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"Declaration of President Juan Manuel Santos on the judgment of the International Court of Justice"

19 November 2012

Declaration of President Juan Manuel Santos on the judgment of the International Court of Justice. Bogota, 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*)

Available at

http://wsp.presidencia.gov.co/Prensa/2012/Noviembre/Paginas/20121119_02.aspx

"Declaration of President Juan Manuel Santos on the denunciation of the Pact of Bogota"

28 November 2012

Declaration of President Juan Manuel Santos on the denunciation of the Pact of Bogota

28 November 2012

"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...

Never again, never again will what happened through the International Court of Justice's Judgment of 19 November happen to us again.

[...]

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)

Available at

http://wsp.presidencia.gov.colPrensa/2012/NoviembrelPaginas/20121128 04.aspx

"Declaration of President Juan Manuel Santos during the Summit of Governors in San Andres"

18 February 2013

Declaration of President Juan Manuel Santos during the Summit of Governors in San Andres

18 February 2013

"...[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 wherever they have been fishing – that is what we have been saying. We will make sure of that.

[...]

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

Available at

http://wsp.presidencia.gov.colPrensa/2013/FebrerolPaginas/2013021809.aspx

"Declaration of President Juan Manuel Santos on the integral strategy of Colombia on the Judgment of the International Court of Justice"

9 September 2013

Colombia presents its integral strategy regarding Judgment of The Hague

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

Bogotá, 9 Sept (SIG). What follows is a public statement from the President of the Republic, Juan Manuel Santos, on Colombia's Integral Strategy regarding the Judgment 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 Judgment.

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 programs 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.

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 reknown 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 this strategy to you.

In the FIRST PLACE – and after analysis of the juridical studies and concepts – I reiterate what I stated the very day the Judgment 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 honor 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.

As President I have the obligation to respect the mandate of our Constitution and what the Constitutional Court has said.

For that my position is clear and unvielding:

"The Judgment of the International Court of Justice is not applicable – it is not and will not be applicable – until a treaty that protects the rights of Colombians has been celebrated, a treaty that will have to be approved in accordance with our Constitution.

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

I repeat the decision I have made: The Judgement 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 Judgment 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 Albuquerque 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 Defense 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 Judgment, Nicaragua intends to ask the International Court to recognize a continental seabed 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 rigor it calls for. And we are not alone in this decision.

Together with other countries that are Nicaragua's neighbors, 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 Judgment 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 Judgment 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 seabed extending west 200 nautical miles, is unquestionably joined with Colombia's Caribbean coast continental seabed, which extends northwest toward San Andrés for at least 200 miles.

This means we have a continuous and integrated continental seabed 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 Judgment 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 seabeds 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."

Available at

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

"Declaration of President Juan Manuel Santos during the sovereignty exercises performed in the Caribbean Sea"

18 September 2013

Declaration by President Juan Manuel Santos during the Sovereignty Exercises Performed in the Caribbean Sea

San Andrés Island, September 18 (SIG): "Good afternoon. We are patrolling and exercising sovereignty on Colombian waters, as I did 45 years ago on board of the Frigate "Antioquia" of the Armada of the Republic of Colombia (ARC for its acronym in Spanish). On this occasion, I am on board of 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 Honorable Minister of Justice and Law, by the Honorable Minister of Defense, 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 9th 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 Bogota 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 of the art technology: a robot that will dive to 300 meters 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 coordination 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 Andres, 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 Andres 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 Andres, Providencia and Santa Catalina can enjoy an increasingly better future. Thank you very much".

Available at

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

"Declaration of the Colombian Minister of Foreign Affairs, María Ángela Holguín"- "The Hague's judgment is difficult to abide because the entire country is against it: Holguin"

25 October 2013

El Colombiano

The Hague's judgment is difficult to abide because the entire country is against it: Holguin

Efel Rabat, Morocco | Published on October 25, 2013

The sentence of the International Court of Justice (ICJ) at The Hague of 2012 on the maritime dispute between Colombia and Nicaragua will be very difficult to abide because "the entire country (Colombia) is against it", opined this Friday in Rabat the chancellor Maria Angela Holguin.

"If you look, the people don't want the judgment to be accepted (...) I don't see a good outcome out of this", said Holguin, who visits Morocco to reunite with her Moroccan counterpart and during the weekend convene the Colombian ambassadors in Africa and the Middle East in the city of Marrakech.

Holguin said that the ICJ's decision of November 2012 "is hard to understand", especially when it all **reduces to only 12 miles of economic space of some Colombian islands in which 100,000 people live in that depend on fishing**, and thus it becomes a difficult matter for the government to explain to its citizens.

For that- she reminded- the government later approached the Constitutional Court, for it to be clarified if the modification of the limits "has to be assumed as such" (as the sentence by the ICJ dictates) or if a new treaty must be emplaced, as the Colombian Constitution of 1991 states.

To accept the sentence of The Hague "is complex because it would go against the constitution (but) the Government is conscious that the judgment was pronounced by a tribunal to which it submitted itself", resumed Holguin.

Holguin further criticized Nicaragua for having created "a very complex situation, a revolt, in general in the whole Caribbean", for its pretense of an extended continental shelf "goes above of Costa Rica, Panama, Jamaica and up to Haiti (...) and this is not easy", she affirmed.

Available at

http://www.elcolombiano.com/BancoConocimiento/F/fallo_de_la_haya_es_dificil _de_acatar_porque_el_pais_entero_esta_en_contra_holguin/fallo_de_la_haya_es_dificil de acatar porque el pais entero esta en contra holguin.asp

Presidency of the Republic of Colombia, Press Release, "The Limits of Colombia with Nicaragua continue to be those established in the Esguerra-Barcenas Treaty, affirmed the President of Colombia"

2 May 2014

PRESIDENCY OF THE REPUBLIC

The limits of Colombia with Nicaragua continue to be those established in the Esguerra-Barcenas treaty, affirmed the President of the Republic.

President Santos, in a declaration read in the "Casa de Nariño", reminded that, in conformity with the National Constitution, the Colombian limits can only be modified or established by the means of a treaty ratified by the Government, approved by Congress and then review by the Constitutional Court. "For that reason, the judgment by the Court of The Hague can only be applied after a new treaty", he warned.

Bogota, 2 may (SIG). The President of the Republic, Juan Manuel Santos Calderon, affirmed this Friday that the limits of Colombia with Nicaragua continue to be those established in the Esguerra-Barcenas treaty, that is to say, the limits previous to the judgment of the International Court of Justice of The Hague.

That is what the Chief of State signaled in a statement read in the "Casa Nariño", after the Constitutional Court welcomed this afternoon the thesis upheld by the Government of Colombia since November 2012, when the judgment of the High Tribunal based at The Hague in regards to the limits of Colombia in the Caribbean, the San Andres Archipelago and Providencia came to be known.

"This afternoon the Constitutional Court has welcomed, after a rigorous and serious study, the thesis that we have been upholding from the same day that the judgment of The Hague was issued in November 2012 and that we ratified in September of last year, when I personally filed a complaint against the Pact of Bogota", the Mandatary explained.

He added that in the demand it was upheld that, in accordance to the National Constitution, the limits of Colombia can only be modified or established by the means of a treaty ratified by the Government, approved by Congress and then revised by the Constitutional Court.

Santos Calderon therefore manifested that "for that reason, the judgment of the Court of The Hague can only be applied after a new treaty" and he specified that that was the thesis that was welcomed by the Constitutional Court in a historic judgment, which clearly applies what is ordered by the Constitution.

"In consequence, for our country- as long as a new treaty is not signed- the limits of Colombia with Nicaragua continue to be those established in the Esguerra-Barcenas treaty. That is to say, the limits previous to the International Court of Justice's sentence", he said.

Lastly he informed that the Government will wait to know the content of the judgment to decide on the following steps.

The Esguerra-Barcenas Treaty was signed between Colombia and Nicaragua on March 24, 1928.

Available at

http://wsp.presidencia.gov.co/Prensa/2014/Mayo/Paginas/20140502_04-Los-limites-Colombia-Nicaragua-continuan-siendo-establecidos-tratado-Esguerra%E2%80%93Barcenas.aspx

Annex 8

Colombian Law No. 10 on Maritime Spaces, 4 August 1978, *Diario Oficial* No. 34077

18 August 1978

Page 1

Act No. 10 of 4 August 1978 establishing rules concerning the Territorial Sea, the Exclusive Economic Zone and the Continental Shelf and regulating other matters

Article 1

The territorial sea of the Colombian nation, over which the latter exercises full sovereignty, shall extend beyond its mainland and island territory and internal waters to a distance of 12 nautical miles or 22 kilometres, 224 metres.

National sovereignty shall also extend to the space over the territorial sea as well as to its bed and subsoil.

Article 2

Ships of all States shall enjoy the right of innocent passage through the territorial sea, in accordance with the rules of international law.

Article 3

The outer limit of the territorial sea shall be constituted by a line every point of which is 12 nautical miles from the nearest point of the baseline referred to in the next article.

Article 4

The normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast. In localities where the coast is deeply indented or cut into, or if there is a fringe of islands along the coast in its immediate vicinity, measurements shall be made from straight baselines joining appropriate points. Waters on the landward side of the baselines shall be considered as internal waters.

Article 5

In the case of gulfs and bays whose natural entrance points are separated by no more than 24 miles, the territorial sea shall be measured from a line of demarcation joining the natural entrance points. The waters enclosed thereby shall be considered as internal waters.

If the mouth of the gulf or bay exceeds 24 miles in width, a straight baseline of that length may be drawn within it in such a manner as to enclose the maximum area of water possible.

Article 6

In the case of rivers which flow directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

Article 7

An exclusive economic zone shall be established adjacent to the territorial sea; the zone shall extend to an outer limit of 200 nautical miles measured from the baselines from which the breadth of the territorial sea is measured.

National legislation - DOALOS/OLA - United Nations



Page 2

Article 8

In the zone established by the preceding article, the Colombian nation shall exercise sovereign rights for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources of the seabed, the subsoil and the superjacent waters; it shall also have exclusive jurisdiction for scientific research and the preservation of the marine environment.

Article 9

In pursuance of this Act, the Government shall identify the lines referred to in the preceding articles relating to its continental territory, the archipelago of San Andrés y Providencia, and other island territories; the said lines shall be published in the official maritime charts in accordance with the relevant international rules.

Article 10

National sovereignty shall extend to the continental shelf for the purposes of exploring and exploiting its natural resources.

Article 11

The national Government shall be empowered for a period of 12 months from the promulgation of this Act to adopt measures, to reorganize national administrative agencies and units or to establish such new agencies and units as may be deemed necessary, in order to ensure the policing and defence of Colombian maritime areas and to make appropriate use of the living and non-living natural resources of such areas with a view to meeting the needs of the Colombian people and the country's economic development.

The national Government shall likewise be empowered to contract such loans and make such budgetary appropriations and transfers as it deems appropriate.

Article 12

Provisions contrary to this Act are hereby superseded.

Article 13

This Act shall enter into force with its promulgation.

Enacted in Bogota, D.E., on 25 July 1978.

National legislation - DOALOS/OLA - United Nations



Annex 9

Presidential Decree 1946 of 9 September 2013

Available at

http://wsp.presidencia.gov.co/Normativa/Decretos/2013/Documents/SEPTIEMBR E/09/DECRETO%201946%20DEL%2009%20DE%20SEPTIEMBRE%20DE%2 02013.pdf

Republic of Colombia

Office of the President

Decree Number 1946

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 "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 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 for 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 preserves 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 by 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 by the following islands:
 - (a) San Andrés
 - (b) Providencia
 - (c) Santa Catalina
 - (d) The Alburguerque Keys
 - (e) The East Southeast Keys
 - (f) The Roncador Kevs
 - (g) The Serrana Keys
 - (h) The Ouitasueño Kevs
 - (i) The Serranilla Keys
 - (i) 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

- 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

- 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 seabed 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 kilometers.

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 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 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 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 Geography Institute. Due publication shall be given to these instruments.

The Integral Ccontiguous Zone established by virtue 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 Geography Institute. Due publication shall be given these instruments.

Once determined, the points and baselines, as well as the other spaces referred to in the present Decree, they 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.

TO BE PUBLISHED, COMMUNICATED AND COMPLIED Bogotá, D.C. on

9 September 2013 [Date stamped]

["Signatures" on following page.]

/S/

FERNANDO CARRILLO FLOREZ Minister of the Interior

> /S/ MARIA ANGELA HOLGUIN CUELLAR Minister for Foreign Relations

/S/

MAURICIO CÁRDENAS SANTAMARIA Minister of Finance and Public Credit

> /S/ JUAN CARLOS PINZÓN BUENO Minister for National Defense

/S/ ALEJANDRO GAVIRIA URIBE Health and Social Protection Minister

> /S/ JUAN GABRIEL URIBE VEGALARA Minister for the Environment and Sustainable Development

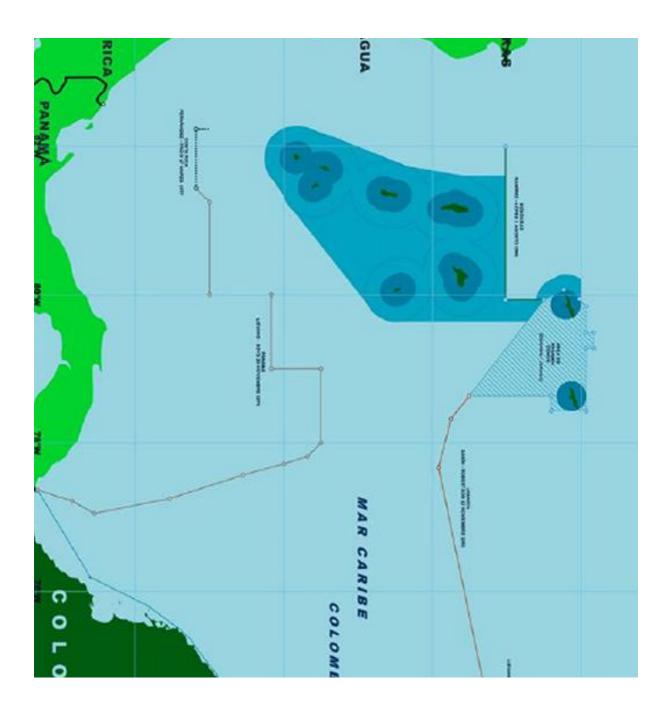
[All pages are marked "C" for copy on their lower right corner.]

Annex 10

Map presented by President Juan Manuel Santos 09 September 2013

Available at

http://www.cancilleria.gov.co/newsroom/video/alocucion-del-presidente-juan-manuel-santos-sobre-la-estrategia-integral-colombia



Annex 11

Governorship, Department of the San Andrés, Providencia and Santa Catalina, Resolution No. 005081

22 October 2013



GOVERNORSHIP DEPARTMENT ARCHIPELAGO

San Andrés, Providencia y Santa Catalina Seaflower Biosphere Reserve NIT: 892400038-2

RESOLUTION N° – 005081 – (OCTOBER 22, 2013)

"By which resolves a background request"

The undersigned Governess of the Department Archipelago San Andrés, Providencia y Santa Catalina, in her character a President of the Departmental Board of Fisheries and Agriculture, in exercise of the statutory powers bestowed upon her through the 1993 Act 47, Act 20014 and Agreement No 002 dated January 24, 2007, and

WHEREAS

By Resolution N° 0066, dated January 29, 1991, INPA [Spanish acronym for National Institute of Fisheries and Agriculture] awarded a five year Permit for Industrial Commercial Fishing to Mr. **ARMANDO BASMAGUI PEREZ**, identified with Citizen Identification Card N° 15.242.050, issued in San Andrés Island, in his character as owner of the business establishment denominated **PESQUERA KING CRAB**, registered with Nit: 0900273768-3, permit extended by Resolution N° 004771, dated September 14, 2012 under the same terms and conditions.

That **Article One** to Resolution N° 004771, dated September 14, 2012, **AUTHORIZES** the change of name of the bearer of the Integrated Permit for Industrial Commercial Fishing, **ARMANDO BASMAGUI PEREZ**, identified with Citizen Identification Card N° 15.242.050, issued in San Andrés Island, who changed it from a natural person to a legal entity to **COMERCIALIZADORA KING CRAB S.A.**, legally represented by Mr. **ARMANDO BASMAGUI PEREZ**, incorporated in the San Andrés Chamber of Commerce with NIT 09002733768-3 and under Registration N° 00030488.

That, as shown in this file, the fishing fleet of the licensee is integrated by eleven (11) vessels:

Name	Flagship	Type of Fishing
Lady Emme	Nicaragua	Lobster and Whitefish
Maria del Carmen I	Colombian	Lobster and Whitefish
Navegante del mar	Honduran	Lobster and Whitefish
My Joy	Honduran	Lobster and Whitefish
Lucky Norman	Honduran	Lobster and Whitefish
Doble t	Honduran	Lobster and Whitefish
Carnival X	Honduran	Lobster and Whitefish
Miss Astria	Honduran	Lobster and Whitefish
Capt Norma	Honduran	Whitefish
Retriever	U.S.A.	Whitefish
Tommy Jay	Honduran	Whitefish

That, through order dated October 04, 2013, received in the Ministry of Agriculture and Fisheries, the Licensee requested to link the Honduran Flagship Motorboat CAPTAIN KD, to his fishing fleet, for which he attached the following documents:

- Plan of Activities elaborated by a duly accredited Marine Biologist
- Certificate of Incorporation and Legal Representation issued by the Chamber of Commerce
- Affiliate Fisheries Agreement

That, within the Plan of Activities of the Licensee, **ARMANDO BASMAGUI PEREZ**, submitted a request to JUNDEPESCA for disaffiliation from his fishing fleet of the Honduran Flagship Motorboat **CARNIVAL X**.

That, by virtue of the above-stated, this office proceeds to make a technical and legal assessment of the request implored by the Licensee:

TECHNICAL ASSESSMENT

To that effect, the request was remitted to the Fisheries Engineer of the Ministry of Agriculture and Fisheries to rule on the technical feasibility of the request, decision made through Technical Report No 014, dated October 08, 2013 and emerges from, among others, the following paragraphs:

"(....)

The documentation approved by the Applicant was reviewed, which corresponds to the (Plan of Activities, Certificate of Incorporation and Legal Representation issued by the Chamber of Commerce, Affiliate Fisheries Agreement, Certificate of Registration of the vessel and a photocopy of the Professional Card of the Biologist).

3. TERM OF THE PERMIT:

Taking into account Act 47 of 1993 and Act 915 of 2004, the Departmental Board of Fisheries and Agriculture, "JUNDEPESCA", awarded Mr. **ARMANDO BASMAGUI**, Legal Representative of the Commercial Establishment denominated **COMERCIALIZADORA KING CRAB**, a five-year term Integrated Permit for Industrial Commercial Fishing, and through Resolution N° 004771, dated September 14, 2012, he was awarded an additional five year extension, keeping in mind that:

- By Resolution N
 ^o 00001076, dated December 26, 2012, issued by the National Authority of Agriculture
 and Fisheries AUNAP (for its Spanish acronym), he was awarded with a scale fishing quota of 136 tons
 and 21.5 tons of lobster.
- The Ministry of Agriculture and Fisheries of the Department reserves the right to embark an observer for purposes of gathering biological fisheries data.

4. TYPE OF FISHING:

The motorboat **CAPTAIN K.D,** will be devoted to the extraction of specific crustacean species of spiny lobsters(*Panulirus argus*), as main fishing and, as secondary fishing, the extraction of both pelagic fish (surface and mid-water) and demersal, which are of commercial importance in the region, among which the following may be mentioned: horse mackerels (*Carangidae*), Triggerfish (*Balistidae*), Dorado (*Coryphaenidae*), Grunts and Margarita (*Haemulidae*), Snappers (*Lutjanidae*), Sierras and Tunas (*Scombridae*), Barracudas (*Sphyraenidae*), sea basses and groupers (*Serranidae*).

4.1 Fishing Fleet:

The characteristics of the motorboat CARNIVAL X in relation to the affiliated motorboat CAPTAIN K.D., are the following (refer to Table 1).

Table 1

Characteristics	CARNIVAL X	CAPTAIN K.D
Registration	RHU-25117	U-1828229
Length (m)	75 P	29.50
Beam (width) (m)	22 P	7.40
Materials of the Hull	Fiberglass	Marine Steel
Gross Tonnage (ton)	127.00	178.81
Net Tonnage (ton)	85.00	53.64

Page 2 of 6

Power of the Engine (HP)	365	425

• In this regard, it should be noted that the characteristics of the vessel CAPTAIN K.D., technically correspond to a speedboat with high navigation autonomy and a storage capacity for minor fishing products lower than the M/N CARNIVAL X. Refer to Table 1, Net Tonnage; therefore, it must be kept in mind that the fleet of the licensee does not increase the stress (vessel number).

4.2. Fishing Gear:

The gears to be used are those implemented in industrial fishing zones, stipulated for extraction activities of the following fisheries resources:

- For Crustaceans, 2500 wooden lobster creels used with the following characteristics: the *design* used is formed by a rigid structure, the four faces or lids are lined with wood shaped boards, 2 inches wide and 70 centimeters long. There is a space of at least 1 ½", 2" or 2 ¼" inches between each board, in order to use the creel, it must have at least one escape grid, on the opposite side of the headland that lifts the creel, with an escape opening of 2 1/8 inches (5.4 cm) between the bottom and the first board immediately above the floor in order to guarantee an outlet for young lobsters from the creel. It is technically feasible, as long as they comply with the building standards for creels.
- The gear to use for the bycatch will only be nylon or 330 to 400 pound resistant cable with different caliber hooks, depending on the target species.

5. FISHING ZONE:

All banks (Roncador, Serrana y Quitasuerio, Serranilla) and Shallows (Alicia and Nuevo), and the area known as *La Esquina* or *Luna Verde*, which encompasses our insular territory and fishing zones; nonetheless, protected areas and fisheries regulations of the department and fisheries legislation must be respected.

5.1 Port of Debarkation:

100% of the capture will be debarked in San Andres Island.

6. TECHNICAL CONCEPT AND RECOMMENDATIONS:

Pursuant to the above, it is deemed technically feasible to authorize the affiliation of motorboat <u>CAPTAIN K.D</u> to replace the motorboat <u>CARNIVAL X</u>, making the following observations:

- Perform the ocular technical visit to the motorboat CAPTAIN KD once it arrives at San Andres Port as this
 document should be part of this request.
- Mr. ARMANDO BASMAGI PEREZ must fulfill all requirements set forth by the Ministry and by the
 Departmental Board of Fisheries, such as delivery of the annual and quarterly reports of the total fish product
 extracted or imported and report in a timely manner, the arrival of motorboats affiliated to its permit. Arrival
 information must be given verbally and in writing to the Ministry of Agriculture and Fisheries of the
 Department, it embarks crewmembers from the island where they wish to work, and comply with the
 documentation demanded by DIMAR.
- The Motorboat CAPTAIN KD must abide by the zoning of the Protected Marine Area System (Seaflower), set forth by CORALINA and does not operate in areas exclusively established for artisanal fisheries by the 2008 Agreement No. 004 of JUNDEPESCA, and other fisheries regulations.

- The Motorboat CAPTAIN KD must abstain from fishing products that are not authorized in the fishing license and must abide by ICA Resolution No 003333, dated September 24, 2008, which forbids fisheries targeting sharks in the marine areas of the archipelago.
- The lobster traps comply with the characteristics of at least one escape grid, on the opposite side of the headland that lifts the creel, with an escape opening of 2 1/8 inches (5.4 cm) between the bottom and the first board immediately above the floor in order to guarantee an outlet for young lobsters from the creel. It is technically feasible, as long as they comply with the building standards for creels.

LEGAL ASSESSMENT:

Once the documentation remitted by the Licensee was reviewed in light of the provisions set forth in the transcribed regulation, the Licensee obviously had the respective request through which he requests the affiliation of the motorboat **CAPTAIN KD** to his fishing fleet, photocopy of the vessel's registration describing its main characteristics; likewise, the documentation included the affiliate fisheries agreement for the referred motorboat.

In reference to payment of fees and charges, according to the information contained in the file of concern, it was verified that the Licensee is in good standing in this regard and is up to date with the submittal of the annual production reports and other requirements of law.

That the 2004 Act 915, in its Article 28, consecrates that the Departmental Board of Fisheries and Agriculture will comply with the functions set forth in Article 34 to Act 47 of 1993.

That in order to expedite and process applications for extensions in a timely and efficient manner, modification of trade permits for fisheries products, for industrial commercial fishing and integrated related to the fishing fleet, the Departmental Board of Fisheries and Agriculture, through Agreement 002, dated January 24, 2007, delegated Numeral 3 of Article One of the cited Agreement on the President of JUNDEPESCA, "the right to modify the industrial commercial fishing permits, and Integrated industrial commercial fishing related to changes of the fishing fleet, (affiliation, disaffiliation and **replacements**, change of name, change of flag and similar)".

The above developed, the Departmental Board of Fisheries and Agriculture of the Department Archipelago,

RESOLVES

ARTICLE ONE: AUTHORIZE THE DISAFFILIATION of the motorboat CARNIVAL X, a Honduran Flagship of the fishing fleet of the bearer of the Integrated Commercial Industrial Fishing Permit, Mr. ARMANDO BASMAGUI PEREZ, in consideration of the above-stated, which motivates this administrative act.

ARTICLE TWO: AUTHORIZE THE AFFILIATION of the motorboat **CAPTAIN KD**, a Honduran Flagship of the fishing fleet of the bearer of the Integrated Commercial Industrial Fishing Permit, Mr. ARMANDO BASMAGUI PEREZ, in consideration of the above-stated, which motivates this administrative act.

PARAGRAPH: The characteristics of the motorboat CAPTAIN KD, of which the affiliation is authorized through this Administrative Act, are:

Characteristics	CAPITAN KD
Registration	U-1828229
Length (m)	29.50
Beam (width) (m)	7.40
Materials of the Hull	Naval Steel
Gross Tonnage (ton)	178.81
Net Tonnage (ton)	53.64
Power of the Engine (HP)	425

ARTICLE THREE: Type of Fisheries, Area of Operations, and Port of Disembarkation: The type of fishery authorized for performance by the affiliated motorboat is spiny lobster catch and whitefish; its area of operation will be the Department Archipelago of San Andres, Providencia and

Santa Catalina (Roncador, Serrana y Quitasuerio, Serranilla Keys) and Shallows (Alicia and Nuevo), and their port of disembarkation will be the Island of San Andres.

PARAGRAPH: The fishing fleet of the permit must abide by the zoning of protected marine areas and the fisheries regulations of the fishing regulations of the Department Archipelago.

ARTICLE FOUR: Fishing Gear and Methods: Pursuant to the Plan of Activities, the fishing gear authorized for use by the motorboat **CAPTAIN KD**, are the following: wooden creels with the characteristics stated in the note for lobster catch and the accompanying fishing gear will only be nylon or cable with a resistance of 300 to 400 pounds with different caliber hooks, depending on the species for capture.

ARTICLE FIVE: Fishing Fleet: Resulting from the disaffiliation of the motorboat **CARNIVAL** X and the affiliation of the motorboat **CAPTAIN KD**, the Licensee's fishing fleet will be integrated by the following vessels:

Name:	Flagship:	Type of Fisheries
Lady Emme	Nicaragua	Lobster and Whitefish
Maria del Carmen I	Colombian	Lobster and Whitefish
Navegante del mar	Honduran	Lobster and Whitefish
My Joy	Honduran	Lobster and Whitefish
Lucky Norman	Honduran	Lobster and Whitefish
Doble t	Honduran	Lobster and Whitefish
Captain KD	Honduran	Lobster and Whitefish
Miss Astria	Honduran	Lobster and Whitefish
Capt Norma	Honduran	Whitefish
Retriever	U.S.A.	Whitefish
Tommy Jay	Honduran	Whitefish

ARTICLE SIX: The Licensee is hereby warned that when the motorboat belonging to his fishing fleet performs its work according to the fisheries authorized in the area of the Department Archipelago of San Andres, Providencia and Santa Catalina, it is compelled to first enter into the Port of San Andres Island for its respective inspection by the competent authorities, lest it incurs into the administrative sanctions that may apply.

ARTICLE SEVEN: In compliance with the provisions set forth the 1993 Act 47, Article 39, the bearer of the permit must disembark at least 10% of the fishing resources in the territory of the Department Archipelago for internal consumption or trade, for purposes of compliance with the precepts set forth in Article 12 of the 1991 Decree 2256, as well as with the other provisions it sets forth.

ARTICLE EIGHT: The Licensee is hereby warned that in order to perform the authorized activity, he must especially comply with the precepts set forth in Article 12 of the 1991 Decree 2762, as well as with the other provisions it sets forth.

ARTICLE NINE: As to the rest, abide by the provisions set forth in the Resolution to extend his permit.

ARTICLE TEN: Serve notice personally to the interested party or his duly authorized agent on the content of this administrative act, diligence delivered with a full copy. Likewise, note that against this decision, the remedy of reposition before JUNDEPESCA is authorized, if need be, within five (5) days following the date of personal notification or detachment of the edict, as the case may be.

ARTICLE ELEVEN: This Resolution enters into effect as of the date of its execution.

SERVE NOTICE AND EXECUTE

Given in San Andres, on OCTOBER 22, 2013

Continuation Resolution N° - 005081 – of October 22, 2013

Illegible Signature
AURY GUERRERO BOWIE
President of JUNDEPESCA

Illegible Signature
MARCELA SJOGREEN VELASCO
Secretary of Agriculture and Fisheries

Project/File: Katia Bent Escalona (initialed)

Reviewed: Juonmaima Romero Reviewed: Legal Advice Office

DUE DILIGENCE FOR SERVING NOTICE

notice was served to Mi Citizen N°	r(s), issued on	of the content of the Resolution N°	
lated	(), on the month of	, of the year 2013.	
The N	Notified	The Notifier	

Annex 12

Comptroller General's Office of the Department Archipelago of San Andrés, Providencia and Santa Catalina, Report on the Status of the Natural Resources and the Environment 2013

REPORT ON THE STATUS OF THE NATURAL RESOURCES AND THE ENVIRONMENT 2013



Report on the Status of the Natural Resources and the Environment 2013



COMPTROLLER GENERAL'S OFFICE OF THE DEPARTMENT ARCHIPELAGO OF SAN ANDRÉS, PROVIDENCIA AND SANTA CATALINA

REPORT ON THE STATUS OF THE NATURAL RESOURCES AND THE ENVIRONMENT 2013 JUSTINIANO BROWN BRYAN

Comptroller General of the Department

San Andrés Island November 2013

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Report on the Status of the Natural Resources and the Environment 2013

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3. DEPARTMENT ARCHIPELAGO OF SAN ANDRÉS, PROVIDENCIA AND SANTA CATALINA

The Archipelago of San Andrés, Providencia and Santa Catalina is a Department of Colombia, located to the west of the Caribbean Sea, at 775 kilometers (480 nautical miles) to the northeast of the country's Atlantic Coast and at 220 km (140 nautical miles) from the eastern coasts of Nicaragua. The departmental capital city is San Andrés, which enjoys the connotation of being a department and municipality, and the Municipality of Providencia and Santa Catalina.

The Department is made up of islands, cays and islets on the volcanic shelf of the West Indies Sea, and San Andrés is the largest island of the country.

According to the sensus of the 2005 National Bureau of Statistics of Colombia, for the 2013 term, the Department has a projected population of 75,167 inhabitants, being the most densely populated of Colombia, given that the total sum of its mainland is only 44 km², which represents a density of 1.708.34 persons per square kilometers; this makes the islands be one of those with the highest concentration of people on the entire planet and puts them in an awkward position as to resource.

The extxension of its mainland adds up to 44 km² (without counting the numerous cays and islets), being the smallest Department of Colombia in terms of land surface, but the one with the highest population density of the country, with 1.1.708.34 hab./km².

The three main islands (San Andrés, Providencia and Santa Catalina) presented reliefs and constitution of different rocks: the first is the result of recent calcareous sediments, while the other two come from an extinct andesitic volcano during the period of the Middle and Upper Miocene.

The relief of San Andrés is formed by a longitudinal ridge from north to south with coconut forests whose maximum elevation is 85 m. Providencia is highlighted by hills with elevations up to 350 m above sea level. Santa Catalina, separated from the former by a channel 150 m wide, its terrain is relatively broken, and its highest point is 133 meters above sea level.

The keys are small outcrops of coral reefs, consisting mainly of calcareous sands, sometimes with coconut vegetation and tall grasses.

For the year 2005, DANE registered a population of 70.554 inhabitants on the entire territory of the Archipelago, with predominace of the Antillian African American group, which constitutes 56.98%, having unique cultural traits and their own language. This group is known as the Raizal populations. 42.91% of the population is mestizo and white, 0.1% is American Indian or Indigenous, and 0.15% is Gipsy, these latter human groups arrived at the Archipelago, especially as of the second half of the XX Century, particularly from continental Colombia.

[..]

XX Century

In September 1900, the President of France, Emile Loubet, issued a boundary ruling between Colombia and Costa Rica wherein all of the islands of the Archipelago were acknowledged as Colombian. Two years later, two commissioners sent by President Roosevelt of the United States arrived in San Andres with the purpose of convincing the islanders to endorse the separation from Panama, but their proposals were rejected by the islanders. After these events and after a strong campaign headed by Francis Newball from the journal "The Searchlight" (El Faro), Act 52 was approved on October 26, 1912, which created the Intendency of San Andres and Providencia, separate from the Department of Bolivar, of which it was part.

The Governments of Colombia and Nicaragua signed the Barcenas-Esguerra Treaty on March 24, 1928, in which the South American country acknowledged the sovereignty of Nicaragua over the Mosquitos Coast and the Central American country acknowledged the sovereignty of Colombia over the Archipelago of San Andres, Providencia and Santa Catalina. The protocol that confirmed the 1928 Treaty was signed on May 5, 1930.

In 1953, the Government of General Gustavo Rojas Pinilla declared San Andres a free port, which transformed the island into a commercial and tourism center. This motivated the arrival of numerous people from the Colombian continent. In 1972, the United States relinquished its claims over the Roncador, Serrana and Quitasueños Cays and Colombia exercised sovereignty over these, as part of the Archipelago. In that same year, Nicaragua issued its first protest due to the disadvantageous interpretation that Colombia gave to the Barcenas-Esguerra Treaty to the aforementioned country; in 1980, then president of that country Daniel Ortega, denounced the treaty and announced that it would submit the case before the International Court of Justice in The Hague, to prove that the Archipelago corresponded to the sovereignty of his country, argueing that the real negotiation of such treaty had taken place between the United States and Colombia, forcing Nicaragua to a certain extent, to execute said treaty due to the military occupation by the United States over the Central American country at that time. In view of this, Colombia ratified the validity of the treaties.

XXI CENTURY

With the 1991 Constitution of Colombia, the early municipalities and commissaries were declared as Departments, thus creating the Department Archipelago of San Andrés, Providencia and Santa Catalina. Ten years later, UNESCO declared the Archipelago of San Andrés, Providencia and Santa Catalina as the "Sea Flower" Biosphere Reserve.

That same year (2001), on December 6th, Nicaragua reaffirmed its position over the "nullity" of the treaty executed in 1928 and introduced an action before the International Court of Justice of The Hague, reclaiming the territories to the east of Meridian 82, including the San Andres Archipelago. In the year 2003, Colombia submitted before the court, "preliminary objections", rejecting the Nicaraguan arguments.

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On December 13, 2007, the International Court of Justice issued a ruling over Colombia's preliminary objections. By such resolution, the Court established that the 1928 Treaty and the 1930 Protocol were valid and therefore, the sovereignty of Colombia over the Islands of San Andrés, Providencia and Santa Catalina were unquestionable, because the situation had been resolved. Nonetheless, the Court established that in exchange, the matter relating to Roncador, Serrana and Quitasueños Cays remained open, which were not included in the 1928 Treaty, as these were in dispute between Colombia and the United States, and likewise, also left open the matter over the delimitation of marine and submarine areas between the two countries.

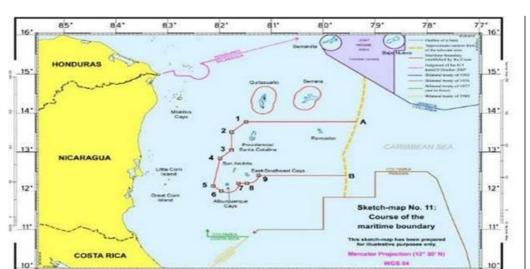
On November 19, 2012, the International Court of Justice issued a ruling over the action introduced by Nicaragua against Colombia, arguing that the entire archipelago belongs to this last country, in this manner, reaffirming the sovereignty of Colombia over the Islands of San Andrés, Providencia and Santa Catalina together with the Cays of Alburquerque, Roncador, Serrana, Bajo Nuevo, Quitasueño and Serranilla; nonetheless, with this ruling, Colombia lost nearly 43% of its maritime territory in the Caribbean Sea.

Against such situation, on November 27, 2012, Colombia denounced before the OAS the Bogota Pact, Instrument by which Colombia recognized the binding jurisdiction of the International Court of Justice. After the withdrawal from the Bogota Pact, the President of Colombia, Juan Manuel Santos stated, "that the limits should not remain in the hands of a court", also saying that "such principle is shared by other countries that have taken the same position that Colombia takes today".

The Ruling by the International Court of Justice, released in 2012, revived the desire for autonomy among some islanders of the Raizal People, even with the objective of converting that territory into a type of free state associated to Colombia; something similar to what takes place between the United States and Puerto Rico, or as Andorra in relation to Spain and France. However, some sectors of the population do not agree with this initiative and have rejected it. The Government of Colombia did not accept the ruling by The Hague, nor acknowledges it.

RULING BY THE INTERNATINAL COURT OF JUSTICE

The Declaration by the International Court of Justice over the maritime limits between Colombia and Nicaragua has ostensibly reduced the marine territory of the archipelago and the country.



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New Marine Boundaries

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CONCLUSIONS: The fact is that regardless of whether or not the ruling of the International Court of Justice at The Hague is accepted, the lifestyle of the islanders has been traumatized, concerned over the conflicts arising from it, depleting fisheries activities in the archipelago, both industrial and artisan.

The great majority of the industrial companies have left the islands, artisan fishermen are afraid to go out and perform their work, when expressing that they were harangued by the Nicaraguan authorities before the ruling and now that it has granted rights, they will have to wait.

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This has reduced the offer of fisheries products and therefore, price increases owing to the demand that remains as for lack of self-sustainability of food in the islands and the growing population, the floating population from the growth of the tourism industry.

[..]

Fishing Activities before the Ruling by The Hague and its Possible Impacts

According to the records of the Ministry of Agriculture and Fisheries prior to the ruling, there are approximately 1,394 artisinal fishermen in the Archipelago of San Andrés, Providencia and Santa Catalina, of which 1,030 are from the Island of San Andrés and 364 are from Providencia and Santa Catalina.

There are 330 registered vessels that operate in the Archipelago, of which 191 operate in San Andres Island and 139 operate in Providencia and Santa Catalina Islands.

Table 1 reflects a listing of industrial fishing companies that operate in the Archipelago, wherein according to the type of permit, 3 involve integrated fishing permits, 1 permit for processing fisheries products, and 13 involve industrial commercial fishing.

Table 1 - Industrial Fishing Companies

Commercial Establishment	Type of Permit	Products
C.I. ANTILLANA	Integrated for Industrial Commercial	Fish, Conch and
KING CRAB	Integrated for Industrial Commercial	Fish, Conch and
ATLANTIC GULF	Industrial Commercial Fishing	Lobster and Fish
CENTROPEZ	Industrial Commercial Fishing	Fish, Conch and
CABEZAS Y REGOS	Industrial Commercial Fishing	Whitefish
PESQUERA LOS ANGELES	Industrial Commercial Fishing	Lobster and Fish
PESQUERA PESCAMOS	Industrial Commercial Fishing	Lobster and Fish
UNIPESCA E.U.	Industrial Commercial Fishing	Fish, Conch and
PESOLIERA RED I ORSTER	Industrial Commercial Fishing	Lobster and Fish
PESQUERA ARIANA	Industrial Commercial Fishing	Whitefish
PESQUERA SAN ANDRES	Industrial Commercial Fishing	Lobster and Fish
PESQUERA SERRANILLA	Industrial Commercial Fishing	Whitefish
PESQUERA SHARON	Industrial Commercial Fishing	Lobster and Fish
CORAL LOBSTER C.I.A.	Integrated for Industrial Commercial	Fish, Conch and
JUAN CARLOS MARIN	Industrial Commercial Fishing	Whitefish
PESQUERA DISSCARIBEAN	Permit for Processing Fisheries Products	Fish and Lobster
SEALAND - GROUP	Industrial Commercial Fishing	Whitefish

Source: Database of the Ministry of Agriculture and Fisheries

MAIN SPECIES CAUGHT THROUGH TRADITIONAL AND INDUSTRIAL FISHING

Traditional Fishing:

The fishermen from the Archipelago engage in demersal species or groundfish such as Grunts and Margarita (*Haemulidae*), Snapper (*Lutjanidae*), Groupers and Basses

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(Serranidae), Pelagic Mackarels (Carangidae), Dorado or Dolphinefish (Coryphaenidae), Sierras and Tunas (Scombridae), Barracudas (Sphyraenidae), Triggerfish (Balistidae), etc., also crustaceous such as the Spiny Lobster (Panulirus argus) and Molluscs such as the Queen Conch (Strombus gigas)

Industrial Fishing:

Industrial fishing mostly engages in catching Spiny Lobsters (*Panulirus Argus*); after the main activity, they capture dermesal species such as Grunts and Margarita (*Haemulidae*), Snappers (*Lutjanidae*), Groupers and Basses (*Serranidae*), and Pelagic such as Dolphinfish (*Coryphaenidae*), and Sierras (*Scombridae*).

Traditional Fishing Location

San Andres Island artisanal fishermen distribute themselves throughout the entire shelf, using points of reference for fishing grounds such as: Outside Bank (Northern San Andres Island), Under the Lee (Western side of San Andres Island), Southend Bank (Southern San Andres Island), Albuquerque Cays (50 km to the SSW of San Andres Island), and Meridian 82 on the boundary with Nicaragua.

In Providencia and Santa Catalina, fishing takes place in the interior and the exterior of the barrier reef, close to the reef terrace, respecting the park area and the protected marine area. According to Arango and Marquez (1995), the specific work areas are El Faro, Taylor Reef, Morning Star, Northest Bank, South Banks, and North Banks.

Industrial Fishing Location

In all of the Banks of the northern area such as Roncador, Serrana and Quitasueño, in the common regime áreas with Honduras and Jamaica, such as Serranilla, Bajos Alicia and Nuevo, and in Luna Verde or La Esquina.

Whitefishing

Throughout the entire marine extension that encompassed the Archipelago and specifically, the areas mentioned for traditional fishing.

Fish and Lobster Production

The following tables show the capture of spiny lobster and fish carried out by both industrial and artisanal fisheries.

