INTERNATIONAL COURT OF JUSTICE

DISPUTE CONCERNING NAVIGATIONAL AND RELATED RIGHTS

COSTA RICA v. NICARAGUA

REPLY OF COSTA RICA

VOLUME 2
(Annexes)

15 January 2008

LIST OF ANNEXES

VOLUME 2

Agreements, Awards and Judicial Decisions

Annex	Title	Page
1	Royal Charter of the King of Spain to Diego López, 10 February 1576.	1
2	Resolution by the Royal Audiencia of Guatemala regarding the election of members of the Spanish Cortes for Costa Rica and Nicoya, 3 May 1813.	3
3	Masaya Treaty, 26 April 1823.	7
4	Decree of the Central American Federation Congress regarding an inter Oceanic Canal through Nicaragua, Guatemala, 16 June 1825.	9
5	Decree of the Federal Congress of Central America in 1825, approving the annexation of Nicoya to Costa Rica, 9 December 1825.	15
6	Contract Between Nicaragua and the American Atlantic and Pacific Ship-Canal Company (Zepeda-Juarez-White), León, 27 August 1849, Articles 12, 14, 21 and 37.	17
7	United States-Nicaragua, General Treaty of Amity, Navigation, and Commerce, (Squier-Zepeda), León, 3 September 1849, Articles IV, V, VI, VII, VIII, XXVI, XXXIII, XXXIV, XXXV.	19
8	United States-Great Britain, Convention Concerning a Ship Canal Connecting the Atlantic and Pacific Oceans (Clayton-Bulwer), Washington DC, 19 April 1850, Preamble, Articles III, V and VIII.	31
9	Costa Rica-United States Treaty of Friendship, Commerce and Navigation (Molina-Webster), Washington DC, 10 July 1851, Preamble, Articles II, IV, VI, VII, VIII, XI and XII.	41

10	United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Cass-Irisarri), Washington DC, 16 November 1857, Articles II, IV, VII, VIII, XV, XVI, XVII and XX.	55
11	Costa Rica-Nicaragua Treaty of Peace, Friendship, Alliance and Commerce (Mora-Martínez), Rivas, 30 April 1858, Preamble, Articles 18, 19, 20.	89
12	Nicaragua-Costa Rica-F Belly, Convention relative to the Concession for an Inter-oceanic Canal by the River San Juan and the Lake of Nicaragua, (Mora-Martínez-Belly), Rivas, 1 May 1858, Articles 14 (French, Spanish and English); Articles 4 and 25 (French).	95
13	United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Lamar-Zeledón), Managua, 16 March 1859, Preamble, Articles II and XX.	105
14	France-Nicaragua, Treaty of Friendship, Commerce and Navigation (Sartiges-Maximo Jerez), Washington DC, 11 April 1859, Article XXXIII.	117
15	Great Britain-Nicaragua, Treaty of Friendship, Commerce and Navigation (Lennox Wyke-Zeledon), Managua, 11 February 1860, Preamble, Articles IV, V, VII, XI, XVII, XVIII, XXIII and XXVI.	121
16	Nicaragua-Central American Transit Company Inter-Oceanic Transit Contract (Molina-Morris), Washington, 10 November 1863, Articles VII, XIX and XXI.	135
17	United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Ayon-Dickinson), Managua, 21 June 1867, Preamble, Articles II, VI, VII, VIII, IX, XV, XVI and XVII.	137
18	Costa Rica-Nicaragua, Treaty of Peace and Friendship (Volio-Zelaya), San José, 30 July 1868, Preamble.	149
19	Costa Rica-Nicaragua, Treaty for the excavation of an Inter-oceanic Canal (Jiménez-Montealegre) San Jose, 18 June 1869, Articles IX, XIV, XV, XVI, XIX, XXIII, XXVII and XXVIII.	155

20	Costa Rica-Nicaragua, Treaty for the Deviation of the Waters of the Colorado River (Jiménez-Montealegre), San José, 21 June 1869, Articles 2 and 4.	161
21	Costa Rica-Nicaragua, Canalization Convention (Navas-Castro), San José, 19 January 1884, Preamble.	167
22	Costa Rica-Nicaragua, Treaty of Peace, Friendship, Commerce and Extradition (Navas-Castro), San José, 19 January 1884, Preamble, Articles VIII, XIX, XXIX and XXXIII.	171
23	United States of America-Nicaragua, Treaty providing for the construction of an Interoceanic Canal across the territory of Nicaragua (Frelinghuysen-Zavala), Washington DC, 1 December 1884, Preamble, Articles IV, V, VIII and XIII.	181
24	Costa Rica-Nicaragua Treaty of Peace, Commerce and Extradition (Esquivel-Chamorro), San José, 9 October 1885, Preamble, Articles VII, XVIII, XXVIII and XXXII.	189
25	Contract between the Government of the Republic of Nicaragua and the Nicaragua Canal Association of New York for the opening of an inter-oceanic canal (Cárdenas-Menocal), Managua, 23 March 1887, Articles VII, XIII, XVI, XXX and XL .	199
26	Cleveland Award upon the validity of the Treaty of Limits of 1858 between Costa Rica and Nicaragua, Washington DC, 22 March 1888, Spanish version of Award, Second Article and Third Article point 5.	207
27	Contract between the Government of the Republic of Costa Rica and the Nicaragua Canal Association for the opening of an inter-oceanic canal (Pérez-Menocal), San José, 31 July 1888, Preamble, Articles VI, VII, XXVI, XXXVI, XXXVII, XXXIX, XL and XLV.	211

Correspondence

Annex	Title	Page
28	Report regarding the Province of Costa Rica, presented by Luis Diez Navarro to the Captain General of Guatemala, 1744.	235
29	Secretary of State of the United States, T.F. Bayard, to Nicaraguan Envoy Extraordinary and Minister Plenipotentiary, Horacio Guzmán, 31 October 1887.	237
30	Nicaraguan Envoy Extraordinary and Minister Plenipotentiary, Horacio Guzmán, to Secretary of State of the United States, T.F. Bayard, 1 November 1887.	239
31	Note from Commandant of the Rosalía Revenue Guard to the Deputy Inspector of the Treasury, 20 October 1915 .	241
32	Note from Commandant of the Rosalía Revenue Guard to the Deputy Inspector of the Treasury, 18 December 1915.	243
33	Note from Sub Inspector of the Revenue Guard in Boca de San Carlos to Lieutenant Lopez of the General Inspectorate of the Treasury, 26 July 1968.	245
34	Note from Sub Inspector of the Revenue Guard in Boca de San Carlos to Lieutenant Lopez of the General Inspectorate of the Treasury, 29 July 1968.	247
35	Note from the Revenue Guard of Boca de San Carlos to Chief of Personnel of the General Inspectorate of the Treasury, 5 August 1968.	249
36	Costa Rican Police Major, Francisco Cordoba Cordoba, to Costa Rican Minister of Public Security, Luis Fishman Z., Note No. C.D. 0666-91 of 19 August 1991.	251
37	Costa Rican Police Major and Chief of Post, Francisco Cordoba Cordoba, to Costa Rican Director of the Civil Guard, Lieutenant Colonel Guillermo Sáenz, Note No. C.D.O. 81-92 of 29 April 1992.	253

38	Costa Rican Chief of Post, Major Francisco Cordoba Cordoba, to Costa Rican Director of the Civil Guard, Lieutenant Colonel Guillermo Sáenz, Note No. C.A. 372-92 of 25 May 1992.	255
39	Costa Rican Foreign Minister, Roberto Tovar Faja, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-37-06 of 26 January 2006.	257
40	Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-JI/262/02/06 of 17 February 2006.	259
41	Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-AJ/340/03/06 of 16 March 2006.	261
42	Costa Rican Foreign Minister, Roberto Tovar Faja, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-187-06 of 5 May 2006.	263
43	Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-JI/511/05/06 of 8 May 2006.	265
44	Director, Costa Rican Social Security Fund, Health Area Puerto Viejo de Sarapiquí, Dr. Thais Ching Zamora, to First Cónsul, Nicaraguan Consulate, Ciudad Quesada, Licenciado Mario Rivas Baldelomar. Note No. 346-2006 of 14 June 2006.	267
45	Costa Rican Foreign Minister, Bruno Stagno Ugarte, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-254-06 of 14 August 2006.	269
46	Coordinator of the Northern Regional Office of the Ombudsman's Office, Licda. Laura Navarro Rodríguez, to Consul of Nicaragua at Ciudad Quesada, Mario Rivas, Note No. DHR-RN-051-2007 of 22 May 2007.	271
47	Nicaraguan Minister Counsellor, Emilio Rappaccioli, to Coordinator of the Northern Regional Office of the Ombudsman's Office, Licda. Laura Navarro Rodríguez, Note No. ENCR/NF/EN/133/2007 of 25 May 2007.	273

48	Nicaraguan Embassy in Costa Rica, "Authorization to navigate" given to the Ombudsman's Office and the Ministry of Health Personnel, 25 May 2007.	275
49	IMAS Regional Manager in San Carlos, Marvin Chavez Thomas, to Nicaraguan Consulate, Ciudad Quesada, José Reinaldo Rodríguez Lindo, Note No. GRHN-188-08-07 of 14 August 2007.	277

Affidavits

Annex	Title	Page
50	Leonel Morales Chacón, 30 April 2007.	279
51	Carlos Lao Jarquín, 28 July 2007.	281
52	Jorge Manuel Lao Jarquín, 28 July 2007.	283
53	Rodrigo Antonio Zamora Arroyo, 28 July 2007.	285
54	Víctor Julio Vargas Hernández, Marleny Rojas Vargas, Mario Salas Jiménez and Leonel Morales Chacón, 29 July 2007.	287
55	Thais Ching Zamora, 8 August 2007.	291
56	Marvin Chavez Thomas, 5 November 2007.	295
57	Laura Navarro Rodríguez, 6 November 2007.	297

Press Reports

Annex	Title	Page
58	"New Army Posts in the San Juan River", *El Nuevo Diario*, Managua, 26 March 2007.	299
59	"Neighbours from the San Juan plea for help", *Al Día*, San José, 14 May 2007.	301
60	"$34 fee marks the end of local tourism", *La Nación*, San José, 10 June 2007.	307
61	"The San Juan River should be militarized", *El Nuevo Diario*, Managua, 7 October 2007.	309
62	"Health Authorities Watch the Northern Border for Leptospirosis", *La Nación*, San José, 30 October 2007.	311

Other Documents

Annex	Title	Page
63	Tabla para facilitar la elección de los diputados a Cortes, 28 July 1820.	313
64	Nicoya Act, 25 July 1824.	315
65	Nicaraguan Constitution, 8 April 1826, Article II.	317
66	F. Belly, *A Travers L'Amérique Centrale: le Nicaragua et le Canal Interocéanique*, Tome Second (Paris: Librairie de la Suisse Romande, 1867), pp. 150-165.	321

67	(a) "Departure Clearance Certificate" issued by the Costa Rican Revenue Guard in Boca del río Sarapiquí to a private citizen, 16 April 1968. (b) "Departure Clearance Certificate" issued by the Costa Rican Revenue Guard in Boca del río Sarapiquí to a Costa Rican Park Ranger, 13 June 1968.	339
68	Speech by President of Nicaragua to the Diplomatic Corps, 14 September 2005.	343
69	Nicaraguan Presidential Decree No. 65-2005 of 28 September 2005.	345
70	Nicaraguan Presidential Decree No. 97-2005 of 2 December 2005.	351
71	"Departure clearance certificate" charged to Jorge Lao, 25 October 2007.	355
72	(a) "Immigration dispatch" charged to Jorge Lao, 25 October 2007. (b) "Transit permit at border point" charged to Jorge Lao, 25 October 2007.	357

Annex 1

Royal Charter of the King of Spain to Diego López, 10 February 1576

Source: Archivo de Indias, *Colección de Documentos Inéditos relativos al descubrimiento; conquista y organización de las antiguas posesiones españolas de América y Oceanía, sacadas de los Archivos del Reyno y muy especialmente del de Indias* (Madrid: Imprenta de José María Pérez, Misericordia, 2., 1870), pp. 528-537

English translation by Costa Rica

TRANSLATION

Royal Charter adjoining an Agreement for the Population of the Province of Latuzgalpa or Nueva Cartago undertaken by Captain Diego Lopez (Year of 1576)

10 February 1576

...

"THE KING, ...

The President and Judges of our Royal Audience who reside in the City of Santiago of the Province of Guatemala, on behalf of Captain Diego Lopez Cezino of the city of Truxillo of the Province of Honduras, have informed us that it is convenient and very necessary to the service of God Our Lord as well as ours, that the Province of Lataguzgalpa, known as Nueva Cartago, be conquered and settled by Spaniards...

...

Therefore, in compliance with the aforementioned Royal Charter and Commission, herewith incorporated, and in regards to His Majesty's service, being present Captain Diego Lopez, resident of the city of Truxillo of the Province of Honduras, and being present in this Court, to whom I, the Secretary, give testimony of knowing him, said that they would make and in effect made the following Capitulations:

...

Firstly. His Majesty will appoint him his Governor and Captain-General of the said Province, which is the whole land included from the mouth of El Desaguadero to the north up to Cape Camaron, in the same direction where the Province of Honduras begins, with all the inland territory included therein, until reaching the boundary and jurisdiction of the Province of Nicaragua and Nueva Segovia, and what is that of Honduras; and the said Captain Diego Lopez shall have the said Governorship during his lifetime, with the salary of two thousand ducats, to be paid from the Treasury or revenues belonging to his Majesty in the said Province, but if no such funds should exist, His Majesty shall not be bound to pay anything on account of that salary; and after the death of said Diego Lopez, his eldest son or son-in-law, as his heir, shall succeed him in this grant, provided that he is a person having the necessary qualifications and being His Majesty duly served."

...

Annex 2

Resolution by the Royal Audiencia of Guatemala regarding the election of members of the Spanish Cortes for Costa Rica and Nicoya, 3 May 1813

Source: P. Pérez Zeledón, *Reply to the Argument of Nicaragua on the Question of the Validity or Nullity to the Treaty of Limits of April 15, 1858,* (Washington, D.C.: Gibson Bros, 1887), pp.103-104

REPLY

TO THE

ARGUMENT OF NICARAGUA

ON THE

QUESTION OF THE VALIDITY OR NULLITY OF THE TREATY OF LIMITS OF APRIL 15, 1858,

TO BE DECIDED BY

The President of the United States of America.

AS ARBITRATOR.

FILED ON BEHALF OF THE GOVERNMENT OF COSTA RICA

BY

PEDRO PÉREZ ZELEDÓN,

ITS ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

IN THE UNITED STATES.

(TRANSLATED INTO ENGLISH BY J. I. RODRIGUEZ.)

WASHINGTON:

GIBSON BROS., PRINTERS AND BOOKBINDERS.

1887.

No. 2.

The President of the Royal Audiencia of Guatemala transmits to the Governor, and to the most Noble Corporation of the city of Cartago, a resolution, by which the election of members of the Spanish Cortes for Costa Rica and Nicoya was ordered to be made at that city.—It appears from this document that the District of Nicoya had actually been annexed to Costa Rica ever since May, 1813, *about* EIGHT YEARS *before the independence from the mother country.*

A preparatory meeting having been held ,the following resolution was passed:

Whereas, upon the reading of the official letter addressed to His Excellency the President by the Most Noble Corporation of the city of Cartago, it appears that the population of Costa Rica is alleged to be only 41,000 inhabitants, EVEN INCLUDING THE DISTRICT OF NICOYA, WHICH HAS BEEN ANNEXED TO COSTA RICA, which is less than the total which the Constitution requires, and that for this reason the said Governor and Council request that for the purposes of electing two members of Congress the said Province of Costa Rica should be united to the one of Leon, of Nicaragua, or that the districts of Masaya and Nicaragua (Rivas) should be incorporated into her ;

And whereas the Most Noble Council of the city of Leon reported adversely, on the grounds that the purposes had in view by Cartago were simply to alleviate the burden of taxes weighing upon it, and cause some other districts belonging to Nicaragua to share that burden, and that the present member of Congress for the said Province Don Florentino Castillo, had stated in an official letter addressed by him to His Excellency the President on June 8, 1812, that the same Council of the city of Cartago in its instructions to him had admitted the fact that the population of Costa Rica was about 70,000 inhabitants, and that even subtracting the natives of Africa, fortunately very

few there, there would still remain about sixty thousand people of the other classes.

And whereas the said Most Noble Council of the city of Leon further represented that in case that the population of Costa Rica was not large enough, the District of Nicoya, which was bordering upon her, might be attached to her;

And whereas due consideration has been taken of ALL THE OTHER REASONS AND GROUNDS UPON WHICH IT WAS ORDERED THAT THE SAID DISTRICT OF NICOYA, UNITED TO COSTA RICA, SHOULD ELECT IN THE LATTER ONE MEMBER OF CONGRESS TO REPRESENT IN THE CORTES THE TWO LOCALITIES, AND PROMOTE THERE THE WELFARE OF THEIR WORTHY INHABITANTS;

And whereas no exact census has been made, showing any error in the approximate calculation made by this Assembly (Junta) upon the data and information on record;

And whereas the resolution which ordered that the election for one Member of Congress should take place at the capital of Costa Rica has proved beneficial to that Province, worthy to a great degree of the attentions of the government, and frees her people from the troubles and expense of a trip to Leon, many leagues distant, for the purposes of the said election,

Ordered, That the decision of this Board (Junta) be carried out, and that in consequence thereof the elections for Member of Congress be made under and according to the instructions enacted by this Board."

And this I communicate to you for your knowledge, and for such compliance therewith as may be incumbent upon you.

May God preserve you many years.

Guatemala, May 3, 1813.

BUSTAMANTE.

To the Governor and the Most Noble Council of the City of Cartago.

Annex 3

Masaya Treaty, 26 April 1823

Source: *Obras Históricas Completas del Licenciado Jerónimo Pérez, impresas por disposición del Exceléntisimo Sr. Presidente de la República Don Adolfo Diaz bajo la dirección y con notas del Doctor Pedro Joaquín Chamorro* (Managua: Imprenta y Encuadernación Nacional, 1928), pp. 465-467

English translation by Costa Rica

TRANSLATION

MASAYA TREATY
April 26, 1823

"In the General Headquarters of Masaya, on April 26, 1823, citizen Cleto Ordóñez, General of the Protective Army, and the Representatives of the Governmental Council of León, citizens Juan Hernández, Vocal of that Council, Juan de Dios Orozco, and Father Dionisio Urcuyo y Crespín, have solemnly gathered here to draw up the treaties for the mutual union, peace, and mutual tranquility of both governments, after a long and well-meditated discussion, have agreed on the following items:

1. The hostilities are hereby terminated, and the cantonments are removed from the towns of Managua and Masaya, leaving only in each Government the troops they deem necessary to preserve law and order and protect their people against foreign enemies, the provision of which should be done at the prudent discretion of their respective chiefs.

2. The peoples of both Governments are free to establish mutual communication, as well as commercial and friendly relations, all of which should be conducted in a harmonious manner.

3. Prisoners of War held by both Governments are hereby released, and are free to go to any destination they please.

4. This Government will appoint its Representatives, who will form the General Congress of the Province, when the time is right.

5. After the Representatives of the guest Provinces meet, they will designate the place for their residence.

6. The peoples are free to adhere to one Government or the other, without being required or forced in any way to pledge obedience.

7. Both Governments promise each other not to enter into any hostilities, but rather to keep the closest and most eternal harmony. They are both responsible for supervising the observance of this article.

8. Both Governments shall assist each other to preserve their total independence from any Government.

After the treaties were drawn up and settled according to the instructions of our mission, the General proposed the following:

(1) Whenever it is provisionally decided by the Government of Leon that the Military governing body in all of its parts resides in Granada, for its topographical location, its armed forces, and the merits earned in the present times, Granada shall agree to have the political and economic Government reside in Leon.

(2) The Very Excellent Council, at its wise and prudent discretion, shall replace the employees that have been classified as suspicious individuals that oppose our system, who progressed by favour and not by merit during the former Government, by worthy persons, because this way we will achieve the stability and organization of our Government.

(3) In case the Very Excellent Council does not reach an agreement on the first article, both Governments shall remain temporarily divided until there is a resolution from the Congress, without entering into any hostilities for this reason.

By which this minute is finished, and the treaties herein have been drawn up and settled, one copy of this minute will go to the General and another one will go to the Representatives or Commissioners of the Very Excellent Council, for the purposes they find convenient, which have been solemnly signed by them. This minute is authorised and corrected by the Secretary of the Office.- José Cleto Ordòñez – Juan Hernández – Juan de Dios Orozco – Dionisio Urcuyo y Crespin. In witness whereof, before me, Cipriano Mena.

Provisory Governmental Council of Leon, Nicaragua, April 28, 1823. The 8 articles included in the main treaty are ratified, as well as the third article added by the Chief of the Army of Granada. The troops shall evacuate the cantonments of Masaya and Managua, within eight days after receiving this ratification. – Solís, Salazar, Quiñonez, Carrillo, José Valentín Fernández Gallejos. – Manuel Barberena, Secretary."

Annex 4

Decree of the Central American Federation Congress regarding an inter Oceanic Canal through Nicaragua, Guatemala, 16 June 1825

Source: *Compilación de Leyes no insertas en las Colecciones Oficiales, formada por el Lic Don Cleto González Víquez*, Tomo 1 (San José), pp. 411-413

English translation by Costa Rica

TRANSLATION

Decree of the Central American Federation Congress regarding an inter Oceanic Canal through Nicaragua, Guatemala, 16 June 1825

...

"That several foreign trade houses and companies have made different proposals to the Supreme Government with the purpose of opening a navigational channel between both the Pacific and Atlantic oceans..."

...

Article 4: "The Government shall also contribute to its fastest and easiest execution, allowing the felling of the woods necessary for the task; facilitating the surveys, levelling and other operations that should be practiced; clearing the plans and maps relating to this purpose; and cooperating for its achievement through any means that are not opposed to the justice nor the general interest, or that particular of the citizens."

...

COMPILACION DE LEYES

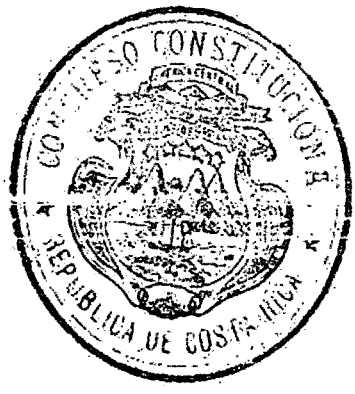
NO INSERTAS EN LAS

COLECCIONES OFICIALES

FORMADA POR EL

LIC. DON CLETO GONZALEZ VIQUEZ

TOMO I



(CANAL DE NICARAGUA)

El Presidente de la República de Centro América

Por cuanto el Congreso decreta y el Senado sanciona lo que sigue:

El Congreso Federal de la República de Centro América, teniendo en consideración: Que por varias casas y compañías de comercio extranjeras, se han hecho diferentes propuestas al Gobierno Supremo con el objeto de abrir un canal de navegación entre los dos mares Pacífico y Atlántico, en el Estado de Nicaragua: Que este punto, así por su posición central, en medio de ambas Américas, y por la corta distancia que separa allí los dos océanos, como por las circunstancias del terreno y ventajas del clima, ofrece las aptitudes más útiles para la ejecución del proyecto; que su feliz resultado sería un origen fecundo de bienes para todas las naciones; y que la nuestra, a cuyo provecho y beneficio inmediato parece que quiso destinarlo la naturaleza, se elevaría por este medio al más alto grado de riqueza y prosperidad; considerando en fin que una obra tan importante merece la eficaz protección del Gobierno, decreta:

Artículo 1º—Se abrirá un canal en el Estado de Nicaragua para la navegación de buques del mayor corte posible.

Artículo 2º—Las obras necesarias al intento, serán de sólida construcción.

Artículo 3º—El Gobierno ofrecerá a los empresarios una indemnización, correspondiente al costo que tuviere la abertura del canal y a las dificultades que hayan de vencerse para realizarla.

Artículo 4º—El Gobierno deberá también contribuir a su más pronta y fácil ejecución: permitiendo el corte de maderas necesarias para la obra; auxiliando los

reconocimientos, nivelaciones y demás operaciones que hayan de practicarse; haciendo franquear los planos y mapas relativos al objeto; y cooperando a su logro por todos los medios que no se opongan a la justicia ni al interés general, o al particular de los ciudadanos.

Artículo 5º—Será libre de todo derecho la introducción de máquinas e instrumentos precisos para la obra del canal.

Artículo 6º—Concluído éste y formada la liquidación de su costo, que será reconocido como deuda pública, se destinarán sus productos a la amortización del capital invertido en su abertura y pago de los intereses; abonándose primero los gastos que exija la reparación de las obras del mismo canal, el costo de la recaudación y de la guarnición necesaria para su defensa.

Artículo 7º—Si se suscitase disputa en la liquidación, o duda en sus comprobantes, será determinada con arreglo a la Constitución de la República.

Artículo 8º—Se reserva el Congreso la facultad de imponer y alterar los derechos o contribuciones, que hayan de satisfacerse por la navegación o tránsito del canal.

Artículo 9º—Esta navegación o tránsito será común a todas las naciones amigas y neutrales, sin privilegio ni exclusión alguna.

Artículo 10.—El Gobierno mantendrá en el lago los buques de guerra, que juzgue necesarios para la seguridad y defensa del canal.

Artículo 11.—Si por invencibles obstáculos no se pudiere verificar el proyecto, la República no será responsable a indemnización de ninguna especie.

Artículo 12.—En el caso de que solamente pueda abrirse un canal para facilitar un comercio de trasbordo, las indemnizaciones serán proporcionadas a la menor utilidad que entonces reportaría la República.

Comuníquese al Senado para su sanción.—Dado

en Guatemala a 16 de junio de 1825.—José María de Castilla, Diputado Presidente.—José Francisco de Córdoba, Diputado Secretario.—José Domingo Diéguez, Diputado Secretario.—Al Senado.

Sala del Senado.—Guatemala, 11 de julio de 1825. Al Poder Ejecutivo.—Beltranena.—Alvarado.—Hernández.—Menéndez.—Alcayaga.—Zelaya.—Méndez.—Manuel Julián Ibarra.

Por tanto: Ejecútese.—Palacio Nacional de Guatemala, 12 de julio de 1825.—Manuel José Arce.—Al Secretario de Estado y del Despacho de Relaciones.

(COLEGIO MILITAR)

ORDEN

Los CC. Secretarios del Congreso Federal me han dirigido la orden que sigue, sancionada el día de hoy.

"Con nota de 2 de setiembre último, pasó esa Secretaría a la de la Asamblea Nacional Constituyente, por acuerdo del Supremo Poder Ejecutivo, el reglamento de la misma fecha que para el establecimiento y régimen de un colegio militar, formó aquel Supremo Poder, a virtud de lo prevenido en el artículo 15 del decreto de 17 de diciembre de 1823; a fin de que la Asamblea se sirviese aprobarlo, si lo tenía por conveniente.

No habiendo resuelto aquel augusto cuerpo sobre la materia, el Congreso actual, previos los trámites y requisitos necesarios, se ha servido aprobar el indicado reglamento, en términos que aparece de la copia auténtica que acompañamos.

Ha acordado igualmente: que al comunicarse al Gobierno esta aprobación se le diga.

Annex 5

Decree of the Federal Congress of Central America in 1825, approving the annexation of Nicoya to Costa Rica, 9 December 1825

Source: P. Pérez Zeledón *Argument on the Question of the Validity of the Treaty of Limits between Costa Rica and Nicaragua* (Washington D.C.: Gibson Bros., 1887), p. 192

ARGUMENT

ON THE QUESTION OF THE VALIDITY OF THE TREATY OF LIMITS BETWEEN COSTA RICA AND NICARAGUA

AND

OTHER SUPPLEMENTARY POINTS CONNECTED WITH IT,

SUBMITTED TO THE

Arbitration of the President of the United States of America,

FILED ON BEHALF OF THE GOVERNMENT OF COSTA RICA

BY

PEDRO PÉREZ ZELEDÓN,

ITS ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY
IN THE UNITED STATES.

(TRANSLATED INTO ENGLISH BY J. I. RODRIGUEZ.)

WASHINGTON:
GIBSON BROS., PRINTERS AND BOOKBINDERS.
1887.

No. 2.

Decree of the Federal Congress of Central America in 1825, approving the annexation of Nicoya to Costa Rica.

The Federal Congress of the Republic of Central America, taking into consideration, firstly, the reiterated petitions of the authorities and municipal bodies of the towns of the district of Nicoya, asking for their separation from Nicaragua and their annexation to Costa Rica; and secondly, that the said towns and people actually annexed themselves to Costa Rica at the time in which the political troubles of Nicaragua took place; and thirdly, the topographical situation of the same district, has been pleased to decree, and does hereby DECREE:

ART. 1. For the time being, and until the demarcation of the territory of each State provided by Art. VII of the Constitution is made, the district of Nicoya shall CONTINUE to be separated from Nicaragua and annexed to Costa Rica.

ART. 2. In consequence thereof, the district of Nicoya shall recognize its dependence upon the authorities of Costa Rica, and shall have, in the Legislature of the latter, such representation as corresponds to it.

ART. 3. This decree shall be communicated to the Assemblies of Nicaragua and Costa Rica.

Let it pass to the Senate.

Given at Guatemala December 9, 1825.

[From the "Reseña Histórica de Centro-América," by Lorenzo Montufar, Guatemala, 1881, Vol. IV, p. 382.]

Annex 6

Contract Between Nicaragua and the American Atlantic and Pacific Ship-Canal Company (Zepeda-Juarez-White), León, Articles 12, 14, 21 and 37, 27 August 1849

Source: NCM Annex 14

English translation by Costa Rica

TRANSLATION

Contract Between Nicaragua and the American Atlantic and Pacific Ship-Canal Company (Zepeda-Juarez-White), León, 27 August 1849

...

Article 12: "...the State, through the present, grants the Company the right to take and use the portions of the empty lots that it may need for establishing or building houses, warehouses, dikes, docks, stations or any other useful objects that may have relation with the canal works"

...

Article 14: "All the articles that the Company may need, for the surveys, exploration and construction, as well as for the use of the canal works such as machinery, instruments, tools, etc. and any other materials needed...But the Company will not have the right to introduce within the State's territory any goods, merchandise or any other articles to sell or trade without paying the taxes established by law, and likewise, it is forbidden to import any articles or materials which may be the State's monopoly or forbidden by the State..."

...

Article 21: "By the present, the State stipulates that all the Company's vessels and steamers, as well as the goods, merchandise, manufactured articles or any other property..."

...

Article 37: "It is finally stipulated that this contract, as well as the rights and privileges it confers, will be considered as inalienable by the individuals that comprise the Company mentioned herewith and their partners, and that at no time shall they be transferred or assigned wholly or in part to any other Company, and in no way depend or be connected to any, whatever might be their purposes."

...

Annex 7

United States-Nicaragua, General Treaty of Amity, Navigation, and Commerce, (Squier-Zepeda), León, Articles IV, V, VI, VII, VIII, XXVI, XXXIII, XXXIV, XXXV, 3 September 1849

Source: CL Wiktor, *Unperfected Treaties of the United States of America 1776-1976, Vol 1 1776-1855* (New York: Oceana Publications, 1976), pp. 280-302

UNPERFECTED TREATIES

OF THE

UNITED STATES OF AMERICA

1776-1976

EDITED AND ANNOTATED BY

CHRISTIAN L. WIKTOR

VOLUME 1

1776-1855

1976 — OCEANA PUBLICATIONS, INC. — DOBBS FERRY, NEW YORK

NICARAGUA

AMITY, NAVIGATION, AND COMMERCE

Treaty signed at León September 3, 1849
Submitted to the Senate March 25, 1850
No final action by the Senate
Treaty file: Unperfected Treaty Series U-2
Printed text: S. Conf. Ex. 6, 31st Cong., 1st sess.; 40 British and Foreign State Papers 1052-1064

Note: The Squier-Zepeda Treaty, as it is also known, was negotiated and signed by Ephraim George Squier, U.S. Chargé d'Affaires in Guatemala, and Hermenegildo Zepeda. It was ratified by Nicaragua prior to October 10, 1849. There was no final action taken by the U.S. Senate, and it was replaced by the treaty of February 14, 1854, unperfected (UTS S-10) (5 Miller 573; Patterson). See also correspondence between the Secretary of State, John M. Clayton, and Eduard Carcache, Nicaraguan Chargé d'Affaires at Washington, in Manning, 3 Inter-American Affairs 57-59. The original treaty, in English and Spanish, is in the treaty file. The Senate print can be found in 24 Regular Confidential Documents 483, and subsequent volumes 26 and 27; with a copy in the Senate Records SEN 31B-B5. The present text is reprinted from a Senate print.

A GENERAL TREATY OF AMITY, NAVIGATION, AND COMMERCE, BETWEEN THE UNITED STATES OF NORTH AMERICA AND THE REPUBLIC OF NICARAGUA, CONCLUDED AT THE CITY OF LEON, THE THIRD DAY OF SEPTEMBER, ONE THOUSAND EIGHT HUNDRED AND FORTY-NINE.

A general treaty of amity, navigation, and commerce, between the United States of North America and the republic of Nicaragua.

The United States of North America and the republic of Nicaragua, desiring to make lasting and firm the friendship and good understanding which happily exist between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between each other, by means of a treaty, or general convention of peace and friendship, commerce and navigation.

For this desirable object, the President of the United States of America has conferred full powers on E. G. Squier, a citizen of the said States and their chargé d'affaires to Guatemala and Central America; and the President of the republic of Nicaragua has conferred similar and equal powers upon Licenciado Señor Don Hermenegildo Zepeda; who, after having exchanged their said full powers in due form, have agreed to the following articles:

Tratado general de amistad, navegacion, y comercio entre la republica de Nicaragua y los Estados Unidos de Norte America.

