that these treaties — that is to say, those that refer to the borders and demarcation of Colombia — should always be approved by our Congress.

I repeat the decision I have made: The sentence of the International Court of Justice IS NOT APPLICABLE without a treaty.

As Head of State, I will defend this position in the pertinent national and international entities.

In that regard, the Government will make demands before the Constitutional Court regarding the so-called Bogotá Pact. What is the purpose of this?

So that it reaffirms the thesis that a sentence of the Court in The Hague cannot automatically modify Colombia’s maritime demarcation.

I now move on to the **SECOND DECISION**.

Today I have issued a very important decree whose reach I would like to explain to you.

National law as well as international law recognize for our islands basic maritime areas — territorial waters and a contiguous zone — that cannot be automatically modified.

Those areas cannot be ignored nor shall we allow this.

For that reason, based on Colombia’s laws and taking into account clear principles of international law, by way of this decree and as recognized to us by international law, we are establishing jurisdictional and control rights over the mentioned zone.

And we declare the existence of an Integral Contiguous Zone through which we have unified the contiguous zones of all our islands and keys in the Western Caribbean Sea.

We will continue to exercise full jurisdiction and control in this zone.

This integral area allows us to continue to adequately administrate the Archipelago and its surrounding waters — as an archipelago rather than unconnected territories, thus being able to control our security and protect our resources and environment in the zone.

The Integral Contiguous Zone we have established covers maritime spaces that extend from the south, where the Alburquerque and East-Southeast Keys are situated, and to the north, where Serranilla Key is located.

Of course, it includes the San Andrés, Providencia and Santa Catalina, Quitasueño, Serrana and Roncador Islands, and the other formations in the area.

I know these islands and I have toured them, including their islets and keys, not only when I was Defence Minister, but also forty-five years ago when I was a naval cadet and I patrolled these waters from the ARC 'Antioquia' frigate.

That is why today I want to assure my fellow Colombians: what I patrolled as a marine and what I defended as minister, I shall protect, to the last consequences, as president.

In this Integral Contiguous Zone we will exercise jurisdiction and control over all areas related to security and the struggle against delinquency, and over fiscal, customs, environmental, immigration and health matters and other areas as well.

That means our country can rest assured that the San Andrés, Providencia and Santa Catalina Archipelago is and will continue to be a complete and integrated archipelago with an active presence of the State in all its maritime territories.

A THIRD DECISION is to resort to all juridical and diplomatic means in order to reaffirm protection of the Seaflower Reserve in which our fishermen have carried out their fishing livelihood for centuries.

We are aware of the great ecological value this area — which the UNESCO declared a World Biosphere Reserve — holds for the Archipelago and the world.

Nicaragua wanted the UNESCO to extend it greater rights over the Reserve and Colombia objected.

We celebrate the recent declaration by this organism that it is not its role to intervene in controversies between nations, contrary to what Nicaragua wanted.

On the internal level, we have instructed that we aggressively move forward with environmental and social projects in order to prevent impact or damage to our fishermen and the Archipelago's surrounding waters.

There is a FOURTH front, which is really important and fundamental, on which we are also working in order to contain Nicaragua's expansionism in the Caribbean.

We know that as it did during the process that led to the sentence, Nicaragua intends to ask the International Court to recognize a continental sea-bed extending east from the San Andrés Archipelago.

The intent is to deprive us of resources that belong to us. This is so absurd that it would extend Nicaragua's jurisdiction to a point only 100 miles from the coast of Cartagena.

This is totally unacceptable and — I want this to be absolutely clear — there is no way, there is no circumstance under which we will allow this!

Colombia has faced and is going to face these expansionist plans with all the determination and rigour it calls for.

And we are not alone in this decision.

Together with other countries that are Nicaragua's neighbours, such as Panama, Costa Rica and Jamaica, which are also affected by its expansionist

ambitions, we will sign a letter of protest which I will personally hand to the Secretary-General of the United Nations when I intervene in the General Assembly this month in New York.

In fact — and we must remember this — this sentence from The Hague totally disregards the demarcation treaties which are in place with these countries and which we are obliged to comply with.

That is another reason we CANNOT apply the sentence and which forces us to resort to diplomatic means.

On my part, my fellow Colombians can rest assured that we will firmly oppose Nicaragua's expansionist plans in every international entity with very solid technical and juridical arguments that have been ready for a long time and which, understandably, I cannot reveal.

I have no doubt — not the smallest doubt — that we will triumph in this effort.

In the decree we have emitted today, we are also reaffirming in juridical terms that the San Andrés continental sea-bed extending west 200 nautical miles, is unquestionably joined with Colombia's Caribbean coast continental sea-bed, which extends northwest toward San Andrés for at least 200 miles.

This means we have a continuous and integrated continental sea-bed that extends from San Andrés to Cartagena, over which Colombia has and will exercise the sovereign rights extended by international law.

Thus, we clearly, firmly and unquestionably close the door to allowing Nicaragua's expansionist intentions.

All the measures we have taken and those I am announcing are part of that integral strategy which has been carefully designed to defend Colombia's interests.

Thus, to enforce this strategy, today we have taken four fundamental steps which we can summarize as follows:

*First:* We decided that without a treaty, the sentence is not applicable.

