

INTERNATIONAL COURT OF JUSTICE

**TERRITORIAL AND MARITIME DISPUTE
(NICARAGUA v. COLOMBIA)**

**WRITTEN STATEMENT OF THE
GOVERNMENT OF NICARAGUA**

ANNEXES

VOLUME II

26 JANUARY 2004



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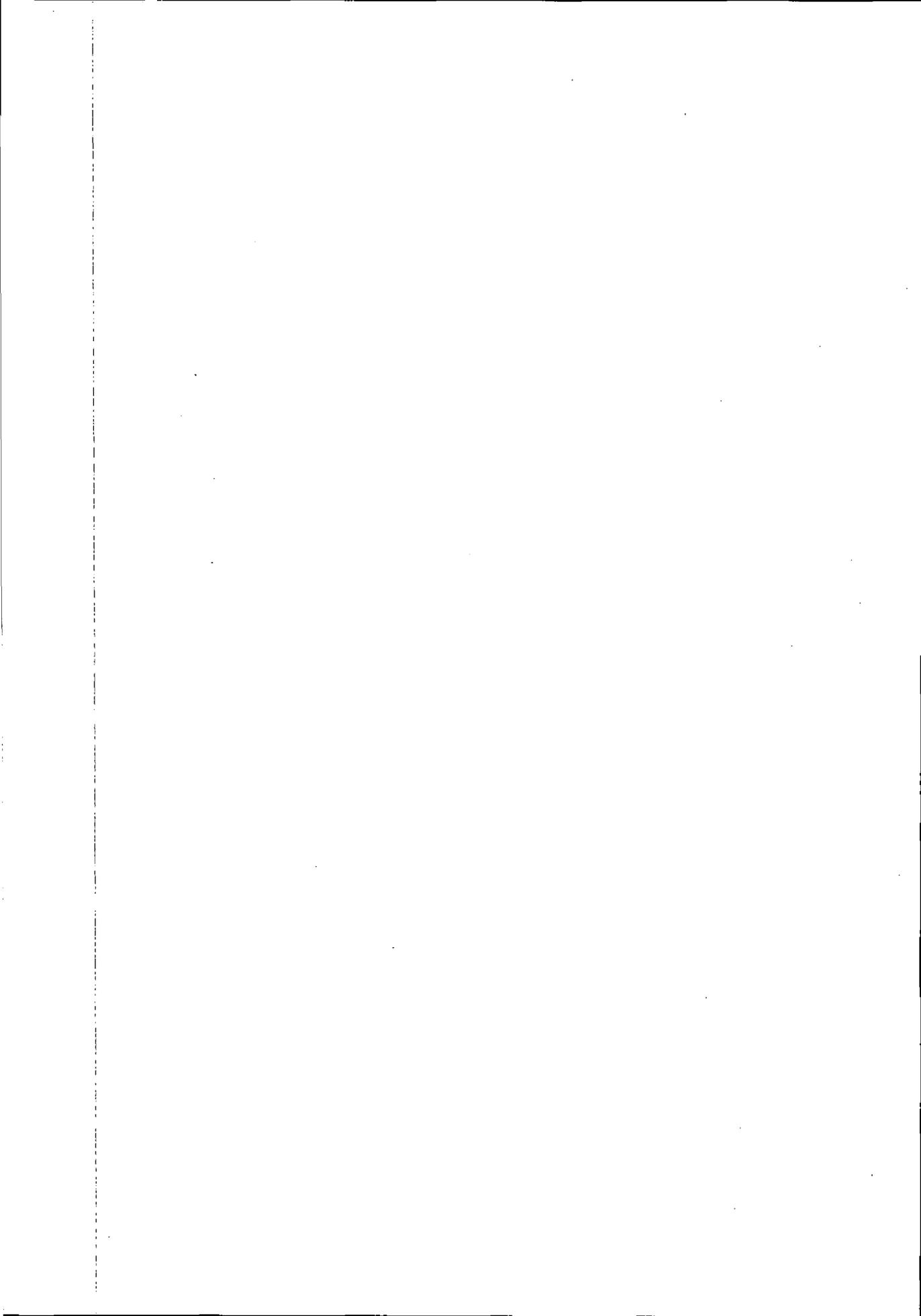
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**ANNEXES TO THE
WRITTEN STATEMENT OF THE
GOVERNMENT OF NICARAGUA**



BOOKS



Annex 1

REPÚBLICA DE COLOMBIA, *HISTORIA DE LAS LEYES*, VOL. XI, 1928, LEGISLATURE. EDITION ORDERED BY THE CHAMBER OF REPRESENTATIVES AND EDITED BY ITS SECRETARY FERNANDO RESTREPO BRICEÑO, BOGOTÁ, IMPRENTA NACIONAL, 1930. PP. 523-525, 530, 531, 534 (EXCERPTS)

(República de Colombia, *Historia de las Leyes*, Tomo. XI, Legislatura de 1928, Edición ordenada por la Cámara de Representantes y dirigida por el Secretario de ella Fernando Restrepo Briceño, Bogotá, Imprenta Nacional, 1930. pp. 523-525, 530, 531, 534)

LAW 93 OF 1928 (17 NOVEMBER)

That approves a treaty concerning territorial issues between
Colombia and Nicaragua

BACKGROUND

pp. 523-524

PREAMBLE

Honourable Senators,

I have the honour of submitting to your consideration, a Treaty that Colombia and Nicaragua concluded on 24 March during the current year, in their desire of putting an end to the territorial dispute pending between them.

(...)

This arrangement definitively consolidates the status of the Republic in the Archipelago of San Andrés and Providencia, erasing any pretensions to the contrary, and recognizes our country's perpetual sovereignty and right to full domain of that important section of the Republic. In exchange, Nicaraguan sovereignty in the Mosquitia (that the Treaty Herran-Calvo had recognized as part of Central America), and the Mangles Islands where a *de facto* situation made it very difficult to accept the rights that the Republic alleged, is recognised.

And this arrangement was so necessary and opportune, that Nicaragua's pretension over our Archipelago reached the point of obstruct an administrative action, as it happened that not long ago, a Colombian

employee escaped with funds belonging to the Intendancy and he found refuge in Nicaragua. That country did not grant the extradition alleging that the crime was committed in Nicaraguan territory, because they consider the Archipelago as such.

(...)

All of these reasons bring me to expect that the agreement that I present, the study of which I especially recommend, will deserve approval from the Congress of Colombia.

Honourable Senators,

Carlos Uribe

Bogotá, September 18, 1928

(...)

p. 525

(...)

Unanimously it was approved by vote during the first debate in the September 19 session. The Commission on Foreign Affairs gave a report in these terms:

(...)

p. 530

(...)

IV

(...)

This Pact consolidates in perpetuity our sovereign dominion over the Archipelago forever; through a direct arrangement, inspired by principles of American fraternity and solidarity, puts an end to a prolonged and annoying dispute it avoids severe difficulties in the future over other matters, and it is also based on reasons and purposes that moved the members of the Inter-Parliamentary Board to authorize the conclusion of said arrangement, reasons and purposes that we have the honour of verbally and extensively exposing.

(...)

(...)

The Chamber, to which it was submitted in its original form, approved it during the first debate on the 27th. The following is the report by the Foreign Affairs Commission:

Honourable Representatives,

We received by commission a law project for study "that approves a Treaty concerning territorial issues between Colombia and Nicaragua" from the Honourable Senate, and to comply with our commission, we have the honour of submitting to you the following considerations:

By means of this Treaty the Government of the Republic has wished to bring to a friendly conclusion the old dispute between the High Contracting Parties regarding the sovereignty of the Mosquito Coast and the Mangles Islands, as well as the Nicaraguan pretensions over the Archipelago of San Andrés and Providence.

The titles which in Colombia have upheld her rights of sovereignty, both over the Mosquitia Coast as well as the Mangles Islands, and all the others that include the San Andrés and Providencia Archipelago, have been fully justified with reliable documents dating back to the first years of the Colony ...

(...)

LAW 93 OF 1928

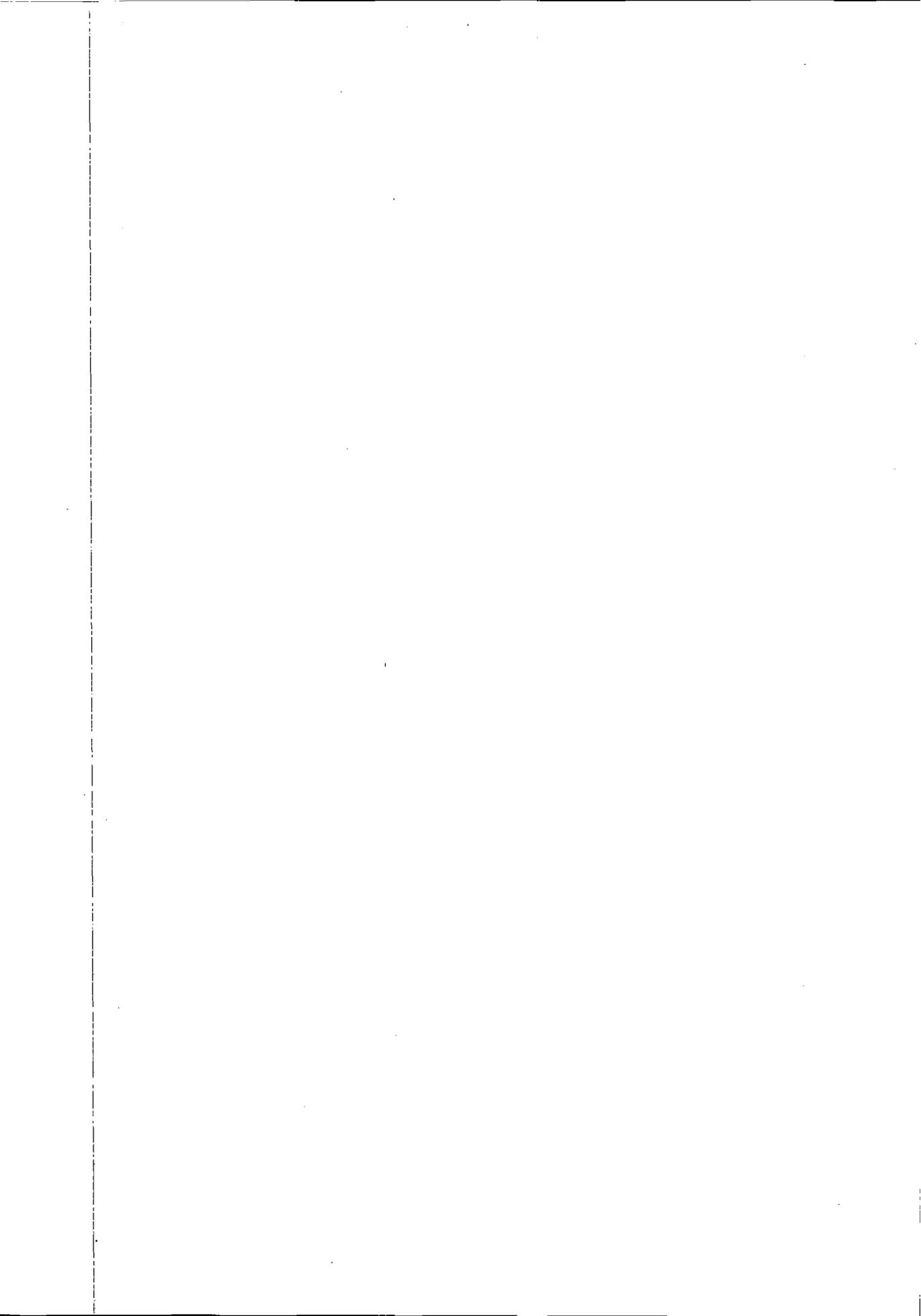
(17 NOVEMBER)

That approves a treaty concerning territorial issues between
Colombia and Nicaragua.

The Congress of Colombia,

Having considered the treaty, in their desire of putting an end to the territorial dispute pending between them and to strengthen the bonds of traditional friendship that unite them, the representatives signed, accordingly and with due authority of Colombia and Nicaragua at the city of Managua the 24 of March of the year nineteen hundred and twenty eight and which says exactly:

(...)



Annex 2

MONTIEL ARGÜELLO, ALEJANDRO. *DIÁLOGOS CON EL CANCELLER. MINISTERIO DE RELACIONES EXTERIORES. IMPRENTA NACIONAL. MANAGUA, PP 14-16 (EXCERPT)*

p. 14

**THE DECREE DATED 5 APRIL 1965,
ESTABLISHMENT OF A FISHING ZONE**

(EL DECRETO DEL 5 DE ABRIL DE 1965,
ESTABLECIMIENTO DE UNA ZONA PESQUERA)

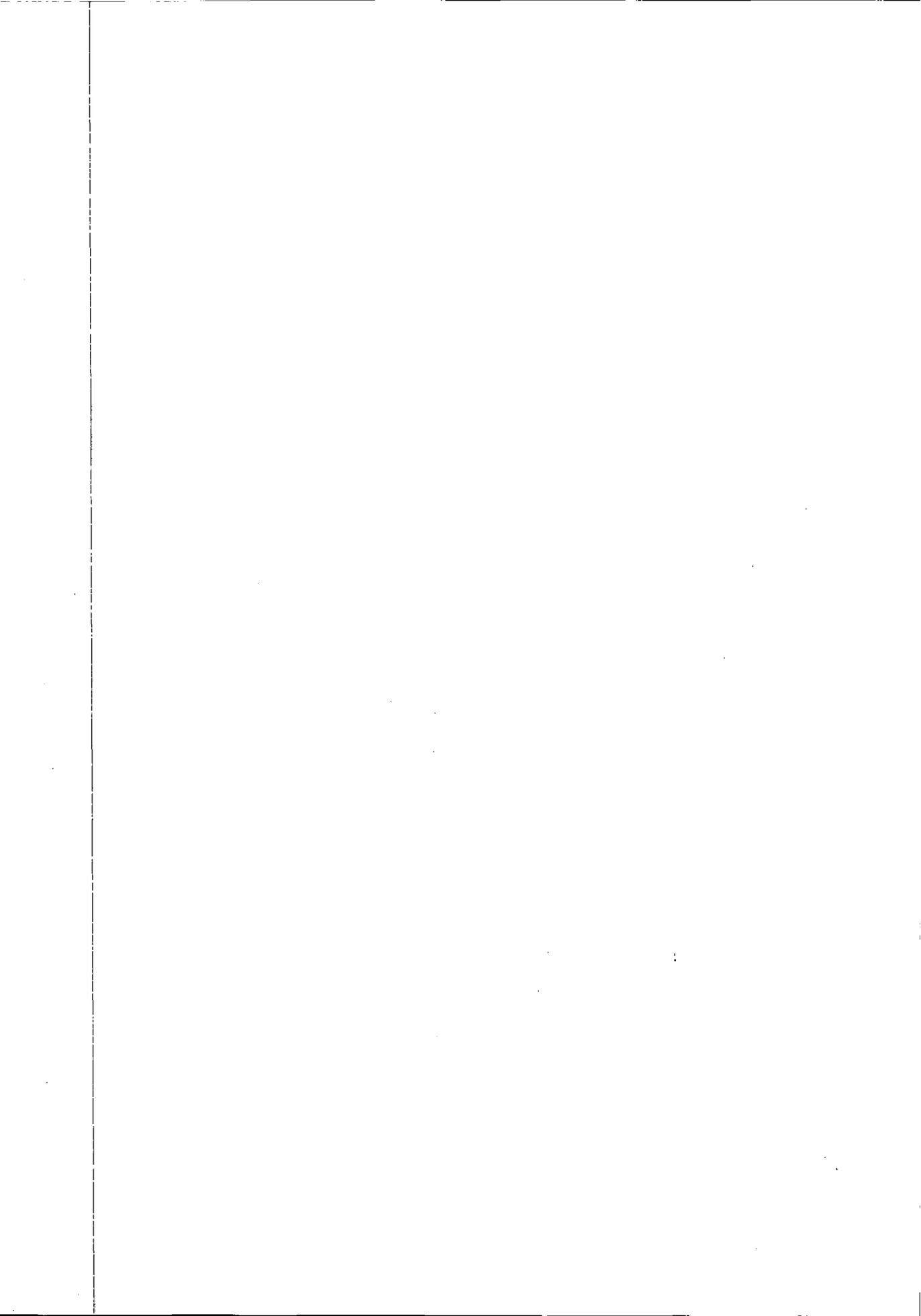
(...)

