



EMBASSY OF NICARAGUA
THE HAGUE

14 April 2007

Sir,

I have the honour to refer to your letter dated 29 March 2007 in relation to the case concerning Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), by which you inform me that the President has fixed Monday 16 April, as time-limit for transmitting Nicaragua's observations on Honduras' written reply to the question put by Judge Gaja at the public sitting held on 16 March 2007.

- Observations on Honduras' written reply to the question put by Judge Gaja at the public sitting held on 16 March 2007:
 1. Honduras maintained the position as late as March 2002 in its Counter Memorial (p. 14, ff. 2) that "Logwood and Media Luna Cay are both now submerged". Five years later, upon being asked by the bench about the situation of these Cays, Honduras confirms its lack of knowledge and control of the area by not having a ready or even approximate answer to the question based on actual physical control of the area. Thus Honduras tried to answer the question firstly by presenting the dubious results of a single, specially selected satellite image of the area that, for the reasons indicated in the Nicaraguan letter on this question filed on 5 April last, actually pointed to a different conclusion than that offered by Honduras. That is, that both Cays were in fact submerged.
 2. Conscious of the inevitable impression that this ignorance of the area would cause, Honduras has finally descended from the realm of satellite images in outer space and has belatedly tried to investigate in situ the situation of these Cays. This investigation has implied the presentation of new evidence at this very late stage of the proceedings. And what is astonishing in this affair is that this new evidence is not related with an unexpected and irrelevant question posed by the bench at the last moment, but is fundamentally related to a question



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that goes directly to the heart of the claim of Honduras that it has “traditionally” exercised sovereignty in the area in dispute. It is evidence that would and should have been opportunely before the Court if Honduras had truly the knowledge and physical control of the area in dispute it has claimed during these proceedings.

3. Nicaragua for its part has always indicated that the features involved in the area in dispute are very minor and have not been subject to rigorous control or use by any authority. This can be graphically appreciated from the photos provided by Honduras of their expedition. It is evident from the photos that when the tide is up and the observer is standing in water, Logwood Cay will be about the size of a football!

4. Honduras, on the other hand, has boasted of its knowledge of the area and even claimed great consequences from the fact that certain of its legislation includes a mention of Palo de Campeche Cay before 1982. Honduras has turned aside any doubts about the identity of this “Palo de Campeche” insisting that it obviously is the same Logwood Cay that appears in the well known charts of the area. The extent of its knowledge of the area and of its features and the weight that can be attributed to its identification of Palo de Campeche with Logwood may be judged by the issues presently under discussion.

Some of the statements made by Honduras in this written reply to the question of Judge Gaja merit special comments:

1. In paragraph 2, Honduras indicates that in order to gather the evidence it is providing the Court, it made a visit by air on the 21 of March last and a second visit by sea on 23 March and finally a third visit by sea on 30 March. Nonetheless, the evidence offered by Honduras is limited to that gathered on the third visit and no reference is made to the results of the first two visits. It would have been interesting to the question asked by Judge Gaja if information had been provided on what the situation of the Cays was on the first two visits.

2. In paragraph 6, Honduras provides the coordinates of the features visited by the expedition it mounted. These coordinates do not correspond with those of the charted feature known as “Logwood Cay” but are really those of “the



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only islet in close proximity to the name Logwood Cay". Honduras also points out that "the variance between the charted position and the actual position as observed is less than one nautical mile." Apart from these comments from the Honduran side, the technical advisers of Nicaragua find that the positions given seem slightly strange. They do not appear to be based on GPS which would be expected to be quoted at higher precision. The position quoted for Logwood Cay (15°11'30"N; 82°41'45"W) plots about 500m SW of the cay as depicted on the satellite image, and about 1500m SSW of the position charted on BA2425. The conclusion of the Nicaraguan technical advisers is that Honduras has found a new small feature that dries; perhaps a chunk of coral broken off and rolled onto the plateau in a storm and that will be gone after the next storm.

3. In paragraph 8 Honduras mistakenly affirms that "there is no disagreement between the parties that the evidence before the Court indicated that Logwood Cay (Cayo Palo de Campeche) and Media Luna Cays were islands *inter alia* in the period from 1936 to 1982, when they were first referred to in Honduran legislation and the Constitution." This is not true. There is no single shred of evidence before the Court indicating that these features were islands in the period mentioned. On the other hand, the importance of the mention of "a" Palo de Campeche Cay in the Honduran Legislation of 1936 would have been irrelevant for Nicaragua since it would not have known what this "important" feature was all about. Besides, Nicaragua was claiming and occupying substantial parts of present day Honduran territory up to the 1960's and had small cause to pay any attention to a claim by Honduras of a Cay it would not have been able to clearly identify. Even if the Nicaraguan Authorities had been aware in 1936 that the reference really was to Logwood Cay, this could only have caused hilarity in Nicaragua that such a feature should deserve a special mention in the Honduran Legislation including its Constitution!