San Andres Artisanal Fishing (2004-2012)

Years	Produ Lobste	General Total	
2004	0,0	99121,4	99121,4
2005	873,2	98498,0	100597,7

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2006	136,2	101431,0	103931,4
2007	302,4	225000,8	226718,6
2008	285,4	131214,0	134592,5
2009	1128,6	255190,7	257925,9
2010	47,6	167816,0	168812,6
2011	0,0	92913,2	92917,0
2012	0,0	35522,8	35522,8
General Total	2773,2	1206707,9	1220139,8

Industrial Fisheries (2000 – 2012)

Year	Lobster (Tail) Product	(Kg) Fish
2000	153974,6	6612,5
2001	167237,3	99870,0
2002	206656,0	113120,1
2003	139248,1	110283,3
2004	171413,1	104514,5
2005	161820,6	111930,7
2006	155791,2	72432,8
2007	156962,6	63137,5
2008	83200,9	31495,1
2009	81394,7	21096,8
2010	101999,1	29821,5
2011	115969,3	37864,4
2012	121974,5	45007,2
General Total	1827468,0	847186,4

Destination of the Island's Fisheries Products

100% of the produce captured by the Island's artisanal fisheries trades in the Department of San Andres, Providencia and Santa Catalina (see Table: San Andrés Artisan Fisheries 2004 - 2012). Species are the same as artisanal fisheries.

The main fisheries produce traded in the national market are spiny lobster (*Panulirus Argus*), fish (snapper, groupers and basses, golden sierras, among others) and Queen Conch (clean muscle and byproducts such as shells, pearls and operculum). The following table shows the ratio of the percentage of each product according to shipping destination nationwide.

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Destination/Product	Fish	Seafood	Lobster Tail	Queen Conch	Queen Conch Byproducts
BOGOTA	21,3	0,0	46,2	99,1	77,8
CALI	0,2	0,0	6,5	0,8	0,0
CARTAGENA	69,5	100,0	46,7	0,1	22,2
ITAGUI	0,9	0,0	0,0	0,0	0,0
MEDELLÍN	8,1	0,0	0,6	0,0	0,0

Annually, the Archipelago had high income from Whitefish (approximately 2 billion Pesos), Queen Conch (approximately 9 million Pesos), and Lobster (12 billion Pesos).

This is an approximation of the losses in fisheries in view of the loss of the maritime shelf due to the Ruling by the International Court of Justice.

After the November 19 ruling, the country is losing approximately 40% of its continental shelf; this would represent the loss of access routes, fishing areas and communication with other countries in the Caribbean. Following is a detailed description of each impact on fisheries:

- Fishing Areas: Several fishing pots will be lost, especially those nearby to the Quitasueños and Serrana Cays, which would be out of the 12 miles corresponding to Colombia. In addition, this also includes the area denominated "Luna Verde or La Esquina", which is richer in lobster catch (90% of the production), and scale fish, areas exploited in greater proportion by industrial fisheries of the Archipelago.
- Fishery Products and their Commercialization: Fishery products (lobsters, seashells and fish) exploited and traded in the Archipelago from the above-mentioned fishing pots, traditionally generated high annual income for the Archipelago (12 billion Pesos from lobster catch); now, due to the loss of the continental platform, these will be reduced by several billion Pesos per year. In addition, industrial exploitation and processing companies of fisheries products from the Archipelago would have to close down because they will not rely on sufficient volumes to pay for their operation costs; without counting the people affected by the loss of their employment.
- Access to Interlocked Fishing Areas: There is a high degree of fear for the limited access to the Quitasueño and Serrana Cays, interlocked within the new Nicaraguan continental platform. Under this new perspective, Colombian fishermen do not dare fish in the 12 miles of Colombian territorial sea surrounding the cays because they fear for their integrity as in the past, Nicaraguan authorities were very aggressive, and now, with this new ruling, they can detain them while transiting through their waters and seize the product, and/or their vessels. In addition, by being interlocked in the 12 miles, the fishing effort may increase in these areas, or industrial fishing activities may be lost because these areas do not have the capacity to withstand both fisheries.

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SUMMARY OF THE FISHERIES ACTIVITIES IN THE ARCHIPELAGO OF SAN ANDRES, PROVIDENCIA AND SANTA CATALINA, SEAFLOWER BIOSPHERE RESERVE FOR THE YEARS 2012 AND 2013



This report was drafted using the database of the Fisheries Information System –SIPEIN, on which the Department relies, prior verification and depuration of the registered data in relation to the annual reports submitted by each Licensee and/or the work reports provided by the Licensees.

CAPTURES:

Year 2012

86 disembarkments reported this year, of which 73% corresponded to lobster boats and the remaining 27% for whitefish. The total amount of lobsters caught was 137.012,00 kg and for whitefish, 116.558,00 kg, an overtaking of 2.000 Kg in the global industrial quota of lobster and an exploitation of only 20% of the industrial quota for fish.

The review of the Licensee Disembarkment Reports evidence that for lobsters, three (3) of them exceeded the quota limit, as follows: ANTILLANA, with an excess of 28.115,00 kg, CENTROPEZ, with 3, 550, 00 Kg, and UNIPESCA, with 149, 00 Kg. Regarding whitefish, the Licensees CORAL LOBSTER AND UNIPESCA exceed their quota by 5.662.00Kg and 750 kg, respectively (Table 1).

Table 1: Consolidated Industrial Disembarkments for the Year 2012

2012							
		Whitefish			Lobster		
LICENSEE	Quota (Kg)	Total Catch (Kg)	Quota Use (Kg)	Quota (Kg)	Total Catch (Kg)	Quota Use (Kg)	
C.I. Antillana S.A.	197.000	17.563	9	66.000	94.195	143	
Pesquera Ariana	15.000	10.255	68	S/C	-	-	
Atlantic & Gulf	12.000	3.619	30	5.500	4.921	89	
Cabeza y Regos	11.000	_	-	6.000	-	-	
CentroPez	20.000	1.469	7	6.500	10.050	155	
Coral Lobster	20.000	25.662	128	5.500	3.693	67	
Duet Fisher	32.000	-	-	S/C	-		
Juan Carlos Marin		10.924	-	S/C	-	-	
King Crab	136.000	10.437	8-	23.000	10.388	45	

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Total	581.000	116.121	20	135.000	133.182	99
Unipesca	6.000	6.750	112	5.500	5.649	103
Ricomar	19.000	-	-	S/C	-	
Red Lobster	9.000	-	-	S/C	-	
Sharon	10.000	7.043	70	S/C	-	
Serranilla	10.000	_	-	5.500	-	
Serrana	10.000	-	-	S/C	-	
San Andres	18.000	-	-	S/C	-	
Pescamos	26.000	18.252	70	6.000	4.028	67
Pargos del Caribe	15.000	-	•	S/C	-	-
Los Angeles	15.000	4.148	28	5.500	256	5

In regard to use of the total quota allocated for fisheries resources, the Licensees CABEZAS & REGOS, DUET FISHER, PARGOS DEL CARIBE, PESQUERA SAN ANDRES, PESQUERA SERRANA, PESQUERA SERRANILLA, RED LOBSTER and RICOMAR did not use the global quota allotted to them.

Year 2013

So far, for the year 2013 (to July), 29 industrial disembarkments are recorded, of which only 28% correspond to whitefish disembarkment. Total extraction is 35.639,00 kg for lobster catch, of which 62% of this catch was reported by the ANTILLANA Licensee. Only 27.0160,00 kg distributed in 7 Licensees (Table 2) correspond to whitefish catch.

Table 2 - Consolidated Industrial Disembarkment for the year 2013

2013

	Whitefish			Lobster		
Licensee	Quota (kg)	Total Extracted (Kg)	Quota Use (%)	Quota (kg)	Total Extracted (Kg)	Quota Use (%)
C.I. Antillana S.A.	197.000	990	1	64.000	20.303	32
Pesquera Ariana	15.000	-	_	S/C		
Atlantic & Gulf	12.000	4.492	37	5.500	1.305	24
Cabeza y Regos	11.000	1.483	13	5.500	1.103	20
CentroPez	20.000		_	5.500	4.139	75
Coral Lobster	20.000	_	_	5.500	_	
Duet Fisher	32.000	_	_	S/C		
Juan Carlos Marin	10.000	5.344	53	S/C		
King Crab	136.000	1.532	1	21.500	4.232	20
Los Angeles	15.000	_	_	5.500	_	_
Pescamos	26.000	5.798	22	5.500	3.129	

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San Andres	18.000	_	_	S/C		
Sealand	20.000		_	S/C		
Serranilla	10.000	_	_	5.500		
Sharon	10.000	5.763	58	5.500	_	
Red Lobster	9.000	_	_	S/C		
Unipesca	6.000	1.614	27	5.500	1.428	
Total	567.000	27.016	4,8	135.000	35.639	26,4

As regards the exploitation of the alloted quota, the Licensees CORAL LOBSTER, LOS ANGELES, SERRANILA and SHARON have not used their quota for lobster extraction, while for scale fish, the Licensees PESQUERA ARIANA, CENTROPEZ, CORAL LOBSTER, DUET FISHER, LOS ANGELES, SAN ANDRES, SEALAND, SERRANILLA, SHARON and RED LOBSTER have not yet used their quota.

Active Fishing Fleet

The companies with the highest number of affiliated ships are: C.I. Antillana S.A. and King Crab, these ships being mostly foreign flagships. Following is the detailed fishing fleet for each Licensee:

Table 3 – Active Fleet per Licensee:

License Holder	Ship	Flagship	Authorized Fishery
Jose Ignacio Cabezas (Cabezas y Regos)	The Saga	Honduran	Lobster & Whitefish
Lindel Manuel Stephens	Captain Raul	Honduran	Lobster & Whitefish
Lindel Manuel Stephens	Magesty	Panama	Whitefish
Roman Fuentes Perez (Pesquera Pescamos)	Capt Lole	Honduran	Lobster & Whitefish
Roman Fuentes Perez (Pesquera Pescamos)	Fat Boy	Honduran	Whitefish
Roman Fuentes Perez (Pesquera Pescamos)	Sea Dog	Honduran	Whitefish
Alejandro Serrano Ribes (Unipesca U.S.)	Drakar V	Colombian	Lobster & Whitefish
Lenard Mosquito Francis (Pesquera Ariana Alexka)	Miss Aida	Colombian	Lobster & Whitefish
Bredys Luna & Candelaria Rincon (Pesquera San	Iris Marc	Honduran	Lobster & Whitefish
Vianoba Forbes James (Pesquera Serranilla)	Ribes	Colombian	Lobster & Whitefish
Spencer Chow Davis (Pesquera Sharon)	Captain 5	Colombian	Lobster & Whitefish
Daniel Wilson Siniestra (Coral Lobster)	Bonita II	Colombian	Lobster & Whitefish
Daniel Wilson Siniestra (Coral Lobster)	Dorado	Colombian	Whitefish

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Daniel Wilson Powell (Pesquera Atlantic & Gulf)	Bule Sky	Honduran	Lobster & Whitefish
Daniel Wilson Powell (Pesquera Atlantic & Gulf)	Toma	Tanzania	Whitefish
, ,			
Juan Carlos Marin	Sea Breeze	Honduran	Whitefish
Carlos Thyme James (Sealand Group)	Chambero	Colombian	Whitefish
CI Antillana SA	Capitana	Honduran	Lobster & Whitefish
CI Antillana SA	Sea Falcon	Honduran	Lobster & Whitefish
CI Antillana SA	Miss Dolores	Tanzania	Lobster & Whitefish
CI Antillana SA	Amex I	Honduran	Lobster & Whitefish
CI Antillana SA	Lady Champ	Honduran	Lobster & Whitefish
CI Antillana SA	Miss Shakira	Honduran	Lobster & Whitefish
CI Antillana SA	Rough Rider	Jamaica	Lobster & Whitefish
CI Antillana SA	Miss Shatishai	Honduran	Lobster & Whitefish
CI Antillana SA	Captain Larry	Honduran	Lobster & Whitefish
CI Antillana SA	Fair Winds	Honduran	Lobster & Whitefish
CI Antillana SA	Captain Jared	Honduran	Lobster & Whitefish
CI Antillana SA	Lady Aimme	Nicaraguan	Lobster & Whitefish
CI Antillana SA	Lucky Lady	Honduran	Lobster & Whitefish
CI Antillana SA	Johmy Christinie	Honduran	Lobster & Whitefish
CI Antillana SA	Arlie Junior Third	Honduran	Lobster & Whitefish
CI Antillana SA	Abracadabra	Dominican	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Lady Emme	Nicaragua	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Maria del Carmen I	Colombian	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Navegante del Mar	Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Miss Joy	Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Lucky Norman	Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)		Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Carnival X	Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)		Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)		USA	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)		Honduran	Lobster & Whitefish
Armando Basmagui Perez (Comercializadora King Crab)	Miss Astria	Colombian	Lobster & Whitefish
Juan Enrique Archbold (Centropez)	Capt. Geovannie	Honduran	Lobster & Whitefish
Juan Enrique Archbold (Centropez)	Seadiver II	Belize	Lobster & Whitefish

Fishing Patents

Most of the industrial fishing fleets to date (July 2013) do not have an industrial fishing patent. Following is a detail of the (most recent) patents issued for fisheries ships:

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Table 4 – License Holders with Valid Fishing Patents for their Ships

License Holder	Patent N°	Ship	Authorized Fisheries	Date Issued	Expiry Date	Observation
Pesquera Sharon	716	Captain S	Whitefish	04/05/2013	04/04/2014	Valid
Unipesca	720	Drakkar	Lobster & Whitefish	06/17/2013	03/31/2014	Valid
Atlantic & Gulf	717	Toma	Whitefish	04/30/2013	03/31/2014	Valid
Pesquera Serranilla	719	Ribes	Lobster & Whitefish	05/23/2013	04/31/2014	Valid
CI Antillana SA	724	Sea Falcon	Lobster & Whitefish	07/05/2013	10/04/2014	Valid
Pesquera Los Angeles	723	Captain Raul	Lobster & Whitefish	07/03/2013	03/31/2014	Valid
Pesquera King Crab	722	Miss Astria	Lobster & Whitefish	03/07/2013	03/31/2014	Valid
Juan Carlos Marin	714	Sea Breeze	Whitefish	05/23/2013	05/24/2014	Valid

Permit Holders

To date, there are 14 companies with updated permits for fishing activities. The company CI Antillana SA, submitted a request to extend its Integrated Permit for Industrial Commercial Fisheries, which expire don July 20 of the current year. On the other hand, the company Duet Fisher does not have an updated permit because its permit expired since 2012 and it did not request an extension for it.

Table 5 – Permit Holders with Updated Patents for their Ships

Permit Holder	Type of Permit	Nro. Res	Validity
Jose Ignacio Cabezas (Cabezas y Regos)	Industrial Commercial Fisheries Permit	001970 of 2009	06/06/14
Lindel Manuel Stephens (Pesquera los Ángeles)	Industrial Commercial Fisheries Permit	003040 of 2012	27/06/17
Román Fuentes Pérez (Pesquera Pescamos)	Industrial Commercial Fisheries Permit	002577 of 2012	06/05/20
Alejandro Serrano Ribes (Unipesca E.U)	Industrial Commercial Fisheries Permit	003254 of 2009	27/06/17
Lenard Mosquito Francis (Pesquera Ariana Alexa)	Industrial Commercial Fisheries Permit	000017 of 2011	06/05/2017
Bredys Luna y Candelaria Rincón (Pesquera San Andrés)	Industrial Commercial Fisheries Permit	000020 of 2009	10/09/2014
Vianoba Forbes James (Pesquera Serranilla)	Industrial Commercial Fisheries Permit	000020 of 2008	20/12/2016
Spencer Chow Davis (Pesquera Sharon)	Industrial Commercial Fisheries Permit	004841 of 2012	17/11/2014
Daniel Wilson Sinisterra (Coral Lobster)	Integrated Permit for Industrial Commercial Fishing	00009 of 2009	23/12/2013
Rosales Wilson Powell (Pesquera Atlantic & Gulf)	Industrial Commercial Fisheries Permit	000365 of 2012	19/08/2017
Juan Carlos Marin	Industrial Commercial Fisheries Permit	00023 of 2011	21/08/2014
Carñps Tjoe,e Ka,es (Sealand Group)	Industrial Commercial Fisheries Permit	005191 of 2012	30/09/2017
CI Antillana SA	Integrated Permit for Industrial Commercial Fishing	002888 of 2008	20/07/13**
Armando Basmagui Pérez (Comercializadora King Crab)	Integrated Permit for Industrial Commercial Fishing	004771 of 2012	13/09/2017
Juan Enrique Archbold (Centropez)	Industrial Commercial Fisheries Permit	0033567 of 2012	28/06/2017

^{**} In the process of being extended

Summary of Queen Conch Captures – Year 2013

The following is a summary of the Queen Conch captures between the months of January to April 2013, carried out by artisanal fisherment from San Andres and Providencia, which was approximately 17.5 tons of clean shell meat, causing a recommendation to close down fishing of this resource. In addition, at a meeting held on April 18, 2013 with the Administrive Law Judge of San Andres and the Verification Committee, it was decided to close down this fishery until the results of the next scientific expedition on distribution and abundance of this resource (Table 6) is received.

Report on the Status of the Natural Resources and the Environment 2013

Table 6 – Ratio of the Reported Captures (Kg) of Queen Conch during 2013

	FISHING AREA				
MOTORBOAT	Albuquerque	Serrana & Serranilla	Serrana	Fishing Area not Reported	Total
Captain Sparrow	0	0	1100	0	1100
Carolan – Under Pressure	0	0	2500	0	2500
Dayana	1320	0	0	0	1320
El Mesías	0	1560	0	0	1560
Keep Going	0	0	1180	0	1180
La Reina del Sur	0	0	0	1470	1470
Mad Rass	0	0	1204	0	1204
Miss Siseth	0	0	475	0	475
Nadeen and Narda	0	0	1185	0	1185
Sir Issac	0	0	1238	0	1238
Tauply	0	1123	1178	0	2301
Walltin	875	0	0	0	875
Wet Up	0	0	1098	0	1098
Total	2195	2683	11158	1470	17506

Conclusions: Comparing that data reported by the Ministry of Agricultre in 2013, to July, fishiries chores barely represent 34% of the valid efforts in 2012. Spiny lobster catch represents 26% and whitefish 23%; these fishing chores represent the efforts of 7 Licensees of the 15 existing licensees.

Only 8 ships have updated patents of the 46 active ships that make up the fisheries fleet. While in 2012, 8 licensees did not exploit their fisheries quota, in 2013, 175% (14) did the same.

The above data reflects, among others, the negative impact that the ruling has had on the development of fisheries activities in the Archipelago.

Fisheries Results Before and After the Ruling

Concent	Vali	Validity		
Concept	2012	July 2013	Previous Period	
Disembarkments	86	29	34%	
Spiny Lobster	137,012 kg	35,639 kg	26%	
Whitefish	116,538 kg	27,016 kg	23%	
Active Fishing Fleet		46	-	
Ships with Valid			-	
Patents		8		
Did not take advantage			175%	
of fishing quota	8	14		
Licensees	15	7	47	

Source: Governorship RAD: Sal 9210 of 07/10/13

Report on the Status of the Natural Resources and the Environment 2013

Annex 13 Presidential Decree 1119 of June 17, 2014



Freedom and Order

Ministry of Foreign Affairs

Republic of Colombia

Decree Number 1119 of JUNE 17, 2014

Whereby amends and supplements Decree Number 1946 of September 2013

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,

In exercise of his constitutional and legal authority, especially those laid in Paragraph 11 to Article 189 of the Political Constitution and in the implementation of the provisions set forth in

RECITAL:

That the publication of the thematic nautical charts issued by the General Maritime Department, through Resolution N° 613 of December 9, 2013, is only applicable after the issuance of the Decree that sets forth the respective points and baselines referred in Article 3 of the cited Decree:

That the Republic of Colombia exercises its rights over its maritime spaces in conformity with International Law;

That in light of the foregoing,

DECREES

ARTICLE ONE: Amend Paragraph 3 to Article 1 of Decree 1946 of September 9, 2013, which shall read as:

The Republic of Colombia exercises full sovereignty over its insular territories and its territorial sea; jurisdiction and sovereign rights over the rest of the maritime spaces created by its insular territories under the terms prescribed by international law, the Political Constitution, Law 10 of 1978, Decree 1946 of 2013, and by this Decree, as it may correspond. Colombia exercises historical rights to fishery in such spaces, pursuant to international law.

ARTICLE TWO: Amend Paragraph 3 and 3 to Article 5 of Decree 1946 of September 9, 2013, which shall read as:

3. With the purpose of protecting the sovereignty of its territory and territorial sea in the integral contiguous zone set forth in this Article, to implement the provisions set forth in the previous paragraph, the

DECREE NUMBER 1190 OF JUNE 17, 2014 – CONTINUATION OF DECREE "Whereby amends and supplements Decree Number 1946 of September 2013

Colombian State will exercise the necessary powers to implement and control to:

a) Prevent and control the violations of the laws and regulations related to the comprehensive security of the State, including piracy and trafficking in narcotic drugs and psychotropic substances, as well as behaviors that attempt against the safety and security of the sea and national maritime interest, issues relating to customs, fiscal, immigration and sanitary matters carried out in its insular territories or their territorial sea. In the same manner, violations of laws and regulations related to the preservation of the environment and its cultural heritage will also be prevented and controlled.

ARTICLE THREE: Add to Article 5 of Decree 1946 of September 9, 2013, the following paragraph:

"[…]

Paragraph: Application of this paragraph will be performed in conformity with international law and the provisions set forth in Article 7 to this Decree."

ARTICLE FOUR: Modify Article 6 to Decree 1946 of September 9, 2013, which will read as follows:

"ARTICLE SIX: ELABORATION OF THE CARTOGRAPHY

The points and baseline referred in Article 3 to this Decree will be published in the official thematic maps of the Republic of Colombia, elaborated by the General Maritime Division. Relevant matters will be sent to the Agustin Codazzi Geographical Institute for matters within its competency. Such maps will be duly published.

The integral contiguous zone established by virtue of this Article, will appear in official thematic maps of the Republic of Colombia elaborated by General Maritime Division. Relevant matters will be sent to the Agustin Codazzi Geographical Institute for matters within its competency. Such maps will be duly published.

Once the points and baseline are specified, as well as the rest of the spaces referred in this Decree, they will be established through a decree issued by the National Government.

Paragraph: Publication of the corresponding official thematic maps will take place once the National Government publishes the decree through which the points and baselines are established, as of which measurement of the width of the territorial sea, the contiguous zone and the diverse maritime spaces created by the islands that conform the insular territories in the Caribbean Sea of Colombia are established."

ARTICLE FIVE: This Decree governs as of the date of its publication, and supplements and amends Decree 1946 of September 9, 2013.

DECREE NUMBER 1190 OF JUNE 17, 2014 – CONTINUATION OF DECREE "Whereby amends and supplements Decree Number 1946 of September 2013

PUBLISH AND EXECUTE

Given in Bogota, D.C. on June 17, 2014

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THE MINISTER OF THE INTERIOR, Illegible Signature - AURELIO IRAGORRI VALENCIA

AURELIO IRAGORRI VALENCIA

THE MINISTER OF FOREIGN AFFAIRS Illegible Signature – MARIA ANGELA HOLGUIN CUELLAR

ARIA ANGELA OLGUÍN CUEL UÉI

AURELIO IRAGORRI VALENCIA

THE MINISTER OF FINANCE AND PUBLIC CREDIT Illegible Signature MAURICIO CARDENAS SANTAMARIA

THE MINISTER OF NATIONAL DEFENSE Illegible Signature JUAN CARLOS PINZON BUENO

THE MINISTER OF HEALTH AND SOCIAL PROTECTION Illegible Signature ALEJANDRO GAVIRIA URIBE

THE MINISTER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
Illegible Signature
LUZ HELENA SARMIENTO VILLAMIZAR

DECREE NUMBER 1190 OF JUNE 17, 2014 – CONTINUATION OF DECREE "Whereby amends and supplements Decree Number 1946 of September 2013

JUAN CAKOS PINZON BUENO

LUZ HELENA SARMIÉNTO VILLAMIZAR

Annex 14

DIMAR Resolution Number 0305 of 2014

25 June 2014

... OFFICIAL - Edition 49.213, Tuesday, July 14, 2014

Resolution Number 0305 DIMAR of 2014 (June 25),

By which special and temporary measures are adopted in the jurisdiction of the Captaincy of San Andres and Providencia Port.

The Director General of Maritime Affairs, in the exercise of the legal authority vested in Numerals 5, 6 and 8 to Article 5 of Decree-Law 2324 of 1984, in agreement with Numerals 2 and 5 to Article 2 of Decree Number 5057 of 2009, in Article 7 of Law 1115 of 2006, and

WHEREAS:

Article 2 of the Political Constitution of the Republic of Colombia sets forth that service to the community, promotion of general prosperity and effective assurance of the principles, rights and duties are essential purposes of the State, consecrated in the Constitution itself;

Article 3 to Law 489 of 1998, in agreement with Constitutional [Article] 209, sets forth that the administrative function is at the service of the general interests and conducted on the basis of the principles of equality, morality, effectiveness, economy, promptness, impartiality, publicity, responsibility and transparency;

Paragraph 5 to Article 5 of Decree-Law 2324 of 1984, confers within the functions of the Directorate General of Maritime Affairs to regulate, direct and control activities related to safe navigation in general;

Paragraph 6 to the same Article, confers function to authorize the operation of naval vessels and gear in Colombian waters;

Paragraph 8 to the same Article, confers function to the Directorate General of Maritime Affairs to authorize and control activities related to the arrival, docking, maneuvering, anchoring, towing and sailing of naval vessels and equipment; to implement reception of calls to Colombian ports for naval vessels and equipment through port captainships;

Paragraph 5 to Article 2 of Decree Number 5057 of 2009, sets forth the function of the Director General of Maritime Affairs to plan, direct, coordinate and assess the necessary regulations to develop, supervise and control maritime activities;

Article 1 to Decree Number 2836 of 2013, sets forth that domestic or foreign flag ships will pay for maritime safety services, every time they call to a Colombian port, pursuant to the processes and procedures developed by the National Maritime Authority so as to contribute to the safety of human lives at sea, to safe and effective navigation, and/or the protection of the marine environment;

Decree Number 1423 of 1989, in its Article 41, consecrate that when a foreign flag vessel remaining in Colombian ports or waters for more than sixty (60) days, will require authorization from the Maritime Directorate General;

That on November 19, 2012, the International Court of Justice, with headquarters in The Hague, delivered a ruling that establishes the maritime delimitation between Colombia and Nicaragua over the San Andres, Providencia and Santa Catalina Archipelago, which cause a factual situation that has given rise to negative effects of an economic and social situation for the development of life and activities in the Archipelago;

That through Decree Number 733 of April 17, 2013, modified by Decree Number 2667 of November 20, 2013, the Phase II Program of San Andres, Providencia and Santa Catalina was adopted, which defines the strategic program and investment projects for implementation in the Department Archipelago of San

Andres, Providencia and Santa Catalina, in the agricultural, fisheries, aquiculture sectors, pursuant to the provisions set forth in Article 151 to Law 1607 of 2012 and Decree Number 294 of 2013;

That in order to overcome the negative economic and social consequences for the population in the Archipelago arising from the referred-to ruling, the need to implement special and temporary measures are anticipated for domestic and foreign vessels dedicated to industrial fisheries that were performing the activity in that area of the national territory;

That through Resolution Number 311 of 2013, the Directorate General of Maritime Affairs adopted special and temporary measures in the jurisdiction of the Port Captainship of San Andres and Providencia, enforced for a term of one year, requiring an update of the list of Colombian and foreign flag vessels, to which the following benefits will apply:

In recognition of the above, the Director General of Maritime Affairs,

RESOLVES:

Article 1 – *Object* – the purpose of this resolution is to establish special and temporary measures in the jurisdiction of the Port Captainships San Andres and Providencia following the ruling by the International Court of Justice, with headquarters in The Hague, dated November 19, 2012.

Article 2 – *Scope of Application* – The provisions to this resolution will apply exclusively to the following vessels dedicated to industrial fisheries in the jurisdiction of the Port Captainships of San Andres and Providencia:

1. Colombian Flag Vessels:

Nº	Motorboat Name	Registration No	Flag
1	CAPITAN S	MC-07-0165	COLOMBIA
2	CAPITAN RAUL	MC-07-0179	COLOMBIA
3	MISS ASTRIA	MC-07-0144	COLOMBIA
4	DRAKKAR V	MC-05-592	COLOMBIA
5	RIBES	CP-03-0453-B	COLOMBIA
6	MARÍA DEL CARMEN 1	MC-07-0162	COLOMBIA

2. Foreign Flag Vessels:

Nº	Motorboat Name	Registration No	Flag
1	SEA BREEZE	U-1208047	HONDURAS
2	THE SAGA	U-1826659	HONDURAS
3	AMEX 1	RHU-52423	HONDURAS
4	CAPT GOEVANIE	U-0328176	HONDURAS
5	BLUE SKIES 1	U-1812701	HONDURAS
6	MISS SHARIKA	U-1822588	HONDURAS
7	CAPITANA	U-1818041	HONDURAS
8	CAPT LOLE	RHU-25186	HONDURAS
9	LUCKY LADY	U-1824370	HONDURAS
10	LADY CHAMP	U-1924727	HONDURAS
11	CAPT HYDE	U-1808425	HONDURAS
12	SEA DOG	U-1808425	HONDURAS
13	FAT BOY	L-197554	HONDURAS
14	SEA FALCON	1446	NICARAGUA
15	CAPT JARED	1447	NICARAGUA
16	MISS SHARLETT	1093	NICARAGUA
17	MISS DOLORES	300112	TANZANIA
18	TOMA	300241	TANZANIA

Article 3 – *Maritime Safety Service* – Colombian and foreign flag motorboats pointed out in Numeral 1 and 2 to Article 2 of the resolution, are exempt from payment of the Maritime Safety Service, set forth in Article 1 to Decree Number 2836 of 2013, whose collection corresponds to the Directorate General of Maritime Affairs, for a one year term as of the enforcement of this resolution.

Article 4 – Permanence and Operation Permit of Foreign Vessels – Foreign flag motorboats listed in Numeral 2 to Article 2 of this resolution, will automatically receive the permanence and operation permit of foreign vessels in the jurisdiction of the San Andres and Providencia Captainships, for a one year term as of the enforcement of this resolution, prior authorization from the Department of Agriculture and Fisheries of Governorate of San Andres, Providencia and Santa Catalina.

Article 5 - Statutory Certificates – Colombian and foreign flag motorboats listed in Paragraphs 1 and 2 to Article 2 of this resolution, are hereby authorized to operate in the jurisdictional waters of the San Andres and Providencia Captainships for a three (3) month term as of the date of enforcement of this resolution, while the necessary inspections to renovate and countersign the Statutory Certificates by the National Maritime Authority.

Article 6 – *Validity* – This resolution will enter into force as of the date of its publication in the Official Bulletin and derogates Resolution Number 311 of 2013 of the Directorate General of Maritime Affairs.

Publish and execute.

Given in Bogota, D.C., on June 25, 2014

The Director General of Maritime Affairs,

Rear Admiral Ernesto Duran Gonzalez

Annex 15

President Juan Manuel Santos, Complaint against articles XXXI and L of the Pact of Bogotá, Constitutional Court, D-9907

12 September 2013

Honourable Judges Constitutional Court Hand delivered

Re: Complaint against Articles XXXI and L of the Pact of Bogota (Law 37 of 1961)

Respected Judges:

JUAN MANUEL SANTOS, identified with citizenship card number 19123402, address you in the exercise of a public constitutional challenge to request the **inapplicability** of Articles XXXI and L of the American Treaty on Pacific Settlement (Pact of Bogota), incorporated to national legislation by Law 37 of 1961, which in that part is also object of this complaint.

I. LEGAL PROVISIONS CHALLENGED

The challenged paragraphs of Articles XXXI and L of the American Treaty on Pacific Settlement (Pact of Bogota) are transcribed below, which were incorporated to national legislation by Law 37 of 1961, which in that part is also object of this complaint.

"ARTICLE XXXI. In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize, 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.

ARTICLE L. If one of the High Contracting Parties should fail to carry out the obligations imposed upon it by a decision of the International Court. of Justice or by an arbitral award, the other party or parties concerned shall, before resorting to the Security Council of the United Nations, propose a Meeting of Consultation of Ministers of Foreign Affairs to agree upon appropriate measures to ensure the fulfillment of the judicial decision or arbitral award.

II. VIOLATED CONSTITUTIONAL NORMS

The challenged provisions violate Articles 3, 9 and 101 of the Political Constitution.

III. LEGAL GROUNDS

1. Introduction and summary of the charges formulated

Law 37 of 1961 approving the Pact of Bogota predates the Constitution of 1991. This complaint alleges that some paragraphs of this law, which incorporated two provisions of the Pact of Bogota to national legislation, permitting the automatic modification of Colombia's borders, based on a judgment of the International Court of Justice, became unconstitutional.

It is a **surviving unconstitutionality** inasmuch as Article 101 of the Constitution provides that the country's borders may only be modified by an international treaty.

It is a constitutional rule that makes more concrete one of the essential elements of Colombia's sovereignty, which rests "exclusively" in the people (Article 3 of the Political Constitution) and not in the International Court of Justice. In addition, Article 9 provides that Colombia's foreign relations are based on national sovereignty and on the self-determination of the peoples.

Therefore, Colombia's borders with other States cannot be altered by a judgment handed down by the International Court of Justice, which does not represent the people of Colombia, or constitutes an expression of the self-determination of the Colombian people, or is one of the means set forth in Article 101 for fixing or modifying Colombia's borders.

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Once the International Court of Justice hands down a judgment modifying Colombia's borders, the Pact of Bogota does not provide that the States shall sign a treaty to settle their disputes after the judgment, although the same International Court of Justice has admitted that possibility, as shall be seen further below.

Therefore, if a treaty in force in 1991 fixed a land or maritime border, it can only be modified through a treaty. It cannot be modified by any other means. However, the challenged articles permit to do so with a judgment of the International Court of Justice.

This complaint also asserts (i) that the Constitutional Court is competent to hear constitutional challenges against treaties approved and ratified prior to 1991, and (ii) continues to have competence to adjudge on the law approving the Pact of Bogota, notwithstanding that the National Government denounced such treaty in accordance with the procedure set forth in Article LVI.

....

2. Competence of the Constitutional Court

....

The Constitutional Court is competent to hear this complaint by virtue of Article 241, paragraph 4, of the Constitution because it addresses a provision that is part of a law of the Republic. In effect, the challenged norms are part of Law 37 of 1961.

2.1 Evolution of the Constitutional Court's competence to control the constitutionality of treaties prior to 1991 and the respective approving laws.

Pursuant to constitutional jurisprudence, it is clear that the Constitutional Court is competent to review the constitutionality of a law approving a treaty prior to 1991.

The jurisprudence of the Constitutional Court has evolved, but the doctrine in force indicates that it is competent to adjudge laws approving a treaty prior to the Constitution of 1991 when a citizen demands it by exercising a public constitutional challenge.

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However, this thesis was later refuted by the same Court in Judgment C-400 of 98 (Chief Judge Alejandro Martínez Caballero), which reviewed the constitutionality of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations. The Court declared inapplicable Article 27 of that treaty, which enshrines the pacta sunt servanda principle. Upon analyzing that article, the Court found that the Constitution has a moderate monist system, which harmonizes the obligation of the treaties with the internal supremacy of the Constitution. As regards the applicability of the pacta sunt servanda principle, the Court added "four ineludible consequences". One of those consequences, according to the Court, was that "a treaty that is contrary to the Constitution should not be applied by the authorities, by virtue of the peremptory mandate of the superior Article 4. Another consequence was that "the doctrine developed by this Court in Judgment C-276 of 1993 is no longer acceptable" and, on the other hand, perfected treaties could be subject to constitutional control.

This is the jurisprudence in force. It has been subsequently reiterated by the Constitutional Court. The most recent judicial order in this respect is Order 288 of 2010 (Chief Judge Jorge Ivan Palacio Palacio), whereby the Court ruled on a complaint against the agreement between Colombia and the United States on the use of military bases in Colombia by the armed forces of that country.

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In that order, the Court noted:

"A public constitutional challenge against international agreements has also been accepted by the jurisprudence of this Court ever since its first decisions and it is suitable in at least three events:

(i) Against laws approving treaties signed and ratified prior to the Constitution of 1991. That was the position set forth in the Judgment that examined a complaint against the law approving the Concordat, which was abandoned for a short period and later reassumed in the Judgment that examined the Vienna Convention on the Law of Treaties between States and International Organizations [...]"

Therefore, jurisprudence admits the complaint against treaties prior to 1991 approved by laws passed prior to the Constitution of 1991 because otherwise the Constitutional Court would not be able to fulfill its responsibility of defending the supremacy of the Constitution.

The norms challenged on this occasion meet these requirements. Articles XXXI and L of the American Treaty on Pacific Settlement (Pact of Bogota) were approved by Law 37 of 1961, which in that part is also object of this complaint. Their content permits the International Court of Justice to modify Colombia's land and maritime borders, affecting those people living in the areas affected by the respective judgment of the Court. The meaning of the challenged norms is overtly contrary to the Constitution because while Article 101 of the Constitution prohibits any modification of Colombia's borders by any means other than an international treaty, the Pact of Bogota permits land and maritime borders—an international law matter over which the International Court of Justice has jurisdiction (Article XXXI of the Pact)—to be affected by a judgment of the aforesaid Court, which execution is compulsory (Article L of the Pact) notwithstanding that the border has been modified by the judgment. Therefore, it is necessary to defend the supremacy of the Constitution and this "treaty contrary to the Constitution should not be applied by the authorities by virtue of the superior peremptory mandate of Article 4", as set forth by the Constitutional Court in Judgment C-400 of 98 (Chief Judge Alejandro Martinez Caballero), reiterating the doctrine that treaties prior to 1991 and their respective approving laws are subject to constitutional control.

It is unacceptable the view that the text of the two articles of the Covenant does not refer explicitly to territorial and maritime limits of states. As was highlighted earlier, the border limits between American states have been disputed before the International Court of Justice based on the Pact of Bogota. That is the interpretation that the International Court of Justice itself has adopted. Therefore it can not be argued that the Pact of Bogota excludes the border disputes. In any case, as has been said by the Court, "if the legal provision supports multiple interpretations, some of which violate the Charter but others conform to it, then the Court must utter a conditional constitutionality or interpretative judgment that establishes which interpretation of the provisions remain within the legal system and which are not constitutionally legitimate."

In conclusion, the Court is competent to hear this complaint and to decide on the substance of the challenged norms.

2.2 The Pact of Bogota continues to produce effects for Colombia notwithstanding that it was denounced by Colombia because the judgment of the International Court of Justice was handed down prior to the denunciation of the Pact.

Article LVI of the Pact permits the denunciation of the treaty and regulates the effects of the same. Colombia denounced the Pact of Bogota on 12 November 2012.

Although it may not be invoked by a State to file a new complaint against Colombia, the obligations acquired in previous proceedings continue in force. In other words, the Pact of Bogota shall continue to produce effects for Colombia on the date this complaint is filed and on the date that judgment is entered by the Constitutional Court.

Therefore, the Court should not refrain from rendering judgment on the merits.

Article LVI of the Pact provides:

"ARTICLE LVI. The present Treaty shall remain in force indefinitely, but may be denounced upon one year's notice, at the end of which period it shall cease to be in force with respect to the state denouncing it, but shall continue in force for the remaining signatories. The denunciation shall be addressed to the Pan American Union, which shall transmit it to the other Contracting Parties.

The denunciation shall have no effect with respect to pending procedures initiated prior to the transmission of the particular notification."

Paragraphs one and two of the treaty should be harmonized. The first paragraph provides that the Pact shall cease to be in force one year after it is denounced. The second paragraph provides that the denunciation

shall have no effect with respect to pending procedures initiated subsequently to the notification.

The National Government has asserted that the jurisdiction of the International Court of Justice ceased as of the notification of Colombia, in accordance with paragraph two of Article LVI.

Whatever interpretation is adopted, it is clear that the denunciation shall have no effect on the proceedings initiated prior to the transmission of the respective notification. These proceedings could have concluded or could be underway.

The proceeding that led to the two rulings of the International Court of Justice modifying the maritime borders of Colombia with Nicaragua already concluded in two judgments. On 19 November 2012, the International Court of Justice rendered judgment in relation to the dispute between Colombia and Nicaragua concerning sovereignty over the Archipelago of San Andres, Providence and Santa Catalina and maritime delimitation between the continental shelf and exclusive economic zones of both States. In the judgment entered on 13 December 2007, the same Court warned that the Esguerra-Barcenas Treaty and the respective Exchange of Ratifications had not fixed a maritime border between the two countries and Meridian 82 was only a criterion for the assignment of the islands.

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In addition, some State, especially Nicaragua, could defend the thesis that Nicaragua continues subject to the compulsory jurisdiction of the Pact until November 27, 2013. Nicaragua, for example, could proceed to bring before the International Court of Justice the application it has announced asking that it recognize an extended continental shelf of 350 nautical miles and fix a new border with Colombia close to Colombia's continental coast in the Caribbean Sea. Colombia would object to the jurisdiction of the Court and to this claim, but the International Court of Justice would decide if it has jurisdiction and competence with respect to this new dispute.

Now then, constitutional jurisprudence has constantly upheld that:

"In terms of guarding the integrity and supremacy of the Constitution, it should know what provisions have been challenged and repealed, provided that such norms continue to produce legal

effects. On the other hand, if the challenged norm excluded from the legal framework no longer produces legal effects or never produced them, the judgment of constitutionality is innocuous due to a lack of object.

The Pact of Bogota, in virtue of its denunciation by Colombia, is no longer in force for Colombia, in the abstract, with respect to future judicial proceedings, but it continues to produce effects because a judgment was rendered in a proceeding against Colombia, which modified its maritime borders in the waters of the Archipelago and affected the unit of the archipelago, together with a proceeding announced by Nicaragua to request recognition of an extended continental shelf, which would reduce the extension of the continental shelf derived from Colombia's continental coasts.

Therefore, the Constitutional Court is competent to deliver judgment on the merits of this complaint and to review the challenged legal norms for the purpose of defending the supremacy of the Constitution.

- 3. Development of the charge of violation of Articles 2 and 101 of the Constitution.
- 3.1 The Pact of Bogota permits land and maritime borders to be modified *ipso facto* by a judgment of the International Court of Justice.

The Pact of Bogota does not exclusively regulate disputes concerning territorial matters. It deals with all international law matters that arise between States, including, among others, territorial disputes, as well as other kinds of disputes. As an example, it has been invoked before the International Court of Justice to substantiate litigation relating to extraterritorial armed actions and fumigations with herbicides.

However, territorial disputes are resolved under the Pact of Bogota. This is because Article XXXI defines the competence of the International Court of Justice in a broad manner.

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The Pact of Bogota does not contain norms with respect to the incorporation of international judgments. This is a matter left to the domestic legislation of each country.

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The Pact of Bogota permits to modify "the borders fixed in the manner set forth in this Constitution" without following the procedures laid down in the Constitution. A judgment of the International Court of Justice would modify *ipso facto* territorial and maritime borders.

This automatic modification is inadmissible because the Constitution gives constitutional rank to borders demarcated by treaties prior to 1991. Those are the borders alluded to in the first paragraph of Article 101: "The borders fixed in the manner laid down in this Constitution", that is to say, the borders established in 1991 "in international treaties approved by Congress and duly ratified by the President of the Republic."