La republica de Nicaragua y los Estados Unidos del Norte America, deseando hacer firme y duradera la amistad y buena inteligencia que felizmente existen entre ambas naciones, han resuelto fijar de una manera clara, distinta, y positiva, las reglas que en lo futuro han de observarse religiosamente entre una y otra por medio de un tratado ó convencion general de paz y amistad, comercio y navegacion.

Para este apetecible objeto el Presidente de la replica de Nicaragua ha conferido plenos poderes al Señor Licenciado Don Hermenegildo Zepeda, y el Presidente de los Estados Unidos de America ha conferido semejantes é iguales poderes a E. G. Squier, ciudadano de dichos Estados y su encargado de negocios en Guatemala y Centro-America; los cuales despues de haber cangeado sus dichos plenos poderes en debida forma, han convenido en los artículos siguientes:

merce, and manufactures, which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

cion, comercio y fabrica de que gozan ó gozaren las ciudadanos naturales sometiendose á las leyes, decretos y usos establecidos á que están sujetos dichos ciudadanos. Pero debe entenderse que este articulo no comprende el comercio de cabotaje de cada uno de los paises, cuya regulacion queda reservada á las partes respectivamente, según sus leyes proprias y peculiares.

ARTICLE IV.

They likewise agree, that whatever kind of produce, manufacture, or merchandise of any foreign country can be, from time to time, lawfully imported into the United States in their own vessels, may also be imported in vessels of the republic of Nicaragua; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other: and, in like manner, that whatever kind of produce, manufactures, or merchandise of any foreign country can be, from time to time, lawfully imported into the republic of Nicaragua in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected, whether the importation be made in vessels of the one country or the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-ex-

ARTICULO IV.

Igualmente conviene una y otra en que cualquiera especie de producciones, manufacturas ó mercaderias estrangeras que puedan ser en cualquier tiempo legalmente importadas en la republica de Nicaragua en sus propios buques, puedan ser tambien importadas en buques de los Estados Unidos; y que no de impondrán ó cobrarán otros, ó mas altos derechos sobre las toneladas del buque, ó por su cargamento, sea que la importacion se haga en buques del uno ú del otro pais: y de la misma manera, cualquiera especie de producciones, manufacturas ó mercaderias estrangeras que puedan ser en cualquier tiempo legalmente importadas en los Estados Unidos en sus propios buques, puedan ser tambien importadas en los buques de la republica de Nicaragua; y que no se impondrán otros, ó mas altos derechos sobre las toneladas del buque o por su cargamento, sea que la importacion de haga en buques del una ú del otra pais.

Convienen ademas, en que todo de que pueda ser legalmente esportado ó reesportado de uno de los dos paises en sus propios buques para un pais estrangero, pueda de la misma manera ser esportado ó reesportado en los buques del otro: y serán concedido y cobrados iguales premios, derechos, y descuentos, sea que tal esportacion ó reesportacion

portation be made in vessels of the United States or of the republic of Nicaragua.

Article V.

No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufacture of the republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the republic of Nicaragua of any articles the produce or manufactures of the United States, than are or shall be payable on the like articles being the produce or manufactures of any other foreign country; nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any articles to the United States, or to the republic of Nicaragua, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufactures of the United States, or of the republic of Nicaragua, to or from the territories of the United States, or to or from the territories of the republic of Nicaragua, which shall not equally extend to all other nations.

Article VI.

In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the three preceding articles are, to their full extent, applicable to the vessels of the United States and their cargoes arriving in the ports of Nicaragua, and recipro-

se haga en los buques de la republica de Nicaragua, ó en los de los Estados Unidos.

Articulo V.

No se impondran otros ó mas altos derechos sobre la importacion en la republica de Nicaragua de cualquiera articulos del producto natural ó manufacturado de los Estados Unidos, y no se impondrá otros ó mas altos derechos sobre la importacion en los Estados Unidos de cualesquiera articulos del producto natural ó manufacturado de la republica de Nicaragua, que los que se exigan ó exijieren por iguales articulos del producto natural o manufacturado de cualquiera otro pais estrangero; ni se impendrán otros ó mas altos derechos ó gravamenes en ninguno de los dos paises sobre la esportacion de cualesquiera articulos para la republica de Nicaragua, ó para los Estados Unidos respectivamente, que los que deban exijirse por la esportacion de iguales articulos para cualquiera otro pais estrangero; ni se establecera prohivicion alguna respecto a la importacion á exportacion de cualesquiera articulos del producto natural ó manufacturado de los territorios de la republica de Nicaragua para los de los Estados Unidos, ó de los territorios de los Estados Unidos para los de la republica de Nicaragua, que no sea igualmente estension á las otras naciones.

Articulo VI.

Afin de remover la posibilidad de cualquiera mala inteligencia con respecto á los tres articulos anteriores se declara aqui: que las estipulaciones contenidas en ellos son aplicables en toda su estencion á los buques de Nicaragua y sus cargamentos que arriben á los puertos de

cally to the vessels of the said republic of Nicaragua and their cargoes arriving in the ports of the United States, whether they proceed from the ports of the country to which they respectively belong or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on said vessels or their cargoes, whether the same shall be of native or foreign produce or manufacture.

los Estados Unidos, y reciprocamente á los buques de los Estados Unidos y sus cargamentos que arriben á los puertos de Nicaragua; sea que procedan de los puertos del pais à que ellos pertenescan respectivamente ó de los de cualquiera otro pais estrangero; y que en ningun caso de impondrá o cobrará derecho alguno diferencial en los puertos de los dos paises sobre los dichos buques ó sus cargamentos ya sean estos del producto ó manufactura nacional ó del producto ó manufacturo estrangero.

Article VII.

It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandise, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as citizens of the country in which they reside, or at least to be placed on an equality with the subjects or citizens of the most favored nation.

Articulo VII.

Se conviene ademas, que será enteramente libre á los comerciantes, capitanes de buques y otros ciudadanos de ambos paises manejar á su voluntad sus negocios por si mismos, ó por medio de sus agentes, en todos los puertos y lugares sujetos á la jurisdiccion del uno ú del otro, tanto con respecto á las consignaciones y ventas por mayor ó menor de sus efectos y mercaderias, como con respecto á la carga, descarga y despacho de sus buques, ú otros negocios, debiendo en todos estos casos ser tratados como ciudadanos del pais en que residan o considerados al menos bajo igual pie que los subditos ó ciudadanos de la nacion mas favorecida.

Article VIII.

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects, for any military expedition, nor for any public or private purpose whatever, without allowing to those interested an equitable and sufficient indemnification.

Articulo VIII.

Los ciudadanos de una y otra de las partes contratantes no podrán ser embargados ó detenidos con sus embarcaciones, tripulaciones, mercaderias y efectos comerciales de su pertenencia, para ninguna espedicion militar, ni para usos publicos ó particulares, cualesquiera que sean, sin conceder a los interesados una justa y suficiente indemnizacion.

against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives upon which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

nunciaren sentencia contra algun buque, ó efectos ó propiedad reclamada por los ciudadanos de la otra, la sentencia ó decreto hará mencion de las razones ó motivos en que aquella se huirere fundado, y se franqueará sin retardo alguno al comandante ó agente de dicho buque, si lo solicitare, un testimonio autentico de la sentencia ó decreto, ó de todo el proceso, satisfaciendo por el los derechos legales.

Article XXV.

For the purpose of lessening the evils of war, the two high contracting parties further agree, that in case a war should unfortunately take place between them, hostilities shall only be carried on by persons duly commissioned by the government, and by those under their orders, except in repelling an attack or invasion, and in the defence of property.

Articulo XXV.

Con el fin de diminuer los males de la guerra, las dos altas partes contratantes convienen ademas: que en caso de suscitarse desgraciadamente una guerra entre ellas, solo se llevarán á efecto las hostilidades por aquellas personas debidamente autorizadas por el gobierno, y por las que están bajo sus ordenes, exeptuados los casos de repeler un ataque ó invasion, y en la defenza de la propiedad.

Article XXVI.

Whenever one of the contracting parties shall be engaged in war with another state, no citizen of the other contracting party shall accept a commission or letter marque for the purpose of assisting or co-operating hostilely with the said enemy against the said parties so at war, under the pain of being treated as a pirate.

Articulo XXVI.

Siempre que una de las partes contratantes estuviere empeñada en guerra con otro estado, ningun ciudadano de la otra parte contratante acepterá comision ó patente de corso para el objeto de auciliar ó cooperar hostilmente con el dicho enemigo contra la mencionada parte que este en guerra, bajo la pena de ser tratado como pirata.

Article XXVII.

If by any fatality (which cannot be expected, and God forbid) the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and

Articulo XXVII.

Si por alguna fatalidad, que no puedo esperarse, y que Dios no permita, las dos partes contratantes se viesen empeñadas en guerra una con otra, han convenido y convienen desde ahora para entonces, que se concederá el termino de seis meses á los comerciantes residentes en las costas, y en los puertos de entram-

which the citizens and inhabitants, native and foreign, of the country in which they reside are subject; being in everything besides subject to the laws of the respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

piedad, y á las cuales están sujetos los ciudadanos y habitantes naturales y estrangeros en el pais en que residen, quedano en todo lo demas sometidos á los leyes de los respectivos estados. Los archivos y papeles de los consulados seran respetados inviolablemente, y bajo ningun pretesto los ocupará majistrado alguno, ni tendrá en ellos ninguna intervencion.

Article XXXIII.

The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand, in writing, the said deserters, proving by an exhibition of the registers of the vessels, or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved by other testimonies,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

Articulo XXXIII.

Los dichos consules tendrán facultad para requerir el ancilio de las autoridades locales para la prision, detencion, y custodia de los desertores de buques, publicos y particulares, de su respectivo pais; y con este objeto se dirijirán a los tribunales, jueces y empleados competentes, y reclamarán por escrito los dichos desertores, probando con la presentacion de los registros de los buques del rol de la tripulacion y de otros documentos publicos que aquellos hombres hacian parte de las dichas tripulaciones: y á vertud de esta demanda asi probada, (exeptuando no obstante el caso en que se probare por otros testimonios lo contrario) no se rehusará la entrega. Aprendidos dichos desertores, serán puestos á disposicion de los mencionados consules, y podrán ser depositados en las carecles publicas á solicitud y á espensas de los que los reclamen para ser enviados á los buques á que correspondian ó á otros de la misma nacion. Pero sino fueren remitidos dentro de dos meses, contados desde el dia de su arresto, serán puestos en libertad, y no volverán á ser presos por la misma causa.

Article XXXIV.

For the purpose of more effectually protecting their commerce and navigation, the two contracting par-

Articulo XXXIV.

Con el objeto de proteger mas eficazmente su comercio y navegacion, las dos partes contratantes con-

ties do hereby agree to form, as soon hereafter as circumstances will permit, a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

vienen aqui en formar, luego que las circunstancias lo permitan, una convencion consular que declare mas especialmente las atribuciones ó inmunidades de los consules y vice-consules de las partes respectivas.

Article XXXV.

It is and has been stipulated by and between the high contracting parties:

1st. That the citizens, vessels, and merchandise of the United States shall enjoy in all the ports and harbors of Nicaragua, upon both oceans, a total exemption from all port charges, tonnage or anchorage duties, or any other similar charges now existing, or which may hereafter be established, in manner the same as if said ports had been declared free ports. And it is further stipulated, that the right of way or transit across the territories of Nicaragua, by any route or upon any mode of communication at present existing, or which may hereafter be constructed, shall at all times be open and free to the government and citizens of the United States for all lawful purposes whatever; and no tolls, duties, or charges of any kind shall be imposed upon the transit, in whole or part, by such modes of communication, of vessels of war or other property belonging to the government of the United States, or on public mails sent under the authority of the same, or upon persons in its employ, nor upon citizens of the United States, nor upon vessels belonging to them. And it is also stipulated, that all lawful produce, manufactures, merchandise, or other property belonging to citizens of the United States passing from one ocean to the other, in either direction, for the purpose of exportation to foreign countries, shall not be subject to

Articulo XXXV.

Se estipula y se ha estipulado entre las dos altas partes contratantes:

1º. Que los ciudadanos, buques y mercancias de los Estados Unidos, gozaran en todos puertos y abras de los mares de Nicaragua de total exclusion de carga, derechos de tonelage, anclage, y otras semejantes cargas que existan ó en adelante se establescan, como si dichos puertos huviesen sido declarados, y establecidos puertos libres. Y ademas de esto se estipula, que el derechos de transito por los territorios de Nicaragua por alguna ruta ó medios de comunicacion ahora existentes ó que se construyan en lo de adelante, esterán siempre abiertos y libres al gobierno y ciudadanos de los Estados Unidos para todo fin legal, y no se impondrán derechos algunos sobre el transito entero ó parcial de buques de guerra ú otra propiedad perteneciente á los Estados Unidos por dichos medios de comunicacion, ni tampoca sobre malas publicas enviadas bajo su autoridad ó sobre los empleados ó personas empleadas de dichos gobiernos, in sobre sus ciudadanos ó los buques que les pertenescan; y se estipula tambien que todo producto, manufacturas, mercancias ú otras propiedades de licito comercio, pertenecientes á ciudadanos de los Estados Unidos que pasen de un oceano al otro en ambas direcciones, con objeto de exportacion á paises estrangeros, no estarán sujetos á derechos de importacion ó exportacion; ú que si ciudadanos de dichos estados habiendo

any import or export duties whatever; or if any citizens of the United States, having introduced such produce, manufactures, or merchandise into the State of Nicaragua, for sale or exchange, shall, within three years thereafter, determine to export the same, they shall be entitled to drawback equal to four-fifths of the amount of duties paid upon their importation.

2d. And inasmuch as a contract was entered into on the twenty-seventh day of August, 1849, between the republic of Nicaragua and a company of citizens of the United States, styled the "American Atlantic and Pacific Ship Canal Company," and in order to secure the construction and permanence of the great work thereby contemplated, both high contracting parties do severally and jointly agree to protect and defend the above-named company in the full and perfect enjoyment of said work, from its inception to its completion, and after its completion, from any acts of invasion, forfeiture, or violence, from whatsoever quarter the same may proceed: and, to give full effect to the stipulations here made, and to secure, for the benefit of mankind, the uninterrupted advantages of such communications from sea to sea, the United States distinctly recognises the rights of sovereignty and property which the State of Nicaragua possesses in and over the line of said canal, and for the same reason guaranties positively and efficaciously the entire neutrality of the same, so long as it shall remain under the control of citizens of the United States, and so long as the United States shall enjoy the privileges secured to them in the preceding section of this article.

3d. But if, by any contingency, the above-named "American Atlan-

introducido al estado de Nicaragua productos, manufacturas y mercancias con el objeto de venderlas ó cambiarlas, determinasen el esportarlas antes de la esperacion de tres años despues de su introduccion, serán acreedores á una rebaga de cuatro quintos del monto de los derechos pagados por su importacion.

2°. Y en cuanto á que se ha hecho un contrato el veintesiete de Agosto del corriente año entre la republica de Nicaragua y una compañia de ciudadanos de los Estados Unidos, titulada "Compañia Americana del Canal Maritimo Atlantico Pacifico," á fin de asegurar la construccion y permanencia de la grande obra de que en el se trata, ambas altas partes contratantes separada y juntamente convienen por el presente, en defender y proteger á la espresada compañia en el pleno y perfecto goze de dicha obra desde su principio hasta su conclusion, y despues de su conclusion, en defenderla y protegerla contra todo acto de invasion, confiscacion, ó violencia proceda este de donde procediere; y para que tengan cumplido efecto las estipulaciones aqui consignadas, uno tambien para asegurar en beneficio del genero humano las inmensas ventagas de una comunicacion inter-oceanica, los Estados Unidos reconocen distintamente los derechos de soberania y propiedad que el estado de Nicaragua posee sobre toda la linea de dicho canal, y por la misma razon garantiza positiva y eficazmente su entera neutralidad, mientras este bajo la direccion, ó administracion de ciudadanos de los Estados Unidos, y por todo el tiempo que los Estados Unidos disfruten de los privilegios que se les concede en la seccion precedente de este articulo.

3°. Pero si por alguna contingencia la susodicha "Compañia Ameri-

tic and Pacific Ship Canal Company" shall fail to comply with the terms of their contract with the State of Nicaragua, all the rights and privileges which said contract confers shall accrue to any company of citizens of the United States which shall, within one year after the official declaration of failure, undertake to comply with its provisions, so far as the same may at that time be applicable, provided the company thus assuming said contract shall first present to the President and Secretary of State of the United States satisfactory assurances of their intention and ability to comply with the same; of which satisfactory assurances the signature of the Secretary of State and the seal of the department shall be complete evidence.

4th. And it is also agreed, on the part of the republic of Nicaragua, that none of the rights, privileges, and immunities guarantied, and by the preceding articles, but especially by the first section of this article, conceded to the United States and its citizens, shall accrue to any other nation or to its citizens, except such nation shall first enter into the same treaty stipulations for the defence and protection of the proposed great inter-oceanic canal which have been entered into by the United States, in terms the same with those embraced in section 2d of this article.

cana del Canal Maritimo Atlantico Pacifico" falsase en cumplir se contrato con el estado de Nicaragua, todos los derechos y privilegios que dicho contrato confiere podrán pasar á cualquiera compañia de ciudadanos de los Estados Unidos que dentro de un año despues de la declaracion oficial de quiebra, quiera tomar á su cargo cumplir con sus estipulaciones en cuanto estas puedan en este tiempo ser aplicables, con tal que la compañia que asi se apropie de dicho contrato, presente primero al Presidente y Secretario de Estado de los Estados Unidos, seguridades satisfactorias de su intencion y capacidad de cumplir con el, de las cuales, serán suficientes pruebas la firma del Secretario de Estado, y el sello de su departamento.

4°. Y asi mismo queda convenido por parte del estado de Nicaragua, que ninguno de los derechos, privilegios, é inmunidades garantizadas y concedidas por los precedentes articulos; pero especialmente por la primera seccion del presente, á los Estados Unidos, y á sus ciudadanos podran pasar á ninguna otra nacion, ó á sus ciudadanos, sino es que esta primero entre en las mismas estipulaciones del tratado en que han convenido los Estados Unidos para la defenza y proteccion del proyectado gran canal inter oceanico en los mismos terminos comprendidos en la seccion 2ª de este articulo.

Article XXXVI.

The United States of North America and the republic of Nicaragua, desiring to make as durable as possible the relations which are to be established by virtue of this treaty, have declared solemnly, and do agree to, the following points:

1st. The present treaty, without prejudice to the provisions of section

Articulo XXXVI.

Los Estados Unidos de Norte America, y la republica de Nicaragua, deseando hacer tan duraderas cuanto sea posible las relaciones que han de establecerse en virtud del presente tratado, han declarado solemnemente, y convienen en los puntos siguientes:

1°. El presente tratado, y sin perjuicio de las estipulaciones de la

Article XXXVII.

The present treaty of peace, amity, commerce, and navigation shall be approved and ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the President of the republic of Nicaragua, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged, in the city of Washington, within eight months from the date of the signature thereof, or sooner if possible.

In faith whereof, we, the plenipotentiaries of the United States of America and of the republic of Nicaragua, have signed and sealed these presents, in the city of Leon, on the third day of September, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-third.

E. GEO. SQUIER. [L. S.]
HERM'DO ZEPEDA. [L. S.]

Articulo XXXVII.

El presente tratado de paz, amistad, comercio y navegacion será aprobado y ratificado por el Presidente de la republica de Nicaragua con acuerdo y consentimiento del Congreso de la misma; y por el Presidente de los Estados Unidos de America con acuerdo y consentimiento del senado de los mismos: y las ratificaciones serán cangeadas en la ciudad de Washington dentro de ocho meses contados desde el dia de la firma, ó antes si fuere posible.

En fé de lo cual nosotros los plenipotenciarios de la republica de Nicaragua y de los Estados Unidos de America, hemos firmado y sellado las presentes en la ciudad de Leon el dia tres de Setiembre en el año de nuestro Señor de mil ochocientos cuarenta y nueve.

HERM'DO ZEPEDA. [L. S.]
E. GEO. SQUIER. [L. S.]

Annex 8

United States-Great Britain, Convention Concerning a Ship Canal Connecting the Atlantic and Pacific Oceans (Clayton-Bulwer), Washington DC, Preamble and Articles III, V and VIII, 19 April 1850 (in force 4 July 1850)

Spanish version: MM Peralta, *El Canal Interoceánico de Nicaragua y Costa Rica en 1620 y en 1887* (Bruselas: Imprenta de Ad. Mertens, 1887), pp.68-71

English version: 104 CTS 41

Convention for Facilitating and Protecting the Construction of a Ship Canal between the Atlantic and Pacific Oceans etc. between Great Britain and the United States, signed at Washington, 19 April 1850

THE text of this, the Clayton-Bulwer Treaty, is taken here from Miller, *Treaties and other International Acts of the United States*, vol. V, p. 671. The Treaty, which was terminated by that of 18 November 1901, is printed also in *Parliamentary Papers, 1850*, vol. LVI, p. 37; *British and Foreign State Papers*, vol. XXXVIII, p. 4; *Hertslet's Commercial Treaties*, vol. VIII, p. 969; by Martens, *Nouveau Recueil Général*, vol. XV, p. 187; Malloy, *Treaties etc. between the United States and Other Powers*, p. 659, and Martens et de Cussy, *Recueil Manuel et Pratique des Traités*, vol. VI, p. 386. There is added to Miller's text here, reproduced from *British and Foreign State Papers*, vol. XLII, p. 162, the text of the Declaration respecting British Honduras made by the British plenipotentiary upon the exchange of ratifications. This is printed also in *Hertslet's Commercial Treaties*, vol. X, p. 645, and by Martens, *Nouveau Recueil Général*, vol. XV, p. 192.

ENGLISH TEXTS

THE UNITED STATES OF AMERICA and HER BRITANNIC MAJESTY, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by Ship Canal, which may be constructed between the Atlantic and Pacific Oceans, by the way of the River San Juan de Nicaragua and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean,—THE PRESIDENT OF THE UNITED STATES, has conferred full powers on JOHN M. CLAYTON, Secretary of State of the United States; and HER BRITANNIC MAJESTY on the Right Honourable Sir HENRY LYTTON BULWER, a Member of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles.

ARTICLE I.

The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain

for itself any exclusive control over the said Ship Canal; agreeing, that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or People for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection or influence that either may possess with any State or Government through whose territory the said Canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said Canal, which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain, traversing the said Canal, shall, in case of war between the contracting parties, be exempted from blockade, detention or capture, by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said Canal, as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said Canal, the contracting parties engage that, if any such Canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local Government or Governments, through whose territory the same may pass, then the persons employed in making the said Canal and their property used, or to be used, for that object, shall be protected, from the commencement of the said Canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise, with any State, States or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the

said Canal shall traverse, or which shall be near the waters applicable thereto; in order to induce such States, or Governments, to facilitate the construction of the said Canal by every means in their Power: and furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free Ports,—one at each end of the said Canal.

ARTICLE V.

The contracting parties further engage that, when the said Canal shall have been completed, they will protect it from interruption, seizure or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said Canal may forever be open and free, and the capital invested therein, secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said Canal, and guaranteeing its neutrality and security when completed, always understand that, this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government, should deem that the persons, or company, undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon, as are contrary to the spirit and intention of this Convention,—either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandize or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee, without first giving six months notice to the other.

ARTICLE VI.

The contracting parties in this Convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other; to the end, that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the Canal herein contemplated. And the contracting parties likewise agree that, each shall enter into Treaty stipulations with such of the Central American States, as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention, namely,—that of constructing and maintaining the said Canal as a ship-communication between the

two Oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they, also, agree that, the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such Treaty stipulations; and, should any differences arise as to right or property over the territory through which the said Canal shall pass—between the States or Governments of Central America,—and such differences should, in any way, impede or obstruct the execution of the said Canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said Canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

Article VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said Canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons, or company, as may first offer to commence the same with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this Convention; and if any persons, or company, should already have, with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a Canal as that specified in this Convention,—to the stipulations of which contract neither of the contracting parties in this Convention have any just cause to object,—and the said persons, or company, shall, moreover, have made preparations and expended time, money and trouble on the faith of such contract, it is hereby agreed, that such persons, or company, shall have a priority of claim over every other person, persons or company, to the protection of the Governments of the United States and Great Britain, and be allowed a year, from the date of the exchange of the ratifications of this Convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood, that if, at the expiration of the aforesaid period, such persons, or company, be not able to commence and carry out the proposed enterprize, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons, or company, that shall be prepared to commence and proceed with the construction of the Canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired in entering into this Convention, to accomplish a particular object, but, also, to establish a general principle, they hereby agree to extend their protection, by Treaty stipulations, to any other practicable communications, whether by Canal or rail-way, across the Isthmus which connects North and South America; and, especially, to the interoceanic communications,—should the same prove to be practicable, whether by Canal or rail-way,—which are now proposed to be established by the way of Tehuantepec, or Panama. In granting, however, their joint protection to any such Canals, or rail-ways, as are by this Article specified, it is always understood by the United States and Great Britain, that the parties constructing or owning the same, shall impose no other charges or conditions of traffic thereupon, than the aforesaid Governments shall approve of, as just and equitable; and, that the same Canals, or rail-ways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall, also, be open on like terms to the citizens and subjects of every other State which is willing to grant thereto, such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this Convention shall be exchanged at Washington, within six months from this day, or sooner, if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our Seals.

Done, at Washington, the nineteenth day of April, Anno Domini, one thousand eight hundred and fifty.

JOHN M. CLAYTON [Seal]
HENRY LYTTON BULWER [Seal]

Tratado Clayton-Bulwer entre los Estados Unidos y la Gran-Bretaña,

garantizando la neutralidad de toda comunicacion interoceánica á través del istmo centro-americano.

Washington, 19 de Abril de 1850.

Su Majestad Británica y los Estados-Unidos de América deseando consolidar las relaciones de amistad que tan felizmente subsisten entre ellos, estableciendo y fijando en un convenio sus miras é intenciones referentes á cualesquiera medios de comunicacion por canal navegable que pueda construirse entre los océanos Atlántico y Pacífico por la vía del rio San Juan de Nicaragua y cualquiera ó ámbos de los lagos de Nicaragua ó Managua, á un puerto ó lugar del océano Pacífico; Su Majestad Británica ha conferido plenos poderes al Muy Honorable Sir Henry Lytton Bulwer, miembro del Muy Honorable Consejo Privado de Su Majestad, caballero comendador de la Muy Honorable Orden del Baño, y Enviado Extraordinario y Ministro Plenipotenciario de Su Majestad Británica en los Estados Unidos; y el Presidente de los Estados-Unidos á John M. Clayton, Secretario de Estado de los Estados-Unidos, con el objeto expresado; y dichos Plenipotenciarios habiendo canjeado sus plenos poderes, que hallaron en debida forma, han convenido en los artículos siguientes :

Art. I. — Los Gobiernos de la Gran-Bretaña y de los Estados-Unidos declaran por la presente que ni uno ni otro obtendrá ó mantendrá jamas para sí ninguna autoridad exclusiva (exclusive control)sobre dicho Canal navegable; conviniendo en que ni uno ni otro erigirá ó mantendrá fortificaciones que lo dominen ó en su vecindad, ni ocupará, fortificará, colonizará, asumirá ó ejercerá ningun dominio sobre Nicaragua, Costa-Rica, la Costa de Mosquitos ú otra parte de Centro-América ; ni uno ni otro se aprovechará de ninguna proteccion que uno ú otro dé ó pueda dar ó de ninguna alianza que uno ú otro tenga ó pueda tener con ningun Estado ó pueblo con el objeto de erigir ó mantener tales fortificaciones, ó de ocupar, fortificar ó colonizar Nicaragua, Costa-Rica, la Costa de Mosquitos ú otra parte de Centro-América, ó de asumir ó ejercer dominio sobre ellas. Ni la Gran Bretaña ni los Estados-Unidos se aprovecharán de ninguna intimidad, ni se servirán de ninguna alianza, conexion ó influencia que uno ú otro pueda tener con ningun Estado ó Gobierno por cuyo territorio haya de pasar dicho canal, con el objeto de adquirir ó retener directa ó indirectamente para los súbditos ó ciudadanos de uno de ellos cualesquiera derechos ó ventajas de comercio ó navegacion por el canal, que no se hubiesen ofrecido en las mismas condiciones á los súbditos ó ciudadanos del otro.

Art. II. — En caso de guerra entre las Partes contratantes, los buques de la Gran-Bretaña ó de los Estados-Unidos que atraviesen el canal estarán exentos de bloqueo, detencion ó captura por uno ú otro de los beligerantes ; y esta disposicion se extenderá à la distancia de las dos extremidades del canal que en lo sucesivo se crea conveniente establecer.

Art. III.— A fin de asegurar la construccion de dicho canal, las Partes contratantes se obligan á que, emprendiéndose la obra del canal en condiciones moderadas y equitativas por individuos autorizados por el Gobierno ó Gobiernos locales por cuyo territorio se abra el canal, las personas empleadas en construirlo y su propiedad usada ó que se use con tal objeto serán protegidas desde el comienzo del canal hasta su conclusion por los Gobiernos de la Gran-Bretaña y los Estados-Unidos contra toda detencion, confiscacion, secuestro injusto ó cualquier otra violencia.

Art. IV. — Las Partes contratantes usarán de toda la influencia que respectivamente tengan con cualesquier Estado, Estados ó Gobiernos que tengan ó pretendan tener jurisdiccion ó derecho sobre el territorio que atraviese el canal, ó que se halle en la vecindad de sus aguas, á fin de inducir á esos Estados ó Gobiernos á que faciliten la construccion de dicho canal por cuantos medios esten á su alcance; y ademas, la Gran-Bretaña y los Estados-Unidos se comprometen á usar sus buenos oficios, donde ó cómo sea mas conveniente para procurar el establecimiento de dos puertos francos, uno á cada extremidad del canal.

Art. V. — Las Partes contratantes se obligan ademas, una vez concluido el canal, á protegerlo contra interrupcion, secuestro ó confiscacion injusta y á garantizar su neutralidad, de manera que dicho canal esté siempre abierto y libre y seguro el capital en él invertido. No obstante, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos, al dar su proteccion á la construccion de dicho canal y al garantizar su neutralidad y seguridad cuando esté concluido, siempre tienen entendido que esta proteccion y garantía son otorgadas condicionalmente y ambos Gobiernos ó uno ú otro pueden retirarlas, si ambos Gobiernos ó uno ú otro creyesen que las personas ó compañía que emprenden ó administran dicho canal adoptan ó establecen reglamentos para su tráfico contrarios al espíritu y á la intencion de esta convencion ya sea haciendo injustas distinciones en favor del comercio de una de las Partes contratantes sobre el comercio de la otra, ya imponiendo exacciones opresivas ó peajes inmoderados sobre pasajeros, buques, géneros, mercancías ú otros artículos. Ninguna de las partes podrá retirar dicha proteccion ó garantía sin previo aviso de seis meses á la otra.

Art. VI. — Las Partes contratantes de esta convencion se comprometen invitar á todos los Estados con quienes ambas ó una ú otra tienen amistosas relaciones para convenir con ellas en las mismas estipulaciones en que ellas han convenido entre una y otra, afin de que todos los demas Estados participen de la honra y ventaja de haber contribuido á una obra de tan general interés y de tanta importancia como el canal de que se trata; y las Partes contratantes igualmente estipulan que cada una de ellas celebrará tratados con los Estados centro-americanos que estimen conveniente, con el objeto de realizar mas eficazmente el gran designio de esta convencion, á saber: el de construir y mantener dicho canal como comunicacion navegable entre los dos océanos para beneficio de la humanidad, en iguales condiciones para todos, y de protegerlo; y tambien estipulan que una y otra emplearán sus buenos oficios, cuando la otra los pida, para ayudar y contribuir á la negociacion de

dichos tratados; y si surgiesen algunas diferencias en cuanto al derecho ó propiedad sobre el territorio por donde debe pasar dicho canal, entre los Estados ó Gobiernos de Centro-America, y si tales diferencias impidiesen ó estorbasen de cualquier manera la ejecucion de dicho canal, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos usarán de sus buenos oficios á fin de arreglar tales diferencias de la manera mas conveniente para promover los intereses de dicho canal y para fortalecer los vínculos de amistad y alianza que existen entre las Partes contratantes.

Art. VII. — Siendo deseable no perder tiempo sin necesidad para comenzar y construir dicho canal, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos determinan apoyar y alentar á las personas ó compañía que primero se ofrezcan á comenzarlo, con el capital necesario, con el consentimiento de las autoridades locales y bajo principios conformes con el espíritu y la intencion de esta convencion; y si algunas personas ó compañía tuviesen ya un contrato con cualquier Estado por donde deba pasar el canal proyectado para construirlo segun lo especifica esta convencion; contrato á cuyas estipulaciones no tenga objecion justa que oponer ninguna de las Partes contratantes de esta convencion; y si dichas personas ó compañía han hecho ademas preparativos y gastado tiempo, dinero y trabajo fiadas en tal contrato, por la presente se estipula que tales personas ó compañía tendrán prioridad de derecho sobre cualesquiera otras persona, personas ó compañía, á la proteccion de los Gobiernos de la Gran-Bretaña y de los Estados-Unidos, y se les concederá un año, contado desde la fecha del canje de las ratificaciones de esta convencion, para concluir sus arreglos y presentar pruebas de que se ha suscrito suficiente capital para ejecutar la proyectada empresa; entendiéndose que, si á la expiracion del período enunciado, dichas personas ó compañía no pudiesen comenzar y concluir la proyectada empresa, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos estarán en libertad de dar su proteccion á cualesquiera otras personas ó compañía que esten dispuestas á comenzar y continuar la construccion del canal en cuestion.