The conclusion to be gathered based solely on the information provided by Honduras is that Media Luna Cay is permanently submerged as is also the feature charted as Logwood Cay. Additionally, in an area near to Logwood Cay there may at present be some loose coral visible at low tide.

Nicaraguan inspection of the area visited by Honduras

After receiving a copy of the new evidence filed by Honduras with relation to Logwood and Media Luna Cays, Nicaragua requested the Naval Force of the



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Nicaraguan Army to inspect the area visited by the Honduran naval forces at Latitude 15°11'30'' North and Longitude 082°43'50'' West. This investigation was carried out during a routine visit of the area by naval patrols on 12 April 2007. The description of this visit of inspection and its results are given in a written statement made by Frigate Captain DEM of the Nicaraguan Naval Forces, Francisco Javier Vallejos Parajon. This written statement was made before a Notary Public and a copy is annexed to this letter.

In this statement, Captain Parajon tells that

“they set sail from the Naval Base located in Puerto Cabezas in the North Atlantic Autonomous Region of Nicaragua, at 3:00 AM on 12 April 2007, this being the last planned trip for the first trimester of the year 2007... and arrived at 9:00 AM at the position of Latitude 15°11'00''N, Longitude 082°43'50'' W.”

Captain Parajon goes on to say that,

“After the anchoring maneuver which lasted approximately ten minutes, we proceeded to transfer the personnel with their technical equipment on board the Speed Boat (Lancha Rapida) 067, and headed to the position of Lat. 15°11'30'' N, Long. 082°41'45''W with variable direction at minimum speed due to the scant depth of water in that area, and reaching the position before indicated at nine hours twenty minutes (9:20 hours) and remained on that position until thirteen hours (13:00 hours). We could note a reef that is permanently under water during high tide; during low tide there is a small area uncovered of which digital and film impressions were taken. The positioning of the reef was made with GPS equipment (global Positioning System), with the method or Horizontal Datum, World Geodesic System of 1984, known by its English initial as WGS-84. We remained for three hours and forty minutes in the position of Lat. 15°11'30'' N, Long. 082°41'45'' W, and again boarded Coast Guard 203 and initiated our navigational return at thirteen hours and eight minutes (13:08 hours)...”

The Nicaraguan Naval authorities have given us a copy of this statement together with a video and photographs taken during the inspection. This material is annexed to this letter. Due to the short time available for the organization of this naval inspection and the preparation of this material, we have not been able to provide a full translation of the material but will do so as soon as it is available. Nonetheless, the pertinent part of the written statement has been transcribed above and the photographs and video generally speak for themselves.



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The conclusions from the Nicaraguan inspection are that the area identified in the charts as Logwood Cay is permanently submerged. There is a reef in the vicinity in the coordinates Lat. 15°11'30'' N., Long. 082°41'45'' W. that is permanently submerged at high tide. This feature can not properly be regarded as an island within the meaning of article 121 of the United Nations Convention on the Law of the Sea.

Accept, Sir, the assurances of my highest consideration.

Carlos J. ARGÜELLO GÓMEZ
Agent
Republic of Nicaragua

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



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CERTIFICATION

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

List of documents

1. Notarial Certificate dated 13 April 2007, issued by Mr. Roberto Danilo Chacón Rivas, Notary Public: declaration of Mr. Francisco Javier Vallejos Parajón, Frigate Captain DEM of the Nicaraguan Naval Forces (Annex 1)
2. Copies of photographs of the area inspected (Annex 2).
3. Video of the area inspected (Annex 3)

In witness whereof, I issue this certification on 14 April 2007.