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The best interpretation of Article 101 of the Constitution has already been set forth by the Constitutional Court in its judgments: any modification of borders demarcated by a treaty prior to 1991, including borders in maritime spaces, such as those derived from the Archipelago of San Andres and Providence, requires an international treaty, followed by a constitutional reform.

3.2 The meaning of Article 101 of the Constitution and the decision of the Constituent Assembly not to accept judgments that demarcate Colombia's borders.

Article 101 of the Constitution prohibits the automatic incorporation of judgments of the International Court of Justice that change the borders of Colombia.

When a judgment of the International Court of Justice modifies the borders previously fixed by international instruments in force prior to 1991, Article 101 mandates that a new treaty must be signed wherein Colombia agrees with the concerned States on the situation of the border and the rights of Colombian citizens affected by the judgment.

Therefore, a judgment of the International Court of Justice of such scope cannot be automatically applied, but instead requires a complex process of incorporation or harmonization of its effects with other constitutional precepts.

This process requires the participation of the three branches of public power because after the treaty is signed by the Executive, it is approved by the Congress of the Republic and adjudged by the Constitutional Court, before it is finally ratified by the President of the Republic.

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The expression "arbitral award" has not been explained in depth by the International Court of Justice. The relevant arbitral award for defining Colombia's territory in the Caribbean Sea is the award rendered in 1900 by Emile Loubet, President of France, on the border between Colombia and Costa Rica. According to the International Court of Justice, an arbitral award results from "a settlement of differences between states by judges of their own choice and on the basis of respect for law." For the Court, "a decision is not an arbitral award if the parties have not chosen the persons in charge of deciding or have not indicated the method for making the decision, which can be in law or equity."

Therefore, the "award" concept does not include judgments rendered by the International Court of Justice because they are handed down by a judicial organ not chosen by the parties. A proposal was made during the National Constituent Assembly to include a reference to "judgments" in the borders of Colombia. This reference was not included in the final version of Article 101, which only refers to "arbitral awards". This reference is consistent with the thesis of the Constitutional Court in the sense that "the Constituent Assembly had a "master image" of Colombia's consolidated territory. This master image included the arbitral award issued by the President of France in 1900, but no international judgment because Colombia has never been a party in any delimitation of borders before the International Court of Justice.

In effect, the difference between an award and a judgment is enormous. As regards judgments, the State does not give its consent with respect to three essential factors: who decides, what should be decided, and what results are inadmissible.

In effect, judges are chosen by other states through a procedure at the UN General Assembly, where Colombia has little actual influence.

The specific object of the dispute with Colombia is defined by the demanding state and later by the judges of the Court. The foregoing is clearly derived from the challenged Article XXXI. In abstract, the states submit *ipso facto* to the jurisdiction of the International Court of Justice

and the demanded state can circumscribe the object of the dispute, as can be gleaned from the provisions of the challenged article. This was evident in the judgment rendered on 19 November in the dispute between Colombia and Nicaragua because the Court did not limit itself to render judgment with respect to the sovereignty of the formations, but also with respect to the maritime borders. Neither did it focus its judgment on the relevant area comprised by the Esguerra-Barcenas Treaty (waters between the Archipelago and Nicaragua's coast), but extended its judgment to another relevant area located between the Archipelago of San Andres and Providence and Colombia's continental coast. The International Court of Justice not only ruled that Meridian 82 was not the border, but decided to demarcate the exclusive economic zones and continental shelves. It is true that Colombia argued against this, but it did so in light of the previous non-appealable fact that the International Court of Justice, notwithstanding Colombia's objections and manifestation that it did not recognize its jurisdiction, decided that Colombia was compelled by the Pact of Bogota to submit to the jurisdiction of the Court. In the ruling (3) in the operative part of the Judgment of 13 December 2007 concerning Colombia's objections, the Court invoked Article XXXI of the Pact of Bogota as the basis for its jurisdiction to adjudge on the sovereignty of each state with respect to maritime formations (3(a)) and with respect to the maritime border 3(b)) between Colombia and Nicaragua.

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The differences between awards and judgments in the international arena have special relevance in light of the principle of selfdetermination of the peoples. Since arbitral jurisdiction depends on consent, the principle of self-determination of the peoples is realized with awards. This is evident in the three elements previously mentioned: appointment of the arbiters, delimitation of the object of the dispute to precisely circumscribe the competence of the arbiters and establishment of specific parameters to avoid inadmissible awards for both parties. Awards are the expression of a specific, concrete and precise manifestation of the sovereign will of a state that consented to the arbitration of a specific dispute subject to some defined parameters. On the other hand, judgments are only the result of the generic ratification of a treaty, in the abstract, and a state cannot decide what specific matters will be included and excluded from the jurisdiction once the dispute arises, or choose the judges who will settle that dispute in particular, or much less define the framework of reference of the judges, which in turn has an impact on the admissible result for the states.

Therefore, the difference between "awards" and "judgments" is not only technical, but has a principle of sufficient reason. The Constituent Assembly understood it this way and, therefore, while it enshrined the self-determination of the peoples as a fundamental principle of foreign relations (Article 9 of the Political Constitution), it concluded that Colombia's borders cannot be fixed by judgments, only by awards and treaties.

Therefore, when a judgment affects Colombia's borders, the State, in the exercise of its sovereignty and in accordance with the principle of self-determination of the peoples, must sign a new treaty to resolve the problems caused by the judgment on the bases of reciprocity, equity and national convenience (Article 226 of the Political Constitution), and must also determine the borders that the people of Colombia will accept in the exercise of their right to self-determination (Article 9 of the Political Constitution).

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When the borders modified by a judgment of the International Court of Justice were fixed by international instruments prior to the Constitution of 1991, the obligation to sign a new treaty is even greater because such borders were given constitutional rank by the Constitution of 1991.

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For the Court, three consequences are derived from this constitutional rank of the treaties of limits prior to 1991:

The first consequence is that "treaties of limits already perfected at the time that the Constitution entered into force cannot be subject to claims because, in essence, they are norms that integrate a block of constitutionality."

The second consequence is that "owing to the constitutional hierarchy of those treaties, this Court finds that the modification of the borders, which implies an assignment of territory with respect to the consolidated borders that existed when the Charter of 1991 was approved, not only requires a new international treaty as set forth in Article 101 of the Charter, but this treaty should also be internally approved through the constitutional reform procedures set forth in Title XIII of the Charter.

Finally, the third consequence is that "treaties that do not modify borders, but define borders in dispute with other countries, do not imply a constitutional modification and can be approved through an ordinary procedure to incorporate the treaties to the domestic legislation. In effect, in these cases, to the extent that the borders were not clear when the Charter of 1991 was approved, it is evident that those borders have not been constitutionalized, so the political organs—the President and Congress—enjoy certain freedom to agree on those borders with neighboring nations, in terms of what is more convenient for the country and based on respect for the national sovereignty and international principles recognized by our country (Article 9 of the Political Constitution).

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The third paragraph of the aforesaid Article 101 went even further. It expressly included the Archipelago of San Andres, Providence and Santa Catalina and all its formations within Colombia's territory. It clearly states that:

"In addition to the continental territory, the Archipelago of San Andres, Providence, Santa Catalina and Malpelo form part of Colombia, in addition to the islands, islets, keys, headlands and banks that belong to it."

As stated by the Constitutional Court, "a careful examination of the antecedents of Article 101 of the Charter shows that the Constituents did not pretend to entirely delegate to the treaties the delimitation of the Colombian territory. Their discussions rather presupposed a rather precise and developed idea of what this territory comprised." Within that "precise and developed" idea was the composition of the archipelago.

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So the third paragraph of Article 101 not only covers the islands specifically named, but the seven keys in dispute with Nicaragua, as well as the maritime borders of the archipelago, just like they were established in 1991, including the border established in Meridian 82. This meridian was expressly mentioned in the Constituent Assembly and forms part of the "master image" to which the Constitutional Court referred to in the aforesaid judgment.

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3.3 Constitutional jurisprudence has mandated that treaties that affect the maritime borders of Colombia respect the provisions of the Constitution that constitutionalized the Esguerra-Barcenas Treaty and the respective Exchange of Notes, which form part of the block of constitutionality.

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It can be gleaned from the foregoing that a parameter of constitutionality of the treaties of limits is respect for the sovereignty of Colombia over the archipelago, "and its respective maritime areas." This is due to the decision of the Constituent Assembly to constitutionalize the treaties of limits prior to 1991 and to declare that the Archipelago and its respective maritime areas belong to Colombia. This reaffirms that a judgment by the International Court of Justice cannot be automatically incorporated to Colombia's legislation. If such judgment changes the borders established prior to 1991 and affects the maritime areas of the archipelago, accepting its effects *ipso facto* implies that it is accepted that the Constitution itself was modified by a judgment, which would be a clear violation of Article 374 of the Charter, which only admits three constitutional reform mechanisms, within which the judgments of the International Court of Justice are not found.

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3.3 Summary of the doctrine prohibiting the automatic incorporation of judgments that modify the territorial or maritime borders of Colombia.

In summary, the doctrine prohibiting the automatic incorporation of judgments that modify the territorial or maritime borders of Colombia is supported by the following jurisprudential articles and sub-rules:

- The second paragraph of Article 101 of the Constitution does not contemplate judgments as instruments capable of constitutionally modifying the country's borders. Only treaties and awards can modify them because they are the result of the sovereign will of the State to negotiate the treaty or to appoint arbiters and define the specific object of the dispute.
- Treaties of limits can involve *delimitation* of uncertain rights or *assignment* of certain rights. In the first case, the treaty can be approved by a law of the Republic. In the second case, the treaty must be approved

through a constitutional reform. This has been upheld by the Constitutional Court in the aforesaid judgments.

- Within the limits contemplated in the first paragraph of Article 101 is Meridian 82 ¹, which formed part of the "master image" that the Constituent Assembly had, as gleaned from the Assembly's Gazettes and confirmed by constitutional jurisprudence.
- The Archipelago of San Andres, Providence and Santa Catalina is a unit that must be respected by any treaty, and the rights of Colombia, including those it exercises over "its respective maritime areas" cannot be transferred to third States, as stated in Article 101 of the Charter, in accordance with Article 310, and as the Constitutional Court has upheld.
- Neither the Constituent Assembly nor the Court has made a distinction between *territory and maritime zones*. Neither did they separate the islands from the archipelago sea. In addition, they impede the transfer of "rights" over maritime areas corresponding to the Archipelago. Therefore, a reduction in the rights over the continental shelf and exclusive economic zone is a reduction of the constitutionally protected space under Colombia's constitutional law, or a transfer of rights through a means excluded by the Constitution.

These conclusions have enormous consequences. It is not a theoretical matter in relation to the meaning of the Constitution. As it is publicly known, the International Court of Justice issued two judgments in the dispute between Nicaragua and Colombia, which create a contradiction with the Constitution at least in three elements: (i) they do not recognize the border at Meridian 82 and therefore modify the borders of Colombia through a means prohibited by the Charter; (ii) they transfer to Nicaragua the rights of Colombia over maritime areas that only Colombia can regulate through a treaty based on reciprocity and equity; and (iii) they draw a new maritime border between the two States, without the consent of the Colombian people through their representatives in the exercise of their sovereignty and right to self-determination.

¹ (footnote 24) The Ratification Notes Exchange of the Esguerra-Barcenas Treaty was also constitutionalized by the Constitution of 1991. It is an integral part of the Treaty and was also taken into account by the Constituent Assembly as part of the "master image" of the national territory. The border fixed in the Exchange of Notes changed with the 2007 and 2010 judgments of the International Court of Justice, and there is a contradiction between the "master image" of 1991 constitutionalized in Article 101 and the text of the Exchange of Notes. There is a direct contradiction between the two ICJ judgments and the Exchange of Notes. The Exchange of Notes states that the western border of the archipelago is Meridian 82, while the judgments state that (i) this is not a maritime border (2007 judgment) and (ii) the border is another (2010 judgment).

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In effect, although the borders of Colombia with other States cannot be altered by a judicial decision rendered by the International Court of Justice, which does not represent the people of Colombia, or constitutes an expression of self-determination of the Colombians, nor is it one of the means set forth in Article 101 for fixing or modifying the borders of Colombia, while the challenged articles permit this to occur.

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After the judgment was delivered by the International Court of Justice modifying the borders of Colombia, the Pact of Bogota does not provide any mechanism for resolving the situation created by the change of limits between states. It does not permit the states, for example, to sign a treaty to resolve their differences after a judgment.

Article L provides for the judgment of the International Court of Justice to be automatically executed......

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The borders of Colombia and its rights over maritime areas may only be modified through a treaty. They cannot be modified through any other means. However, the challenged articles permit to do this through a judgment of the International Court of Justice. Therefore, they are inapplicable because they permit what the Constitution prohibits.

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4. After a judgment is rendered by the International Court of Justice, the states have decided to resolve their differences through international treaties.

In accordance with public international law, states have the freedom to negotiate the execution of a judgment rendered by the International Court of Justice (hereinafter "ICJ" in this section of the complaint) in a contentious case. As recognized by the jurisprudence of the ICJ, such negotiations are not legally restricted by the rulings contained in the judgment because the litigating parties have the freedom to agree on a solution to their dispute that is different from that postulated by the ICJ. In effect, in the context of the application for review of the judgment in the case concerning the continental shelf between Tunisia and Libya, the ICJ ruled that the States can "still reach mutual agreement upon a

delimitation that does not correspond to that decision [of the ICJ].² By virtue thereof, important jurists hold that the *res judicata* of an ICJ judgment "is a contractual relationship between the two countries",³ thus the States can sign treaties to establish new contractual relationships that do not correspond to the judgment. As will be seen further below, the practice of the States in the execution of the judgments of the ICJ in contentious cases supports this conclusion.

However, beyond being a mere power available to the States, there are cases where the signing of a treaty or the commencement of negotiations between the parties are necessary mechanisms to execute or enforce a judgment of the ICJ in a contentious case. In relation to the delimitation of the maritime and land borders between States, this has occurred in two types of cases.

A first type of cases are those in which the parties do not ask the ICJ to define the border between the States, but simply request that it indicate the applicable principles and rules for such delimitation. In these cases, it is evident that the parties should resort to negotiations after a judgment to agree on how to execute it, following the principles and rules indicated by the ICJ. This was the case in the judgments concerning the continental shelf in the North Sea between Germany and Denmark and Germany and The Netherlands (rendered in 1969),⁴ as well as in the judgments concerning the delimitation of the continental shelf between Tunisia and Libya—rendered in 1982—and between Libya and Malta—rendered in 1985. In all these cases, the parties subsequently had to sign treaties to agree upon the delimitation of the border between the States. Therefore, Germany signed treaties with The Netherlands and Denmark on 28 January 1971 to delimit their respective continental shelf, while

² (footnote 26) Application for Review and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Judgment, I.C.J. Reports 1985, p. 192, paragraph 48: "[...] While the Parties requested the Court to indicate "what principles and rules of international law may be applied for the delimitation of the area of the continental shelf", they may of course still reach mutual agreement upon a delimitation that does not correspond to that decision. Nevertheless, it must be understood that in such circumstances their accord will constitute an instrument superseding their Special Agreement. What should be emphasized is that, failing such mutual agreement, the terms of the Court's Judgment are definitive and binding. In any event moreover, they stand, not as something proposed to the Parties by the Court, but as something established by the Court."

³ (footnote 27) Shabai Rosenne, *The Law and Practice of the International Court, 1920-2005*, (Martinus Nijhoff, fourth edition, 2006), p. 1606.

⁴ (footnote 28) North Sea Continental Shelf Cases (Germany v. Denmark) (Germany v. The Netherlands) by their names in English. Judgment, I.C.J. Reports 1969.

Tunisia and Libya did the same on 8 August 1988, and Libya and Malta on 10 November 1986.

A second type of cases are those in which the ICJ has defined the precise border between the parties in a contentious case, but the execution of such judgment has required in any case the signing of treaties or other types of interstate agreements. As will be seen further below, the signing of treaties or another type of agreement to execute an ICJ judgment that defines borders is necessary when practical implementation difficulties persist notwithstanding the judgment, and it is a common practice when other interests of the States are affected by the judgment, usually referring to the well-being of its citizens and respect for their rights.

For the purposes of this complaint, it is relevant to refer to four specific cases in which the ICJ defined an international border and the litigating parties subsequently signed treaties or another type of agreement without which the respective judgment of the ICJ would have been difficult or impossible to execute.

In first place, in the case of the Arbitral Award made by the King of Spain on 23 December 1906 regarding the determination of the frontier between Honduras and Nicaragua—rendered in 1960—the ICJ ruled that the arbitral award was valid, whereby a territory in dispute between both States had been attributed to Honduras. Although the judgment sustained that the award was valid and therefore resolved the border dispute between both States, its execution faced serious practical difficulties because it implied the demarcation of the borders, the withdrawal of the Nicaraguan authorities from a territory that had been occupied for several decades, and difficulties for the inhabitants of the territory in question who did not want to be subject to the jurisdiction of Honduras and whose private property rights in the area could be compromised by the change of sovereignty. By reason of these difficulties, Nicaragua requested the assistance of the Inter-American Peace Committee to resolve the practical difficulties arising from the execution of the ICJ judgment. On 12 March 1961, both States accepted the basis of arrangement proposed by the Committee and based on it a gradual process advanced that led to the execution of the ICJ judgment. Although the parties in this case did not sign a treaty as such, the precedent is relevant to show that whenever the execution of an ICJ judgment implies difficulties, the litigating States can reach a new agreement that allows them to define how and on what terms the judgment will be executed.

In second place, in the case concerning the Land, Island and Maritime Frontier Dispute between El Salvador and Honduras, rendered in 1992, the parties affected by the judgment later signed a treaty. In this case, both parties submitted to the decision of the ICJ the precise delimitation of their maritime, island and land frontiers in the areas where they had not been able to reach a bilateral agreement. In its judgment, the ICJ attributed part of the territory in dispute to El Salvador and another to Honduras. However, after the judgment was rendered by the ICJ, difficulties persisted in two aspects. Firstly, some problems referred to the demarcation of the frontier and, secondly, serious questions arose regarding the rights of the citizens of both States which by reason of the change of frontiers were now subject to the jurisdiction of a State other than their own. As a result of these pitfalls, both States signed two treaties on 19 January 1998. The object of the first was an agreement to implement the border delimitation program, and the second was an agreement to regulate the nationality and rights acquired by the populations affected by the change of frontier.

A third relevant example is the case concerning the Territorial Dispute between Libya and Chad rendered in 1994. In this case, the ICJ ruled that the area in dispute between both States and currently occupied by Libya corresponded to the territory of Chad, and defined the existing frontier between both States. However, serious difficulties in the execution of the judgment led the parties to sign a treaty on 4 April 1994. This treaty defined, among other things, the rules for the withdrawal of Libya's civil authorities and military forces from the territory attributed to Chad, the removal of anti-personal mines from the territory, the definition of crossing points for people and properties along the frontier, the joint monitoring of the frontier and the demarcation of the same. It is obvious that the ICJ judgment did not address many relevant and important matters to protect the rights of the inhabitants of Libya and Chad, so it was necessary to sign a treaty to resolve those issues, instead of automatically executing the judgment without assessing the situation of the inhabitants in the area affected by the judgment.

Finally, reference should be made to the case concerning the *Maritime Delimitation in the Area between Greenland and Jan Mayen* (Norway v. Denmark) decided by the ICJ in 1993. In this case, a unilateral application was brought before the ICJ by one of the parties in the dispute, in which Denmark requested the ICJ to recognize its claims with respect to the extension of its exclusive fishery zone and continental shelf and to draw a single line of delimitation between both States. In this respect, the judgment is very similar to the judgment rendered in the litigation between Nicaragua and Colombia as Nicaragua also unilaterally

requested the ICJ to define the maritime border between both States. In its 1993 judgment, the ICJ in effect defined the border between both States in the dispute. Once the judgment was rendered, the parties signed a treaty to regulate rights in the area affected by the judgment. Subsequently, after regulating the rights in the area affected by the judgment, Norway and Denmark signed a treaty wherein they agreed upon the delimitation of the definitive maritime border.

In relation to this point, it is very important to note that although the treaty between Norway and Denmark explicitly referred to the ICJ judgment as the basis of the agreement, the coordinates of the border in the final agreement did not match the coordinates indicated by the ICJ in its judgment. However, none of the parties alleged non-compliance of the judgment by reason of that change and neither did the ICJ find such conduct to be a violation of the same. This shows, as already indicated, that the res judicate of the ICJ judgments does not bind the parties in a dispute in the event that they decide to a contractual solution different from that set forth in the judgment of the ICJ.

Finally, it is important to allude to the case concerning the land and maritime border between Cameroon and Nigeria decided in 2002. Here, the Court adjudicated sovereignty over the peninsula in dispute (Bakassi) to Cameroon and fixed the borders between both countries, even though such peninsula formed part of the Nigerian territory in the Constitution of that State. Moreover, the execution of the judgment gave rise to great difficulties because it was necessary to dismantle an administrative system and replace it with another and because the change of sovereignty over the population in the peninsula created huge political and legal tensions and also affected the rights of the peninsula's inhabitants and their relatives. Although Nigeria rejected the judgment at the beginning, the mediation of the United Nations made it possible for both parties to initiate a gradual territory transfer process, which finally concluded with the signing of a treaty on 12 June 2006. This treaty contemplated the transfer of sovereignty over the territory, the total withdrawal of Nigerian troops from the same, and created a special legal regime for Nigerians who lived in the territory transferred to Cameroon in order to protect their rights.

The foregoing cases are cited to simply illustrate that it is possible to sign treaties to address those matters that have been adjudged or are related to the rulings set forth in the judgment of the ICJ. These cases show that when the execution of an ICJ judgment, which has modified land or maritime borders, presupposes legal and practical difficulties, international law permits the litigating parties to reach an agreement for

regulating their rights, protecting their citizens and demarcating their borders under the form of an international treaty after a judgment is rendered by the ICJ. Likewise, whenever a judgment has affected the interests of the population and the exercise of the rights of the inhabitants of the respective States, the parties in diverse continents, instead of automatically executing the judgment, have reached an agreement that has allowed them to safeguard the rights of their citizens and to promote the interests of their nationals. In some cases, a treaty has fixed limits different from those drawn by the ICJ, which is acceptable under international law.

In conclusion, the provisions in Article 101 of the Constitution are compatible with international law and practice. States can sign treaties after a judgment is rendered by the ICJ without it being viewed as ignorance of the international obligations of the respective countries. On the contrary, treaties constitute, in accordance with international law, an exercise of the sovereignty of each State to guarantee respect for the rights of its inhabitants, regulate its relations and even fix borders different from those set forth in the judgment.

5. The necessity to remove norms from the legal framework that permit a judgment to modify the borders of Colombia with other States.

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The Court is requested to declare inapplicable the challenged norms because they violate Articles 3, 9 and 101 of the Political Constitution.

This request is based on the fact that the challenged norms are unconstitutional in the abstract. The references to the judgments of the International Court of Justice only seek to illustrate that what the text of the challenged norms says and permits has had an interpretation with clear, precise and very serious legal effects for Colombia.

This petition is filed with full knowledge that the Pact of Bogota is a multilateral treaty in force and that the Constitution states that in the event any treaty contravenes the Constitution, the State must formulate the respective reservation.

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Since the Pact of Bogota was already ratified by Colombia several decades ago, it is not possible to apply the rule according to which "the

President of the Republic may only express his consent by formulating the respective reservation." This rule is not applicable simply because it regulates a different situation, i.e. previous constitutional control.

The foregoing does not prevent the Constitutional Court from declaring the challenged norms unconstitutional. One thing is the procedure to follow after a judgment of inapplicability and another very different is the exercise of the competence of the Constitutional Court as guardian of the supremacy of the Constitution. This competence can be fully exercised. It will correspond to the Executive to resort to the diplomatic channels to execute the judgment of the Constitutional Court.

However, if the Constitutional Court decides that the declaration of inapplicability should immediately produce internal effects for the national organs, it should indicate this. In this order of ideas, it is respectfully suggested to the Court that in addition to declaring the inapplicability of the challenged norms to precisely set forth the effects of its judgment, warning that if a judgment of the International Court of Justice affects the territorial or maritime borders recognized by the Constitution by virtue of the treaties in force, a new treaty should be signed, which must be approved by a legislative law modifying Article 101 of the Constitution.

6. NOTIFICATIONS

I will receive notifications at Carrera 8 No. 7-26, Palacio de Nariño.

Respectfully,

JUAN MANUEL SANTOS

C.C. 19123402

CONSTITUTIONAL COURT SECRETARY GENERAL

Santa Fe de Bogota, D.C. <u>12 Sept. 13</u> The foregoing *(illegible)* was personally filed by *Juan Manuel Santos*, who identified himself with C.C. No. 1912.3402 issued in /s/Illegible 39.

Annex 16

Republic of Colombia, Constitutional Court, File D-9852 AC- Sentence C-269/14

2 May 2014

Republic of Colombia Constitutional Court

Presidency

FILE D-9852 AC - SENTENCE C-269/14 (May 2, 2014) M.P. Mauricio

González Cuervo

1. Charges and Interventions

- 1.1. The Constitutional Court accumulated claims of unconstitutionality introduced by the citizen Juan Manuel Santos Calderon President of the Republic (D 9907), the citizens Juan Carlos Moncada Zapata, Jessica Alejandra Mancipe Gonzalez and Carlos Eduardo Borrero Gonzalez (D 9852), as well as by the citizen Oscar Fernando Vanegas Avila (D 9886), against the provisions set forth in Law 37 of 1961, which approved the American Treaty of Pacific Settlement or Bogota Pact.
- 1.2. The following were invited to contribute with interventions or opposition to the claims: National Government authorities, former presidents of the Republic, the President of Congress of the Republic, civil society authorities and organizations from the San Andres, Providencia and Santa Catalina Archipelago, academic authorities and institutions, international law experts and former ministers of foreign affairs of Colombia. Numerous documents received from invitees and citizens in the exercise of their right to participation, as well as the concept of rigor of the Prosecutor General of the Nation.

2. Legal-Constitutional Issues

2.1. Infringement of Article 101 of the Constitution, which sets forth that modification of the limits of Colombia can only take place through international treaties, with the approval of Congress of the Republic and ratification by the President of the Republic, by Law 37 of 1961 of the *American Treaty of Pacific Settlement or Bogota Pact*, specifically: (i) *Article XXXI*, by which the State of Colombia acknowledges the jurisdiction of the International Court of Justice to decide legal controversies over international law issues – among them, limits –

with any other American State Party; and (ii) *Article L*, that in view of non-compliance of obligations imposed in sentences of the International Court of Justice, it foresees a regional advisory mechanism integrated by ministers of foreign affairs to agree on the implementation measures of legal decisions – among these, execution of rulings on limits.

2.2. Lack of acknowledgement of Articles 59T of the Constitution –prohibition of judgment of actions of the 1991 ANC-, Articles 2, 3, 79, 329 and 330 of the Constitution –consecrating rights to general participation and for ethnic communities-, Articles 9, 226 and 189 of the Constitution, by Article XXXI to Law 37 of 1968, approving the *American Treaty of Pacific Settlement or Bogota Pact* – Facto of Bogota -, through which the State Parties recognize the jurisdiction of the International Court of Justice to define controversies over international law issues – including boundary issues-.

3. Lawful Competency

- 3.1. The Constitutional Court is competent to hear the claims of unconstitutionality introduced against the rules of the 1961 Law 37, by which the American Treaty of Pacific Settlement or Bogota Pact or Facto de Bogota, an international instrument ratified on October 14, 1968 and matter of claim on November 27, 2012.
- 3.2. The grounds of jurisdiction to examine laws approving executed treaties, complained through pleadings in the exercise of public action for unconstitutionality, are: (i) the general clause on competency for constitutional control of laws, inclusive of those that approve treaties, Constitution, Article 241.4-; (ii) the existing legal precedent, applied in case-law C/027 of 1993, and the 1998 C/400 of this Court, ratifying the power to examine treaties executed by the Government of Colombia, in view of the principle of Constitutional Supremacy and to safeguard its integrity and prevalence –Constitution, Articles 4 and 241-.
- 3.3. Legal control is also constitutionally admissible to decide legal actions against laws approving public treaties reported by the National Government, after termination of the corresponding international commitment, inasmuch as they are

producing or may produce legal effects for the Colombian State that may be incompatible with the Constitution.

3.4. The *Facto de Bogotá* was reported on November 2012; consequently, it currently does not commit Colombia. However, pursuant to its Article XXXI, the court delivered decisions that affect the status of the international limits of the Republic for implementation of the mechanisms foreseen in its Article L could be activated. Faced with such situation, the Court will review the legal provisions being challenged, as it would do in relation to a revoked provision that continues to produce legal effects that are virtually contrary to the Constitution.

4. The Strain between Clauses in International Treaties and Constitutional Provisions in Case Law and Constitutional History

4.1. The Supreme Court of Justice, in its time (1910-1991), developed important jurisprudential outlines based on the absolute incompetence to implement legal control of the treaties and laws that approve them, passing through the jurisdiction to exercise formal control of the approval of laws, to the point of the thesis for material control of treaties due to incompatibility with substantive precepts of the Constitution, as long as they are not executed.

There were dissenting votes by Justices that deemed appropriate the constitutional examination of executed treaties for effective preeminence of the constitutional rules over clauses in international treaties –prevalence of national law-, confronting the initially majority thesis over the abstention for control of international rules –prevalence of international law-; finally, during the seventies and eighties decades, the intermediate theses asserted for timeless formal control and for material control prior to execution of the international commitment, in an attempt to ponder the principles under strain.

4.2. The National Constituent Assembly of 1991 devised a concurrent formation process for international consent of the State based on the initiative by the President of the Republic to execute treaties with other States or international organizations, as director of foreign affairs, in the authority of Congress for their approval, as representative of the sovereign power of the People, and in the review of the constitutionality of the same by the Constitutional Court, as guardian of the supremacy of the Constitution.

- 4.3. Constitutional control of international treaties was designed in the Fundamental Charter –Article 241.10-, with the following characteristics: (1) automatic –no need for citizen claims-; (ii) comprehensive –over the entirety of the treaty in regard to the constitutional rules-; (iii) preceding –prior to the execution of the instrument already approved by Congress and ratified by the Executive-; (iv) final without admitting new revisions of it, neither by claim or request (ex officio)-. With the imposition of legal control over all treaties prior to their ratification or adhesion, i.e. before the international obligation arises for the State, the Constituent wanted to avoid conflicts between the clauses of the international agreement and the constitutional principles, making it impossible for Colombia to join a treaty that is contrary to the Fundamental Charter. Thus, the preventive function of the "prior" constitutional control manages to reaffirm the supremacy of the Constitution, and simultaneously, the legal security in Colombia's international relations.
- 4.4. The Constitutional Court has implemented control over international treaties approved but not executed since February 17, 1992, pursuant to Article 241.10 of the Constitution. In addition to ordinary revisions, it took up the prior and preventive constitutional control of treaties in atypical or special situations, consolidating other relevant case-law decisions, namely: (i) control of treaties approved by a single house under the terms of Provisional Article 58 of the Constitution; (ii) revision of international instruments that having to be processed as solemn treaties, that is, submitted for approval by Congress, announced as agreements of simplified procedure; (iv) control of treaties approved during enforcement of the previous Constitution and not executed; (v) strict judgment of clauses for provisional application of TI -224 CP- to prevent uncontrolled enforcement of rules that are contrary to the CP –constitutional circumvention. All of the above, with the constituent idea of preventing the emergence of international obligations that will problematize their compliance due to their contradiction with some constitutional provision-

The Control of Executed International Treaties and the Legal Strain between Conventional Clause –International- and Constitutional Rule – Internal-

5.1. Unlike ratified international instruments – or adhered or accepted – under the current Constitution, binding treaties and the laws that approved them before 1991, were not and could not be the object of prior control for constitutionality. For such reason, a regulatory conflict is possible between an international clause

in a treaty executed by the State and a constitutional provision in force. Such is the case stated by the plaintiffs, between some stipulations of the American Treaty of Pacific Settlement or Bogota Pact -Article XXXI and others- and the principles of the Political Constitution –Article 101, among others-.

5.2. The absence of explicit constitutional regulation in regard to the control of executed international treaties led to jurisprudential developments over the manner or way of making conventional international regulations compatible with constitutional law. Initially, (i) the Constitutional Court declared its competence to hear treaties executed by ratification procedure -C027 of 1992 over the Concordat-; in addition, it declared the unconstitutionality of rules claimed because they contravene constitutional precepts, beseeching the notion of 'manifest infringement of the jurisdiction rule of domestic law' to base its attribution. Afterwards, (ii) the Court -C 276 of 1993- resumed the traditional thesis of inhibition in view of executed treaties, not admitting the possibility that the Colombian State could examine such international treaties. In the first decision, the strain was resolved by recognizing prevalence to national law; in the second, granting preference to the application of the international treaty. Finally, in the revision of constitutionality by the Court -no longer afterwards but rather prior to- Law 406 of 1997, which approved the Vienna Convention on the Law of Treaties 1986 C-400 1998 -, referred to the competence to decide substantive constitutional challenges of executed treaties, and in its time, highlighted the need to fulfill the international commitments validly undertaken by Colombia.

6. Harmonization of the Principle of Supremacy of the Constitution - Domestic-Law and the Principle *Pacta Sunt Servanda* -International Law

- 6.1. From the spirit of the 1991 Constituent, from the legal tradition of Colombia in its respect for international law, and specifically, from the consecration of the types of principles in tension in the Political Constitution itself supremacy of the Charter, on the one hand, and binding force of the treaties and good faith on the other-, this Court derives the duty to harmonize these through compatibility of their mandates inasmuch as possible.
- 6.2. Among others, the Constitution of Colombia uplifts to the category of "Fundamental Principles", those that are basis to the State's foreign relations: "acknowledgement of the principles of international law accepted by Colombia". Thus, public authorities, whether legislative, executive or legal, must guard their actions in observance of certain principles that govern the international legal system and relations among states, under the condition of having been accepted by Colombia. What are such principles? In general,

acceptance of the legal equality of the states, self-determination of peoples and non-intervention, the duty of political solutions to conflicts and abstention from the use of force, among others, and duly, the principle of *pacta sunt servanda* or binding treaties, validly executed, and the principle of *bona fides* or the duty of good faith in compliance of the international obligations assumed. In regard to the acceptance by Colombia of such international principles –condition for the acknowledgement of its regulatory force-, it is enough to add that the Colombian State is party to the international treaties of the Law of Treaties – Vienna Convention I and II of 1996 and 1986, respectively-.

- 6.3. The principle of supremacy of the Constitution enjoys constitutional entrenchment Article 4 -: "The Constitution is the supreme law. In all cases of incompatibility between the Constitution and the law or any other legal regulation, the constitutional provisions will apply". Among us, such consecration comes from the concept of popular sovereignty, from which emanates public power, and mainly, constituent power. By virtue of such principle, the national legal system should not contain legal rules to the contrary, and the Constitutional Court must safeguard the application of such prevalence as guardian of the "integrity and supremacy of the Constitution Article 214-. Starting with this mandate, the Constitutional Court considered that even the laws that approve international treaties, as well as the treaties already executed, could be declared as unenforceable if they contradict constitutional provisions; and this is how the jurisprudential precedent –C 400/98- declared it and proceeded in ruling C-027 in 1993.
- 6.4. Thereby, both the principle of internal law of constitutional supremacy and the international principles of the *pacta sunt servanda* and *bona fide* are "fundamental principles" incorporated, as such, in Title I of the Political Constitution under enforcement. And their constitutionality –and other-principles of international law, implies acknowledgement of the binding force of the international treaties to which Colombia is a party, and good faith in compliance with the international obligations are a sovereign mandate of the Constituent. In summary, the strain that may arise between constitutional rules and the provisions of international treaties –is not, in principle, antagonistic or irreconcilable, inasmuch as both are consecrated in the hierarchy of fundamental principles of the constitutional system. The authorized interpreter of the Constitution must try to harmonize these.

6. Constitutional Article 101

- 6.1. The territory is an assumption of the existence of the State in that it stands (i) on the material substratum on which the inhabitants materialize their vital interests, (ii) in the space that determines the exercise of competencies by public authorities, (iii) in the safeguarded scope of any external, non-authorized interference, and (iv) in the frame that delimits the exercise of sovereignty.
- 6.2. The first paragraph of Article 101 sets forth a rule that identifies the general status of the territory of the Colombian State when the 1991 Constitution was enacted. It sets forth: "The limits of Colombia are set forth in the international treaties approved by Congress, duly ratified by the President of the Republic, and those defined by the arbitral awards to which the Nation is a party". Accordingly, by approving the 1991 Constitution, the general situation of the territory of the Colombian State is determined as of the specific sources mentioned in it.

Consequently, in order to establish the rule of delimitation, it must be done so only and exclusively on the basis of the treaties approved by Congress and ratified by the President, or the arbitral awards to which the Nation is a party. So, this is a rule that demands, for purposes of identification of the territorial dimension and situation of the Colombian State in 1991, the above-cited sources as sole referral.

- 6.3. In view of the scope of the first paragraph, according to the Court, the purpose of the second paragraph to Article 101 aims to regulate those events in which the State intends to alter the general situation of the territory in force in 1991. The rule therein foreseen, applies when pretending (ii) to modify the limits defined when the 1991 Constitution was approved in treaties or awards, and (iii) to modify any other limit established in a treaty after 1991.
- 6.4. As a matter of fact, the purpose of the first paragraph to Article 101 is to enunciate the general position of the limits in force at the time that the 1991 Constitution was approved. Any modification to that status of limits must be performed pursuant to the rule set forth in the second paragraph to Article 101 of the Charter.

7. Accused Regulations: Article XXXI to the Law that Approved the Bogota Pact and Remaining Provisions

7.1. The "American Treaty of Pacific Settlement (Bogota Pact)" is one of the three core international instruments of the current Inter-American System – together with the "Charter of the Organization of American States", undersigned in Bogota D.C., Republic of Colombia, on April 30, 1948, and the Inter-American Treaty of Reciprocal Assistance", adopted in Rio de Janeiro, Federal Republic of Brazil, on September 2, 1947.

It is a principle of Ius Cogens or rule of the international imperative, no revocable by the States of the world, the prohibition of "aggression" by one state against another; and the principle of international law accepted by Colombia, the duty to pacific solution of international conflicts and the prohibition of the use of force. In the development of such universal postulates, the hemispheric community conceived the Treaty in question, in line with the Charter of the United Nations.

- 7.2. Through the transcribed provision, the signatory States that became Parties to the "American Treaty of Pacific Settlement (Bogota Pact)", agreed to immediately recognize the jurisdiction of the International Court of Justice to settle the controversies that may arise among them relating to any issue of international law; it is understood that among the issues of international law under its jurisdiction, limit disputes are included.
- 7.3. Article "L" consecrates the applicable procedure in the event that a State fails to perform the obligations incumbent upon it by a ruling of the International Court of Justice or by an award of an Arbitral Court. Under such assumption, it enshrines the obligation to promote a "Meeting of Consultation of the Ministers of Foreign Affairs", within the scope of the Inter-American System before resorting to the United Nations Organization –Security Council-.
- 7.4. The rest of the rules claimed of Chapter IV over "Legal Proceeding" Articles XXXII to XXXVII -, are those relating to: (i) the right of the parties in dispute to recur before the International Court of Justice due to lack a compromise solution and in the absence of an arbitral agreement; (ii) to the

authority of the ICJ to rule on its jurisdiction over the dispute; upon termination of the dispute by declaration of incompetency of the ICJ, on the basis of Articles V, VI and VII of the Treaty; (iv) to the obligation of the parties to submit to arbitration in view of the declaration of incompetency of the ICJ for different reason—binding arbitration—; (v) and other decision rules and procedure for it.

8. Response to Claim 1: Harmonization of Article XXXI of the Bogota Pact and Article 101 of the Constitution

- 8.1. The constitutional duty to harmonize the conventional clauses claimed and Article 101 of the Constitution arises as of: (i) the condition of the fundamental constitutional principles, both of the *pacta sunt servanda* and from the obligation of prevalent application of the Constitution; (ii) the reserve made by the Colombian State to Article 27.1 to the 1986 Vienna Convention on the Law of Treaties by order of the Constitutional Court, which allows compatibility of the international principle with constitutional control of treaties in force, as decided in Ruling C-400/98 and C-27/93 of this Court; (iii) and from the hermeneutical principle, consolidated by court decisions, of optimization or targeted harmonization of these inasmuch as possible.
- 8.2. The Constitutional Court reaffirms the validity of the clause demands of the Bogota Pact approved by Law 37 of 1961, whose validity is unquestionable under the principle of *pacta sunt servanda* during the time that the Treaty had forcefulness for Colombia, especially when that judgment could not grant retroactive effect to its adjudged provisions. Accordingly, the decisions proffered by the International Court of Justice, based on the jurisdiction recognized by Colombia through Article XXXI to the Pact cannot be unheeded, pursuant to Article 94 of the United Nations Charter. Simultaneously, the authorities of the Colombian State have the duty of enforcing international obligations assumed.
- 8.3. Therefore, the Court will declare the enforceability of Article XXXI to Law 37 of 1961, which approved the Bogota Pact, as recognition of the jurisdictional authority accepted by the Colombian State since October 14, 1968 for legal solution of disputes over international issues, in the understanding that the decisions adopted by the International Court of Justice in relation to boundary disputes, should be incorporated to the national legal system through a duly

approved and ratified treaty under the terms of Article 101 of the Political Constitution

8.4. For illustrative purposes, it is pertinent to refer the decision in the Case Concerning "Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)" in 1993. The Kingdom of Denmark instituted unilateral proceedings before the International Court of Justice requested recognition of the extension of its "exclusive fishery zone and continental shelf" by drawing a single line of maritime delimitation with the Kingdom of Norway." In the decision of the case, the cited international court proceeded to set the maritime border between the two States. Despite the above, after the ruling was proffered, the Kingdom of Denmark and the Kingdom of Norway undersigned a treaty to regulate the rights in the area affected by the order. Although the Treaty expressly referred the decision of the international court in reference, the coordinates of the maritime border between the two States set in such Treaty, they did not coincide with the coordinates of the maritime border indicated by the International Court of Justice. None of the cited States alleged incompliance of the ruling nor deemed the action as a violation of the same.

9. Response to the Other Charges for Infringement of Articles 59T, 2, 3, 9, 79, 329, 330 of the Constitution

- 9.1. Article XXXI of the ATPS does not ignore the Constitutional Temporary Article 59 given that this constitutional rule, by establishing the prohibition of jurisdictional control of the Constitution, only encompasses the legal examination that has the aptitude to directly expel or exclude constitutional rules of the legal system.
- 9.2. Article XXXI of the ATPS (Bogota Pact) does not infringe Articles 2, 3, 79, 320 and 330 of the Constitution, given that the acknowledgement of jurisdiction set forth therein does not preclude the right of citizens to participate in the decisions that affect them, or from the right of ethnic communities to prior consultation
- 9.3. Article XXXI of the ATPS (Bogota Pact) does not preclude the principles of sovereignty and self-determination set forth in Article 9 of the Charter, neither to

its Article 189.6. Considering that the free assumption of a commitment by the State is one of the most important manifestations of sovereignty and self-determination in the international community, its infringement cannot be affirmed when the State willingly decides to be bound by the provisions of a treaty.