pp. 15-16

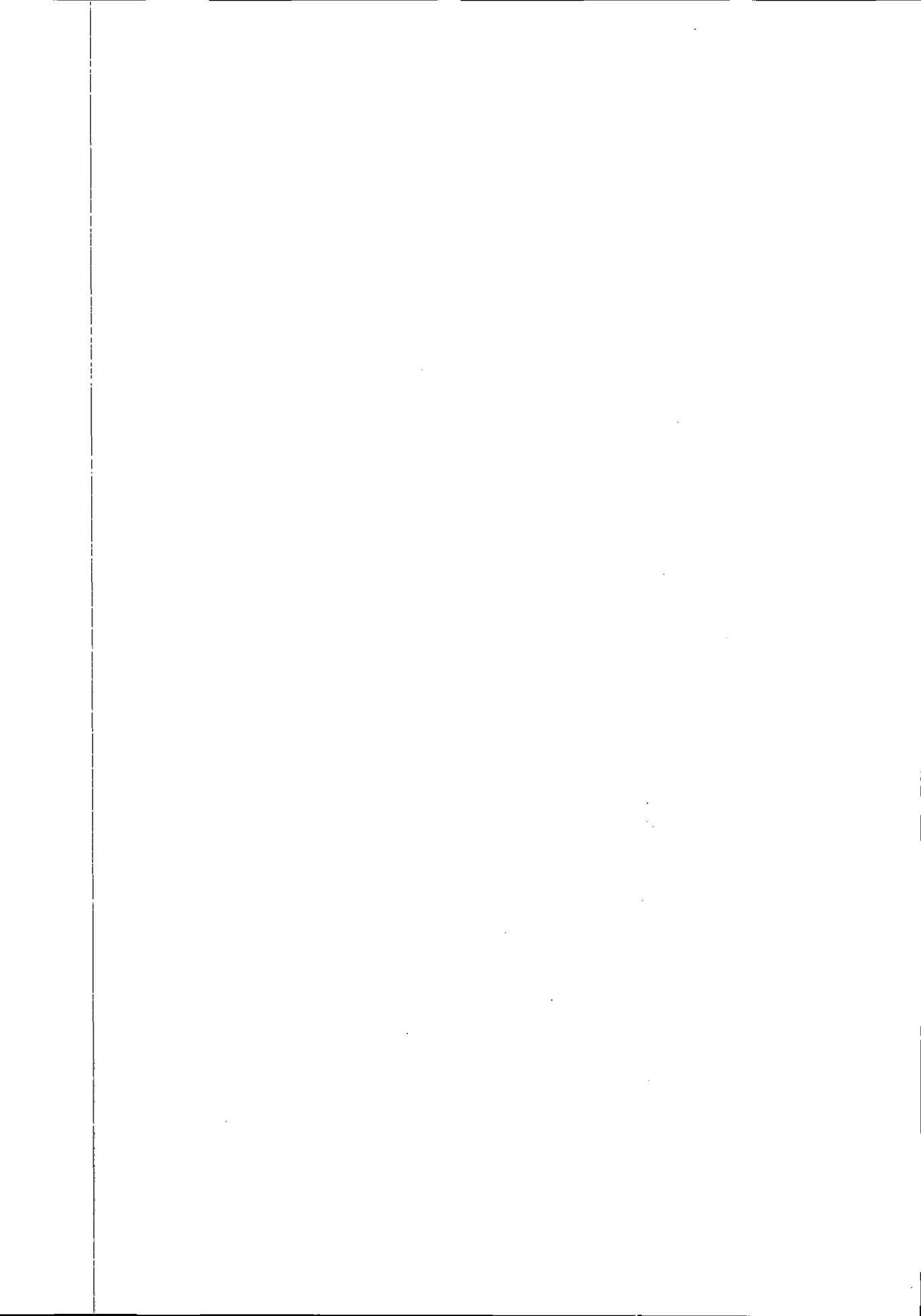
(...)

...With regards to the Bárcenas Meneses-Esquerria Treaty, this Ministry of Foreign Affairs submitted it for study, both from the historical point of view, as well as the judicial and geographical aspects. I cannot say in advances what the results of that study will be, as my opinion is that on international affairs that affect the nation's sovereignty, no anticipated conclusions should be formulated because in many cases lead to a lost litigation. All Nicaraguans who have knowledge of the subject, can collaborate with this study, or provide data and arguments. Besides, as you will understand, Mr. Journalist, any opinion that I may give as Minister of Foreign Affairs, will compromise Nicaragua's position; yet, a private individual can express any opinion without causing any damage.

Managua, D.N., 30 January 1977



COLOMBIAN NEWSPAPERS



Annex 3

EL NUEVO SIGLO, SINCELEJO, SUCRE, 7 SEPTEMBER 1995
(EXCERPT)

ATTENTION MR. PRESIDENT, ATTENTION
By Rafael Nieto Navia

(ATENCIÓN SEÑOR PRESIDENTE, ATENCIÓN)

During the 'thirties, the Permanent Court of Justice, which was something like the mother of the current International Court of Justice, issued a sentence called "The Case of Eastern Greenland". The matter regarded that Denmark and Norway had a dispute over a portion of the territory belonging to Eastern Greenland. Mr. Ilhen, the Norwegian Minister of Foreign Affairs, said one day - watch out, he said, he did not write it, but only said that Norway, his country, had no claims over that zone. Some time afterwards, Norway sent troops to Greenland and the conflict began, which was settled by the Court. It stated that the "verbal declarations" by the Norwegian Minister of Foreign Affairs were the official position of that country, and therefore, consequently, Norway had wavered her eventual rights, if she had them over Eastern Greenland.

The Ilhen's Declaration is famous in international matters because, ever since then, everyone knows that what the Foreign Affairs Ministers say, - and with even more reason, what the Presidents say, - compromises their countries.

Mr. President should know that because he heard it during his classes on International Law in the Xavieran Law Faculty.

I heard the President say in the television (of course, the irrefutable proof exists that it was so), that the Ministers of Foreign Affairs of Colombia and Nicaragua will have to meet to talk 'about the nature of Meridian 82' west of Greenwich, indicated by the Esguerra-Bárcenas Treaty as a boundary of the Archipelago of San Andrés.

The Treaty in question says that the Archipelago "will not extend to the west of Meridian 82". Ever since Nicaraguans resolved to invent the nullity of the Esguerra-Bárcenas Treaty, they have been upholding that the meridian *is not a boundary* between the two countries. The purpose of this affirmation is to force Colombia into a negotiation over marine and submarine areas, the purpose of which is to extend the Nicaraguan areas

beyond Meridian 82. And, if this is accepted, taking into consideration that the Treaty says that the Archipelago will not extend to 'the west', it is obvious that if it is negotiated, it is to discuss to the east, that is, the zone that has been traditionally Colombian.

What did the President mean with the 'nature' of the meridian? Well, he is referring, as it is obvious, to whether the meridian is or is not a limit. He is doubting that characteristic. He is giving an opportunity for the Nicaraguan maritime and sub-maritime areas, to go east of the meridian, in what they flamingly announced a few days ago, - when presenting the official map of Colombia - as Colombian territory. Attention, Mr. President, what you are saying represents the official position of Colombia. Tomorrow, Nicaragua will put out these declarations before the International Court.

(...)

Annex 4

EL TIEMPO, BOGOTÁ, 10 SEPTEMBER 1995 (EXCERPTS)

**INVITED EDITOR
TOWARD A GOOD NEIGHBOURHOOD
By Rodrigo Pardo, Minister of Foreign Affairs**

(Columnista invitado.-HACIA UNA BUENA VECINDAD)

(...)

What is it about? It is about initiating an ample dialogue over all the subjects that are obviously pending or require mutual work: on the issues that are not defined or settled by the agreements in force, among them, the Esguerra-Bárceñas Treaty. For two bordering countries, such a dialogue is simply essential.

(...)

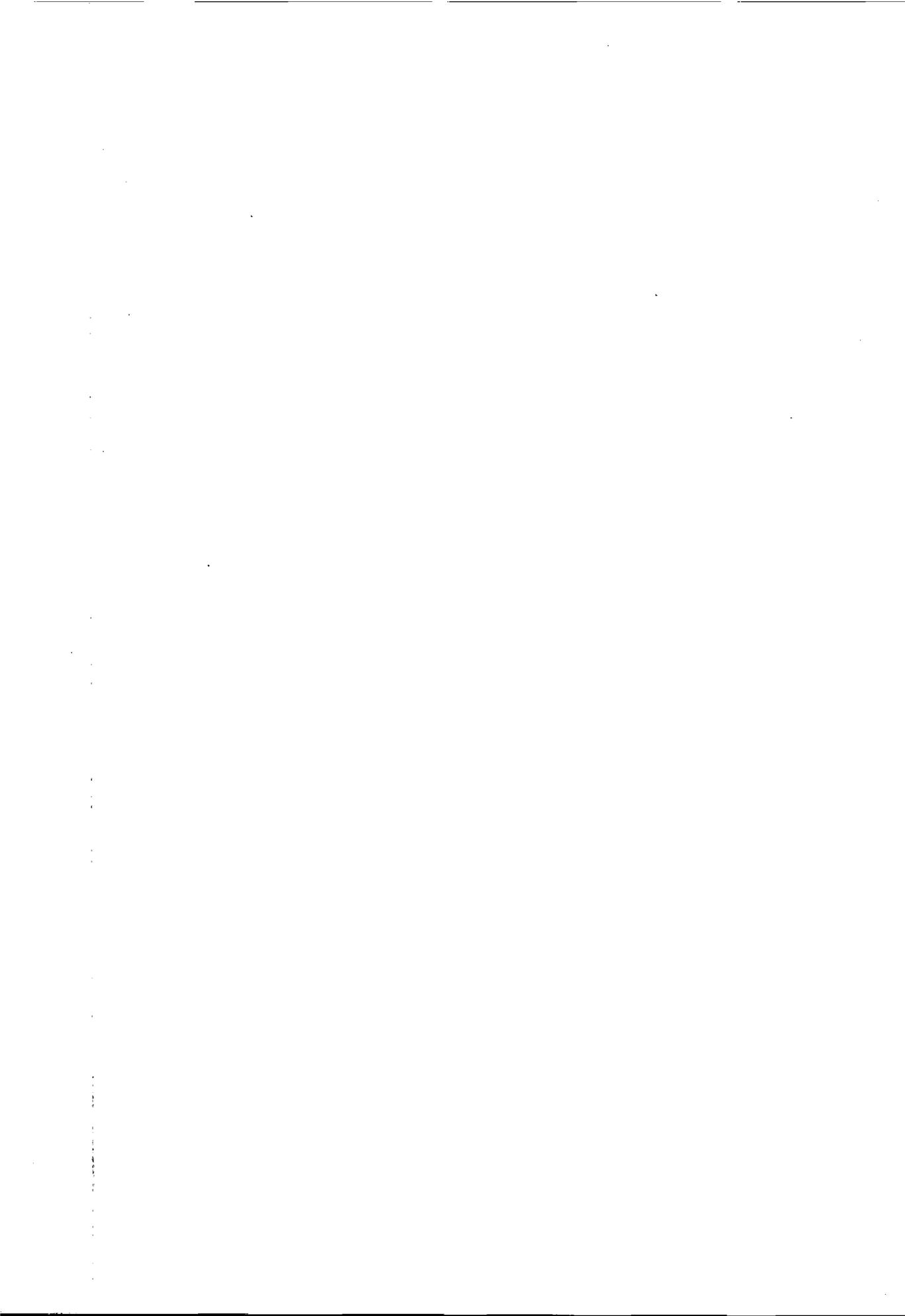
Throughout this period, Colombia and Nicaragua have not managed to overcome this periodic epistolary polemic to analyse in a cordial and constructive conversation, the arguments of the parties about the character of the Meridian 82. The conversations that the Ministries of Foreign Affairs of both countries will soon begin, based on a Presidential mandate, will consequently include this important subject. And it must be clearly stated that said dialogue does not imply a modification of the position Colombia has upheld to this respect.

(...)

From the point of view of the national interests and the cooperation between both countries, to clear-out any doubt on the nature of Meridian 82°, will contribute to clear-out the scenery.

(...)

The meeting between Presidents Samper and Chamorro, and the guidelines set by them, will allow to clarify misunderstandings that in a growing manner were leading the two countries, called to live in peace, to have a bad flavour in their relations. And it will allow us to progress toward the construction of good neighbourhood relations, inspired on friendship and constructive work over diverse issues on our agenda.



Annex 5

EL ESPECTADOR, BOGOTÁ, 15 MARCH 1996 (EXCERPT)

COSTA RICA STOPS THE MARITIME TREATY

(COSTA RICA FRENA EL TRATADO MARITIMO)

The Minister of Foreign Affairs of Costa Rica, Fernando Naranjo, asserted yesterday that the Congress of his country would not ratify the maritime delimitation treaty signed with Colombia in 1977, until that country has resolved the differences it has in the area with Nicaragua.

“We consider that the dispute that exists between Colombia and Nicaragua should be clarified first, so that once it is settled, we can ratify what we have negotiated with Colombia in maritime matters”, the Foreign Minister stated, adding that what our country agrees with the government of Managua can affect Costa Rica.

(...)