*Second:* By declaring the zone an Integral Contiguous Zone we have consolidated our Archipelago.

*Third:* We are making progress in the environmental and social protection of the Seaflower Reserve.

And *fourth:* We have stopped Nicaragua's expansionist ambitions by declaring the unity of two continental sea-beds which together extend from San Andrés to Cartagena.

Of course, besides these four measures, we reserve the right to resort to the resources of the International Court of Justice, and to take other actions.

None of these decisions precludes those that fish in the area as a means of subsistence for themselves and their families from continuing to do so because we are also responsible regarding peace and security in the Caribbean.

Compatriots:

You can rest assured that as President and as a Colombian, I shall continue to protect our rights.

Without the least hesitation I shall continue to protect our sovereignty, our islands and our seas to the last centimetre of our national territory.

With full commitment, total effort, and all strength, I shall continue to faithfully comply with our Constitution as I swore to do before God and before you.

Good night.”

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### Annex 10

#### DECLARATION OF PRESIDENT JUAN MANUEL SANTOS DURING THE SOVEREIGNTY EXERCISES PERFORMED IN THE CARIBBEAN SEA, 18 SEPTEMBER 2013<sup>1</sup>

SAN ANDRÉS ISLAND, SEPTEMBER 18 SEPTEMBER 2013

“Good afternoon.

We are patrolling and exercising sovereignty on Colombian waters, as I did 45 years ago on board the Frigate ‘Antioquia’ of the Armada of the Republic of Colombia (ARC for its acronym in Spanish). On this occasion, I am on board the ARC Frigate *Almirante Padilla*, accompanied by the Frigate ‘20 de Julio’. And I am not doing it with my peers in Contingent 42 of the Naval Cadet School, but rather with the entire Colombian State.

From the judicial branch, headed by the President of the Supreme Court of Justice; from the legislative branch, headed by the President of the House of Representatives and the heads of the Presidents of the Second Commissions of the Senate and House of Representatives; and the head of Representative Jack Housni, who represents San Andrés and Providencia in the House of Representatives.

I am also accompanied by the Honourable Minister of Justice and Law, by the Honourable Minister of Defence, and the Commanders of our Military Forces and the Director of the Police.

After this patrol exercise, I want to reaffirm what I said on the ninth of the current month, on Monday last week :

Colombia deems that the ruling by The Hague is not applicable, and we will not apply it, as we stated then and I repeat today, until we have a new treaty. And we will not implement any action, in any direction, until the Constitutional Court rules, after the lawsuit that I personally introduced against the Bogotá Agreement.

I also want to reaffirm that we will continue to protect the Seaflower Reserve, which UNESCO deems as patrimony of humanity.

In this trend of thought, for quite some time, I asked Attorney Sandra Bessudo to gather all of the existing information, all of the research carried out by different universities, by the diverse institutions, by the National Assembly itself and the NGOs, relating to the scientific value of this Reserve, which belongs to humanity.

She now has this information. And we are going to make a scientific expedition at the end of this year with the Armada, with different universities, with the academia. It will be a scientific expedition where we are going to use state-

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<sup>1</sup> *Source:*  
[http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130918\\_09-Palabras-Presidente-Juan-Manuel-Santos-durante-ejercicio-soberania-que-cumplio-en-el-Mar-Caribe.aspx](http://wsp.presidencia.gov.co/Prensa/2013/Septiembre/Paginas/20130918_09-Palabras-Presidente-Juan-Manuel-Santos-durante-ejercicio-soberania-que-cumplio-en-el-Mar-Caribe.aspx).



of-the-art technology: a robot that will dive to 300 metres depth and film for the first time. No one has ever reached such depths.

Exercises will be implemented with satellite telemetry, shark acoustics, and fisheries prospection because this area is of great importance for our artisanal fishermen, (we will study) marine mammals, which will provide information to support our actions framed in the International Whaling Commission. We will also implement oceanography studies, coastal erosion and climate change studies, all of this in co-ordination with UNESCO.

Lastly, I want to refer to the new lawsuit introduced by Nicaragua against Colombia. We vehemently reject this new lawsuit, which requests the extended platform that the International Court of Justice in The Hague had already rejected.

We consider that this lawsuit is inadmissible, as a lawsuit without any grounds, as an unfriendly lawsuit, as a reckless lawsuit, a lawsuit without any possibility for success.

Our platform goes from San Andrés, where we are now, up to Cartagena, Barranquilla and Santa Marta. This platform is not negotiable under any circumstances whatsoever. And we will defend it with all vehemence, all forcefulness, because it is the platform that belongs to us, the Colombians.

So that here, in this place, on this frigate, I reaffirm that we will not allow this new lawsuit introduced by Nicaragua against Colombia to take hold. There are no legal grounds for it, no technical grounds, and therefore, I repeat, we will defend it forcefully and vehemently.

And we will continue patrolling, just as we are doing so today. And we will continue exercising sovereignty over our territory, over our waters.

We are also in the company of Madame Governor of San Andrés and Providencia. She knows that she enjoys full backing from the national Government. We have provided support in many fronts and we will continue to provide so that San Andrés, Providencia and Santa Catalina can enjoy an increasingly better future.

Thank you very much.”

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