- 9.4. Article XXXI to the ATPS (Bogota Pact) does not preclude the constitutional obligation to develop the process of internationalization of relations on the basis of convenience. The convenience judgment is a weak judgment in that it must respect the margin of assessment available to the political authorities to assess the usefulness or benefit of concluding a treaty. With that in mind, when the instrument under examination is manifestly inconvenient, this Court may declare its unconstitutionality. The establishment of a hetero-compositional to pacifically settle diverse types of disputes with other States cannot be judged in it inconvenient and it cannot be so due to the results to which it leads. Accordingly, the recognition of such jurisdiction is not manifestly useless or inconvenient evidence and therefore does not infringe Article 226 of the Charter.
- 9.5. In regard to Article "L" to Law 37 of 1961, which approved the Bogota Pact, it can be argued that it does not exclude or impose any mechanism, manner or means for compliance of the decisions of the International Court of Justice. This has the effect adoption of a measure that compels the Colombian State to act against the Constitution is only a hypothetical matter, and does not emerge from the regulatory content of Article L to the ATPS (Bogota Pact). So, the consequences for a State may result in international law as an effect of not following a court decision, do not unequivocally lead to a result contrary to the Charter, given that the authorities have the power, authority or permission—under international-law and the obligation—under domestic law—to use means, mechanisms, forms or measures to comply with the rulings provided for in the Constitution. Therefore, declares their compatibility with the Constitution.
- 9.6. The remaining demanded provisions presuppose the recognition of the clause of jurisdiction by the states parties to the Bogota Pact in Article XXXI. Therefore, the decision on the constitutionality of Articles XXXII to XXXVII will be the meaning of constitutionality resolved in regard to the previous article, without having to carry any conditions. Similarly, we proceed as required, to make use of

the procedures set forth in the American Treaty on Pacific Settlement, and specifically, of legal proceedings already seen - Article II of the Pact-, and of the competence of the International Court of Justice to define whether the dispute is referred to it concerns a matter of domestic jurisdiction of the states – Article V of the Pact-.

10. Decision

In light of the foregoing, the Constitutional Court of the Republic of Colombia, administering justice on behalf of the People and by mandate of the Constitution,

Resolves:

First - To declare Article XXXI of Act 37 of 1961 CONSTITUTIONAL, "by which the American Treaty on Pacific Settlement (Pact of Bogotá) is approved" in the understanding that the decisions adopted by the International Court of Justice concerning boundary disputes, should be incorporated into domestic law by a treaty duly approved and ratified, in terms of Article 101 of the Political Constitution.

Second – Declare as CONSTITUTIONAL Articles II (partial), V (partial), XXXII to XXXVII, XXXVIII to XLIX and L to Act 37 of 1961 "for which the American Treaty on Pacific Settlement (Pact of Bogotá) is approved."

LUIS ERNESTO VARGAS SILVA President

Annex 17

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua, to the Embassy of the United States of America

13 September 2014

[logo] REPUBLIC OF NICARAGUA CENTRAL AMERICA Ministry of Foreign Affairs

Note No. MRE/VM/DGAJST/456/9/2014

The Ministry of Foreign Affairs of the Government of Reconciliation and National Unity of the Republic of Nicaragua, Office of Legal Affairs, Sovereignty, and Territory, sends its regards to the Embassy of the United States of America and has the honor of referring to Diplomatic Note No. 122 of 11 April 2014.

With regard to the position maintained by the United States on the uses of the high seas preserved by Article 58 of the Convention of the Law of the Sea with respect to the exclusive economic zone, among which it cites military activities and specifically "military studies" and/or "military survey operations," the Republic of Nicaragua respectfully disagrees with some of these points.

In accordance with the Convention and customary international law, any activity carried out by a State within the exclusive economic zone of another must be carried out exclusively for peaceful purposes and with strict respect for the rights of the coastal state.

The United States has reported that the USNS Pathfinder is carrying out "military survey operations" and that these "are separate and distinct from marine scientific research." Nicaragua's position is that any type of activity aimed at gathering data on the marine environment and/or its resources, regardless of the designation and purposes it may be given, either civil or military, must be authorized and regulated by Nicaragua in the exercise of its sovereign rights over its exclusive economic zone, in accordance with the provisions of international law.

In addition, on the official website of the United States Navy, it is announced that the type of ship in question carries out "oceanographic programs, including performing acoustical, biological, physical, and geophysical surveys." Consequently, it emerges that in view of the functions and capacities of the USNS Pathfinder, the nature of the activities carried out by this ship in the exclusive economic zone of Nicaragua are directly connected to and cannot be distanced from marine scientific research. The present case demonstrates the correctness and logic of the Nicaraguan interpretation of the rules of international law that govern this matter and that do not allow a statement of purposes different from scientific work to exclude conduct intrinsically connected with the purpose.

Nicaragua wishes to point out to the United States that the activities carried out by the USNS Pathfinder affect the rights of Nicaragua as a coastal state, diminish the economic interests of the nation, and concern matters of national security. Due to the foregoing, Nicaragua requests that the United States suspend all the aforementioned activities and reiterates its willingness to issue the necessary permits once the application has been studied and approved by the relevant authorities.

Nicaragua will continue to maintain its position on the abovementioned points and reiterates that the continuation of the activities by the United States infringes on the sovereign rights of Nicaragua.

In addition, Nicaragua takes note of the fact that on all the occasions mentioned in the previous note, the USNS Pathfinder was being accompanied by a ship from the Navy of the Republic of Colombia and that on 25 January 2014, the captain of the USNS Pathfinder stated by radio that the operations carried out had been authorized by the Government of Colombia. More recently, on 20, 21, and 22 February and 23 April 2014, the USNS Pathfinder was again observed in the continuous company of the Navy of the Republic of Colombia. The ships of the Colombian Navy have stated on different occasions that the American ship

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[logo] REPUBLIC OF NICARAGUA CENTRAL AMERICA Ministry of Foreign Affairs

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operates pursuant to Colombian permission. In this respect, Nicaragua reminds the United States that the coordinates in which all the acts took place are in waters recognized as Nicaraguan by a judgment of the International Court of Justice on 19 November 2012, and that those judgments [sic] are final and of a binding nature.

The Ministry of Foreign Affairs of the Government of Reconciliation and National Unity of the Republic of Nicaragua, Office of Legal Affairs, Sovereignty, and Territory takes this opportunity to reiterate its expressions of consideration and respect to the Honorable Embassy of the United States of America.

[signature] [illegible seal] Managua, 13 September 2014

TO THE HONORABLE EMBASSY OF THE UNITED STATES OF AMERICA MANAGUA

Annex 18

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua, to the Minister of Foreign Affairs of Colombia

13 September 2014



Ministry of Foreign Affairs

Note No. MRENM-DGAJST/457/09/14

The Ministry of Foreign Affairs of the Government of National Reconciliation and Unity of the Republic of Nicaragua, Directorate General of Legal Affairs Sovereignty and Territory compliments the Honorable Embassy of the Republic of Colombia and has the honor of referring to numerous facts and incidents in which the Armada of the Republic of Colombia has been involved that took place in the exclusive economic zone of Nicaragua acknowledged by the ruling of November 19, 2012.

These incidents have taken place during numerous months after the referred ruling was issued, during which Nicaragua exercised extreme caution in handling these, having instructed the Navy of the Nicaraguan Army to avoid any confrontation. The caution deployed by the Nicaraguan Navy is evident in view of the facts illustrated in the non-exhaustive list attached hereto.

Furthermore, and to avoid favoring political manipulation of this sensitive issue in view of the recent Colombian national elections, Nicaragua also restrained from sending continuous diplomatic notes of protest at the time that each event took place. Nonetheless, in view of the fact that these actions persist, which systematically confirm a continuous threat of the use of force, directly affecting and consequently deterring and dissuading many fishermen and investors in general, from exploiting and exploring the resources in the area. Nicaragua deems that it is necessary to point out some of the many incidents in which the Armada of Colombia, among others, has infringed the sovereign rights of Nicaragua by recurring to threats of the use of force.

Particularly, this listing reflects the continuous harassment by the Colombian Armada to the Nicaraguan naval units and vessels with a fisheries license issued by Nicaragua; harassment carried out not only by Colombian frigates but also by official Colombian aircraft. Specifically, Colombian frigates try to hinder fisheries activities in the Nicaraguan exclusive economic zone and the exercise of jurisdictional activities by naval units of Nicaragua, arguing that the Government of Colombia does not acknowledge nor apply the ruling of November 19, 2012 by the International Court of Justice.

In the same manner, the frigates of the Armada of Colombia impose what they denominate the "comprehensive contiguous zone" of the San Andres and Providencia Archipelago, which encroaches maritime spaces pertaining to the exclusive economic zone of Nicaragua; to this end, the Armada of Colombia constantly recurs to threats of the use of force against naval units of Nicaragua, which have consistently managed the incidents with caution and opt to withdraw in order to avoid a major incident.

Nicaragua reminds Colombia that the rulings by the International Court of Justice are final and of unavoidable compliance as of their date of issuance; thus, all of these events constitute serious violations that contravene international law and customary international law, including the the obligation to abstain from the threat or use of force, the obligation to not infringe maritime areas of Nicaragua, nor to encumber its enjoyment of its sovereign rights nor authorize fishing or research activities in marine areas under Nicaraguan jurisdiction.

In this regard, the Ministry of Foreign Affairs of Nicaragua presents its strongest protest and calls on Colombia to issue the corresponding instructions so that these events are not repeated.

CP.



Ministry of Foreign Affairs

Note No. MRENM-DGAJST/457/09/14

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The Ministry of Foreign Affairs of the Government of National Reconciliation and Unity of the Republic of Nicaragua, Directorate General of Legal Affairs Sovereignty and Territory, avails itself of the opportunity to reiterate to the Honorable Embassy of the Republic of Colombia its utmost consideration.

Managua, September 13, 2014.

TO THE HONORABLE EMBASSY OF THE REPUBLIC OF COLOMBIA MANAGUA



NON-EXHAUSTIVE LIST OF INCIDENTS

10/13/2013 08:55 hours. The Commander of the GC-205 "Río Escondido," Navy Lieutenant Holvin Martínez, reported that he was located at 14°50'00"N - 081°42'00"W when the frigate ARC "20 de Julio" called him on marine channel 16 and stated that our vessel was heading toward Colombian waters at 3 M, to which Navy Lieutenant Martínez responded that he was navigating in the jurisdictional waters of the State of Nicaragua.

10/19/2013 09:50 hours, Navy Lieutenant Holvin Martínez of the GC-205 "Río Escondido" reports that 2 OV-10 Bronco airplanes of the FAC (Colombian Air Force) flew over them from north to south in a hostile manner for 10 minutes. They also flew over the fishing boats "Capitana," flying the Honduran flag with a Nicaraguan fishing permit, and "Camerón," which flies the Nicaraguan flag. Coordinates 14°36'00''N - 081°50'00''W.

10/29/2013 15:00 hours, coast guard vessels GC-201 "Río Grande Matagalpa" and GC-205 "Río Escondido" were located at 14°36'00''N - 081°55'00''W and 14°37'00''N - 081°58'00''W when a Colombian Air Force plane coming from the east flew over them in a hostile manner at an altitude of approximately 200 feet.

10/30/2013 16:40 hours, the commander of the GC-201 "Río Grande Matagalpa," Navy Lieutenant Francisco Díaz, reports that he was located at $14^{\circ}36'00"N - 081^{\circ}55'00"W$, when, at 16:40 hours, a Colombian Navy helicopter going from south to north and vice-versa flew over him at a height of 200 feet. It flew over the GC 205 "Río Escondido," at position $\Phi14^{\circ}37'00"N - \lambda-081^{\circ}58'00"W$, 60 M northeast of the Miskito Keys, in the same way.

10/31/2013 14:40 hours, the Commander of the GC-201 "Río Grande de Matagalpa," Navy Lieutenant Francisco Díaz, was at 14°36'00"N - 081°55'00"W when, at 09:00 hours, a helicopter travelling from north to south flew over him in a hostile manner. He also reported that at 10:00 hours, he noticed an unidentified Colombian frigate arriving 5 M Southeast of the GC, where the helicopter landed.

11/07/2013, 11:17 hours, the Head of the Puerto Cabezas Naval Base reports that the Captain of the fishing boat "Lady Dee II," with a Nicaraguan flag, informed him that while he was at 14°50'00"N - 081°53'00"W, 58 M northeast of the Miskito Keys, the frigate ARC-53 "Antioquia" pursued him and indicated that they were in Colombian waters. Given the situation, and with great caution, the Commander of GC-401 established communication with the Colombian frigate, explaining that the "Lady Dee II" fishing boat was fishing in waters within Nicaragua's jurisdiction.

11/17/2013 10:50 hours, Navy Lieutenant Mario Paramo, Commander of GC-205 "Rio Escondido," reports that, over marine channel 16, the captain of the Nicaraguan flag lobster boat "Miss Sofía" advised him that he was at position 14°50'00"N - 081°45'00"W, NW of Quitasueño, when the Commander of the frigate ARC "Almirante Padilla" (FM 51) ordered him to withdraw from that position because he was in waters within Colombia's jurisdiction. When the Nicaraguan vessel refused, the frigate sent out a speed boat that harassed the "Mis Sofía." At 15:18 hours, while located at position 14°45'00"N - 081°49'00"W, he established communication with the frigate, located 3 M away, and the latter advised him that they did not recognize the ICJ judgment and that they would remain where they were.

11/19/2013, 9:50 hours, the GC - 201 "Río Grande de Matagalpa" reports that it is complying with the patrol line at $14^{\circ}35'00"N$ - $081^{\circ}55'00"W$, 48 M to the SW of the Miskito Keys, and that a Colombian Navy aircraft flew over it.

11/21, 11/24/2013, the GC-201 "Río Grande de Matagalpa" reports that a Colombian Navy helicopter flew over it from south to east and north to south at an altitude of approximately 200 feet. It was located at 15°00'00"N - 081°44'00"W.

11/25/2013 18:00 hours, the GC-201 "Río Grande de Matagalpa" reports that a Colombian Navy helicopter flew over it three times in a hostile manner from north to south at an altitude of approximately 200 feet at 14°50'00"N - 081°37'00"W.

01/2/2014 19:10 hours, the commander of the GC-403 "General José Santos Zelaya," Navy

Lieutenant Domingo Javier González López, reports that he was at 14°50'00"N – 81°40'00"W when, at 18:20 hours, he was intercepted by radio by a Colombian warship located at 14°46'20"N – 081°46'37"W, which informed him that he was in Colombian waters and asked him to report his intentions. The Commander of the GC-403, Navy Lieutenant Gonzales, responded that he intended to navigate in waters within Nicaragua's jurisdiction, to which the frigate responded that the Colombian Government did not recognize the ICJ judgment. Navy Lieutenant Gonzales replied to the effect that Nicaragua did recognize it and, consequently, he was navigating in Nicaraguan jurisdictional waters.

The Colombian frigate again demanded that he clarify his intentions and stay out of Colombia's contiguous zone and territorial waters. The GC responded that Nicaragua respected international maritime law and that it was in Nicaraguan waters, not Colombian waters. The Colombian warship reiterated that it was in Colombia's integral contiguous zone.

01/7/2014 08:30 hours, The Commander of the GC-401 "General José Dolores Estrada," Navy Lieutenant Jorge Gómez Prado, reports that there is a U.S. Navy corvette named the "Pathfinder" (Oceanographic vessel) at 14°42'00"N – 081°39'00"W, 60 M NE of the Miskito Keys, with which it established communication to inquire about the reasons for its presence and whether it had the respective authorization for its activities in Nicaragua's exclusive economic zone. The "Pathfinder" answered that it was conducting routine military inspection operations in international waters. In response, he stated that they were in Nicaraguan waters and within Nicaragua's exclusive economic zone, hence they could only exercise their right to free navigation in our waters. The Colombian frigate intercepted the communication, stating that the "Pathfinder" was authorized by the Colombian Government to conduct research in Colombia's exclusive economic zone and asked the GC-401 not to interfere with the "Pathfinder's" activities in those waters because they were Colombian waters.

01/25/2014 16:01 hours. The Commander of the BL-405 "Tayacán," Navy Lieutenant García, at $\phi14^{\circ}55'00"N - \lambda081^{\circ}40'00"W$, 60 M NE of the Miskito Keys, reports that at 15:00 hours, he detected an object on the radar at $\phi14^{\circ}51'00"N - \lambda081^{\circ}46'00"W$, with which he initiated communication, informing it that it was in Nicaraguan waters. The Captain of the vessel, which identified itself as the "Pathfinder," a scientific vessel flying the U.S. flag, indicated that they were conducting research authorized by the Colombian government in the area. He hoisted anchor and headed for San Andrés Island.

01/27/2014 09:50 hours. The BL - 405 "Tayacán," located at 14°50'00"N - 081°40'00"W, reports that while the lobster boat "Caribbean Star," with a Nicaraguan fishing license, was harassed and told to leave the area by the ARC frigate "Independiente" (FM-54) of the Colombian Navy while it was fishing in Nicaraguan waters at latitude 14°47'00"N and longitude 081°52'00"W. The Colombian frigate informed the fishing boat that it was navigating in the Sea Flower Biosphere Nature Reserve recognized by UNESCO and that it was fishing illegally with a diver. Since the Colombian Government has not recognized the Hague Judgment, Colombian Navy vessels would continue to exercise sovereignty and control in those waters.

Similarly, on that same day, the lobster boat "Al John," with a Nicaraguan fishing license, was harassed by the same frigate, located at $\phi14^{\circ}26'00"N - \lambda081^{\circ}55'00"W$, while it was fishing at latitude $14^{\circ}44'00"N$ and longitude $081^{\circ}47'00"W$.

01/29/2014, 11:10 hours. The frigate ARC "Independiente" (FM-54), at approximately latitude 14°30'00"N and longitude 081°50'00"W, 57 nautical miles northeast of the Miskito Keys, communicated with the Nicaraguan fishing boat "Snyder" and asked it to withdraw from Colombian waters. The BL-405 "Tayacán" of the Nicaraguan Navy contacted the aforementioned Colombian frigate and advised the crew members that they were in waters under Nicaraguan jurisdiction, to which the crew members of the frigate "Independiente" responded that the Colombian Government does not accept the International Court of Justice's Judgment.

02/1/2014 11:00 hours. The Commander of the Logistic Ship BL-405 "Tayacán," Navy Lieutenant Alejandro García, reported that he was at 14°35'00"N - 081°46'00"W, that when he heard the conversation between the fishing boat "Maddox," flying the Honduran flag with a Nicaraguan fishing permit, and the frigate ARC "Independiente" (FM-54), located at latitude 14°44'00"N and longitude 081°39'00"W, which told it that it was in Colombian waters and that

its government decided that the Hague Judgment was not applicable. It also informed it that fishing with a diver was prohibited and that Colombian Navy vessels would continue to exercise sovereignty over these waters. The fishing boat responded that it was fishing with a trap.

At 11:35 hours on 02/1/2014, Navy Lieutenant García, Commander of the BL-405, contacted the frigate ARC "Independiente" (FM-54), advising it that it was navigating in Nicaraguan jurisdictional waters according to the Hague Judgment. The Colombian frigate responded that it was in Colombian waters and that its government had established that the Hague Judgment was not applicable, so Colombian Navy vessels would continue to exercise sovereignty over these waters, and ordered it remain away from Colombia's contiguous zone and territorial waters.

02/2/2014 13:35 hours, The Commander of the BL-405 "Tayacán," Navy Lieutenant Alejandro García Bermúdez, reports that he was at 14°40'01"N - 81°50'08"W when he observed the fishing boat "Dora María" along with frigate ARC "20 de Julio" at coordinates 14°44'00"N - 81°39'00"W. The BL-405 informed the frigate that it was in waters that had been returned by the International Court of Justice. The Colombian frigate indicated that the Colombian State had established that the Judgment was not applicable and they would continue to exercise sovereignty over those waters, and asked to be informed of its intentions. Moreover, the frigate indicated that it was proceeding to provide assistance to the fishing boat "Dora María." The frigate also asked the BL-405 to stay out of the Colombia's contiguous zone and territorial waters.

02/5/2014 11:30 hours. Navy Lieutenant García, Commander of the BL-405, reported that he had had a conversation with the frigate ARC "20 de Julio," which told him that he was in Colombian waters. Navy Lieutenant García responded that he was navigating in Nicaraguan waters. The frigate also asked the BL-405 and the 12 Nicaraguan vessels fishing in the area of coordinates $\phi14^{\circ}44'01''N - \lambda081^{\circ}39'08''W$ to stay out of Colombia's contiguous zone and Colombian territorial waters.

The Colombian frigate took the same position with same position with the fishing boat flying the Nicaraguan flag, "Nica Fish 4," when it was fishing in the area. 02/6/2014 12:30 hours, the BL-405 "Tayacán," at ϕ 14°44'00"N – λ 081°49'00"W, sighted, 3 M to the north of its position, patrol boat ARC "20 de Julio" (PZE-46), which questioned fishing boat "Nica Fish 4" by radio and advised it that it was fishing in Colombian waters.

02/13/2014 11:30 hours, the commander of the BL-405 "Tayacán," Navy Lieutenant Holvín Martínez, reported that he was at $\phi14^{\circ}48'00"N - \lambda081^{\circ}36'00"W$ and that 3 M NE he observed the frigate "Almirante Padilla" (ARC-51), along with the fishing boat "Blu Sky," flying the Honduran flag and with a Colombian fishing permit. Crew from the Colombian frigate boarded the fishing boat.

02/14/2014 11:30 hours, the BL-405, at $\phi14^\circ56'00"N-\lambda081^\circ35'00"W$, contacted the captain of the fishing boat the "Blu Sky," Ezequiel González, a Honduras national, who indicated that he was fishing there with Colombian authorization. The BL-405 responded that he was in Nicaraguan waters.

02/20/14 14:20 hours, the commander of the BL-405 "Tayacán," Navy Lieutenant Holvín Martínez, reports that he is at $14^{\circ}50'00"N - 081^{\circ}50'00"W$, 65 M NE of the Miskito Keys, and that the frigate ARC "Almirante Padilla" (FM-51) is located 4 M to the SE of his position, and he has sighted the U.S. vessel "Pathfinder" 1.8 M from his position, accompanied by the frigate.

02/21/2014, 06.20 hours, the Commander of the BL-405 "Tayacán," Navy Lieutenant Holvín Martínez, reports that he is at $14^{\circ}49'00''N - 081^{\circ}49'00''W$, 65 M to the NE of the Miskito Keys, and that the frigate ARC "Almirante Padilla" is 4 M SE of his position, along with the U.S. vessel "Pathfinder," which is 1.8 M from him.

02/22/2014. The frigate ARC "Almirante Padilla" (FM-51) continued to escort the U.S. vessel "Pathfinder" all day; both remained in the area.

03/3/14 12:15 hours. The GC - 201 "Río Grande de Matagalpa", at 14°47'00"N -

082°42'00"W, reports that it sees the frigate ARC-"Almirante Padilla" (FM-51) 10 M from its position. Upon establishing communication, the Commander of the GC-201 advised the Colombian frigate that it was in Nicaraguan waters, to which the Commander of the Colombian frigate responded that they were in the waters of San Andrés and Providencia.

03/9 and 03/11/2014 15:30 - 14:57 hours. The GC - 201 "Río Grande de Matagalpa" and the BL-405 "Tayacán," at 14°39'00''N - 081°46'00''W and 14°53'00''N - 081°40'04''W, respectively, reported that a Colombian Navy CN-235 twin-engine aircraft repeatedly flew over them at an altitude of 500 feet.

03/12/2014 17:10 hours, the commander of the GC–201 "Río Grande de Matagalpa," Navy Lieutenant Domingo Javier González, reports that he was at 14°43'00"N – 081°50'00"W and that a speed boat from the frigate ARC "20 de Julio" approached the fishing boat "Al John," located at 14°44'00"N – 081°50'00"W (PZE-46), flying the Nicaraguan flag, and ordered it to leave the fishing area. Navy Lieutenant González of the GC-201 contacted the Commander of the Colombian frigate, advising him that the vessel was operating in Nicaraguan waters. Given the hostile attitude of the Colombian frigate and the speed boat, the GC-201 exercised caution in handling the incident.

03/13/2014 12:00 hours. The GC-201 "Río Grande de Matagalpa" reports that it is at 14°43′00"N – 081°45′00"W and it observed the Colombian frigate ARC "20 de Julio" (PZE-46) approaching the fishing boat "Marco Polo," flying the Nicaraguan flag, and ordering it to leave the fishing area because it was a protected area. Given the situation, the Commander of the GC-201, Navy Lieutenant González, advised the captain of the fishing boat by radio that he did not have to leave the location because he was in Nicaraguan waters. The GC-201 exercised caution in handling the incident by trying to establish communication with the Colombian frigate, but was unable to do so.

04/3/2014 09:30 hours. The Head of the Puerto Cabezas Naval Base, Navy Lieutenant Lenin Amador, reports that he was contacted by the Captain of the fishing boat "Mister Jim," flying the Nicaraguan flag, which was at $14^{\circ}44'00$ " N $-82^{\circ}00'00$ W, 50 M NE of the Miskito Keys, and that 5 M east of its position was the Ocean Patrol Boat ARC "San Andrés" (PO-45) of the Colombian Navy and 10 M north it observed an unidentified U.S. vessel, and that the Colombian frigate advised the fishing boat "Mister Jim" by radio that it should not continue lobster fishing and should withdraw from the area.

04/3/2014 12:30 hours, the commander of the GC-201 "Río Grande Matagalpa," Navy Lieutenant Mario Paramo Villalobos, reports that he was at $14^{\circ}44'00"$ N $-82^{\circ}00'00$ W and that he sighted, 10 M east of his location, the ARC "San Andrés" (PO-45) along with an unidentified U.S. vessel.

04/15/14 15:47 hours. The Commander of the GC-403 "General José Santos Zelaya," Navy Lieutenant Francisco Javier Díaz Mendoza, reported that he was at 14°41'00" N 81°46'00" W, 60 M NE of the Miskito Keys, and that the frigate ARC "Caldas" was located 3 M SE of his position, maintaining a constant presence. He also reported that at 17:50 hours a Colombian CN-235 twin-engine aircraft flew over him at an altitude of 300 feet going from northeast to west

05/8/2014 08:05 hours. The Commander of the GC-201 "Río Grande de Matagalpa," Navy Lieutenant Jorge Gómez Prado, reported that he was at 14°38'00" N 81°48'00" W, 56 M NE of the Miskito Keys, patrolling Nicaraguan waters, when the frigate ARC "20 de Julio" (PZE-46) initiated communication with coast guard vessel GC-201, threatening to take action and that he assume the consequences if the GC-201 came within 2 M, and asking it to change course. The Colombian frigate also stated that it was in those waters to protect the Colombian State's historical fishing rights and to guarantee the safety of the vessels present in the area. The GC-201 responded that it was in Nicaraguan jurisdictional waters, and cautiously advised that it would not change course because it was not jeopardizing the safety of any of the vessels. Neverthless, it decided to cautiously remove itself to position 14°56'00" N 81°42'00" W, 65 M NE of the Miskito Keys, to avoid a major incident with the Colombian frigate.

07/28/2014 14:15 hours, the commander of the GC-403, "General José Santos Zelaya," Navy Lieutenant Mario Paramo Villalobo, at 14°22′00"N - 082°01′ 00" W, reports that while

performing a routine inspection of the vessel "Doña Emilia," the Captain of that vessel, Lester Alfredo Juárez, informed him that a few days before at ϕ =14°29′00"N; λ =081°53′00" W, a Colombian Navy war frigate advised it by radio that it could not operate in that area, to which the fishing boat responded that it was fishing in Nicaraguan waters.

Annex 19

Letter from Colombia to Secretary General of the Organization of American States dated 27 November 2012 (GACIJ No.79357)

REPUBLIC OF COLOMBIA MINISTRY OF FOREIGN AFFAIRS

GACIJ No.79357

Bogotá, November 27, 2012

Excellency:

I have the honor 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 April 30, 1948, whose instrument of ratification was deposited by Colombia on November 6, 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."

I would like to avail myself of this opportunity to convey to Your Excellency renewed assurances of my highest consideration.

MARIA ANGELA HOLGUIN CUELLAR Minister of Foreign Affairs

To the Honorable José Miguel Insulza Secretary General of the Organization of American States, Washington, D.C.

DIL00455E04

Annex 20

Letter from the President of the Nicaraguan Chamber of Fisheries to the Executive Chair of the Nicaraguan Institute of Fisheries

6 January 2014



NICARAGUAN CHAMBER OF FISHERIES

Stamped Seal: INPESCA-Executive Chair Date: 7/01/14 Hour: 9:00 a.m. Signature: Maria Esmeralda – Received

Stamped Seal: Ministry of Foreign Affairs - RECEIVED Directorate General of Legal Affairs, Sovereignty and Territory

Date: 09/01/14 Hour: 10:00 a.m.

Signature: Illegible

Managua, January 06, 2014. P/FV/332

Mr. Steadman Fagoth Muller Executive Chair Nicaraguan Institute of Fisheries (INPESCA) His Office

Dear Mr. Fagoth:

During the year 2013, several Nicaraguan flag fisheries vessels or that fish under the protection of a Fisheries License issued by Nicaraguan fisheries authorities, have undergone harassment and threats by personnel of the Colombian National Armada while the fisheries vessels performed their fishing activities in the areas of the new maritime zone that the International Court of Justice at The Hague acknowledged to Nicaragua through the ruling of November 2012.

The captains and crewmembers of the Nicaraguan fisheries vessels identified below, report to their vessel owners, who are in turn associates of this Chamber, that a Frigate of the National Armada of Colombia approaches them at a distance of less than half a nautical mile and through their radio communications, in a rather hostile and aggressive manner, tells them that those are Colombian waters, that they cannot continue fishing in that area and orders them to withdraw. The captains of the Nicaraguan vessels have responded that those areas belong to Nicaragua by a ruling of the International Court of Justice; but have tried to sidestep further discussions and have become blind eye to avoid falling into the provocations of the Colombian Navy. Furthermore, on one occasion, on October 19, 2013, two warplanes overflew the Nicaraguan vessel "Capitana Camaron" in a gesture to frighten its crewmembers.

The Nicaraguan Chamber of Fisheries (CAPENIC for its Spanish acronym), as a professional organization incorporated by Nicaraguan vessel owners and fisheries companies, hereby report these events and ask the Government of Nicaragua to carry out the pertinent diplomatic and legal actions to guarantee the right of the Nicaraguan fishermen and vessel owners to work in the national maritime area, in a safe environment for the crewmembers and the fishing transportation means and equipment.

Details of the days, hours, coordinates and names of the Nicaraguan vessels that reported being victims of these hostilities on several occasions during 2013, are as follows:

DATE	NAME OF VESSEL	COORDINATES	NAVY SHIP OF THE COLOMBIAN ARMADA	MANNER OF HARASSMENT
10:10 hrs. 19/10/2013	CAPITANA-CAMERON	14°36′00" — 081°50′00"	ARC Independiente (FM-54)	Overflight of 2 warplanes OV -10 Bronco.
11:17 hrs.	LADY DEE II	14°50'00" — 081°53'00"	ARC Antioquia (FM-54)	It harassed it by saying they were in Colombian waters
10:50 hours 17/11/2013	MISS SOFIA	14°50'00" — 081 °45'00'	ARC Almirante Padilla (FM-51)	That it should withdraw because they are jurisdictional waters of Colombia. The Frigate released a speedboat that harasses the Fishing Boat

We thank you in advance for your attention to this matter and for the urgent steps in this regard.

Sincerely yours, Illegible Signature Engineer Francisco Vannini President, CAPENIC



Stamped Seal: INPESCA - Executive Presidency Date: 07/01/14 – Hour: 9:00 a.m.
Signature: Illegible – Maria Esmeralda - RECEIVED

CC: Ministry of Foreign Affairs CAPENIC Members

Annex 21

Letter from the President of the Nicaraguan Chamber of Fisheries to the Executive Chair of the Nicaraguan Institute of Fisheries

1 July 2014



NICARAGUAN CHAMBER OF FISHERIES

CAPENIC Nicaraguan Chamber of Fisheries

Stamped Seal: INPESCA-Executive Chair Date: 02/07/14 Hour: 9:35 a.m.
Signature: Maria Esmeralda - Received

Managua, July 1, 2014. P/FV/333

Mr. Steadman Fagoth Muller Executive Chair Nicaraguan Institute of Fisheries (INPESCA) His Office

Dear Mr. Fagoth:

Thus far, during the course of the year 2014 to date, personnel of the Colombian National Armada continued harassment and threats against several Nicaraguan flag fisheries vessels or that fish under the protection of a Fisheries License issued by Nicaraguan Fisheries Authorities while these fishing vessels perform their fisheries activities in areas of the new national maritime zone that the International Court of Justice of The Hague acknowledged to Nicaragua through the ruling of November 2012.

According to reports of captains and crewmembers of the Nicaraguan fisheries vessels identified below, they reported that a Frigate of the National Armada of Colombia approached Nicaraguan vessels at a distance of less than half a nautical mile and through their radio communications, always in a hostile and aggressive manner, repeated that those are Colombian waters, that they cannot continue fishing in that area and that they are ordered to withdraw. The captains of the Nicaraguan vessels responded that those areas belong to Nicaragua by a ruling of the International Court of Justice, trying to sidestep further discussions. They also report they have not suffered warplane flights over the fishing boats; even so, they consider that the threatening attitude continues and they fear that at some point, they may be victims of a violent action or undue arrest.

The Nicaraguan Chamber of Fisheries (CAPENIC for its Spanish acronym), as a professional organization incorporated by Nicaraguan vessel owners and fisheries companies, hereby reiterate our concern over these reports and once again, request that the Government of Nicaragua to implement the pertinent diplomatic and legal actions to guarantee the right of the Nicaraguan fishermen and vessel owners to work in the national maritime area with the necessary safety for the crewmembers, the vessels and the fishing gear.



NICARAGUAN CHAMBER OF FISHERIES

These threats frighten Nicaraguan fishermen, who limit their movements through those areas to the detriment of their economic interests and restrain fisheries investments in that area.

Details of the days, hours, coordinates and names of the Nicaraguan vessels that reported being victims of these hostilities thus far throughout the year 2014, are as follows:

DATE	NAME OF THE VESSEL	COORDINATES	NAVAL SHIP OF THE COLOMBIAN ARMADA	MANNER OF HARASSMENT
09:50 Hours	CARIBBEAN STAR	14°47'00" — 081°52'00"	ARC Independiente (FM-54)	Urged to withdraw from the area and that it was not allowed to fish with divers
09:50 Hours 29/01/2014	SNYDER	14°30'00" — 081°50'00"	ARC Independiente (FM-54)	Urged to withdraw from Colombian waters
11:30 Hours 05/02/2014	NICA FISH	14°44'00" — 081°39'00"	ARC "20 de Julio" (PZE-46)	Urged to withdraw from Colombian waters
17:00 Hours 12/03/2014	AL JOHN	14°44'00" — 081°50'00"	ARC "20 de Julio" (PZE-46)	Ordered to abandon the fishing area
12:00 Hours 13/03/2014	MARCO POLO	14°43'00" — 081°45'00'	ARC "20 de Julio" (PZE-46)	Ordered to abandon the fishing area as it is a protected area
09:30 Hours 03/04/2014	MISTER JIM	14°44'00" — 082°00'00"	ARC "San Andres" (PO-45)	Communicated by radio to stop catching lobster and to withdraw from the area

We thank you in advance for your attention to this matter and for the urgent steps in this regard.

Sincerely yours, Illegible Signature Javier Sanchez President, CAPENIC

Stamped Seal: Ministry of Foreign Affairs Received:

Date: 03/07/14 – Hour: 10:00 a.m. Signature: Illegible Signature

Stamped Seal: INPESCA-Executive Chair Date: 02/07/14 Hour: 9:35 a.m. Signature: Maria Esmeralda - Received

CC: Ministry of Foreign Affairs CAPENIC Members

Annex 22

Letter from the President of the Nicaraguan Chamber of Fisheries to the Executive Chair of the Nicaraguan Institute of Fisheries

24 July 2014

NICARAGUAN CHAMBER OF FISHERIES

Managua, July 24, 2014.

P/JS/335

Mr. Steadman Fagoth Müller

Executive Chair

Nicaraguan Institute of Fisheries (INPESCA)

His Office.

Dear Mr. Fagoth:

I am writing to you in order to inform you of the latest harassment from the Colombian Armed Forces to Nicaraguan fishing vessels which occurred on July 20 of 2014 in the sector known as Luna Verde. The fisheries vessels by the name of "Miss Emilia", "Pescasa 35", "Marco Polo", "Miss Isabella", "Lucky Five", "Lucky Six" and "Mister Kerry" which fish under the protection of a Fisheries License issued by Nicaraguan fisheries authorities, have undergone harassment and threats by two areal means of the Colombian Air Force and one ship from the Colombian National Armada, while they performed their fishing activities in areas that are part of Nicaragua's exclusive economic zones (Coordenates).

The captains and crewmembers of the Nicaraguan fisheries vessels previously identified, reported to their vessel owners, who are in turn associates of this Chamber, that on July 20 they were over flown at low altitude and repeatedly by two aerial means from the Colombian Air Force and furthermore challenged by radio communication from a naval mean which identified itself as a ship from the Colombian National Armada. Through radio communication and in a hostile tone it was demanded that the Nicaraguan fisheries vessels remove themselves from the area because they could not continue to fish in Colombian waters.

Due to this harassment the captains of the Nicaraguan vessels opted to retire from the area in which they were fishing.

The Nicaraguan Chamber of Fisheries (CAPENIC for its Spanish acronym), as a professional organization incorporated by Nicaraguan vessel owners and fisheries companies allows itself to report these facts and reiterates its request to the Government of Nicaragua to carry out the pertinent diplomatic and legal actions to guarantee the right of the Nicaraguan fishermen and vessel owners to work in the national maritime area, in a safe environment for the crewmembers and the fishing transportation means and equipment. These acts of harassment from the Military Forces of Colombia have generated an atmosphere of fear in the Nicaraguan fishermen preventing them from performing their labor, thus generating serious economic loss.

For this reason, our associates have decided, as far as possible, to fish in these maritime spaces only when they operate nearby units from the Army's Naval Force of Nicaragua, decision that also affects economically.

DATE	NAME OF VESSEL	COORDINATES	PLANES AND NAVAL MEANS	MANNER OF HARRASSMENT
20/07/2014	Miss Emilia	14°23′00″-081°56′00″		Overflight of
	Pescasa-35	14°25′00″-081°53′00″	2 planes from	2planes and harassment by 1 ship from the
	Marco Polo	14°23′00″-081°59′00″	the Air Force of	Colombian Armada.
	Miss Isabella	14°23′00″-081°58′00″	one naval mean from the	That it should
	Lucky Five- Lucky Six	14°20′00″-081°58′00″	Colombian Armada	withdraw because they
	Mister Kerry	14°25′00″-081°58′00″		are jurisdictional Colombian waters

We thank you in advance for your attention to this matter and for the urgent steps in this regard.

Sincerely yours,

Illegible Signature

Xavier Sanchez

President, CAPENIC

Cc: Ministry of Foreign Affairs

Cc: CAPENIC Members

Annex 23 A

Letter from the Nicaraguan Naval Force to the Ministry of Foreign Affairs reporting on incidents with the Colombian Navy in Nicaragua's Exclusive Economic Zone

26 August 2014



Nicaragua
2014
MAKING
a Homeland!

Ministry of Foreign Affairs

Managua, August 13, 2014 MRE/DGAJST/407/08/14

Rear Admiral Marvín Corrales Head of the Navy His Office

Dear Rear Admiral Corrales:

I have the honor to address you in order to request that you kindly inform us of any incidents that may have taken place between the Colombian Navy and the Nicaraguan Navy, as well as with Nicaraguan fishermen in the zone that was returned by the International Court of Justice (ICJ) in its judgment of November 19, 2012.

I take this opportunity to wish you my best regards,

[signature]

Cro. César Vega Masís General Director of Legal, Sovereignty, and Territorial Affairs and Advisor to the Minister

[seal:] Ministry of Foreign Affairs – Republic of Nicaragua – Central America – General Directorate of Legal, Sovereignty, and Territorial Affairs

[symbol]
FAMILY AND
COMMUNITY
IN VICTORY!

CHRISTIAN, SOCIALIST, SOLIDARY!
Ministry of Foreign Affairs

Former site of Cine González 1 block south of Bolivar Avenue/ Tel: 2244-8067-Fax. 22448055 [illegible] 190814 16:04 hours

[illegible seal]



NICARAGUAN ARMY HEADQUARTERS AND GENERAL STAFF – NAVY "Colonel Abraham Rivera"

Managua, Nicaragua August 26, 2014 J'FN-459-2014.

Deputy Minister of Foreign Affairs and General Director of Legal, Sovereignty, and Territorial Affairs Ministry of Foreign Affairs

Dr. CESAR VEGA MASIS.

His office

Dear Dr. Vega:

In response to your official letter MRE/DGAJST/407/08/14 dated August 13, 2014, allow me to inform you of some of the incidents that have occurred with the Navy of the Republic of Colombia (ARC) within Nicaragua's Exclusive Economic Zone in the Caribbean following the Judgment of the International Court of Justice of November 19, 2012.

Attached is a report of the incidents that are reflected in the relevant daily graphic reports and certain audio reports.

In this regard, I wish to point out the constant overflights of Colombian aircraft over our naval vessels and fishing boats, and the permanent presence of the Colombian Navy, which has caused us, to the extent possible, to try to ensure the peace and safety of fishermen with Nicaraguan licenses, who have been disturbed and who have had to suspend their fishing activities on some occasions.

I should also inform you that based on the position of the Government of Nicaragua and the High Command of the Nicaraguan Army, our Navy has conducted itself cautiously and in a non-confrontational manner, in order to avoid situations that would create tension in the area.

On that note, please accept my kind regards.

Sincerely,

Head of the Navy Rear Admiral [signature]

MARVIN ELÍAS CORRALES RODRÍGUEZ

cc: File

[seal:] NICARAGUAN ARMY - Republic of Nicaragua - Central America - Chief - Navy

[stamp:] Ministry of Foreign Affairs – RECEIVED – General Directorate of Legal, Sovereignty, and Territorial Affairs – DATE: 8/27/14 TIME: 9:37 A.M. SIGNATURE [signature]

REPORT OF INCIDENTS WITH THE NAVY OF THE REPUBLIC OF COLOMBIA IN NICARAGUA'S EXCLUSIVE ECONOMIC ZONE

10/13/2013 08:55 hours. The Commander of the GC-205 "Río Escondido," Navy Lieutenant Holvin Martínez, reported that he was located at 14°50'00"N - 081°42'00"W when the frigate ARC "20 de Julio" called him on marine channel 16 and stated that our vessel was heading toward Colombian waters at 3 M, to which Navy Lieutenant Martínez responded that he was navigating in the jurisdictional waters of the State of Nicaragua.

10/19/2013 09:50 hours, Navy Lieutenant Holvin Martínez of the GC-205 "Río Escondido" reports that 2 OV-10 Bronco airplanes of the FAC (Colombian Air Force) flew over them from north to south in a hostile manner for 10 minutes. They also flew over the fishing boats "Capitana," flying the Honduran flag with a Nicaraguan fishing permit, and "Camerón," which flies the Nicaraguan flag. Coordinates 14°36'00"N - 081°50'00"W.