Annex 6

EL ESPECTADOR, BOGOTÁ, 10 OCTOBER 2001 (EXCERPT)

(Internet version)

**NICARAGUA WILL FILE AN APPLICATION AGAINST
COLOMBIA WITH THE COURT IN THE HAGUE**

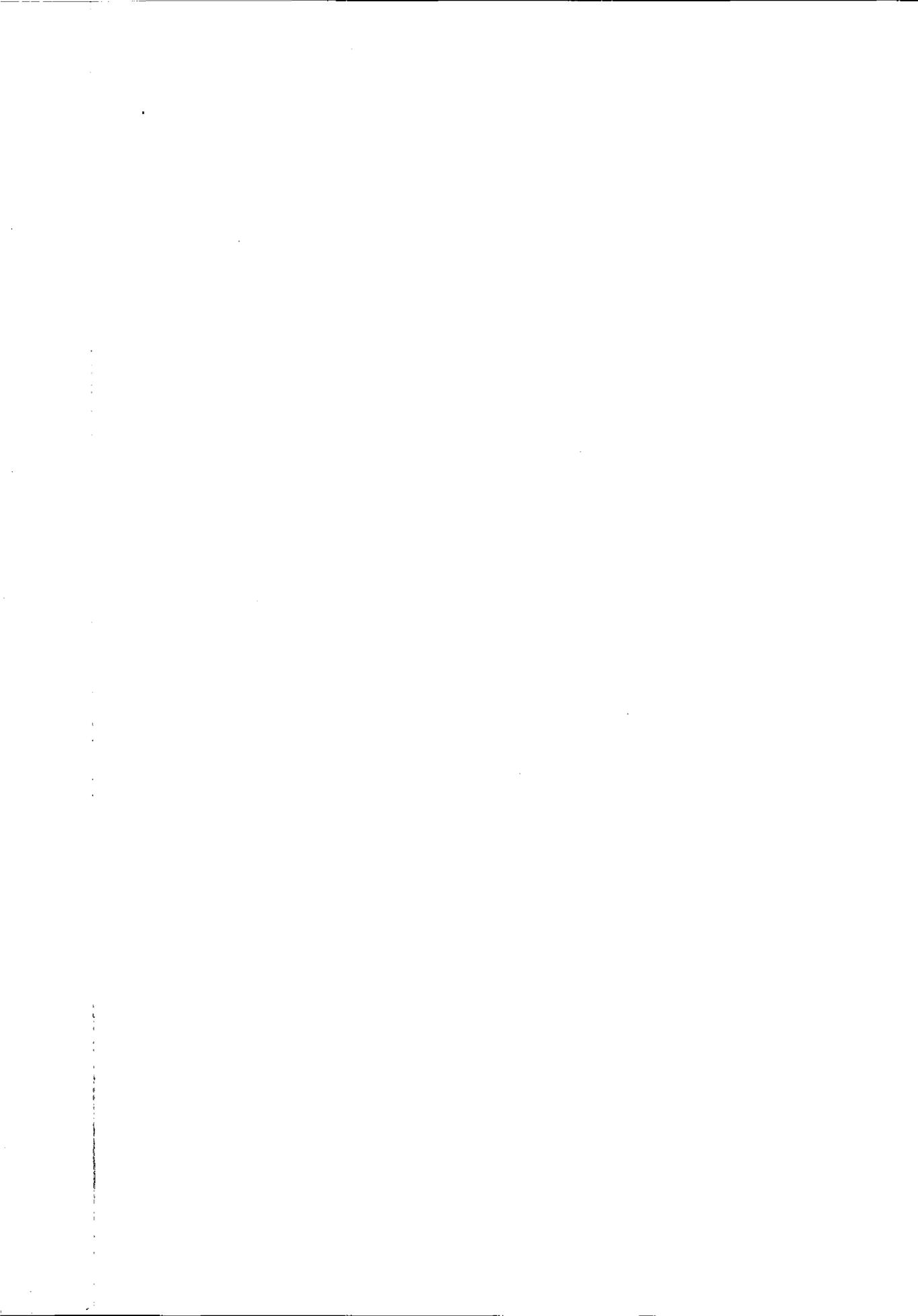
(NICARAGUA DEMANDARA A COLOMBIA ANTE LA CORTE DE LA HAYA)

The President of Nicaragua, Arnoldo Alemán, announced yesterday that prior to 10 January, when he must hand over power, an application against Colombia will be filed with the International Court of Justice in The Hague, over a boundary treaty signed with Honduras that would affect Nicaragua.

Before handing over the Government in January 2002 “we are going to file the case against Colombia in order to guarantee the continuation of these proceedings” through which Nicaragua denies the validity of the Ramírez-López Treaty, signed between Honduras and Colombia, Alemán said.

The President assured that in the general budget for the year 2002 he will request from Parliament, the approval of one million dollars to carry out the claim against Colombia.

(...)



Annex 7

EL TIEMPO, BOGOTÁ, 16 DECEMBER 2001 (EXCERPTS)

**Litigation / Julio Londoño says it is absurd to insinuate that the Government
infiltrated Nicaragua**

THE DEFENCE DEvised BY COLOMBIA

(Pleito/Julio Londoño dice que es absurdo insinuar que el Gobierno infiltró a Nicaragua
LA DEFENSA QUE TRAZO COLOMBIA)

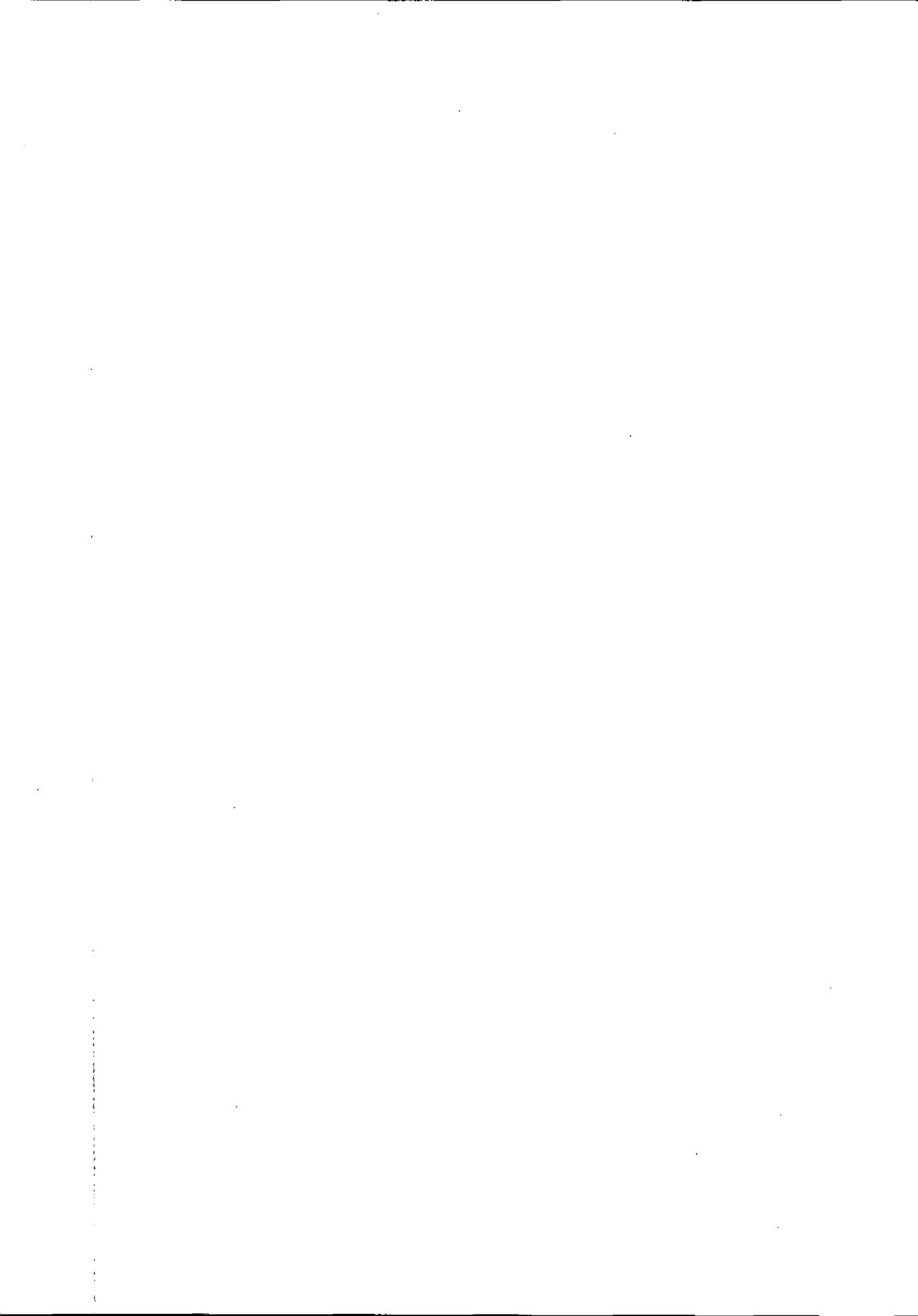
(...)

In Nicaragua nobody seems willing to believe that it was a simple coincidence. In that country they are still surprised that Colombia has withdrawn the declaration through which she accepted the jurisdiction of the International Court of The Hague, just one day before Nicaragua filed her application to claim sovereignty over San Andrés and Providencia.

(...)

The Colombian explanation is only one: it was a coincidence. The Ambassador in Cuba, Julio Londoño, charged with coordinating the group that will defend Colombia before the Court, said that the withdrawal of the declaration that came about on 5 December was made without knowing exactly the date in which Nicaragua would file the case. What was known was that it would be filed at some moment, since they had been announcing it for the past two years.”

(...)



Annex 8

EL TIEMPO, BOGOTÁ, 24 APRIL 2003 (EXCERPTS)

(Internet version)

“THE NAVY WILL STOP NICARAGUA FROM OIL EXPLORATION IN COLOMBIAN WATERS,” SAID PRESIDENT ALVARO URIBE

**(“ARMADA IMPEDIRA QUE NICARAGUA EXPLORE EN AGUAS
COLOMBIANAS”, DIJO EL PRESIDENTE ALVARO URIBE)**

Despite the warning, the President made clear that he does not wish to get to that point.

“If the exploration (of oil) begins we would proceed to stop it with the Navy, of course we would”, said Uribe during an interview from Bogotá with an international network of radio stations led by Colombian Caracol.

(...)

The Navy watches already

Colombian Minister of Defence Martha Lucía Ramírez indicated last Saturday that the Colombia Naval Force patrols the zone in the Caribbean Sea where Managua intends to explore and exploit oil.

“We have the Navy exerting full sovereignty over the seas of Colombia and over a place of such importance as the Caribbean archipelago of San Andrés and Providence (claimed by Managua),” the Minister told journalists.

(...)

With AFP and AP



Annex 9

EL TIEMPO, BOGOTÁ, 25 APRIL 2003 (EXCERPTS)

(Internet version)

**Nicaragua/Uribe does not discard the use of force to defend the sovereignty
THE OIL EXPLORATION WOULD BE IN NICARAGUAN
WATERS)**

(Nicaragua / Uribe no descarta la fuerza para defender soberanía.- EXPLORACION SERIA
EN AGUAS DE NICARAGUA)

(...)

The Navy is Ready

Vice-Admiral David Rene Moreno, Inspector General of the Navy assured that there is a security mechanism in the area of San Andrés and Providencia that permits the country to bar the illegal use of our jurisdictional maritime waters.

(...)

The officer added that the Specific Command of San Andrés and Providencia, naval units, navy infantry troops and a component of the Air Force guarantee the security of San Andrés.

El Tiempo stated that the Navy patrols San Andrés with a reconnaissance plane, several patrol boats, two frigates and about 600 troops from the Marine Corps.

The Navy plans the construction of a coast guard station and a radar for San Andrés in order to increment the operations.

(...)



Annex 10

EL TIEMPO, BOGOTÁ, 13 JUNE 2003 (EXCERPT)

(Internet version)

Border/facing Nicaraguan and drug traffic threats.

SAN ANDRÉS WILL HAVE A COASTGUARD STATION)

(Frontera/Frente a Amenazas de Nicaragua y Narcotráfico.- SAN ANDRÉS TENDRÁ ESTACIÓN GUARDACOSTAS)

The national Government will be reviving the project to build a coastguard station in San Andrés, halted several months ago due to disagreements, which have arisen amongst certain sectors of the island.

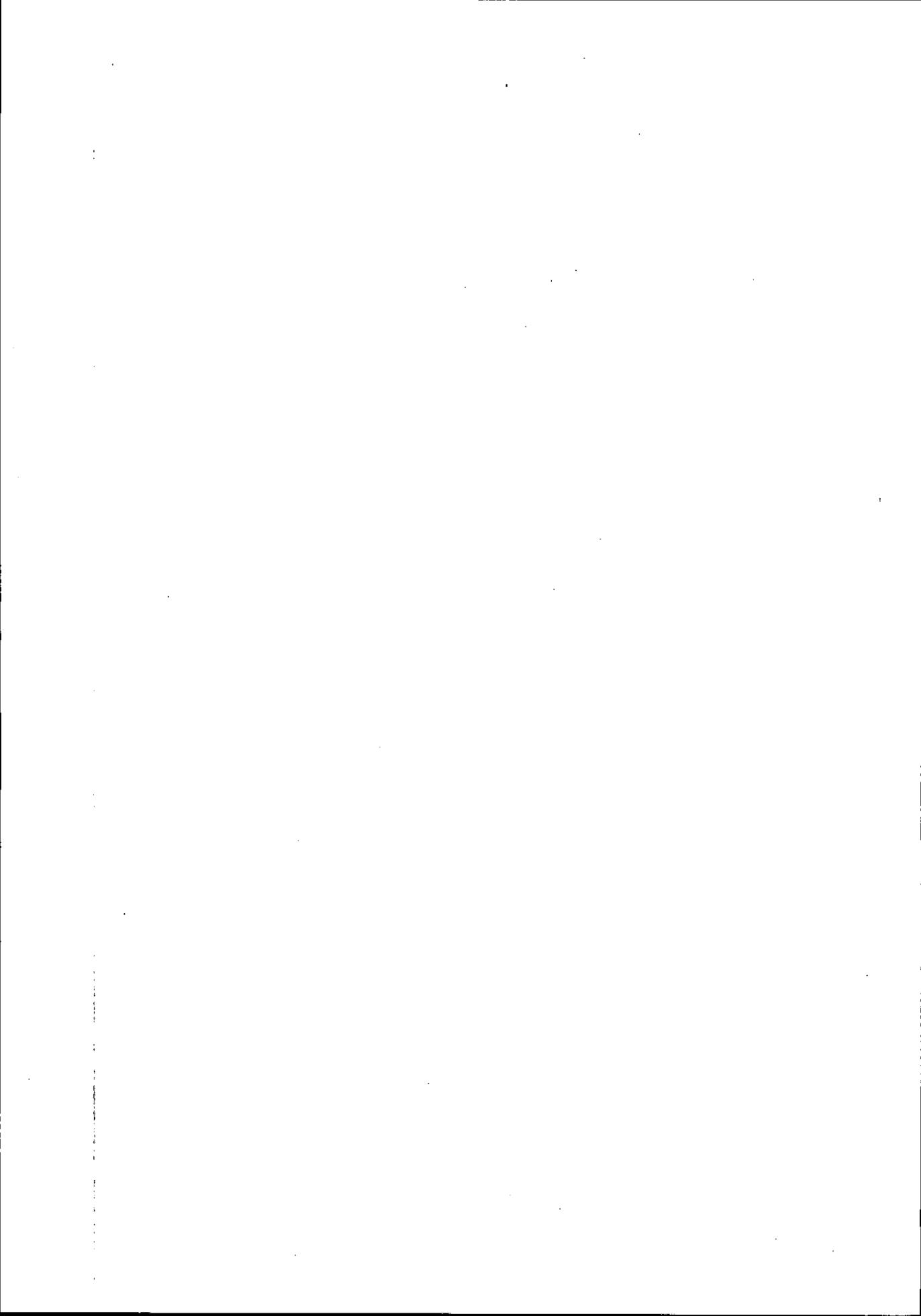
The construction will begin next year, according to the announcement by the Minister of Defence, Marta Lucía Ramírez, on her recent visit to the archipelago during which she accompanied president Alvaro Uribe and the military leaders.

“This objective is a priority of the Ministry of Defence for the coming year. It is a plan in which we expect to work together with the Authorities of San Andrés and the local leaders because the coast guard station has an strategic importance for exerting maritime sovereignty”, said Ramírez

(...)



NICARAGUAN NEWSPAPERS



Annex 11

LA PRENSA, MANAGUA, 15 JUNE 1969 (EXCERPT)

2 COLOMBIAN DESTROYERS SENT TO THE CAYS

(2 DESTROYERS COLOMBIANOS, A LOS CAYOS)

Bogotá, 14 June. Colombia announced today that she will defend her sovereignty over the Roncador, Quitasueño and Serrana Cays, the property of which Nicaragua claims.

The ministry of Foreign Affairs' Director of International Politics Antonio Bayona declared: "Colombia intends to establish her sovereignty in said Cays. That is the firm belief"

Meanwhile, the National Navy has ordered that two destroyers "*El Almirante Toño*" and "*El Almirante Brion*", should permanently patrol the maritime area in dispute in order to enforce respect for the sovereignty over the cays", declared the commandant of the Naval Station on the island of San Andrés, captain Carlos Duque.

(...)



Annex 12

NOVEDADES, MANAGUA, 18 MARCH 1977 (EXCERPTS)

LÓPEZ MICHELSEN PLANS A VISIT TO NICARAGUA, BUT HE DENOUNCED INFLUENCES OVER "RONCADOR" AND "QUITASUEÑO" CAYS

(LÓPEZ MICHELSEN PROYECTA VENIR A NICARAGUA, PERO DENUNCIA INFLUENCIAS SOBRE CAYOS "RONCADOR" Y "QUITASUEÑOS")

San José, Costa Rica, 18, (ACAN-EFE). - The Colombian President, Alfonso López Michelsen mentioned today the possibility of briefly travelling to Nicaragua, once a maritime boundaries treaty is established.