Art. VIII. — Los Gobiernos de la Gran-Bretaña y de los Estados-Unidos queriendo, al celebrar esta convencion, no solamente realizar un objeto particular sino tambien establecer un principio general, por la presente convienen en extender su proteccion por tratado á cualesquiera otras comunicaciones practicables, por canal ó ferrocarril, á traves del istmo que une la América del Norte á la del Sur; y especialmente á las comunicaciones interoceánicas, si resultasen practicables, por canal ó ferrocarril, que se proyecta establecer ahora por la via de Tehuantepec ó de Panamá.

No obstante, al conceder ambos su proteccion á cualesquiera canales ó ferrocarriles, como se especifica en este artículo, queda siempre entendido por la Gran-Bretaña y los Estados-Unidos que las partes que construyan ó posean dichas vías no impondrán mas cargas ó condiciones de tráfico por ellas que las que serán aprobadas por dichos Gobiernos como justas y equitativas; y que los mismos canales ó ferrocarriles, abriéndose para los súbditos y ciudadanos de la Gran-Bretaña y de los Estados-Unidos en términos iguales, tambien estarán abiertos en términos idénticos á los súbditos y

ciudadanos de los demas Estados que quieran conceder á dichas vías la misma proteccion que la Gran-Bretaña y los Estados-Unidos se obligan á darles.

ART. IX.—Las ratificaciones de esta convencion se canjearán en Washington dentro de seis meses contados desde hoy, ó ántes si fuese posible.

En fé de lo cual nosotros los respectivos Plenipotenciarios hemos firmado esta convencion y la hemos sellado con nuestros sellos.

Hecho en Washington, el diez y nueve de abril, Anno Domini mil ochocientos y cincuenta.

(*Firmado*) HENRY LYTTON BULWER (L. S.)
JOHN M. CLAYTON (L. S.)

El Secretario de Estado de los Estados-Unidos M. Lewis Cass á Lord Napier, Ministro de S.M.B. en Washington, reclamando el cumplimiento del tratado Clayton Bulwer.

Departamento de Estado

Washington, Noviembre 8, 1858.

. . . . . .

Lo que los Estados-Unidos quieren en Centro-América, despues de la felicidad de su pueblo, es la seguridad y neutralidad de sus vias interoceánicas. Este es tambien el deseo de la Gran-Bretaña, de Francia y de todo el mundo comercial. Si los principios y la política del tratado Clayton-Bulwer se ponen en práctica, se habrá logrado este objeto.

LEWIS CASS.

Tratado de límites territoriales ajustado entre Costa-Rica y Nicaragua

San José, Abril 15 de 1858.

MÁXIMO JEREZ, Ministro Plenipotenciario del Gobierno de la República de Nicaragua y José María Cañas, Ministro Plenipotenciario del Gobierno de la República de Costa-Rica, encargados por nuestros comitentes de celebrar un tratado de límites de ambas Repúblicas, que ponga término á las diferencias que han retardado la mejor y más perfecta inteligencia y armonía que deben reinar entre ellas, para su común seguridad y engrandecimiento; — habiendo verificado el canje de nuestros respectivos poderes bajo el exámen que de ellos hizo el Honorable Señor Don Pedro R. Negrete, Ministro Plenipotenciario

Annex 9

Costa Rica-United States Treaty of Friendship, Commerce and Navigation (Molina-Webster), Washington DC, Preamble and Articles II, IV, VI, VII, VIII, XI and XII, 10 July 1851

Sources:

English version: *Report of the Isthmian Canal Commission 1899-1901* (Washington: Government Printing Office, 1904), pp. 417-420

Spanish version: *Colección de los Tratados Internacionales Celebrados por la Republica de Costa Rica*, Vol I (San José: Tipografía Nacional, 1893), pp. 65-72

58TH CONGRESS, 2d Session. } SENATE. { DOCUMENT No. 222.

REPORT

OF THE

ISTHMIAN CANAL COMMISSION,

1899-1901.

REAR-ADMIRAL JOHN G. WALKER,
UNITED STATES NAVY,
President.

HON. SAMUEL PASCO.
MR. GEORGE S. MORISON.
LIEUT. COL. OSWALD H. ERNST,
Corps of Engineers, U. S. Army.
LEWIS M. HAUPT, C. E.
ALFRED NOBLE, C. E.
COL. PETER C. HAINS,
Corps of Engineers, U. S. Army.
WILLIAM H. BURR, C. E.
PROF. EMORY R. JOHNSON.

LIEUT. COMMANDER SIDNEY A. STAUNTON,
UNITED STATES NAVY,
Secretary.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

APPENDIX V.

COSTA RICA, 1851. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION.

Concluded July 10, 1851; ratification advised by the Senate March 11, 1852; ratified by the President May 25, 1852; ratifications exchanged May 26, 1852; proclaimed May 26, 1852.

Articles.

I. Amity.
II. Freedom of commerce and navigation.
III. Most favored nation privileges.
IV. No discrimination in duties.
V. Tonnage duties.
VI. No discrimination on vessels.
VII. Equal trade privileges.
VIII. Equal treatment of citizens.
IX. Exemption from military service, etc.
X. Consular and diplomatic privileges.
XI. Rights in case of war.
XII. Property rights.
XIII. Duration.
XIV. Ratification.

In the Name of the Most Holy Trinity.

Commercial intercourse having been for some time established between the United States and the Republic of Costarica, it seems good for the security as well as the encouragement of such commercial intercourse, and for the maintenance of good understanding between the United States and the said republic, that the relations now subsisting between them, should be regularly acknowledged and confirmed by the signature of a Treaty of Amity, Commerce and Navigation;

For this purpose they have named their respective Plenipotentiaries, that is to say:—

The President of the United States, Daniel Webster, Secretary of State;

And his Excellency the President of the Republic of Costarica, Señor Don Felipe Molina, Envoy Extraordinary and Minister Plenipotentiary of that Republic to the United States;

Who after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens on the one part, and the Government of the Republic of Costarica and its citizens on the other.

ARTICLE II

There shall be between all the territories of the United States and the territories of the Republic of Costarica a reciprocal freedom of commerce. The subjects and citizens of the two countries respectively shall have liberty freely and securely to come with their ships and cargoes to all places ports and rivers in the territories aforesaid, to which other foreigners are or may be permitted to come; to enter into the same, and to remain and reside in any part thereof, respectively; also to hire and occupy houses and ware-houses for the purposes of their commerce; and generally the merchants and traders of each nation respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively.

In like manner the respective ships of war and post office packets of the two countries shall have liberty freely and securely to come to all harbors, rivers and places, to which other foreign ships of war and packets are or may be permitted to come; to enter into the same, to anchor and to remain there and refit, subject always to the laws and statutes of the two countries respectively.

By the right of entering the places ports and rivers mentioned in this Article, the privilege of carrying on the coasting trade is not understood, in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III

It being the intention of the two High Contracting Parties to bind themselves by the preceding Articles to treat each other on the footing of the most favored nation it is hereby agreed between them, that any favor, privilege or immunity whatever, in matters of commerce and navigation, which either Contracting Party has actually granted, or may hereafter grant, to the subjects or citizens of any other State, shall be extended to the subjects or citizens of the other High Contracting Party, gratuitously, if the concession in favor of that other nation shall have been gratuitous; or in return for compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concessions shall have been conditional.

ARTICLE IV.

No higher nor other duties shall be imposed on the importation into the territories of the United States, of any article being of the growth, produce or manufacture of the Republic of Costarica and no higher or other duties shall be imposed on the importation into the territories of the Republic of Costarica of any articles being the growth, produce or manufacture of the territories of the United States than are or shall be payable on the like articles, being the growth, produce or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the High Contracting Parties, on the exportation of any articles to the territories of the other, than such as are or may be payable on the exportation of the like articles to any other foreign country, nor shall any prohibition be imposed upon the exportation or importation of any articles the growth, produce or manufacture of the territories of the United States, or of the Republic of Costarica, to or from the said territories of the United States, or to or from the Republic of Costarica, which shall not equally extend to all other nations.

ARTICLE V.

No higher nor other duties or payments on account of tonnage of light or harbor dues, of pilotage, of salvage in case either of damage or shipwreck, or on account of any other local charges, shall be imposed in any of the ports of the Republic of Costarica on vessels of the United States, than those payable in the same ports by Costarican vessels; nor in any of the ports of the United States, on Costarican vessels, than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

The same duties shall be paid on the importation into the territories of the Republic of Costarica, of any article being of the growth, produce or manufacture of the territories of the United States whether such importation shall be made in Costarican or in vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article, being the growth, produce or manufacture of the Republic of Costarica, whether such importation shall be made in the United States or in Costarican vessels.

The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to the Republic of Costarica, of any articles being the growth, produce or manufacture of the territories of the United States whether such exportations shall be made in Costarican or in United States vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles, being the growth, produce or manufacture of the Republic of Costarica to the territories of the United States, whether such exportations shall be made in United States or in Costarican vessels.

ARTICLE VII

All merchants, commanders of ships and other citizens of the United States shall have full liberty in all the territories of the Republic of Costarica, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Costaricans, nor to pay them any other salary or remuneration than such as is paid in like cases by Costarican citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into or exported from the Republic of Costarica as they shall see good, observing the laws and established customs of the country. The same privileges shall be enjoyed in the territories of the United States by the citizens of the Republic of Costarica under the same conditions.

The citizens of the High Contracting Parties shall reciprocally receive and enjoy full and perfect protection for their persons and property and shall have free and open access to the courts of justice in the said countries, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ in all cases, the advocates, attorneys, or agents of whatever description, whom they may think proper, and they shall enjoy in this respect the same rights and privileges therein as native citizens.

ARTICLE VIII

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of merchandise, goods and effects, the succession to personal estates by will or otherwise, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or in any other manner whatsoever, as also the administration of justice; the citizens of the two high contracting parties, shall reciprocally enjoy the same privileges, liberties and rights, as native citizens, and they shall not be charged in any of these respects, with any higher imposts or duties than those which are paid or may be paid by native citizens; submitting of course to the local laws and regulations of each country, respectively.

If any citizen of either of the two High Contracting Parties shall die without will or testament in any of the Territories of the other, the Consul-General or Consul of the nation to which the deceased belonged, or the representative of such Consul-General or Consul in his absence, shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased; giving proper notice of such nomination to the authorities of the country.

ARTICLE IX.

The citizens of the United States residing in the Republic of Costarica, and the citizens of the Republic of Costarica residing in the United States, shall be exempted from all compulsory military service whatsoever, either by sea or by land, and from all forced loans or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay other ordinary charges, requisitions or taxes, greater than those that are paid by native citizens of the Contracting Parties respectively.

ARTICLE X.

It shall be free for each of the two High Contracting Parties to appoint Consuls for the protection of trade, to reside in any of the territories of the other Party; but before any Consul shall act as such, he shall, in the usual form be approved and admitted by the Government to which he is sent; and either of the High Contracting Parties may except from the residence of Consuls such particular places as they judge fit to be excepted. The Costarican Diplomatic Agents and Consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities are or shall be granted to agents of the same rank belonging to the most favored nation; and in like manner the Diplomatic Agents and Consuls of the United States in the Costarican territories shall enjoy according to the strictest reciprocity whatever privileges, exemptions and immunities are or may be granted in the Republic of Costarica to Diplomatic Agents and Consuls of the most favored nation.

ARTICLE XI.

For the better security of commerce between the citizens of the United States and the citizens of the Republic of Costarica, it is agreed, that if at any time any interruption of friendly intercourse, or any rupture should unfortunately take place between the two High Contracting Parties, the citizens of either of the two High Contracting Parties who may be within any of the territories of the other, shall, if residing upon the coasts, be allowed six months, and if in the interior, a whole year to wind up their accounts and dispose of their property; and a safe-conduct shall be given them to embark at the port which they themselves shall select; and even in the event of a rupture, all such citizens of either of the two High Contracting Parties who are established in any of the territories of the other, in the exercise of any trade or special employment, shall have the privilege of remaining and of continuing such trade and employment therein without any manner of interruption, in the full enjoyment of their liberty and property as long as they behave peaceably, and commit no offence against the laws; and their goods and effects of whatever description they may be, whether in their own custody or intrusted to individuals or to the State, shall not be liable to seizure or sequestration, nor to any other charges or demands than those which may be made upon the like effects or property belonging to

the native citizens of the country in which such citizens may reside. In the same case debts between individuals, property in public funds, and shares of companies, shall never be confiscated, sequestered nor detained.

ARTICLE XII.

The citizens of the United States and the citizens of the Republic of Costarica, respectively, residing in any of the territories of the other party shall enjoy in their houses, persons, and properties, the protection of the Government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, either within their own private houses or in the places of worship destined for that purpose, agreeably to the system of tolerance established in the territories of the two High Contracting Parties; provided they respect the religion of the nation in which they reside, as well as the constitution, laws and customs of the country. Liberty shall also be granted to bury the citizens, of either of the two High Contracting Parties who may die in the territories aforesaid, in burial-places of their own, which in the same manner may be freely established and maintained; nor shall the funerals or sepulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII.

In order that the two High Contracting Parties may have the opportunity of hereafter treating and agreeing upon such other arrangements as may tend still further to the improvement of their mutual intercourse, and to the advancement of the interests of their respective citizens, it is agreed that, at any time after the expiration of seven years from the date of the exchange of the ratifications of the present Treaty, either of the High Contracting Parties shall have the right of giving to the other Party notice of its intention to terminate Articles IV, V & VI of the present Treaty; and that at the expiration of twelve months after such notice shall have been received by either Party from the other, the said Articles, and all the stipulations contained therein shall cease to be binding on the two High Contracting Parties.

ARTICLE XIV.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Washington or at San José de Costarica within the space of one year, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done at Washington this tenth day of July, in the year of our Lord one thousand eight hundred and fifty-one.

DAN'L WEBSTER [SEAL.]
F. MOLINA [SEAL.]

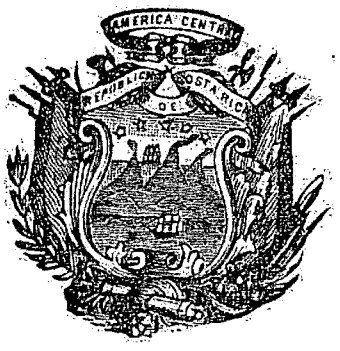
COLECCION

DE LOS

TRATADOS INTERNACIONALES

CELEBRADOS POR LA

REPUBLICA DE COSTA RICA



TOMO PRIMERO

SAN JOSÉ DE COSTA RICA, A. C.

Tipografía Nacional

1892

TRATADO

[De 10 de Julio de 1851],

de amistad, comercio y navegación, con los Estados Unidos de América.

EN EL NOMBRE DE LA SANTÍSIMA TRINIDAD.

Habiendo tráfico comercial establecido, hace algún tiempo, entre la República de Costa Rica y los Estados Unidos, ha parecido conveniente para la seguridad como también para el fomento de sus mutuos intereses, y para la conservación de la buena inteligencia entre la mencionada República y los Estados Unidos, que las relaciomes que ahora existen entre ambas Partes, sean reconocidas y confirmadas formalmente por medio de un tratado de amistad, comercio y navegación.

Con este objeto han sido nombrados los respectivos Plenipotenciarios, á saber:

Por Su Excelencia el Presidente de la República de Costa Rica, el Señor don Felipe Molina, Enviado Extraordinario y Ministro Plenipotenciario de dicha República cerca del Gobierno de los Estados Unidos.

Y por el Presidente de los Estados Unidos, Daniel Webster, Secretario de Estado.

Quienes, después de haberse comunicado mutuamente sus plenos poderes y hallarlos en debida y regular forma, han acordado y concluido los artículos siguientes:

Artículo I.

Habrá una perpetua amistad entre el Gobierno de la República de Costa Rica y sus ciudadanos por una parte, y los Estados Unidos y sus ciudadanos por otra parte.

Artículo II.

Habrá entre los territorios de la República de Costa Rica y todos los territorios de los Estados Unidos, una recíproca libertad de comercio. Los ciudadanos y súbditos de los dos países, respectivamente, tendrán libertad para ir, libre y seguramente con sus buques y cargamentos, á todos parajes, puertos y ríos, en los territorios antedichos, á los cuales se permite ó se permitiere ir á otros extranjeros, entrar en los mismos y permanecer y residir en cualquiera parte de ellos, respectivamente; también para alquilar y ocupar casas y almacenes para los objetos de su comercio; y generalmente los comerciantes y traficantes de cada nación, respectivamente, gozarán la más completa protección y seguridad para su comercio; estando siempre sujetos á las leyes y estatutos de los dos países respectivamente.

Del mismo modo los respectivos buques de guerra y paquetes de correo de los dos países tendrán libertad para llegar franca y seguramente á todos los puertos, ríos y lugares á que se permite ó se permitiere llegar buqnes de guerra y paquetes de correo de otras naciones, entrar en los mismos, anclar y permanecer en ellos y repararse, sujetos siempre á las leyes y estatutos de los países respectivamente.

Por el derecho de entrar en parajes, puertos y ríos de que se hace relación en este artículo, no está comprendido el privilegio de comercio de escala y cabotaje, que únicamente será permitido á buques nacionales del país donde se hiciere semejante comercio.

Artículo III.

Siendo la intención de las dos Altas Partes Contratantes, el obligarse por los artículos precedentes á tratarse la una á la otra en los mismos términos que á la Nación más favorecida, por el presente convienen mutuamente, en que cualquier favor, privilegio ó inmunidad, de cualquier especie que fuere, que en materia de comercio y navegación haya concedido actualmen-

te ó pueda en adelante conceder alguna de las Partes Contratantes á los súbditos ó ciudadanos de otra Nación cualquiera, se hará extensivo á los súbditos ó ciudadanos de la otra Alta Parte Contratante, gratuitamente, siempre que la concesión en favor de la otra Nación hubiere sido gratuita; pues siendo condicional, en tal caso por mutuo convenio se acordará una compensación equivalente, cuanto sea posible, y proporcionada, así en el valor como en los resultados.

Artículo IV.

No se impondrán otros ó más altos derechos á la importación en los territorios de la República de Costa Rica, de cualesquiera artículos del producto natural, producciones ó manufacturas de los territorios de los Estados Unidos, ni se impondrán otros ó más altos derechos á la importación en los territorios de los Estados Unidos de cualesquiera artículos del producto natural, producciones ó manufacturas de la República d Costa Rica que los que se pagan ó pagaren por semejantes artículos cuando sean producto natural, producciones ó manufacturas de cualesquiera otro país extranjero, ni se impodrán otros más altos derechos ó impuestos en los territorios de cualquiera d las dos Altas Partes Contratantes á la exportación de cualesquiera artículos para los territorios de la otra, que los que s pagan ó pagaren por la exportación de iguales artículos pa cualquiera otro país extranjero, ni se impondrá prohibición alguna á la exportación ó importación de cualesquiera artículos d producto natural, producciones ó manufacturas de los territorios de la República de Costa Rica ó de los territorios de l Estados Unidos, para los dichos ó de los dichos territorios d la República de Costa Rica; ó para los dichos ó de los dich territorios de los Estados Unidos, que no se extiendan igualmente á todas las otras Naciones.

Artículo V.

No se impondrán otros ni más altos derechos ni pag por razón de puerto, práctico, derecho de salvamento en ca de pérdida ó naufragio, ni por razón de algunas otras cargas cales, en ninguno de los puertos de los Estados Unidos, á buques costarricenses, sino los que únicamente pagan en mismos los buques de los Estados Unidos; ni en los puertos

la República de Costa Rica se impondrán á los buques de los Estados Unidos otras cargas que las que en los mismos puertos, pagan los costarricenses.

Artículo VI.

Se pagarán los mismos derechos de importación en los territorios de los Estados Unidos por los artículos de productos naturales, producciones y manufacturas, en buques de los Estados Unidos ó Costarricenses; y los mismos derechos se pagarán por la importación en los territorios de la República de Costa Rica, de las manufacturas, efectos, y producciones de los territorios de los Estados Unidos, aunque su importación sea en buques Costarricenses ó de los Estados Unidos.

Los mismos derechos pagarán, y gozarán las mismas franquicias y descuentos concedidos á la exportación para los territorios de los Estados Unidos de cualesquiera artículos de los productos naturales, producciones ó manufacturas de la República de Costa Rica, ya sea que la exportación se haga en buques de los Estados Unidos ó Costarricenses, y pagarán los mismos derechos y se concederán las mismas franquicias y descuentos á la exportación para la República de Costa Rica, de cualesquiera artículos de productos naturales, producciones ó manufacturas de los territorios de los Estados Unidos, sea que esta exportación se haga en buques Costarricenses ó de los Estados Unidos.

Artículo VII.

Todo comerciante, comandante de buque, y otros ciudadanos de la República de Costa Rica, gozarán de libertad completa en todos los territorios de los Estados Unidos, para manejar por sí sus propios negocios, ó para encargar su manejo á quien mejor le parezca, sea corredor, factor, agente ó intérprete; y no se les obligará á emplear para estos objetos á ninguna otra persona más que las que se emplean por los ciudadanos de los Estados Unidos, ni estarán obligados á pagarles más salario ó remuneración que la que en semejantes casos se paga por ciudadanos de los Estados Unidos; y se concederá libertad absoluta en todos los casos al comprador y vendedor para ajustar y fijar el precio de cualesquiera efectos, mercaderías y géneros importados y exportados de la República de Costa Rica, como crean conveniente, conformándose con las leyes y costumbres estable-

cidas en el país. Los mismos privilegios disfrutarán en los territorios de la República de Costa Rica los ciudadanos de los Estados Unidos y sujetos á las mismas condiciones.

Los ciudadanos de las Altas Partes Contratantes recibirán y gozarán recíprocamente de completa y perfecta protección en sus personas y propiedades, y tendrán libre y fácil acceso á los tribunales de justicia en los referidos países, respectivamente, para la prosecución y defensa de sus justos derechos; y estarán en libertad de emplear en todos casos los abogados, procuradores ó agentes de cualquier clase, que juzguen conveniente, y gozarán en este respecto, los mismos derechos y privilegios que allí disfrutaren los ciudadanos nativos.

Artículo VIII.

Por lo que toca á la policía de los puertos, á la carga y descarga de buques, la seguridad de las mercancías, bienes y efectos, la sucesión de las propiedades personales por testamento ó de otro modo, y al derecho de disponer de la propiedad personal de cualquiera clase ó denominación, por venta, donación, permuta, testamento ó de otro modo cualquiera, así como también á la administración de justicia; los ciudadanos de las dos Altas Partes Contratantes gozarán recíprocamente los mismos privilegios, libertades y derechos, que si fueran ciudadanos nativos; y no se les cargará, en ninguno de estos puntos ó casos, mayores impuestos y derechos que los que paguen, ó en adelante pagaren los ciudadanos nativos; sujetos por supuesto á las leyes y estatutos locales de cada país, respectivamente.

En caso que muriese algún ciudadano de cualesquiera de las dos Altas Partes Contratantes, sin haber hecho su última disposición ó testamento en los territorios de la otra, el Cónsul General ó el Cónsul de la Nación á que pertenecía el difunto, ó en su ausencia el que representare á dicho Cónsul General ó Cónsul, tendrá el derecho de nombrar curadores que se encarguen de la propiedad del difunto, en cuanto las leyes del país lo permitieren, á beneficio de los legítimos herederos y acreedores del difunto; dando noticia conveniente á las autoridades del país.

Artículo IX.

Los ciudadanos de los Estados Unidos residentes en la

República de Costa Rica, y los ciudadanos de la República de Costa Rica residentes en los Estados Unidos, estarán exentos de todo servicio militar forzado de cualquier especie, de mar ó de tierra, y de todo préstamo forzoso y exacciones militares ó requisiciones; ni serán compelidos á pagar, bajo ningún pretexto, cualesquiera cargos ordinarios, requisiciones, ó impuestos, mayores que los que paguen los ciudadanos nativos de las Partes Contratantes, respectivamente.

Artículo X.

Cada una de las dos Altas Partes Contratantes podrá nombrar Cónsules para la protección del comercio, que residan en cualquiera de los territorios de la otra Parte; pero antes que ningún Cónsul funcione como tal, deberá ser aprobado y admitido en la forma acostumbrada, por el Gobierno á quien se dirije; y cualquiera de las Altas Partes Contratantes puede exceptuar de la residencia de Cónsules aquellos puntos particulares en que no tenga por conveniente admitirlos. Los Agentes diplomáticos y los Cónsules de la República de Costa Rica gozarán en los territorios de los Estados Unidos, de todos los privilegios, exenciones é inmunidades concedidas ó que se concedieren á los agentes de igual rango de la nación más favorecida; y del mismo modo los Agentes diplomáticos y Cónsules de los Estados Unidos, en los territorios de la República de Costa Rica, gozarán conforme á la más exacta reciprocidad, todos los privilegios, exenciones é inmunidades que se conceden ó en adelante se concedieren, á los Agentes diplomáticos y Cónsules de la Nación más favorecida en la República de Costa Rica.

Artículo XI.

Para mayor seguridad del comercio entre los ciudadanos de los Estados Unidos y los ciudadanos de la República de Costa Rica, se estipula que, si en algún tiempo ocurriese desgraciadamente una interrupción en las relaciones amistosas, y se efectuare un rompimiento entre las dos Altas Partes Contratantes, se concederán á los ciudadanos de ambas Partes Contratantes, que estén dentro de los territorios de la otra, si residen en las costas, seis meses; y un año entero á los que residan en el interior para arreglar sus negocios, y disponer de sus propieda-

des y se les dará un salvoconducto para que se embarquen en el puerto que ellos eligieren; y aun en caso de un rompimiento, todos aquellos ciudadanos de cualquiera de las dos Altas Partes Contratantes que estén establecidos en cualquiera de los territorios de la otra en el ejercicio de algún tráfico ú ocupación especial tendrán el privilegio de permanecer y continuar dicho tráfico y ocupación en el referido país, sin que se les interrumpa en manera alguna en el goce absoluto de su libertad y de sus bienes, mientras se conduzcan pacíficamente y no cometan ofensa alguna contra las leyes, y sus bienes y efectos, de cualquiera clase que sean, bien que estén bajo su propia custodia, ó confiados á individuos, ó al Estado, no estarán sujetos á embargo ó secuestro, ni á ninguna carga ó imposición que la que se haga con respecto á los efectos ó bienes pertenecientes á los cuidadanos del país en que dichos ciudadanos residan. De igual modo, ó en el mismo caso, ni las deudas entre particulares, ni los fondos públicos, ni las acciones de compañías, serán jamás confiscadas, secuestradas ó detenidas.

Artículo XII.

Los ciudadanos de la República de Costa Rica y los ciudadanos de los Estados Unidos que residan en cualquiera de los territorios de la otra Parte, gozarán recíprocamente en sus casas, personas y bienes de la protección del Gobierno, y continuarán en posesión de las garantías que actualmente tienen. No serán inquietados, molestados ni perturbados en manera alguna, en razón de su creencia religiosa, ni en los ejercicios propios de su religión, ya dentro de sus casas particulares, en los lugares de culto destinados para aquel objeto, conforme al sistema de tolerancia establecido en los territorios de las dos Altas Partes Contratantes, con tal que respeten la religión de la Nación en que residan, así como la Constitución, leyes y costumbres establecidas. Tendrán también libertad de enterrar á los ciudadanos de cualquiera de las dos Altas Partes Contratantes, que murieren en los referidos territorios, en sus propios cementerios que podrán, del mismo modo libremente, establecer y mantener y no se molestarán los funerales ni los sepulcros de los muertos, de ningún modo, ni por motivo alguno.

Artículo XIII.

Para que las dos Altas Partes Contratantes tengan en ol

futuro oportunidad de tratar y ajustar cualesquiera otros arreglos que tiendan aun más eficazmente á estrechar las relaciones existentes, y al adelanto de los intereses de los respectivos ciudadanos, se ha convenido que en cualquier tiempo, pasados siete años desde la fecha en que se canjeen las ratificaciones del presente tratado, cualquiera de las dos Altas Partes Contratantes podrá poner en conocimiento de la otra Parte sus intenciones de terminar los artículos IV, V y VI del presente tratado; y que al expirar un año desde que una de las Partes haya recibido de la otra dicha noticia, los expresados artículos, y todo su contenido, dejarán de ser obligatorios á las dos Altas Partes Contratantes.

Artículo XIV.

El presente tratado será ratificado, y las ratificaciones cambiadas en San José de Costa Rica ó en Wáshington en el término de un año, ó antes, si fuese posible.

En fe de lo cual los respectivos Plenipotenciarios han firmado el presente, sellándolo con sus sellos respectivos.

Fecho en la ciudad de Wáshington, á los diez días del mes de Julio del año del Señor de mil ochocientos cincuenta y uno.

(L. S.) F. MOLINA.

(L. S.) DANIEL WEBSTER.

Annex 10

United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Cass-Irisarri), Washington DC, Articles II, IV, VII, VIII, XV, XVI, XVII and XX, 16 November 1857

Sources:

English version: CL Wiktor, *Unperfected Treaties of the USA, Volume II 1856-1882* (New York: Oceana Publications, 1976), pp. 135-143

Spanish version: US National Archives, Washington DC, Unperfected Treaty Series W-2

UNPERFECTED TREATIES

OF THE

UNITED STATES OF AMERICA

1776-1976

EDITED AND ANNOTATED BY

CHRISTIAN L. WIKTOR

VOLUME 2

1856-1882

1976 — OCEANA PUBLICATIONS, INC. — DOBBS FERRY, NEW YORK

NICARAGUA

FRIENDSHIP, COMMERCE, AND NAVIGATION

Treaty signed at Washington November 16, 1857
Not submitted to the Senate
Treaty file: Unperfected Treaty Series W-2
Printed text: S. Ex. Doc. 112, 46th Cong., 2d sess., pp. 102-107 (serial no. 1885); S. Ex. Doc. 194, 47th Cong., 1st sess., pp. 117-125 (serial no. 1991); S. Doc. 237, 56th Cong., 1st sess., pp. 141-148 (serial no. 3853)

Note: This treaty, also known as the Cass-Irisarri Treaty, was negotiated by Lewis Cass, U.S. Secretary of State, and Antonio José de Irisarri, Nicaraguan Minister to the United States. It was approved by the Nicaraguan National Assembly on March 26, 1858, but the President of Nicaragua did not ratify it, requesting certain amendments and modifications. The treaty was replaced by the similar Lamar-Zeledón Treaty of March 16, 1859, unperfected (UTS X-2) (see Manning, 4 Inter-American Affairs 629-630, 663, 671-672, 676-677, 679, 682, 685-689, et al.; 5 Miller 799-800; Patterson). Both treaties were replaced by an identical treaty of June 21, 1867 (15 Stat. 549; TS 257; 10 Bevans 337). For differences between the treaties of 1857 and the treaty of 1867, see Manning, op. cit., p. 629, footnote 2. The original treaty, in English and Spanish, is in the treaty file. The present text is reprinted from S. Doc. 237, 56th Cong., 1st sess., pp. 141-148 (serial no. 3853).

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION.

The Republic of Nicarauga and the United States of America, being desirous to maintain with each other the most friendly relations, to promote the commercial intercourse of their respective citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific Oceans by the river San Juan de Nicaragua and either or both the lakes of Nicaragua or Managua, or by any other route through the territories of said Republic of Nicaragua, have deemed it expedient to conclude a treaty of friendship, commerce and navigation, and for this purpose have named the following plenipotentaries, that is to say:

The Republic of Nicaragua, Antonio José de Yrisarri, her envoy extraordinary and minister plenipotentiary in the United States of America;

And the President of the United States of America, Lewis Cass, Secretary of State of the United States; who, after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

Article I.

There shall be perpetual amity between the United States and their citizens, on the one part, and the Government of the Republic of Nicaragua and its citizens on the other.

ARTICLE II.

There shall be, between all the territories of the United States and the territories of the Republic of Nicaragua, a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty, freely and securely, to come, with their ships and cargoes, to all places, ports, and rivers, in the territories aforesaid, to which other foreigners are, or may be, permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also, to hire and occupy houses and warehouses for the purpose of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries respectively.

In like manner the respective ships of war and post-office packets of the two countries shall have liberty, freely and securely, to come to all harbors, rivers, and places to which other foreign ships of war and packets are, or may be, permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood, in which trade national vessels only, of the country where the trade is carried on, are permitted to engage.

ARTICLE III.

It being the intention of the two high contracting parties to bind themselves, by the preceding articles, to treat each other on the footing of the most favored nation, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other state, shall be extended to the subjects of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible, of proportionate value and effect, to be adjusted by mutual agreement if the concession shall have been conditional.

ARTICLE IV.

No higher nor other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States than are, or shall be, payable upon the like articles being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are, or may be, payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed upon the exportation or importation of any articles

the growth, produce, or manufacture of the territories of the United States or the Republic of Nicaragua, to or from the said territories of the United States, or to or from the Republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V.

No higher or other duties or payments, on account or tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels; nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

The same duties shall be paid on the importation into the territories of the Republic of Nicaragua of any article being the growth, produce, and manufacture of the territories of the United States, whether such importations shall be made in Nicaraguan vessels or in vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, whether such importation shall be made in United States or Nicaraguan vessels.

The same dues shall be paid and the bounties and drawbacks allowed on the exportation to the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States, whether such exportation shall be made in Nicaraguan or United States vessels; and the same duties shall be paid and the same bounties and drawbacks allowed on the exportation of any articles being the growth, produce, or manufacture of the Republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICLE VII.