10/29/2013 15:00 hours, coast guard vessels GC-201 "Río Grande Matagalpa" and GC-205 "Río Escondido" were located at 14°36'00"N - 081°55'00"W and 14°37'00"N - 081°58'00"W when a Colombian Air Force plane coming from the east flew over them in a hostile manner at an altitude of approximately 200 feet.

10/30/2013 16:40 hours, the commander of the GC-201 "Río Grande Matagalpa," Navy Lieutenant Francisco Díaz, reports that he was located at $14^{\circ}36'00"N - 081^{\circ}55'00"W$, when, at 16:40 hours, a Colombian Navy helicopter going from south to north and vice-versa flew over him at a height of 200 feet. It flew over the GC 205 "Río Escondido," at position $\Phi14^{\circ}37'00"N - \lambda-081^{\circ}58'00"W$, 60 M northeast of the Miskito Keys, in the same way.

10/31/2013 14:40 hours, the Commander of the GC-201 "Río Grande de Matagalpa," Navy Lieutenant Francisco Díaz, was at 14°36'00"N - 081°55'00"W when, at 09:00 hours, a helicopter travelling from north to south flew over him in a hostile manner. He also reported that at 10:00 hours, he noticed an unidentified Colombian frigate arriving 5 M Southeast of the GC, where the helicopter landed.

11/07/2013, 11:17 hours, the Head of the Puerto Cabezas Naval Base reports that the Captain of the fishing boat "Lady Dee II," with a Nicaraguan flag, informed him that while he was at 14°50'00"N - 081°53'00"W, 58 M northeast of the Miskito Keys, the frigate ARC-53 "Antioquia" pursued him and indicated that they were in Colombian waters. Given the situation, and with great caution, the Commander of GC-401 established communication with the Colombian frigate, explaining that

the "Lady Dee II" fishing boat was fishing in waters within Nicaragua's jurisdiction.

11/17/2013 10:50 hours, Navy Lieutenant Mario Paramo, Commander of GC-205 "Rio Escondido," reports that, over marine channel 16, the captain of the Nicaraguan flag lobster boat "Miss Sofía" advised him that he was at position 14°50'00"N - 081°45'00"W, NW of Quitasueño, when the Commander of the frigate ARC "Almirante Padilla" (FM 51) ordered him to withdraw from that position because he was in waters within Colombia's jurisdiction. When the Nicaraguan vessel refused, the frigate sent out a speed boat that harassed the "Mis Sofía." At 15:18 hours, while located at position 14°45'00"N - 081°49'00"W, he established communication with the frigate, located 3 M away, and the latter advised him that they did not recognize the ICJ judgment and that they would remain where they were.

11/19/2013, 9:50 hours, the GC – 201 "Río Grande de Matagalpa" reports that it is complying with the patrol line at 14°35'00"N - 081°55'00"W, 48 M to the SW of the Miskito Keys, and that a Colombian Navy aircraft flew over it.

11/21, 11/24/2013, the GC-201 "Río Grande de Matagalpa" reports that a Colombian Navy helicopter flew over it from south to east and north to south at an altitude of approximately 200 feet. It was located at 15°00'00"N - 081°44'00"W.

11/25/2013 18:00 hours, the GC-201 "Río Grande de Matagalpa" reports that a Colombian Navy helicopter flew over it three times in a hostile manner from north to south at an altitude of approximately 200 feet at 14°50'00"N - 081°37'00"W.

01/2/2014 19:10 hours, the commander of the GC-403 "General José Santos Zelaya," Navy Lieutenant Domingo Javier González López, reports that he was at 14°50′00"N – 81°40′00"W when, at 18:20 hours, he was intercepted by radio by a Colombian warship located at 14°46′20"N – 081°46′37"W, which informed him that he was in Colombian waters and asked him to report his intentions. The Commander of the GC-403, Navy Lieutenant Gonzales, responded that he intended to navigate in waters within Nicaragua's jurisdiction, to which the frigate responded that the Colombian Government did not recognize the ICJ judgment. Navy Lieutenant Gonzales replied to the effect that Nicaragua did recognize it and, consequently, he was navigating in Nicaraguan jurisdictional waters.

The Colombian frigate again demanded that he clarify his intentions and stay out of Colombia's contiguous zone and territorial waters. The GC responded that Nicaragua respected international maritime law and that it was in Nicaraguan waters, not Colombian waters. The Colombian warship reiterated that it was in Colombia's integral contiguous zone. (AUDIO ATTACHED).

01/7/2014 08:30 hours, The Commander of the GC-401 "General José Dolores Estrada," Navy Lieutenant Jorge Gómez Prado, reports that there is a U.S. Navy corvette named the "Pathfinder" (Oceanographic vessel) at 14°42'00"N – 081°39'00"W, 60 M NE of the Miskito Keys, with which it established

communication to inquire about the reasons for its presence and whether it had the respective authorization for its activities in Nicaragua's exclusive economic zone. The "Pathfinder" answered that it was conducting routine military inspection operations in international waters. In response, he stated that they were in Nicaraguan waters and within Nicaragua's exclusive economic zone, hence they could only exercise their right to free navigation in our waters. The Colombian frigate intercepted the communication, stating that the "Pathfinder" was authorized by the Colombian Government to conduct research in Colombia's exclusive economic zone and asked the GC-401 not to interfere with the "Pathfinder's" activities in those waters because they were Colombian waters. (AUDIO ATTACHED)

01/25/2014 16:01 hours. The Commander of the BL-405 "Tayacán," Navy Lieutenant García, at ϕ 14°55′00′′N – λ 081°40′00′′W, 60 M NE of the Miskito Keys, reports that at 15:00 hours, he detected an object on the radar at ϕ 14°51′00′′N – λ 081°46′00′′W, with which he initiated communication, informing it that it was in Nicaraguan waters. The Captain of the vessel, which identified itself as the "Pathfinder," a scientific vessel flying the U.S. flag, indicated that they were conducting research authorized by the Colombian government in the area. He hoisted anchor and headed for San Andrés Island.

01/27/2014 09:50 hours. The BL - 405 "Tayacán," located at 14°50'00"N - 081°40'00"W, reports that while the lobster boat "Caribbean Star," with a Nicaraguan fishing license, was harassed and told to leave the area by the ARC frigate "Independiente" (FM-54) of the Colombian Navy while it was fishing in Nicaraguan waters at latitude 14°47'00"N and longitude 081°52'00"W. The Colombian frigate informed the fishing boat that it was navigating in the Sea Flower Biosphere Nature Reserve recognized by UNESCO and that it was fishing illegally with a diver. Since the Colombian Government has not recognized the Hague Judgment, Colombian Navy vessels would continue to exercise sovereignty and control in those waters. (AUDIO ATTACHED)

Similarly, on that same day, the lobster boat "Al John," with a Nicaraguan fishing license, was harassed by the same frigate, located at ϕ 14°26′00″N – λ 081°55′00″W, while it was fishing at latitude 14°44′00″N and longitude 081°47′00″W.

01/29/2014, 11:10 hours. The frigate ARC "Independiente" (FM-54), at approximately latitude 14°30'00"N and longitude 081°50'00"W, 57 nautical miles northeast of the Miskito Keys, communicated with the Nicaraguan fishing boat "Snyder" and asked it to withdraw from Colombian waters. The BL-405 "Tayacán" of the Nicaraguan Navy contacted the aforementioned Colombian frigate and

advised the crew members that they were in waters under Nicaraguan jurisdiction, to which the crew members of the frigate "Independiente" responded that the Colombian Government does not accept the International Court of Justice's Judgment.

02/1/2014 11:00 hours. The Commander of the Logistic Ship BL-405 "Tayacán," Navy Lieutenant Alejandro García, reported that he was at 14°35'00"N - 081°46'00"W, that when he heard the conversation between the fishing boat "Maddox," flying the Honduran flag with a Nicaraguan fishing permit, and the frigate ARC "Independiente" (FM-54), located at latitude 14°44'00"N and longitude 081°39'00"W, which told it that it was in Colombian waters and that its government decided that the Hague Judgment was not applicable. It also informed it that fishing with a diver was prohibited and that Colombian Navy vessels would continue to exercise sovereignty over these waters. The fishing boat responded that it was fishing with a trap. (AUDIO ATTACHED)

At 11:35 hours on 02/1/2014, Navy Lieutenant García, Commander of the BL-405, contacted the frigate ARC "Independiente" (FM-54), advising it that it was navigating in Nicaraguan jurisdictional waters according to the Hague Judgment. The Colombian frigate responded that it was in Colombian waters and that its government had established that the Hague Judgment was not applicable, so Colombian Navy vessels would continue to exercise sovereignty over these waters, and ordered it remain away from Colombia's contiguous zone and territorial waters. (AUDIO ATTACHED)

02/2/2014 13:35 hours, The Commander of the BL-405 "Tayacán," Navy Lieutenant Alejandro García Bermúdez, reports that he was at 14°40'01"N – 81°50'08"W when he observed the fishing boat "Dora María" along with frigate ARC "20 de Julio" at coordinates 14°44'00"N – 81°39'00"W. The BL-405 informed the frigate that it was in waters that had been returned by the International Court of Justice. The Colombian frigate indicated that the Colombian State had established that the Judgment was not applicable and they would continue to exercise sovereignty over those waters, and asked to be informed of its intentions. Moreover, the frigate indicated that it was proceeding to provide assistance to the fishing boat "Dora María." The frigate also asked the BL-405 to stay out of the Colombia's contiguous zone and territorial waters. (AUDIO ATTACHED)

02/5/2014 11:30 hours. Navy Lieutenant García, Commander of the BL-405, reported that he had had a conversation with the frigate ARC "20 de Julio," which told him that he was in Colombian waters. Navy Lieutenant García responded that he was navigating in Nicaraguan waters. The frigate also asked the BL-405 and the 12 Nicaraguan vessels fishing in the area of coordinates $\phi14^{\circ}44'01''N-\lambda081^{\circ}39'08''W$ to stay out of Colombia's contiguous zone and Colombian territorial waters, (AUDIO ATTACHED)

The Colombian frigate took the same position with same position with the fishing boat flying the Nicaraguan flag, "Nica Fish 4," when it was fishing in the area.

02/6/2014 12:30 hours, the BL-405 "Tayacán," at ϕ 14°44′00"N – λ 081°49′00"W, sighted, 3 M to the north of its position, patrol boat ARC "20 de Julio" (PZE-46), which questioned fishing boat "Nica Fish 4" by radio and advised it that it was fishing in Colombian waters.

02/13/2014 11:30 hours, the commander of the BL-405 "Tayacán," Navy Lieutenant Holvín Martínez, reported that he was at φ 14°48'00''N – λ 081°36'00''W and that 3 M NE he observed the frigate "Almirante Padilla" (ARC-51), along with the fishing boat "Blu Sky," flying the Honduran flag and with a Colombian fishing permit. Crew from the Colombian frigate boarded the fishing boat.

02/14/2014 11:30 hours, the BL-405, at $\phi14^{\circ}56'00''N - \lambda081^{\circ}35'00''W$, contacted the captain of the fishing boat the "Blu Sky," Ezequiel González, a Honduras national, who indicated that he was fishing there with Colombian authorization. The BL-405 responded that he was in Nicaraguan waters.

02/20/14 14:20 hours, the commander of the BL-405 "Tayacán," Navy Lieutenant Holvín Martínez, reports that he is at 14°50'00"N – 081°50'00"W, 65 M NE of the Miskito Keys, and that the frigate ARC "Almirante Padilla" (FM-51) is located 4 M to the SE of his position, and he has sighted the U.S. vessel "Pathfinder" 1.8 M from his position, accompanied by the frigate.

02/21/2014, 06.20 hours, the Commander of the BL-405 "Tayacán," Navy Lieutenant Holvín Martínez, reports that he is at 14°49'00"N – 081°49'00"W, 65 M to the NE of the Miskito Keys, and that the frigate ARC "Almirante Padilla" is 4 M SE of his position, along with the U.S. vessel "Pathfinder," which is 1.8 M from him.

02/22/2014. The frigate ARC "Almirante Padilla" (FM-51) continued to escort the U.S. vessel "Pathfinder" all day; both remained in the area.

03/3/14 12:15 hours. The GC - 201 "Río Grande de Matagalpa", at $14^{\circ}47'00$ "N - 082°42'00"W, reports that it sees the frigate ARC-"Almirante Padilla" (FM-51) 10 M from its position. Upon establishing communication, the Commander of the GC-201 advised the Colombian frigate that it was in Nicaraguan waters, to which the Commander of the Colombian frigate responded that they were in the waters of San Andrés and Providencia.

03/9 and 03/11/2014 15:30 - 14:57 hours. The GC - 201 "Río Grande de Matagalpa" and the BL-405 "Tayacán," at 14°39'00"N - 081°46'00"W and 14°53'00"N - 081°40'04"W, respectively, reported that a Colombian Navy CN-235 twin-engine aircraft repeatedly flew over them at an altitude of 500 feet.

03/12/2014 17:10 hours, the commander of the GC-201 "Río Grande de Matagalpa," Navy Lieutenant Domingo Javier González, reports that he was at $14^{\circ}43'00"N - 081^{\circ}50'00"W$ and that a speed boat from the frigate ARC "20 de Julio" approached the fishing boat "Al John," located at $14^{\circ}44'00"N - 081^{\circ}50'00"W$ (PZE-46), flying the Nicaraguan flag, and ordered it to leave the fishing area. Navy Lieutenant González of the GC-201 contacted the Commander of the Colombian frigate, advising him that the vessel was operating in Nicaraguan waters. Given the hostile attitude of the Colombian frigate and the speed boat, the GC-201 exercised caution in handling the incident.

03/13/2014 12:00 hours. The GC-201 "Río Grande de Matagalpa" reports that it is at 14°43′00"N – 081°45′00"W and it observed the Colombian frigate ARC "20 de Julio" (PZE-46) approaching the fishing boat "Marco Polo," flying the Nicaraguan flag, and ordering it to leave the fishing area because it was a protected area. Given the situation, the Commander of the GC-201, Navy Lieutenant González, advised the captain of the fishing boat by radio that he did not have to leave the location because he was in Nicaraguan waters. The GC-201 exercised caution in handling the incident by trying to establish communication with the Colombian frigate, but was unable to do so.

04/3/2014 09:30 hours. The Head of the Puerto Cabezas Naval Base, Navy Lieutenant Lenin Amador, reports that he was contacted by the Captain of the fishing boat "Mister Jim," flying the Nicaraguan flag, which was at $14^{\circ}44'00"$ N -82°00'00 W, 50 M NE of the Miskito Keys, and that 5 M east of its position was the Ocean Patrol Boat ARC "San Andrés" (PO-45) of the Colombian Navy and 10 M north it observed an unidentified U.S. vessel, and that the Colombian frigate advised the fishing boat "Mister Jim" by radio that it should not continue lobster fishing and should withdraw from the area.

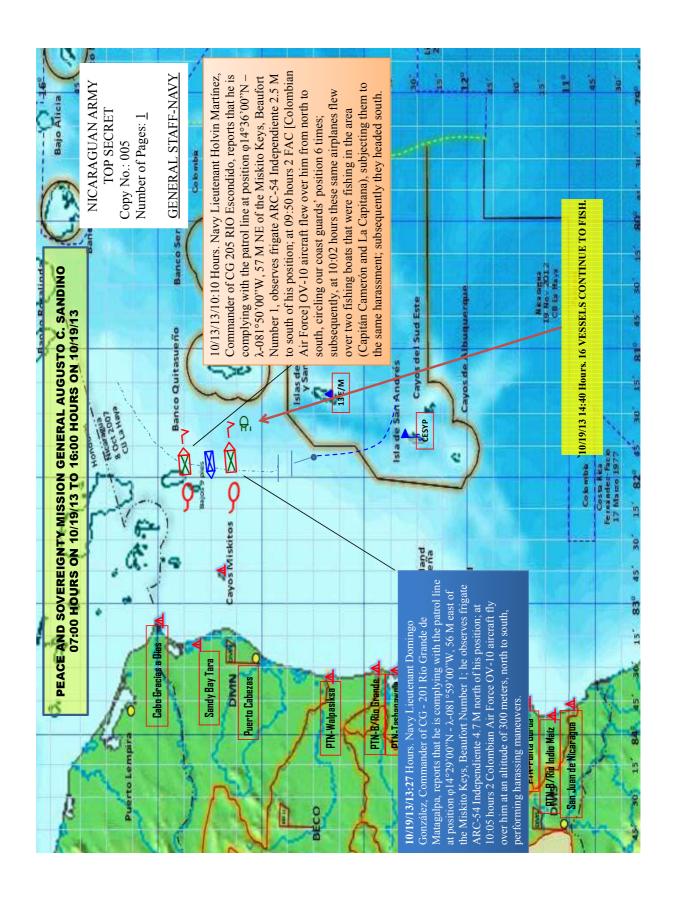
04/3/2014 12:30 hours, the commander of the GC-201 "Río Grande Matagalpa," Navy Lieutenant Mario Paramo Villalobos, reports that he was at 14°44'00" N -82°00'00 W and that he sighted, 10 M east of his location, the ARC "San Andrés" (PO-45) along with an unidentified U.S. vessel.

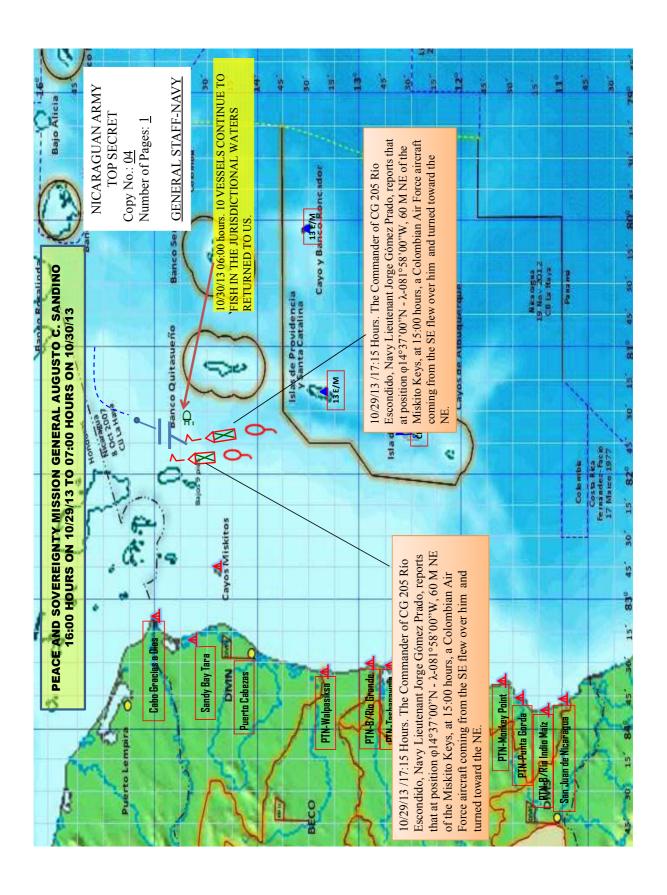
04/15/14 15:47 hours. The Commander of the GC-403 "General José Santos Zelaya," Navy Lieutenant Francisco Javier Díaz Mendoza, reported that he was at 14°41'00" N 81°46'00" W, 60 M NE of the Miskito Keys, and that the frigate ARC "Caldas" was located 3 M SE of his position, maintaining a constant presence. He also reported that at 17:50 hours a Colombian CN-235 twin-engine aircraft flew over him at an altitude of 300 feet going from northeast to west.

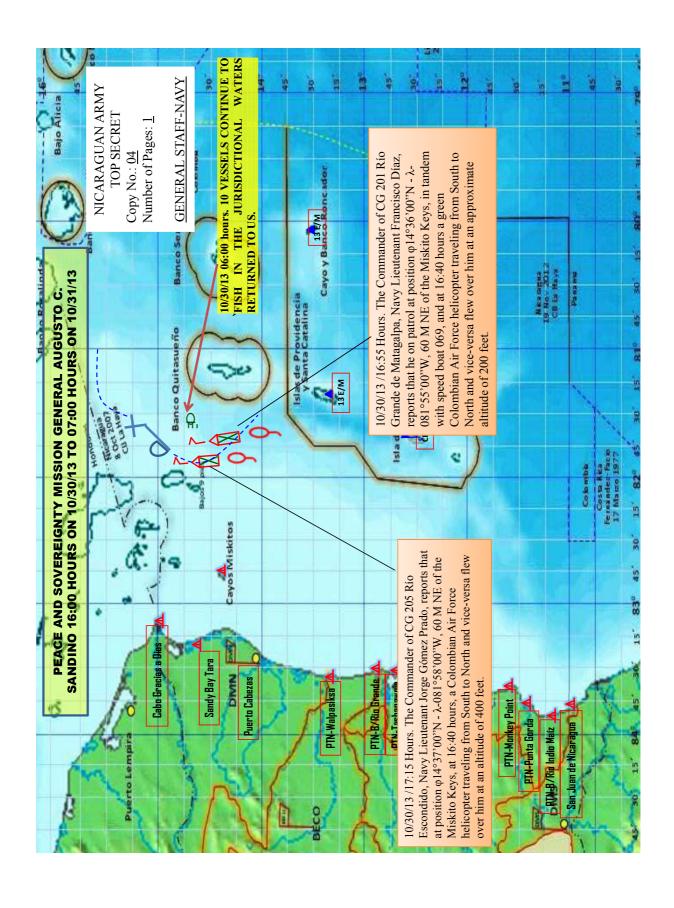
05/8/2014 08:05 hours. The Commander of the GC-201 "Río Grande de Matagalpa," Navy Lieutenant Jorge Gómez Prado, reported that he was at 14°38'00" N 81°48'00" W, 56 M NE of the Miskito Keys, patrolling Nicaraguan waters, when the frigate ARC "20 de Julio" (PZE-46) initiated communication with coast guard vessel GC-201, threatening to take action and that he assume the consequences if the GC-201 came within 2 M, and asking it to change course. The

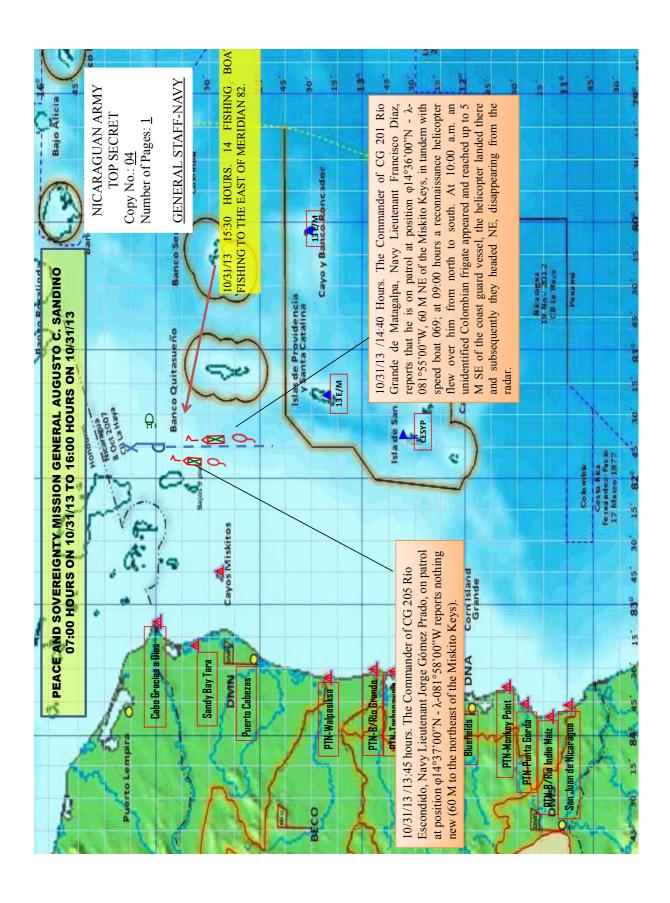
Colombian frigate also stated that it was in those waters to protect the Colombian State's historical fishing rights and to guarantee the safety of the vessels present in the area. The GC-201 responded that it was in Nicaraguan jurisdictional waters, and cautiously advised that it would not change course because it was not jeopardizing the safety of any of the vessels. Neverthless, it decided to cautiously remove itself to position 14°56'00" N 81°42'00" W, 65 M NE of the Miskito Keys, to avoid a major incident with the Colombian frigate. (AUDIO ATTACHED)

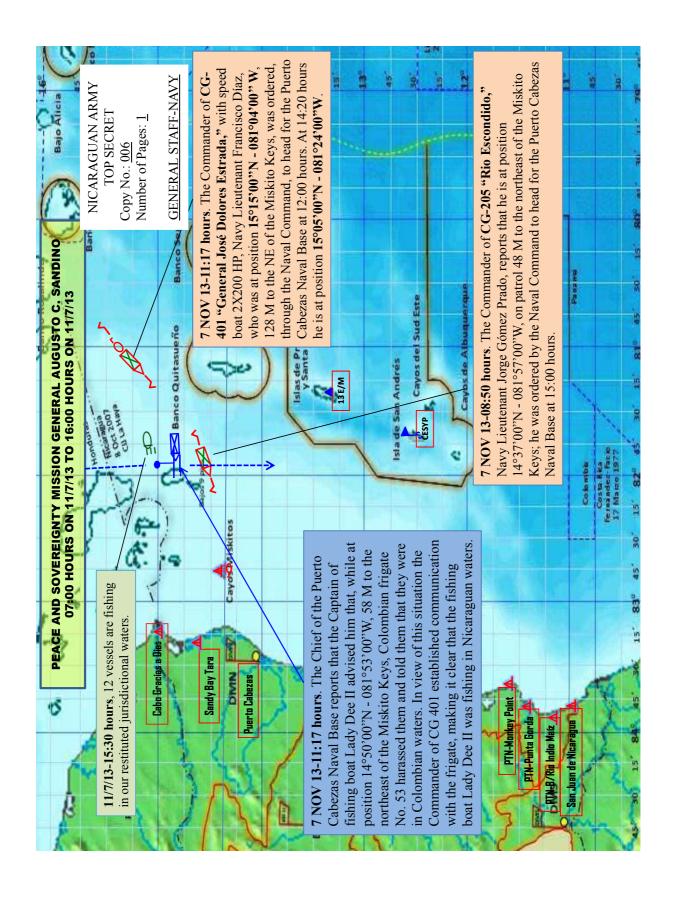
07/28/2014 14:15 hours, the commander of the GC-403, "General José Santos Zelaya," Navy Lieutenant Mario Paramo Villalobo, at 14°22′00"N - 082°01′ 00" W, reports that while performing a routine inspection of the vessel "Doña Emilia," the Captain of that vessel, Lester Alfredo Juárez, informed him that a few days before at ϕ =14°29′00"N; λ =081°53′00" W, a Colombian Navy war frigate advised it by radio that it could not operate in that area, to which the fishing boat responded that it was fishing in Nicaraguan waters. (AUDIO ATTACHED)