But at the same time, the Colombian Head of State denounced the existence of "influences" so that the United States does not endorse the treaty subscribed with his country over the sovereignty in the "Roncador" and "Quitassueño" Cays, and over which Nicaragua also alleges supposed sovereignty.

Upon inaugurating in San Jose today the National Arts and Crafts Fair, the visiting Head of State announced that Colombia would hold a series of conversations with neighbouring countries as well as with others that although they are not neighbours, are within the 200-mile limit, in order to reach satisfactory and friendly agreements.

"We aspire to reach agreements by direct negotiation on delimitations not only with Nicaragua but also with Venezuela which is more difficult, because of the shape of the Gulf of Venezuela and the "Monjes" Islands", affirmed the Head of State.

(...)

The Colombian President regretted that the treaty with the United States, that his country sign and in which the latter nation recognized the sovereign rights of Colombia over some Cays, was not ratified.

"The United States has not ratified it - sovereignty over Roncador and Quitassueño Cays, that are generally covered by the water -, because there are influences so they do not do it."

Nonetheless, the Colombian President abstained himself from informing where those influences come from.



Annex 13

EL NUEVO DIARIO, MANAGUA, 24 DECEMBER 1999 (EXCERPT)

(Internet version)

Alemán: "we will insist upon the judgement of the Central American Court of Justice".

COLOMBIA WILL ALSO BE SUED IN THE HAGUE)

(Alemán: "Insistiremos en fallo de Corte Centroamericana".
COLOMBIA TAMBIÉN SERÁ DEMANDADA EN LA HAYA)

President Alemán said yesterday that a case will be brought against Colombia before the International Court of Justice in The Hague, even though before doing so Nicaragua must wait for the Central American Court of Justice (CCJ) to pronounce a judgement rejecting the Ramírez-López Treaty.

(...)



Annex 14

LA PRENSA, MANAGUA, 24 APRIL 2001 (EXCERPT)

NICARAGUA WILL SUE COLOMBIA

(NICARAGUA DEMANDARÁ A COLOMBIA)

(...)

President Arnoldo Alemán said yesterday morning that Colombia will also be sued before the International Court of Justice in The Hague, because of the treaty she signed with Honduras in which it clipped on part of Nicaragua's marine waters in the Caribbean sea.

"We are also going to sue Colombia, like we did with Honduras", he said upon his return to Nicaragua, after he participated in the III Summit of the Americas, which took place in Canada.

On the other hand, the Minister of Foreign Affairs Mr. Francisco Aguirre, said that within the framework of the Summit, he met with his Colombian counterpart, and they talked about different options.

(...)



Annex 15

EL NUEVO DIARIO, MANAGUA, 9 OCTOBER 2001 (EXCERPTS)

It will include San Andrés and Providencia, The Minister of Foreign Affairs clarified
APPLICATION AGAINST COLOMBIA WITH THE HAGUE)

(Incluirá a San Andrés y Providencia, precisa el Canciller.
DEMANDA A COLOMBIA EN LA HAYA)

President Alemán and the Minister of Foreign Affairs Francisco Aguirre announced yesterday that before this year ends Nicaragua will file an application against Colombia with the International Court in The Hague to define once and for all the status of "our territorial waters in the Caribbean".

Alemán and Minister Aguirre declared that the Government has destined 1 million dollars of the budget of the Republic for next year to cover negotiations and the judicial process.

(...)

"We are going to submit the claim against Colombia and also leave a guarantee in the budget of the nation for the continuity of that case because you should know that this is carried out in international courts and it represents enormous expenses, but as I have indicated, the sovereignty of our country has to prevail over anything else" Alemán said.

(...)



Annex 16

LA PRENSA, MANAGUA, 30 NOVEMBER 2001 (EXCERPT)

CLAIM AGAINST COLOMBIA GOES

(DEMANDA CONTRA COLOMBIA VA)

The Minister of Foreign Affairs Francisco Aguirre announced that before Christmas, Nicaragua will file a claim against Colombia before the International Court of The Hague to resolve, "once and for all", the disputes that both countries have in the Caribbean Sea. For this, Nicaragua has destined one million dollars in the proposed budget for 2002.

"We are going to submit it before President Arnoldo Alemán travels to Rome", commented Aguirre, during the same activity in which he announced the decision of the Central American Court of Justice (CCJ) against Honduras for ratification with Colombia of the Ramírez-López Treaty. Alemán has an appointment with His Holiness John Paul II, in Vatican headquarters on Saturday, 15 December.

(...)



**DOCUMENTS RELATING TO THE NINTH
INTERNATIONAL CONFERENCE
OF AMERICAN STATES**



Annex 17

**MINUTES OF THE SEVENTH PLENARY SESSION. NINTH
INTERNATIONAL CONFERENCE OF AMERICAN STATES. MARCH
30-MAY 2 1948. ACTAS Y DOCUMENTOS. VOL. I. BACKGROUND-
GENERAL SECRETARIAT-PRELIMINARY MEETING-PLENARY
SESSIONS. MINISTERIO DE RELACIONES EXTERIORES. BOGOTÁ.
1953. PP. 231-233 (EXCERPTS)**

(Minutas de la Séptima Sesión Plenaria, Novena Conferencia Internacional Americana. Marzo 30-Mayo 2 de 1948. *Actas y Documentos*. Vol. I. Antecedentes-Secretaría General-Reunión Preliminar-Sesiones Plenarias. Ministerio de Relaciones Exteriores de Colombia. Bogotá, 1953. pp. 231-233)

p. 231

**MINUTES OF THE SEVENTH PLENARY SESSION
(Classification CB-452/SP-36)**

(...)

p. 232

(...)

Mr. President: ...In the third place in the order of the day, we have the text of the American Treaty on Pacific Settlement, also called, in accordance with the last article of it, "Pact of Bogotá". The text has been distributed and the Secretary will read the reservations that have been introduced to said Pact. Then we will proceed with the vote.

Mr. Secretary General (Reading):

**RESERVATION OF THE DELEGATION OF ECUADOR TO THE
"PACT OF BOGOTÁ" OR AMERICAN TREATY ON PACIFIC
SETTLEMENT**

The Delegation of Ecuador, upon signing this Pact, makes an express reservation with regard to Article V [VI]¹ and also every provision that contradicts, or is not in harmony with, the principles proclaimed by or the stipulations contained in the Charter of the United Nations, the Charter of the Organization of American States or the Constitution of the Republic

¹ Footnote omitted

of Ecuador. - Bogotá, 29 April 1948. Antonio Parra Velasco, President of the Delegation of Ecuador.

(...)

p. 233

(...)

**RESERVATION OF THE DELEGATION OF PERU TO THE
“PACT OF BOGOTÁ” OR AMERICAN TREATY ON PACIFIC
SETTLEMENT**

(...)

2. Reservation with regard to Article XXXIII and the pertinent part of Article XXXIV is as much as it considers that the exception of *res judicata*, resolved by settlement between the parties or governed by agreements and treaties in force, determine, in virtue of their objective and peremptory nature, the exclusion of these cases from the application of every procedure.

(...)

Annex 18

**DOCUMENTS CORRESPONDING TO THE THIRD COMMISSION.
NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES.
MARCH 30-MAY 2, 1948. *ACTAS Y DOCUMENTOS*. VOL. IV. THIRD
COMMISSION-FOURTH COMMISSION. MINISTERIO DE
RELACIONES EXTERIORES. BOGOTÁ. 1953. PP. 6, 69, 79-80, 134-
136, 187, 204 (EXCERPTS)**

(Documentos correspondientes a la Tercera Comisión. Novena Conferencia Internacional Americana. Marzo 30-Mayo 2 de 1948. *Actas y Documentos*. Vol. IV. Comisión Tercera-Comisión Cuarta. Ministerio de Relaciones Exteriores de Colombia. Bogotá, 1953. pp 6, 69, 79-80, 134-136, 187, 204)

DOCUMENTS CORRESPONDING TO THE THIRD COMMISSION

p.6

**(Document published with classification CB-6)
INTERAMERICAN JURIDICAL COMMITTEE**

PROJECT OF THE INTER-AMERICAN PEACE SYSTEM

PART I. - General Obligation to Settle Disputes by Pacific Means

ARTICLE I. The High Contracting Parties, solemnly reaffirming their commitments made in earlier inter-American conventions and declarations as well as in the Charter of the United Nations, agree to refrain from the use of force for resolving their controversies and at all times to recur to pacific procedures. (*Sources: Charter of the United Nations. Article 2; Anti-war Treaty, 1933, Article I; Convention on Coordinate Existing Treaties, 1936; The Rio Treaty, 1947, articles 1st, 2nd*).

ARTICLE II. The High Contracting Parties recognize the obligation to settle their controversies by regional pacific procedures, before referring them to the Security Council of the United Nations.

Consequently, in the event that a controversy arises between two or more signatory States which, in the opinion of one of the parties, cannot be settle by direct negotiations through usual diplomatic channels, the parties bind themselves to use the procedures established in the present

treaty, in the manner and under the conditions provided in the following articles. (*Charter of the United Nations, Article 52*)

(...)

p. 69

(...)

Document published with the classification CB-191/C.III-10¹

**PERU
PROPOSAL OF AMENDMENTS TO THE INTER-AMERICAN
PEACE SYSTEM**

[The Delegation of Peru proposes that the following amendments be made:

1. Add, following Article II, the following additional articles:]

(...)

ARTICLE . . . These procedures may not be applied either to matters already settled by arrangement between the parties or by arbitral or judicial decisions, or which are governed by international agreements in force on the date of the conclusion of the present Treaty.

(...)

pp. 79-80

(...)

¹ This document was also published with the classification CB-199/C.III-12

Document published with the classification CB-381/C.III-Sub A-7
REPORT OF THE SUBCOMMISSION CHARGED WITH THE
STUDY OF A FUNDAMENTAL FORMULA ABOUT THE INTER-
AMERICAN PEACE SYSTEM¹

Mr. President [of the Commission of Initiatives]:

I have the honour of reporting to you that, the Sub-commission created in the Commission of Initiatives for the study of a fundamental formula about the Inter-American Peace System, meeting - with delegates of the following countries in attendance: Argentina, Brazil, Colombia, Chile, Ecuador, United States of America, Haiti, Honduras, Mexico, Peru and Uruguay - designated the delegate of Brazil as President/Narrator and the following alternative formula, proposed by the gentleman Delegate of Mexico, was taken as the point of departure:

“If: *first*, in the inter-American Peace System and in the respective chapter of the charter of the Organization of American States, there should be a procedure of an obligatory character, that concludes with a final resolution, so that no controversy can be left without resolution within a prudential time period;

“Or if: *second*, in the inter-American Peace System and in the respective chapter of the charter of the Organization of American States, there should appear only diverse facultative procedures.”

After hearing the opinion of all and each one of the delegates present, the following solution was reached:

All the countries vote affirmatively for the formula stated in the first point, with the following reservations of the Delegations of Argentina and the United States of America:

a) Argentina responds affirmatively for the formula stated in the first point with the single qualification that *it will be applied only to future conflicts and not for pre-existing causes.*

¹ This report was read and discussed in the Fourteenth Session of the Commission of Initiatives. See the corresponding minutes in Volume II, pages 305 and following.

b) The United States of America responds affirmatively to the formula stated in the first point, with the qualification that *it accepts the obligatory pacific procedures for juridical matters, and only in optional form for the no juridical.*

From the President, sincerely,

(Signed) ARTHUR FERREIRA DOS SANTOS
President-Narrator

(...)

pp. 134-136

(...)

The text of the next article [VI] reads:

The aforesaid procedures, furthermore, may not be applied to matters already settled by arrangement between the parties, or by arbitral award or by decision of an international court, or which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty.

I submit the article to a vote.

Mr. VITERI LAFRONTE (ECUADOR): I would allow myself to ask Dr. Belaúnde if it would be possible to find a formula that softens the tone of the article in question. The general principle is fine; but even with respect to matters already settled new controversies could arise in the course of fulfilment of the same international Agreements that had been resolved. I would request the same Dr. Belaúnde, taking this concept in hand, to elaborate a specific formula that would not have so general and absolute a character. I have no particular determination in proposing a form, or a draft. All I desire (and I believe it would be possible to obtain it) is that the article not have so absolute and so general a character.

Later, let us suppose that any of the cases foreseen is in question: that of an agreement in force, or an arbitral award, or a judicial judgment. In the unfolding, I am saying, and not in the case of interpretation; because the case of interpretation we already know would be the responsibility of the same tribunal, or the same arbiter. In short, in the process of the life of the unfolding and fulfilment of these events, matters or aspects could

arise which could be settled perfectly through recourse to one of these means.

Mr. PRESIDENT: The Delegate of Peru has the floor.

Mr. BELAÜNDE (PERU): I am going to satisfy the concern or the doubt that the Delegate from Ecuador appears to have.

It seems to me that the article has to consecrate the principle that the procedures are not applied to the matters settled by agreement between the parties, by arbitral award or by the judicial judgment. It is evident that if there are difficulties in the process, surely the same arbiter in accordance with the General Treaty on Arbitration can settle it. The doubt is perfectly absolved if we keep in mind that the article adds, "or which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty"; because these "treaties in force" usually indicate the manner to settle matters.

On the other hand, it would be very dangerous to attenuate the formula. In the first place, it would be quite difficult to attenuate it; in the second, this would open the door to provoke a dispute, which is exactly what we wish to avoid. I believe that an American peace system should not only settle disputes, but also prevent them, because provoking disputes is precisely one of the ways to act against peace.

If there is an arbitral award, certainly, in the event that there is some difficulty, the arbiter can settle it, or there will be some means placed in the agreed arbitration to settle their difficulties in the execution of the judgment. There is a treaty; surely that treaty has its procedures. That is why the last part is important: "subject to agreements or treaties in force on the date of the conclusion of the present Treaty."

On the other hand, if it is attenuated and says, "but any future event that could occur during the execution . . ." then, instead of working for peace, we are inviting litigation, and inviting litigation is inviting the agitation of the foundations of peace. For these reasons, with all my highest consideration which is merited by the gentleman Delegate of Ecuador, I sincerely believe that the last part closes the road; because generally an arbitration treaty foresees the difficulties in the execution of the sentence, and a treaty that settles a problem generally provides a procedure by virtue of which those difficulties can be settled.

(...)

In this way everything is ready, because that which is subject to treaties in force, generally has its procedure, and that procedure, as we have agreed, should take precedence over any other.

(...)

Mr. PRESIDENTE: The Delegate of Cuba has the floor.

Mr. DIHIGO (CUBA): Mr. President: to ask a question to doctor Belaúnde. The first part of Article says: "The aforesaid procedures, furthermore, shall not be applied to matters already settled. . ." If they are already settled, what is the problem? That is what I want to know.

Mr. BELAÚNDE (PERU): The danger lies in its being reopened, in wanting to reopen them. It is the exception of *res judicata*.

Mr. PRESIDENT: I am going to submit the text of the article to a vote, in the following form:

The aforesaid procedures, furthermore, may not be applied to matters already settled by arrangement between the parties, or by arbitral award or by decision of an international court, or which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty.

The gentlemen, who agree with the text of the article, will please vote.

Approved.

(...)

p. 187

(...)

Mr. FERREIRA DOS SANTOS (BRAZIL): Mr. President: I regret deeply that this matter has been reopened. I was who drew up the project presented to the Initiatives Commission that was of such clarity as to make it impossible to improve upon.

The first part was formulated in these terms: if the treaty should provide a system under which no controversy that might develop between

American states could be left without a definite solution within a reasonable time period, or if those solutions should have a voluntary nature amongst the parties concerned. The Initiatives Commission has answered definitely unanimously in the affirmative, stating that it should include in the peace system or a means by which no controversy will be left without a solution.

