



EMBASSY OF NICARAGUA
THE HAGUE

The Hague, 23 September 2019
REF: HOL-EMB-098-2019

Excellency,

With reference to the case concerning *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, I have the honour to draw your attention to some troubling incidents involving the Colombian navy that took place in Nicaraguan waters. Due to external factors, in particular the change of administrations in Mexico, the presentation of some of this information to the Court was delayed. Nevertheless, Nicaragua considers that these events should be brought to the Court's attention, particularly in light of recent declarations made by Colombia¹ that raise concerns about the latter's intentions.

As described in the attached diplomatic notes,² on 6 October 2018, the Colombian naval vessel the ARC-51 "Almirante Padilla" intercepted the Mexico-flagged research ship the "Dr. Jorge Carranza Fraser", ordered it to stop its activities and prevented it from continuing, claiming that it was operating in Colombian waters.³ In fact, however, the "Dr. Jorge Carranza Fraser" was operating in Nicaraguan waters south of the enclave around Quitasueño (13°51'50.79"N – 81°27'18.066"W), having been duly authorized by Nicaragua as part of a research project funded by the United Nations Food and Agricultural Organization.⁴

A similar incident occurred two days later on 8 October when the "Almirante Padilla" again intercepted the "Dr. Jorge Carranza Fraser" and ordered it to leave while operating in Nicaraguan waters south of Albuquerque Cay (11°51'39.798"N – 80°58'9.998"W).⁵ The former has been corroborated by the Mexican authorities who reported that "the authorities and crew members on board the research vessel had no other option but to obey the request of the referred patrol [...] and [...] modify the course and the scientific execution originally planned"⁶. Annex 15 (A) and (B) illustrates the route originally agreed between the Mexican and Nicaraguan authorities together with

¹ *El Tiempo*, "Colombia will not agree to lose a single millimeter to Nicaragua", 18 August 2019 (Annex 19).

² See Annexes 1-10.

³ See Diplomatic Note MRE/VM-AMM/DGAJST/1545/11/18 dated 15 November 2018 (Annex 1).

⁴ See Scientific Fishing Permit extended to Mexican vessel "Dr. Jorge Carranza Fraser" (Annex 16).

⁵ See Diplomatic Note MRE/DM-DMC/DGAJST/00553/12/18 dated 5 December 2018 (Annex 2).

⁶ See Letter from the Mexican National Institute of Fisheries and Aquaculture (Annex 12).



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the route as modified in response to Colombia's harassment, which lasted for approximately three days and hindered the objectives of the research project.

Even more seriously, late in the evening of 10 December 2018, the Nicaraguan navy vessel the "Tayacán" discovered a Honduran flagged vessel, the "Observer", conducting illegal fishing activities in Nicaraguan waters approximately 110 nautical miles northeast of Nicaragua's Miskito Cays (14°58'00" – 81°00'00").⁷ The "Tayacán" boarded the "Observer" and discovered 5357 pounds of lobster and 150 lobster traps on board,⁸ among others things, along with a Colombian fishing permit⁹ and a departure certificate issued in San Andrés and dated November 2018.¹⁰ On board the "Observer" were 13 Hondurans and one Colombian citizen.¹¹

Early in the morning of 11 December, while escorting the "Observer" to Nicaraguan port, the "Tayacán" detected the presence of the Colombian navy frigate ARC-53 "Antioquia"¹². Shortly thereafter, a low-flying plane harassed the "Tayacán" and the ARC-53 established communication to demand that the Nicaraguan Navy release the "Observer"¹³. The "Tayacán" refused. The ARC-53 then dispatched a fast boat to harass the Nicaraguan Navy boat, which proceeded to change course to avoid further trouble.¹⁴

Later, after hours of following the "Tayacán" the ARC-53 took active hostile actions with the aim of impeding the transfer of the "Observer" to port in Nicaragua. These actions culminated in the ARC-53 twice bumping the "Tayacán"¹⁵ and bumping the "Observer" four times¹⁶. The situation was made

⁷ See Diplomatic Note MRE/DM-DM/DGAJST/00585/12/18 dated 22 December 2018 (Annex 6). See also Map elaborated by the INPESCA Satellite Tracking System (Annex 18-c).