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the Republic of Nicaragua to manage their own affairs themselves, as permitted by the laws, or to commit them to the management of whomsoever they please, as broker, factor agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor to pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into, or exported from, the Republic of Nicaragua, as they shall see good, observing the laws and established customs of the country.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the Republic of Nicaragua under the same conditions.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property,

and shall have free and open access to the courts of justice in said countries, respectively, for the prosecution and defense of their just rights; and they shall be at liberty to employ, in all cases, the advocates, attorneys, or agents, of whatever description, whom they may think proper and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

ARTICLE VIII.

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of the merchandise, goods, and effects; the succession to personal estates, by will or otherwise; and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties, and rights as native citizens; and they shall not be charged, in any of these respects, with any higher imposts or duties than those which are, or may be, paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union or within the Republic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate.

But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the state in which it may be situated, there shall be accorded to the said heir, or other successor, such term as the laws of the state will permit to sell such property; he shall be at liberty at all times to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which, in a similar case, would be paid by an inhabitant of the country in which the real estate may be situated.

If any citizen of either of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul or other diplomatic agent of the nation to which the deceased belonged (or the representative of such minister or consul or other diplomatic agent, in case of absence), shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, given proper notice of such nomination to the authorities of the country.

ARTICLE IX.

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with the natives of the country, hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the Republic of Nicaragua, and the citizens of Nicaragua residents in the United

States, shall be exempted from all forced (or compulsory) military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged in the same manner as the citizens of each nation to pay lawful taxes, municipal and other modes of imposts and ordinary charges, loans, and contributions in time of peace (as the citizens of the country are liable, in just proportion to the property owned.

3. Nor shall the property of either, of any kind, be taken for any public object, without full and just compensation to be paid in advance; and

4. The citizens of each of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

ARTICLE X.

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party.

But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent, and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities whatever as are, or shall be, allowed to the agents of the same rank belonging to the most favored nation; and, in like manner, the diplomatic agents and consuls of the United States in Nicaragua, shall enjoy, according to the strictest reciprocity, whatever privileges, exemptions, and immunities that are, or may be, granted in the Republic of Nicaragua to the diplomatic agents and consuls of the most favored nations.

ARTICLE XI.

For the better security of commerce between the citizens of the United States and the citizens of Nicaragua it is agreed that if at any time any interruption of friendly intercourse or any rupture should unfortunately take place between the two high contracting parties, the citizens of either, who may be within the territories of the other, shall, if residing on the coast, be allowed six months, and if in the interior, a whole year, to wind up their accounts and dispose of their property; and a safe conduct shall be given to them to embark at any port they themselves may select. Even in case of a rupture all such citizens of either of the high contracting parties, who are established in any of the territories of the other in trade or other employment, shall have the privilege of remaining and of continuing such trade or employment without any manner of interruption, in the full enjoyment of liberty and property, so long as they behave peacefully and commit no offense against the laws, and their goods and effects, of whatever description they may be, whether in their own custody or intrusted to individuals, or to the state, shall not be liable to seizure or sequestration nor to any other charges or demands than those which may be made upon the like effects or property belonging to the native citizens of the country in which such citizens may reside. In the same case, debts between

individuals, property out in public funds, and shares of companies, shall never be confiscated nor detained.

ARTICLE XII.

The citizens of the United States and the citizens of the Republic of Nicaragua, respectively, residing in any of the territories of the other party shall enjoy in their houses, persons, and property the protection of the government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested, or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, agreeably to the system of tolerance established in the territories of the high contracting parties, provided they respect the religion of the nation in which they reside, as well as the constitution, laws, and customs of the country.

Liberty shall be also granted to bury the citizens of either of the two high contracting parties who may die in the territories aforesaid, in burial places of their own, which, in the same manner, may be freely established and maintained; nor shall the funerals or sepulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity and given all favor and protection for repairing their vessels, procuring provisions and placing themselves in all respects in a condition to continue their voyage without obstacle or hindrance of any kind.

ARTICLE XIV.

The Republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific Oceans through the territories of that republic on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua to be used and enjoyed, in the same manner and upon equal terms by both republics and their respective citizens, the Republic of Nicaragua, however, reserving its rights of sovereignty over the same.

ARTICLE XV.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua on its part undertakes to establish two free ports, one at each of the extremities of the communications aforesaid on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended *bona fide* for transit across the said routes of communication and not for consumption, within the Republic of Nicaragua.

The United States shall also be at liberty to carry troops and munitions of war in their own vessels or otherwise to either of the said free ports, and shall be entitled to their conveyance between them without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation on either of said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons or property of citizens or subjects of the United States or of any other country across the said routes of communication than are or may be imposed on the persons and property of citizens of Nicaragua. And the Republic of Nicaragua recognizes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI.

The Republic of Nicaragua agrees that, should it become necessary at any time to employ military force for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but, upon failure to do this for any cause whatever, the Government of the United States may, after notice to the Government of Nicaragua, or to the minister thereof in the United States, employ such force, for this and for no other purpose; and when the necessity ceases, such force shall be immediately withdrawn.

ARTICLE XVII.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discrimination in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise, or other articles.

The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the Republic of Nicaragua.

ARTICLE XVIII.

And it is further understood and agreed that in any grants or contracts which may hereafter be made or entered into by the Government of Nicaragua having reference to the interoceanic routes above referred to, or either of them, the rights and privileges granted by this convention to the Government and citizens of the United States shall be

fully protected and reserved. And if any such grants or contracts now exist of a valid character, it is further understood that the guarantee and protection of the United States stipulated in Article XV of this treaty shall be held inoperative and void until the holders of such grants or contracts shall recognize the concessions made in this treaty to the Government and citizens of the United States with respect to such interoceanic routes, or either of them, and shall agree to observe and be governed by those concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement, said guarantee and protection shall be in full force; provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

ARTICLE XIX.

After ten years from the completion of a railroad or any other route of communication through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than fifteen per cent. per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of fifteen per cent. per annum.

ARTICLE XX.

It is understood that nothing contained in this treaty shall be construed to affect the claim of the government and citizens of the Republic of Costa Rica to a free passage by the San Juan River for their persons and property to and from the ocean.

ARTICLE XXI.

The two high contracting powers, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of twenty years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the twenty years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged, at Washington City, within the space of nine months, or sooner, if possible.

In witness whereof the respective plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done at the city of Washington, this sixteenth of November, in the year of our Lord one thousand eight hundred and fifty-seven.

LEWIS CASS.
A. J. DE YRISARRI.

La República de Nicaragua y los Estados Unidos de América, deseosos de mantener entre sí las mejores relaciones de amistad, con el objeto de promover las del comercio de sus respectivos ciudadanos, y de hacer algun arreglo mútuo con respecto á una comunicacion entre los Océanos Atlántico y Pacífico, por el río San Juan de Nicaragua, ó por cualquiera de los lagos de Nicaragua ó Managua, ó por ámbos, ó por cualquiera otra vía al través de los territorios de dicha República de Nicaragua, han convenido en concluir un tratado de amistad, comercio y navegacion, para lo cual han nombrado los Plenipotenciarios respectivos, á saber:

La República de

Nicaragua al Señor Don Antonio José de Irisarri, su Enviado Extraordinario y Ministro Plenipotenciario en los Estados Unidos de Ame-rica.

Y el Presidente de los Estados Unidos de América al Señor Lewis Cass, Secretario de Estado de los Estados Unidos; quienes, despues de haberse comunicado sus plenos poderes, y ha-llándolos en debida y propia forma, han convenido en, y concluido los articulos siguientes:

Artículo 1º

Habrá amistad perpétua entre el Gobier-no de la República de Nicaragua, y sus ciuda-danos, por una parte, y los Estados Unidos,

y sus ciudadanos, por la otra.

Artículo 2º

Habrá recíproca libertad de comercio entre todos los territorios de la República de Nicaragua, y los territorios de los Estados Unidos. Los ciudadanos de los dos paises, respectivamente, tendrán plena libertad de llegar franca y seguramente, con sus buques y cargamentos, á todos los lugares, puertos y rios en los territorios mencionados, á los cuales se permita, ó se permitiere llegar á otros estrangeros, entrar en los mismos, y permanecer y residir en cualquiera parte de ellos, respectivamente; así como alquilar y ocupar casas y almacenes para objetos de su comercio; en general, los comer-

ciantes y traficantes de cada nacion, respectivamente, gozarán de la mas completa proteccion y seguridad para su comercio, sujetos siempre á las leyes y estatutos de los dos paises, respectivamente.

De la misma manera, los respectivos buques de guerra, y paquetes correos de los dos paises, tendrán libertad de llegar francos y seguramente á todas las radas, rios y lugares á donde se permita, ó se permitiere la llegada de otros buques de guerra, y paquetes estrangeros; de entrar en los mismos, anclar, permanecer en ellos, y re-equiparse, sujetos siempre á las leyes y estatutos de los dos paises, respectivamente.

No se comprende el privilegio de

hacer el comercio costanero, en el derecho de entrar en los lugares, puertos y rios mencionados, en cuyo comercio solo pueden emplearse buques nacionales del pais en que se hace dicho comercio.

Articulo 3º

Siendo la intencion de las dos altas partes contratantes, obligarse por los articulos precedentes á tratarse bajo el pié de la nacion mas favorecida, convienen, por el presente, en que cualquier favor, privilejio ó inmunidad, en materias de comercio y navegacion que una de dichas partes contratantes haya concedido, ó pueda conceder en adelante, á los súbditos ó ciudadanos de otro estado, se harán exten

sivos á los súbditos de la otra parte, gratuitamente, si la concesion en favor de aquella otra nacion hubiese sido gratuita, ó en cambio de una compensacion, de un valor y efecto tan aproximado como sea posible, en que se convengan por mútuo acuerdo, si la concesion hubiese sido condicional.

Artículo 4º

No se impondrán otros ó mas altos derechos sobre la importacion en los territorios de la República de Nicaragua de cualquier artículo que sea fruto, producto natural ó manufacturado de los Estados Unidos, y no se impondrán otros, ó mas altos derechos

sobre la importacion en los territorios de los Estados Unidos, de cualquier artículo que sea fruto, producto natural ó manufacturado de la República de Nicaragua, que los que se exijan ó exijieren por iguales artículos que sean frutos, productos naturales ó manufacturados de cualquier otro pais estranjero; ni se impondrán otros ó mas altos derechos ó gravámenes en los territorios de ninguna de las dos altas partes contratantes sobre la esportacion de cualesquiera artículos á los territorios de la otra, que los que se exijan ó se exijieren por la esportacion de iguales artículos para cualquier otro pais estranjero; ni se establecerá prohibicion alguna sobre la importacion ó esportacion de cualesquiera artículos, que

sean frutos, productos naturales ó manufacturados de los territorios de la República de Nicaragua ó de los Estados Unidos, á los territorios de la República de Nicaragua, ó de dichos territorios de la República de Nicaragua, á los territorios de los Estados Unidos, ó de los territorios de dichos Estados, que no sea igualmente extensiva á las otras naciones.

Artículo 5º

No se impondrán otros ó mas altos derechos por toneladas, faros, puerto, ó emolumentos de prácticos, salvamento en caso de avería ó naufragio, ó impuestos locales de cualquiera clase, en ninguno de los puertos de los Estados Unidos, sobre los buques de Nicaragua, que los que deban pagarse por buques de los Es-

Unidos.

Artículo 7º

Todos los comerciantes, capitanes de buques, y otros, ciudadanos de la República de Nicaragua, tendrán plena libertad, en todos los territorios de los Estados Unidos, de manejar sus propios negocios por sí mismos, como se permita por las leyes, ó de encargar del manejo de ellos á quienquiera que tengan por conveniente, con el carácter de corredor, factor, agente ó intérprete; ni se les obligará á emplear ninguna otras personas con aquel carácter, que las que son empleadas por los ciudadanos de los Estados Unidos; ni á pagarles otros salarios ó remuneraciones que los que en iguales casos sean pagados por ciudadanos de los Estados Unidos; y en todos casos se concederá

absoluta libertad al comprador y al vendedor, para contratar y fijar el precio de cualesquiera jéneros, efectos ó mercancías importadas á los Estados Unidos, ó exportadas de ellos, como mejor les parezca, observando las leyes y costumbres establecidas en el país.

Los ciudadanos de los Estados Unidos gozarán de los mismos privilejios en los territorios de Nicaragua, bajo las mismas condiciones.

Los ciudadanos de las altas partes contratantes, recíprocamente, recibirán y gozarán plena y perfecta protección para sus personas y propiedades, y tendrán libre y franco acceso á los tribunales de justicia en ambos países, respectivamente, para la prosecución y defensa de sus justos derechos; y tendrán libertad de emplear, en todos casos, los abogados, procuradores ó agentes, de-

cualquiera clase, que les parezcan convenientes; y gozarán, en este particular, de los mismos derechos y privilejios que los ciudadanos naturales.

Artículo 8º

En todo lo que hace relacion á la policía de los puertos; á las carga y descarga de buques; á la seguridad de las mercancías, jéneros y efectos; á la sucesion de bienes muebles, por testamento, ó de otro modo; y á la disposicion de bienes muebles, de toda especie y denominacion, por venta, donacion, cambio, testamento, ó de cualquiera otra manera, como tambien á la administracion de justicia;

los ciudadanos de las dos altas partes contratantes gozarán recíprocamente de los mismos privilegios, libertades y derechos que los ciudadanos naturales; y no se les cargarán, en nada de lo que tenga relacion con esto, otros impuestos ó derechos que los que se paguen, ó deban pagarse, por los ciudadanos naturales, sometiéndose, por supuesto, á las leyes locales, y á las regulaciones de cada pais, respectivamente.

Las estipulaciones que preceden se harán estensivas á los bienes raices situados dentro de los Estados de la Union Americana, ó de la República de Nicaragua, en que se permitan á los estranjeros poseer ó heredar fincas raices.

Pero en caso que algunos bienes raices situados dentro de los territorios de

una de las partes contratantes, recayese en un ciudadano de la otra parte, á quien, por su calidad de estranjero, no le fuere permitido poseer dicha propiedad en el Estado en que pueda estar situada, se le acordará á dicho heredero, ó otro sucesor, el término que las leyes del Estado le permitan para vender dicha propiedad; podrá en todas épocas retirar y esportar los productos de esta venta sin dificultad, y sin pagar al Gobierno ninguños otros impuestos que los que, en casos semejantes, se pagarian por un habitante del pais en donde esten situadas las fincas raices.

Si algun ciudadano de una de las dos altas partes contratantes muriese sin dejar testamento, en cualquiera de los territo-

ros de la otra, el Ministro, ó Cónsul, ú otro agente diplomático de la nacion á la cual pertenecia el difunto, (ó el Representante de dicho Ministro, Cónsul, ú otro agente diplomático, en caso de ausencia), tendrá el derecho de nombrar curadores que se hagan cargo de la propiedad del difunto, hasta donde lo permitan las leyes del pais, en beneficio de los herederos legales y de los acreedores del difunto, dando noticia oportuna de tal nombramiento á las autoridades del pais.

cion, natural ó artificial, ya sea por tierra ó por agua, que ahora exista, ó que pueda existir ó ser construida en adelante, bajo la autoridad de Nicaragua, para que pueda usarse y gozarse de la misma manera, y bajo iguales términos, por ámbas Repúblicas, y sus respectivos ciudadanos; reservándose, sin embargo, la República de Nicaragua, su derecho de soberanía sobre las mismas.

Artículo 15º

Los Estados Unidos convienen en estender su protección á todas aquellas vías de comunicacion que se acaban de mencionar; y á garantizar su neutralidad. Tambien convienen en emplear su influencia con otras naciones para inducirlas á garantizar iguales neutralidad y proteccion.

Y la República de Nicaragua por su parte, se

compromete á establecer dos puertos libres, uno en cada una de las estremidades de las comunicaciones mencionadas, en los Oceanos Atlántico y Pacífico. En estos puertos no se impondrán ó exijirán por el Gobierno de Nicaragua ningunos derechos de tonelada, ni otros, sobre los buques de los Estados Unidos, ó sobre efectos ó mercancías pertenecientes á ciudadanos ó súbditos de los Estados Unidos, ó sobre los buques ó efectos de cualquier otro pais, destinados bona fide para el tránsito á través de dichas vías de comunicacion, y no para el consumo dentro de la República de Nicaragua. Los Estados Unidos tendrán tambien libertad de llevar tropas y municiones de guerra, en sus propios buques, ó de otro modo, á cualquiera de dichos puertos libres, y tendrán derecho á su trasporte entre dichos puertos, sin obstáculo por las autoridades

de Nicaragua, y sin que se exijan ningunas cargas ó derechos de pasaje, cualesquiera que sean, por su trasporte en ninguna de dichas vías de comunicacion. Ni no se impondrán otros ó mas altos impuestos sobre la conduccion ó tránsito de las personas y de las propiedades de ciudadanos ó súbditos de los Estados Unidos ó de cualquier otro pais al través de dichas vías de comunicacion, que los que han sido ó sean impuestos sobre las propiedades y las personas de ciudadanos de Nicaragua. Ni la República de Nicaragua reconoce el derecho del Administrador General de correos de los Estados Unidos de celebrar contratos con cualesquiera individuos ó compañías para el trasporte de las mas las de los Estados Unidos por dichas vías de comunicacion, ó por cualesquiera otras vías á tra

vés del Istmo, á su discrecion, en balijas cerradas, el contenido de las cuales no sea destinado para distribucion dentro de dicha República, libres del establecimiento de todos impuestos ó derechos por el Gobierno de Nicaragua: pero esta libertad no debe interpretarse en el sentido de permitir á dichos individuos ó compañías, el trasporte de pasajeros ó carga, en virtud del derecho de trasportar las malas.

Artículo 16.º

La República de Nicaragua conviene en que, si fuese necesario en cualquier tiempo emplear fuerza militar para la seguridad y proteccion de las personas y propiedades que pasen por

cualquiera de las vías mencionadas, empleará la fuerza necesária con tal objeto; pero si dejase de hacerlo por cualquiera causa, el Gobierno de los Estados Unidos, despues de haber dado noticia al Gobierno de Nicaragua, ó á su Ministro en los Estados Unidos, puede emplear tal fuerza para este objeto, con exclusion de cualquier otro; y cuando cese la necesidad, aquella fuerza será retirada inmediatamente.

Artículo 17º

Se entiende, sin embargo, que los Estados Unidos, al acordar proteccion á las referidas vias de comunicacion, y al garantizar su neutralidad y seguridad, siempre tiene la intencion de que la proteccion y garantía sean concedidas condicio-

nalmente, y pueden ser retiradas si los Estados Unidos creyesen que las personas ó la compañía que las emprendan ó manejen, adoptan ó establecen tales regulaciones sobre el tráfico por ellas, que sean contrarias al espíritu y á la intencion de este tratado; ya porque hagan injustas discriminaciones en favor del comercio de alguna nacion ó de algunas naciones, sobre el comercio de otra nacion ó de otras naciones, ó porque impongan exacciones opresivas, ó impuestos excesivos sobre las malas, pasajeros, buques, efectos, productos, mercancías, ú otros artículos. Las mencionadas proteccion y garantía no serán, sin embargo, retiradas por los Estados Unidos, sin dar noticia con seis meses de anticipacion á la República de Nicaragua.

cion á través del territorio de Nicaragua, del Atlántico al Pacífico, ninguna compañía que haya construido, ó que esté en posesion de dicha vía, podrán nunca dividir, directa ó indirectamente, por medio de emision de nuevas acciones, pago de dividendos, ó de otro modo, mas de quince por ciento por año, ó en aquella proporcion, á sus accionistas, por impuestos colectados en aquella vía; pero cuando se descubra que estos impuestos rinden una utilidad mayor que ésta, se reducirán á la regla fija de quince por ciento por año.

Artículo 20º

Se entiende que nada de lo contenido en este tratado, debe interpretarse como que afecta la

pretension del Gobierno de Costarica y de sus ciudadanos, al paso libre, para sus personas y propiedades por el rio San Juan al Oceano, y vice-versa.

Artículo 21º

Las dos altas partes contratantes, deseosas de hacer este tratado tan duradero como sea posible, convienen en que dicho tratado permanezca en plena fuerza por el término de veinte años, contados desde el dia del canje de las ratificaciones; y cada una de las partes tendrá el derecho de notificar á la otra de su intencion de reformarlo, alterarlo, ó terminarlo, por lo ménos doce meses ántes de la espiracion de los veinte años; si no se diese esta noticia, este tratado quedará obligatorio despues

el diez y seis de noviembre del año de Nuestro
Señor de mil ochocientos cincuenta y
siete.

M. Astriani

Lesb

Annex 11

Costa Rica-Nicaragua Treaty of Peace, Friendship, Alliance and Commerce (Mora-Martínez), Rivas, Preamble and Articles 18, 19, 20, 30 April 1858

Source: JM Bonilla, *Colección de Tratados Internacionales* (Managua: Tipografía Internacional, 1909)

English translation by Costa Rica

TRANSLATION

Costa Rica-Nicaragua Treaty of Peace, Friendship, Alliance and Commerce (Mora-Martínez), Rivas, 30 April 1858

"We, Juan Rafael Mora, President of the Republic of Costa Rica, and Tomás Martínez, President of the Republic of Nicaragua...willing to establish, over solid bases of justice and reciprocity, relations of neighbourliness, friendship, alliance and commerce, that consolidate the sentiments of fraternity...have considered of benefit to our respective peoples to conclude a Treaty that assures the achievement of such important purposes..."

...

Article 18: "Land border commerce will have free traffic, and neither Costa Ricans in Nicaragua nor Nicaraguans in Costa Rica shall pay for the introduction of the natural growth or own manufacture..."

...

Article 19: "The introduction by land is forbidden, under penalty of confiscation, of the foreign products and effects of one Republic into the other...Such foreign effects...."

...

Article 20: "...but the effects and merchandise that in said vessels are introduced..."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA

MANAGUA
TIPOGRAFIA INTERNACIONAL—5ª CALLE SUR, NUM. 11
1909

TRATADO

—DE—

Paz, Amistad, Alianza y Comercio

ENTRE

NICARAGUA Y COSTA RICA

MARTINEZ ✻ MORA

1858

Nos, Juan Rafael Mora, Presidente de la República de Costa Rica, y Tomás Martínez, Presidente de la República de Nicaragua: en uso de la respectiva autoridad que nos confieren las leyes de los dos países, cuyo régimen nos está encomendado: deseosos de cimentar, bajo bases sólidas de justicia y reciprocidad, relaciones de vecindad, de amistad, de alianza y de comercio, que consoliden los sentimientos de fraternidad que desde mucho tiempo les unen por la identidad de origen, religión, idioma y costumbres: atendiendo á los graves peligros á que se halla expuesta la seguridad é independencia de ambas Repúblicas, y cuyos peligros se convierten en riesgos inminentes cada vez que se altera entre ellas la buena inteligencia que es necesario conservar invariable, para que haya unión, fuerza y poder contra toda extraña agresión; hemos creído muy provechoso á los respectivos pueblos concluir un Tratado que asegure el logro de tan importantes objetos, como consecuencia del de límites, firmado en San José de Costa Rica el día quince del corriente, y canjeado en esta ciudad el día veintisiete; y hemos ajustado y celebrado el siguiente

TRATADO DE PAZ,

AMISTAD, ALIANZA Y COMERCIO.

Artículo 1º

Habrá paz y perpetua alianza entre las Repúblicas de Costa Rica y Nicaragua, y amistad y buena armonía entre sus habitantes respectivos, como miembros de una sola familia, no obstante la disolución del pacto federativo que los

Artículo 16

Para alejar el riesgo de que por cualquiera contrata ó convenio celebrado con alguna de las dos partes contratantes y un Gobierno extranjero, se afectasen los intereses de alguna de las dos Repúblicas que no hubiere tenido parte en dicho convenio, se establece: que ni el Gobierno de la República de Costa Rica, ni el Gobierno de la República de Nicaragua puedan en lo sucesivo, sin el mutuo consentimiento de ambos, comprometerse en arreglos que puedan dañar los derechos é intereses de la una, reconocidos por la otra República.

Artículo 17

Se establece como ley internacional para las Repúblicas de Costa Rica y Nicaragua:

PRIMERO.

Que el botín ó la presa hecha al enemigo común pertenecerá á la República en que se haga; y los prisioneros de guerra serán juzgados por las leyes de la República donde sean capturados;

SEGUNDO.

Que el botín ó la presa hecha en territorio común será de las Repúblicas que tienen comunidad territorial, y el que se haga en las aguas de ambos Océanos, pertenecerá por iguales partes á las Repúblicas que aliadas hacen la guerra; y

TERCERO.

Que por el derecho de *postliminio* serán devueltas á cada una de dichas Repúblicas ó á sus ciudadanos las propiedades suyas que en la guerra les hubiesen sido tomadas, sin que haya responsabilidad por las pérdidas ó deterioros durante la campaña; pero si uno de los dos países empleare dichas propiedades para usos de interés común, los dos reconocerán su valor.

Artículo 18

El comercio fronterizo por la vía de tierra será de libre tráfico, y ni los costarricenses en Nicaragua, ni los nicaragüenses en Costa Rica, pagarán por la introducción de los

frutos naturales y de propia industria que no estén especialmente prohibidos en la otra República, ningunos otros derechos que los municipales, con entera igualdad á los que por los mismos artículos se exigen á los naturales.

Artículo 19

Se prohibe la introducción por tierra, bajo pena de comiso, de frutos y efectos extranjeros de la una á la otra República; pero los respectivos Gobiernos podrán dar licencia ocasionalmente al que la solicite, y en este caso el introductor es obligado á pagar los derechos establecidos por las leyes aduaneras de la República á donde se introducen.

Dichos efectos extranjeros no caerán en comiso, cuando por causa de guerra, ú otra repentina, se trasladen de una á otra República; en cuyo caso pueden dejarse en depósito, ó pagarse los derechos correspondientes, si se les quiere expender, pudiendo los dueños de ellos, si lo estiman conveniente, retornarlos al lugar de su origen, con guía de la autoridad respectiva.

Artículo 20

Los buques de cualquiera clase y porte de la República de Costa Rica, y los de igual naturaleza de la República de Nicaragua, no pagarán en sus respectivos puertos, otros ó más altos derechos que los de faro y hospital, entendiéndose que esta estipulación no altera lo establecido en el Tratado de límites, con relación á los puertos de San Juan del Norte y de Salinas; pero los efectos y mercaderías que en dichos buques se introduzcan, deben sufrir el aforo con arreglo á las leyes, y pagar los derechos de aduana vigentes en cada una de las Repúblicas.

Artículo 21

Para que las transacciones mercantiles entre ambas Repúblicas, ó con las demás de Centro América, así como con las Naciones extranjeras, se verifiquen fácilmente, las partes contratantes se comprometen á uniformar en lo posible y dentro del más breve término, las leyes de aduana, las pesas y medidas, y el valor relativo é intrínseco de la moneda nacional y de la extranjera, y á procurar el más perfecto acuerdo sobre este punto con los demás Gobiernos de la unión.

Annex 12

Nicaragua-Costa Rica-F Belly, Convention relative to the Concession for an Inter-oceanic Canal by the River San Juan and the Lake of Nicaragua, (Mora-Martínez-Belly), Rivas, Articles 14 (French, Spanish and English); Articles 4 and 25 (French), 1 May 1858

Sources:

French version: F Belly, *Carte d'etude pour le trace et le profil du Canal de Nicaragua* (Paris: Chez Dalmont et Doud, Éditeurs, 1858), Document II, pp. 10-21

Spanish version: Archives Diplomatiques, Ministère des Affaires Étrangères, Paris, Republic of France

English translation by Costa Rica

TRANSLATION

Nicaragua-Costa Rica-F Belly, Convention relative to the Concession for an Inter-oceanic Canal by the River San Juan and the Lake of Nicaragua, (Mora-Martínez-Belly), Rivas, 1 May 1858

...

Article 14: "As a special provision, all the vessels of the concessionary Company, whichever may be their flags, shall enjoy during ten years transit franchises, providing they do not transport any merchandise for exportation."

...

Guatémala.

1858 — 1859
(Août — à — décembre)

(1er Bataillon).

MINISTERE
DES
AFFAIRES ETRANGERES

RCHIVES DIPLOMATIQU

****

CARTE D'ÉTUDE

POUR LE TRACÉ ET LE PROFIL

DU

CANAL DE NICARAGUA

PAR M. THOMÉ DE GAMOND,

INGÉNIEUR CIVIL,

PRÉCÉDÉE

DE DOCUMENTS PUBLIÉS SUR CETTE QUESTION

PAR

M. FÉLIX BELLY.

PARIS,

CHEZ DALMONT ET DUNOD, ÉDITEURS,

LIBRAIRES DES CORPS IMPÉRIAUX DES PONTS ET CHAUSSÉES ET DES MINES,

Quai des Augustins, 49.

1858

DOCUMENT II.

CONVENTION DE RIVAS

CONCLUE ENTRE LES GOUVERNEMENTS DES ÉTATS SOUVERAINS DE NICARAGUA ET DE COSTA-RICA ET M. FÉLIX BELLY, DE PARIS, RELATIVE A LA CONCESSION D'UN CANAL INTER-OCÉANIQUE PAR LA RIVIÈRE SAN-JUAN ET LE LAC DE NICARAGUA.

Sur la proposition de M. Félix Belly, et pour mettre un terme aux dissentiments particuliers qui les ont divisés jusqu'ici, ainsi qu'à la situation incertaine faite à l'Amérique centrale par les traités existants, les deux gouvernements de Nicaragua et de Costa-Rica sont convenus de s'engager solidairement pour la concession d'un canal inter-océanique à travers l'isthme de Nicaragua à une Compagnie internationale, que M. Félix Belly et ses associés se proposent de constituer sur les bases les plus larges et sans distinction de nationalités ;

Et comme cette concession nouvelle doit contenir le règlement de plusieurs questions politiques et économiques d'une haute importance pour les deux gouvernements de Costa-Rica et de Nicaragua, comme aussi pour donner à M. Félix Belly un témoignage personnel de la considération que ses travaux lui ont acquise dans toute l'Amérique centrale, les chefs suprêmes de

ART. 3.

Les concessionnaires auront le droit de choisir tel tracé que leurs ingénieurs jugeront le plus avantageux et le plus praticable, pourvu que ce tracé remonte le Rio San-Juan dans toute sa longueur, traverse le lac de Nicaragua et aboutisse au Pacifique entre les deux points extrêmes de Salinas et de Realejo.

ART. 4.

Dans le cas où le tracé partant de l'embouchure de la Sapoa sur le lac de Nicaragua, et aboutissant à la baie de Salinas sur le Pacifique, serait reconnu praticable par les ingénieurs, ce tracé sera choisi de préférence par la Compagnie pour aboutir du lac de Nicaragua au Pacifique, et par le fait même, le canal deviendra dans toute sa longueur la limite définitive des États de Nicaragua et de Costa-Rica. Dans le cas contraire, cette limite restera ce qu'elle est aujourd'hui, sauf règlement ultérieur.

ART. 5.

Il est accordé aux concessionnaires en toute propriété, pour en prendre possession aussitôt que les travaux seront commencés, une lieue française de terrains de chaque côté du parcours du canal, quel que soit l'État à qui ces terrains appartiennent, à la charge par les concessionnaires de faire cadastrer et délimiter à leurs frais cette double bande de 4 kilomètres de largeur.

ART. 6.

Pour la traversée du lac de Nicaragua, la courbe la plus courte sera considérée comme l'un des côtés du canal, et deviendra dès lors la propriété des concessionnaires sur une profondeur d'une

Pacifique et sur l'Atlantique sont dès aujourd'hui déclarés ports francs, et jouiront à perpétuité de toutes les immunités que ce titre comporte.

ART. 12.

Un phare de premier ordre devra être élevé aux frais des deux Républiques, à chaque tête du canal, six mois avant le moment de son ouverture, pour que la déclaration puisse en être faite au commerce du monde en temps opportun ; mais, si les deux républiques en font la demande, la Compagnie se chargera de la construction de ces phares, sauf à se couvrir plus tard de cette avance sur les 8 p. 0/0 affectés à leurs Trésors.

ART. 13.

Les contractants proclament hautement que le canal sera ouvert au même titre à tous les pavillons, et qu'une taxe uniforme et la plus modérée possible frappera également toutes les marchandises, de quelque provenance qu'elles soient. Cette taxe, dès aujourd'hui, est fixée à 10 fr. par tonneau maritime (1,000 kilogrammes), et à 60 fr. par personne. La Compagnie ne pourra jamais l'augmenter; mais elle se réserve de la réduire plus tard, si l'intérêt du commerce du monde se concilie, sous ce rapport, avec son propre intérêt.

ART. 14.

Par mesure spéciale, tous les bâtiments de la Compagnie concessionnaire, quel que soit leur pavillon, jouiront pendant dix ans de la franchise du passage, pourvu qu'ils ne transportent aucune marchandise d'exportation.

ART. 24.

Tant que cette garantie n'aura pas été officiellement proclamée par la publication du traité intervenu à cet effet, l'entrée du canal sera rigoureusement interdite à tout navire de guerre, et les États riverains pourront adopter, de concert avec la Compagnie, telles mesures qu'ils jugeront nécessaires pour faire respecter cette interdiction.

ART. 25.

Dès que la neutralité du canal aura été solennellement garantie par un acte émané des trois gouvernements de France, d'Angleterre et des Etats-Unis, l'entrée pourra en être accordée à des navires de guerre par une délibération unanime de ces trois puissances, pourvu que les gouvernements de Nicaragua et de Costa-Rica n'y mettent aucune opposition, et sauf règlement préalable avec la Compagnie concessionnaire.

ART. 26.