I deplore profoundly not voting on the matter , but my concept was of an absolute clarity, that can not be forgotten.

(...)

p. 204

(...)

Mr. PRESIDENT: The gentleman Delegate of Nicaragua has requested the floor.

Mr. SEVILLA SACASA (NICARAGUA): Mr. President: when the debates of the First Commission began, the delegation of my country allowed me to put forward the idea that the Charter of Organization of American States, as a just homage to Colombia - the least homage we could make to this country which has received us in such a warm and affectionate manner - be known with the name of "Charter of Bogotá". But, since the Commission of Initiatives did not approve this proposal - assuredly because the name "Charter of the Organization of American States" was considered better - the delegation of my country proposes that this instrument related to the pacific settlement of controversies take that name. To this end, it proposes a final article that reads:

This instrument shall called "Pact of Bogotá".

I make this formal motion, Mr. President, and I submit it to your table.

(...)



Annex 19

**NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES.
ANNALS OF THE ORGANIZATION OF AMERICAN STATES.
WASHINGTON, D.C. DEPT. OF PUBLIC INFORMATION, PAN
AMERICAN UNION, 1949-1958. VOL. I, No. 2. 1949, PP. 44, 47-48,
50 (EXCERPTS)**

(...)

p. 44

**Chapter IV
The American Treaty on Pacific Settlement**

(...)

p. 47

(...)

In the history of the law between nations the compulsory solution of controversies has been closely linked to the concept of sovereignty, for a simple reason, which is, the decision *not* to resolve a dispute by pacific means always leaves open the possibility of a resort to force. Weak nations have always championed arbitration and juridical settlement. The strong ones have hesitated to take a step that would amount to divesting themselves before the judges and the courts of all the prerogatives of their physical power, descending to the level of another nation in the presentation of the facts of the case and the juridical exposition of the circumstances that gave rise to the dispute.

(...)

p. 48

(...)

The harmony that exists between the American Treaty on Pacific Settlement and the Charter is brought out by Article 23 of the latter.... The Pact of Bogotá accomplished this through compulsory judicial procedure. Any other treaty could have done as much by establishing the

principle of compulsory arbitration. But no system that does not provide for a contingent obligatory step can hope to be in harmony with the will of the American States as expressed in their Charter.

(...)

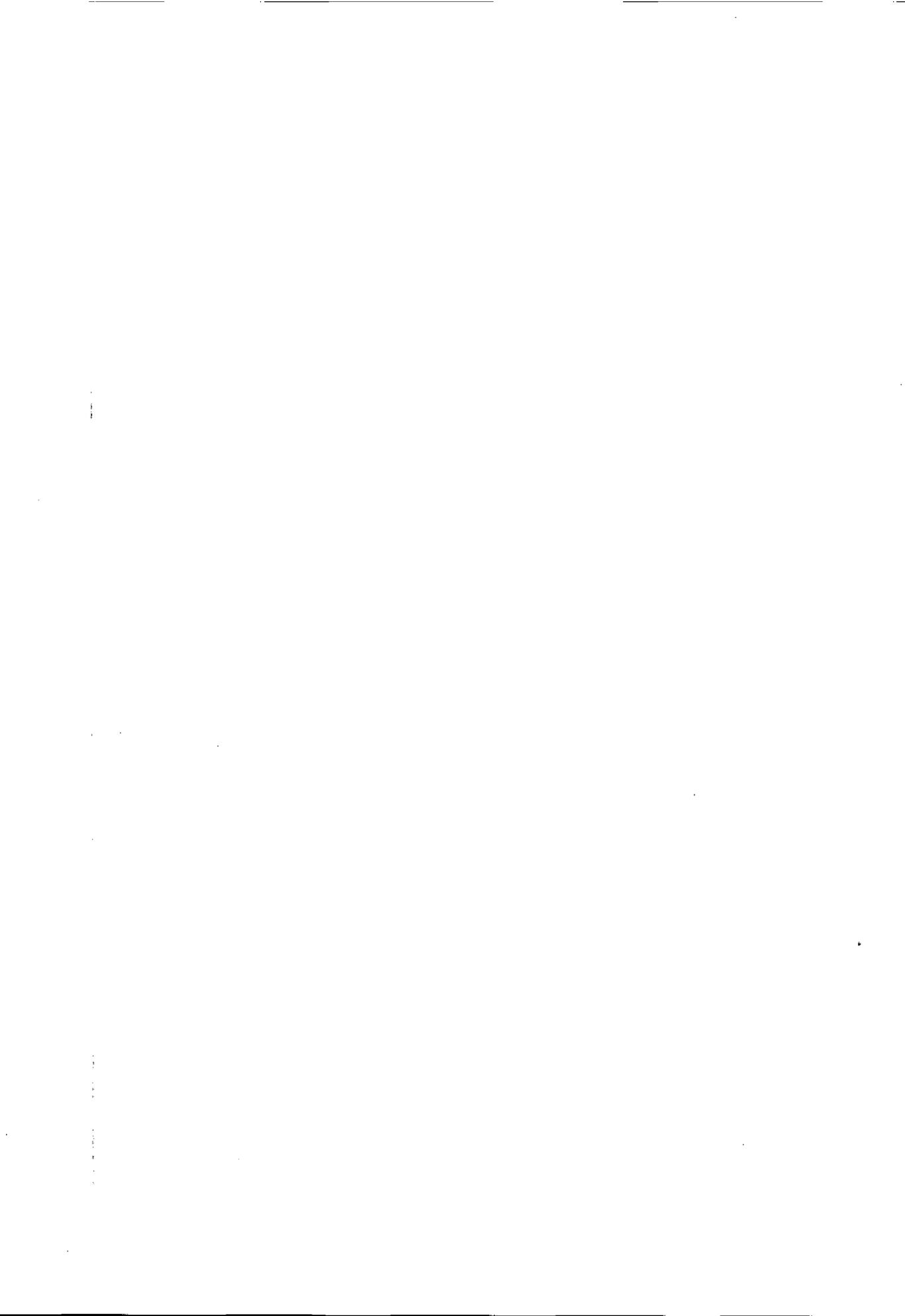
p. 50

(...)

... a suggestion was proposed, and defended with special vigour by the Colombian, Mexican, and Uruguayan delegations, to the effect that priority should be given to judicial procedure - of an obligatory nature as a definitive method - for the solution of disputes.

(...)

AFFIDAVITS



Annex 20

AFFIDAVIT OF MR. ALEJANDRO MONTIEL ARGÜELLO

(Former Minister of Foreign Affairs of the Republic of Nicaragua from 1956 to 1961,
from 1972 to 1978)

TESTIMONY

PUBLIC INSTRUMENT NUMBER FIVE (5).-SWORN STATEMENT.
- In the City of Managua, at ten o'clock in the morning, on Six November of the year Two Thousand Three. Before me, HARAZELI DE LOURDES RODRIGUEZ ANDINO, Lawyer and Public Notary of the Republic of Nicaragua and of this domicile, duly authorized by the Excellent Court of Justice to notarise during the five-year period that expires on twelve August of the year Two Thousand Seven, Doctor ALEJANDRO MONTIEL ARGÜELLO appears before me, widow, lawyer, of legal age, with domicile and residence in this City, identification number 201-130317-0000B, (two, cero, one, dash, one, three, cero, three, one, seven, dash, cero, cero, cero, cero and the letter B). I give faith that he has the necessary legal capacity to assume commitments, contracts and grant the present public instrument wherein he acts in his own name and representation. In this condition, the witness speaks and says: **SOLELY:** That in the year Nineteen Hundred and Seventy Seven (1977) he was Minister of Foreign Affairs of the Republic of Nicaragua and he recalls that at that time, he spoke with and received on several occasions, visits from Colonel Julio Londoño Paredes, high-ranking official from the Colombian Ministry of Foreign Affairs, who was sent by their own initiative, to negotiate with the Government of Nicaragua over the territorial and boundary litigation in the Caribbean Sea; that in those conversations with Colonel Londoño Paredes, he presented the possibility that Colombia would grant to Nicaragua fishing rights in some areas east of Meridian Eighty-two (82), and that Nicaragua should accept that Meridian as the limiting maritime space of the two countries, and that the Bárcenas-Esguerra Treaty was valid, all of which was unacceptable to Nicaragua, reason for which no agreement was reached; that after several visits from Colonel Londoño Paredes, the witness addressed the Government of Colombia asking that they put an end to these as they caused internal problems. The witness expressed himself in this manner, and I instructed him on the legal object, value and transcendence of this act, on the general clauses that they contain and of the special ones that guaranty its validity. The entire Public Instrument was read by me, the Public Notary, to the witness, who finds it in conformity, approves, ratifies and signs it with me, and I give faith of

everything that was related.- (S) AlejandroMontielArgüello (S)
HarazeliRodriguezAndino. -

PASS BEFORE ME: In Folio Number Four of my Protocol Number
Seven that I keep during the current year. Upon request by Doctor
Alejandro Montiel Argüello, I extend this first testimony in legal paper,
which I rubricate; sign and seal at ten thirty in the morning, on six
November of the year Two Thousand Three.

ILLEGIBLE SIGNATURE AND SEAL
HARAZELI DE LOURDES RODRIGUEZ ANDINO
LAWYER AND PUBLIC NOTARY

Annex 21

AFFIDAVIT OF MR. ERNESTO LEAL SÁNCHEZ (EXCERPTS)

(Former Minister of Foreign Affairs of the Republic of Nicaragua from 1992 to 1996)

TESTIMONY

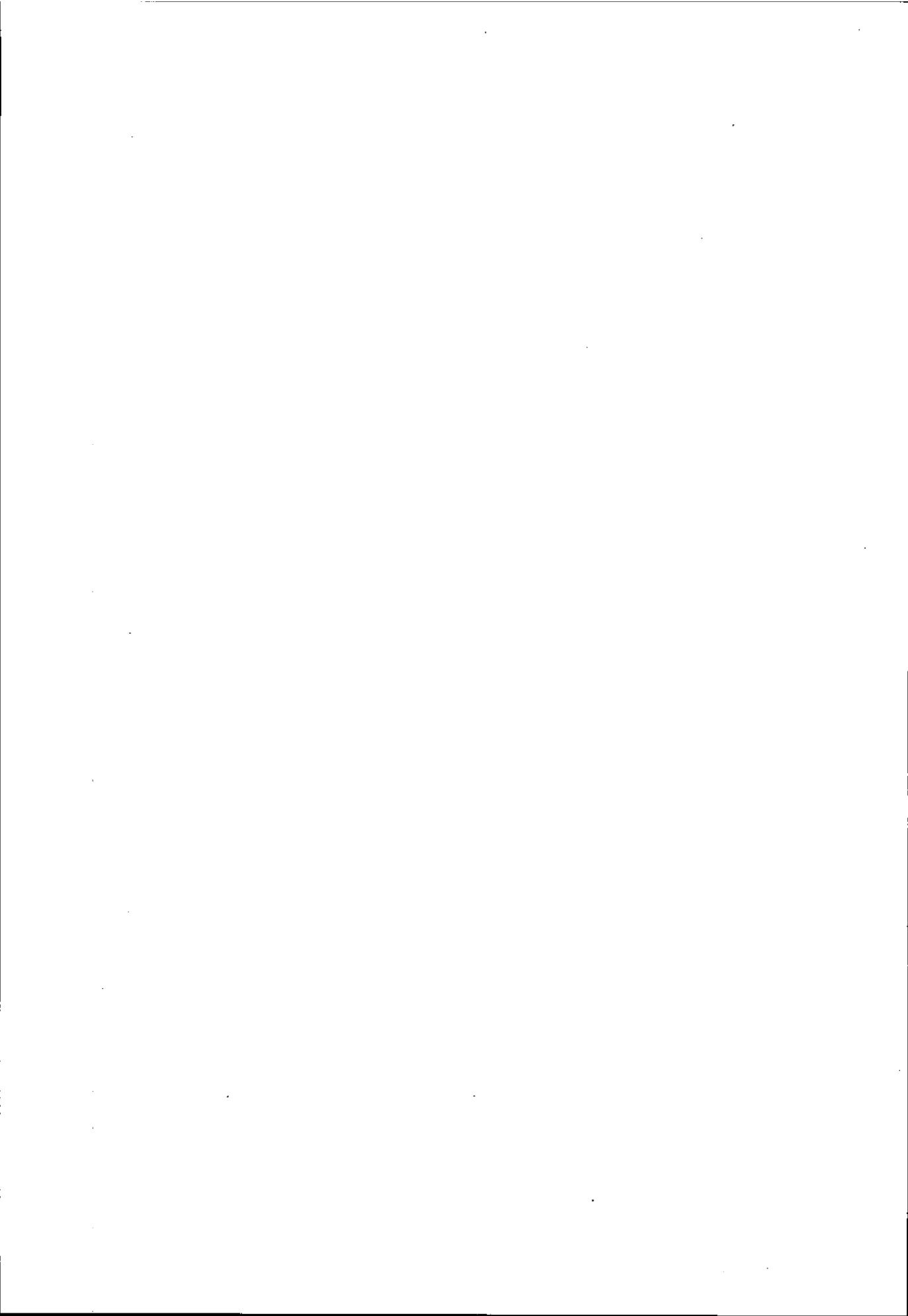
PUBLIC INSTRUMENT NUMBER EIGHT (8).-SWORN STATEMENT. - In the City of Managua, at nine o'clock in the morning on Four December of the Year Two Thousand Three. Before me, HARAZELI DE LOURDES RODRÍGUEZ ANDINO, Lawyer and Public Notary of the Republic of Nicaragua and of this domicile, duly authorized by the Excellent Supreme Court of Justice to notarise during the five-year period that expires on twelve August of the Year Two Thousand Seven, appears Mr. ERNESTO LEAL SANCHEZ, of legal age, married, civil engineers, with domicile and residence in this city, identification number 001-280745-0018 Y, (zero, zero, one, dash, two, eight, zero, seven, four, five, dash, zero, zero, one, eight and the letter Y). I give faith that he has the necessary legal capacity to oblige himself, assume contracts and grant the present public instrument acting in his own name and representation. In this condition, the witness speaks and says: **FIRST:** That during the period encompassed between the year one thousand nine hundred and ninety-two (1992) and the year one thousand nine hundred and ninety-six (1996), he was Minister of Foreign Affairs of the Republic of Nicaragua. That during that period, and to be exact, during the year one thousand nine hundred and ninety-five (1995) in attention to a request made by Colombia, a work-lunch took place in New York wherein participated the following officials of that time: Rodrigo Pardo Garcia-Peña, Minister of Foreign Affairs of Colombia; Julio Londoño Paredes, Ambassador of Colombia to the United Nations; Mauricio Herdocia Sacasa, Coordinator of the Advisory Body to the Minister of Foreign Affairs and myself, Minister of Foreign Affairs of the Republic of Nicaragua at the time. That the main objective of that meeting was to begin discussions about the negotiations related to the territorial and maritime differences between Colombia and Nicaragua in the Caribbean Sea, in order to improve the political environment and remove all the obstacles that affect the friendly and cooperative relationship that could exist between both countries. In this opportunity, Colombia was willing to review with Nicaragua the issues related to Meridian 82°, indicating that this subject was easier to treat than the San Andrés topic, affirming that prominent Colombian personalities recognized that the Colombian thesis of Meridian Eighty-Two (82°) was questionable under the view of International Law and the International