⁸ See Images of the product found onboard the "Observer" (Annex 18-i).

⁹ See Colombian Certificate of Fishing Patent (Annex 18-f).

¹⁰ See Colombian Set Sail (Annex 18-g).

¹¹ See Report by the Ministry of Interior (Annex 11).

¹² See Affidavit by Officer Nery Medardo Monjarrez Padilla (Annex 17-a).

¹³ See Affidavit by Officer Nery Medardo Monjarrez Padilla (Annex 17-a).

¹⁴ See Affidavit by Officer Nery Medardo Monjarrez Padilla (Annex 17-a).

¹⁵ See Affidavit by Officer Nery Medardo Monjarrez Padilla (Annex 17-a). See also Interview to Tito Velasquez Cuevas, captain of the "Observer" (Annex 17-f) and Interview to Jonathan Neftali Velasquez Colon, second captain of the "Observer" (Annex 17-g) and Photographs showing the damage done by the Colombian Navy to the Nicaraguan Navy vessel BL-405 "Tayacan" (Annex 17-d).

¹⁶ See Affidavit by Officer Bismarck Isidro Valle Castro (Annex 17-b); Interviews to Tito Velasquez Cuevas (Annex 17-f), Jonathan Neftali Velasquez Colon (Annex 17-g), Nixon Geriton Centeno Chavez (Annex 17-h), Samuel de Jesus Hernandez Galeas (Annex 17-i). See also Photographs showing the damage done by the Colombian Navy to the Honduran flagged vessel "Observer" (Annex 17-e) and Videos (Annex 17-k).



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worse by the fact that the “Tayacán” was towing the “Observer” due to a mechanical failure¹⁷, thus making it more dangerous for both boats to resist the bumping. At one point during the incident, the crew of the ARC-53 pointed their guns at the Nicaraguan naval personnel aboard the “Observer” and demanded that they surrender and jump to water, otherwise they would shoot “to kill”.¹⁸

At this point, despite Nicaragua’s best efforts to defuse the situation—including establishing communication with the Chief of the Colombian Navy while the events were unfolding¹⁹—the hostile conduct of the ARC-53 “Antioquia” continued for some time.²⁰ The illegal aggressive actions of the ARC-53 “Antioquia” put the lives of the crews of both vessels in danger, resulting in head injuries²¹ to the Nicaraguan crew and serious damage to the “Tayacán”²² and the “Observer”²³.

**Captured images from the video showing the ARC-53 “Antioquia” bumping the “Observer”
while is being towed by the Nicaraguan Navy**

(a)



¹⁷ See Affidavit by Officer Bismarck Isidro Valle Castro (Annex 17-b).

¹⁸ See Affidavit by Officer Bismarck Isidro Valle Castro (Annex 17-b).

¹⁹ See Audio Transcripts (Annex 17-c).

²⁰ See Affidavit by Officer Bismarck Isidro Valle Castro (Annex 17-b).

²¹ See Affidavit by Officer Nery Medardo Monjarrez Padilla (Annex 17-a).

²² Photographs showing the damage done by the Colombian Navy to the Nicaraguan Navy vessel BL-405 “Tayacan” (Annex 17-d).

²³ Photographs showing the damage done by the Colombian Navy to the Honduran flagged vessel “Observer” (Annex 17-e).



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(b)



(c)





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Nicaragua considers all these actions to be flagrant violations of its rights as conclusively adjudicated by the Court in its 2012 Judgment in the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, and a threat to its rights in dispute in this case. In case of any further escalations in the area Nicaragua reserves all of its rights in this respect, not only to inform the Court of any continuation of Colombia's provocative conduct, but also to request any measures deemed necessary.

Nicaragua has annexed to this letter the supporting documentation of the related events. Pursuant to Article 56 of the Rules of Court, Nicaragua respectfully requests that the annexed document be included in the formal record of this case.

Accept, Sir, the assurances of my highest consideration.