Par mesure exceptionnelle et pour sauvegarder les intérêts et la responsabilité d'une Compagnie dont la direction est toute française, le Gouvernement français aura le droit d'entretenir, pendant toute la durée des travaux, soit dans les eaux du canal, soit dans le lac de Nicaragua, deux bâtiments de guerre stationnaires (1).

---

(1) Cette clause qui a dû être introduite, en raison de la qualité de citoyen français du concessionnaire, plaçait naturellement son entreprise sous la protection de son propre Gouvernement. Elle est devenue sans objet depuis que les trois Gouvernements des États-Unis, d'Angleterre et de France se sont mis d'accord pour protéger de concert la neutralité du canal de Nicaragua.

Annex 13

United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Lamar-Zeledón), Managua, Preamble, Articles II and XX, 16 March 1859

Sources:

English version: CL Wiktor, *Unperfected Treaties of the USA, Volume II 1856-1882* (New York: Oceana Publications, 1976), pp. 157-166

Spanish version: US National Archives, Washington DC, Unperfected Treaty Series X-2

UNPERFECTED TREATIES

OF THE

UNITED STATES OF AMERICA

1776-1976

EDITED AND ANNOTATED BY

CHRISTIAN L. WIKTOR

VOLUME 2

1856-1882

1976 — OCEANA PUBLICATIONS, INC. — DOBBS FERRY, NEW YORK

freely and securely to come to all harbors, rivers, and places to which other foreign ships-of-war and packets are or may be permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood; in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III.

It being the intention of the two high contracting parties to bind themselves by the preceding articles to treat each other on the footing of the most favored nations, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other State, shall be extended to the subjects of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible of a proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE IV.

No higher or other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the republic of Nicaragua of any article being the growth, produce, or manufacture of the United States, than are or shall be payable upon the like articles being the growth, produre, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are or may be payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed upon the importation or exportation of any articles the growth, produce, or manufacture of the territories of the United States or the republic of Nicaragua to or from the said territories of the United States, or to or from the republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V.

No higher or other duties or payments on account of tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels, nor in any of the ports of the

ARTICLE XX.

It is understood that nothing contained in this treaty shall be construed to affect the claim of the government and citizens of the republic of Costa Rica to a free passage by the San Juan river for their persons and property to and from the ocean.

ARTICLE XXI.

The two high contracting parties, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of twenty years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the twenty years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged at Washington city, within the space of one year, or sooner if possible.

In witness whereof, the above-named minister resident and secretary of foreign relations have signed the same, and affixed thereto their respective seals.

Done at the city of Managua, this sixteenth day of March, in the year of our Lord one thousand eight hundred and fifty-nine.

MIRABEAU B. LAMAR. [L. S.]
PEDRO ZELEDON. [L. S.]

Treaty with Nicaragua —

Friendship and Commerce

Signed in Managua 16 March 1859,
Ratified by President of U.S. 2 July, 1862.
Ratifications exchanged.
Proclaimed by President ibid.

Los infrascritos Pedro Zeledon Secretario de Relaciones Exteriores de la República de Nicaragua, y Mirabeau B. Lamar Ministro Residente de los Estados Unidos de América cerca de la misma República, con el objeto de que sean mantenidas las amistosas relaciones entre sus respectivos Países de que el comercio entre los mismos sea promovido, y de que se hagan algunos útiles arreglos respecto de la comunicacion entre los Océanos Atlántico y Pacífico por el rio San Juan y por cualquiera de los Lagos de Nicaragua ó Managua, ó por ambos, ó por cualquiera otra via al través de los territorios de dicha República de Nicaragua, han juzga-

do conveniente concluir un Tratado de Amistad, Comercio y Navegacion, el primeramente nombrado Secretario de Relaciones Exteriores autorizado por su Gobierno, y el Ministro Residente de los Estados Unidos bajo la esperanza de que será ratificado por el suyo: cuyo Tratado contiene los artículos siguientes.

Artículo I.

Habrá amistad perpetua entre la República de Nicaragua y sus ciudadanos por una parte, y los Estados Unidos y sus ciudadanos por la otra.

Art.º II.

Habrá recíproca libertad de comercio entre todos los territorios de la República de Nicaragua y los territorios de los Estados Unidos. Los ciudadanos de los dos países, respectivamente, tendrán plena libertad de llegar franca y seguramente, con sus buques y cargamentos á todos los lugares, puertos y ríos en los territorios mencionados á los cuales se permita, ó se permitare llegar á otros extrangeros; de entrar en los mismos y permanecer y residir en cualquier parte de ellos respectivamente; así como de alquilar y ocupar casas y almacenes para los objetos de su comercio; y en general los comerciantes y

y traficantes de cada Nacion, respectivamente, gozarán de la mas completa proteccion y seguridad para su comercio, sujetos siempre á las leyes y estatutos de los dos paises respectivamente. De la misma manera los respectivos buques de guerra, y paquetes correos de los dos paises tendrán libertad de llegar franca y seguramente á todos los puertos, rios y lugares, á donde se permita, ó se permitiere la llegada de otros buques de guerra y paquetes extrangeros, de entrar en los mismos anclar, permanecer en ellos y reequiparse, sujetos siempre á las leyes y estatutos de los dos paises respectivamente.

En el derecho de entrar en los lugares, puertos y rios mencionados no se comprende el privilegio de hacer el comercio costanero, en el cual solamente pueden emplearse buques nacional

les del país, en que se haga dicho comercio.

ART.º III.

Siendo la intencion de las dos Altas Partes contratantes, obligarse por los artículos precedentes á tratarse mútuamente bajo el pié que á la nacion mas favorecida, convienen por el presente, en que cualquier favor, privilegio ó inmunidad en materias de comercio y navegacion, que una de dichas Partes contratantes haya concedido, ó concediere en adelante á los súbditos ó ciudadanos de otro Estado se harán extensivos á los súbditos de la otra Parte, gratuitamente, si la concesion en favor de aquella otra nacion hubiese sido gratuita, ó en cambio de una compensacion de un valor y efecto tan aproximado como sea posible,

cuando se descubra que estos impuestos rinden una utilidad mayor que esta, se reducirán á la regla fija de quince por ciento por año.

Artº XX.

Se entiende que nada de lo contenido en este Tratado, debe interpretarse como que afecta la pretension del Gobierno de Costa Rica y de sus ciudadanos, al paso libre para sus personas y propiedades por el Rio de San Juan al Océano y vice-versa

Artº XXI.

Las dos Altas Partes contratantes, deseosas de hacer este Tratado tan duradero como sea posible, convienen en que dicho Tratado permanezca

Annex 14

France-Nicaragua, Treaty of Friendship, Commerce and Navigation (Sartiges-Maximo Jerez), Washington DC, Article XXXIII, 11 April 1859

Source: 120 CTS 337

Treaty of Amity, Commerce and Navigation between France and Nicaragua, signed at Washington, 11 April 1859

THE text of this instrument embodying the Treaty is reproduced here from *British and Foreign State Papers*, vol. L, p. 363, the Treaty appearing also in Martens, *Nouveau Recueil Général*, vol. XVI(2), p. 183, and De Clercq, *Recueil des Traités de la France*, vol. VII, p. 586.

FRENCH TEXT

DECRET de l'Empereur des Français, portant promulgation du Traité d'Amitié, de Commerce et de Navigation conclu, le 11 *Avril,* 1859, *entre la France et la République de Nicaragua.—Paris, le* 21 *Janvier,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Un Traité d'Amitié, de Commerce et de Navigation ayant été conclu, le 11 Avril, 1859, entre la France et la République de Nicaragua, et les ratifications de cet acte ayant été échangées à Paris le 10 Janvier, 1860, ledit Traité, dont la teneur suit, recevra sa pleine et entière exécution.

TRAITE.

Sa Majesté l'Empereur des Français et la République de Nicaragua, désireux de maintenir et de fortifier les relations de bonne amitié qui existent heureusement entre eux, et de favoriser les relations commerciales entre leurs sujets et citoyens respectifs, ont jugé con-

Impériale et aux sujets Français seront pleinement protégés et réservés; et que, s'il existait aujourd'hui quelque concession ou contrat de cette sorte qui présentât un caractère valide, il est, en outre, entendu que la garantie et la protection de Sa Majesté Impériale, stipulées dans l'Article XXVIII de ce Traité, seront tenues pour nulles et non avenues, jusqu'à ce que les possesseurs de ces concessions et de ces contrats aient reconnu les concessions faites par ce Traité à Sa Majesté Impériale et aux sujets Français concernant les routes inter-océaniques ou quelqu'une d'entre elles, et aient consenti à en observer les conditions et à s'y soumettre, toute comme si elles avaient été insérées dans leurs concessions ou contrats originaux. Après cette reconnaissance et cette admission, ladite garantie et protection sera en pleine force. Il est bien entendu que rien de ce qui est contenu ici ne sera interprété pour ou contre la validité de l'un quelconque de ces contrats.

XXXII. Après 10 ans à dater de l'achèvement d'un canal, d'un chemin de fer, ou de toute autre route de communication à travers le territoire de Nicaragua, de l'océan Atlantique à l'océan Pacifique, la compagnie qui aura construit ou qui sera en possession de cette voie ne pourra partager entre ses actionnaires, directement ou indirectement, par l'émission de nouvelles actions, le payement de dividendes ou autrement, plus de 15 pour cent par an, ou dans cette proportion, sur le produit des drois perçus. Et toutes les fois que ces droits s'éléveront à un produit supérieur, ils seront réduits au taux de 15 pour cent par an.

XXXIII. Il est entendu que rien de ce qui est contenu dans ce Traité ne devra être compris de façon à affecter la réclamation du Gouvernement et des citoyens de la République de Costa Rica à un libre passage par la rivière San-Juan pour leurs personnes et leurs propriétés de l'océan et vers l'océan.

XXXIV. Il est formellement convenu entre les deux Hautes Parties Contractantes que, indépendamment des stipulations qui précèdent, les Agents Diplomatiques et Consulaires, les citoyens de toute classe, les navires et marchandises de l'un des deux Etats jouiront, de plein droit, dans l'autre, des franchises, priviléges et immunités quelconques consentis ou à consentir en faveur de la nation la plus favorisée; et ce, gratuitement, si la concession est gratuite, ou avec la même compensation, si la concession est conditionnelle.

XXXV. Sa Majesté l'Empereur des Français et la République de Nicaragua, désirant rendre aussi durables et solides que les circonstances le permettront les relations qui s'établiront entre les deux puissances en vertu du présent Traité d'Amitié, de Navigation et de Commerce, ont déclaré solennellement convenir des points suivants:

Annex 15

Great Britain-Nicaragua, Treaty of Friendship, Commerce and Navigation (Lennox Wyke-Zeledon), Managua, Preamble and Articles IV, V, VII, XI, XVII, XVIII, XXIII and XXVI, 11 February 1860

Source: 121 CTS 364

Treaty of Friendship, Commerce and Navigation between Great Britain and Nicaragua, signed at Managua, 11 February 1860

THIS Treaty, which was denounced by Nicaragua with effect from 11 June 1868, is reproduced from *British and Foreign State Papers*, vol. L, p. 106, being printed also in *Parliamentary Papers, 1860*, vol. LXVIII, p. 557; *Hertslet's Commercial Treaties*, vol. XI, p. 451; and by Martens, *Nouveau Recueil Général*, vol. XVI(2), p. 380.

ENGLISH / SPANISH TEXTS

[Ratifications exchanged at London, August 2, 1860.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to maintain and improve the relations of good understanding which happily subsist between them, and to promote the commercial intercourse between their respective subjects and citizens, have deemed it expedient to conclude a Treaty of Friendship, Commerce, and Navigation, and have for that purpose named as their respective Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esquire, Companion of the Most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a Special Mission to the Republics of Central America;

And his Excellency the Pre-

SU Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, y la República de Nicaragua, deseosas de mantener y mejorar las relaciones de buena inteligencia que felizmente existen entre ellas, y de promover el comercio entre sus respectivos subditos y ciudadanos, han juzgado conveniente concluir un Tratado de Amistad, Comercio, y Navegacion, y con ese objeto nombrado como sus Plenipotenciarios, á saber:

Su Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, al Caballero Charles Lennox Wyke, Socio distinguido de la muy Honorable Orden del Baño, Enviado Extraordinario y Ministro Plenipotenciario de Su Magestad Británica, en Mision Especial á las Repúblicas de Centro-America;

Y su Excelencia el Presidente

IV. The Contracting Parties likewise agree, that whatever kind of produce, manufacture, or merchandize can be, from time to time, lawfully imported into the British dominions in British vessels, may also be imported in vessels of the Republic of Nicaragua; and that no higher or other duties upon the vessel or upon her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and in like manner, that whatever kind of produce, manufacture, or merchandize can be from time to time lawfully imported into the Republic of Nicaragua in its own vessels, may be also imported in British vessels; and that no higher or other duties upon the vessel or upon her cargo shall be levied or collected, whether the importation be made in vessels of the one country or of the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and that the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in British vessels, or in vessels of the Republic of Nicaragua.

V. No higher or other duties shall be imposed on the importation into the British dominions of any article the growth, pro-

IV. Las Partes Contratantes convienen asimismo, en que cualquier clase de producto, manufactura, ó mercancia, que pueda ser de vez en cuando legalmente importada á los dominios Británicos en buques Británicos, pueda tambien ser importada en buques de la República de Nicaragua; y que no se impondrán ni exigirán otros ó mas crecidos derechos sobre el buque o sobre su carga, bien se haga la importacion en buques del un pais ó del otro; y de la misma manera, que cualquiera clase de producto, manufactura, ó mercancia que de vez en cuando pueda ser legalmente importada á la República de Nicaragua en sus propios buques, pueda tambien ser importada en buques Británicos; y que no se impondrán ni exigirán otros ó mas crecidos derechos sobre el buque ó sobre su carga, ora se haga la importacion en buques del un pais ó del otro.

Y ademas convienen en que cualquiera cosa que pueda ser legalmente exportada ó reexportada del un pais en sus propios buques, á cualquier pais extrangero, de la misma manera pueda ser exportada ó reexportada en buques del otro pais; y que se concederán y exigirán los mismos premios, impuestos, y rebajas, ya se haga la exportacion ó re-exportacion en buques Británicos ó en buques de la República de Nicaragua.

V. No se impondràn otros ó mas crecidos derechos á la importacion á los dominios Británicos, de cualquier artículo de vegeta-

duce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the Republic of Nicaragua of any article the growth, produce, or manufacture of the British dominions, than are or shall be payable on the same or the like article being the produce or manufacture of any other country. Nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any article to the territories of the other, than such as are payable on the exportation of the same or the like article to any foreign country.

No prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the territories of either of the two Contracting Parties into the territories of the other, which shall not equally extend to the importation of the same or the like article being the growth, produce, or manufacture of any other country: nor shall any prohibition be imposed on the exportation of any article from the territories of ither of the two Contracting Parties to the territories of the other, which shall not equally extend to the exportation of the same or the like article to the territories of all other nations.

VI. No duties of tonnage, harbour, pilotage, lighthouse,

cion, producto, ó manufactura de la República de Nicaragua, ni se impondrán otros ó mas crecidos derechos á la importacion á la República de Nicaragua, de cualquier artículo de vegetacion, producto, ó manufactura de los dominios Británicos, que los que se pagan ó se pagaren en lo sucesivo por el mismo articulo ú otro semejante, del producto ó manufactura de cualquier otro pais extrangero. Ni se impondrán otros ó mas crecidos derechos ó cargas, en ninguno de los dos paises, á la exportacion de cualquier articulo á los territorios del otro, que aquellos que se paguen por la exportacion del mismo articulo ú otro semejante á cualquier otro pais extrangero. No se impondrá prohibicion alguna á la importacion á los territorios de una de las dos Partes Contratantes de cualquier articulo de vegetacion, producto, ó manufactura de los territorios de la otra Parte Contratante, que no se extienda igualmente á la importacion del mismo articulo ú otro semejante, de vegetacion, producto, ó manufactura de cualquier otro pais: ni se impondrá prohibicion alguna á la exportacion de cualquier articulo que se haga de los territorios de cualquiera de las dos Partes Contratantes á los territorios de la otra, la cual no se extienda igualmente á la exportacion del mismo articulo ú otro semejante á los territorios de todas las otras naciones.

VI. Ningunos derechos de tonelage, portazgo, pilotage, faro,

quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, levied in the name or for the profit of the Government, public functionaries, corporations, or establishments of whatever kind, shall be imposed in the ports of either country upon the vessels of the other country, which shall not be equally imposed in the like cases upon national vessels.

VII. In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the preceding Articles are, to their full extent, applicable to British vessels and their cargoes arriving in the ports of Nicaragua, and reciprocally to the vessels of the said Republic and their cargoes arriving in British ports, whether they proceed from the ports of the country to which they respectively belong, or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on the said vessels or upon their cargoes, whether such cargoes shall consist of native or of foreign produce or manufacture.

VIII. All vessels which, according to the laws of Great Britain, are to be deemed British vessels, and all vessels which, according to the laws of the Republic of Nicaragua, are to be deemed vessels of that Republic, shall, for the purposes of this Treaty, be deemed British

cuarentena, ù otros semejantes ó correspondientes, de cualquier naturaleza, ó bajo cualquier denominacion, exigidos en nombre ó en beneficio del Gobierno, funcionarios públicos, corporaciones ó establecimientos de cualquiera clase, serán impuestos en los puertos del uno y del otro pais á los buques del otro, que no sean igualmente impuestos en casos semejantes á los buques nacionales.

VII. A fin de evitar la posibilidad de una mala inteligencia, se declara por el presente que las estipulaciones contenidas en los anteriores Articulos son aplicables, en su mas plena extension, á los buques Británicos y sus cargas que arriben á los puertos de Nicaragua, y reciprocamente á los buques de dicha República y sus cargas que arriben á los puertos Británcos, ya procedan de los puertos del pais á que respectivamente pertenecen, ó de los puertos de cualquier otro pais extrangero; y en uno y otro caso, no se impondrán ni exigirán derechos especiales en los puertos de uno y otro pais, sobre dichos buques ó sobre sus cargas, bien sea que esas cargas consistan en productos ó manufacturas naturales ó extrangeras.

VIII. Todos los buques que, conforme á las leyes de la Gran Bretaña, deben ser reputados buques Británicos, y todos los buques que, conforme á las leyes de la República de Nicaragua, deben ser reputados buques de la República, para los fines de este Tratado serán repu-

vessels and vessels of Nicaragua respectively.

IX. It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other subjects or citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandize, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as subjects or citizens of the country in which they reside or are conducting their business, and to be subject to the laws of that country.

X. Whenever the citizens of either of the Contracting Parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, and all favour and protection shall be given to them for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

XI. If any ship of war or merchant-vessel of either of the High Contracting Parties should be wrecked on the coasts of the

tados buques Británicos y buques de Nicaragua respectivamente.

IX. Se conviene además en que todos los comerciantes, comandantes de buques y otros súbditos y ciudadanos de ambos paises, tendrán entera libertad de manejar sus propios negocios, por si ó por medio de agentes, en todos los puertos y lugares sujetos á la jurisdiccion de uno ú otro, asi con respecto á la consignacion y venta de sus géneros y mercancias, por mayor ó menor, como á la carga, descarga, y despacho de sus buques; en todos estos casos deberán ser tratados como súbditos ó ciudadanos del pais en que residen ó conducen sus negocios, y estarán sujetos á las leyes del mismo pais.

X. En cualquier tiempo que los ciudadanos de cualquiera de las Partes Contratantes sean forzados á buscar refugio ó asilo en las riveras, bahias, puertos, ó dominios de la otra, con sus buques, mercantes ó de guerra, públicos ó particulares, por causa de temporal, persecucion de piratas ó enemigos, ó por falta de provisiones ó agua, serán recibidos y tratados con humanidad, y les serán dispensados todo favor y proteccion para reparar sus buques, procurar provisiones, y ponerse en situacion de continuar su viage, sin obstaculo ni impedimiento de ninguna clase.

XI. Si se arruinase algun buque de guerra ó mercante de cualquiera de las altas Partes Contratantes en las costas de la

other, such ship or vessel, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored to the owners, upon being claimed by them or by their duly authorized agents; and if there are no such owners or agents on the spot, then the said ships or parts of ships, furniture, appurtenances, goods, and merchandize, or the proceeds thereof, if sold, as well as all the papers found on board such wrecked ship or vessel, shall be delivered to the British Consul or Vice-Consul, or to the Consul or Vice-Consul of the Republic of Nicaragua, in whose district the wreck may have taken place, upon being claimed by him, and on his giving a receipt or acknowledgment for the same; and upon payment by such Consul, Vice-Consul, owners, or agents, of only the expenses incurred in the preservation of the property, and of the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel. The charge for such salvage or other expenses shall be made and settled immediately, subject to such right of appeal on the part of the person paying the same as may exist in the respective countries. The goods and merchandize saved from the wreck shall not be subject to duties, unless cleared for consumption; in which case they shall be liable

otra, dichos buques, ó cualquiera parte de ellos, y todo mueble y adjunto que les pertenezcan, y todos los generos y mercancias que se salvaren, ó sus valores, si se vendiesen, serán fielmente restituidos á los propietarios, cuando sean reclamados por ellos ó por sus agentes debidamente autorizados; y si no hubiese tales propietarios ó agentes en el lugar, dichos buques ó partes de ellos, muebles, adjuntos, géneros y mercancias, ó sus valores, si se vendiesen, asi como todos los papeles encontrados abordo de los buques arruinados, serán entregados al Cónsul ó Vice-Cónsul Británico, ó al Cónsul ó Vice-Cónsul de la República de Nicaragua, en cuyo distrito haya acontecido la ruina, cuando los reclamen y den de ello recibo ó constancia; y cuando el Cónsul, Vice-Cónsul, propietarios ó agentes paguen las solas expensas hechas en la preservacion de la propiedad, y las expensas de salvamento ú otras que se habrian pagado en caso semejante de ruina de un buque nacional. El cargo ú otras expensas por un salvamento de esta naturaleza se hará y arreglará immediatamente, quedando sujeto al derecho de apelacion en favor de la persona que haya de pagar, en la forma que exista en los respectivos paises. Los géneros y mercancias que se salven de la ruina no pagarán derecho, sino en el caso de que hubiesen sido destinados para consumo; mas entonces solo pagarán aquellos que habrian pagado si hubiesen

only to the same duties as if they had been imported in a national vessel.

XII. The subjects and citizens of either of the two Contracting Parties in the territories of the other shall be at full liberty to acquire, possess, and dispose of, whether by purchase, sale, donation, exchange, marriage, testament, succession *ab intestato*, or in any other manner whatever, every description of property which the laws of the country may permit any foreigners, of whatsoever nation, to hold. Their heirs and representatives may succeed to and take possession of such property, either in person or by agents acting on their behalf, in the ordinary form of law, in the same manner as subjects or citizens of the country; and in the absence of such heirs and representatives, the property shall be treated in the same manner as the like property belonging to a subject or citizen of the country under similar circumstances.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge, than is payable by subjects or citizens of the country. In every case the subjects and citizens of the Contracting Parties shall be permitted to export their property, or the proceeds thereof; British subjects from the territory of Nicaragua, and Nicaraguan citizens from the British territory, freely, and without being subject on such exportation to pay any

sido importados en buque nacional.

XII. Los subditos y ciudadanos de cualquiera de las dos Partes Contratantes, en los territorios de la otra, tendrán plena libertad de adquirir, poseer, y disponer, por compra, venta, donacion, cambio, casamiento, testamento, sucesion *ab intestato*, ó de otra manera cualquiera, toda clase de propiedad que las leyes del pais permitan tener á los extrangeros de cualquier nacionalidad. Sus herederos y representantes pueden suceder, y tomar posesion de la propiedad por si ó por medio de agentes que obren en su nombre, en la forma ordinaria de ley, de la misma manera que los súbditos ó ciudadanos del pais; y en ausencia de herederos y representantes, la propiedad será tratada de la misma manera que propiedad semejante perteneciente á un súbdito ó ciudadano del pais, bajo iguales circunstancias.

En ninguno de estos pagarán ellos sobre el valor de la propiedad otros ó mas crecidos derechos, impuestos, ó cargas, que los que pagan los súbditos ó ciudadanos del pais. En todo caso, á los subditos y ciudadanos de las Partes Contratantes, les será permitido exportar su propiedad ó los productos de ella: á los súbditos Británicos de los territorios de Nicaragua, y á los ciudadanos Nicaragüenses de los territorios Británicos, libremente y sin estar sujetos por la expor-

service any such deserters, upon being required by the other Party to do so.

And it is further agreed, that if any of the crew of any merchant-vessel of either Contracting Party shall desert from such vessel within any port in the territory of the other Party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application to that effect being made by the Consul of the Party concerned, or by the deputy or representative of the Consul: and any person knowingly protecting or harbouring such deserters shall be liable to punishment.

XVII. British subjects residing in the territories of the Republic of Nicaragua shall enjoy the most perfect and entire liberty of conscience, without being annoyed, molested, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to Divine worship, and the respect due to the laws of the country. Liberty shall also be granted to bury British subjects who may die in the territories of the Republic of Nicaragua, in convenient and adequate places, to be appointed and established by themselves for that purpose, with

servicios á los desertores, cuando sea requerida por la otra para hacerlo asi.

Y ademas es entendido que si algun individuo de la tripulacion de algun buque mercante de cualquiera de las Partes Contratantes desertase de dicho buque en puerto del territorio de la otra Parte, las autoridades del puerto y territorio serán obligadas á dar toda la asistencia que esté en su poder para la captura del desertor, cuando el Cónsul ó Vice-Cónsul, ó el diputado ó representante del Cónsul de la Parte interesada, las haga peticion á ese fin: y cualquiera persona que á sabiendas proteja ó resguarde á esa clase de desertores, será sujeta á castigo.

XVII. Los súbditos Británicos residentes en los territorios de la República de Nicaragua, disfrutarán de la mas perfecta y completa libertad de conciencia, sin ser incomodados, molestados, ó perturbados por razon de su creencia religiosa. No se les incomodará, molestará, ó perturbará en el legitimo ejercicio de su religion en casas particulares, ó en las capillas ó lugares de adoracion designados con ese objeto, con tal que al hacerlo observen el decoro debido al culto Divino, y el respeto á las leyes del pais. Tambien será permitido enterrar á los súbditos Británicos que mueran en los territorios de la República de Nicaragua, en lugares convenientes y adecuados, que, con ese fin, deben ser señalados y establecidos por ellos mismos, con conocimiento de las

the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in any wise or upon any account.

In like manner, the citizens of Nicaragua shall enjoy within the dominions of Her Britannic Majesty a perfect and unrestrained liberty of conscience, and of exercising their religion within private houses, or in the chapels or places of worship appointed for that purpose, agreeably to the laws of those dominions.

XVIII. For the better security of commerce between the subjects and citizens of the two High Contracting Parties, it is agreed that if at any time any rupture, or any interruption of friendly intercourse, should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of them, established in the territories of the other, who may reside upon the coasts, shall be allowed 6 months, and those who may reside in the interior a whole year, to wind up their accounts and to dispose of their property; and a safe-conduct shall be given to them to embark at the port which they themselves shall select. The subjects or citizens of either of the two Contracting Parties who may be established in the dominions or territories of the other, in the exercise of any trade or other occupation or employment, shall be allowed to

autoridades locales, ó en los otros lugares de sepultura que elijan los amigos del finado; ni se perturbarán los funerales ó sepulcros de los muertos, en ningun modo ni por ningun motivo.

Asimismo los ciudadanos Nicaragüenses disfrutarán en los dominios de Su Magestad Británica de perfecta é ilimitada libertad de conciencia, y de ejercer su religion en casas particulares, ó en las capillas ó lugares de culto designados con ese fin, conforme á las leyes de aquellos dominios.

XVIII. Para la mayor seguridad del comercio entre los súbditos y ciudadanos de las dos Altas Partes Contratantes, se conviene en que si en algun tiempo ocurriese por desgracia alguna ruptura ó interrupcion de relaciones amistosas entre las dos Partes Contratantes, á los súbditos ó ciudadanos de cada una, establecidos en los territorios de la otra, que residan en las costas, se les concederán 6 meses, y á los que residan en el interior, un año entero, para arreglar sus cuentas y disponer de su propiedad; y se les dará un salvo conducto para embarcarse en el puerto que ellos mismos elijan. Los subditos ó ciudadanos de cualquiera de las dos Partes Contratantes que esten establecidos en los dominios ó territorios de la otra, ocupados en el comercio ú otra ocupacion ó empleo, tendrán permiso de quedarse y continuar en ejercicio de

remain and continue in the exercise of the said trade or occupation, notwithstanding the interruption of friendship between the two countries, in the free enjoyment of their personal liberty and property, so long as they behave peaceably and observe the laws; and their goods and effects, of whatever description they may be, whether in their own custody or entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property belonging to native subjects or citizens. In the same case, debts between individuals, public funds, and the shares of Companies, shall never be confiscated, sequestered, or detained.

XIX. It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other Party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls such particular places as either of them may judge fit to be excepted.

The Diplomatic Agents and Consuls of each of the two High Contracting Parties in the dominions or territories of the other, shall enjoy whatever privileges, exemptions, and immunities are

dicho comercio ú ocupacion, sin embargo de la interupcion de amistad entre los dos paises, en libre goce de su libertad personal y de su propiedad, en tanto que se conduzcan pacificamente y observen las leyes; y sus géneros y efectos, de cualquiera descripcion que sean, ya esten en su propia custodia ó confiados á individuos ó al Estado, no estarán sujetos á embargo ó secuestro, ni á otras cargas ó demandas que aquellas que se hagan sobre efectos ó propiedades semejantes, pertenecientes á súbditos ó ciudadanos naturales. En el mismo caso, la deudas entre individuos, fondos públicos, y las acciones de Compañias, jamas se confiscarán, secuestrarán, ni detendrán.

XIX. Cada una de las Partes Contratantes podrá nombrar Cónsules para la proteccion del comercio, que residan en los dominios ó territorios de la otra Parte; pero antes de que algun Cónsul obre como tal, deberá ser aprobado y admitodo en la forma usual, por el Gobierno á que es enviado; y cada una de las Partes Contratantes puede exceptuar de la residencia de Cónsules los lugares particulares que juzgue conveniente exceptuar.

Los Agentes Diplomáticos y los Cónsules de las dos Partes Contratantes, en los dominios y territorios de la otra, gozarán de todos los privilegios, exenciones, é inmunidades que esten con-

will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty may, with the consent or at the request of the Government of Nicaragua, or of the Minister thereof at London or Paris, or of the competent legally-appointed local authorities, civil or military, employ such force for this and for no other purpose; and when, in the opinion of the Nicaraguan Government, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or properties of British subjects, Her Majesty's forces are authorized to act for their protection without such previous consent having been obtained.

XXIII. It is understood, however, that Her Britannic Majesty, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intends that the protection and guarantee are granted conditionally, and may be withdrawn if Her Britannic Majesty should deem that the persons or Company undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Treaty, either by making unfair discriminations in favour of the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails,

rutas, empleará la fuerza que se requiera para ese objeto; pero si dejase de hacerlo por cualquier causa, Su Magestad Británica puede, con consentimiento ó á solicitud del Gobierno de Nicaragua ó de su Ministro en Lóndres ó Paris, ó de las competentes autoridades locales, civiles ó militares, legalmente designadas, emplear dicha fuerza con este y no con otro objeto; y cuando la necesidad cese, á juicio del Gobierno de Nicaragua, dicha fuerza sera inmediatamente retirada.

Sin embargo, en el caso excepcional de imprevisto ó inminente peligro de la vida ó propiedades de subditos Británicos, las fuerzas de Su Magestad están autorizadas para darles su proteccion, sin haber obtenido el previo consentimiento.

XXIII. Pero queda entendido que Su Magestad Británica, al acordar proteccion á las rutas de comunicacion, y garantizar su neutralidad y seguridad, siempre intenta que la proteccion y garantia sean concedidas condicionalmente, y que pueden ser retiradas si Su Magestad Británica entendiese que las personas ó compañia que las emprenden ó manejan, adoptan ó establecen regulaciones concernientes al trafico que sean contrarias al espiritu é intencion de este Tratado, ya haciendo injustas distinciones en favor del comercio de cualquiera nacion ó naciones, ó imponiendo opresivas exacciones ó irrazonables derechos sobre las malas, pasageros,

passengers, vessels, goods, wares, merchandize, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by Her Britannic Majesty without first giving 6 months' notice to the Republic of Nicaragua.

XXIV. And it is further understood and agreed that, in any grant or contract which may hereafter be made or entered into by the Government of Nicaragua, having reference to the interoceanic routes above referred to, or any of them, the rights and privileges granted by this Convention to Her Britannic Majesty and to British subjects shall be fully protected and reserved; and if any such grant or contract now exist of a valid character, it is further understood that the guarantee and protection of Her Britannic Majesty stipulated in Article XXI of this Treaty shall be held inoperative and void, until the holders of such grant or contract shall recognize the concessions made in this Treaty to Her Britannic Majesty and to British subjects with respect to such interoceanic routes, or any of them, and shall agree to observe, and be governed by, those concessions as fully as if they had been embraced in their original grant or contract; after which recognition and agreement, the said guarantee and protection shall be in full force: provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said

buques, géneros, efectos, mercancias, ú otros articulos. Mas la predicha proteccion y garantia no serán retiradas por Su Magestad Británica sin dar noticia al Gobierno de Nicaragua con 6 meses de anticipacion.