Court's judgements. That position facilitated the treatment of the subject. The Nicaraguan representation expressed that the San Andrés issue was as important as the subject of Meridian 82°, they also expressed that these subjects were closely interconnected, but that the conversations could begin with the first matter, but in a global context, and without implying any renunciation, having them in a very quiet environment far from the press. That both parties discussed the mechanisms for effectively carrying out these conversations over a matter that confronted both countries for many years. They considered the celebration of the IX (Ninth) Summit of Heads of State and Government of the Rio Group that would take place in Quito, Ecuador on Four (4) September of that same year, as an opportunity. That would be a precious occasion to join Presidents Chamorro and Samper in a meeting, in order to begin negotiations to be handled in a very discreet manner. **SECOND:** That afterwards, during the IX (Ninth) Summit of Heads of State and Government, the President of Nicaragua, Violeta Barrios de Chamorro and the President of Colombia, Ernesto Samper Pizano, had a joint meeting with the Ministers and Legal Advisors to begin discussions and agreed to instruct their Ministers of Foreign Affairs to begin conversations before the end of the month of September. They should release a Joint Communiqué in simple but effective terms. At the beginning of discussions on the Joint Communiqué, Nicaragua upheld that territorial and maritime issues should explicitly appear in the referred Communiqué. Nonetheless, Minister Pardo upheld that it was not appropriate to attract too much attention from the press on such a sensitive matter, and instead would be more convenient to talk about "issues of common interest" in a spirit of finding solutions to "any differences". That was his manner of expression, but the news media reflected it afterwards, that both Ministries would discuss over territorial and maritime topics that divided both countries. On his part, Dr. Mauricio Herdocia Sacasa drafted the Joint Communiqué and Colombia accepted it. Finally, the discreet Communiqué was published during the Summit. Unfortunately, the meeting between Presidents itself was not kept in reserve, as was discussed in New York and the press covered the event directly. Declarations offered by the Heads of State, placed the cautious Communiqué in the background. **THIRD:** That as a result of the strong publicity given to the conversations, some national authorities and Colombian Communication Media reacted against them, obliging Colombian authorities involved in them to define their positions over these topics. As a consequence of the above, Colombian authorities started giving broad explanations and observations on the territorial and maritime components of the negotiations that came to public light. In those declarations, Colombian authorities recognized that there were

issues pending between Nicaragua and Colombia, but that these could be settled. They specifically recognized that they had to discuss the character or nature of Meridian Eighty-Two (82°) and pending issues over the Bárcenas Meneses-Esguerra Treaty. Apparently, pressure exerted by the news media obliged Colombia to abandon the issue, postponing *sine die* the beginning of the negotiations foreseen to continue at the end of the month of September of nineteen hundred and ninety-five (1995) in New York. Declarations made within the context of these conversations were given by the highest Colombian authorities, which at that time had the power to represent Colombia as well as the capacity to compromise the State. Within this context, President Samper Pizano and the Minister of Foreign Affairs Rodrigo Pardo, were the main foreign figures in these episodes. Involvement by the Presidents of both countries during the discussions was unique and proves the seriousness of the negotiations forwarded by the Ministries of Foreign Affairs. The information that the news media picked up on the special case, were not only press releases, but also an article written in his own hand by the Minister of Foreign Affairs himself, of the time, Rodrigo Pardo. In this sense, an important evidence on the content of the dialogue, can be found in the article written by Pardo himself, published in the Daily Newspaper "El Tiempo", dated Sunday, ten September of the year nineteen hundred and ninety-five (1995), in the section called "Invited Editor", under the title "Toward a Good Neighbourhood". In that article, he explains the content of the dialogue. Within this context, he wrote that it was about an ample dialogue over all the pending matter or require mutual work including the issues that were not defined or settled by the agreements in force, among them, the Bárcenas Meneses-Esguerra Treaty.... Thus the witness expressed himself and I instructed on the object, value and legal transcendence of said act, on the clause that ensures its validity, on the special one that it contains, on the one that involves waiver and stipulations, both implicit and explicit. - The entire Public Instrument was read by me, the Public Notary, to the witness, who finds it in conformity, approves, ratifies and signs it with me, and I give faith of everything that was related. - (S) Ernesto Leal Sánchez, (S) Harazeli Rodríguez Andino. -

PASS BEFORE ME: On the front of Folio Number Six, on the reverse of Folio Number Seven, of my Protocol Number Seven that I keep during the current year. Upon request by Engineer Ernesto Leal Sanchez, I extend this first testimony in two legal sheets of paper, which I rubricate, sign and seal at ten thirty in the morning, on Four December of the year Two Thousand Three.

ILLEGIBLE SIGNATURE AND SEAL
HARAZELI DE LOURDES RODRIGUEZ ANDINO
LAWYER AND PUBLIC NOTARY



Annex 22

AFFIDAVIT OF MR. FRANCISCO AGUIRRE SACASA

(Former Minister of Foreign Affairs of the Republic of Nicaragua from 2000 to 2001)

TESTIMONY

PUBLIC INSTRUMENT NUMBER SIX (6). - SWORN STATEMENT.
- In the City of Managua, at ten o'clock in the morning, on eight November of the year Two Thousand Three. Before me, HARAZELI DE LOURDES RODRIGUEZ ANDINO, Lawyer and Public Notary of the Republic of Nicaragua, duly authorized by the Excellent Court of Justice to notarise during the five-year period that expires on Twelve August of the year Two Thousand Seven, Mr. FRANCISCO XAVIER AGUIRRE SACASA appears before me, married, Doctor in Law and Graduate in Foreign Service, of legal age, with domicile and residence in this City, identification number 001-040944-0029 C (zero, zero, one, dash, zero, four, zero, nine, four, four, dash, zero, zero, two, nine and the letter C). I give faith that he has the necessary legal capacity to assume commitments, contracts and grant the present public instrument wherein he acts in his own name and representation. In this condition, the witness speaks and says: **SOLELY:** That by initiative of Colombia, he held a meeting in San Jose, Costa Rica, during the month of June of the year Two Thousand One, within the framework of XXXI Period of Ordinary Sessions of the General Assembly of the Organization of American States (OAS), dedicated to the subject of Inter-American Democratic Charter, with the then Minister of Foreign Affairs of Colombia, Guillermo Fernández de Soto, and Mrs. Clemencia Forreo Ueros, Vice Minister of Foreign Affairs of that country at the time. The witness expresses that Dr. Cecile Saborio Coze was present at that meeting and at that time, she was the General Director of Foreign Policy in the Nicaraguan Ministry of Foreign Affairs. Basically, Colombia expressed that they did not want a case before the International Court of Justice, and that they knew that Nicaragua was preparing herself for it. They requested that Nicaragua stop such an action. In that sense, they wanted to settle the issue in dispute with Nicaragua in the Caribbean Sea in a friendly manner, reason for which they proposed to begin bilateral negotiations; they insisted that it was not necessary to recur to the International Court of Justice if both countries could settle their differences in a direct manner. The witness expressed to the high-ranking Colombian officials that the ratification of the Ramírez-López Treaty, which occurred on Thirty (30) November of the year Nineteen Hundred

and Ninety-nine (1999), had caused a very negative political climate that precipitated events. That as a last resort, he accepted a very brief time span could be awaited, but not in a prolonged manner. The witness comments that Colombia, instead of carrying into effect the conversations, introduced before the Secretary-General of the United Nations, the withdrawal of her acceptance of the compulsory jurisdiction of the International Court of Justice, on Five (5) December of that same year. The witness expressed himself in this manner, well instructed by me, the Public Notary, on the legal object, value and transcendence of this act, on the clause that guarantee's its validity, and special one that it contains, on the one that involves waivers and stipulations, both implicit and explicit. - The entire Public Instrument was read by me, the Public Notary, to the witness, who finds it in conformity, approves, ratifies and signs it with me, and I give faith of everything that was related. - (S) FranciscoXavier AguirreSacasa (S) HarazeliRodriguezAndino. -

PASS BEFORE ME: On the reverse of Folio Number Four, in front of Folio Number Five of my Protocol Number Seven that I keep during the current year. Upon request by Doctor Francisco Xavier Aguirre Sacasa, I extend this first testimony in legal paper, which I rubricate, sign and seal at ten thirty in the morning, on Eight November of the year Two Thousand Three.

ILLEGIBLE SIGNATURE AND SEAL
HARAZELI DE LOURDES RODRIGUEZ ANDINO
LAWYER AND PUBLIC NOTARY

Annex 23

AFFIDAVIT OF MR. NORMAN CALDERA CARDENAL (EXCERPTS)

(Minister of Foreign Affairs of the Republic of Nicaragua from January 2001 to date)

TESTIMONY

PUBLIC INSTRUMENT NUMBER NINE (9).-SWORN STATEMENT. - In the City of Managua, at ten o'clock in the morning of Twelve December of the year Two Thousand Three. Before me, **HARAZELI DE LOURDES RODRIGUEZ ANDINO**, Lawyer and Public Notary of the Republic of Nicaragua, duly authorized by the Excellent Supreme Court of Justice to notarise during the five-year period that expires on Twelve August of the Year Two Thousand Seven, appears before me, Mr. **NORMAN JOSE CALDERA CARDENAL**, of legal age, married, graduate in Business Administration, with domicile in this City of Managua, and identification number double zero, one, dash, two, one, one, zero, four, six, dash, triple zero, one, E (001-211046-0001E), acting in his character as Minister of Foreign Affairs of Nicaragua, in conformity with Certification Extended by the Secretary of the Presidency of the Republic of Nicaragua... I give faith of personally knowing the witness Caldera Cardenal, who in my judgment has the necessary legal capacity to celebrate obligations and contracts, and especially to celebrate the present act, in which he acts in his own name and representation and says: **FIRST:** that on the Twenty-four (24) of October of the year Two Thousand One (2001), Nicaragua presented a document to the Secretary-General of the Organization of the United Nations, which expressed that it would not "accept the jurisdiction or competence of the International Court of Justice in relation to any matter or claim based on interpretations of treaties or arbitral awards that were signed and ratified or made, respectively, prior to Thirty-one (31) December of the year Nineteen Hundred and One (1901)." In said document, there is absolutely no mention to the date in which it would come into force. **SECOND:** That during the first eight (8) months of the year Two Thousand Two (2002), I held conversations with the Minister of Foreign Affairs of Costa Rica, Roberto Tovar Faja; with the participation of Javier Sancho Bonilla and Mauricio Herdocia Sacasa, from the Ministries of Foreign Affairs of Costa Rica and Nicaragua respectively, on the topic of the juridical situation of the Nicaraguan Declaration relative to acceptance of the compulsory jurisdiction of the International Court of Justice. During those opportunities, the Costa Rican Minister of Foreign Affairs expressed that there was unrest in

certain sectors interested in his country, reason for what he qualified as “the imminent” effect of the Nicaraguan reserve to the acceptance of the Tribunal’s jurisdiction, since in the criteria of some of its specialists, after one year of formulating the reserves, these would come into force, and that would close off for Costa Rica, the possibility of submitting to the International Court of Justice, issues excluded from its jurisdiction due to the Nicaraguan reserve dated on the year Two Thousand One (2001), according to their approach. Once the year concluded, if Costa Rica did not take Nicaragua to Court, this would bring about a confrontation with those interested sectors, expressed Tovar Faja to me. Both Ministers of Foreign Affairs fully coincided in that the Nicaraguan reserve had not taken effects in an immediate manner, since for that, a “reasonable term” was required although we did not exactly neither precise nor agreed as to what the “reasonable term” would consist of. In those circumstances, both Ministers of Foreign Affairs sought a way out without damaging or undermining some of the positions upheld by both parties, and allow Foreign Minister Tovar to face those interested sectors, that as he explained, pretended to “keep alive” the possibility of taking Nicaragua to Court, on the basis of their own positions. Because of this, we decided to “freeze” the situation exactly as it existed, for which the Government of Nicaragua made a commitment to maintain a term of three (3) years beginning on twenty-six (26) September of the year two thousand two (2002), by accepting the competence or jurisdiction of the International Court of Justice the existing juridical situation with respect to the Nicaraguan declaration. The above remained in the declaration that we undersigned in Alajuela, Republic of Costa Rica, on that same date. Thus, the witness appearing before me expressed himself, whom I instructed as to the legal object, value and transcendence of this act, on the general clauses that it contains and on the special ones that ensure its validity. Read by me, the Notary, he finds it in conformity, approves, ratifies and signs it with me. I give faith of all herein related.(S) Norman Jose Caldera Cardenal (S) Harazeli de Lourdes Rodríguez Andino.

PASSED BEFORE ME: On the reverse of folio number seven in front of folio number nine of my Protocol Number Seven that I keep during the present year. Upon request of Mister Norman Jose Caldera Cardenal, I issue this first testimony on two sheets of legal paper that I rubricate, sign and seal at eleven o’clock and thirty minutes on the morning of December twelfth of the year two thousand three.

ILLEGIBLE SIGNATURE AND SEAL
HARAZELI DE LOURDES RODRIGUEZ ANDINO
LAWYER AND PUBLIC NOTARY

OTHER DOCUMENTS



Annex 24
RECORDS OF THE SESSIONS OF THE CHAMBER OF THE SENATE
OF NICARAGUA (EXCERPTS)

Annex 24 a
RECORDS OF THE XLVIII SESSION OF THE CHAMBER OF THE SENATE.
4 MARCH 1930
(*La Gaceta, Diario Oficial* of Nicaragua N. 94. 1 May 1930)

(...)

Session XLVIII of the Chamber of the Senate in its ordinary meeting of the eighteenth constitutional period, celebrated at ten in the morning of Tuesday fourth of March of nineteen hundred thirty.

(...)

7° - It was read the Commission's report subscribed by the Senators Paniagua Prado, Pérez y Amador that studied the initiative of the Executive Power putting under the consideration of this High Organism the Treaty of Limits between Nicaragua and Colombia. The Commission was in favour of the ratification of the Treaty entered into by the two Republics the 24 of March of 1928, and approved by Executive Power on the 27 of the same month and year; Treaty that puts an end to the pending matter between the two Republics over the Archipelago of San Andrés and Providencia and the Nicaraguan Mosquitia; in the understanding that the San Andrés archipelago mentioned in the first clause of the Treaty does not extend to the West of meridian 82 of Greenwich in the chart published in October 1885 by the Washington Hydrographic Office under the authority of the Secretary of the Navy of the United States of North America.

(...)

9° - The session is adjourned.
V. M. Román, S. P. - Vicente F. Altamirano, S. S. - J. Cajina Mora, S. S.

Annex 24 b

RECORDS OF THE XLIX SESSION OF THE CHAMBER OF THE SENATE.

5 MARCH 1930

(*La Gaceta, Diario Oficial* of Nicaragua N. 98. 7 May 1930)

Session XLIX of the Chamber of the Senate in its ordinary meeting of the eighteenth constitutional period, celebrated at nine and forty-eight minutes in the morning of Wednesday fifth of March of nineteen hundred thirty.

(...)

3° - ... The Minister replied: that he understood that he had been called to hear the opinion of the Executive Power on the subject relating to the Colombian matter; that in a meeting at the Ministry of Relations with the Honourable Commission of Relations of the Senate, it was agreed by the Commission and the Advisors of the Government to accept as limit in this dispute with Colombia the West 82 meridian of Greenwich and of the Hydrographic Office of the Ministry of the Navy of the United States of 1885; that then Senator Paniagua Prado expressed his worries that by adding this amendment or clarification, it would be put (again) to the approval of the Colombian Congress and would be a cause for delay for its approval, and therefore, for putting an end to this annoying subject. But that having taken this matter up with the Honourable Minister of Colombia and he with his Government, which requested that the Treaty should not be altered because it would again have to be put to the consideration of the Congress; having insinuated to his Excellency Minister Esguerra, to deal again with his Government on this matter, and after having obtained an answer, he told me: that his Government authorized him to say that Treaty would not be put to the approval of the Colombian Congress, in view of the clarification that demarcated the dividing line, that therefore, and although there was not anything in writing, he could assure the Honourable Chamber, in name of the Government, that the Treaty would be approved with no need to put it again to the approval of Congress.