Carlos J. ARGÜELLO GÓMEZ
Agent
Republic of Nicaragua

ANNEX 1



TESTIMONIO.-

ESCRITURA PÚBLICA NÚMERO SIETE (07).- (DECLARACIÓN

NOTARIADA).- En la ciudad de Managua, a las dos de la tarde del día

trece de abril del año dos mil siete.- Ante mí: **ROBERTO DANILO CHACÓN RIVAS**, Abogado y Notario

Público de la República de Nicaragua, de este domicilio y residencia, debidamente autorizado por la

Excelentísima Corte Suprema de Justicia para ejercer la profesión del Notariado durante el quinquenio que

expira el día veintidós de Junio del año dos mil nueve.- Comparece el Capitán de Fragata **DEM FRANCISCO**

JAVIER VALLEJOS PARAJON, mayor de edad, casado, de este domicilio, militar en servicio activo, quien

presta su servicio militar en la Fuerza Naval del Ejército de Nicaragua, y se identifica con Cédula de Identidad

Número **281-261159-0012H**.- **DOY FE** de conocerlo personalmente y de que a mi juicio tiene la capacidad

legal necesaria para obligarse y contratar, en especial para el otorgamiento de este acto en el que actúa de

conformidad con lo establecido en los planes sistemáticos de protección de recursos pesqueros.- El suscrito

Notario da fe de haber tenido a la vista y leído la parte conducente de los referidos planes en donde facultan

al compareciente a realizar el presente acto.- Habla el Capitán de Fragata **DEM VALLEJOS PARAJÓN** en el

carácter con que actúa y dice: UNICO: (DECLARACIÓN).- Que con fecha del 11 de abril del año dos mil

siete fue designado para comandar una misión en la zona de Cabo Gracias a Dios a bordo del Guarda Costa

203 del tipo **DABUR** de fabricación israelita con dos motores **GM 12V 71-T 1**, de 64 pies y 11 pulgadas de

eslora, 18 pies de manga y 5 pies de calado, velocidad máxima de 18 nudos y económica de 15 nudos,

capacidades: combustible 1,800 galones, Agua 300 galones, aceite 30 galones, año de construcción 1977,

tripulación de 8 a 10 efectivos; y la Lancha Rápida número 067 del tipo Eduardoño con dos motores marinos

Fuera de Borda marca **Yamaha** de 200 HP cada uno.- Con un equipo de Ingenieros y técnicos en hidrografía

del Instituto Nicaragüense de Estudios Territoriales **INETER** de nombres **Sergio Antonio Cordonero**

González, quien es mayor de edad, casado, hidrógrafo y de este domicilio, cédula de identidad número 001-

010561-0056G; **Francisco Javier González**, quien es mayor de edad, casado, técnico en hidrografía y de

este domicilio, cédula de identidad número 001-230966-0057; **Osbaldo Emigdio Blanco Narváez**, mayor de

edad, casado, técnico en hidrografía, del domicilio de León, cédula de identidad 291-050872-001J; **Gonzalo**

Garmendia Oviedo, mayor de edad, casado, técnico en hidrografía, del domicilio de Puerto Cabezas, cédula

de identidad número 081-080973-0003R; y los miembros de la tripulación del Guarda Costa 203, Teniente de

Navío **Omar Elí Hernández Valverde**, militar en servicio activo, mayor de edad, casado y de este domicilio,

cédula de identidad número 042-060367-0007G, Comandante; Teniente de Corbeta **Miguel Ignacio Lezama**

Ruíz, mayor de edad, soltero, militar en servicio activo, cédula de identidad número 201-180184-0004P, Jefe

de Maquinas; Sargento Tercero **Gregorio Pineda Gutiérrez**, mayor de edad, casado, Contramaestre del

Guarda Costa 203, cédula 288-170682-0003S; Marinero de Primera **Allán José García Hernández**, casado,

mayor de edad, Primer Radio comunicador y Radarista, del domicilio de Managua, cédula de identidad 401-

100880-0007V; Marinero **Marlon Mercado Mondoy**, mayor de edad, soltero, primer motorista, del domicilio

de Carazo, cédula 203-240486-0000R; Marinero **Elías Eulogio Moreno Reyes**, mayor de edad, soltero,

Artillero de Proa, del domicilio de León, cédula de identidad número 281-050283-0011W; y los miembros de

la tripulación de la Lancha Rápida 067; Sargento Tercero **José Guerrero Torres**, mayor de edad, casado,

Patrón de Lancha Rápida 067, del domicilio de León, cédula de identidad 082-191177-0002V; Sargento