XXIV. Y además queda entendido y convenido, que en cualquier concesion ó contrato que en lo de adelante haga ó concluya el Gobierno de Nicaragua, relativos á las rutas interoceanicas arriba dichas, ó á alguna de ellas, serán plenamente protegidos y reservados los derechos y privilegios concedidos por esta Convencion á Su Magestad Británica y á los súbditos Británicos; y queda asimismo entendido, que si existiese ahora alguna concesion o contrato de esta naturaleza y de caracter valido, la garantia y proteccion de Su Magestad Británica, estipuladas en el Articulo XXI de este Tratado, se considerarán sin fuerza y nulas, hasta que los tenedores de dicha concesion ó contrato reconozcan las concesiones hechas en este Tratado á Su Magestad Británica y á los súbditos Británicos con respecto á las rutas interoceanicas ó á cualquiera de ellas, y convengan en observar y ser guiados por estas concesiones tan de lleno como si las abrazara su concesion ó contrato original; despues de cuyo reconocimiento y convenio, dichas proteccion y garantia estarán en plena fuerza: bien entendido que nada de lo contenido en el presente podrá in-

contracts.

XXV. After 10 years from the completion of a canal, railroad, or any other route of communication, through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no Company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than 15 per cent. per annum, or at that rate, to its stockholders, from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of 15 per cent. per annum.

XXVI. It is understood that nothing contained in this Treaty shall be construed to affect the claim of the Government and citizens of the Republic of Costa Rica to a free passage, by the San Juan river, for their persons and property, to and from the ocean.

XXVII. The present Treaty shall remain in force for the term of 20 years from the day of the exchange of ratifications; and if neither Party shall notify to the other its intention of terminating the same, 12 months before the expiration of the 20 years stipulated above, the said Treaty shall continue binding on both parties beyond the said 20 years, until 12 months from the time that one of the Parties may notify to

terpretarse como que afirma ó niega la validez de alguno de dichos contratos.

XXV. Despues de 10 años de la conclusion de un canal, ferro-carril, ó cualquiera otra via de comunicacion, del Oceano Atlantico al Pacifico, á traves del territorio de Nicaragua, ninguna Compañia que haya construido dicha via, ó que esté en posesion de ella, podrá nunca dividir á sus accionistas, pago de dividendos, directa ó indirectamente, por emision de nuevas acciones, ó de otro modo, mas de un 15 por ciento anual, ó en aquella proporcion, por impuestos colectados en aquella via; pero cuando se descubra que estos impuestos renden una utilidad mayor que esta, se reducirán á la regla fija de 15 por ciento anual.

XXVI. Queda entendido que nada de lo contenido en este Tratado deberá entenderse que afecta el reclamo del Gobierno y ciudadanos de la República de Costa Rica de un libre pasage de sus personas y propiedades por el Rio San Juan del oceano y para el oceano.

XXVII. El presente Tratado permanecerá en fuerza por el termino de 20 años desde el dia del cange de las ratificaciones; y si ninguna de la dos Partes notificase á la otra su intencion de terminarle, 12 meses antes de la expiracion de dichos 20 años, el Tratado continuará obligando á ambas Partes mas allá de los referidos 20 años, hasta 12 meses despues del tiempo en que una de las Partes notifique á la otra

Annex 16

Nicaragua-Central American Transit Company Inter-Oceanic Transit Contract (Molina-Morris), Washington, Articles VII, XIX and XXI, 10 November 1863.

Source: NCM Annex 18

English translation by Costa Rica

TRANSLATION

Nicaragua-Central American Transit Company Inter-Oceanic Transit Contract (Molina-Morris), Washington, 10 November 1863

...

Article VII: "...being said exclusive privilege of navigation expressly limited to the purposes of the sole inter-oceanic transit route granted hereunder..."

...

Article XIX: "The Government guarantees the Company that in the execution of the works that it herewith accepts, which works are one of the main purposes of this contract..."

...

Article XXI: "The Government disembarks and returns to the Company the road, stations, docks, steamers, the rest of the steamers and the other objects and property that the said Company..."

...

Annex 17

United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Ayon-Dickinson), Managua, Preamble, Articles II, VI, VII, VIII, IX, XV, XVI and XVII, 21 June 1867

Source: GP Sanger, *The Statutes at Large, Treaties and Proclamations of the United States of America from December 1867, to March 1869, Vol XV* (Boston: Little, Brown, and Co., 1869), pp. 549-562

BY AUTHORITY OF CONGRESS.

THE

Statutes at Large, Treaties,

AND

PROCLAMATIONS,

OF THE

UNITED STATES OF AMERICA.

FROM

DECEMBER 1867, TO MARCH 1869.

Arranged in Chronological Order and carefully collated with the Originals at Washington.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS ON THE SAME SUBJECT.

EDITED BY

GEORGE P. SANGER,

COUNSELLOR AT LAW.

VOL. XV.

BOSTON:
LITTLE, BROWN, AND COMPANY.
1869.

Treaty between the United States of America and the Republic of Nicaragua; Concluded June 21, 1867; *Ratified June* 20, 1868; *Proclaimed August* 13, 1868.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA: June 21, 1867.

A PROCLAMATION.

WHEREAS a treaty of friendship, commerce, and navigation, between the United States of America and the republic of Nicaragua, was concluded and signed by their respective plenipotentiaries, at the city of Managua, on the twenty-first day of June, in the year of our Lord one thousand eight hundred and sixty-seven, which treaty, being in the English and Spanish languages, is word for word as follows: — Preamble.

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA.

The United States of America and the republic of Nicaragua desiring to maintain and to improve the good understanding and the friendly relations which now happily exist between them, to promote the commerce of their citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific oceans, by the river San Juan, and either or both the lakes of Nicaragua and Managua, or by any other route through the territories of Nicaragua, have agreed for this purpose to conclude a treaty of friendship, commerce and navigation, and have accordingly named as their respective plenipotentiaries, that is to say: the President of the United States, Andrew B. Dickinson, minister resident and extraordinary to Nicaragua, and his excellency the President of the republic of Nicaragua, Señor Licenciado Don Tomas Ayon, minister of foreign relations, who, after communicating to each other their full powers, found in due and proper form, have agreed upon the following articles:

ARTICLE I.

There shall be perpetual amity between the United States and their

TRATADO DE AMISTAD, COMERCIO Y NAVEGACION ENTRE LA REPUBLICA DE NICARAGUA Y LOS ESTADOS UNIDOS DE NORTE AMÉRICA.

La republica de Nicaragua y los Estados Unidos de America, deseando conservar y mejorar la buena inteligencia y amigables relaciones que ahora felismente existen entre ellos, promover el comercio de sus ciudadanos y hacer algunos arreglos reciprocos respecto de la comunicacion entre los oceanos Atlantico y Pacifico por el Rio San Juan, y cada uno ó ambos, los Lagos de Nicaragua ó de Managua, ó por cualquiera otra ruta al traves del territorio de Nicaragua; con tal objecto han convenido en concluir un tratado de amistad, comercio y navegacion, y en consecuencia han nombrado como sus respectivos plenipotenciarios, á saber: Su Excelencia el Presidente de la republica de Nicaragua al Señor Licenciado Don Tomas Ayon, ministro de relaciones esteriores, y el Presidente de los Estados Unidos, al Señor Andrew B. Dickinson, ministro residente y estraordinario en Nicaragua, quienes, despues de haberse comunicado reciprocamente sus plenos poderes, encontrados en propia y debida forma, han conveido en los articulos siguientes: Contracting parties.

ARTICULO 1.

Habrá amistad perpetua entre la republica de Nicaragua y sus ciuda- Peace and friendship.

citizens on the one part, and the government of the republic of Nicaragua and its citizens of the other.

danos por una parte, y los Estados Unidos y sus ciudadanos por la otra.

ARTICLE II.

Freedom of commerce.

There shall be between all the territories of the United States and the territories of the republic of Nicaragua a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty freely and securely to come with their ships and cargoes to all places, ports, and rivers in the territories aforesaid to which other foreigners are or may be permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively. In like manner the respective ships of war and post-office packets of the two countries shall have liberty freely and securely to come to all harbors, rivers, and places to which other foreign ships of war and packets are or may be permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

Coasting trade.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood; in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICULO 2.

Habrá reciproca libertad de comercio entre todos los territorios de la republica de Nicaragua y los territorios de los Estados Unidos. Los ciudadanos de los dos paises, respectivamente, tendrán plena libertad de llegar franca y seguramente con sus buques y cargamentos á todos los lugares, puertos y rios en los terriotorios mencionados, á los cuales se permita ó se permitiere llegar á otros extrangeros, de entrar en los mismos, y permanecer y residir en cualquier parte de ellos, respectivamente; asi como de alquilar y ocupar casas y almacenes para los objetos de su comercio; y en general los comerciantes y traficantes de cada nacion, respectivamente, gozarán de la mas completa proteccion y seguridad para su comercio, sugetos siempre á las leyes y estatutos de los dos paises, respectivamente. De la misma manera los respectivos buques de guerra y paquetes correos de los dos paises, tendrán libertad de llegar franca y seguramente á todos los puertos, rios y lugares á donde se permita ó se permitiere la llegada de otros buques de guerra y paquetes extrangeros; de entrar en los mismos, anclar, permanecer en ellos, y reequiparse, sugetos siempre á las leyes y estatutos de los dos paises, respectivamente.

En el derecho de entrar en los lugares, puertos y rios mencionados, no se comprende el privilegio de hacer el comercio costanero, en el cual solamente pueden emplearse buques nacionales del pais en que se haga dicho comercio.

ARTICLE III.

Rights of most favored nations.

It being the intention of the two high contracting parties to bind themselves by the two preceding articles to treat each other on the footing of the most favored nations, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of com-

ARTICULO 3.

Siendo la intencion de las dos altas partes contratantes obligarse por los articulos presentes á tratarse mutuamente bajo el pie que á la nacion mas favorecida, convienen por el presente, en que cualquier favor, privilegio ó inmunidad en materia de comercio y navegacion que una

salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels, nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

de practicos, salvamento en caso de averia ó naufragio, ó impuestos locales de cualquiera clase en ninguno de los puertos de Nicaragua sobre los buques de los Estados Unidos que los que de ban pagarse por los buques de Nicaragua, que los que deban pagarse en los mismos puertos sobre buques de los Estados Unidos.

ARTICLE VI.

Duties on imports the same in vessels of either country.

The same duties shall be paid on the importation into the territories of the republic of Nicaragua of any article being the growth, produce, or manufacture of the territories of the United States, whether such importation shall be made in Nicaraguan vessels or in the vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the republic of Nicaragua, whether such importation shall be made in Nicaraguan or United States vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to the republic of Nicaragua of any article being the growth, produce, or manufacture of the territories of the United States, whether such exportation shall be made in Nicaraguan or United States vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles being the growth, produce, or manufacture of the republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICULO 6.

Se pagaran los mismos derechos por la importacion á los territorios de la republica de Nicaragua de cualquier articulo que sea fruto, producto natural ó manufacturado de los territorios de los Estados Unidos, yá sea que tal importacion sea hecha en buques de Nicaragua ó en buques de los Estados Unidos, y se pagaran los mismos derechos por la importacion en los territorios de los Estados Unidos, de cualquier articulo que sea fruto, producto natural ó manufacturado de la republica de Nicaragua, ya sea que la importacion sea hecha en buques Nicaragüenses ó en buques de los Estados Unidos. Se pagaran los mismos derechos y se concederan los mismos premios y descuentos por la exportacion á la republica de Nicaragua de cualesquier articulos que sean frutos, productos naturales ó manufacturados de los territorios de los Estados Unidos, ya sea que la exportacion se hága en buques Nicaragüenses ó de los Estados Unidos, y se pagaran los mismos derechos, y se concederan los mismos premios y descuentos por la exportacion de cualesquier articulos que sean frutos, productos naturales ó manufacturados de la republica de Nicaragua ó de los territorios de los Estados Unidos, ya sea que dicha exportacion sea hecha en buques de los Estados Unidos ó de Nicaragua.

ARTICLE VII.

Rights of citizens of each country in the territory of the other.

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the republic of Nicaragua to manage their own

ARTICULO 7.

Todos los comerciantes, capitanes de buques y otros ciudadanos de los Estados Unidos, tendran plena libertad en todos los territorios de la republica de Nicaragua, de manejar

affairs themselves, as permitted by the laws, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into or exported from the republic of Nicaragua as they shall see good, observing the laws and established customs of the country.

Rights of citizens of each country in the territory of the other.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the republic of Nicaragua under the same conditions.

Privileges.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in said countries, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ, in all cases, advocates, attorneys, or agents, of whatsoever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

Protection to persons and property.

sus proprios negocios por si mismos, como se permita por las leyes, ó de encargar el manejo de ellos, á quienquiera que ellos tengan por conveniente, con el caracter de corredor, factor, agente ó interprete, ni se les obligará á emplear ningunas otras personas con aquel caracter que las que sean empleadas por los Nicaragüenses, ni à pagarles otros salarios ó remuneraciones que los que en iguales casos sean pagados por ciudadanos Nicaragüenses; y en todos casos se concedera absoluta libertad al comprador y al vendedor para contratar y fijar el precio de cualesquiera generos, efectos ó mercencias exportadas á ó de la republica de Nicaragua, ó como mejor les paresca, observando las leyes y costumbres establecidas en el pais.

Se gozaran los mismos privilegios en los territorios de los Estados Unidos por los ciudadanos de la republica de Nicaragua, bajo las mismas condiciones.

Los ciudadanos de la altas partes contratantes, reciprocamente, recibiran y gozaran plena y perfecta proteccion para sus personas y propiedades, y tendran libre y franco acceso á los tribunales de justicia en ambos paises, respectivamente, para la prosecucion y defensa de sus justos derechos; y tendran libertad de emplear en todos los casos los abogados, procuradores ó agentes de cualquier clase que les parescan convenientes, y gozaran en este particular de los mismos derechos y privilegios que los ciudadanos naturales.

ARTICLE VIII.

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of merchandise, goods, and effects, the succession to personal estates, by will or otherwise, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties, and rights as native

Rights of citizens of each country in the territory of the other in respect to various matters.

ARTICULO 8.

En todo lo que hace relacion á la policia de los puertos, á la carga y descarga de los buques, á la seguridad de las mercancias, generos y efectos, á la sucesion de bienes muebles por testamento ó de otro modo, y á la disposicion de bienes muebles de toda especie y denominacion, por venta, donacion, cambio, testamento ó de cualquiera otra manera, como tambien á la administracion de justicia, los ciudadanos de las dos altas partes contratantes, gozaran reciprocamente de los mismos privilegios,

citizens; and they shall not be charged in any of these respects with any higher imposts or duties than those which are or may be paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

Real estate.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union, or within the republic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate. But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the State in which it may be situated, there shall be accorded to the said heir, or other successor, such time as the laws of the State will permit to sell such property. He shall be at liberty, at all times, to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which would be paid by an inhabitant of the country in which the real estate may be situated.

Estates of deceased persons.

If any citizen of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul, or other diplomatic agent, of the nation to which the deceased belonged, (or the representative of such minister or consul, or other diplomatic agent, in case of absence,) shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, giving proper notice of such nomination to the authorities of the country.

libertades y derechos que los ciudadanos naturales; y no se les cargaran, en nada de lo que tenga relacion con esto, otros impuestos ó derechos que los que se paguen, ó deban pagarse por los ciudadanos naturales, sometiendose, por supuesto, á las leyes locales y á las regulaciones de cada pais respectivamente.

Las estipulaciones que preceden se haran estensivas á los bienes raices situados dentro de los Estados de la Union Americana ó de la republica de Nicaragua, en que se permita á los extrangeros poseer y heredar fincas raices.

Pero en caso que algunos bienes raices situados dentro de los territorios de una de las partes contratantes, recayesen en un ciudadano de la otra parte, á quien por su calidad de extrangero no le fuere permitido poseer dicha propiedad en el Estado en que pueda estar situada, se le accordará á dicho heredero ú otro sucesor el termino que las leyes del Estado le permita para vender dicha propiedad; podrá en toda epoca retirar y esportar los productos de esta venta, sin dificultad y sin pagar al gobierno ningunos otros impuestos que los que, en casos semejantes, se pagaran por un habitante del pais donde esten situadas las fincas raices.

Si algun ciudadano de las dos altas partes contratantes muriese sin dejar testamento en cualquiera de los territorios de la otra, el ministro ó consul ú otro agente diplomatico de la nacion á la cual pertenecia el difunto, (ó el representante de dicho ministro ó consul ú otro agente diplomatico, en caso de ausencia,) tendrá el derecho de nombrar curadores que se hagan cargo de la propiedad del difunto, hasta donde lo permitan las leyes del pais, en beneficio de los herederos legales y de los acreedores del difunto, dando noticia oportuno de tal nombramiento á las autoridades del pais.

ARTICLE IX.

Intermarriage and holding property not to change national character.

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with

ARTICULO 9.

1. Los ciudadanos de los Estados Unidos que residan en Nicaragua, ó los ciudadanos de Nicaragua que residan en los Estados Unidos, pue-

the natives of the country; hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the republic of Nicaragua, and the citizens of Nicaragua residents in the United States, shall be exempted from all forced or compulsory military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged, in the same manner as the citizens of each nation, to pay lawful taxes, municipal and other modes of imposts, and ordinary charges, loans, and contributions in time of peace, (as the citizens of the country are liable,) in just proportion to the property owned.

3. Nor shall the property of either, of any kind, be taken for any public object without full and just compensation to be paid in advance; and

4. The citizens of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

den casarse con los naturales del pais, poseer y disfrutar, por compra, casamiento ó sucesion, cualesquiera bienes muebles ó raices, sin cambiar por esto su caracter nacional sujetos á las leyes ahora existen ó puedan expedirse á este respecto.

2. Los ciudadanos de los Estados Unidos residentes en la republica de Nicaragua, y los ciudadanos de Nicaragua residentes en los Estados Unidos, seran esceptuados de todo servicio militar, de tierra ó agua, cualquiera que sea, forzado ó compulsorio, de todas contribuciones de guerra, exacciones militares, emprestitos forzosos en tiempo de guerra; pero estaran obligados del mismo modo que los ciudadanos de cada nacion á pagar las contribuciones legales, los impuestos municipales y otros, y las cargas ordinarias, emprestitos y contribuciones en tiempo de paz, del mismo modo á que estan sugetos los ciudadanos del pais, en justa proporcion á la propiedad que posean.

Exemption from compulsory military service and contributions

3. Ni será tomada la propriedad de ninguno de ellos, de cualquiera especie, para ningun objeto publico, sin una previa compensacion plena y justa, y

Property not to be taken unless, &c.

4. Los ciudadanos de cada una de las dos altas partes contratantes tendran el derecho ilimitado de ir á cualquiera parte de los territorios de la otra; y en todos casos gozaran de la misma seguridad que los naturales del pais en que residan, con la condicion de que observen debidamente las leyes y ordenanzas.

Freedom of travel and intercourse.

ARTICLE X.

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party. But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent; and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the

ARTICULO 10.

Cada una de las altas partes contratantes tendra libertad de nombrar consules para la proteccion del comercio que residan en cualquiera de los territorios de la otra parte. Pero antes que algun consul pueda obrar como tal, debera ser admitido y aprobado en la forma acostumbrada por el gobierno cerca del cual es enviado; y cada una de las altas partes contratantes puede esceptuar de la residencia de los consules aquellos lugares particulares que juzgue conveniente esceptuar.

Los agentes diplomaticos y los

Consuls.

Recognition.

Residence.

Privileges and immunities.

ARTICLE XIV.

Right of transit between the Atlantic and Pacific oceans.

The republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific oceans through the territory of that republic, on any route of communication, natural or artificial, whether by land or by water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both republics and their respective citizens, the republic of Nicaragua, however, reserving its rights of sovereignty over the same.

ARTICULO 14.

La republica de Nicaragua concede por las presentes á los Estados Unidos y á sus ciudadanos y propiedades el derecho de transito entre los oceanos Atlantico y Pacifico, á traves de los territorios de aquella republica por cualquiera via de comunicacion, natural ó artificial, ya sea por tierra ó por agua que ahora exista ó que pueda existir, ó ser construida en adelante bajo la autoridad de Nicaragua, para que pueda usarse y gozarse de la misma manera y bajo iguales terminos por ambas republicas y sus respectivos ciudadanos; reservandose, sin embargo la republica de Nicaragua su derecho de soberania sobre las mismas.

ARTICLE XV.

Neutrality, &c. of the routes to be guaranteed.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality and innocent use of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

Free port.

And the republic of Nicaragua, on its part, undertakes to establish one free port at each extremity of one of the aforesaid routes of communication between the Atlantic and Pacific oceans. At these ports no tonnage or other duties shall be imposed or levied by the government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended, bona fide, for transit across the said routes of communication, and not for consumption within the republic of Nicaragua. The United States shall also be at liberty, on giving notice to the government or authorities of Nicaragua, to carry troops and munitions of war in their own vessels, or otherwise, to either of said free ports, and shall be entitled to their conveyance between them without obstruction by said government or

No tonnage or other duties.

Conveyance of troops.

ARTICULO 15.

Los Estados Unidos convienen en extender su proteccion á todas aquellos vias de communicacion que se acaban de mencionar, y á garantizar su neutralidad é inocente uso.

Tambien convienen en emplear su influencia con otras naciones para inducirlas á guarantizar igual neutralidad y proteccion. Y la republica de Nicaragua por su parte se compromete á establecer un puerto libre en cada estremidad de una de las rutas de comunicacion antedichas, entre los oceanos Atlantico y Pacifico. En estos puertos no se impondran ó exijiran por el gobierno de Nicaragua, ningunos derechos de tonelage ú otros, sobre los buques de los Estados Unidos, ó sobre efectos ó mercancias pertenecentes á ciudadanos ó subditos de los Estados Unidos, ó sobre los buques ó efectos de cualquier otro pais, destinados *bona fide* para el transito á traves de dichas vias de comunicacion, y no para il consumo dentro de la republica de Nicaragua. Los Estados Unidos tendran tambien libertad dando noticia al gobierno ó autoridades de Nicaragua de llevar tropas y municiones de guerra en sus propios buques ó de otro modo, á cualquiera de dichos puertos libres, y tendran derecho á trasportarlos

authorities, and without any charges or tolls whatever for their transportation on either of said routes: *Provided*, said troops and munitions of war are not intended to be employed against Central American nations friendly to Nicaragua. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons and property of citizens or subjects of the United States, or of any other country, across the said routes of communication, than are or may be imposed on the persons and property of citizens of Nicaragua.

And the republic of Nicaragua concedes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

entre ellos, sin obstaculo por parte de dicho gobierno ó autoridades; y sin que se exijan ningunas cargas ó derechos de pasage cualesquiera que sean, por su trasporte, en ninguna de dichas vias de comunicacion, con tal que dichas tropas y municiones de guerra no se intente emplearles contra naciones Centro-Americanas amigas de Nicaragua. Y no se impondran otros ó mas altos impuestos sobre la conduccion ó transito de las personas y de las propiedades de ciudadanos ó subditos de los Estados Unidos ó de cualquier otro pais al traves de dichas vias de comunicacion, que los que han sido ó sean impuestos sobre las personas y propiedades de ciudadanos de Nicaragua. Y la republica de Nicaragua concede al administrador general de correos de los Estados Unidos, el derecho de celebrar contratos con cualesquiera individuos ó compañias para el trasporte de las malas de los Estados Unidos por dichas vias de comunicacion ó por cualesquiera otras vias al traves del istmo á su discrecion, en balijas cerradas, el contenido de las cuales no sea destinado para distribucion dentro de dicha republica, libres de la imposicion de toda taxa ó derecho por el gobierno de Nicaragua, pero libertad no debe interpretarse en el sentido de permitir á dichos individuos ó compañias en virtud de este derecho de transportar las malas, el llevar tambien pasageros ó carga.

Conveyance of troops.

Tolls.

ARTICLE XVI.

The republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this from any cause whatever, the government of the United States may, with the consent, or at the request of the government of Nicaragua, or of the minister thereof at Washington, or of the competent legally appointed local authorities, civil or military, employ such force for this

ARTICULO 16.

La republica de Nicaragua conviene en que si en cualquier tiempo fuese necesario emplear fuerzas militares para la seguridad y proteccion de las personas y propiedades que pasan sobre cualquiera de las antedichas rutas, empleara la fuerza requerida para tal proposito; pero si dejase de hacerlo por cualquiera causa, el gobierno de los Estados Unidos puede, con el consentimiento, ó á solicitud del gobierno de Nicaragua ó de su ministro en Washington, ó de las competentes autoridades locales, civiles ó militares, legalmente designadas, em-

Protection of persons and property on transit routes.

United States may protect routes by force.

and for no other purpose; and when, in the opinion of the government of Nicaragua, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or property of citizens of the United States, the forces of said republic are authorized to act for their protection without such consent having been previously obtained.

But no duty or power imposed upon or conceded to the United States by the provisions of this article shall be performed or exercised except by authority and in pursuance of laws of Congress hereafter enacted. It being understood that such laws shall not affect the protection and guarantee of the neutrality of the routes of transit, nor the obligation to withdraw the troops which may be disembarked in Nicaragua directly that, in the judgment of the government of the republic, they should no longer be necessary, nor in any manner bring about new obligations on Nicaragua, nor alter her rights in virtue of the present treaty.

plear tal fuerza, para este, y no para otro objeto; y cuando la necesidad cese, á juicio del gobierno de Nicaragua, tal fuerza sera inmediatamente retirada.

En el caso escepcional, sin embargo, de imprevisto ó inminente peligro de la vida ó propiedades de ciudadanos de los Estados Unidos, las fuerzas de dicha republica estan autorizadas para darles su proteccion, sin que tal previo consentimiento haya sido obtenido.

Mas ningun deber ó poder impuesto ó concedido á los Estados Unidos por las estipulaciones de este articulo sera ejecutado ni ejercido, sino es por autorizacion y de conformidad con las leyes del Congreso que en adelante se expidan. Siendo entendido que tales leyes no podran afectar la proteccion y garantia de neutralidad de las rutas de transito, ni el deber de retirar las tropas que desembarquen en Nicaragua, inmediatamente que á juicio del gobierno de esta republica fuesen ya innecesarias, ni en manera alguna producir, nueva obligacion para Nicaragua, ni alterar sus derechos en virtud del presente tratado.

ARTICLE XVII.

Protection by the United States may be withdrawn.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discriminations in favor of the commerce of any country or countries over the commerce of any other country or countries, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise, or other articles. The aforesaid protection and guarantee shall not, however, be

ARTICULO 17.

Se entiende, sin embargo, que los Estados Unidos al acordar proteccion á las referidas vias de comunicacion, y al garantizar su neutralidad y seguridad, siempre tienen la intencion de que la proteccion y garantia sean concedidas condicionalmente, y puedan ser retiradas si los Estados Unidos creyesen que las personas ó la compañia que las emprendan ó manejen, adopten ó establescan tales regulaciones sobre el trafico por ellas que sean contrarias al espiritu y á la intencion de este tratado, ya por que hagan injustas discriminaciones en favor del comercio de cualquiera nacion ó naciones sobre el comercio de cualquiera otra nacion ó naciones, ó por que impongan exacciones opresivas ó impuestos exesivos, sobre las malas, pasageros, mercancias ú otros articulos. Las mencionadas, proteccion y garantia, no seran, sin embargo, retira-

withdrawn by the United States without first giving six months' notice to the republic of Nicaragua.

das por los Estados Unidos sin dar noticia con seis meses de anticipacion á la republica de Nicaragua.

ARTICLE XVIII.

And it is further agreed and understood that in any grants or contracts which may hereafter be made or entered into by the government of Nicaragua, having reference to the inter-oceanic routes above referred to, or either of them, the rights and privileges granted by this treaty to the government and citizens of the United States shall be fully protected and reserved. And if any such grants or contracts now exist, of a valid character, it is further understood that the guarantee and protection of the United States, stipulated in Article XV of this treaty, shall be held inoperative and void until the holders of such grants and contracts shall recognize the concessions made in this treaty to the government and citizens of the United States with respect to such inter-oceanic routes, or either of them, and shall agree to observe and be governed by these concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement said guarantee and protection shall be in full force: provided, that nothing herein contained shall be construed either to affirm or to deny the validity of the said contracts.

ARTICULO 18.

Rights of citizens of the United States to be preserved.

Y es ademas entendido y convenido que en cualesquiera privilegio ó contrato que puedan en lo sucesivo hacerse ó celebrarse por el gobierno de Nicaragua, y que tengan relacion con las rutas inter-oceanicas que se han mencionado, ó con alguna de ellas, seran plenamente protejidos y reservados los derechos y privilegios concedidos por esta convencion al gobierno y á los ciudadanos de los Estados Unidos. Y si al presente existen contratos ó privilegios de un caracter valido, queda tambien entendido que la garantia y proteccion de los Estados Unidos estipuladas en el articulo 15 de este tratado seran nulas y de ningun efecto hasta que los tenedores de tales privilegios ó contratos reconozcan las concessiones hechas en este tratado al gobierno y á las ciudadanos de los Estados Unidos, con respecto á dichas vias interoceanicas, ó á cualquiera de ellas, y convengan en observar y ser guiados por estas concesiones, tan completamente como si estuviesen comprendidas en sus privilegios ó contratos originales; despues de aquel reconocimiento y aceptacion, dichas garantias y proteccion tendran plena fuerza, con tal de que nada de lo contenido aqui sea interpretado como afirmando ó negando la validez de dichos contratos.

ARTICLE XIX.

After ten years from the completion of a railroad, or any other route of communication through the territory of Nicaragua from the Atlantic to the Pacific ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends or otherwise, more than fifteen per cent per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall

ARTICULO 19.

Dividends.

Diez años despues de la conclusion de un ferro carril ó cualquiera otra via de comunicacion á traves del territorio de Nicaragua del oceano Atlantico al Pacifico, ninguna compañia que haya construida ó que este en posesion de dicha via, podra nunca dividir directa ó indirectamente, por medio de emision de nuevas acciones, el pago de dividendos, ó de otro modo, mas de quince por ciento por año, ó en aquella proporcion, á sus accionistas por impuestos colectados en aquella via; pero cuando se descubra que

Annex 18

Costa Rica-Nicaragua, Treaty of Peace and Friendship (Volio-Zelaya), San José, Preamble, 30 July 1868

Sources:

English version: 134 CTS 478-482

Spanish version: JM Bonilla, *Colección de Tratados Internacionales* (Managua: Tipografía Internacional, 1909), pp. 375-382

Treaty of Friendship between Costa Rica and Nicaragua, signed at San José, 30 July 1868

THIS translation is taken from *British and Foreign State Papers*, vol. LXX, p. 258.

ENGLISH TRANSLATION

THE President of the Republic (of Nicaragua) to the inhabitants:

Know that Congress has ordered as follows:—

The Senate and Chamber of Deputies of the Republic of Nicaragua, decree—

1. The Treaty concluded on 30th July, 1868, between Señor Don José María Zelaya, Minister Plenipotentiary of this Republic, and Señor Don Julian Volio, Secretary of State of Costa Rica, duly thereto authorized, is with the modification of Article IV, and the expunction of Article VIII, as effected by the Congress of the aforesaid Republic of Costa Rica, duly ratified, and is as follows:

The Republic of Nicaragua on the one side and the Republic of Costa Rica on the other, animated by the desire to render close and permanent the friendly relations at present existing between them, have resolved to conclude a Treaty to that effect.

For this purpose the President of the Republic of Nicaragua has conferred full powers upon Don José María Zelaya, and the President of the Republic of Costa Rica upon Don Julian Volio, Secretary of State for Foreign Affairs, who after having communicated the said full powers, and after having found them in due and proper form, have agreed upon the ensuing Articles:—

I. There shall be constant peace and sincere and perpetual friendship between the Republic of Nicaragua and the Republic of Costa Rica.

II. Consequently the said Republics shall never in any case make war upon each other. Should any difference arise between them, they shall at first furnish each other the requisite explanations, and if these do not suffice to settle the difficulties and restore a good understanding, they shall resort in any eventuality to the arbitration of the Government of a friendly nation.

III. If, unfortunately, any nation should make war upon Nicaragua or upon Costa Rica, the two High Contracting Parties agree in the most absolute manner not to make an offensive alliance, nor afford any kind of help to the enemies of either of the two Republics. It is, however, declared that this does not prevent them from concluding alliances for the defence of their respective territories, in case they should be invaded.

IV. As the Republics of Nicaragua and Costa Rica cannot

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA

MANAGUA
TIPOGRAFIA INTERNACIONAL—5ª CALLE SUR, NUM. 11
1909

TRATADO

—DE—

PAZ Y AMISTAD

ENTRE

NICARAGUA Y COSTA RICA

ZELAYA ✻ VOLIO

1868

Managua, noviembre 9 de 1869.

Señor Prefecto del departamento de.....

El S. P. E. ha emitido el decreto siguiente:

EL PRESIDENTE DE LA REPUBLICA
A SUS HABITANTES,

SABED:

Que el Congreso ha ordenado lo siguiente:

EL Senado y Cámara de Diputados de la República de Nicaragua,

DECRETAN:

ÚNICO:—Ratifícase, con la modificación del artículo 4º y supresión del 8º, hechas por el Congreso de la República de Costa Rica, el tratado celebrado el día 30 de julio de 1868, entre el señor Licdo. don José María Zelaya, Ministro Plenipotenciario de esta República y el señor Licdo. don Julián Volio, Secretario de Estado de la antedicha de Costa Rica, competentemente autorizados, cuyo tenor es el siguiente:

"La República de Nicaragua, por una parte, y la de Costa Rica por otra, animadas del deseo de estrechar y per-

petuar las relaciones de amistad en que felizmente se encuentran, han resuelto celebrar un Tratado que produzca tales efectos.