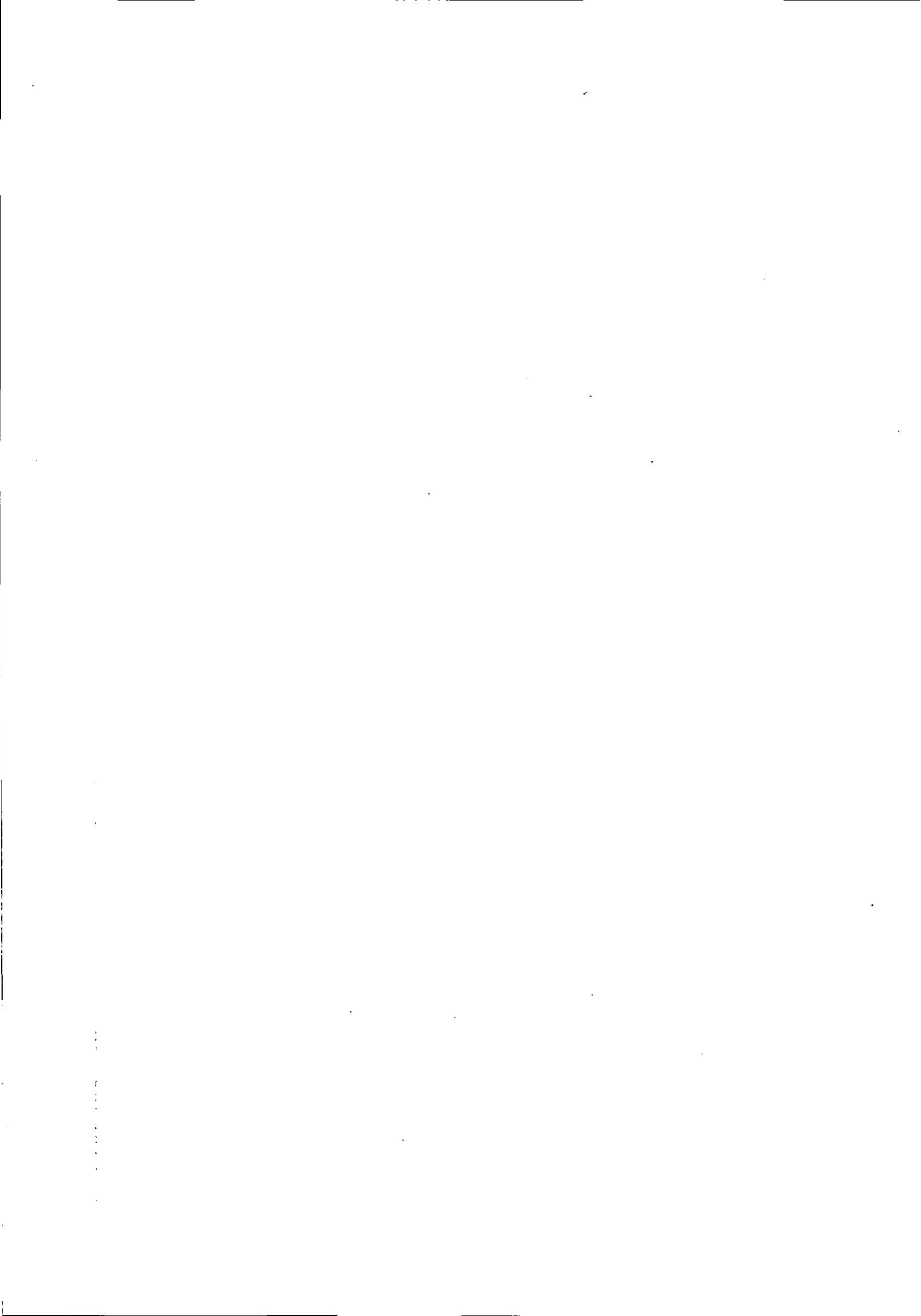
The Minister added, that the explanation does not reform the Treaty, because it only intends to indicate a limit between the archipelagos that had been reason for the dispute and that the Colombian Government had already accepted that explanation by means of his Minister Plenipotentiary, only declaring, that this explanation be made in the

ratification act of the Treaty: that this explanation was a necessity for the future of both nations because it came to indicate the geographic limit between the archipelagos in dispute without which it would not be settled the matter completely; and that therefore he requested to the Honourable Chamber the approval of the Treaty with the proposed explanation.

(...)

5º - The session is adjourned

V. M. Román, S. P. - Vicente F. Altamirano, S. S. - J. Cajina Mora, S. S.



Annex 25

RECORDS OF THE LVIII SESSION OF THE CHAMBER OF DEPUTIES OF NICARAGUA. 1 AND 3 APRIL 1930 (EXCERPTS)

(*La Gaceta, Diario Oficial* of Nicaragua N. 182. 20 August 1930).

(Continues - 6)

(...)

129- The report issued by three of the Members of Foreign Affairs Commission, accepting the Treaty concluded between Colombia and Nicaragua, with the addition proposed in the Chamber of the Senate, was read and subjected to discussion.

Deputy Borgen said: Due to family accidents in Granada, I was unable to submit my report separately, given that I dissent from the opinion of my honourable colleagues. In the study of this Treaty, we went so far in our investigations as to discuss the issue with the former Minister of Foreign Affairs, Mr. José Andres Urtecho, in his own home, in the presence of Drs. Argüello Cerda and García Largaespada. He read us a recent Exposition prepared by him, for a pertinent observation, and we were all more convinced, by mutual agreement, that the right of Nicaragua on the Islands of San Andrés and Providencia is not only clear, but peremptory, and they honoured me by manifesting that I was right. However, ulterior requests for this matter to be settled soon, led my colleagues in the Commission to rush into submitting that report without waiting for the one I promised in case we did not come to an agreement - that I could not do, as I said, because of family accidents- adding as I must, that if the majority report is accepted it may mean that we stop being Nicaraguan.

(...)

Deputy Dr. Borgen expressed his agreement with Deputy President.

Deputy Argüello Cerda supported his report, adding that the Commission perfectly recognizes that the law assists Nicaragua's position for the ownership of the Archipelago of San Andrés and Providencia; but that renouncing that right, they recommended the approval of the referred-to Treaty, in view of the three points that are explained in the report.

Deputy Góngora said that in view of the fact that that Treaty had arrived at the hands of the Commission for some time now and that it had not submitted its report earlier because it was doing a conscientious study, he requested the Chamber to begin its discussion now, each one expressing his reasons to embrace the majority report or attack it, adding that he wants to declare that he will vote against the report that is now under discussion.

(...)

Deputy García Largaespada said: I must manifest to the Honourable Chamber that this is an issue that I have always been preoccupied with, and not just now that I am part of the Honourable National Representation, as well as all others concerning the integrity of the Nicaragua territory. Therefore, I must protest against the expressions of those who call on us to be Nicaraguan. We are Nicaraguan and we feel deep and profound love for our homeland, but the love for this country, the love for this homeland, does not mean that it blinds us in an absolute way as not to comprehend that above certain momentary interest, there are the permanent interest of what is to come, that we need to leave completely clean, completely clear so that future generations come to plant the seed for Nicaragua's progress.

The Commission of Foreign Affairs of which I am part, has conscientiously studied this issue. But, we face the following. The territorial question with Colombia can only be settled in three ways:

First: By direct arrangement between both countries, as does the Treaty we know.

Second: By Arbitration;

Third: By war. This last, Messrs. Deputies, is impossible to do, even if we are absolutely right, given that war must not be an honourable solution of international issues between Christian peoples, least [of all] between nations that are joined by many points and should tend to a better cordiality, and that Nicaragua and Colombia because of international pacts and factual impossibility, could not get to this extreme. Regarding Arbitration there is much more to say than what is expressed in our report. The territorial discussion comprises two things: Our Atlantic Coast, which Colombia pretends and the Archipelago of San Andrés and Providencia. Our domain over the Mosquito Coast is indisputable and rest on an immemorial possession and convincing colonial documents that turn our right insurmountable. Could Nicaragua expose that inappreciable portion of our country to the contingencies of

arbitration? Our Ministry of Foreign Affairs, in proposing arbitration, has always limited it to the discussion over San Andrés and Providencia which Colombia does not accept. And it is well known that arbitration can only be done by mutual agreement between that Parties as to their pretensions. In regard to the Atlantic Coast, as we left it consigned, Colombia only alleges that she was part of the Province of Veraguas, that it delimitates in an arbitrary manner since the Province was no other than the Duchy of Veraguas that the Kings of Spain gave to Don Luis Colon which comprehended twenty-five square leagues and reached up to the river. So Colombia has had pretensions over our Mosquitia that lack all legality. With respect to San Andrés and Providencia, Colombia presents an Order from the Ministry of War from Spain so that they would militarily depend on the Santa Fe Viceroyalty; and the *de facto* possession of the islands. We believe that Nicaragua has the right over the islands, both because they are part of the adjacent coast, and also because the Order was derogated. So, not being able to submit the issue to Arbitration, there is no other solution than the direct agreement that the Treaty under discussion proposes, that we must approve to avoid the slightest pretension from anybody to our Atlantic Coast, and so that we can firmly fix the future channel-related question, without having subterfuges and restraints imposed upon us in the decorous settlement of this question.

And it is then, Messrs. Deputies that we need a shielding of our character so that without shying from the demands that civilisation imposes on us due to our geographical configuration, we may know how to firmly leave as set the rights of Nicaragua, and our Sovereignty respected and consolidated.

Representative Rivas h., expressed his opposition to the report, as did Representative Belli Ch., by adding that he has found a way of solving this problem: and that he does not see why this issue has to be settled right away, at this hour and rather, that on this day, the Treaty be postponed for an indefinite time and not to deal with it until one or two generations have gone by, because maybe then, Nicaraguans will be able to face those circumstances.

Representative Estrada Romero proposed to suspend the discussion over this issue until calling the Honourable Minister of Foreign Affairs so that he could explain the circumstances that obliged him to celebrate that Treaty.

Addressing Representative Estrada Romero, Representative Góngora told him that the answer that the Minister would give him regarding the circumstances that obliged him to celebrate the treaty in reference, that those are the same reasons that appear in the enclosed documentation.

Deputy Largaespada said: Let us not go around fighting for what we cannot reintegrate to the National Territory and let us conform ourselves with the territory of La Mosquitia. No country in the world returns acquired territories and I must empathize that in arbitrations, small countries always lose, and therefore, we would be defeated.

Representative Bolaños expressed himself in agreement with the approval of the Treaty.

Representative Borgen said that he will present his report during the session this afternoon or in the morning, and that if despite the reasons he will put forth by then, the Treaty is approved, then it does not matter because no one said that man was born to have only success; but that it is very different to LOSE it than TO GIVE IT AWAY, as they wish to do with the report under discussion.

(...)

[Two days later]

146- The session having been resumed...

(...)

148- The majority and minority reports by which the Treaty concluded between the Republics of Nicaragua and Colombia on 24 March 1928 is respectively RATIFIED and IMPUGNED.

Deputy García Largaespada requested that the report issued by the majority, that reads as follows, be inserted in the act:

“Honourable Chamber: Only a few times has a matter of such interest and importance, in our opinion, been presented in the Chambers, as the Treaty concluded between our Republic and that of Colombia, that puts an end to the already long discussion regarding the domain over the islands of San Andrés and Providencia and the Mosquito Coast, that both countries have been claiming for a long time. We also believe that very rarely, the prescribed Commissions in charge of presenting a report on

issues debated in the Chambers, have been charged with the study of a question of deeper interest and more profound responsibility. We have taken great care to deal with this subject as wisely as possible. We dedicated many long days of meditation and serenity to studying it. We committed ourselves to everything written on the matter by both sides. In truth, we confess that the Titles that Nicaragua holds as foundation for her pretensions have much more force than those summoned by Colombia. Not only does Nicaragua have *de facto* and legal possession over the Mosquitia Coast, but also numerous juridical elements that are very convincing as to her indisputable domain over that territorial extension; the entirety, inseparable from the rest of the country, with boundaries and demarcations that form a unity, and the award of the President of France, Mr. Loubet, revised and confirmed by the President of the Court of Justice of the United States of North America, Mr. White. Although it is true that this was given in a territorial controversy between Costa Rica and Colombia, nonetheless it was in favour of Nicaragua, and it was decisive because it solved the maximum pretension by Colombia, which alleged that her territory extended up to Cape Gracias a Dios, limiting in such a way that it left Costa Rica with the territorial extension that she claimed and Nicaragua with her rights safeguarded. Once this award settled the boundaries issue between Colombia and Costa Rica, it leaves the latter interposed between that Republic and Nicaragua, whose coasts encompass the maximum pretensions by Colombia over the about mentioned Mosquitia Coast of Nicaragua, where by uncontroversial logic, it infers that any pretension by Colombia over the about mentioned Coast of Nicaragua, was definitely solved because the unity and continuity of the Republic of Colombia disappeared with the about mentioned Nicaraguan Coast. All said without prejudice that Colombia bases her rights over the Mosquitia Coast on a mistaken and sophisticated limitation of the Province of Veraguas, which it confuses with that of Cartago that extended up to the Aguan River, when in all strictness, the Province of Veraguas is no other than the same Veraguas Duchy, with 25 square leagues granted in 1537 by the Monarch of Spain to Admiral Don Luis Colón and comprehended between the Belen River and the Admiral's Bay. With regard to the San Andrés and Providencia Islands, Colombia alleges and invokes as title in her favour, the Order from the Ministry of War of Spain in 1803, wherein, by reason of a transitory nature and military defence, the mentioned islands were added to the Santa Fe Viceroyalty, forgetting that this Ministerial Order could not be considered as a dismemberment law which could only be issued by Royal Acts and the Council of Indies, and that, besides, said order was derogated in 1806. By previous laws, said islands belonged to the General Captaincy of Guatemala and above all, by Law VII of the

Compilation of Indies, in "conformity with the civil and ecclesiastical jurisdictions". Currently these islands have remained under Colombia's *de facto* possession, but the controversy between this country and Nicaragua, to which it is intended to put an end with this Treaty is not limited to them, but rather a portion of our country's richest territory is involved, such as the so-called Atlantic Coast. The discussion between one and the other country became very long, in favour of what one and the other believe to be their right, but in view of the impossibility of finding a means accepted by both parties to settle the dispute, they agreed to put an end to it by Colombia's recognizing Nicaragua's dominion over the Mosquito Coast and the islands close to it called Corn Islands, that is, what has been under possession; and, in turn, by Nicaragua's recognizing Colombia's dominion over the Archipelago of San Andrés and Providencia that she has possessed. Nonetheless, we who believe, as we exposed, in light of the forceful arguments adduced by Nicaragua, that she has rightful reason in the controversy, we advise you, despite the fact that it represents a waiver to our legitimate rights, to grant your approval to the referred-to Treaty, with the amendment that the Honourable Chamber of the Senate incorporated in it, Nicaragua thus agreeing to recognize Colombia's dominion over the disputed Archipelago. We adduce the following reasons to that effect:

1. For maintaining the fraternity and good harmony that should exist between the Nations in the American Continent.
2. Because of the difficulty in settling this matter in any other manner, since Nicaragua could never submit to an eventual decision by arbitration, what constitutes an integral part of her territory with unappreciable value as is the Atlantic Coast, since Colombia's pretensions are not limited to a decision that would fall only upon the Islands, as would be fair, but rather that she also pretends to include our Mosquitia Coast to the consideration of arbitration, and
3. Because of the upcoming the construction of the inter-oceanic channel through Nicaraguan territory, according to all the current manifestations, Colombia's pretensions of dominion over part of it may give rise to setbacks that could contribute to delay its execution.

Honourable Chamber of Representatives, even insisting upon a party with all reason and lawful right, due to motives of a very distinct order of convenience for more elevated interests, reasons and law, there are cases that are postponed in order to reach a prompt and efficient solution. This is happening to Nicaragua in the present case. We must consign that our Ministry of Foreign Affairs, when dealing with this issue on different occasions, elevated itself to the level of a well-understood patriotism,

defending with brilliance and a wealth of arguments, what constitutes our legitimate right; but the circumstances that we have noted make us agree on the need to put an end to the dispute in the manner that the Treaty specifies. Your Commission of Foreign Affairs thus concludes recommending to ye, the approval of the aforementioned Treaty concluded between Nicaragua and Colombia, with the addition proposed in the Chamber of the Senate. - Hall of Commissions- Managua, 25 March 1930- H. Argüello Cerda. -Ulises Irías. -A. García L.