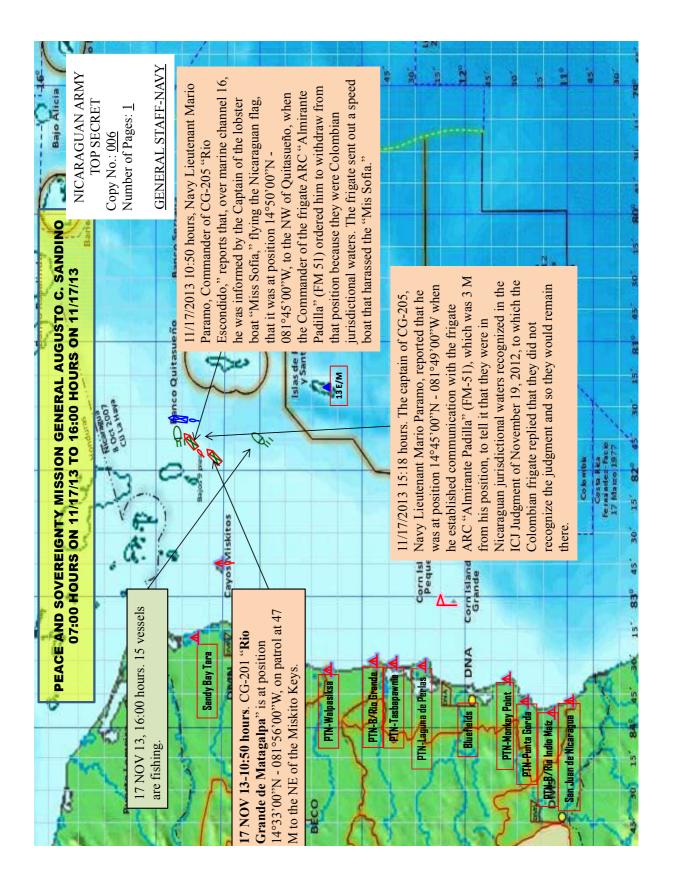


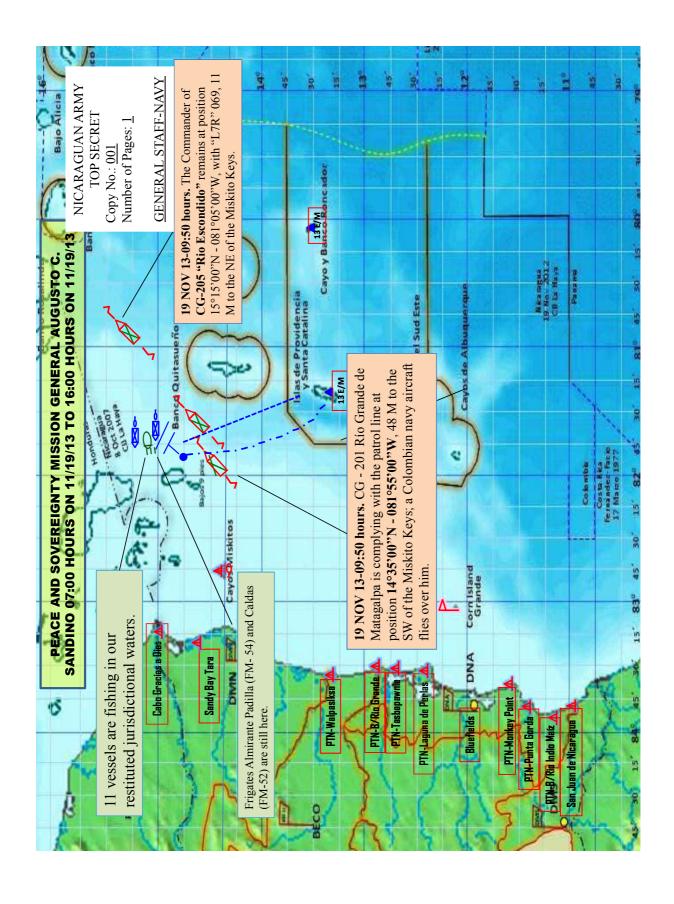


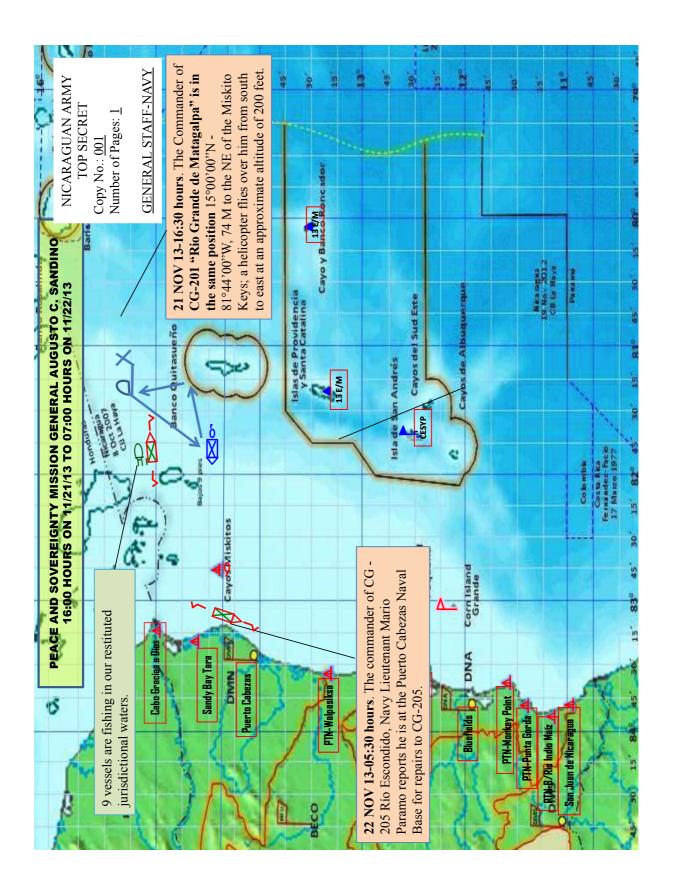


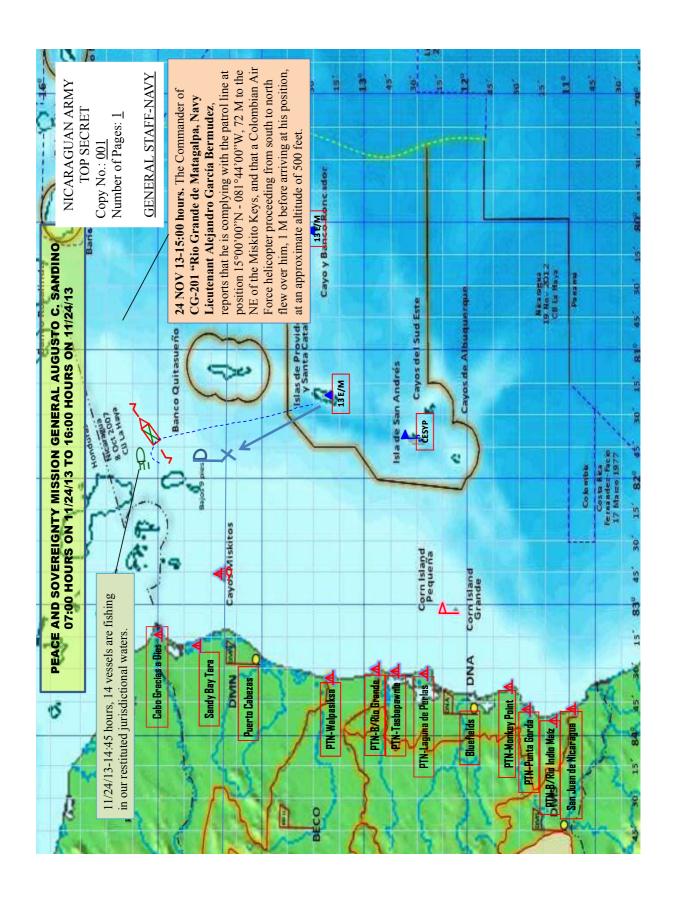


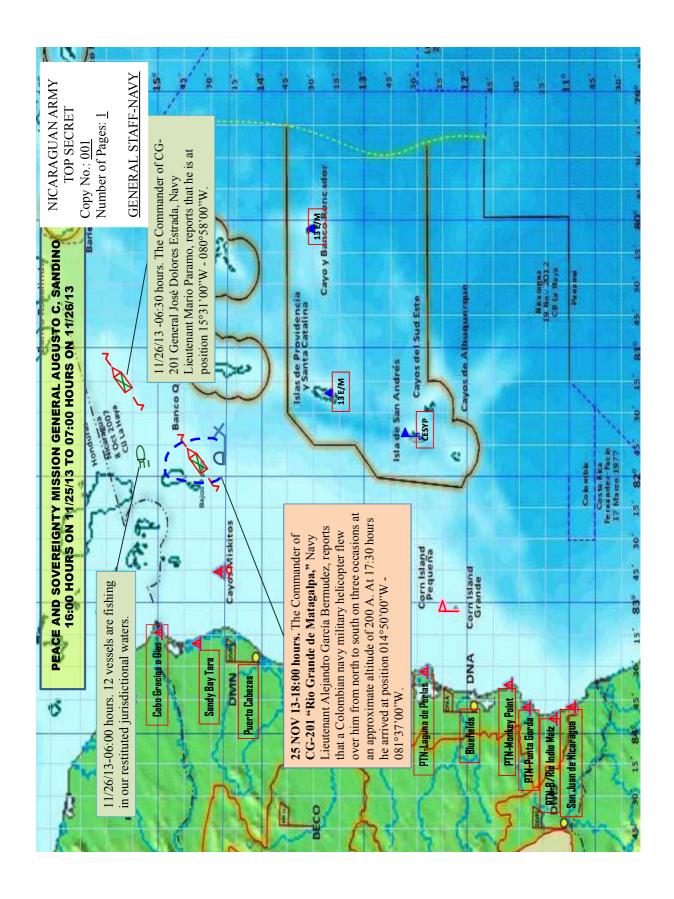


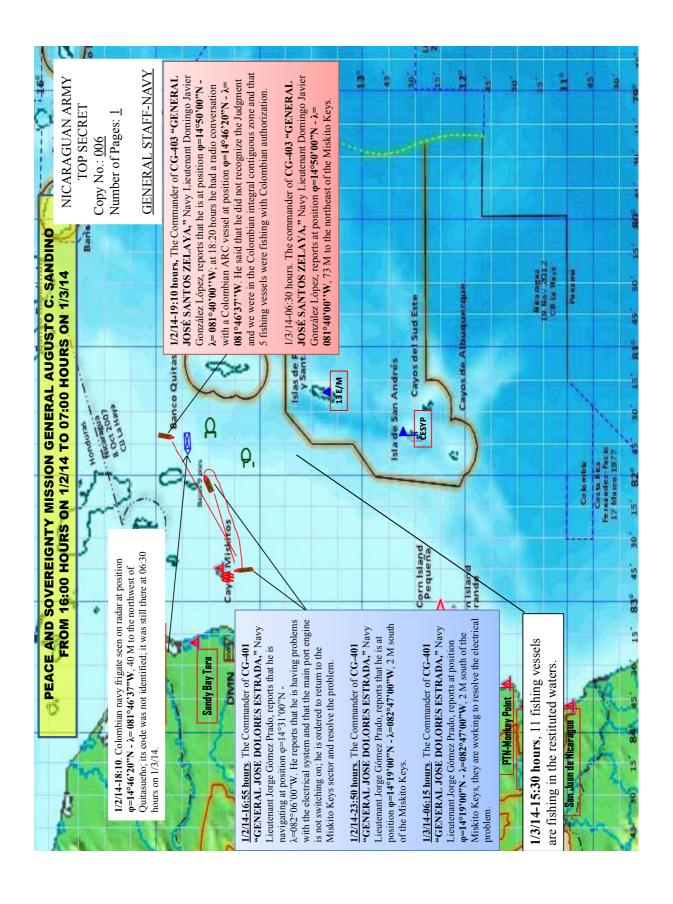


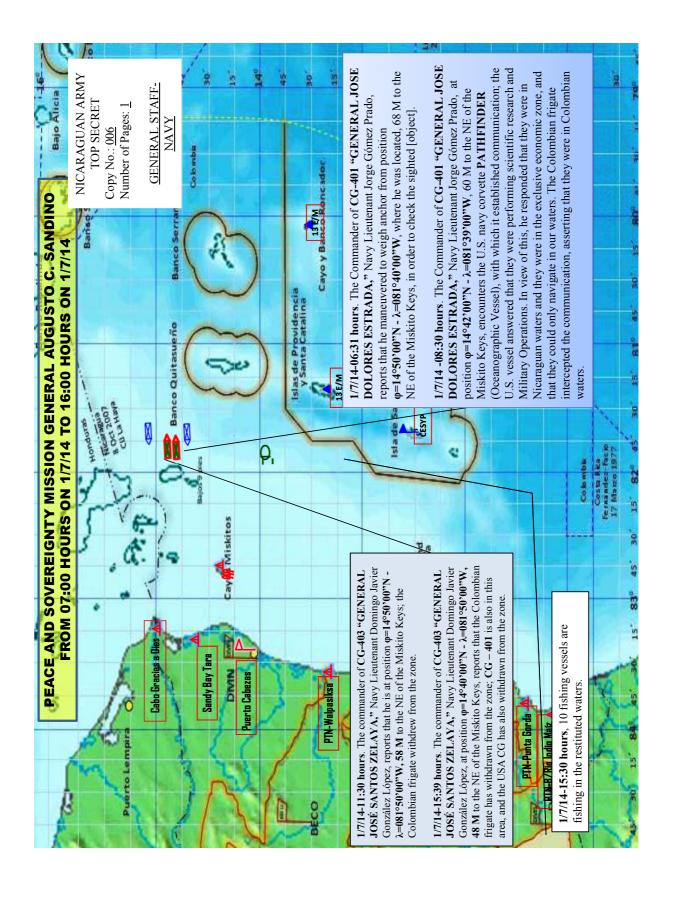


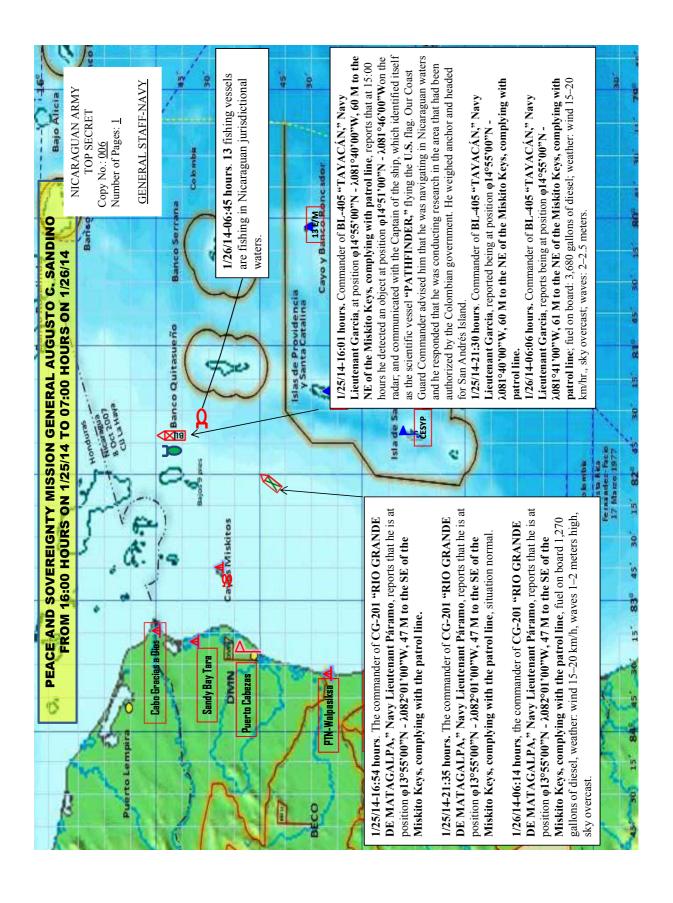


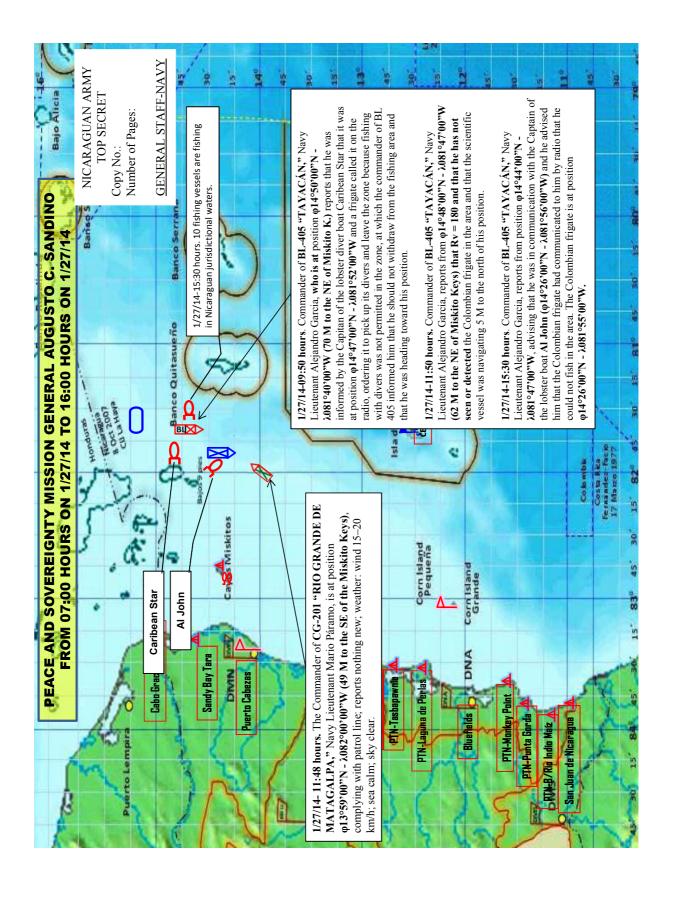


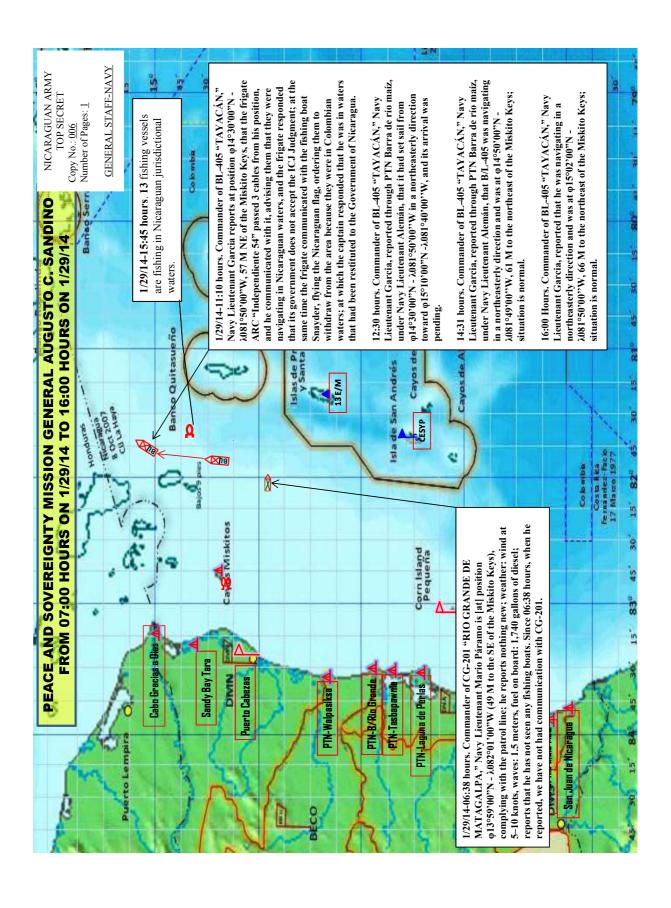


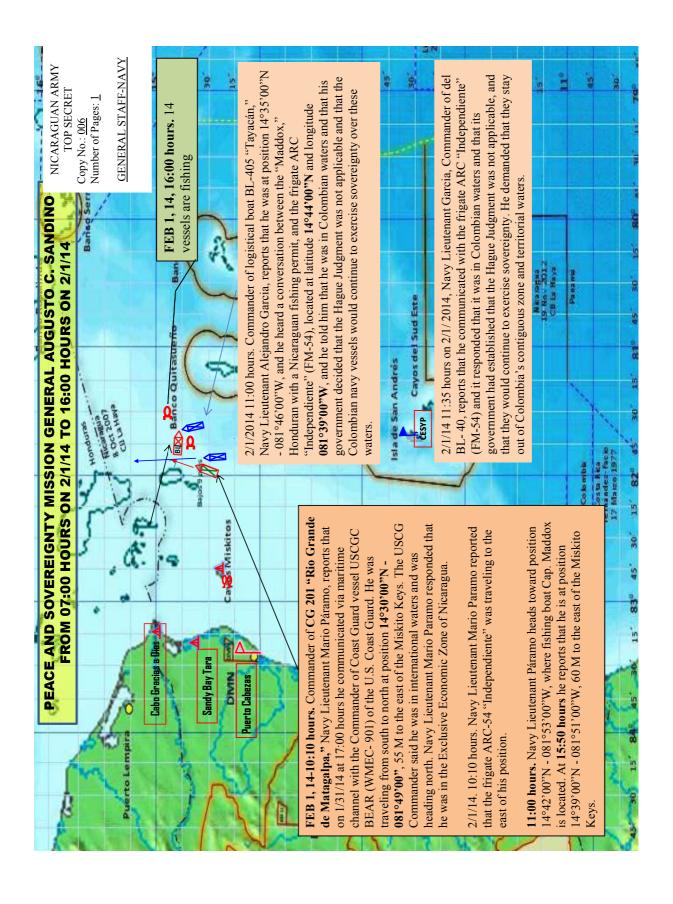


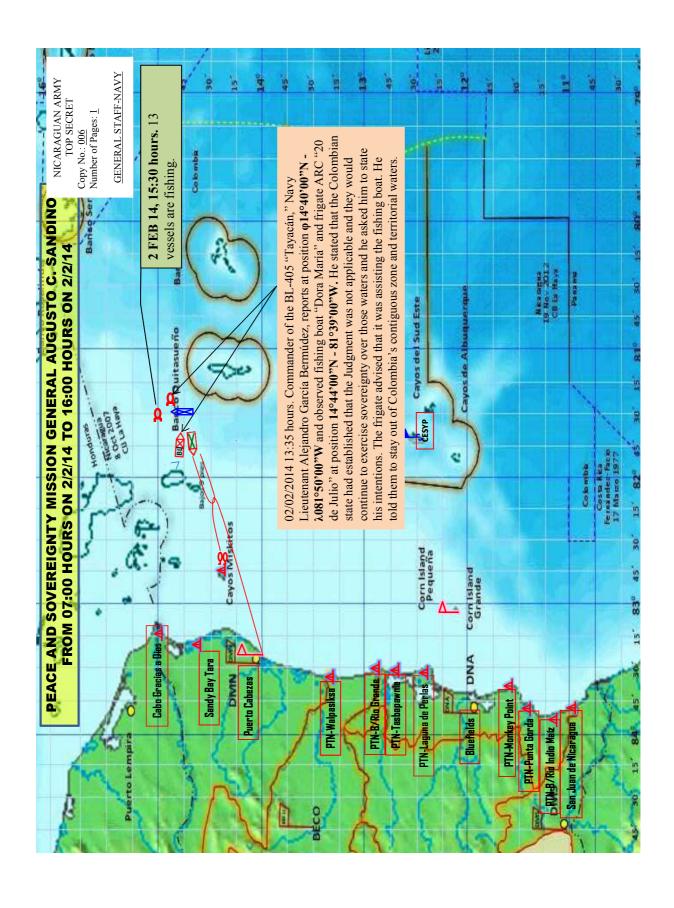


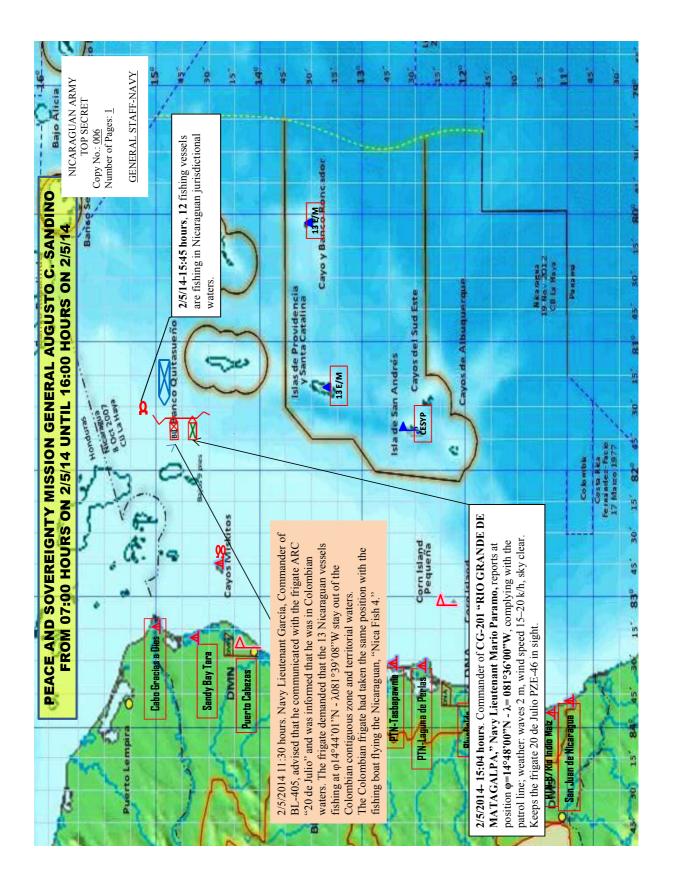


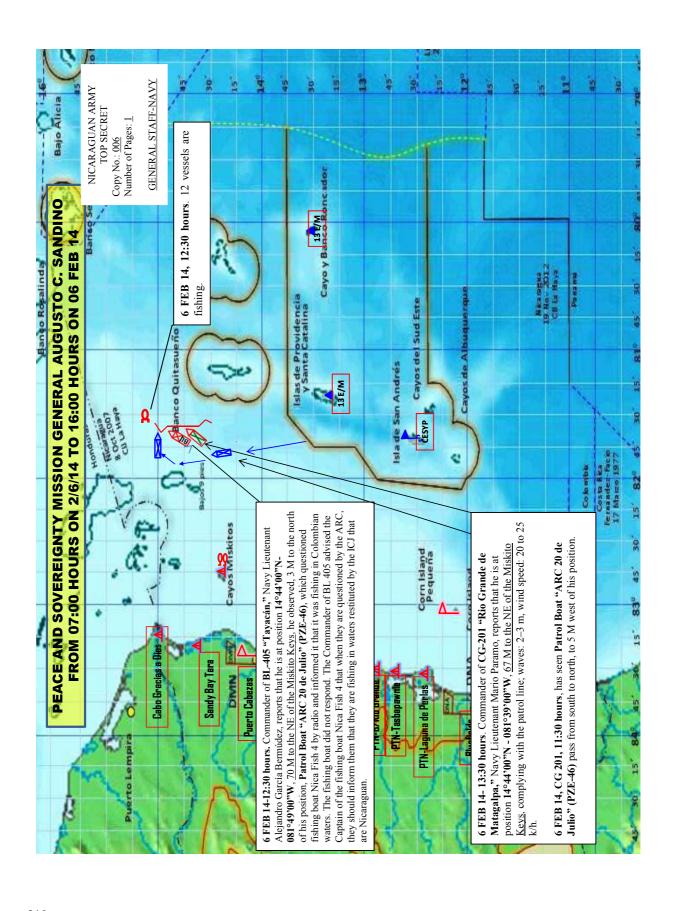


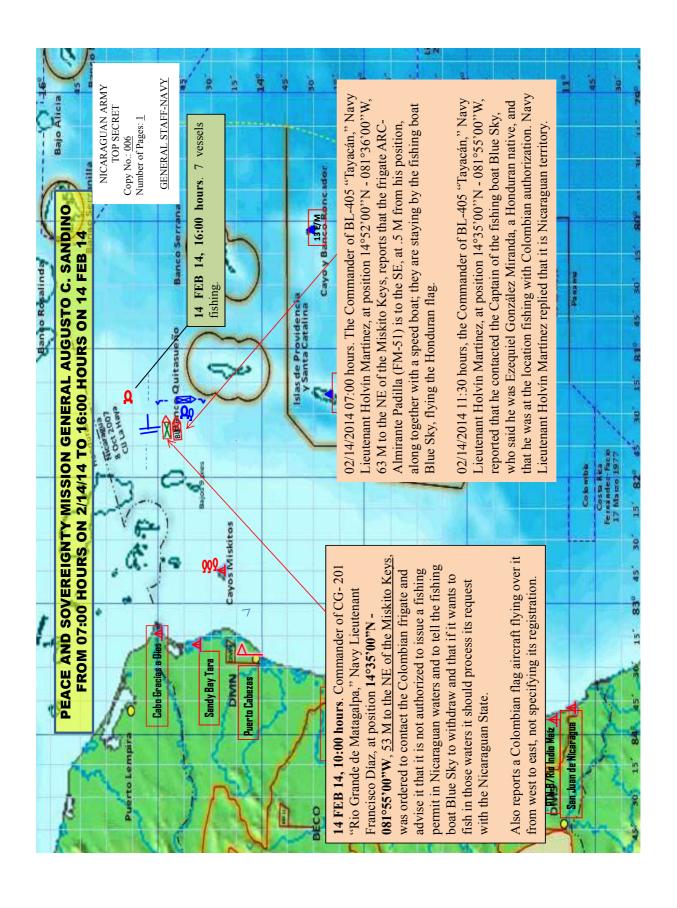


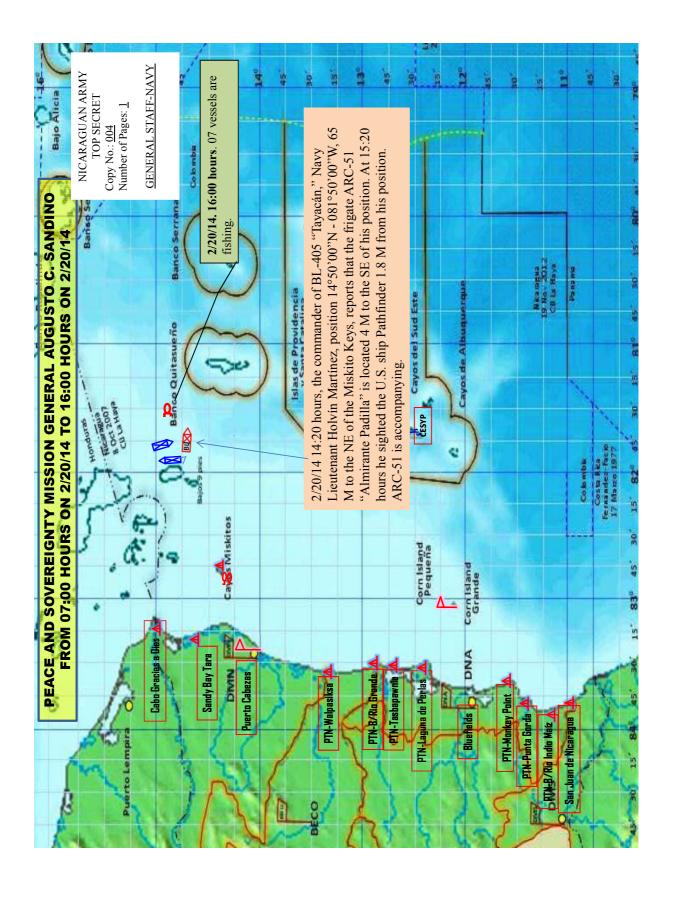


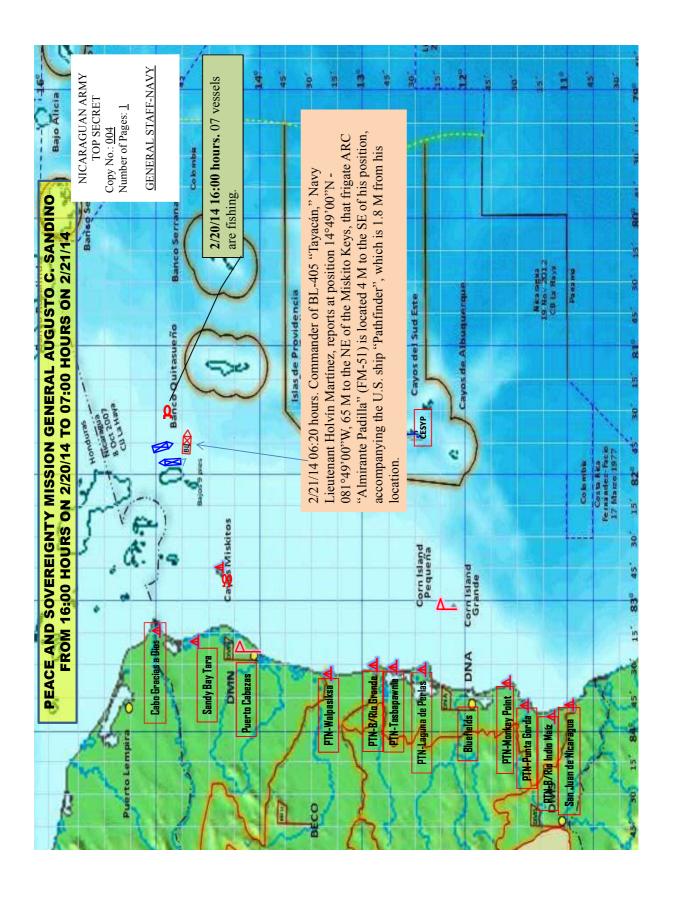


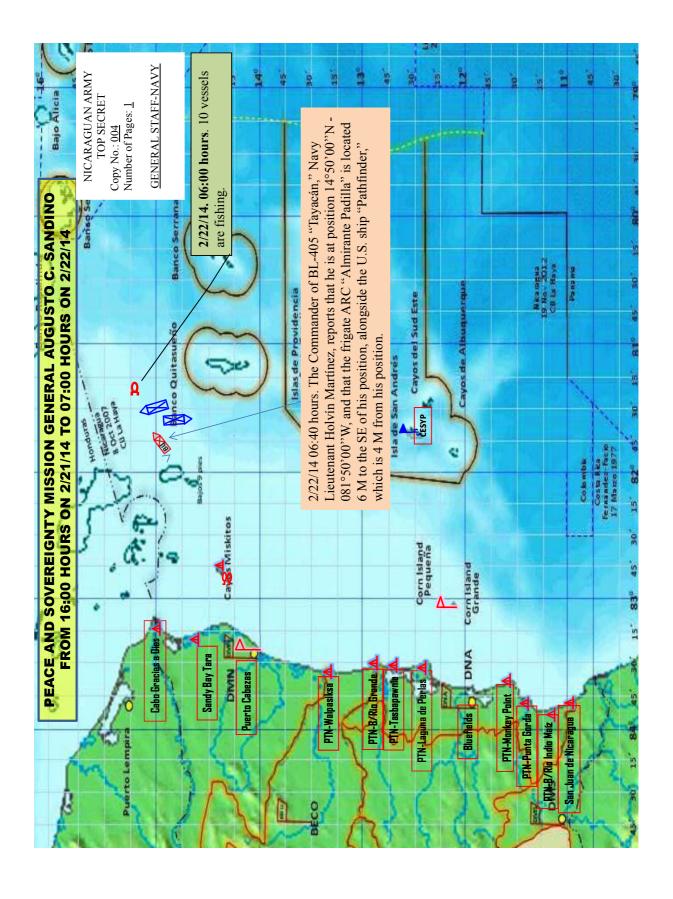


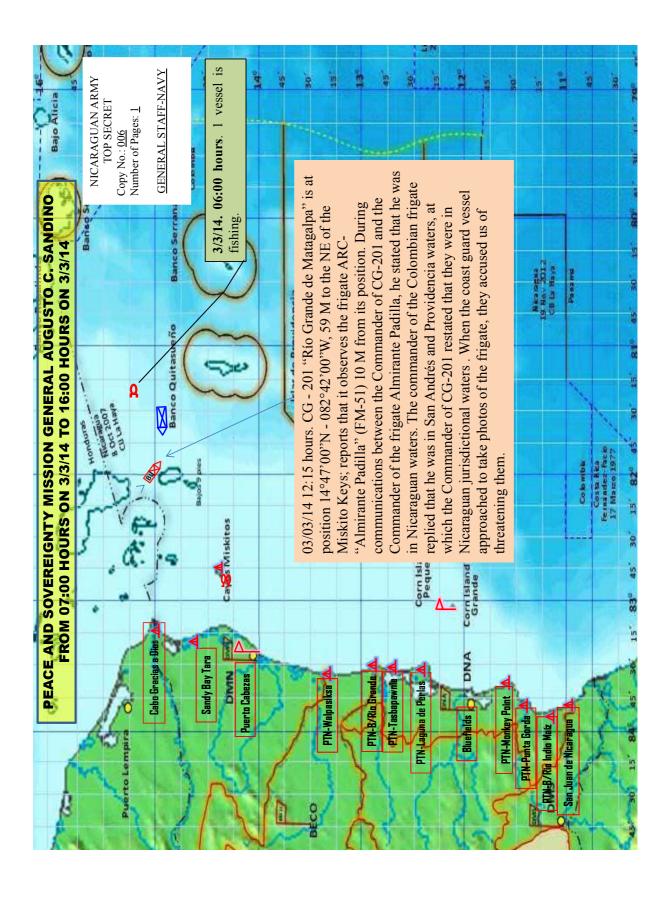


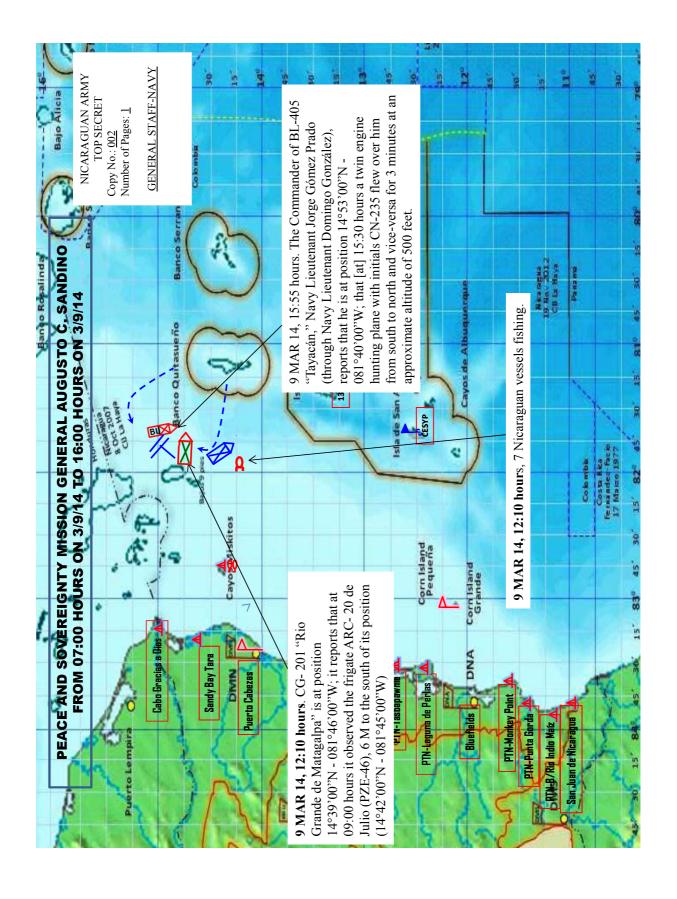


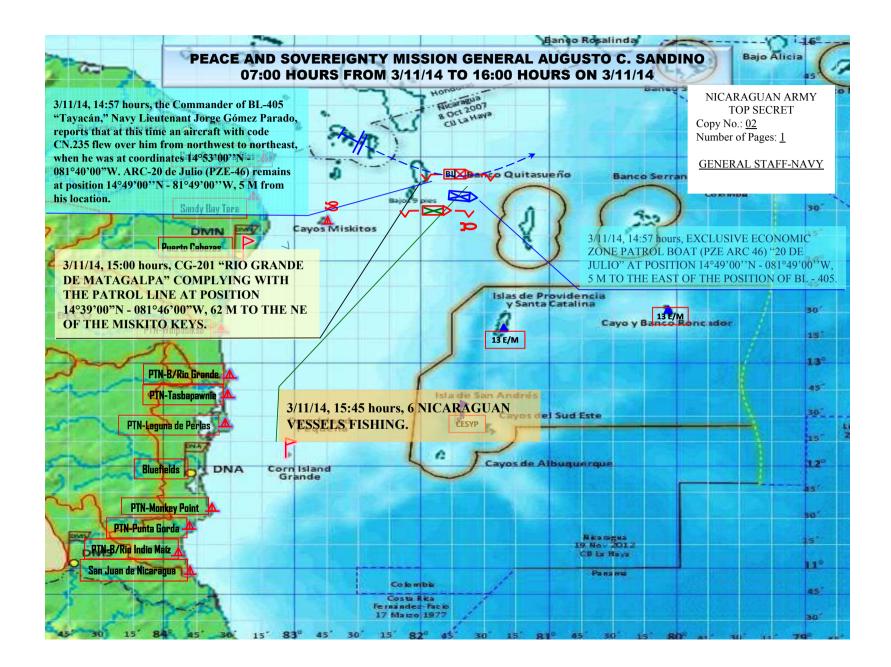


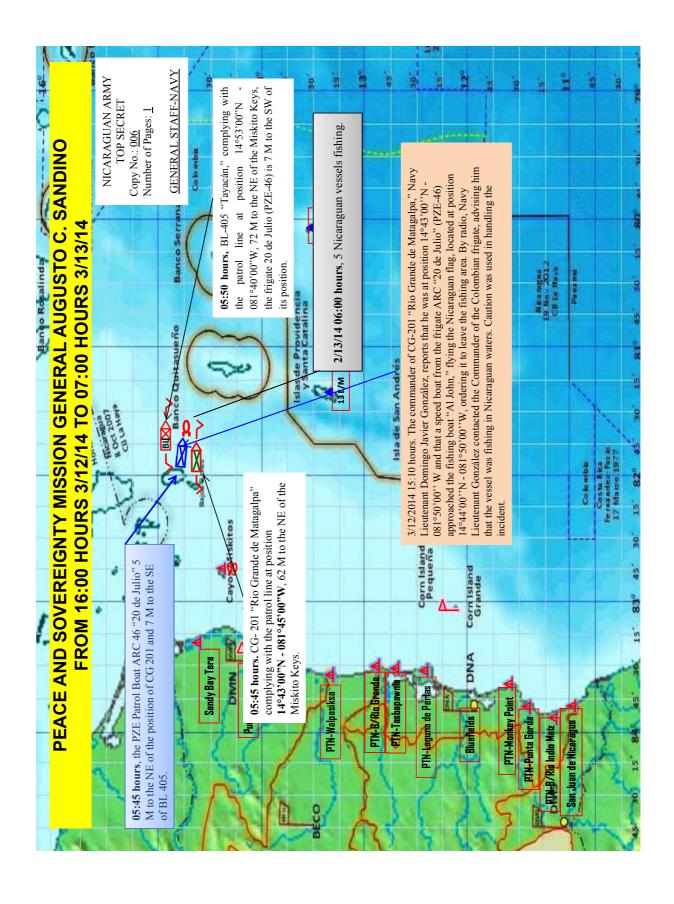


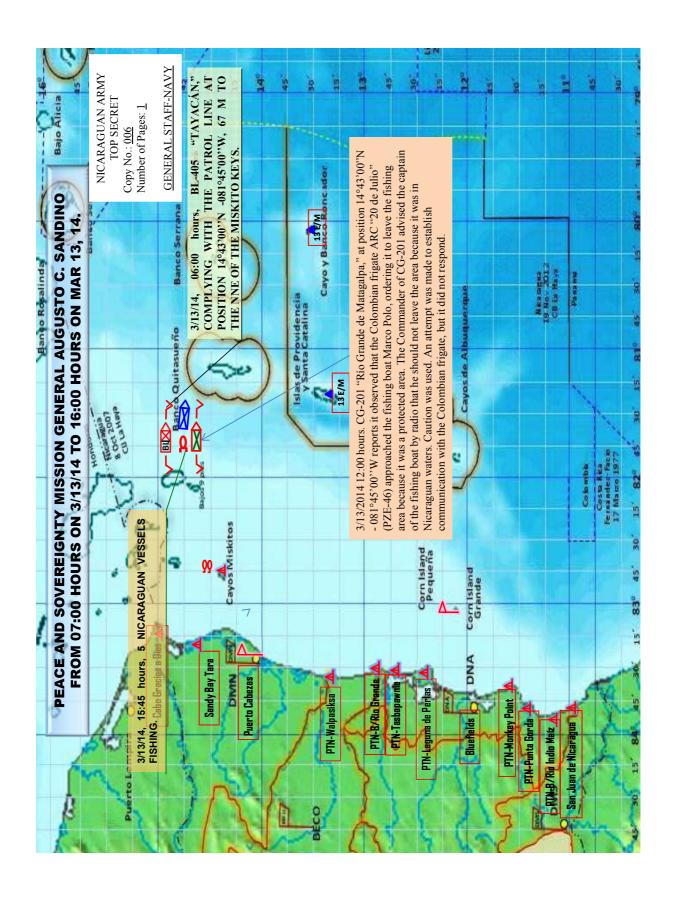


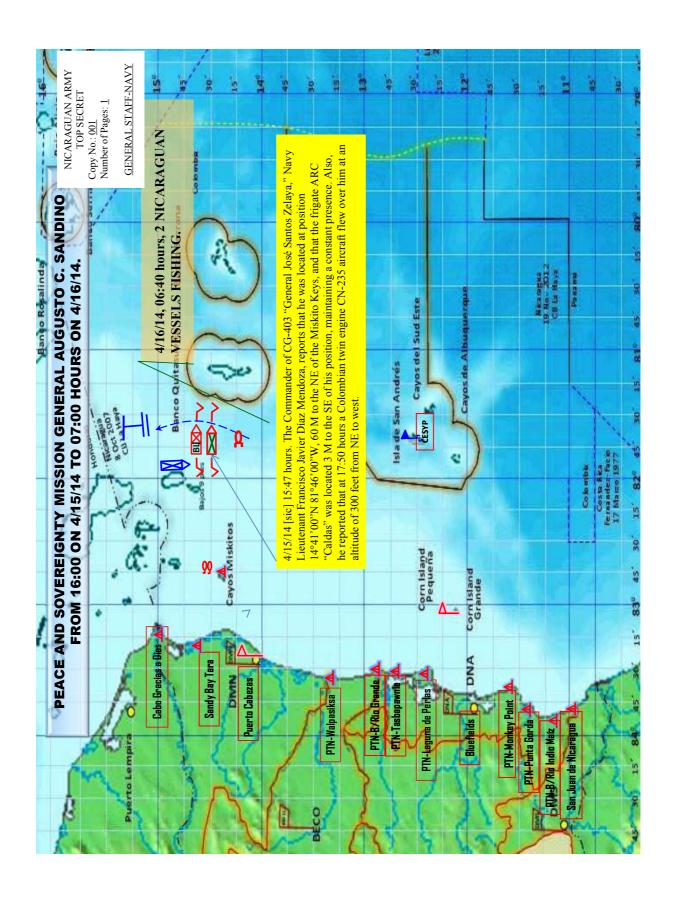


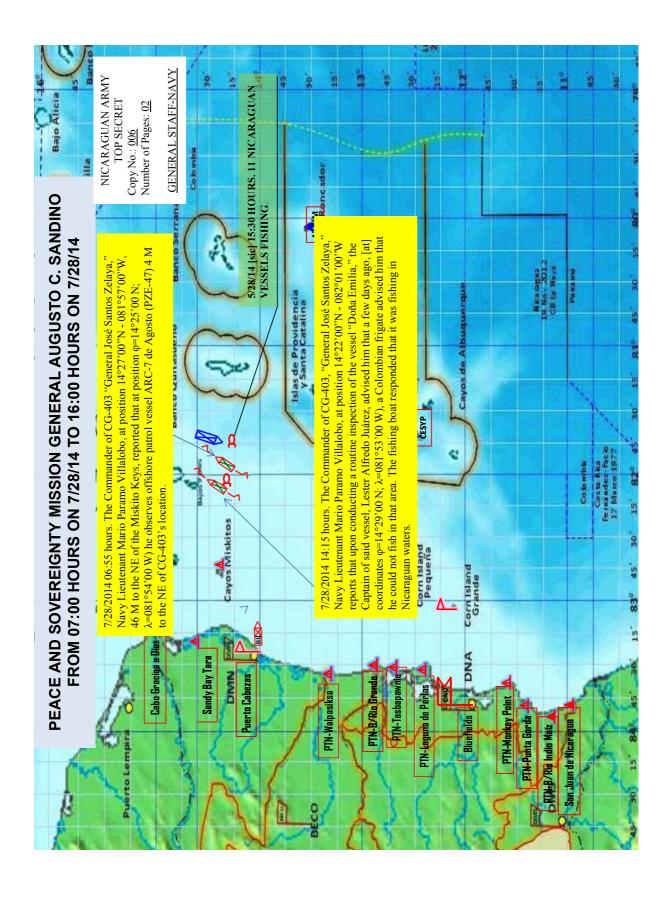












Annex 23 B Audio Transcripts

AUDIO TRANSCRIPTS OF 2 JANUARY 2014

Nicaragua: Go ahead Colombian "Armada" warship; this is the Coast Guard, over

Colombia: Eh, let's go to channel 14 – Rodman 401¹ patrol boat, in position latitude 14 degrees, 42.5 north against 81 degrees, 36.4 whisky, speed 9.3 toward 2 D 8 ... this is the warship of the "Armada" of the Republic of Colombia, over

Nicaragua: Good morning, good morning, go ahead, over

Colombia: Good morning, I inform you that you are in Colombian jurisdictional waters. The Colombian State has determined that the ruling by The Hague is not acceptable. Therefore, the units of the "Armada" of the Republic of Colombia will continue to exercise sovereignty over these waters and I request that you report your intentions.

Nicaragua: We inform you that the State of the Republic of Nicaragua acknowledges the ruling by the International Court of Justice; we are in Nicaraguan jurisdictional waters, over

Noise...

Colombia: The Colombian State has determined that the ruling by The Hague is not applicable. Therefore, the units of the "Armada" of the Republic of Colombia will continue to exercise sovereignty over these waters and I request that you report your intentions.

Nicaragua: I invite you to move to channel 1.5, over

Colombia: Channel 1.5; we moved to channel 1.3, channel 1.3

Noise...

Nicaragua: Go ahead ARC, over

Colombia: I informed you that the Colombian State has determined that the ruling by The Hague is not applicable. Therefore, the units of the "Armada" of the Republic of Colombia will continue to exercise sovereignty over these waters and I request that you inform me of your intentions, over

Nicaragua: The State of Nicaragua acknowledges the ruling of the International Court of Justice and declares that we are in jurisdictional waters of the Republic of Nicaragua, over

Colombia: Received. I reiterate that you are in Colombian jurisdictional waters; you may exercise the right to free navigation over these waters and I ask you to stay outside of the Colombian contiguous zone and territorial sea, over

¹ The Nicaraguan Coast Guard involved was the GC-403, but Colombia called it GC-401.

Nicaragua: We exercise [jurisdiction] outside the Colombian contiguous zone and territorial sea... we are respectful of international maritime law and we confirm that we are in Nicaraguan jurisdictional waters, over

Colombia: Received. I inform you that you are in the integral contiguous zone of Colombia, over

Nicaragua: We have reviewed our coordinates and as I said...we respect the international maritime boundaries and we declare that we are in Nicaraguan jurisdictional waters, over.

Colombia: Unit Rodman 401 this is the warship of the "Armada" of the Republic of Colombia, over

Colombia: Unit Rodman this is the warship of the "Armada" of the Republic of Colombia, over

Nicaragua: Go ahead, go ahead... over

Colombia: I inform you that you are in Colombian jurisdictional waters, you have the right to free navigation. I request that you report your intentions, over

Colombia: Rodman Patrol Boat, channel 1.4, 1.4: Rodman Patrol Boat, this is the warship of the "Armada" of the Republic of Colombia, over

Colombia: Rodman Patrol Boat 401, this is the warship of the "Armada" of the Republic of Colombia, over

Colombia: Rodman Patrol Boat 401, this is the warship of the "Armada" of the Republic of Colombia, over

Nicaragua: Go ahead, ARC

Colombia: Rodman Patrol Boat, this is the warship of the "Armada" of the Republic of Colombia, over

Nicaragua: Rodman Patrol Boat here, over

Colombia: I reiterate that you are in Colombian jurisdictional waters and that you can exercise the right of free navigation and I request that you confirm your intentions, over

Nicaragua: The State of the Republic of Nicaragua recognizes that it is in jurisdictional waters of the International Court of Justice, it is respectful of the maritime limits and we declare that we are not Colombian jurisdictional waters, over

Colombia: From the transmitter, I ask you to change course, take course in direction 270 in order to avoid entering the Colombian contiguous zone, over

Nicaragua: We are not going to cross any maritime boundary that attempts against the State of the Republic of Colombia, over

Colombia: This is the warship of the Armada of the Republic of Colombia, understood

AUDIO TRANSCRIPTS OF 7 JANUARY 2014

Nicaragua: Pathfinder, this is the Nicaraguan Coast Guard. Over

Colombia: Nicaraguan Coast Guard, this is the warship of the "Armada" of the Republic of Colombia, I confirm that the research ship of the United States Navy, Pathfinder, is authorized by Colombia to carry out research in the Exclusive Economic Zone of Colombia by the government; I request that you do not interfere with their intentions in these waters. Likewise, I reiterate that you are in the Colombian Exclusive Economic Zone and that you can exercise the right to free navigation. Over

Nicaragua: Well, I think we have spoken... we recognize that we are in Nicaraguan jurisdictional waters and that the research ship Pathfinder is not in Colombian waters at this moment. Over

Colombia: Received – I inform you that the ship, Pathfinder, is in the Exclusive Economic Zone of Colombia, authorized by the Colombian government. I ask you not to interfere with the activities of this ship in these waters. Over

Nicaragua: I inform you that the ship, Pathfinder, is not in Colombian waters; when it is in Colombian waters, we will not have any influence over it; last conversation, over

Colombia: this is the warship of the "Armada" of the Republic of Colombia; received, have a good day.

AUDIO TRANSCRIPTS OF 27 JANUARY 2014

Colombia: Caribbean Star...Caribbean Star this is the boat of the "Armada" Republic of Colombia, over.

Caribbean Star: Go ahead, over.

. . . .

Caribbean Star: yes sir, over.

Colombia: You are navigating in the biosphere reserve recognized by UNESCO, over.

Caribbean Star: I did not understand anything, I did not understand anything. Repeat. Over.

Colombia: Capitain, you are navigating in the natural reserve recognized by UNESCO, over.

Caribbean Star: Ok. Over.

Colombia: On behalf of the Government of the Republic of Colombia I inform you that you are in the...in the natural reserve Seaflower, which is an area protected by UNESCO. Therefore, this type of harmful activities are prohibited because they threaten the preservation of species under control...you are required to move your activity to an area not restricted after the 90.

Caribbean Star: Ah ok. Copy that. Ok, ok. And what about the treaties of The Hague and those related matters? Has this been returned to Colombia? Over.

Colombia: Capitain, I inform you that the Government of Colombia has not recognized the judgment of the...Court of the Hague, therefore I required you...to move to a non-restricted area.

Caribbean Star: Ah ok. Copy that. Ok, ok,ok. Well, I will aks my people and see what they have to say, because we have not been informed that we cannot work in these restituted waters. So, I am going to ask. Over.

Colombia: Understood Capitain, I confirm: the Colombian state has determined that the judgment of the International Court of Justice is not applicable, therefore the units of the "Armada" de Colombia will continue exercising sovereignty and control over these waters.

Caribbean Star: Ok. Ok. Correct. We will get our people and go. Correct.. 'til later.

Colombia: Understood Captain, thank you very much and have a good afternoon.

AUDIO TRANSCRIPTS OF 1 FEBRUARY 2014

Colombia: ...36.3 north, longitude 81 degrees 52.9 whisky - this is the ship of the "Armada" of the Republic of Colombia, ARC "Independiente", good morning, over.

Nicaragua: Very good morning, Coast Guard 405 of the Navy of the Nicaraguan Army – routine patrol – I remind you that you are approaching my vessel and you must remain at a five mile margin.

Colombia: I inform you that you are in Colombian jurisdictional waters – the Colombian State has determined that the ruling by The Hague is not applicable – therefore, the units of the "Armada" of the Republic of Colombia will continue exercising sovereignty over these waters. I request information over your intentions once again.

Nicaragua: I specify that you are navigating in jurisdictional waters of Nicaragua, as ratified by the International Court of The Hague.

Colombia: Received – the Colombian State has determined that the ruling by The Hague is not applicable; therefore, the units of the "Armada" of the Republic of Colombia will continue exercising sovereignty over these waters, over.

Colombia... This is ARC "Independiente", over.

Nicaragua: Right – I specify once again that you are navigating in jurisdictional waters of Nicaragua, as ratified by the International Court at The Hague.

Colombia: Received – this is ARC "Independiente", ship of the "Armada" of the Republic of Colombia; I reiterate that you are navigating in Colombian jurisdictional waters – you may exercise the right to free navigation. I request that you stay out of the Colombian contiguous zone and territorial waters, over.

Colombia: Nicaraguan ship, this is ARC "Independiente", ship of the "Armada" of the Republic of Colombia, over.

Nicaragua: I reiterate to you that I am navigating in restituted waters, restituted by the International Court at The Hague

Colombia: I inform you that you are in Colombian jurisdictional waters – the state has determined that the ruling by The Hague is not applicable; therefore, the units of the Armada of the Republic of Colombia will continue exercising sovereignty over these wates, over.

Colombia: ...Nicaragua 405, I reiterate that you are in Colombian jurisdictional waters – you may exercise the right to free navigation – I request that you remain outside of the Colombian contiguous zone and territorial sea – have a good day, thank you.

Colombia... ARC "Independiente", good morning, over.

Nicaragua: Tell me, what do you need? What do you need?

Colombia: Good morning, I inform you that you are in Colombian jurisdictional waters; the state has determined that the ruling by The Hague is not applicable; therefore, the units of the units of the Armada of the Republic of Colombia will continue exercising sovereignty over these waters, over

Nicaragua: Right – I repeat once again that you are navigating in jurisdictional waters of Nicaragua, as ratified by the International Court at The Hague

Colombia: Nicaragua Patrol Boat 405, this is ARC "Independiente", the ship of the Armada of the Republic of Colombia; I reiterate that you are in Colombian jurisdictional waters – you may exercise the right to free navigation – I request that you remain outside of the Colombian contiguous zone

and territorial sea – over.

AUDIO TRANSCRIPTS OF 1 FEBRUARY 2014

Colombia: Good afternoon captain, please, I'm asking for your name and nationality

Maddox: Captain....

Colombia: Confirm the latter captain, I did not copy.

Maddox: He's over there, on the deck ...

Colombia: Please, pass me the captain

Colombia: Captain Maddox, good afternoon, this is the ship of the "Armada" of the

Republic of Colombia, ARC Independiente, over.

Maddox: Good afternoon captain, may we be of service in any way?

Colombia: Captain Maddox, I inform you that you are in Colombian jurisdictional waters. The Colombian State has determined that the ruling by The Hague is not applicable; therefore, the units of the "Armada" of the Republic of Colombia will continue to exercise sovereignty over these waters. I request you to inform your intentions.

Maddox: We are working here, fishing here, with traps, over.