Carlos J. ARGÜELLO GÓMEZ

**Agent
Republic of Nicaragua**

**His Excellency
Mr. Philippe Gautier
Registrar
International Court of Justice
Peace Palace
The Hague**



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CERTIFICATION

The undersigned Agent of the Republic of Nicaragua certifies that the documents annexed to this letter are true and accurate copies of the original of the documents and that the translations into English made by Nicaragua are accurate translations. The documents annexed are the following:

ANNEX	DOCUMENT
1	Diplomatic Note MRE/VM-AMM/DGAJST/1545/11/18 dated 15 November 2018
2	Diplomatic Note MRE/DM-DMC/DGAJST/00553/12/18 dated 5 December 2018
3	Diplomatic Note MNIMNG 263 dated 13 December 2018
4	Diplomatic Note MNIMNG 264 dated 14 December 2018
5	Diplomatic Note MNIMNG 270 dated 19 December 2018
6	Diplomatic Note MRE/DM-DM/DGAJST/00585/12/18 dated 22 December 2018
7	Diplomatic Note S-GACIJ-19-000336 dated 9 January 2019
8	Diplomatic Note S-DVRE-19-004909 dated 27 February 2019
9	Diplomatic Note MRE/DM-DMC/DGAJST/00127/03/19 dated 9 March 2019
10	Diplomatic Note MRE/DM-DMC/DGAJST/00367/08/2019 dated 2 August 2019
11	Report by the Ministry of Interior
12	Letter from the Mexican National Institute of



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Fisheries and Aquaculture

- 13 Affidavit by Luis Emilio Velasquez
Chavarria
- 14 Affidavit by Ray Elvis Smarth Apinas
15 Annex 15 (a)
Original Navigation Course and Sampling
Stations of the authorized Mexican research
ship Dr. Jorge Carranza Fraser in Nicaraguan
waters
Annex 15 (b)
Modified Navigation Course and Sampling
Stations of the authorized Mexican research
ship Dr. Jorge Carranza Fraser in Nicaraguan
waters
- 16 Scientific Fishing Permit extended to
Mexican vessel "Dr. Jorge Carranza Fraser"
- 17 Letter from the Nicaraguan Navy Chief to the
Minister of Foreign Affairs transmitting the
following documents:
(a) Affidavit by Officer Nery
Medardo Monjarrez Padilla
(b) Affidavit by Officer Bismarck
Isidro Valle Castro
(c) Audio Transcripts
(d) Photographs showing the damage
done by the Colombian Navy to
the Nicaraguan Navy vessel BL-
405 "Tayacan"
(e) Photographs showing the damage
done by the Colombian Navy to
the Honduran flagged vessel
"Observer"
(f) Interview to Tito Velasquez
Cuevas (Captain of the
"Observer")



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- (g) Interview to Jonathan Neftali Velasquez Colon (Second Captain of the “Observer”)
- (h) Interview to Nixon Geriton Centeno Chavez (Crewmember of the “Observer”)
- (i) Interview to Samuel de Jesus Hernandez Galeas (Crewmember of the “Observer”)
- (j) Audios
- (k) Videos

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Letter from the Executive President of the Nicaraguan Fisheries and Aquaculture Institute to the Deputy Minister of Foreign Affairs transmitting the following documents:

- (a) Report by the Nicaraguan Fisheries and Aquaculture Institute
- (b) Inspection Certificate No. 133078
- (c) Map elaborated by the INPESCA Satellite Tracking System, with the position declared by the Naval Force at the moment they detained the OBSERVER vessel.
- (d) Honduran Provisional Certificate of Registry
- (e) Honduran Seaworthiness Certificate
- (f) Colombian Certificate of Fishing Patent
- (g) Colombian Set Sail
- (h) Honduran Certificated issued in accordance with the International Convention on standards of training,



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certification and watchkeeping for
seafarer

- (i) Images of the product found onboard
the “Observer”
- (j) Official Log Book No. 002801
- (k) Official Log Book No. 001447
- (l) Certificate of Delivery
- (m) Certificate of Deposit

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El Tiempo, “Colombia will not agree to lose a
single millimeter to Nicaragua”, 18 August
2019.

Carlos J. ARGÜELLO GÓMEZ

**Agent
Republic of Nicaragua**