Deputy Borgen, who is the member that forms part of the minority that signed the report impugning the Treaty celebrated between the Republics of Nicaragua and Colombia that is now under discussion, requested that his report also be inserted in the act, that literally says:

“Honourable Chamber of Representatives: As one of the commissioners for Foreign Affairs, I should sign the report over the Nicaraguan Treaty with Colombia with respect to the San Andrés and Providencia Archipelago, as was formulated by the other members of the commission. Those of us involved in the report were entirely in conformity in that Nicaragua has had perfect justice in trying the territorial lawsuit over the San Andrés and Archipelago based on the right that she inherited from the Federal Republic of Central America, when it was divided into five independent States. But, I cannot subscribe the final part of the ruling because it is not congruent with its own background and recognizes as cause Nicaragua’s weakness in that it does not know what to do to oblige the Republic of Colombia to constitute the arbitration convened in the Molina-Gual Treaty dated 15 March 1925. Colombia’s pretension over the Atlantic Coast, which they launched in contraposition to the Nicaraguan claim, is one of many arts to embroil the issue after the facts, it is a mere illusion, basis for a sophism and nothing more. I am of the opinion that you should not approve the Treaty remitted to you, and to that effect, I propose the following legal text:

**THE CHAMBERS OF THE SENATE AND DEPUTIES OF THE
REPUBLIC OF NICARAGUA**

DECREE:

1. The Treaty celebrated by the Secretaries of Foreign Affairs of Nicaragua with His Excellency Mr. Manuel Esguerra, Minister Plenipotentiary of Colombia to Central America, on 27 March 1928 [sic], concerning the territorial dispute over the Archipelago of San Andrés and Providencia is not approved.

2. Nicaragua has dominium over this Archipelago, and will have to demand to the Republic of Colombia, the fulfilment of the Treaty signed at Bogotá on 15 March 1825, to constitute an Arbitror and Conciliator of theirs disputes and differences, according to it is stipulated there.

I request that this report also be inserted in the act of this session. Managua 1 April 1930. (S) José María Borgen.”

Deputies García Largaespada and Argüello Cerda who integrated the majority, defended their report, having been backed by Deputies Largaespada, Sacasa (Crisanto), Hidalgo and Baltodano C.

Deputy Borgen defended his report, as a member who integrated the minority commission having been backed by Deputies Celero [sic] B., Arcia and Rivas h.

The two reports having been sufficiently discussed and subjected to vote, that of the majority was approved with 25 votes in favour and 13 against, the Treaty celebrated between the Republics of Nicaragua and Colombia on 27 [sic] March 1928 was thus approved.

The single article of the law under discussions was approved.

Deputy Escobar presented a motion to dispense with the requirements of the 2nd debate and other prescribed ones which, taken into consideration, discussed and voted on, was approved.

Annex 26

**FINAL RECORD OF PROCEEDINGS OF THE IV BINATIONAL
MEETING NICARAGUA-COSTA RICA. GRANADA, NICARAGUA, 12
AND 13 MAY 1997 (EXCERPTS)**

(...)

IV. MARITIME DELIMITATION

Foreign Minister Naranjo reiterated his Government's firm commitment not to act about its boundary claim in the Northern Caribbean until the Governments of Nicaragua and Colombia reach an agreement that will allow them to overcome the differences originated between those two friendly nations.

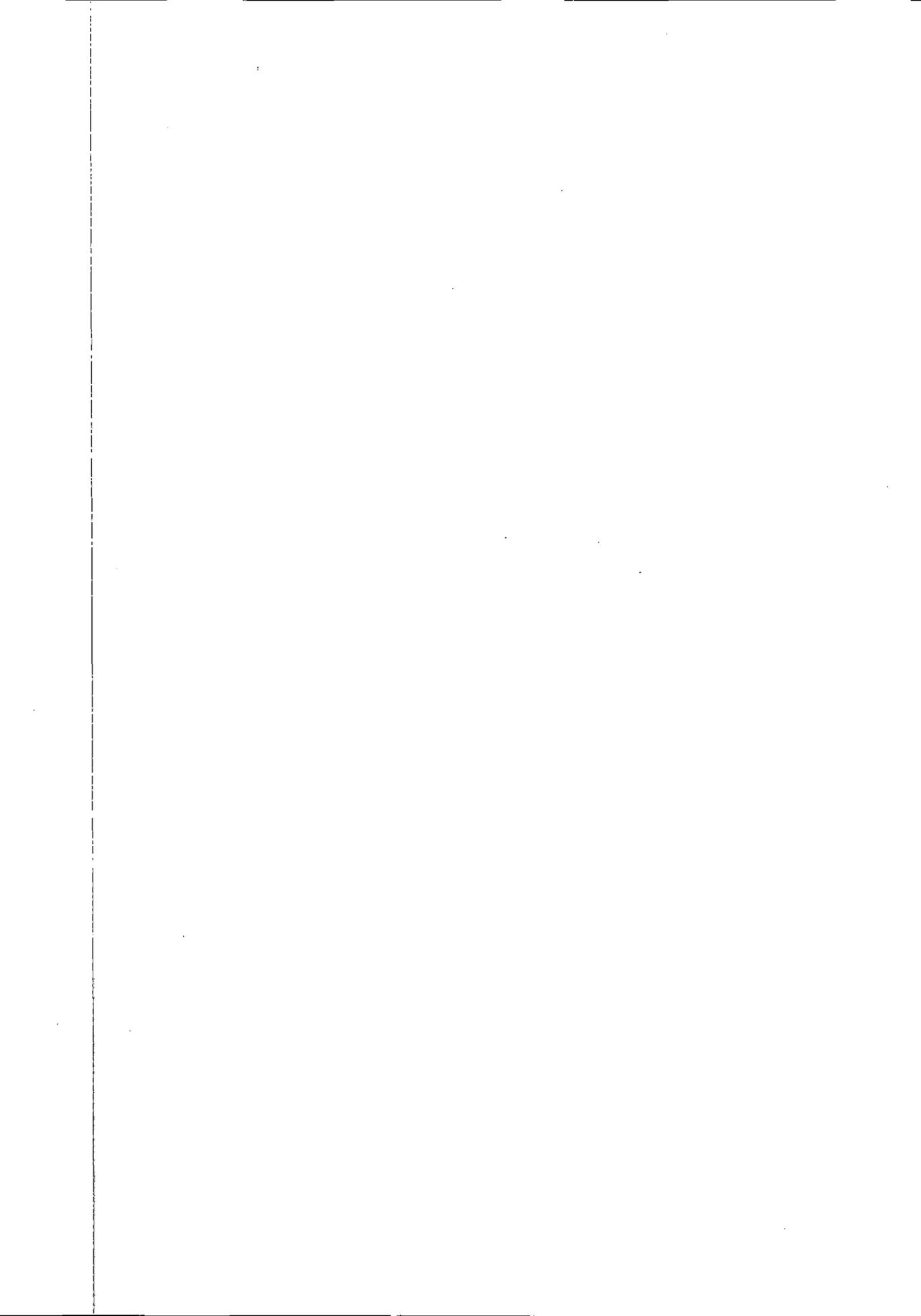
(...)

Illegible Signature

Emilio Álvarez Montalván
Minister of Foreign Affairs
of the Republic of Nicaragua

Illegible Signature

Fernando Naranjo Villalobos
Minister of Foreign Affairs
of the Republic of Costa Rica



Annex 27

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF COSTA RICA AND THE GOVERNMENT OF COLOMBIA. 29 MAY 2000

(*La Gaceta, Diario Oficial* of Costa Rica, N. 34. 16 February 2001)

(...)

EXCHANGE OF NOTES

“The Minister of Foreign Affairs and Cult
San José, 29 May 2000.
No 396-UAT-PE

Your Excellency;

I have the honour of addressing your Excellency to make reference to the process of ratification of the Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republic of Colombia and the Republic of Costa Rica, signed in Bogotá on 6 April 1984.

It is the opinion of the Government of Costa Rica that in accordance with the precepts found in clause 1) of article 24 of the Vienna Convention on the Law of Treaties, the coming into force of the aforementioned Treaty, will be the moment of exchange of the respective ratification instruments, a measure which will be carried out in the manner and on the date which our Governments consider convenient. In this regard, it considers that the change of the date established in article III of said Treaty of 6 April 1984, in no way alters its object and goal.

By the same token, the Government of Costa Rica expresses that the process of conclusion of the Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republic of Colombia and the Republic of Costa Rica, signed on 17 March 1977, to which reference is made in the Treaty of 6 April 1984, will continue in its current condition, until the internal constitutional requirements for the approval of Treaties have been fulfilled, and the exchange of the ratification instruments has been opportunely carried out.

His Excellency
Mr. Guillermo Fernández de Soto
Minister of Foreign Affairs
Republic of Colombia

The Government of Costa Rica wishes to know if the Enlightened Government of Colombia is in agreement with the content of the current Note.

I urge you to accept, Your Excellence, the expressions of my high and distinguished consideration,

Roberto Rojas.”

“Republic of Colombia
Ministry of Foreign Affairs
San José, May 29, 2000
DM-M 14081

Your Excellency,

I have the honour of addressing your Excellency on the occasion of referring to your note No 396-UAT-PE of 29 May 2000.

I am pleased to express to your Excellency that the Government of Colombia shares the criteria that - in accordance with the precepts found in Clause 1) of Article 24 of the Vienna Convention on the Law of Treaties - the coming into force of the Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republic of Colombia and the Republic of Costa Rica, signed in Bogotá on 6 April 1984, will be the moment of exchange of the respective ratification instruments, a measure which will be carried out in the manner and on the date which our Governments consider convenient. My Government likewise considers that the change of the date established in Article III of this Treaty in no way alters the object and goal of said instrument.

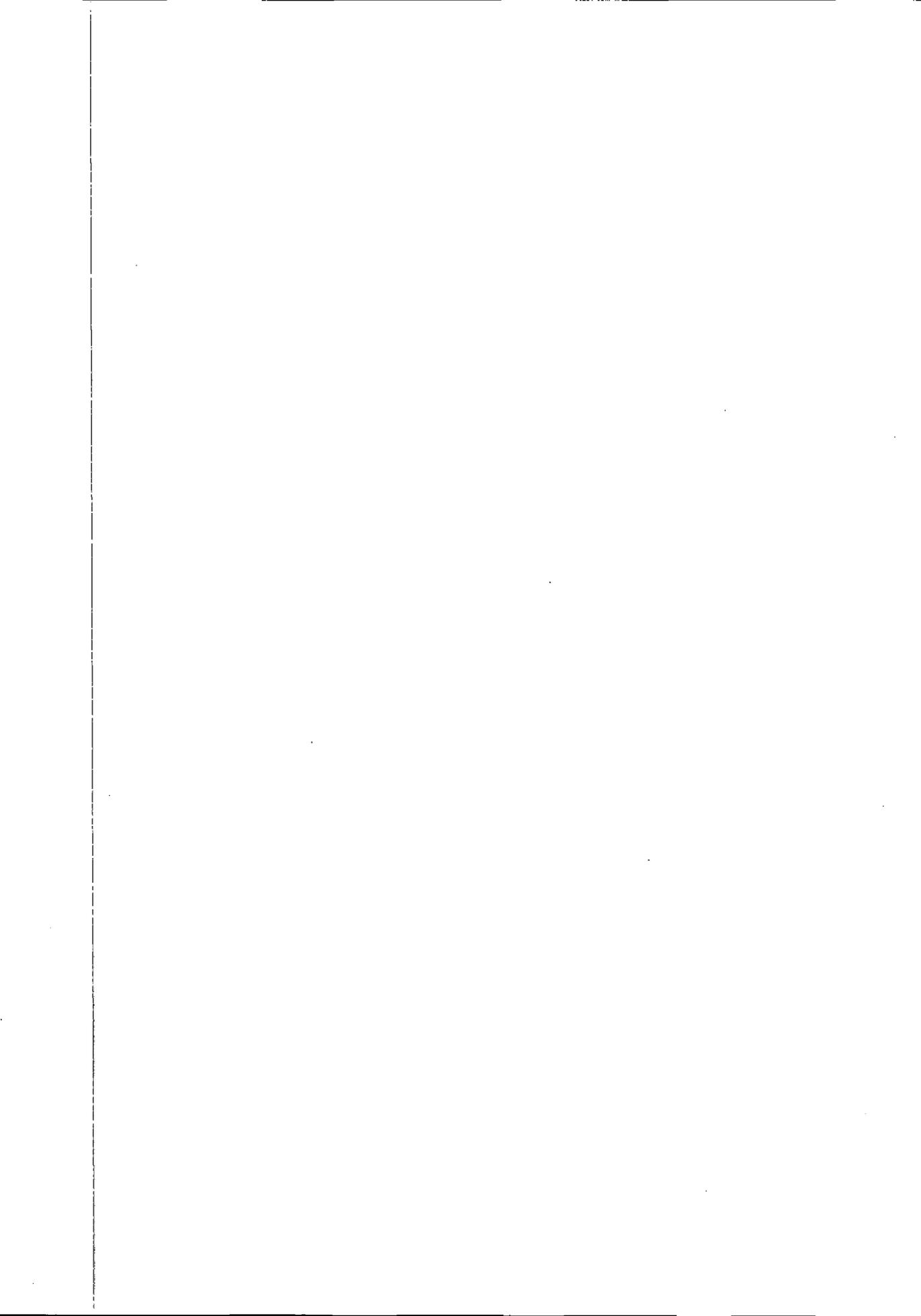
My Government also shares the position of the Enlightened Government of Costa Rica that the fulfilment and application of the Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republic of Colombia and the Republic of Costa Rica, signed on 17 March 1977, will continue in its current condition, until the internal constitutional requirements for the approval of Treaties have been fulfilled, and the exchange of the ratification instruments has been opportunely carried out.

His Excellency,
Roberto Rojas López
Minister of Foreign Affairs and Cult
Republic of Costa Rica

Nevertheless, the Government of Colombia trusts that the proceedings for the approval by the Legislative Assembly of the Republic of Costa Rica of said Treaty of 1977 continue their course - [that] the exchange of the ratification instruments be opportunely carried out - in a similar manner to the proceeding that the Enlightened Government of Costa Rica has disposed with respect to the Treaty of 1984.

I urge you to accept, Your Excellence, the expressions of my utmost and distinguished consideration,

Guillermo Fernández de Soto
Minister of Foreign Affairs"



Annex 28

**AGREEMENT CONCLUDED BETWEEN COSTA RICA AND
NICARAGUA ON 26 SEPTEMBER 2002 (EXCERPTS)**

The Ministries of Foreign Affairs
of the Republics of Nicaragua and Costa Rica:

(...)

Have agreed to declare the following:

(...)

3. The Government of Nicaragua commits itself to maintain the legal situation as it exists at present for a period of three years starting this day as concerns its declaration of the acceptance of the jurisdiction of the International Court of Justice. For its part, and during the same period, the Government of Costa Rica commits itself to not commence any international action or claim against Nicaragua before the said Court, nor at any other international entity regarding any matter or claim regarding the Treaties or Agreements presently in force between the two countries.

(...)

In witness whereof we sign, for purposes of immediate validity and efficacy, two original texts, both in the Spanish language and equally valid, at the city of Alajuela, Costa Rica, on the twenty-sixth day of September of the year 2002.

NORMAN CALDERA CARDENAL
Minister of Foreign Affairs of the
Republic of Nicaragua

ROBERTO TOVAR FAJA
Minister of Foreign Affairs and Cult
of the Republic of Costa Rica

Signature: Abel Pacheco

E. Bolaños G.