Tercero **Irving Javier Rosales Cáceres**, mayor de edad, soltero, militar en servicio activo, cédula de

identidad número 281-070878-0015W, tripulante de Lancha Rápida 067; **Mike Cool Jeans Espinoza**, mayor

de edad, soltero, artillero de Lancha Rápida 067, del domicilio de Puerto Cabezas; cédula de identidad

número 081-050483-0023R.- Sigue expresando el Capitán de Fragata DEM Francisco Javier Vallejos Parajón

y dice que zarparon de la Base Naval ubicada en Puerto Cabezas, Región Autónoma del Atlántico Norte, el

día doce de abril del año dos mil siete a las cero trescientas horas (0300 horas), siendo la última visita

planificada del primer cuatrimestre del año dos mil siete, navegando con rumbo noventa grados hasta la

posición Lat. 14°01'25" N, Long. 082°18'50" W; cayendo al rumbo cero veintinueve grados (029°), navegando

por un espacio de una hora y treinta y dos minutos (1 hora y 32 minutos) a una velocidad de quince nudos,

llegando a la posición Lat. 14°21'30" N, Long. 083°07'00" W; cayendo al rumbo cero doce grados (012°) y

navegando por un espacio de tiempo de dos horas y treinta y seis minutos (2 horas, 36 minutos) haciendo

una distancia de treinta y nueve millas náuticas (39Mn); llegando a la posición Lat. 14°50'50" N, Long.

083°00'00" W; cayendo al rumbo cincuenta y cinco grados (055°) navegando por un espacio de tiempo de

una hora y veinte minutos (1 hora y 20 minutos) llegando a la posición Lat. 15°11'00" N, Long. 082°43'50" W,

a las cero novecientas horas (09:00 horas).- Después de la maniobra de fondeo que tardó aproximadamente

diez minutos, procedimos a transbordar el personal con los equipos técnicos a bordo de la Lancha Rápida

067, dirigiéndonos hacia la posición Lat.15°11'30" N, Long. 082°41'45" W con rumbo variable a mínima

velocidad por el bajo fondo que ahí existe, llegando a la posición antes señalada a las nueve horas y veinte

minutos (09:20 horas), permaneciendo en ese sitio hasta las trece horas (13:00 horas). Pudiendo apreciarse

un arrecife que se sumerge completamente durante la marea alta; durante la marea baja queda al

descubierto una pequeña área, de la cual se tomaron impresiones digitales y filmicas.- La localización del

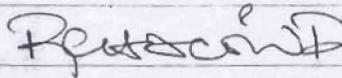


SERIE "L"

No. 3154771

1 arrecife se realizó con equipo GPS (Sistema Global de Posicionamiento), con
2 el sistema o Datum Horizontal, Sistema Geodésico Mundial de 1984, conocido
3 por sus siglas en inglés como WGS-84.- Luego de haber permanecido por
4 espacio de tres horas y cuarenta minutos en la posición Lat.15°11'30" N, Long. 082°41'45" W, abordamos
5 nuevamente el Guarda Costa 203, iniciando la navegación de retorno a las trece horas y ocho minutos (13:08
6 horas), con rumbo inverso hasta la Base Naval de Puerto Cabezas, llegando a las diecinueve horas y veinte
7 minutos (19:20 horas).- Así se expresó el compareciente, bien instruido por mí, el Notario, acerca del
8 alcance, valor y trascendencias legales de este acto, su objeto, el de las Cláusulas Generales que aseguran
9 su validez, el de las Especiales que contiene, el de las que envuelven renunciaciones y estipulaciones explícitas e
10 implícitas.- Leída la presente al compareciente, quien la encuentra conforme, aprueba y ratifica.- Firma
11 conmigo.- DOY FE de todo lo relacionado.- (f) F. J. Vallejos.- (f) R. Chacón R.- Notario Público.-

12 **PASÓ ANTE MÍ:** Del reverso del folio número trece (13) al reverso del
13 folio número catorce (14) de mi PROTOCOLO NUMERO NUEVE (9)
14 que llevo en el presente año.- Y, a solicitud del Capitán de Fragata
15 DEM FRANCISCO JAVIER VALLEJOS PARAJÓN, libro este
16 PRIMER TESTIMONIO compuesto de DOS (2) Folios Útiles de papel
17 sellado de ley, que rubrico, firmo y sello en la ciudad de Managua, a las
18 seis y treinta minutos de la tarde del día trece de abril del año dos mil
19 siete.- Hoja anterior de papel sellado de ley número 3154770.-

20 
21 ROBERTO DANILLO CHACÓN RIVAS
22 ABOGADO Y NOTARIO PÚBLICO



23 No. Reg. CSJ 5865
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ANNEX 2