Con este objeto, el Presidente de la República de Nicaragua ha conferido plenos poderes al Licdo. don José María Zelaya, y el Presidente de la República de Costa Rica al Licdo. don Julián Volio Secretario de Estado en el Despacho de Relaciones Exteriores.

Quienes después de haberse comunicado dichos poderes y de haberlos hallado en buena y debida forma, han convenido en los artículos siguientes :

Artículo I.

Habrá paz constante y amistad perpetua y sincera entre la República de Nicaragua y la República de Costa Rica.

Artículo II.

De consiguiente, jamás, en ningún caso dichas Repúblicas se harán la guerra. Si hubiese alguna diferencia entre ellas, se darán previamente las explicaciones debidas, y si éstas no alcanzasen á zanjar las dificultades y restablecer la buena inteligencia, ocurrirán en toda eventualidad al arbitramento del Gobierno de una Nación amiga.

Artículo III.

Si por desgracia, alguna Nación hiciese la guerra á Nicaragua ó á Costa Rica, las dos Altas partes contratantes, convienen, de la manera más absoluta, en no hacer alianza ofensiva, ni prestar ninguna clase de auxilios á los enemigos de alguna de las dos Repúblicas ; pero se declara que esto no impide que puedan celebrar alianzas para la defenza de sus respectivos territorios, en caso de ser invadidos.

Artículo IV.

No pudiendo considerarse rigurosamente las Repúblicas de Nicaragua y Costa Rica, como naciones extranjeras, por razón de su común origen, por las conexiones é intereses territoriales, comerciales y políticos que las han ligado y las ligan, se declara y establece que los nicaragüenses avecindados en cualquier punto del territorio de la Re-

Annex 19

Costa Rica-Nicaragua, Treaty for the excavation of an Inter-oceanic Canal (Jiménez-Montealegre) San Jose, Articles IX, XIV, XV, XVI, XIX, XXIII, XXVII and XXVIII, 18 June 1869

Source: NCM Annex 8

English version: (1870-1871) LXI *BFSP* 1144-1151

BRITISH AND FOREIGN

STATE PAPERS.

1870—1871.

VOL. LXI.

COMPILED BY THE LIBRARIAN AND KEEPER OF THE PAPERS,
FOREIGN OFFICE.

London:
WILLIAM RIDGWAY, 169, PICCADILLY.

1877.

dence that your combined action will be wise, statesmanlike, and in the best interests of the whole country.

U. S. GRANT.

TREATY between Costa Rica and Nicaragua, for the Excavation of an Interoceanic Canal.—Signed at San José, June 18, 1869.

[Ratified by the President of Costa Rica, February 21, 1870.]

(Translation.)

THE Republics of Costa Rica and Nicaragua, wishing to have the contract carried out that was made at Paris on the 6th of October, 1868,* between Dom Tomas Ayon, Representative of the Republic of Nicaragua, and M. Michel Chevalier, a French subject, for the excavation of an interoceanic canal, have agreed to conclude a Convention to determine the rights and obligations which are to appertain to Costa Rica for her accession to the said Contract. And for that purpose they have appointed their respective Plenipotentiaries, that is to say: His Excellency the President of the Republic of Costa Rica, Agapito Jimenez, Secretary of State in the Department of Foreign Affairs of this Republic; and

His Excellency the President of the Republic of Nicaragua, Mariano Montealegre, Envoy Extraordinary and Minister Plenipotentiary of Nicaragua in the Republic of Costa Rica, who, after exchanging their full powers, and finding them in good and due form, have agreed upon the following Articles:

ART. I. The Republic of Costa Rica accedes to the Contract made at Paris on the 6th of October, 1868, between the Representative of the Republic of Nicaragua, Señor Dom Tomas Ayon, and M. Michel Chevalier, a French subject, for the excavation of an Interoceanic Canal; and Costa Rica guarantees to the Contractor (Concesionario) on her own territory, and in all that appertains to her, the same advantages as Nicaragua concedes to him, and which are stipulated in the following Articles.

II. The term of the concession shall be 99 years, reckoned from the day of the opening of the canal.

III. The Contractor is to choose the track which according to the investigations of those who understand the matter shall be considered most convenient; but it is declared at once that the canal must pass up the river San Juan to the Lake of Nicaragua, cross the lake, and terminate in the Pacific between the extreme points of Salinas and Realejo.

IV. The Republic of Costa Rica, the same as that of Nicaragua, shall have a right to be represented at the deliberations of the

* See page 1266.

Council of Administration, by a Commissioner who shall have a consultative vote. If on the constitution of the Company Costa Rica should consider it expedient to become a shareholder for the sum of 1,000,000 dollars at least, her Commissioner shall have a deliberative vote. The shares subscribed for by Costa Rican citizens shall form part of the million dollars which give the Commissioner of the Republic the deliberative vote.

V. The Republic of Costa Rica shall receive from the Interoceanic Canal Company a fifth part of the sum which it was to pay to Nicaragua out of its annual profits, according to the stipulation in Article XIII of the contract hereby acceded to.

VI. The necessary lands for the site occupied by the canal, its slopes, rounds, receptacles, causeways, docks, stations, and warehouses, depôts for materials and coals, shall be gratuitously furnished by the State, whether they may have to be obtained from private owners or whether they may belong to the State.

VII. Those lands shall be placed at the disposal of the Company as the works proceed, and according to the requirements for the proper organisation of the construction; so that there may be no delay in the works on this account.

VIII. The same is understood in regard to the lands required for the deposit of the large quantity of refuse that may be produced by the excavation of the canal.

IX. The contractor shall have a right to take from the lands belonging to the State the materials of all kinds, such as timber, stone, lime, puzzolana, earth for filling in, and other things necessary for the construction and maintenance of the canal, without paying any indemnification or tax for them.

With regard to the materials found on private lands, the Company will have to pay for them, but will enjoy in this respect all the immunities and powers which the laws and customs of the country concede to the State when it requires such things.

X. The State grants to the Company the freehold of 4 kilometres of land on each side of the stream of the canal, and this double strip of land will have to be surveyed and marked out by the Company at its own expense, but it is not to be taken possession of until the works have been commenced.

XI. The State grants to the Company besides, a belt of land of the same width of 4 kilometres along the coast of the Lake of Nicaragua from the River San Juan on the north and east to San Miguelito; and on the south and west, that is to say, from the right bank of the river San Juan, to the mouth of the River Sapoá.

XII. It is understood that this grant, as well as that mentioned in Article X, only applies to the lands belonging to the State, and that the latter always retains its right of sovereignty over them; it

likewise reserves the parts or lands which it may think necessary for opening roads. The Republic of Costa Rica may open such roads even in the territory of Nicaragua, and navigate the rivers belonging to that territory, for the purpose of giving an outlet to the canal for the products of its agriculture, industry, and commerce, and for its corresponding importations; and in no case shall Nicaragua put any obstacle in the way of opening such roads, or of the navigation of the said rivers. At the mouth of those rivers Costa Rica shall be at liberty to establish Custom-Houses and bonding warehouses on account of the State, on previous notice to the Government of Nicaragua; but in no case can an armed force be placed there, only the necessary functionaries for the custody and security of the Custom-Houses and bonding warehouses. And, *vice versâ*, the Republic of Nicaragua shall be at liberty to open roads in the territory of Costa Rica, and to navigate its rivers for the purposes of her commerce; and in no case shall Costa Rica put any obstacle in the way of opening such roads, or of the navigation of the said rivers. At the mouth of those rivers Nicaragua shall be at liberty to establish Custom-Houses and bonding warehouses, on account of the State, on previous notice to the Government of Costa Rica; but in on way can she place an armed force there, only the necessary functionaries for the custody and security of her Custom-Houses, and bonding warehouses.

XIII. The mines of coal, of gold, of silver, or of any other metal, which may be found in the lands belonging to the Company, shall belong to it by right, under the conditions, rules and regulations established by the mining laws of the country.

XIV. The contractor may import free of Custom-House duty or any other tax, all articles and things necessary for the use of the undertaking, whether for the survey and exploration of the localities, or for the construction, conservation, reparation or improvement of the canal, or for the operations in the workshops which the Company may keep in activity, such as tools, machinery, apparatus, coal, stone, lime, iron, and other metals in the rough or wrought, mining-powder, or any other similar substance. These articles may be unloaded and deposited at any place where they are required. Brandy and spirituous liquors are excluded from the exemption from duty. The Company can only provide itself with these according to the general laws of the country; but this exclusion does not apply either to wine or beer.

XV. The contractor is prohibited from importing into the territory of the Republic, any merchandise for the purpose of sale or barter, unless he pays the Custom-House duties established by law.

XVI. As for those things of which the importation is prohibited by law, the contractor may bring them in if he considers it necessary

to do so for the works of exploration, of construction, conservation, or improvement of the canal; but in no case can he trade with them.

XVII. The Republic of Costa Rica engages to keep its subjects employed by the Company exempt from all civil and military service; but to have a right to that exemption it will be necessary that they should have been at work for at least a month consecutively beforehand on account of the said Company.

XVIII. The Republic of Costa Rica guarantees the Company and its agents, so far as it can, against all attacks from the exterior and the interior, exclusively of Costa Ricans, for each of the two Republics is responsible for the proceedings of its own subjects. If the Company or its agents should suffer any harm from malefactors, they shall have a right to have them brought to justice in accordance with the laws of the country.

XIX. In case of an invasion or imminent danger thereof the contractor, or the Company, that has taken his place, undertakes to use every effort to induce the Governments that guarantee the free and legitimate use of the canal to send separately or in concurrence, at the request of either of the Governments of Costa Rica and Nicaragua, one or more ships of war to the port where they may be required for the purpose of protecting the persons and property in whose favour the foregoing article has been stipulated; but the said Governments shall have no right to claim from either of the Governments of Costa Rica and Nicaragua, any pecuniary indemnification for that service.

XX. The contractor is authorised to close the River Colorado, if he thinks it necessary, and in general to make such dykes, alterations of course, clearing out, absolute extensions, locks, or any other works in the River San Juan and its affluents and tributaries as well as in its branches and those which issue from it like the Colorado, as may be necessary to maintain the level of water in the canal, to ensure the traffic and to prevent damage from the trees borne down by the current.

XXI. In a general manner the contractor may take and direct towards the canal the waters of the rivers and lakes which are met with on the track, or which may be within reach. The track may traverse the lakes and make use of the bed of the rivers.

XXII. The contractor is invested with all the powers that may be necessary to improve the two ports situated at the extremities of the canal by means of dredges, dykes, piers of any form or material, in accordance with the plans drawn by the engineers of the enterprise. For this purpose the contractor may choose those ports of the Republic which are shown to be preferable by the surveys of the engineers.

XXIII. The contractor may lay down roads, railways for service, and canals of the same nature, for the special purpose of constructing the maritime canal, and for the transport of the necessary materials to the place of the works. He shall not pay any indemnification to the State for the temporary occupation of the lands belonging to it, and over which the said roads, canals, and railways pass. In case those lands belong to private persons, the Company shall enjoy, for the temporary occupation, all those facilities which the constitution and the laws of the Republic accord to the Government on previous declaration of public utility and previous indemnification.

XXIV. Perpetual exemption is granted to the contractor from the imposts on immovables and from all direct taxes for the property of the canal itself, and the buildings and constructions appertaining thereto. He is also guaranteed against every forced loan and military requisition. The same immunity is extended to the lands granted by Articles X, XI, XII, and XIII, for all the time that they remain the property of the Company.

XXV. The foreign agents and functionaries shall also be exempt from direct taxes, forced loans, and military requisitions for all the time that they are in active service. They shall enjoy freedom of conscience and worship in conformity with the constitution and the stipulations in Treaties of commerce with France, England, and the United States of North America.

XXVI. Costa Rica engages not to make any further concession for the opening of a canal or railroad starting from the Port of San Juan de Nicaragua to the Pacific Ocean.

XXVII. Costa Rica cannot impose any tonnage, lighthouse, or other dues on the ships that pass by the canal from one ocean to the other, nor any transit duty, under whatsoever denomination, on the merchandise conveyed as such in the said ships, or on the passengers or crews.

XXVIII. The merchandise disembarked by those ships and delivered to the commerce of the country, shall be subject to the duties fixed by the general laws of the Republic.

XXIX. The vessels employed by the contractor for towing or in the service of the canal are exempt from every impost. The materials for repairing them and the fuel for working them shall also be free from Custom-House duties. He may also get his vessels from abroad, the same as the machinery and apparatus for his purpose, without paying any kind of impost.

XXX. The tariff for the canal shall be arranged by the Company, for passengers as well as for merchandise and vessels. Any changes therein must be communicated beforehand to the Governments of Costa Rica and Nicaragua, which will cause them to be observed as if they were regulations of public administration. But

Annex 20

Costa Rica-Nicaragua, Treaty for the Deviation of the Waters of the Colorado River (Jiménez-Montealegre), San José, Articles 2 and 4, 21 June 1869

Sources:

Spanish version: JM Bonilla, *Colección de Tratados Internacionales* (Managua: Tipografía Internacional, 1909), pp. 403-405

English translation by Costa Rica

TRANSLATION

Costa Rica-Nicaragua, Treaty for the Deviation of the Waters of the Colorado River (Jiménez-Montealegre), San José, 21 June 1869

...

Article 2: "The Government of Nicaragua, on its part, undertakes that...the tariffs over freights of products or merchandise for importation or exportation..."

...

Article 4: "In the event that San Juan del Norte ceases being a free port and that the Government of Nicaragua subjects to registration or appraisal the merchandise that is imported or the products that are exported through it, they will remain free from such formalities and from the payment of whatever dues the merchandise and products that Costa Rica imports or exports, without it being allowed in any case...may oppose obstacles to Costa Rica's commerce of import and export...since it is declared that said commerce of import and export of Costa Rica remains absolutely free of any hindrance, impediment or due of any kind."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA

MANAGUA
TIPOGRAFIA INTERNACIONAL—3ª CALLE SUR, NUM. 11
1909

TRATADO

ENTRE

Nicaragua y Costa Rica,

SOBRE DESVIACION DE LAS AGUAS
DEL "RIO COLORADO"

MONTEALEGRE ⁂ JIMENEZ

1869

EL Gobierno de la República de Costa Rica y el Gobierno de la República de Nicaragua, para completar la "Convención Preliminar", celebrada en San José el 13 de julio de 1868, con relación á la mejora de uno de los dos puertos del Atlántico, nominados "San Juan del Norte ó Greytown" y "Boca del Colorado"; y habiendo los ingenieros de una y otra República hecho sus exploraciones y estudio competentes, y dado cuenta con los informes del caso, que han visto la luz pública; para resolver lo conveniente con el espíritu de la Convención referida, el Gobierno de Costa Rica ha conferido sus Plenos Poderes á Agapito Jiménez, Secretario de Estado en el Despacho de Relaciones Exteriores, y el de la República de Nicaragua á Mariano Montealegre, Enviado Extraordinario y Ministro Plenipotenciario de la misma República,

Quienes después de canjear sus respectivos Plenos Poderes, y de encontrarlos en buena y debida forma, han convenido en los artículos siguientes :

Artículo 1º

El Gobierno de Costa Rica concede al de Nicaragua las aguas del río "Colorado", á fin de que desviándolas de su curso actual, en todo ó en parte, y echándolas sobre el río "San Juan", pueda obtener el restablecimiento ó mejora del puerto de San Juan, de Nicaragua.

Artículo 2º

El Gobierno de Nicaragua por su parte, se compromete, en caso de celebrar algún contrato de tránsito, sea con naturales ó extranjeros, á estipular: que las tarifas sobre fletes de productos ó mercaderías de importación ó exportación

que se establezcan para Nicaragua, se entenderán hechas también en favor de Costa Rica; y que cualquiera gracia, privilegio ó concesión que Nicaragua obtuviere, en cuanto al trasporte sobre el río "San Juan", se haga extensivo á Costa Rica, bajo el pie de perfecta igualdad.

Párrafo único.—En la gracia, privilegio ó concesión de que habla el artículo anterior no deben entenderse comprendidos los subsidios pecuniarios que Nicaragua obtenga de la Compañía ó Compañías empresarias de navegación ó de tránsito por el río "San Juan", excepto los establecidos y acordados en el contrato de canalización interoceánica.

Artículo 3º

Los buques de Costa Rica que arribaren al puerto de San Juan del Norte, no pagarán derecho alguno que no esté establecido para los buques nacionales de Nicaragua.

Artículo 4º

En el caso de que San Juan del Norte deje de ser un puerto franco y que el Gobierno de Nicaragua sujete á registro ó aforo las mercaderías que se importen ó los productos que se exporten por él, quedarán libres de tales formalidades y del pago de cualesquiera derechos, las mercaderías y productos que Costa Rica importe ó exporte, sin que en ningún caso, previsto ni imprevisto, ni bajo pretexto alguno pueda oponerse obstáculo al comercio de importación y exportación de Costa Rica, ni sujetarlo á contribución de ninguna especie; pues se declara y establece que dicho comercio de importación y exportación de Costa Rica queda absolutamente libre de toda traba, embarazo y derecho de toda clase.

Artículo 5º

Si en el caso del artículo anterior llegase á suceder que el Gobierno de Nicaragua, por algún trastorno interior, ó por hallarse empeñado en una guerra, no pudiere dar eficaz protección al puerto de San Juan del Norte, el Gobierno de Costa Rica podrá enviar á dicho puerto, previa anuencia del Gobierno de Nicaragua, la fuerza necesaria para proteger los intereses de su comercio, sin que el Gobierno de Nicaragua tenga que hacer ningún costo en el envío y permanencia de esta

fuerza, la cual deberá ser retirada tan luego como cese el peligro.

Si el Gobierno de Nicaragua rehusase prestar su consentimiento para el envío de esta fuerza en los casos indicados, y el comercio de Costa Rica sufriere perjuicios por falta de protección, y por consecuencia del trastorno ó de la guerra, el Gobierno de Costa Rica tendrá derecho á reclamar del de Nicaragua, y éste la obligación de satisfacer los daños y perjuicios recibidos, los cuales serán tasados por peritos nombrados uno por cada Gobierno; y en caso de discordia por un tercero nombrado por estos peritos.

Artículo 6º

El Gobierno de Nicaragua ratifica por esta convención los Tratados que tiene celebrados sobre límites, con el Gobierno de Costa Rica, y ambas partes se someten al arbitraje del Gobierno de los Estados Unidos de Norte América, para dirimir cualquiera cuestión que se suscite, ya sobre aquellos Tratados ó bien sobre la ejecución del presente Convenio.

Artículo 7º

Esta Convención será aprobada por el Presidente de la República de Costa Rica y por el Presidente de la República de Nicaragua, y sometida también á la ratificación del respectivo Poder Legislativo, é inmediatamente después de las ratificaciones se pondrá en ejecución.

En fe de lo cual, ambos Plenipotenciarios la firman en original duplicado, sellándola con sus sellos respectivos en San José, capital de la República de Costa Rica, á los veintiún días del mes de junio de mil ochocientos sesenta y nueve.

A. Jiménez. Marno. Montealegre.

Palacio Nacional—San José, junio veintidós de mil ochocientos sesenta y nueve.

Encontrando la anterior Convención arreglada á las instrucciones conferidas, *Apruébase* y pase al Poder Legislativo, en su oportunidad para su ratificación.

(Rubricado por el señor Presidente de la República.)

A. Jiménez.

Annex 21

Costa Rica-Nicaragua, Canalization Convention (Navas-Castro), San José, Preamble, 19 January 1884

Spanish version: JM Bonilla, *Colección de Tratados Internacionales* (Managua: Tipografía Internacional, 1909), pp. 469-471

English translation by Costa Rica

TRANSLATION

Costa Rica-Nicaragua, Canalization Convention (Navas-Castro), San José, 19 January 1884

...

"CONSIDERING: That the construction of the Inter-oceanic Canal through Nicaragua is of general interest for Central America, and in particular for both countries, moved by the desire to facilitate the prompt accomplishment of the task, have decided to celebrate a Convention for such purpose."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA

MANAGUA
TIPOGRAFIA INTERNACIONAL—3ª CALLE SUR, NUM. 11
1909

CONVENCION

SOBRE

CANAL

ENTRE

NICARAGUA Y COSTA RICA

NAVAS ✻ CASTRO

1884

D. de G. P. N.—5° grupo—B 9

LA República de Costa Rica, por una parte y la de Nicaragua por otra,

CONSIDERANDO:

Que la construcción del Canal Interoceánico por Nicaragua es de interés general para Centro América y especialmente para ambos países, animadas del deseo de facilitar la pronta realización de la obra, han resuelto celebrar una Convención con tal objeto.

Al intento, el Gobierno de la República de Costa Rica ha conferido plenos poderes al señor Doctor don José María Castro, Secretario de Estado en el Despacho de Relaciones Exteriores, y el Gobierno de Nicaragua al señor Licenciado don Vicente Navas, su Enviado Extraordinario y Ministro Plenipotenciario;

Quienes, después de haberse comunicado dichos poderes y de haberlos hallado en buena y debida forma, han convenido en los artículos siguientes:

Artículo 1º

La República de Costa Rica garantiza el tres por ciento anual de beneficios netos sobre quince millones de pesos, ó tres quinientos del uno por ciento sobre la suma de setenta y cinco millones de pesos, que se invierta en la construcción del Canal de Nicaragua.

Esta garantía durará veinte años y comenzará desde la fecha en que el Canal sea terminado y abierto al tráfico universal.

Annex 22

Costa Rica-Nicaragua, Treaty of Peace, Friendship, Commerce and Extradition (Navas-Castro), San José, Preamble, Articles VIII, XIX, XXIX and XXXIII, 19 January 1884

Spanish version: JM Bonilla, *Colección de Tratados Internacionales* (Managua: Tipografía Internacional, 1909), pp. 455-466

English translation by Costa Rica

TRANSLATION

Costa Rica-Nicaragua, Treaty of Peace, Friendship, Commerce and Extradition (Navas-Castro), San José, 19 January 1884

"The President of the Republic of Nicaragua and the President of the Republic of Costa Rica, desirous of strengthening as much as possible the relations between both countries and to serve to their common interests by means of a Friendship, Trade, and Extradition Treaty, have agreed to start negotiations towards this purpose..."

...

Article VIII: "...Regarding Civil rights, their attribution and equivalence shall of course be absolute, with no reservations or differences, especially in regard to freedom and safety, both personal and domiciliary, as to the means of acquiring goods of any kind, possessing, keeping, transferring and transporting them inside and outside the Republic and to the practice of trade and navigation...."

...

Article XIX: "...that the imports and exports that are made from one point to the other, either by sea or land, of the articles or natural and industrial products natural to the sender's country shall not pay rights or taxes of any kind, either fiscal or local. To avoid any doubt as well as any fraud, it is agreed that the products referred to in this article, when they enter the territory or dominion of one of the parties, shall be accompanied by a bill of lading issued...in which the origin of said products..."

...

Article XXIX: "When the extradition proceeds, all objects seized that have any relation to the crime and its perpetrators shall be rendered, with due respect to the rights of third parties, to the requesting Republic..."

...

Article XXXIII: "The expenses incurred by the maintenance and transport of the requested individual, as well as the delivery and transport of the objects that must be sent and returned on account of their relation to the crime, shall be paid by the Republic that requests the delivery."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA

MANAGUA
TIPOGRAFIA INTERNACIONAL—5ª CALLE SUR, NUM. 11
1909

TRATADO

—DE—

PAZ, AMISTAD,

Comercio y Extradición

ENTRE

NICARAGUA Y COSTA RICA

NAVAS ✻ CASTRO

1884

EL Presidente de la República de Nicaragua y el Presidente de la República de Costa Rica, deseosos de estrechar tanto como es posible las relaciones de ambos países, y de servir á sus comunes intereses, por medio de un Tratado de Paz, Amistad, Comercio y Extradición, han convenido en abrir negociaciones para este objeto, dando el Presidente de Nicaragua sus amplios poderes al señor Licenciado don Vicente Navas, Enviado Extraordinario y Ministro Plenipotenciario ante el Gobierno costarricense, y el Presidente de Costa Rica, al señor Doctor don José María Castro, Secretario de Estado en el Despacho de Relaciones Exteriores de la República, quienes después de haber presentado sus Plenos Poderes, de haberlos canjeado y encontrado con toda la regularidad debida, han convenido en los artículos siguientes :

Artículo I.

Habrá perfecta paz, perpetua y sincera amistad entre las Repúblicas de Nicaragua y Costa Rica.

Artículo II.

En ningún caso Nicaragua y Costa Rica se harán la guerra. Si entre ellas llegare á surgir alguna diferencia, se darán las debidas explicaciones; y no pudiendo avenirse en el asunto ocurrido, adoptarán precisa é ineludiblemente para terminarlo, el medio humanitario y civilizado del arbitraje.

Artículo III.

La designación del árbitro, se hará en un convenio espe-

tes, lo cual es casi imposible, desde luego que al deber y buen nombre de ellas cumple guardar lo estipulado en los artículos precedentes.

Artículo V.

Si por desgracia, alguna Nación hiciere la guerra á Nicaragua ó á Costa Rica, las partes contratantes convienen en no hacer alianza ofensiva, ni prestar ninguna clase de auxilios á los enemigos de ninguna de las dos Repúblicas; pero esto no obsta á que puedan celebrar alianza para la defensa de sus derechos, ó la de sus respectivos territorios en caso de ser invadidos.

Artículo VI.

Si el desacuerdo ó desavenencia ocurriere entre otros Estados de Centro América, las partes contratantes, de común acuerdo, ó cada una por sí, ofrecerán á aquellos sus buenos oficios, y mediarán á fin de mantener la armonía general en Centro América.

Artículo VII.

Si se suscitare cuestión entre uno de los Gobiernos contratantes y alguna Potencia extranjera, el otro ofrecerá sus buenos oficios, excitando á la vez á los demás Gobiernos de Centro América á que por su parte hagan lo mismo, hasta lograr un arreglo equitativo y satisfactorio. Este compromiso deberá cumplirse desde que se tenga conocimiento de la cuestión y los correspondientes informes de su naturaleza y circunstancias.

Artículo VIII.

Debiendo las Repúblicas contratantes considerarse recíprocamente como hermanas, se declara y establece que, en cuanto lo permitan las Constituciones que ahora las rigen, y lo más, pero no lo menos, que franqueen las venideras, los nicaragüenses en Costa Rica y los costarricenses en Nicaragua, gozarán de los mismos derechos políticos que incumben á los naturales. En consecuencia, para que sea eficaz este propósito, el Gobierno de Costa Rica se compromete á procurar la reforma de su Constitución vigente en el sentido de que se conceda á los nicaragüenses y demás centroamericanos el goce completo de los derechos políticos, pues por lo que hace á Nicaragua, no presentando inconvenientes su Constitu-

ción actual, quedan desde ahora otorgados á los costarricenses. En cuanto á los derechos civiles, dicho goce y equiparación serán desde luego absolutos, sin reserva ni diferencia alguna, especialmente en cuanto á libertades y seguridades personales y de domicilio; á los medios de adquirir bienes de toda clase; poseerlos, conservarlos, trasferirlos y trasportarlos dentro y fuera de la República y al libre ejercicio del comercio y la navegación: todo sin otras limitaciones, formalidades ó impuestos nacionales ó municipales, que aquellos á que están ó llegaren á estar sujetos los naturales.

Artículo IX.

El ejercicio de derechos políticos, y la admisión y servicio de cualquier empleo ó cargo público por parte de los ciudadanos de una República en la otra, nunca y en ningún caso podrán afectar la nacionalidad ni la ciudadanía de su origen; mas, en la República donde tales derechos y empleos ó cargos ejerzan, están sujetos á todas las cargas y servicios obligatorios á los naturales.

Artículo X.

Los costarricenses en Nicaragua y los nicaragüenses en Costa Rica, podrán ejercer con arreglo á las leyes del país en que residan sus profesiones ú oficios, sin más requisitos que la presentación del título, debidamente autenticado, la justificación de la identidad de la persona, si fuere necesaria, y el pase correspondiente del Gobierno Supremo. También tendrán el derecho de incorporar en la Universidad ó Colegio respectivo, sus cursos académicos, previa la autenticación é identidad referidas.

Artículo XI.

Los documentos, títulos académicos, diplomas profesionales y escrituras públicas, de cualquiera naturaleza que sean, extendidos ú otorgados conforme á las leyes de la una ó de la otra República, respectivamente, valdrán en aquella donde se presenten para que tengan sus efectos, y se les dará entera fe si contuvieren los requisitos necesarios de autenticidad. Los Tribunales evacuarán los exhortos y demás diligencias judiciales, habiendo para ello solicitud de autoridad legítima, enviada en forma, y un encargado de la parte interesada para proveer lo que el caso demande.

clamos para entablar una acción diplomática, ni ejercer ésta, si no es en el caso de que hayan agotado en la respectiva demanda, todos los recursos que para ante autoridades del país las leyes del mismo franquean á los naturales.

Artículo XVI.

En cuanto á los daños ó perjuicios que el nacional de una de las Repúblicas contrayentes recibiere en el territorio de la otra, el Gobierno de ésta no será responsable, si no es que sean causados por Agentes del mismo Gobierno ó Autoridad del país, en cuyo caso, los perjudicados deben ser atendidos por las autoridades de la República donde lo han sido, y obtener de ellas la debida justicia, bajo las mismas leyes á que están sujetos los nacionales, de tal suerte que los naturales de una de las partes contratantes, en ningún caso serán de menor condición que los de la otra.

Artículo XVII.

Ambas Repúblicas se comprometen á fijar las bases para establecer y mantener una representación común en el exterior, para procurar una legislación uniforme, y para constituir un sistema común de pesas, medidas y monedas, sobre la base decimal, todo en el más corto plazo posible.

Artículo XVIII.

Cuando la Constitución de Costa Rica abra el campo que la de Nicaragua, y la oportunidad se presente, de celebrar concierto para la Unión Centroamericana, los Gobiernos contratantes se empeñarán de consuno en la realización de esa grande idea. Cualquiera de los dos que la intente ó que sea invitado para ella, deberá dar al otro noticia inmediata y completa de las negociaciones que ocurran, desde el momento en que se inicien y á medida que se vayan verificando.

Artículo XIX.

No pudiendo considerarse rigurosamente las Repúblicas de Nicaragua y Costa Rica como Naciones extranjeras, por razón de su común origen, por las conexiones é intereses te-

rritoriales, comerciales y políticos que las han ligado y las ligan, se declara y establece, respecto de sus particulares y propias producciones: que las importaciones y exportaciones que se hagan de uno á otro punto, ya sean por mar ó por tierra, de los artículos ó productos naturales é industriales propios del país que los remite, no pagarán derechos ni impuestos de ninguna clase, sean fiscales ó locales.

Para evitar toda duda, lo mismo que cualquier fraude, se conviene en que los productos de que habla este artículo, en su introducción al territorio ó dominios de la una parte, deberán ir acompañados de una guía expedida por las autoridades competentes de la otra, en que se hará constar ser de ella el origen ó procedencia de dichos productos: esto por lo que hace á la importación; mas, respecto de la exportación, el que la verifique tiene la obligación de presentar dentro de dos meses la correspondiente tornaguía, si esto se le exigiere.

Artículo XX.

Las Repúblicas contratantes se entregarán recíprocamente los individuos prófugos de la una, refugiados en la otra, que estuvieren procesados ó sentenciados, como autores, cómplices ó encubridores, por los delitos de homicidio, incendio, robo, abigeato, piratería, peculado, falsificación de moneda, sellos ó instrumentos públicos, bonos y documentos de crédito del Estado, billetes de Banco, ó cualquiera otro valor público, defraudación de las rentas públicas, quiebra fraudulenta, falso testimonio, y por cualquiera otro delito que tenga señalada pena de muerte, penitenciaría, presidio, trabajos forzados ó prisión, que no baje de dos años en la Nación en que se hubiesen cometido, aunque la pena sea menor ó distinta en la del refugio.

Artículo XXI.

La pena de dos años de prisión, mencionada en el artículo anterior, señala solamente la naturaleza de los delitos que motivan la extradición, cuando ésta se pide durante el enjuiciamiento; pero no limita los efectos del juicio, si por circunstancias atenuantes ú otros esclarecimientos favorables al reo, fuese éste sentenciado á sufrir pena menor.

Artículo XXII.

Para los efectos de la extradición, se comprenden en la

postal, dirigida al Ministro de Relaciones Exteriores, directamente ó por medio del respectivo Agente Diplomático. El arresto provisional se verificará en la forma y según las reglas establecidas por la legislación del país del asilo; pero cesará, si en el término de un mes, contado desde que se verificó, no se formalizase la reclamación indicada en el artículo precedente.

Artículo XXVIII.

Si el reo fuere ciudadano del país en que se ha refugiado y se solicitare su extradición para que sufra la pena impuesta por sentencia ejecutoriada, emitida con su audiencia, se entregará con sujeción á lo dispuesto en los artículos XXIII, XXIV y XXV; pero si la extradición se pidiese por causa de enjuiciamiento, el Gobierno no está obligado á concederla, si el reo prefiriere ser juzgado por los Tribunales de su país; en este caso, con los antecedentes recogidos en el punto donde se hubiese cometido el delito, y después de evacuarse los exhortos que se creyeren convenientes, el Juez del domicilio del reo, ó el de la capital, si no lo hubiere, deberá seguir el proceso hasta terminarlo; y el Gobierno del país del juzgamiento informará al otro Gobierno del resultado definitivo.

Artículo XXIX.

Cuando haya lugar á la extradición, todos los objetos aprehendidos, que tengan relación con el delito y sus autores, se entregarán sin perjuicio del derecho de tercero, á la República reclamante. Dicha entrega se verificará aunque por la muerte ó fuga del inculpado, no pueda llevarse á efecto la extradición.

Artículo XXX.