Colombia: Received, I confirm; you are working, fishing with traps, over.

Maddox: Affirmative. Over.

Colombia: Received captain, I ask your name please, and nationality.

Maddox: Marvin Giovanny Vanegas Lopez, Honduran, over.

Colombia: Received captain, and the nationality or flag of your vessel?

Maddox: The flag is Honduran with a Nicaraguan permit, over.

Colombia: Received, I confirm, a Honduran flag and Nicaraguan permit.

Maddox: What else? Over

Colombia: Received captain. What port did you leave from?

Maddox: El Bluff Port of Nicaragua, over.

Colombia: How long, how long have you been fishing in this area?

Maddox: We have 21 days, over.

Colombia: Received captain, and to what date do you expect to remain in the area?

Maddox: We are here until the 28th.

Colombia: Of what?

Maddox: Until the 28th of February, over.

Colombia: Received captain, thank you, I reiterate that the Colombian State has determined that the ruling by The Hague is not applicable. Nonetheless, by decision of the national government, you are allowed to remain in this area to carry out fishing activities. While you remain in this maritime space, you must comply with the standards that regulate the exploitation of natural resources. Likewise, you must be cautious and avoid actions that may be deemed as hostile. I inform you that you are in an area especially protected by UNESCO, where industrial exploitation of resources and the use of depredatory fishing practices, such as diver fishing, is not authorized. Over.

Maddox: We know. We already know that, correct, we don't fish using divers, there it's only traps, over.

Colombia: Received captain, thank you very much; we will remain here, in this area, in attention to any situation – have a nice afternoon, good fishing, channel 1-6.

Maddox: Thank you, the same to you Lieutenant...

AUDIO TRANSCRIPTS OF 2 FEBRUARY 2014

Colombia: ... 40 degrees, 41 minutes north, 81 degrees, and 45 minutes west – This is the Ship of the Republic of Colombia, ARC "20 de Julio", over.

Nicaragua: Go ahead, the Nicaraguan Coast Guard 405 here – I inform you that you are navigating in jurisdictional waters of the country of Nicaragua according to what was decreed by the International Court of Justice of The Hague on November 19, 2012.

Colombia: Nicaraguan Coast Guard Ship, this is ARC "20 de Julio". I inform you that ...you are in jurisdictional waters of Colombia. The Colombian State has determined that the ruling by The Hague is not applicable; therefore, the units of the "Armada" of the Republic of Colombia will continue exercising sovereignty over these waters. I request that you inform your intentions...

Nicaragua: I am going toward the Dora María vessel; it requested my support, support, as it has a problem there in the machine.

Colombia: Nicaraguan Coast Guard Ship, this is ARC "20 de Julio". I inform you that at this moment, we are providing support to the Dora María vessel, which requested our support – we are solving the problem in the drive engine and we are about to finish repairing it, over.

Nicaragua: Right, I'm going in that direction, toward the vessel, we will be there at a certain distance...

Colombia: This is ARC "20 de Julio", received.

Colombia: I reiterate that you are in Colombian jurisdictional waters – you may exercise the right to free navigation in these waters – I request that you stay out of the contiguous zone and territorial sea of Colombia, over.

Nicaragua: Restituted by the International Court of Justice of The Hague on 19 of 11 of the year 2012.

Colombia: this is ARC "20 de Julio", received. I invite you to exercise caution as required in these cases, over and out-

.

Nicaragua: Captain, do you have foreign personnel on board?

Dora María: We asked them for help, we asked them for help because we had problems there... But I wanted to explain it to the sergeant but he you couldn't hear me, over

Nicaragua: Right. What problem do you have in your engine captain?

Dora María: The spring broke, the spring in the pump and injector, the return pump that triggers the injection pump... Then, it broke... they were passing by and we asked them for help. But I wanted to explain there to the sergeant but he doesn't hear me, the "Rio Grande" doesn't hear me... I don't know why he can't hear me well. They already placed the spring and they left. Over.

Nicaragua: ... Will you solve the problem in the engine?

Dora María: Yes, they manufactured it; they came only to bring the spring here. Here we have the broken spring; they provided us with the spring. ... I wanted to explain something to the sergeant but he can't hear me by radio, I don't know why he can't hear me. I wanted to say something by the can't hear me. I don't know if he can't hear you, but he can't hear me. There, the ones that came to give us the spring already left... over.

Nicaragua: Right, then, Dora María, I am going toward your position there.

Dora María: We will wait for you, we already turned on the machine... we will wait for you. Over.

AUDIO TRANSCRIPTS OF 5 FEBRUARY 2014

Colombia: ... The "Armada" of the Republic of Colombia, ARC "20 de Julio", good afternoon. I inform you that you are in Colombian jurisdictional waters – the Colombian State has determined that the ruling by The Hague is not applicable; therefore, the units of the Armada of the Republic of Colombia will continue to exercise sovereignty over these waters. I request that you inform your intentions.

Nicaragua: I ratify that you are navigating in jurisdictional waters of Nicaragua according to the ruling issued by the International Court of Justice of The Hague on the 19th of 11 of the year 2012.

Colombia: Nicaraguan units that are located at coordinates 14 degrees, 44.2 north, 81 degrees, 39.6 whiskies; this is the ship of the "Armada" Republic of Colombia ARC "20 de Julio". I reiterate that you are in Colombian jurisdictional waters. You may exercise the right to free navigation over these waters. I request that you stay outside of the Colombian contiguous zone and territorial waters. Over.

Nicaragua: I ratify that you are navigating in jurisdictional waters of the country of Nicaragua as ratified by the International Court of Justice of The Hague on the 19th of 11 of the year 2012.

Colombia: Nicaraguan units that are located at coordinate 14 degrees, 44.1 minutes north, 81 degrees, 39.08 minutes whiskey; this is the ship of the "Armada" Republic of Colombia ARC "20 de Julio". I reiterate that you are navigating in Colombian jurisdictional waters. You may exercise the right to free navigation over these waters. I request that you stay outside of the Colombian contiguous zone and territorial waters. Over.

Colombia: vessels moored at coordinates 14 degrees, 44.3 north, 81 degrees, 39.6 whiskeys, this is the warship of the "Armada" Republic of Colombia, good afternoon.

Nicaragua: ...we should have a margin.

Colombia: you may exercise the right to free navigation over these waters. I request that you stay outside of the Colombian contiguous zone and territorial waters.

Nicaragua: What are your intentions? You are getting closer and you are fully aware that you cannot be near me...

AUDIO TRANSCRIPTS OF 8 MAY 2014

Colombia: ... Nicaraguan, in position latitude 14 degrees, 39.3 minutes north, longitude 081 degrees, 50.5 minutes west, bound 074, speed 9.7 knots; this is the Coast Guard of the "Armada" of the Republic of Colombia, interrogating your intentions, over.

Nicaragua: ARC "20 de Julio", Coast Guard 201 of the Navy of Nicaragua here; my intentions are to patrol the waters restituted to the Republic of Nicaragua through the ruling of November 19, 2012 by the International Court of Justice, over.

Colombia: Warship 201 of the Navy of Nicaragua, let's change to channel 14.

Colombia: Warship 201 of the Navy of Nicaragua, this is the Coast Guard of the Armada of the Republic of Colombia

Nicaragua: Go ahead ARC "20 de Julio", Coast Guard 201 of the Republic of Nicaragua, over

. . . .

Colombia: ... the unit will have to defend itself and you will be responsible of the consequences if you disregard this call. I recommend that you alter or change your course immediately and get away from the unit. I remind you that this is a unit of the Coast Guard of the "Armada" Republic of Colombia, which is protecting the historical fishing rights of the Colombian State, providing security to all the vessels in the area, and developing operations against transnational crime. This communication is being recorded for legal purposes – at the moment your unit is two nautical miles away from my unit. Thank you for your collaboration.

Nicaragua: ARC "20 de Julio", Coast Guard 201 of the Republic of Nicaragua here – as I reiterated previously, my intentions are to perform, exercise sovereignty over the waters restituted to the Republic of Nicaragua through the ruling on November 19, 2012 by the International Court of Justice, by implementing the naval patrol over such waters. My functions and my current tasks are to fight against drug trafficking, search and rescue of vessels requiring it and the safety of the fishing fleet. Over.

Colombia: Warship of the Navy of the Nicaraguan Army, this the Coast Guard vessel of the "Armada" of the Republic of Colombia. I reiterate captain, you are entering into the vital area of my unit. I request that your confirm your intentions and stay more than two miles away of my unit, if you approach us at less than two miles, it will be considered as a hostile act or intention and the unit will have to defend itself and you will be responsible for the consequences if you ignore this call. I recommend that you immediately alter or change your course to move away from the unit. I remind you that this is a unit of the Coast Guard of the "Armada" Republic of Colombia, which is protecting the historical fishing rights of

the Colombian State, providing security to all the vessels in the area, and developing operations against transnational crime. This communication is being recorded for legal purposes. I request that you confirm whether you understood my last proclamation. Thank you very much for your collaboration.

Nicaragua: ARC "20 de Julio", I effectively understood your last communication. I reiterate my intentions: to perform and exercise sovereignty of the waters restituted to the Republic of Nicaragua through the ruling of the International Court of Justice on November 19, 2012; to fight against drug trafficking; search and rescue the vessels that require it and provide safety to fishing fleet – I have no intentions of entering into a confrontation with your unit, over.

Colombia: Warship of the Navy of the Nicaraguan Army – this the Coast Guard vessel of the "Armada" of the Republic of Colombia, understood. I request that you remain at a distance of two miles from my unit; I request that you change your course and proceed to move away more than two miles of distance from my unit. Over.

Nicaragua: ARC "20 de Julio", Coast Guard 201 of the Republic of Nicaragua here – my course is set to where my command orders me; I will not change my course, as long as it does not represent any danger for my unit, and obviously for yours. Likewise, I inform you that this conversation is being recorded for remittal to the competent authorities. Over.

Colombia: Warship of the Navy of the Nicaraguan Army – this the Coast Guard vessel of the Armada of the Republic of Colombia; I request that you confirm your course and speed, over .

Nicaragua: ARC "20 de Julio", Coast Guard 201 of the Republic of Nicaragua here – I am not authorized to inform you of my course or speed, over.

Colombia:...of the "Armada" Republic of Colombia, at the moment your course is 165 grades, speed 10 knots and at this moment you are at 1.5 miles from my unit. I request that you confirm your intentions, and I request that you stay away more than...2 miles from my unit. This is being considered as an act of hostile intentions and the unit will have to defend itself. You will be responsible for the consequences if you ignore this warning. I recommend that you alter or change your course to move away from the unit.

Nicaragua: ARC "20 de Julio", Coast Guard 201 of the Republic of Nicaragua here. I repeat that my intentions are: to exercise sovereignty of the waters restituted to the Republic of Nicaragua by the International Court of Justice, to fight against drug trafficking; control illegal fishing activities, search and rescue the vessels that require it and provide safety to fishing fleet. I have no intentions of entering into a confrontation with your unit, over. Likewise, I inform you that this conversation is being recorded for remittal to the competent authorities. Over.

Colombia: Warship of the Navy of the Nicaraguan Army, this the Coast Guard vessel of the "Armada" of the Republic of Colombia. Captain, you are entering into the vital area of my unit. I request that your confirm your intentions and stay more than two miles away of my unit. If you approach us at less than two miles, it will be considered as a hostile act or intention and the unit will have to defend itself. You will be responsible for the consequences if you ignore this call. I recommend that you alter or change your course to move away from the unit. I remind you that this is a unit of the Coast Guard of the "Armada" Republic of Colombia, which is protecting the historical fishing rights of the Colombian State, providing security to all the vessels in the area, and developing operations against transnational crime. This communication is being recorded for legal purposes. I request that you confirm whether you understood my last proclamation. Thank you very much for your collaboration.

AUDIO TRANSCRIPTS OF 28 JULY 2014

Nicaragua: Blue and white colored, identify yourself

....

Nicaragua: Who is transmitting there?

Doña Emilia: Doña Emilia motor boat, over.

Nicaragua: Correct. With the captain of the motor boat Doña Emilia, is he speaking?

Nicaragua: Correct captain, good afternoon, this is the captain of Coast Guard 405 of the Navy of the Nicaraguan Army

Doña Emilia: Correct, I can see you; we are here, struggling, gathering these dory; we will see how today goes...

Nicaragua: Copied – When did you leave port?

Doña Emilia: Today is my ninth day, over

Doña Emilia: ...From Corn Island, over

Doña Emilia: This is my ninth day, over

Nicaragua: Correct boat Doña Emilia; you've been out for nine days, I copied, over

Doña Emilia: Yes, over

Nicaragua: Correct. I understand you've been fishing close to this area, right?

Doña Emilia: ... We were in the north, then we went to ... and I came here today, I came to this area today... over

Nicaragua: Captain, how many crew members do you have on board, including divers and "cayuqueros"?

Doña Emilia: I have 22 "cayuqueros", divers and 22 "cayuqueros" and 11 crewmen, 11 crewmen, over

Nicaragua: Copied Captain, what irregular situations have you detected in the area?

Doña Emilia: The second day we did have a mishap there with the Colombian patrol boat, here in the northeast, but no, they just came there to ... They told us that that it was

forbidden to work there, that those waters belonged to them. They always pass by bothering us. But we ignored them and continued working and then they left toward the east, over.

Nicaragua: Copied captain –Be aware of the fact that you are in jurisdictional waters of the Government and State of Nicaragua; therefore, the arguments of the Colombian patrol boats have no basis, no legal basis...

Doña Emilia: I told them that my lieutenant told me that I could work well, so I did not pay attention to them and did not answer anymore because the Navy in Puerto Cabezas told me so. So, I continued working and after that, they left toward the east, over

Nicaragua: Correct, Captain, we are going to perform a routine inspection, so please stop and wait there for our vessel and we will perform a routine inspection. Copied?

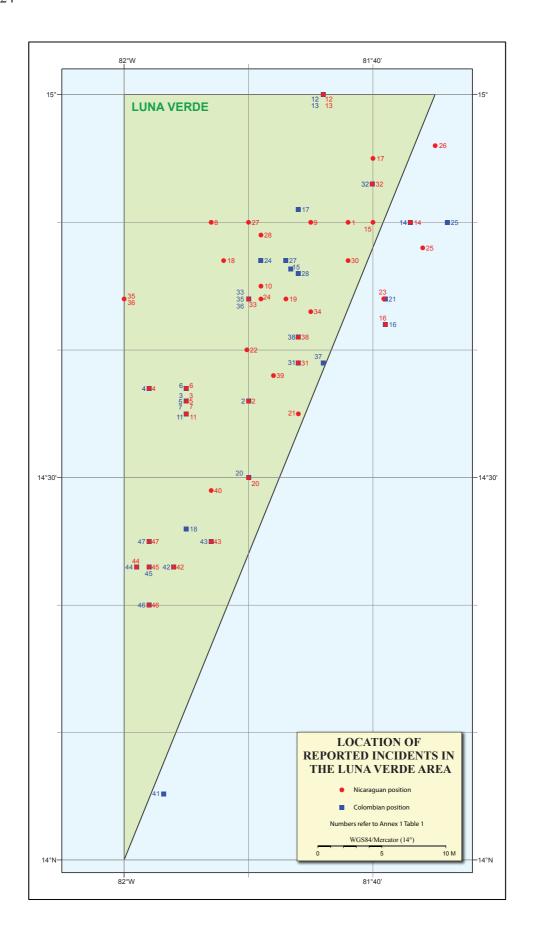
Doña Emilia: Copied, copied, over .

Nicaragua: Correct, stay tuned.

Annex 24

Location of Reported incidents in the Luna Verde Area

No	DATE	NICARAGUAN POSITION		NATES OF INCIDENTS COLOMBIAN POSITION		CALCULATED OFFSET	
		LATITUD N	LONGITUD W	LATITUD N	LONGITUD W	LATITUD N	LONGITUD V
1	13-10-2013	14°50′00″	81°42′00′′	*	*	-	
2	19-10-2013	14°36′00″	81°50′00′′	14°36′00′′	81°50′00′′		
3	29-10-2013	14°36′00′′	81°55′00′′	14°36′00′′	81°55′00″		
4	29-10-2013	14°37′00′′	81°58′00″	14°37′00″	81°58′00′′		
5	30-10-2013	14°36′00′′	81°55′00′′	14°36′00′′	81°55′00′′		
6	30-10-2013	14°37′00′′	81°55′00′′	14°37′00′′	81°55′00′′		
7					81°55′00′′		
8	31-10-2013	14°36′00″	81°55′00″	14°36′00′′ *	*		
9	7-11-2013	14°50′00″	81°53′00″	*	*		
	17-11-2013	14°50′00″	81°45′00″		*		
10	17-11-2013	14°45′00″	81°49′00″	3MN	7		
11	19-11-2013	14°35′00′′	81°55′00″	14°35′00″	81°55′00″	,	
12	21-11-2013	15°00′00′′	81°44′00″	15°00′00″	81°44′00″		
13	24-11-2013	15°00′00′′	81°44′00″	15°00′00″	81°44′00″		
14	25-11-2013	14°50′00′′	81°37′00′′	14°50′00″	81°37′00′′		
15	2-1-2014	14°50′00′′	81°40′00′′	14°46′20′′	81°46′37′′	,	
16	7-1-2014	*	*	14°42′00′′	81°39′00′′		
17	25-1-2014	14°55′00′′	81°40′00′′	14°51′00′′	81°46′00′′		
18	27-1-2014	14°47′00′′	81°52′00″	14°26′00′′	81°55′00′′		
19	27-1-2014	14°44′00′′	81°47′00′′	14°26′00′′	81°55′00′′	•	
20	29-1-2014	*	*	14°30′00′′	81°50′00′′		
21	1-2-2014	14°35′00′′	81°46′00′′	14°44′00′′	81°39′00′′		
22	2-2-2014	14°40′01′′	81°50′08″	14°44′00′′	81°39′00′′		
23	5-2-2014	14°44′01′′	81°39′08″	*	*		
24	6-2-2014	14°44′00′′	81°49′00′′	3 NM N	*	14°47′00′′	81°49′00′
25	13-2-2014	14°48′00′′	81°36′00″	3 NM NE	*	14°50′00′′	81°34′00′
26	14-2-2014	14°56′00′′	81°35′00″	*	*		
27	20-2-2014	14°50′00′′	81°50′00″	4 NM SE	*	14°47′00′′	81°47′00′
28	21-2-2014	14°49′00′′	81°49′00′′	4 MN SE	*	14°46′00′′	81°46′00′
29	22-2-2014	14°49′00′′	81°49′00′′	4 MN SE	*	14°46′00′′	81°46′00′′
30	3-3-2014	14°47′00′′	82°42′00″	10 MN	*		02 10 00
31	9-3-2014	14°39′00′′	81°46′00″	14°39′00′′	81°46′00′′		
32	11-3-2014	14°53′00″	81°40′04″	14°53′00″	81°40′04′′		
33	12-3-2014	14°33'00"	81°50′00″	*	*	•	
34	13-3-2014	14°43′00′′	81°45′00″	*	*	•	
35	3-4-2014	14°44′00′′	81 43 00 82°00′00″	10 MN East	*	14°44′00″	81°50′00′
36	3-4-2014	14 44 00 14°44′00′′	82°00′00′′ 82°00′00′′	10 MN East	*	14°44′00″	81°50′00′
37	15-4-2014				*		81°44′00′
38		14°41′00″	81°46′00′′	3 MN SE		14°39′00″	01 44 00
	15-4-2014	14°41′00″	81°46′00′′	14°41′00″	81°46′00″ *	•	
39	8-5-2014	14°38′00″ 14°29′00″	81°48′00′′	2 MN *	*		
40 41	28-7-2014 18-8-2013	*	81°53′00′′ *	14°05′12″N	081°56′50″W		
42	20-7-2014	14°23′00″	081°56′00″	14°23′00″	081°56′00″		
43	20-7-2014	14°25′00″	081°53′00″	14°25′00″	081°53′00″	•	
44	20-7-2014	14°23′00″	081°59′00″	14°23′00″	081°59′00″		
45	20-7-2014	14°23′00″	081°58′00″	14°23′00″	081°58′00″	l.	
46	20-7-2014	14°20′00″	081°58′00″	14°20′00″	081°58′00″	l.	
47	20-7-2014	14°25′00″	081°58′00″	14°25′00″	081°58′00″		



Annex 25

"ICJ ruling on San Andres a 'serious judgment error': Santos", *Colombia Reports*

20 November 2012

ICJ ruling on San Andres a 'serious judgement error': Santos

Nov 20, 2012 posted by Simon Willis



Colombia's president Juan Manuel Santos believes the ICJ court made a "serious error is judgement" in its decision to hand over large chunks of sea around the island of San Andres to Nicaragua.

In a speech Santos said that his government would "not rule out any action" to defend Colombia's rights, especially those of the inhabitants on the island of San Andres and surrounding archipelago, on this matter.

Despite the ruling by the International Court of Justice on Monday determining that the islands will remain Colombia's sovereignty, much of the sea surrounding the area now belongs to Nicaragua – which could potentially have damming consequences on the local fishing industry.

Santos was quick to lament the court's decision which would "seriously and adversely affect" Colombia, while also revealing his determination to "finding solutions" for those affected by the ruling.

"Inexplicably, after recognizing the sovereignty of Colombia over the Archipelago, and arguing that this, as a unit, generates the rights of a continental shelf and an exclusive economic zone, the Court adjusted the delimitation line, leaving the keys in Serrana, Serranilla, Bajo Nuevo Quitasueño and separate from the rest of the archipelago." he said.

"This is inconsistent with what the Court itself had recognized, and is not compatible with the geographical concept of what is an archipelago.

"All these are omissions, errors, excesses, inconsistencies, we cannot accept them," he said.

Santos continued, "The Court, in its ruling, draws a line beginning on the west of the archipelago, between our islands and the coast of Nicaragua. Whilst this is positive for Colombia, the Court, to draw the maritime boundary, made mistakes I should emphasize serious and adversely affect us."

Following the ruling San Andres Governor Aury Guerrero told press that "it was foreseeable that the islands' fishermen would be stripped of opportunities." The governor said that most of the fish the Colombians depend on are now in Nicaraguan waters.

It is a concern held by Santos, who was quick to reassure residents of the island that the Colombian government was doing all it can to find a solution.

"Today I want to tell Sanandresanos we are committed to finding practical mechanisms and strategies and results... in particular for those who at any time are unaware of their rights

Available at

http://colombiareports.co/icj-ruling-on-san-andres-a-serious-judgement-error-santos/

Annex 26

"International Court Gives Nicaragua More Waters, Outlying Keys to Colombia", *Dialogo*

21 November 2012

2012-11-21

International Court Gives Nicaragua More Waters, Outlying Keys to Colombia



International Court of Justice representatives listen to the reading of the judgement in the territorial and maritime dispute between Nicaragua and Colombia, in The Hague on November 19, 2012. (Photo: AFP / ANP Bas Czerwinski)

AFP/Luis Torres de la Llosa

The International Court of Justice (ICJ) expanded Nicaraguan maritime sovereignty over the Caribbean, but kept part of San Andrés island's western border as Colombia wanted, and gave the South American country all disputed keys in an area rich in oil and other resources.

The ICJ determined an irrevocable ruling over a large part of the maritime border between Colombia and Nicaragua. Both countries had previously committed to unconditionally accepting the ruling, after several decades of bilateral disputes.

Colombia, the first of both countries to react, rejected the new maritime delimitation.

"When demarcating the maritime borders, the Court committed serious mistakes that I must highlight, and which affect us negatively ... these are all omissions, errors, excesses, inconsistencies that we cannot tolerate," President Juan Manuel Santos said to the country after the ruling.

On the other hand, Santos was pleased with the ratification of the Colombian sovereignty over islands and keys, and he did not specify how he would oppose the maritime demarcation stipulated in the ICJ ruling, which is considered irrevocable.

"We shall not discard any resources conceded by the international law," said the head of state.

His Nicaraguan counterpart, Daniel Ortega, considered the ICJ ruling as a "national victory" that had restored maritime spaces taken by Colombia in the Caribbean, and urged the South American nation to respect the high court's decision.

The ruling that came from the 15 judges of the ICJ – the main judicial body of the United Nations, which have universal jurisdiction – was submitted in The Hague in a two-hour presentation by the court's main representative, Peter Tomka.

"The Court concludes that Colombia, not Nicaragua, had sovereignty" over the islets in dispute, indicated Tomka. He was referring to the Albuquerque, Bajo Nuevo, Este-Sudeste, Quitasueño, Roncador, Serrana and Serranilla keys.

The other aspect of the dispute was the demarcation of the maritime border, in which the Nicaraguan jurisdiction was extended from the east of the 82nd meridian to Colombia's current jurisdiction. In this way, the ruling favored Managua so as to compensate what was considered an "important disparity" benefitting Bogotá.

Tomka spoke in detail about the coordinates of the new border, which extends the Nicaraguan sovereignty towards the east, but maintains a portion of the Colombian jurisdiction up to San Andrés and Providencia islands, as well as in a ratio of only 12 nautical miles around the Colombian keys of Serrana and Quitasueño, rich in fish, lobsters and conch.

The Court did not specify the total maritime extension attributed to each country, since there are two sections that remain without demarcation toward the east: the judges did not want to extend their ruling beyond 200 miles off shore.

Available at http://dialogo-americas.com/en_GB/articles/rmisa/features/regional_news/2012/11/21/feature-ex-3687

Annex 27

"Message from President Daniel to the People of Nicaragua", *El 19 Digital*

26 November 2012

El 19 Digital

DISCURSOS

Message from President Daniel to the People of Nicaragua

Monday, November 26, 2012 | Communication and Population Council

Good evening Nicaraguan brethren, Nicaraguan families; it's been a week since we informed from Revolution Plaza, next to the House of Peoples, the great news whereby the International Court of Justice ruled in favor of Nicaragua by awarding us more than 90,000 kilometers of seafaring territory. Namely, since that date, since November 19, 2012, Nicaragua has a much larger territory than it had before such date, thanks to the battle that the Nicaraguan people waged together to achieve such great victory.

Hence, we refer to the reactions of the President of Colombia, Juan Manuel Santos, and to our concerns for the manner in which he was reacting by rejecting the ruling of the Court. During the days following the ruling, President Santos toughened his position by adding to his words, the mandate to the Naval Forces of the Colombian Armada to multiply their surveillance activities in territories awarded by the International Court of Justice as maritime territories to Nicaragua.

In view of President Santos' message, of the decision by President Santos, the Government of Nicaragua reacted very calmly, with the enormous responsibility set by the fact that we obtained a great victory; knowing and understanding that this is a victory that we are compelled to turn into a reality. We have been waiting and expect the Government of Colombia to decide, once and for all, to comply with the ruling of the Court. We established contact with the authorities of the Government of Colombia in order to advance more quickly toward compliance with the mandate of the International Court of Justice in The Hague.

On Saturday, we met with the colleagues here present and decided to take a series of steps in order to start implementing, on our part, the ruling by the Court. These steps include the authorization, by Nicaraguan authorities in charge of the fisheries regime, for Nicaraguan fishermen so that they can fish in that new maritime territory, which belongs, belonged and now legally belong once again, to Nicaragua in accordance with the Court's ruling.

We must start coordinating these types of actions through the Ministry of Foreign Affairs, the Fisheries Authorities, with sister nations who perform fishing tasks in that area, who requested at the time, fishing permits from the Colombian authorities... What should we say to these sister nations, including the people of Colombia and the Raizal brethren that are in San Andres, what should we say? That Nicaragua will authorize their fisheries in that area, where they have historically practiced fisheries, both artisanal and industrial fisheries, in that maritime area, in that maritime space, where even before the ruling by the Court, the permit was granted by Colombia and now, the permit is granted by Nicaragua.

We are working on this, we are making contact with those governments that represent those peoples, those communities, those companies that develop fisheries in that entire maritime territory. We are speaking with Costa Rica, we are speaking with Honduras, we are speaking with Jamaica, and we are speaking with Colombia itself. In other words, we are not denying the right to fish to any sister nation, to any peoples; plainly, the permit is now requested from Nicaragua. That is the principle we are addressing.

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And I was telling you that a good portion of these Native Peoples found in the San Andres Archipelago are natives from the Caribbean Coast of Nicaragua; they have permanently connected, and regardless of the situation we had with the Sister Republic of Colombia... they have always communicated! Since it is nearby, they travel to Bluefields, from Corn Island to San Andres; they come from San Andres to visit their relatives in Corn Island, they come to visit their relatives in Bluefields, Pearl Lagoon; that is, they are the same peoples, and logically, the Native Peoples don't make any distinctions of any type.

Therefore, we tell them that precisely being respectful of the Principle of the Native Peoples, we fully respect their right to fish and to navigate those waters, which they have historically navigated, and have also survived from the marine resources. They have been there, communicating with their relatives in Bluefields, in Corn Island, according to reports from our Brethren from the Caribbean Coast, they are communicating and wish to strengthen their relations... magnificent! Of course we have to strengthen relations! This must be a source of great security for the Raizal Peoples; great security in that Nicaragua is respectful of the Native Peoples, particularly the Native Peoples that inhabit the Caribbean Coast of our country. They are part of that reality.

I also mentioned industrial fisheries; I was saying that we must work on the Limits and Fisheries Agreements with Jamaica, Honduras, Costa Rica and Colombia. I had already mentioned this, which is very important. And, I want to inform you that through the contacts we are establishing with the Government of Colombia, we have stated that Nicaragua is ready to implement the ruling by the International Court of Justice. We are ready and we are prepared.

We area also progressing with all of the steps I mentioned. At a meeting held last Saturday, we instructed General Julio Cesar Aviles, head of the Nicaraguan Army, that we have acted discretely, and we must undoubtedly act with discretion... We love peace! We do not want any type of confrontation with our Colombian brethren; but since we had given, practically from Monday to Saturday, five or six days to begin advancing in the implementation of the Agreements.

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And as I was saying we are ready to implement the Agreements; this is what we informed the Government of Colombia, that we are ready, we are waiting to proceed with the formal implementation of the Agreements, based on the ruling issued by the International Court of Justice; how can we implement this in a manner that is not traumatic.

Until recently, not too long ago, surveillance was exercised by the Colombian Navy, by the Colombian Air force up to November 19th; they exercised surveillance in the area. And every time that our vessels, the Nicaraguan Coast Guard, Nicaraguan Navy vessels penetrated into the area, it was cause of tremendous tension... we recall the last vessel that was performing a study in the area and it was immediately blocked by a ship of the Colombian Navy.

So, when we speak of implementing the Agreements of the Ruling, the decision by the International Court of Justice in The Hague, is that this is similar to when there is a change in government. Namely, with their strength, they had control of the area in the past, but now the strength does not stem from force but rather from a ruling; and it mandates that we exercise sovereignty in the area, that we patrol the area as Nicaraguans.

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Namely, that as Nicaragua starts exercising sovereignty in the area, as we are now doing with the Navy and with the Air force, we must start formally establish new

Conventions with Colombia to combat drug trafficking and organized crime in the same manner so that we can have a normal situation... These Agreements involve combatting drug trafficking and organized crime because we must all unite our forces in this; we must make agreements on matters of fisheries with Colombia and with all of the other countries that fish in the area.

These agreements also relate to situations aimed at a very important subject which represents an enormous commitment to Nicaragua and that is the Environment. There are areas there, such as the Seaflower Biosphere Reserve. UNESCO declared this area as a Reserve on November 9, 2000 and incorporates all of the San Andres Archipelago. There are 391 Ecological Zones of this type in the entire planet; this is one of the 391 Ecological Zones, which contain much wealth, many species; it has coral formations and a vast extension. This is a reserve that was under the domain of Colombia in the past and now incorporates part of the maritime territory belonging to Nicaragua as of November 19th; it also incorporates maritime territory belonging to Colombia.

Therefore, we are speaking of a series of subject matters, wherein Nicaragua is already working and will continue to work in order to guarantee compliance with the ruling of November 19, 2012 by the International Court of Justice; so that the ruling can be applied in a comprehensive manner, fully and completely, in the best and most harmonious and respectful manner between the People and Government of Nicaragua and the People and Government of Colombia. Thank you dear Nicaraguan brothers and sisters.

Available at

http://www.el19digital.com/articulos/ver/titulo:7369-mensaje-del-presidente-daniel-al-pueblo-de-nicaragua

Annex 28

"Caribbean Crisis: Can Nicaragua Navigate Waters It Won from Colombia?", *Time World*

28 November 2012

Latin America

Caribbean Crisis: Can Nicaragua Navigate Waters It Won from Colombia?

The International Court of Justice has awarded Nicaragua massive new maritime territory in a dispute with Colombia. Bogotá is angry — and analysts are skeptical that Managua can patrol such a large sea tract

By Tim Rogers / Managua Nov. 28, 2012

BAS CZERWINSKI / AFP / Getty Images

Nicaraguan Foreign Minister Samuel Santos, left, and Julio Londoño Paredes, head of the Colombian delegation, arrive at the International Court of Justice before the reading of the judgment in the dispute between Nicaragua and Colombia on Nov. 19, 2012

With pen and gavel, the U.N.'s International Court of Justice (ICJ) in the Hague last week redrew the maritime map between Colombia and Nicaragua — doubling Nicaragua's exclusive economic zone in the Caribbean Sea by 100,000 sq km (38,600 sq. mi.). But the ICJ may have doubled Nicaragua's trouble as well, not just because Colombia heatedly rejects the ruling — this week Colombian warships defiantly continue to ply Nicaragua's newly acquired maritime territory — but also because the decision hands the small, impoverished Central American nation more water than it can likely swallow, creating potential new tensions in the pond of the Americas.

The government of Nicaraguan President Daniel Ortega is celebrating its "recovery of sovereignty." For starters, it can now grant broader and more lucrative concessions for fishing and oil exploration. Problem is, not everyone will be seeking government permission to exploit the area. For northbound drug runners supplying the hemisphere's \$40 billion illegal-narcotics trade, the court-ordered changing of the guard from Colombia, Latin America's largest navy, to Nicaragua, one of the region's smallest, might look like an open invitation to literally test the waters. "The narcos will undoubtedly probe the Nicaraguan capabilities to patrol their expanded territorial waters," says Bruce Bagley, a drugwar expert at the University of Miami. "If they prove inadequate or incapable, then the drug traffickers will certainly press their advantage." The ICJ's decision, Bagley predicts, "could easily and rapidly become a major boon for traffickers from Colombia, Mexico and Central America."

Despite its size, Nicaragua has long prided itself on establishing a "firewall" in the drug war, which has soaked other Central American nations in narco bloodshed. Nicaragua's top military brass, General Julio César Aviles, insists Nicaragua does have the "professional capacity as mariners to carry out this task" of expanding its permanent patrol. Others are less convinced. With limited resources, personnel, air support and only three go-fast patrol boats capable of remaining out at sea for more than a day, the country's ability to protect such an expansive sea tract — which now reaches 200 nautical miles from its shoreline — is dubious at best. "Our victory in the Hague was a bitter fruit," says Roberto Cajina, an expert on Nicaraguan security and defense, "because Nicaragua does not have the capacity to guarantee permanent security of its newly acquired maritime zone."

Colombia is also concerned about security issues. The drug-war argument was a linchpin of Colombia's defense during the 11-year-long ICJ litigation, which focused on Nicaragua's claim that Colombia unlawfully grabbed Nicaraguan territory back in the 1920s. But the ICJ ruled that maritime security is not a valid argument in cases to determine sovereignty. So now Colombia is appealing its security argument to the court of public opinion and bucking international law in the process.

More than a week after the Nov. 19 ruling, Colombian President Juan Manuel Santos insists the decision is "seriously wrong" and replete with "omissions, errors, excesses and inconsistencies that we cannot accept." On Wednesday, Santos announced that his country has officially withdrawn from the treaty that recognizes the ICJ's authority. "Borders between the states should be established by the states," Santos tweeted, repeating his call for bilateral talks with Nicaragua on the court ruling. Colombian power brokers like conservative ex-President Alvaro Uribe, Santos' predecessor, are also turning to Twitter to incite patriotic passions. "Court rulings that violate a country's sovereignty are rejected," Uribe tweeted to his 1.6 million followers on Friday.

Many Latin American analysts think Colombia will eventually calm down and accept the ICJ's ruling rather than become a rogue nation. "Colombia is too sophisticated to continue behaving" that way, says Nicaragua's Arturo Cruz, a political-science professor at Managua's INCAE business school. "Colombia will eventually realize that they would lose a lot more by defying the International Court of Justice than they will by ceding part of the Caribbean Sea." Ortega believes Colombia has no choice but to accept the ICJ's ruling, which is definitive and unappealable. "Colombia will recognize the ruling by the International Court of Justice, because there is no other way forward," the Sandinista strongman insisted.

Nicaragua's disputed claim to the Caribbean waters and the archipelago anchored by the "big islands" of San Andrés, Providencia and Santa Catalina dates back to the 1928 Esguerra-Bárcenas Treaty, which gave Colombia ownership of the islands but did not establish maritime borders. Colombia arbitrarily made the 82nd meridian the provisional limit of Colombian waters — a move that nearly halved Nicaragua's maritime territory and largely blocked its access to the Caribbean. Ortega's government argued that Esguerra-Bárcenas was invalid because it was signed during a period of U.S. military intervention in Nicaragua. The ICJ finally came to the Solomonesque decision to recognize Colombia's claim to the islands but double Nicaragua's sea zone to the north and south of them.

The new boundaries are clearly delineated in degrees, minutes and seconds. Still, Nicaragua will most likely have to honor Colombia's request to negotiate them because it doesn't have the means to assert its sovereignty otherwise. "This isn't even a David-vs.-Goliath situation, because in this case David doesn't even have a rock to put in his sling," says Cajina, noting that Nicaragua's military budget is less than 1% of Colombia's annual defense expenditures, which are greater than Nicaragua's entire GDP. What's more, Nicaragua's military cooperation with the U.S., which might have been useful to Ortega in this situation, has become increasingly strained in recent years, and so far no other country with the naval wherewithal has stepped up to offer help.

Other countries are, however, eager to sell military equipment, but Nicaragua is buying all the wrong supplies for the job, Cajina argues. He questions the Sandinista government spending its limited funds on a \$244 million Chinese satellite and hundreds of millions more purchasing a fleet of Russian-made "Tiger" armored vehicles. The urban-assault vehicles are built to ford rivers, but "can't patrol the ocean 200 miles off the coast," Cajina notes. "Nicaragua lacks a national defense strategy and vision for the future." Given the circumstances, Cajina adds, the expanded border could mean rough seas for Nicaragua's flickering firewall.

Tim Rogers is editor of Nicaragua Dispatch. Reporting for this story was supported by a grant from the Pulitzer Center on Crisis Reporting.

Available at

http://world.time.com/2012/11/28/caribbean-crisis-can-nicaragua-navigate-waters-it-won-from-colombia/

"Colombia pulls out of International Court over Nicaragua", *BBC*, United-Kingdom

28 November 2012

28 November 2012

Colombia pulls out of International Court over Nicaragua



Juan Manuel Santos said the court's decision was riddled with mistakes and inconsistencies

Colombia has announced it no longer recognises the jurisdiction of the International Court of Justice, in The Hague.

The decision comes nine days after the ICJ redrew Colombia's maritime border in the Caribbean in favour of Nicaragua.

The court's ruling ended a decades-long dispute over the San Andres islands.

President Juan Manuel Santos said individual countries, and not courts of law, should fix their borders.

The ICJ ruled that the islands and a group of islets near the Nicaraguan coast in the western Caribbean belonged to Colombia.

But it set up new maritime borders in the potentially oil-rich area, extending Nicaragua's territory by some 70,000 square km (19,000 square miles).

The judgment, which is binding, was welcomed by Nicaragua but greeted with anger by President Santos.

'Peaceful means'

Mr Santos has now announced that Colombia is pulling out of the Bogota Treaty, signed in 1948, that recognises the court's rulings.

The region is rich in fishing resources, and potentially gas and oil

"The borders between nations cannot be in the hands of a court of law," he said. "They must be drawn by agreement between the countries involved."

Mr Santos reaffirmed he would only be using "peaceful means" to solve dispute.

The competing claims date from the early 19th Century, when the nations of Latin America were gaining their independence from Spain.

Nicaragua and Colombia signed a treaty in 1928 to settle the border and sovereignty of islands in the Caribbean.

But in 1980, Nicaragua's Sandinista government unilaterally annulled the agreement, arguing that it had been signed under US pressure.

In 2007, the ICJ ruled that the treaty was valid and that the sovereignty of three islands, San Andres, Providencia and Santa Catalina, remained with Colombia.

The archipelago lies some 775km (480 miles) from the Colombian coast and 230km from Nicaragua

Available at http://www.bbc.co.uk/news/world-latin-america-20533659

"The Colombian Foreign Minister Calls The Hague an Enemy", *El Nuevo Herald*

28 November 2012

El Nuevo Herald

28 November 2012

The Colombian Foreign Minister Calls The Hague an Enemy

"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"

Available at

http://www.elnuevoherald.com/20 1211112711353049/canciller-colombiana-califica.html

"Santos and Ortega will meet this Saturday in Mexico City", *La República*

29 November 2012

La República

29 November 2012

Santos and Ortega will meet this Saturday in Mexico City

" I want to shake hands with President Santos and say that I and the people of Nicaragua wants 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".

Available at

http://www.larepublica.co/economia/santos-y-ortega-se-reunir%C3%A1n-este-s%C3%A1bado-en-ciudad-de-m%C3%A9xico 26792

"Government of Colombia will not implement ICJ judgment until the rights of Colombians have been restored", *El Salvador Noticias.net*

3 December 2012

Government of Colombia will not implement ICJ judgment until the rights of Colombians have been restored

El Salvador Noticias.net/ 3 December 2012

[...]

The president reaffirmed that the Government of Colombia will not apply this judgment until "we see that the Colombian rights which have been violated are reestablished and guaranteed in the future..."

[..]

Available at

http://www.elsalvadornoticias.net/2012/12/03/gobierno-decolombia-no-aplicara-fallo-cij-mientras-no-se-restablezcan-derechos-de-colombianos/

"Nicaragua: no oil concessions in Seaflower", *Nicaragua Dispatch*

6 December 2012

Nicaragua: no oil concessions in Seaflower

By: Tim Rogers/ Nicaragua Dispatch | December 6, 2012 ShareEmail Print

(posted Dec. 6, 8:00 a.m.)- Nicaraguan President Daniel Ortega last night promised his government will protect the Seaflower Biosphere Reserve at the Archipelago of San Andrés, Providencia and Santa Catalina and will not grant any oil concessions in area.

"Nicaragua is not giving any concessions for (oil companies) to go perforating there to see if they find oil, and we won't destroy the reserve," Ortega said Wednesday night. "Nicaragua is not doing that. The world can be sure, and the Colombian people can be certain as I told President Santos, because this is one of their great concerns he told me."

Ortega's announcement came only hours after his Energy and Mines Minister Emilio Rappaccioli announced that Spanish oil company Repsol has already submitted an official request to explore for oil in Nicaragua's newly acquired Caribbean waters.

President Ortega also said that the Nicaraguan Navy has been instructed to not detain any Colombian fishermen during what he calls "the period of transition in the zone"

"We have to do this gradually until there is full compliance with the Court's sentence, without affecting the reserve and without affecting the fishermen and businesses on San Andres Island," Ortega said.

The Seaflower marine biosphere reserve is one of the largest coral reefs in the Americas, covering approximately 10% of the Caribbean Sea, according to UNESCO.

Available at

http://nicaraguadispatch.com/2012/12/nicaragua-no-oil-concessions-in-seaflower/

"Colombia avoided boundary frictions with the Army of Nicaragua", Caracol

19 February 2013

Radio Caracol

Colombia Avoided Boundary Frictions with the Army of Nicaragua

Admiral Roberto Garcia Marquez, Commander of the Armada, referred to the radiofrequency conversation held between the superiors of the vessels from the two countries

CARACOL | FEBRUARY 19, 2013

Admiral Roberto Garcia Marquez, Commander of the National Armada, revealed details about an incident between the **Vessel Almirante Padilla** and an official Nicaraguan vessel that intended to inspect a Colombian flag fishing boat in an irregular manner.

The officer referred to the conversation held by radio-frequency between the superiors of the two vessels

"Our commander told the patrol boat commander, Captain you fulfill your mission, which is to **protect the Nicaraguan fishermen** (...) and don't take any risk, don't expose yourself or force a serious situation".

He pointed out that his order was to ensure safety, will full force, of the frightened **Colombian fishermen** and to avoid these frictions from taking on greater magnitude.

After the incident, the **Colombian Armada** reinforced the number of ships and maritime patrols in the Luna Verde area, the 120 kilometers where Nicaraguan fishermen seek their livelihoods

The Armada pointed out that the patrol boats from the neighboring country are gunboats that also frequently frighten the **Colombian fishermen** using radio frequencies.

The **Minister of Defense**, **Juan Carlos Pinzon**, will deliver new vessels to the Coast Guard in the upcoming days.

Available at

http://www.caracol.com.co/noticias/actualidad/colombia-evito-roce-limitrofe-con-armada-de-nicaragua/20130219/nota/1845121.aspx

"Nicaragua asks Bogotá to form The Hague Commissions", *La Opinion*

22 February 2013

La Opinion

Nicaragua Asks Bogota to Form The Hague Commissions

MANAGUA, NICARAGUA (AP) | FEBRUARY 22, 2013

The Nicaraguan President, Daniel Ortega, invited the Government of Colombia to conform the commissions for application of the ruling by the International Court of Justice of The Hague, without affecting the right to fisheries of the inhabitants in the cays that belonged to Bogota in the past, but which the high court granted to Managua in its final ruling last year.

Ortega said that it is necessary to find mechanisms for consensus through dialogue that will enable closer relations between the two nations instead of confronting them.

"I propose to the Government of Colombia, to President (Juan Manuel) Santos, that the sooner the better, we should organize these commissions to work so that they can demarcate all of this in regard to the area where the Raizal peoples can fish according to their historical rights", the governing Nicaraguan said on Thursday evening during a commemorative act of the 79th anniversary of the death of Augusto Cesar Sandino.

Santos spoke on Monday on the alleged incidents between San Andres' fishermen and the Navy of Nicaragua; he also warned about his country's increased military forces to defend the interests of the fishermen from San Andres Island and the Raizal.

"In that regard, I tell you the following, so that it is absolutely and totally clear: I have given compelling and accurate instructions to the National Armada; respect for the historical rights of our fishermen will be enforced, regardless of whatever happens. No one has to ask for permission to fish where they have been fishing", said Santos.

Ortega said that the issue has been manipulated in Colombia for "electoral" purposes and that "there are powerful interests" in having an armed confrontation between Nicaragua and Colombia, in the waters granted to his country by The Hague.

I am certain that President Santos and the People of Colombia know that the solution to the ruling by the International Court of Justices is not the use of force; it is not the deployment of warships in the area, but rather to follow the path to organize the ruling the of the Court, organize it in terms of its implementation, how to organize it, how to apply it", he stated.

Ortega said that both in Mexico, during the takeover by President Enrique Peña Nieto, and in the recent Summit of Latin American States in Chile, he had the opportunity to discuss the issue with the Colombian President and that they have always spoken of taking joint measures.

He said that his country has no interest in a confrontation with anyone, and that the only thing its coast guard boats do is "to enforce the ruling by The Hague "very firmly and with serenity", always watching "so that the dialogue comes first".

About the rights of the artisan fishermen, Ortega said that there is a proposal to install a Consular Office in San Andres Island, and "from there, the number of Raizal fishermen can be clearly defined, which are their ships, and what they can fish freely".

Nonetheless, he was clear about industrial fishermen having to request the respective permit from the Nicaraguan Fisheries Institute, because in such case, the Raizal are merely employees and not the owners.

The Court in The Hague resolved last November 19th, a territorial dispute between both countries by determining that the San Andres Archipelago and all of the islands and adjacent cays belong to Colombia, and traced a new maritime boundary that grants more sovereignty to Nicaragua in the Caribbean.

Available at

http://laopinion.com.co/demo//index.php?option=com_content&task=view&id=414468& Itemid=29

"With patrolling aircraft of the Armada, Governor of San Andres makes an act of sovereignty in the 82° meridian", *Zonacero.info*

19 August 2013

With patrolling aircraft of the Armada, Governor of San Andres makes an act of sovereignty in the 82° meridian.

Category: Caribbean Zone

Published on Monday, August 19 2013 15:11

(VIDEO)

Aury Guerrero Bowie participated in a patrol aboard one of the maritime- patrol aircrafts of the National Armada and toured all the areas in which the National Armada exercises its sovereignty.

Exercising sovereignty over the controversial 82° meridian, the governor of San Andres Aury Guerrero Bowie, participated in a patrol aboard one of the maritime-patrol aircrafts of the National Armada and toured all the areas in which it exercises sovereignty.

The departmental mandatary was in the company of the Commander of the Specific Command of San Andres and the Providencia Admiral Luis Hernan Espejo Segura.

Available at

http://zonacero.info/zona-caribe/40345-con-aviones-patrulleros-de-la-armada-gobernadora-de-san-andres-hizo-acto-de-soberania-en-meridiano-82

"Governess Participated During Patrol of Meridian 82 Area", RCN Radio

20 August 2013

Governess Participated During Patrol of Meridian 82 Area

LOCAL 20/08/2013

By: RCN La Radio

Only National Armada Frigates are in the Meridian 82 area.

The Governess of San Andres, Aury Guerrero Bowie, participated in a patrol on board of one of the maritime patrol airplanes of the National Armada and toured all of the areas wherein the National Armada exercises sovereignty, accompanied by the Commander of the Specific Command of San Andres and Providencia, Rear Admiral Luis Hernan Espejo Segura.

The Governess said that she verified that in the Meridian 82 area there are only frigates of the National Armada and no ships from other countries.

She assured that the 12 frigates deployed in the territorial sea made a straight line over Meridian 82.

"I can affirm that we did not find any other types of vessels, only the nets of our own fishermen, who already left them in Luna Verde to gather them later; there are no platforms installed on our side of Meridian 82 and we did not see any installed within our visual field during our visual tour", said Guerrero Bowie.

Available at

http://www.rcnradio.com/noticias/gobernadora-participo-en-patrullaje-en-el-area-del-meridiano-82-84486#ixzz32wGEwvTd

"World Court ruling on maritime borders unenforceable in Colombia: Vice President", *Colombia Reports*

23 August 2013

World court ruling on maritime borders unenforceable in Colombia: Vice President

Aug 23, 2013 posted by Marcus Sales



Angelino Garzon (photo) El Mercurio

Colombia's Vice President said on Thursday that a ruling by the International Court of Justice over a maritime territorial dispute between Colombia and Nicaragua as "unenforceable."

In November of last year, The Hague ruled on a long standing maritime dispute between Colombia and Nicaragua. Although Colombia was granted sovereignty over several islands, Nicaragua were the beneficiaries of a shifting of boundary lines between the two countries, effectively doubling their economic zone in the Caribbean Sea.

MORE: ICJ ruling on San Andres a 'serious judgement error': Santos

"The judgement of the Court of The Hague is unenforceable in our country. It cannot apply now, in five years or ten years time," emphasized Vice President Angelino Garzon.

"The judges in The Hague instead of helping to resolve the differences between Colombia and Nicaragua, have only exacerbated them," added Garzon.

Nicaragua however, say that the ruling is already being implemented and that a decision by the Colombian government not to abide by it makes no sense.

"The judgement of the ICJ has been in effect since November 19 2012. What has happened is that Colombia has hired a number of law firms to analyse the resources in the territory," said Mauricio Herdocia, the lawyer representing Nicaragua in this case.

"In the end all questions will be resolved by the ICJ, and according to the rules of the court, when a state is preparing an appeal the judgment must be respected," added Herdocia.

Eric Tremolada, PhD in international law and international relations, explained to newspaper Elespectador that Colombia has already adhered to the ruling.

"Colombia publicly accepted the initial ruling of the court in 2007, and then again when Alvaro Uribe at the Santo Domingo summit, told the Nicaraguan President Daniel Ortega that he would respect the ruling," explained Tremolada.

"The words inapplicable and compliance are not appropriate terms for a declaratory judgement," added Tremolada.

Former President Ernesto Samper believes that the Colombian government should accept the ruling, and thus negotiate with Nicaragua.

"I believe that Colombia must recognize the ruling and then use all of the resources at their disposal to clarify, apply and implement the obligations of the ruling, prior to initiating negotiations with Nicaragua."

Available at

http://colombiareports.co/hague-judgment-unenforceable-colombia-vice-president/

"Daniel: 40 years from the martyrdom of Allende, peace must prevail" *El 19 Digital*

11 September 2013

El 19 Digital (Digital 19) <u>Daniel: 40 years from the martyrdom of Allende,</u> peace must prevail.

Wednesday, September 11, 2013 Carlos Espinoza Flores and Kenneth Chavez

Law, and not force, must prevail.

The mandatary reminded that these are times in which law must prevail, and this principal must be respected by countries like Colombia and Costa Rica, with whom Nicaragua has some differences rooting from the judgment of the International Court of Justice at The Hague, which in this past November reinstated to our country its sovereignty on the 90 thousand kilometers of Caribbean Sea.

"The call that I make to President Santos, to the government of Colombia, to some Central American governors that are throwing out declarations talking about expansionism, is that these are times in which law, and not force, must prevail", he emphasized. "Going for force would mean to go back to the Stone Age. If we take the lawful route that would mean the strengthening of peace, if we go for force it would mean to feed more wars in the world, if we go for law it would make wars go away and to promote the peace in the world", he assured.

In that sense he reaffirmed that Nicaragua is committed to peace, just like the countries of Latin America and the Caribbean.

Reiterates the dialogue with Colombia in order to implement the Judgment

He said that in Nicaragua times of peace are effectively blowing, in spite of it facing the positions of the government of Colombia which refuses to apply the Judgement of The Hague. "We understand the position taken by President Santos, but we cannot say that we agree with the position of President Santos", he said.

"We do agree that it is necessary to dialogue, we do agree that it is necessary to look for some kind of agreement, treaty, whatever we want to call it, to put into practice in a harmonious way, like brother peoples, the Judgment of the International Court of Justice, which gave Nicaragua more than 90 thousand square kilometers in the Caribbean Sea", he assured.

Available at

http://www.el19digital.com/articulos/ver/titulo:13038-daniel-a-40-anos-del-martirio-de-allende-debe-prevalecer-la-paz

International Court of Justice at The Hague, which gave Nicaragua more than 90 thousand square kilometers in the Caribbean Sea", he assured.

Available at

http://www.el19 digital.com/articulos/ver/titulo:13038-daniel-a-40-anos-del-martirio-de-allende-debe-prevalecer-la-paz

"Assembly of Nicaragua supports dialogue with Colombia", *El Universal*

12 September 2013

Assembly of Nicaragua Supports Dialogue with Colombia

AP

@ElUniversalCtg

MANAGUA

September 12, 2013 06:39 pm

On Thursday, the National Assembly of Nicaragua endorsed President Daniel Ortega to engage in a dialogue with Colombia in order to find the mechanisms leading to the execution of a treaty to implement the ruling by the International Court of Justice of The Hague, which defined the limits between both countries in the Caribbean Sea.

"The National Assembly stated its total endorsement to the position of the Government of Nicaragua for a peaceful solution through a treaty for application of the ruling", pointed out a statement by the Assembly.

The resolution, voted by all of the legislators, was signed during a special session at San Jacinto Estate, located 40 kilometers to the north of the capital city, which represents a symbol of sovereignty and resistance; 157 years ago, [the estate] was the stage of a historical battle in which a minority Nicaraguan troop defeated North American filibusters who surpassed them in number and weapons.

"We urge Colombia to comply with international law and to abide by the ruling of the International Court of Justice, which is final and of unavoidable compliance", read the first secretary of parliament, the Sandinista Representative, Alba Palacios.

The Colombian President, Juan Manuel Santos, said last Monday that the ruling by The Hague would only apply for Colombia if a treaty is signed, "which must be approved pursuant to the provisions" set forth in his country's Constitution.

Ortega proposed on Tuesday, in response to Santos, to open a dialogue leading to drafting of the treaty, which would serve to implement the ruling and incorporating agreements for industrial fisheries, environment and the fight against drug trafficking.

Ortega, in an act commemorating the 40th anniversary of the coup in Chile, reiterated that the only way to find understanding and a solution to the disagreements that caused the ruling by The Hague is through dialogue.

"We agree (with Santos) that we must hold a dialogue, we agree that we must seek some

type of agreement or treaty, whatever we may call it, to harmoniously implement the ruling as fraternal peoples", said Ortega.

At the same time, he invited Colombia, Costa Rica and Panama, which accuse Nicaragua of expansionism, to reflect because the times require the law to prevail over force.

"If we go by force, we would be returning to the Stone Age. If we go by law, we would strengthen peace; if we go by force, we would be fostering more wars in the world; if we go by law, we would ward off wars and promote peace in the world", he assured.

Available at

http://www.eluniversal.com.co/colombia/asamblea-de-nicaragua-respalda-dialogo-con-colombia-134509

"Santos orders defense of the continental shelf with cloak and sword", *El Espectador*

19 September 2013

El Espectador

19 September 2013

Santos orders to defend tha continental shelf with cloak and sword

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 Andres, Aury Guerrero, reiterated that the Caribbean waters over which The Hague gave economic rights to Nicaragua are and have always been Colombian waters."

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

Available at

http://www.elespectador.com/noticias/politica/santos-ordena-defender-plataforma-continental-capa-y-es-articulo-447445

"We Will Continue Being Guarantors of National Security With Strength and Soundness, Commander Wills in the Colombia Lectureship", http://www.esdegue.mil.co/node/4083

21 March 2014

WE WILL CONTINUE BEING GUARANTORS OF NATIONAL SECURITY WITH STRENGTH AND SOUNDNESS, COMMANDER WILLS IN THE COLOMBIA LECTURESHIP

March 21, 2014



Today, the Superior School of War received the Commander of the National Armada, Admiral Hernando Wills Velez during the Colombia Lectureship, who spoke to the students of the Advanced Military Studies –CAEM- 2014 and the General Staff Course – CEM- 2014, about the present and future of the Colombian Marines in the country and the world.

During his lecture, Admiral Wills recalled that we are in a very unstable national and international scenario that compels the Military Forces to work jointly and integrated, as well as to anticipate the new threats that may arise in the region.

In the same manner, he highlighted the work carried out by the National Armada in defense of national sovereignty, protection of port infrastructure and effective response to transnational issues such as drug-trafficking. In this sense, he underscored that thanks to such great endeavor, carried out by all of the men that compose its forces and units, today, Colombia is a reference for economic growth in the continent. Port security and connectivity have played a very important role in the country's development', he said.

Likewise, the Commander stressed the high-level professionalism of today's National Armada and the international recognition that it enjoys. "This enabled us to exports our knowledge of navy intelligence to several Latin American countries and our good position and interconnection with other navies of the world".

Admiral Willis equally observed that the international role fulfilled by the Armada as an instrument to boost national diplomacy and be present in the world.

The Commander of the National Armada made a summary in his lecture on the events that took place in San Andres and recalled for the audience that the presence of the Armada in the Archipelago is permanent and will watch over the rights of the fishermen that have been in the area historically, as well as over the biosphere reserve, and all other surrounding resources. Surface ships, naval aviation and the coast guard will be present in the place uninterrupted, to safeguard protection of the territorial sea and of the population. Permanent patrol in all of the islands, scientific research and permanent cartography development by DIMAR has contributed, according to Admiral Wills, to maintaining peace in the entire Archipelago. "We will continue to be guarantors of national security with strength and soundness".

Available at http://www.esdegue.mil.co/node/4083

"Devoid of a New Treaty, the Limits of Colombia and Nicaragua Continue to be the Same: Santo", W. Radio

2 May 2014

DEVOID OF A NEW TREATY, THE LIMITS OF COLOMBIA AND NICARAGUA CONTINUE TO BE THE SAME: SANTOS

LA W RADIO | MAY 2, 2014

The Hague ruling cannot modify the boundaries with Nicaragua

After the Court confirmed the lawfulness of the action against the 1968 Bogota Pact, by which Colombia recognized the powers of the International Court of Justice in The Hague to solve border disputes, President Juan Manuel Santos deemed the ruling by the Constitutional Court of Colombia as historical.

The Plenary of the Constitutional Court fettled the decision and admonished that the only way to modify the country's boundaries is through a treaty requiring approval by Congress and the Constitutional Court, as well as ratification by the President of the Republic.

To this decision, President Juan Manuel Santos confirmed that the ruling by the International Court of Justice in The Hague can only apply after a new treaty; "that was the thesis accepted by the Constitutional Court in a historical ruling that clearly applies the commands of the Constitution.

The Head of State noted that on the basis of this argument, the maritime limits of Colombia cannot be modified until discussed by the legislative branch.

"Consequently, for our country, until a new treaty is agreed, the limits of Colombia with Nicaragua continue to be those established by the Esguerras - Barcenas Treaty; namely, the limits prior to the ruling by the International Court of Justice".

President Santos assured that he will study the entire ruling by the Constitutional Court in order to make new decisions.

Available at

http://www.wradio.com.co/noticias/actualidad/sin-nuevo-tratado-limites-de-colombia-y-nicaragua-siguen-siendo-los-mismos-santos/20140502/nota/2205996.aspx

"We Must Seek Agreements with Nicaragua to Apply the Ruling Without Disavowing the Constitution: Former Attorney General Carlos Arrieta", RCN Radio

3 May 2014

"WE MUST SEEK AGREEMENTS WITH NICARAGUA TO APPLY THE RULING WITHOUT IGNORING THE CONSTITUTION": FORMER ATTORNEY GENERAL CARLOS ARRIETA

03/05/2014

Carlos Gustavo Arrieta, former Attorney General and Head of the Legal Team that represents Colombia before the International Court of Justice in The Hague, explains that the decision of the Constitutional Court is a very important sentence from the "political point of view", but does not have any direct incidence on the legal procedures advanced in the international court.

The jurist advises that the basis of the argument on which the team that advises President Juan Manuel Santos is exactly the same as the one defined by the Constitutional Court this Friday, referred to the fact that the ruling by The Hague is not applicable unless a treaty between the two countries involved is signed and it must be approved by the National Congress. However, the attorney emphasized that the final text of the decision must be known in order to issue a final opinion.

Arrieta advises that a decision by the International Court exists but neither is it possible to ignore the internal legal system. For this reason, he recommends that the country move forward in seeking a manner of conciliating the two extremes.

"I believe that the adequate formula would be to seek agreements with Nicaragua in order to apply the ruling without ignoring the constitution. In the meantime, we will be in a sort of dead end. Nicaragua also has boundary issues set forth in its constitution. Therefore, we must agree on a reasonable and equitable solution to allow for adequate protection of the areas of interest to both countries, without disregard for the National Constitution".

Arrieta refers that this is not the first time that this happens. For this reason, many times, countries delay application of the decisions by the International Court, and sometimes, by promotion of the court itself, implementation of the solution is the result of an agreement between the stakeholders, and differs from the ruling.

"The Constitutional Court spoke of the need to harmonize the internal and international space, with which it suggests that we seek some type of treaty with Nicaragua to facilitate application of the ruling, keeping in mind the parameters set forth in the constitution". But we do not have the final text of the decision and we are imagining the details that the sentence may involve", said Arrieta.

The well-known jurist deems that the decision ratifies the fact that President Juan Manuel Santos has assumed a proper position in this borderline conflict, based on solid arguments.

"Nicaragua filed two lawsuits against Colombia after the ruling by The Hague. One is for incompliance with the November 19, 2012 ruling, - which modifies the limits of the territorial sea between both countries. – The other is for recognition of the existence of an extended continental shelf", explained Arrieta.

In this sense, the International Court is expected to issue a sentence for these lawsuits underway within 2 or 3 years, but not in the short-term.

Available at

http://www.rcnradio.com/noticias/debemos-buscar-acuerdos-con-nicaragua-para-aplicar-el-fallo-sin-desconocer-la-constitucion#ixzz30lU7zhIs

"A New Treaty with Nicaragua Should be Made Defining the Limits", *El Tiempo*

3 May 2014

A NEW TREATY WITH NICARAGUA SHOULD BE MADE DEFINING THE LIMITS'

By: EDITORIAL DESK EL TIEMPO |

May 03, 2014

The Former Prosecutor, Carlos Gustavo Arrieta, agent of Colombia before the International Court of Justice in The Hague (ICJ), deemed that the Colombian Government should sign a treaty with Nicaragua to define the maritime boundary with that Central American nation. (Also read: Keynotes of the ruling that reforms the inapplicability of the decision by The Hague).

He made the standpoint after hearing a decision by the Constitutional Court, pointing out that a ruling by an international court cannot modify the limits of the country. (Also read: President Affirms that Ruling by The Hague can only apply if there is a Treaty).

This is subsequent to the ruling by the ICJ in November 2012 that snatched economic rights from Colombia over the Caribbean Sea and granted them to Nicaragua. (Limits of the national territory cannot be modified unless there is a treaty).

According to the Colombian high tribunal, for this to take place, the President must sign an international treaty, approved by Congress and endorsed by the Constitutional Court itself.

How do you view the decision of the Constitutional Court?

It is a very good decision. I think it implies a very significant accolade to the position assumed by the President of the Republic on the same day that the International Court of Justice issued the ruling, which he reiterated several months later when he said that the ruling is inapplicable until a series of internal modifications take place.

This is what the Government proposed?

He underscores the coherence and consistency of that government position, inasmuch as this is the position it has upheld for quite some time now.

So, what follows?

Naturally, this confronts us with important challenges because as of this moment, according to the constitutional mandate, once we hear all of the details of what the court said, it will be necessary to start thinking how we will get around into this matter and how we can approach it for purposes of producing a treaty to modify the limits while acknowledging the rights of the Colombians and islanders.

Must there be a treaty between Colombia and Nicaragua defining the limits?

Yes, that is exactly what the Court is saying because by declaring the conditional constitutionality of the Bogota Pact, it is pointing out that to enable the applicability of the ruling, a treaty between Colombia and Nicaragua is necessary, which is what the Government has always said.

Would the frame of the treaty take into account the ruling by The Hague Court?

The two countries must define this; the important matter in this point is that the Constitutional Court gave a great accolade to the position of the government.

But this implies negotiations with Nicaragua?

I believe we must try to negotiate with Nicaragua to define the limit. This is a huge accolade to the position of the Government, which has said it could not apply the ruling until there are new and clear rules of the game and the legal frame defined. The position of the President was that to enable the application of the ruling requires a new treaty and in essence, the Court is saying the same thing.

How can the ICJ accept this?

That is the position that the Government presented, it has not varied and was of public knowledge; therefore, I do not think it implies any substantial change in terms of the country's international position.

Can the ICJ interpret this as defiance?

No, because the Constitutional Court is saying that the decision of the ICJ requires a treaty for its application. That is not defiance.

But does this change in manner, our relationship with The Hague?

No, there is no reason to change. It does not have to change.

Does this modify in any way the situation of the Colombian fishermen in that area of the Caribbean?

In my opinion, in any case, what is currently arising must continue and does not change the issue, but rather reiterates the position of the President. For now, this position involves a specific coexistence of the fishermen in that region, which is what has taken place.

Would that dialogue with Managua take place with the Ministry of Foreign Affairs, would it happen through The Hague, or what would be the mechanism?

I do not know that, the President must define this with his Minister of Foreign Affairs, as I do not dare give my opinion on that. I believe that we must know the text in the ruling; right now, there is only a press release and it is lacking details. What is their status?

There are two lawsuits. One for an extended platform and the other, a liability claim for breach of judgment; these are the two proceedings I am attending. We are barely beginning the proceedings and that has time lags.

And how is that proceeding?

After introduction of a claim and a chronogram is agreed, the normal process is that the demanding country presents its full claim. When the Court accepts it, it gives a term to Nicaragua to present what is called the memoir, which is the full claim. Afterwards, it gives the respondent country, in this case Colombia, a term to present its counter-memoir.

Are the dates set?

Nicaragua must present its memoir toward the end of this year, and Colombia its counter-memoir towards the middle of next year.

Available at

http://www.prensaescrita.com/adiario.php?codigo=AME&pagina=http://www.eltiempo.com

"Nicaragua proposes to coordinate The Hague's sentence with Colombia", AFP

9 May 2014

Noticias RCN.com (RCN.com News)

America

May 9, 2014. 5:20 pm

Nicaragua proposes to coordinate The Hague's sentence with Colombia

That is what President Daniel Ortega assured in a military act in that country.

Nicaragua proposed to Colombia to create a bi-national commission to coordinate the fishing operations, antidrug patrolling and the conjunct administration for the reserve of the Seaflower biosphere in the Caribbean Sea, with the base of the delimitations established by the International Court of Justice (ICJ).

"We propose to the government of Colombia, to President Juan Manuel Santos, to work for a Colombian-Nicaraguan commission so a treaty can come out of it that will allow us to respect, and put in practice the judgment by the ICJ", urged President Daniel Ortega during a military act in the capital city.

The ICJ decided this past November on the border dispute between the two countries which confirmed Colombia's sovereignty on the San Andres Archipelago, Providencia and Santa Catalina and adjacent cays, and incremented Nicaragua's continental shelf in the Caribbean by more than 90,000 km2, according to Managua and 75,000 km2, according to Bogota.

Ortega said that the bilateral dialogue is important to establish through a treaty "how the reserve (Seaflower) will be handled, how the area will be patrolled and the subject of fisheries".

Nicaragua gave provisional licenses for industrial fishing a month ago to four companies of Honduran and Panamanian origin for them to fish in the maritime area that the ICJ gave it in the Caribbean Sea.

Ortega informed that its government has also communicated to UNESCO that the biosphere of "Seaflower which was totally Colombian, now has a part of it which will be administered by Nicaragua" as a consequence to the sentence.

"We have to reach an agreement with our Colombian brothers (..) to establish already a conjunct administration" of the reserve "with the companionship of the UN", Ortega stated.

The new frontier defined by the ICJ left the Seaflower reserve- which includes the San Andres Archipelago and 349,800 square kilometers of sea- divided between the two countries, even though the majority of it is in Colombian territory.

Ortega said that in spite of the fact that Colombia has not acknowledged the judgment of the ICJ, the same has been applied in fact, little by little, and without confrontations. **AFP**

Available at

http://www.noticiasrcn.com/internacional-america/nicaragua-propone-coordinar-fallo-haya-colombia

"Santos Says that the Ruling by The Hague is Inapplicable", *El País*

19 May 2014

SANTOS SAYS THAT THE RULING BY THE HAGUE IS INAPPLICABLE

According to the President, the country cannot apply the ruling because only "international treaties" can modify the border.

Monday, May 19, 2014

President Juan Manuel Santos said this Monday that Colombia cannot apply the ruling by the International Court of Justice in the conflict with Nicaragua over the maritime boundaries in the Caribbean because "we can only modify our borders with international treaties".

After the decision of the ICJ in November 2012, "we said that this ruling is not applicable from the first day because it contravenes our Constitution", said the President to Bul Radio station.

Last May 2, the Constitutional Court decided any attribution of competence to international jurisdiction as unconstitutional to hear and judge Colombian border issues.

We are waiting for the content of the ruling by the Constitutional Court over the thesis we have upheld, through which we can only modify our borders with international treaties", and thus know how Colombia will proceed in view of the ruling by the ICJ", said Santos.

The Colombian President insisted that the "ruling is inapplicable; we can only modify the borders of Colombia through a new treaty; I have upheld that position and I continue to do so". Santos emphasized that "I would not accept the imposition of what is now precisely in the ruling" of the ICJ.

On November 19, 2912, the ICJ in The Hague, in an irrevocable ruling, ratified Colombia's sovereignty over the San Andres, Providencia and Santa Catalina Archipelago, as well as over its seven uninhabited keys, claimed by Nicaragua in a conflict begun by the government of Managua before this international court in 2001.

But the decision of the international court reduced the Colombian maritime territory by approximately 75,000 kilometers by granting a larger portion to Nicaragua, leaving the Colombian keys of Quitasueño and Serrana surrounded by Nicaraguan waters.

Available at

http://www.elpais.com.co/elpais/colombia/noticias/santos-afirma-fallo-haya-inaplicable

"Santos Guarantees Continuity in his Foreign Policy with Latin America", *America Economica*

17 June 2014

SANTOS GUARANTEES CONTINUITY IN HIS FOREIGN POLICY WITH LATIN AMERICA

06/17/2014

"We wish to maintain the best possible relations with all of the countries", said the President, before recalling that when he inherited the government in 2010 from former President Alvaro Uribe, Colombia was "on the brink of a war with Venezuela and Ecuador".

Asked about his position in view of the application of the ruling by the International Court of Justice in The Hague (ICJ) on the maritime limits in the Caribbean with Nicaragua, one of the thorniest issues of Colombia's foreign policy in his Government, Santos announced that he will maintain the same policy.

The leader ratified his commitment with the regional integration organizations such as UNASUR and the Pacific Alliance, a recent mechanism that will hold a summit at the end of this week wherein Santos will transfer the Pro-Tempore Presidency to his Mexican colleague, Enrique Peña Nieto.

"The Hague ruling is not applicable. The boundaries cannot be changed except through a treaty, that is how our Constitution defined it and we have to wait for that treaty to modify our boundaries", explained Santos.

Available at

http://www.americaeconomia.com/politica-sociedad/politica/santos-garantiza-continuidad-en-su-politica-exterior-con-

latinoamerica?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+america-economia+(Am%C3%A9rica+Econom%C3%ADa)

"Nicaragua Fears Losing the Sea", available at http://www.taringa.net/posts/info/17784410/Nicaraguateme-perder-el-mar.html

"NICARAGUA FEARS LOSING THE SEA"

Juan Carlos Moncada, attorney, said in Blu Radio that after 1991, no authority in Colombia can make modifications to the constitutional limits unless there is a treaty created by Congress and revised by the Constitutional Court, referring to the Constitutional Court's ruling declaring as legal, the Law that Colombia endorsed in order to sign and enforce the Bogota Pact.

"The Constitutional Court did not specifically refer to the decision of the court in The Hague within the frame of the Bogota Pact", said Moncada, and added that "it says that there is no possibility that an international legal authority can affect or make decisions that impact the limits of the Republic by the rule of 1991".

The expert assured that the Court did not declare the Bogota Pact as unconstitutional, which attributes competence to the International Court of Justice in regard to limits, but rather acts under the condition that decisions are made through a public treaty that must go through Congress.

This was the speech by President Santos:

This afternoon, after rigorous and serious study, the Constitutional Court acknowledged the thesis we have upheld as of the same day in which The Hague issued its ruling in November 2012 and that we ratified in September of last year, when I personally sued the Bogota Pact.

The legal action upheld that pursuant to the National Constitution, the limits of Colombia can only be modified or established through a treaty concluded by the Government, approved by Congress and then revised by the Constitutional Court.

Hence, the ruling by the Court in The Hague can only apply after a new treaty.

That was the thesis accepted by the Constitutional Court in a historical ruling, which clearly applies the provisions set forth by the Constitution.

Consequently, for our country – while a new treaty is not concluded – the limits of Colombia with Nicaragua continue being those established in the Esguerra-Barcenas Treaty; namely, the limits prior to the ruling of the International Court of Justice.

We will wait to hear the content of the ruling to decide the next steps".

The Ruling of the Constitutional Court

The Constitutional Court declared legal the Law that Colombia, through the Congress of the Republic, endorsed to sign and endorse the Bogota Pact, which is adapted to the Colombian Political Charter

However, it clarified that international legislation cannot intend to modify the country's border limits cannot override the Constitution, specifically in its Article 101, which only authorizes to do so through an international treaty convened by mutual agreement with another country.

Available at

http://www.taringa.net/posts/info/17784410/Nicaragua-teme-perder-el-mar.html

"This is the outline Security of the National Armada and the Colombian Air Force Implemented in San Andres" Webinfomil.com

23 November 2012

The colombian military portal (El portal militar colombiano)

This is the outline Security of the National Armada and the Colombian Air Force Implemented in San Andres.

Friday, November 23, 2012. Web Infomil Press



A powerful aero-naval force of the National Armada and the Colombian Air Force makes it presence in the territories disputed over between Colombia and Nicaragua.

(<u>www.webinfomil.com</u> // Roberto Garcia H) Long before the sentence emitted by the International Court of Justice at The Hague came to be known, the National Armada and the Colombian Air Force initiated the deployment of military units in the area, preventing any favorable and unfavorable result to Colombia in said trial.

That is that several days before the judgment call, seven ships of different bearing belonging to the National Armada, accompanied by helicopters and reconnaissance and attack aircrafts from the Colombian Air Force, were in route towards the cays and the maritime areas in dispute with the end of exercising and ratifying the Colombian sovereignty over such waters.

The aircraft of the Air Force were deployed to the installations of the "Grupo Aerero del Caribe" (Caribbean Air Group) from where they are sent on air and maritime patrolling missions. Similarly, in that same air base two OV-10 Bronco aircrafts are kept for fast reactions alerts, which will be sent on interception missions in the case of identifying a possible illegal incursion in the Colombian air space.

The seven war ships of the National Armada which were deployed to all the Colombian cays and islands in the sector are the ARC Antioquia Missilery Frigates and ARC Caldas, the ARC Cartagena de Indias logistics ship, the patrollers ARC 20 de Julio, ARC 11 de Noviembre and ARC San Andres and the ARC Providencia boat.

The military and security deployment in the naval part consists of:

Missilery Frigates FS-1500 Almirante Padilla Class



The light frigates ARC Antioquia and ARC Caldas, sailing in close formation.

In the disputed area one can find the ARC Caldas (FM-52) and the ARC Antioquia (FM-53) exercising sovereignty, two missilery frigates of the Almirante Padilla class which recently underwent an extensive modernization which left them equipped with the most recent technological developments in the matter of radars, communications, motors, defense systems and armament.

The four units of this class are of German origin and were acquired in the 80's from the Howaldtswerke-Deautsche Werft (HDW) yards in Kiel, Germany. These units move 2,100 tons of full load and are armed with 8 anti-ships missiles from surface to surface Exocet MM-40 of French manufacture, two ainti-aircraft missile mounts Mistral Simbad in the bands of the port and starboard, two anti-submarine triple torpedo launchers Alenia A224S, a canon Oto Melara of 76 mm Dart/Strales on its bow and an Oto Melara anti-aircraft canon of 40 mm on its sterm.

In its most recent modernization there were modern systems of vigilance and intelligence installed as is the newest radar 3D Thales Smart-S Mk2, the new combat system TACTICOS, the shooting directors Sting-EO Mk2 and MIRADOR, the electronic war system ESM Vigile, decoy launchers TERMA SKSW DL-12T and the new engines MTU M-93 series 4000. To know more about these equipments and modernizations, click here http://www.webinfomil.com/2010/12/modernizacion-de-las-frigatas-ligeras-html

The other two missilery frigates of the National Armada, the ARC Almirante Padilla (FM-51) and the ARC Independiente (FM-54) recently went back to patrolling the Colombian seas after concluding a stage of sea tests necessary in order to return to active duty after their updates. At the moment they can be found in the rear away from the disputed zone but ready to come into action if necessary.

Oceanic Patroller ARC 20 de Julio



The ARC 20 de Julio, Patroller of the exclusive economic zone of national fabrication

The ARC 20 de Julio (PZE-46) is a patrolling ship of the exclusive economic zone of the National Armada, is to the moment the biggest military ship fabricated in Colombia. This ship of 80m long, was constructed by the yards of the science and technology corporation for the development of the naval industry (COTECMAR in its Spanish acronym), counts with an interceptor boat like Midnight Express for its missions against drug trafficking, illegal fishing and pirates, it can also take a medium-size helicopter and has an automatic canon Bofors of 40 mm as its main armament, which is directed by the fire control system "Barracuda" of national design and fabrication. The unit, which had a cost close to 133 thousand million pesos, is the first of the six that the National Armada plans to build. In actuality, a twin unit, the ARC 7 de Agosto (PZE-47) is in construction in the yards of COTECMAR in the city of Cartagena.

This type of design, which is also in service in the Armada of Chile, is a patrolling ship of the Exclusive Economic Zone (PZE), more known in the international environment as OPV (Offshore Patrol Vessel or oceanic patrolling ship) of 80, 60 meters long and 13 meters wide, with an ability to move 1,800 tons. It can harbor 10 life rafts and shelter food supplies for 30 days. To a cruising velocity of 18

knots, it has autonomy of 4,400 nautical miles; and at 12 knots, its autonomy is of 10,000 nautical miles.

Coastal Patrol Vessel ARC 11 de Noviembre



For a week, the coastal patrol ARC 11 de Noviembre arrived to the Colombian islands

The ARC 11 de Noviembre is a coastal patrol vessel recently acquired by the National Armada, its fabrication took place in the Fassmer yard in the city of Beme (Germany) and about 12 million 900 thousand Euros were invested in the construction of this ship.

This is the first patroller of the National Armada of the class CPV 40 (Coastal Patrol Vessel). The ship which counts with 24 crewmembers, has a length of 40.25 meters, a sleeve of 7.56 meters, a fretwork of 1.86 meters and a movement of 245 tons in maximum load; it reaches a maximum speed of 23.6 knots reached thanks to its two MTU engines of 1920 Kw each, its autonomy is of 15 days or 2000 nautical miles, it has a fretwork of naval steel and a superstructure built in aluminum, which makes its very light.

Its cutting edge characteristics are the automatic canon of 25 mm Typhoon Mk 25 Mod II with an electro-optical shooting direction Toplite, 2D vigilance radars, a water desalination system which allows it to supply it with 3,000 liters of water daily; on top of its ramp-down hydraulic system which allows for an immediate reaction with its support boat to the operations.

Oceanic Patroller ARC San Andres (PO-45)



No matter its age, the oceanic patroller ARC San Andres has turned into a valuable tool by the National Armada.

The ARC "San Andres" (PO-45) ex [USCG Gentian (WLB-290)] is an ocean patrolling ship built in the Zenith Dredge, Minnesota yard out of which 39 units of class Cactus A WLB were built. In 2007 it was donated by the government of the United States and became part of the National Armada of Colombia, since then it performs operations of logistic support, maritime interdiction, search and rescue, also as national sovereignty in the Colombian Caribbean.

After its incorporation of the National Armada, it entered maintenance and major reparations stage which was done in the COTECMAR yard for a period of 12 months. Between its most relevant works that were done are the maintenance of

the fretwork and superstructure, maintenance of the loading system, transmission and potency line, maintenance of the electric propulsion system, internal combustion equipments and paralleling system, change of the air conditioning plant, maintenance of the auxiliary systems and conditioning of the habitability spaces of the unit.

In operations of maritime interdiction, it has accomplished important results, especially in the detention and persecution of Go-Fast type of boats, similarly, with the supply of information of combat and technique intelligence has recently contributed in important operational results against drug and terrorist organizations offending in the Colombian Caribbean. Up to date la Unit has sailed a total of 5,500 nautical miles exerting sovereignty by the seas of country.

It has a length of 55 mm, a sleeve of 11.30 m and a fretwork of 4.45 meters, it can reach a speed of 13 knots thanks to its two diesel engines Cooper-Bessemer-type GND-8 1,000 horse powers, its autonomy is 17,000 miles at a speed of 12 knots (22km/h). It counts with 47 crewmembers which use machine guns of .50 calibers as its main armament

Multipurpose ship ARC Cartagena de Indias (BM-161)



The multipurpose logistics ship ARC Cartagena de Indias, also fulfills missions of surface naval warfare thanks to its two Bofors canons of 40mm.

The ARC Cartagena de Indias (BM-161) is a Luneberg class multipurpose ship (Type 701) built in Germany, acquired in 1996 by the National Armada for the transportations of supplies, machinery, troops and warfare against drug trafficking.

It has as its mission to perform naval operations of support to the unities at sea and to the manpower at land in times of peace and war; to serve as a transportation unit with the purpose to contribute to maintain the internal order and the sovereignty of Colombia in the territorial sea and the exclusive economic zone.

Other of the important missions that this type of ship fulfills is the racking of fuel to other naval units, especially to the missilery frigates of the Almirante Padilla class. It counts with maneuvering equipment for the trespassing of fuel, which it provides to the National Armada, the strategic capacity of being able to extend the time of stay at sea of the capital units (frigates) indefinitely.

Oceanographic Vessel ARC Providencia



The ship ARC Providencia, which fulfills missions of scientific investigation, also develops naval operations of support to the Caribbean Naval Force.

The oceanographic and hydrographic vessel ARC "Providencia" was acquired in 1981 for the development of investigations in the disciplines of Physical and Chemical Oceanography, Marine Biology and Marine Geology.

This unit is of 1.157 tons of displacement, built in Germany and has kept its operational capacity and optimized the process of scientific maritime investigation.

The vessel is a platform of scientific investigation which also develops naval operations of support to the Naval Force in the Colombian Caribbean and Pacific.

The oceanography vessel has a length of 50.9 meters, a sleeve of 10 meters, a strut of 5.7 meters and a fretwork of 4.4 meters. It is propelled by a diesel engine MAN 8L23/30 of 1.280KW-1740 HP and counts with a radio action of up to 5,500 miles and an autonomy of 30 days.

Air Units:

Additionally, accompanying these ships, in the insular territory there are air units of the Colombian Air Force that are deployed in the Caribbean Air Group, located in the island of San Andres and of the Naval Aviation with embarked helicopters and aircrafts for maritime patrol as they are:



Two OV-10 Bronco aircrafts of the Colombian Air Force, coming from the Air Group of Casanare were deployed to San Andres with the end of executing missions of sovereignty on the Colombian skies and interception of suspicious traces.



Attack helicopters AH-60L Arpia III were also deployed with their potent and precise weapon systems to be utilized in security missions in the island of San Andres.



Airplanes of recognizing and intelligence Cessna SR-560 perform daily missions on the area between the 82 meridian and the parallel 15 in search of boats and

aircrafts that may affect the development of the fisheries of Colombian fishing vessels.



Airplanes for maritime patrol Casa C-235 Persuader of the National Armada constantly patrol the nearby seas to the islands and Colombian cays, exploring and registering with their radars the movements of the boats that transit the disputed area.



Helicopters MBB Bo-105CBS of the Naval Aviation, were boarded on the Ocean Patrol vessels of the National Armada with the end of supporting the operations of sovereignty.



The helicopters Eurocopter AS 555SN "Fenned" were boarded in the missilery frigates of the National Armada where they perform various missions in which it is included the nearby aerial support with their 20mm canon and as relay of shooting surface to surface missiles in a naval war.

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