No será concedida la extradición, si el reo reclamado hubiese sido ya juzgado y sentenciado por el mismo hecho en la República donde reside, ó si conforme á las leyes de la República que la solicita, hubiesen prescrito la acción ó la pena.

Artículo XXXI.

Si el reo, cuya extradición se solicita, estuviese acusado ó hubiese sido condenado por crimen ó delito cometido en la jurisdicción territorial de la República en que se encuentra,

no será entregado sino después de haber sido absuelto ó indultado, y, en caso decondenación, después de haber sufrido la pena.

En los casos en que el reo, cuya entrega se pida, hubiese contraído obligaciones que no pueda cumplir á causa de la extradición. ésta se llevará siempre á efecto, quedando la parte interesada en libertad de gestionar sus derechos ante la autoridad correspondiente.

Artículo XXXII.

Cuando el acusado ó condenado, cuya extradición se solicite por una de las partes contratantes, fuere igualmente reclamado por otro ú otros Gobiernos, á causa de crímenes ó delitos cometidos en jurisdicción de ellos, por el mismo culpable, éste será entregado de preferencia al Gobierno que primero hubiese hecho la demanda de extradición.

Artículo XXXIII.

Los gastos que causen el mantenimiento y trasporte del individuo reclamado, y también la entrega y traslación de los objetos, que por tener relación con el delito deban restituirse y remitirse, serán á cargo de la República que solicite la entrega.

Artículo XXXIV.

Si además de los exhortos para la deposición de testigos domiciliados en el territorio del otro Estado, la autoridad del país del exhorto, conceptuase necesario el comparendo de dichos testigos ó de otros á quienes no se hubiese referido el exhorto, el Gobierno de quien dependen unos y otros testigos procurará corresponder á la invitación que le haga el otro Gobierno solicitando el comparendo. Si los testigos consintiesen en ir, los Gobiernos respectivos se pondrán de acuerdo para fijar la indemnización debida, que se les abonará por el Estado reclamante, en razón de la distancia y de la permanencia, anticipándoles la suma que necesiten. Igual convenio celebrarán las partes contratantes, para proporcionarse recíprocamente, siempre que sea posible, los demás medios de prueba correspondientes á la instrucción criminal en el respectivo país.

Annex 23

United States of America-Nicaragua, Treaty providing for the construction of an Interoceanic Canal across the territory of Nicaragua (Frelinghuysen-Zavala), Washington DC, Preamble, Articles IV, V, VIII and XIII, 1 December 1884

Sources:

English version: *Report of the Isthmian Canal Commission 1899-1901* (Washington: Government Printing Office, 1904), Appendix L, pp. 359-363

Spanish version: *Memoria de La Secretaría de Relaciones Exteriores y Carteras Anexas de la República de Costa Rica* (San José: Imprenta Nacional, 1884-1885)

58TH CONGRESS, 2d Session. } SENATE. { DOCUMENT No. 222.

REPORT

OF THE

U.S.A.

ISTHMIAN CANAL COMMISSION,

1899-1901.

REAR-ADMIRAL JOHN G. WALKER,
UNITED STATES NAVY,
President.

HON. SAMUEL PASCO.
MR. GEORGE S. MORISON.
LIEUT. COL. OSWALD H. ERNST,
Corps of Engineers, U. S. Army.
LEWIS M. HAUPT, C. E.
ALFRED NOBLE, C. E.
COL. PETER C. HAINS,
Corps of Engineers, U. S. Army.
WILLIAM H. BURR, C. E.
PROF. EMORY R. JOHNSON.

LIEUT. COMMANDER SIDNEY A. STAUNTON,
UNITED STATES NAVY,
Secretary.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

APPENDIX L.

TREATY NEGOTIATED BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA PROVIDING FOR THE CONSTRUCTION OF AN INTEROCEANIC CANAL ACROSS THE TERRITORY OF NICARAGUA.

[Frelinghuyeen—Zavala.]

The United States of America and the Republic of Nicaragua recognizing the importance of an interoceanic communication across the isthmus at Nicaragua, which shall bring into close communication the ports of North and South America, and shall facilitate commerce between Europe and the ports of the Pacific, between the eastern ports of Asia and the Atlantic seaboard, and the ports of the United States on the Pacific and Atlantic, have agreed for this purpose to build a canal, and to that end to conclude a treaty, and have accordingly named as their respective plenipotentiaries the President of the United States, Frederick T. Frelinghuysen, Secretary of State of the United States of America, and the President of Nicaragua, General Joaquin Zavala, ex-President of the Republic of Nicaragua, who, after communicating to each other their full powers, found in due and proper form, have agreed upon the following articles:

ARTICLE I. The canal shall be built by the United States of America and owned by them and the Republic of Nicaragua, and managed as hereinafter provided.

ARTICLE II. There shall be perpetual alliance between the United States of America and the Republic of Nicaragua, and the former agree to protect the integrity of the territory of the latter.

ARTICLE III. A practicable ship canal for vessels of the largest size now commonly used in commerce shall be commenced by the United States and be prosecuted to as speedy conclusion as circumstances may permit, subject to the limitation provided in Article XX of this convention.

This canal shall follow what may be decided to be the most available route from ocean to ocean; and the United States in building the canal shall enjoy the fullest liberty in its construction, and in its location, and that of its dependencies, accessories, and works, as well as in the selection of entrance ports.

Should it be found necessary or desirable to leave the bed of the San Juan River at any point and to construct a lateral canal the Government of Nicaragua reserves the right to require the establishment of a lock communication for vessels of 6 feet draft and 160 feet length, between the lower part of the river and that part used for the canal; but the Government of Nicaragua will advise the United States of its wishes in this regard so soon as work shall be begun in the river, and it is expressly stipulated that Nicaragua alone shall be responsible for the maintenance and operation of this communication, and for the navigable condition of the lower river.

ARTICLE IV. For the purpose of carrying out this agreement the Republic of Nicaragua agrees to give the United States free use of Lake Nicaragua, to furnish, free of cost, all the spaces necessary to the construction, maintenance, use, and enjoyment of the canal, and for any probable future enlargement thereof, whether these spaces be upon the dry land, in the lakes and upon their islands, in the rivers and upon their islands, or at the ports and roadsteads of the two oceans, together with their surroundings and declivities, and all the spaces required for the deposit of materials from excavations and cuttings, from the overflow arising from dams in the rivers, for all deviations of streams from their channels, as well as for reservoirs, dykes, piers, docks, spaces about locks, for lights, beacons, storehouses, machine shops, buildings, and for whatever other thing necessary, and in short, all lands, waters, and places within the Republic of Nicaragua required for the construction, maintenance, use, and business of the canal, including a railway, from one terminus of the canal to the other, substantially parallel to and near the bank of the canal and along the southern shore of Lake Nicaragua, together with a telegraph line, should the United States decide to construct either said railway or telegraph line, or both, which shall be regarded for all purposes of this treaty as part of the canal so long as they are maintained.

ARTICLE V. The work shall be declared one of public utility, and for the purposes of building and operating the canal, railway, and telegraph line, the Republic of Nicaragua undertakes to

expropriate lands belonging to individuals. Any private property and real estate actually held by individuals or corporations which shall be taken or used by the United States for the construction of the canal or its accessories, or for their maintenance, shall be so taken upon condemnation and appraisement of the value of such property, and the Government of the United States will pay to the owners thereof the value fixed by a commission of assessors comprising three members, one of whom shall be appointed by the President of the United States, one by the President of Nicaragua, and the third to be chosen by these two jointly.

The United States or the board of managers hereafter provided for, as the case may be, shall have the right to take from the public lands of Nicaragua any materials whatever needed for the construction, preservation, maintenance, and use of the canal, and of its ports, dependencies, accessories, and equipments. When materials are taken from private lands, the United States or the said board of managers shall enjoy in their use all the rights the Republic of Nicaragua enjoys by law and usage.

As to the contract of the Government of Nicaragua with Mr. F. A. Pellas, relating to steam navigation, that Government engages that the said contract shall not be considered applicable to the necessary operations of either party to this convention in constructing or operating the canal, or any part of it, during the time the contract has yet to run, this exemption to include necessary canal work and transportation on Lake Nicaragua and the rivers of the Republic; further, the said Government of Nicaragua agrees that should the Government of the United States during the period the said contract has yet to run find it advisable to purchase the franchise, property, and rights now held by said Pellas by virtue of said contract, the said franchise, property, and rights shall be expropriated by the same form and under the same conditions as are fixed in this article for the expropriation of other private property.

Should the United States in the construction of the said works find it necessary to occupy any lands belonging to the Republic, they shall have the right to do so free of charge during such temporary occupation, and the land so occupied, if sold or otherwise alienated, shall be conveyed with the reservation of this temporary right of occupation by the United States.

ARTICLE VI. The United States shall have the right throughout the extent of the canal, and of its accessories, dependencies, and adjuncts, as well as at its mouths on both oceans, and in the lake and rivers which the canal route may traverse, and that may be used in any manner in connection with the canal construction, to enter upon work of any kind whatsoever deemed necessary by the engineers for the construction of a safe, effective, durable, and speedy route for the transit of vessels from ocean to ocean, without let or hindrance of any kind from the Government or people of the Republic of Nicaragua; and also for the construction of the said railway and telegraph line.

ARTICLE VII. A strip of territory 2½ English miles in width, the middle of this strip to coincide with the center line of the canal, and also a strip 2½ miles wide around the southern end of the lake, where the lake is used as a water course for the canal, as well as a strip 2½ miles wide along the river, where the river is used as a part of the canal, shall be set aside for the work, and owned by the two contracting parties, and where the railway and telegraph line aforesaid may of necessity pass beyond the bounds of such strip of land a plot one-half of a mile in width, whose center line shall coincide with the railway outside of the belt reserved for the canal, shall also be so set aside and owned. And all the land in this article referred to shall be subject to the agreement hereinbefore made as to lands, when owned by the State or by private individuals, necessarily used in the prosecution of the work; but the said lands in this article described shall not include towns, villages, or cities now in existence. In such case only that part shall be considered as embraced in this article as is absolutely essential to the economical prosecution or administration of the work. Over these strips, in time of peace, Nicaragua shall exercise civil jurisdiction, and its inhabitants shall not in any way be considered as impaired in their rights as citizens of the Republic.

ARTICLE VIII. No custom-house tolls or other taxes or impositions of any sort or kind shall be levied by the Government of Nicaragua upon any vessels passing the canal, their cargoes, stores, passengers, crews, or baggage, or for unloading, loading, docking, or repairing vessels, it being the intent of this agreement that vessels, their cargoes, passengers, and crews, shall pass the canal free of any charge, other than that imposed upon them by the two Governments, in their capacities as owners of the work. Nicaragua may, however, provide a police system along the line of the canal to keep the peace and to prevent smuggling into her territory, the reasonable cost of which, as approved from time to time by the board of managers, shall be a charge upon the revenues of the canal.

The board of managers shall have the right to discharge and reload ships in transit, at such points as may be convenient, in order to make repairs, or to lighten the vessel, or to shift cargo, by reason of any cause rendering any of these acts necessary, or may transship cargo without being subject to search, exactions, duties, or taxes of any kind; but before beginning such operations notice thereof must be given to the nearest customs authority.

ARTICLE IX. The Government of the Republic of Nicaragua, in conformity with the laws, shall lend its protection to the engineers, contractors, agents, employes, and laborers employed in the construction, maintenance, and management of the canal and its accessories, and they shall be wholly exempt from military requisitions and forced loans; but if any such persons shall acquire real estate outside the strips provided for in Article VIII hereof they shall be subject to the taxes fixed by law.

The Government of Nicaragua guarantees to the canal and its accessories, and to its agents of all classes, security under the laws of the country against domestic acts of hostility, in the same degree as in the case of other inhabitants, employing all its powers for their protection.

ARTICLE X. All contracts for the construction, maintenance, and management of the canal and its accessories may be enforced according to the laws of Nicaragua and the provisions of this convention.

ARTICLE XI. The canal and its accessories and dependencies of every kind shall be exempt, in peace and in war, from every form of taxation upon real or personal property acquired in virtue of this convention, and from every form of direct or indirect taxation, contributions, local taxes, or other dues in respect to the ownership and use of the canal and its accessories, or of the buildings, or constructions, or equipments, or appliances appertaining thereto; or to the ports and maritime establishments thereof, anywhere in the Republic, and upon the lands set aside for the rposes of the canal and its accessories.

The Republic of Nicaragua binds itself not to establish tonnage dues, anchorage, light, wharf, or pilot dues, or charges of any class whatsoever upon vessels of whatever kind, or upon merchandise, or crews, or passengers, or gold or silver, or diamonds, or anything traversing the canal, all such dues being for the benefit of the two Governments in their capacity as joint owners and managers of the canal and its accessories; but merchandise, loaded or unloaded in any part of the canal or its accessories, coming from or destined to Nicaragua and intended for sale, shall pay dues for exportation or importation, fixed by the revenue laws of Nicaragua.

ARTICLE XII. All articles necessary for the construction and repair of the canal and its accessories may be imported without duty or tax of any kind being laid thereon by the Government of Nicaragua, including such iron, steel, locomotives, cars, telegraph wires and instruments, tugs, dredges, and vessels or other things as may at any time be used in the construction, improvement, prosecution or maintenance of the work, or in the maintenance or improvement of the same after its completion; and during the construction of the canal and its accessories, all supplies, whether personal or otherwise, except tobacco, spirits, or wines, used by those engaged in the work, shall be free of any customs or other tax, but no such supplies shall be permitted to be sold to those not actually engaged in the work, or to be smuggled into or sold in the interior.

All vessels in the service of the canal and its accessories, with their equipments and outfits, arriving at any port of Nicaragua from any point whatever, shall be free of all duties and port charges.

ARTICLE XIII. For and in consideration of the preceding articles the United States of America agrees to furnish the money and to build the said canal and its accessories, including, if found advisable, the said railway and telegraph line, together with all docks, locks, machine ops, repair shops, annexes, machinery, feeders, &c., it being the intent of this agreement that the United States of America shall build and complete the canal, with everything appertaining thereto, for the safe and speedy passage of the vessels hereinbefore described, and for through communication between ocean and ocean, and such loading and repairing as may be necessary, at their sole cost and without expense to the Government of Nicaragua.

ARTICLE XIV. The United States shall have exclusive control of the construction of the canal and railway and telegraph line if the same be built, and shall be invested with all the rights and powers necessary thereto. The management, care, and protection of the canal and its accessories, including the said railway and telegraph line if built, under the general supervision of the two Governments, shall be entrusted to a Board of Managers, which shall consist of six members, three of whom shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, should the Senate be in session; or, should the Senate not be in session the three members shall be appointed by the President subject to confirmation by the Senate at its next session, and three by the Republic of Nicaragua. Any vacancy which may occur among the members of the Board, appointed by the President of the United States, shall be filled by the said President, in the manner provided in the United States for filling vacant government offices, and any vacancy which may occur among the members of the Board, appointed by the President of Nicaragua, shall be filled by the said President in the manner provided in Nicaragua for filling vacant government offices. This Board shall be designated as soon as the canal is ready for traffic, and shall determine all questions by a majority vote. The chairman of the Board shall be one of the members appointed by the President of the United States and designated as chairman by him, and in case of a tie the chairman shall have an additional vote. This Board shall be entrusted with the general executive management of the canal and its acces-

TRATADO ENTRE LOS EE. UU. Y LA REPÚBLICA DE NICARAGUA PARA CONSTRUIR UN CANAL INTEROCÉANICO POR EL TERRITORIO DE NICARAGUA.

Los EE. UU. de América y la República de Nicaragua, reconociendo la importancia de una comunicación interoceánica por el istmo de Nicaragua, que pueda poner en inmediata comunicación los puertos del Norte y Sur de América y facilitar el comercio entre Europa y los puertos del Pacífico, y los de la parte oriental del Asia y la costa del Atlántico y los puertos de los EE. UU. de las costas del Pacífico y del Atlántico, han decidido construir un canal con este objeto, y á ese fin concluir un tratado; y al efecto han nombrado como sus respectivos plenipotenciarios: el Presidente de los EE. UU. á Frederick Frelinghuyson, Secretario de Estado de lo EE. UU. de América; y el Presidente de Nicaragua, al General Joaquin Zavala, ex-Presidente de la República de Nicaragua, y después de canjearse sus plenos poderes y de encontrarlos en debida forma, han convenido en los artículos siguientes:

Art. I.—El canal se construirá por los EE. UU. de América, y será de propiedad de esta República y de la de Nicaragua y su manejo será como en adelante se expresa.

Art. II.—Habrá perpétua alianza entre los EE. UU. de América y la República de Nicaragua, y los primeros se comprometen á proteger la integridad del territorio de la última.

PLENOS PODERES QUE SE CONFIEREN A LOS ESTADOS-UNIDOS.

Art. III.—Los EE. UU. comenzarán y continuarán hasta su conclusión, tan rápidamente como las circunstancias lo permitan, un canal de navegación para los buques de mayor porte comunmente usados en el comercio, y el mismo queda sujeto á las limitaciones contenidas en el art. XX de este convenio. Este canal seguirá la ruta que se crea más conveniente de océano á océano; y los EE. UU., al construirlo, gozarán de la más completa libertad, tanto en sus obras, como en su locación y dependencias, accesorios y trabajos, así como en la elección de puertos de entrada, en caso que se crea necesario ó conveniente abandonar el cauce del rio San Juan, en cualquier punto y construir un canal lateral.—El Gobierno de Nicaragua se reserva el derecho de pedir el establecimiento de una comunicación especial por medio de esclusas para barcos de seis pies de calado y ciento sesenta de eslora, entre la parte más baja del rio y la usada para los canales, pero el Gobierno de Nicaragua avisará á los EE. UU. tal deseo tan pronto como comiencen los trabajos en el rio, y queda expresamente estipulado que Nicaragua será la única responsable del mantenimiento y conservación de esta vía y de sostener en condiciones navegables dicha parte baja del rio.

Art. IV.—Con el objeto de llevar á cabo este convenio, la República de Nicaragua cede á los EE. UU. el libre uso del lago de Nicaragua y suministrará, libres de todo costo, los espacios necesarios para la construcción, mantenimiento, uso y posesión del canal y para cualquier ensanche futuro del mismo, ya se encuentren tales espacios ó lugares en la tierra firme, en los lagos ó en sus islas, en los ríos ó islas de éstos; en los puertos ó caminos hácia ambos océanos, juntamente con sus alrededores y ramificaciones, así como todo el espacio requerido para el depósito de los materiales, de excavaciones, y cortes, de avenidas procedentes de los diques hechos en los ríos, para todas las desviaciones de riachuelos procedentes de los canales, así como también para los depósitos de aguas, diques, muelles, arsenales, accesorios de las esclusas, faros, señales, almacenes, talleres, edificios y para cualesquiera otros objetos necesarios, y finalmente todas las tierras, aguas y lugares pertenecientes á la República de Nicaragua, requeridos para la construcción, mantenimiento, uso y explotación del canal, incluyendo un ferro-carril de uno á otro extremo de éste que será virtualmente paralelo al mismo y próximo á la orilla del canal, y á lo largo de la ribera Sur del lago de Nicaragua, como también una línea telegráfica, en caso que los EE. UU. decidan la construcción de dicho ferro-carril ó telégrafo, o de ambos, que serán considerados para todos los fines de este tratado, como parte del canal mientras se conserven.

Art. V.—La obra será declarada de utilidad pública y para el objeto de cons-

truir y llevar á cabo el canal, ferro-carril y línea telegráfica, la República de Nicaragua se encarga de espropiar las tierras pertenecientes á particulares. Cualquiera propiedad ó finca actualmente poseida por particulares ó corporaciones, que hayan de ser tomados ó usadas por los EE. UU. para la construcción del canal ó sus accesorios, ó para su conservación, lo serán, previa indemnización y entrega del valor de tales propiedades, y el Gobierno de los EE. UU. pagará á los propietarios de dichas fincas el valor fijado por una comisión de peritos compuesta de tres miembros, uno de los cuales será nombrado por el Presidente de Nicaragua, y el tercero elegido por aquellos dos conjuntamente. Los EE. UU. ó la Junta de Gerentes, que luego se indicará según el caso, tendrán el derecho de tomar de los baldíos de Nicaragua, todos los materiales que se necesiten para la construcción, conservación, mantenimiento y uso del canal y de sus puertos, dependencias, accesorios y equipo. Cuando los materiales se tomen de propiedades particulares, los EE. UU. ó la indicada Junta de Gerentes, gozarán de todos los derechos que la República de Nicaragua goza por ley y costumbre. En cuanto al contrato entre el Gobierno de Nicaragua y el Señor F. Pellas relativo á la navegación por vapor, aquel gobierno conviene en que dicho contrato no será considerado de aplicación á las operaciones necesarias de una ú otra parte en cuanto á este convenio, en la construcción y realización del canal ó cualesquiera de sus partes, durante el tiempo que aún falta á dicho contrato, incluyendo en ésta exención todo trabajo necesario en el canal y trasporte por el Lago y ríos de Nicaragua. Además dicho gobierno de Nicaragua conviene en que si el gobierno de los EE. UU. durante el período que falta para concluirse el mismo contrato creyere conveniente comprar el privilegio, propiedad y derechos que ahora tiene el mencionado Señor Pellas en virtud del indicado contrato, el referido privilegio, propiedad y derechos serán expropiados en la misma forma y bajo las mismas condiciones fijadas en este artículo para la adquisición de otras propiedades particulares. En caso que los EE. UU. en la construcción de dichas obras creyere necesario ocupar, cualesquiera terrenos pertenecientes á la República, tendrán derecho de hacerlo, libres de toda carga durante tal ocupación temporal, y las tierras así ocupadas en caso de ser vendidas ó enajenadas en cualquiera forma, lo serán con la reserva de tal derecho de ocupación temporal por los EE. UU.

Art. VI.—Los EE. UU. en toda la extensión del canal y de sus accesorios, dependencias y anexos, así como en sus entradas por ambos océanos y en el lago y río que la ruta del canal atraviese y que pueda usarse de cualquier modo en conexión con las obras de dicho canal, tendrán el derecho de practicar cualesquiera trabajos de cualquier clase que se estime necesario por los ingenieros para la realización de una vía segura, efectiva, durable y rápida para el tránsito de buques de océano á océano sin que hayan de pedir licencia ni se les hará oposición de ninguna clase por parte del Gobierno ó pueblo de la República de Nicaragua, lo mismo que para la construcción del ferro-carril y línea telegráfica indicados.

TERRENOS RESERVADOS.

Art. VII.—Se reservarán y apropiarán por ambas partes contratantes para los fines de la obra una faja de terreno de dos y media millas inglesas de anchura, cuya parte media coincida con la línea central del canal; una faja de dos y media millas de ancho al rededor de la ribera Sur del lago en la parte en que éste se use para los fines del canal, así como tambien otra faja de dos y media millas á lo largo del río donde éste se tome como parte del canal, y donde hayan de pasar el ferro-carril y línea telegráfica arriba indicados fuera de los límites de dicha faja de tierra, se reservará un lote de media milla de ancho cuyo centro coincida con la línea férrea fuera de la faja reservada para el Canal, y todas las tierras mencionadas en este artículo estarán sujetas á las condiciones antes convenidas en cuanto á los terrenos pertenecientes al Estado ó á individuos particulares, que hubieren de usarse en la prosecución de la obra; pero las tierras descritas en este artículo no incluirán las poblaciones, villas o ciudades que actualmente existen. En cuanto á estas, sólo se considerará incluida en este artículo la parte absolutamente indispensable para la conveniente realización ó administración de la obra sobre tales fajas de tierra. En tiempo de paz, Nicaragua ejercerá su jurisdicción civil y los habitantes de tales lugares no serán absolutamente perjudicados en sus derechos como ciudadanos de la República.

ACUERDOS CON RESPECTO Á LAS EMBARCACIONES Y SUS CARGAMENTOS.

Art. VIII.—No se impondrán por el Gobierno de Nicaragua derechos de Aduana ni otras contribuciones ó recargos de ningún género á los buques que pasen por el Canal ni á sus cargamentos, bodegas, pasajeros, tripulaciones ó equipaje, ni por descargar, cargar, entrar en arsenal ó hacer reparaciones en los buques, siendo el objeto de este convenio que dichos buques, sus cargamentos, pasajeros y tripulación transiten el Canal libres de todo impuesto fuera del señalado por los dos gobiernos como propietarios de la obra. Nicaragua podrá sin embargo colocar un resguardo á lo largo del Canal para mantener el orden y evitar el contrabando dentro de su territorio, y el costo racional del sostenimiento de tal resguardo, aprobado de tiempo en tiempo por la Junta de Gerentes, será deducido de los productos del Canal. La Junta de Gerentes tendrá el derecho de descargar y volver á cargar las naves en tránsito, en los puntos que crea conveniente á fin de hacer reparaciones ó de aligerar la carga, así como de despachar cargamentos por cualquier motivo que estime necesario hacerlo, y podrá trasbordar carga sin estar sujeta á inspección, actas, derechos ó impuestos de ninguna clase, pero ántes de empezar tales operaciones dará noticia de ello á la autoridad aduanera mas cercana.

Art. IX.—El Gobierno de la República de Nicaragua, de conformidad con las leyes, dará su protección á los ingenieros, contraristas, agentes, empleados y trabajadores ocupados en la construcción, conservación y manejo del Canal y sus dependencias, y todos estarán exentos de prestar servicios militares así como de empréstitos obligatorios, pero si cualesquiera de tales personas adquieren propiedades raices fuera de la faja á que el artículo VII se refiere, estarán sujetos á las contribuciones fijadas por la ley. El Gobierno de Nicaragua garantiza al Canal y sus dependencias, y á sus agentes de todas clases, seguridad, bajo las leyes del país, contra todo acto interior de hostilidad en el mismo grado en que se encuentran los demás habitantes, empleando todo su poder en la protección de los mismos.

Ar. X.—Todo contrato para la construcción, conservación y manejo del Canal y sus dependencias, tendrá la fuerza que le dan las leyes de Nicaragua en los términos de este convenio.

Art. XI.—El Canal y sus dependencias y accesorios de todas clases estarán exentos, tanto en tiempo de paz como de guerra de toda clase de impuestos sobre propiedad raíz ó personal adquirida en virtud de este convenio, así como de toda especie de contribución directa ó indirecta, general ó local ú otros derechos cualesquiera en lo tocante á la propiedad y uso del Canal y sus dependencias, ó de sus edificios y construcciones, ó equipo y anejos pertenecientes á los mismos, y á los puertos y establecimientos marítimos de dicho Canal en cualquier parte de la República y sobre los terrenos reservados para el Canal y sus dependencias. La República de Nicaragua se compromete á no establecer derechos de tonelaje, anclaje, de faro, muelle ni práctico, ni otra, cargás de ninguna clase, sobre los buques de cualquier especie, sobre sus mercaderías tripulaciones, pasajeros, oro, plata, brillantes ú otro cualquier artículo que pase por el Canal, pues tales derechos corresponden á ambos Gobiernos en su calidad de copropietarios y administradores del Canal y sus dependencias; pero las mercaderías, cargadas ó descargadas en cualquier parte del Canal ó de sus dependencias, procedentes de Nicaragua ó destinadas á ellas, para la circulación comercial, pagarán los derechos de exportación é importación fijados por las leyes de Nicaragua.

EXENCIÓN DE DERECHOS SOBRE MATERIALES.

Art. XII.—Todos los artículos necesarios para la construcción y reparaciones del Canal y sus accesorios serán introducidos sin derecho ni recargo de ningún género, impuesto sobre los mismos por el Gobierno de Nicaragua, debiendo incluirse en ellos el hierro, acero, locomotoras, carros, alambres é instrumentos telegráficos, escavadoras, dragas y naves ó cualesquiera otras cosas que puedan en cualquier tiempo usarse en la construcción, mejoramiento, prosecución y mantenimiento de la obra ó en el mantenimiento y mejoras de la misma después de su conclusión; y durante la construcción del Canal y sus dependencias todos los artículos de consumo personal ó general, excepto tabaco licores y vinos, que hayan de usarse por los que estén ocupados en los trabajos, serán libres de todo derecho ó impuesto; pero no se permitirá vender tales artículos de consumo á los que no estén ocupados activamente en la empresa, ni hacer contrabando con ellos ni venderlos en el interior. Todas las naves que estén al servicio del Canal y sus dependencias, con su

equipo y aparejo, que llegaren á cualquier puerto de Nicaragua, procedentes de un punto cualquiera, estarán libres de todo derecho é impuesto de puerto.

Art. XIII.—En consideración á los artículos precedentes y á las concesiones en ellos establecidas, los EE. UU. de América se comprometen á suministrar el dinero para la construcción de dicho Canal y sus dependencias, incluyendo, si lo creyeren necesario, las indicadas líneas férrea y telegráfica, así como todos los arsenales, esclusas, talleres y sus anejos, maquinarias, depósitos, &.: por cuanto el objeto de este convenio es que los EE. UU. construyan y lleven á cabo el Canal y cuanto al mismo corresponda para el tránsito seguro y rápido de los buques á que anteriormente se ha aludido y para la comunicación entre uno y otro océano, así como para cargar y hacer reparaciones en los buques cuando fuere necesario, de su propia cuenta y costo y sin ningún gasto de parte del Gobierno de Nicaragua.

INTERVENCION EXCLUSIVA CONCEDIDA A LOS EE. UU.

Art. XIV.—Los EE. UU. tendran el manejo exclusivo de la construcción del Canal así como del ferro-carril y telégrafo, si éstos se llegaren á construir, y serán invertidos con todos los derechos y poderes necesarios á este respecto. El manejo, cuidado y protección del Canal y de sus dependencias; inclusos el ferro-carril y línea telegráfica, si se llegaren á construir bajo la inspección general de los dos Gobiernos, serán encargados á una Junta de Gerentes, compuesta de seis miembros, tres nombrados por el Presidente de los EE. UU. por medio y con el consentimiento del Senado de la República, si éste se encontrare reunido; ó en caso que el Senado estuviere en receso, los tres miembros serán designados por el Presidente, sujetándose á la ratificación del Senado en su próxima reunión; y los otros tres por la República de Nicaragua. Cualquiera vacante que ocurra entre los miembros de la Junta, nombrados por el Presidente de los EE. UU. se repondrá por dicho Presidente, según ley de los EE. UU. para la reposición de las vacantes de los empleados de Gobierno; y cualquiera vacante que pueda ocurrir entre los miembros de la Junta designada por el Presidente de Nicaragua, será repuesto por dicho Presidente, conforme á lo acostumbrado en Nicaragua, en la reposición de empleados del mismo Gobierno. Esta Junta será designada tan pronto como el Canal esté listo para el tráfico, y decidirá todas las cuestiones por el voto de la mayoría.—Será Presidente de la Junta uno de los miembros designados por el Presidente de los EE. UU. y nombrado tal por aquel; en caso de empate, el Presidente de la Junta tendrá un voto adicional. Esta Junta estará encargada del manejo ejecutivo del Canal y sus accesorios, incluyendo dicho ferro-carril y línea telegráfica, si fueren construidos, y todos los asuntos concernientes á la conservacion y mejora de los mismos; fijará los impuestos y dará las disposiciones y reglamento para el manejo de los mismos. Su acción estará sin embargo sujeta en todo tiempo á la direccion auxiliar de los Presidentes de ambas Repúblicas, la cual estarán obligados á obedecer implícitamente. La mencionada Junta de Gerentes tendrá el derecho y la facultad de designar los impuestos y cobrarlos tanto á los vapores, buques y naves de cualquiera clase que entren al Canal ó los puertos de ambos extremos del mismo Canal, como de los pasajeros, mercaderías y carga de todas clases, por tránsito, navegacion, tonelaje, derechos de faro y puerto, así como también de remolque, almacenaje, anclaje, muellaje, hospital y otros impuestos semejantes. El Gobierno de Nicaragua garantiza el cumplimiento de tales estipulaciones adoptadas por la Junta de Gerentes como si procedieran del Gobierno de Nicaragua.—Los impuestos aquí referidos serán iguales para los buques de las dos partes que intervienen en este Tratado y los de todas las naciones, excepto los que sean de propiedad y estén bajo el mando de ciudadanos de cualquiera de las dos partes contratantes, y que se ocupen del cabotaje, los cuales serán favorecidos. Las embarcaciones nicaragüenses que usen solamente una porción del Canal, pagarán derechos proporcionales y no pagarán absolutamente ningún derecho en la parte en que el Canal utilice cualquiera porción navegable en la actualidad.

Art. XV.—Los libros y negocios de dicha Junta de Gerentes estarán sujetos á la inspeccion y exámen que los Presidentes ambas Repúblicas quisieren hacer en cualquier tiempo. La junta de Gerentes pasará en los primeros días de enero, abril, julio y octubre de cada año sucesivo, una memoria total y completa de sus transacciones durante el precedente trimestre, y el Presidente de cada una de las Repúblicas, puede ademas, en cualquier tiempo, pedirles otros datos semejantes ó mas detallados, según lo estimaren conveniente. La Junta de Gerentes nombrará y removerá todos los empleados ocupados en el

Annex 24

Costa Rica-Nicaragua Treaty of Peace, Commerce and Extradition (Esquivel-Chamorro), San José, Preamble, Articles VII, XVIII, XXVIII and XXXII, 9 October 1885

Source: JM Bonilla, *Colección de Tratados Internacionales* (Managua: Tipografía Internacional, 1909), pp. 489-498

English translation by Costa Rica

TRANSLATION

Costa Rica-Nicaragua Treaty of Peace, Commerce and Extradition (Esquivel-Chamorro), San José, 9 October 1885

"The President of the Republic of Nicaragua and the President of the Republic of Costa Rica, desirous of strengthening as much as possible the relations between both countries and to serve to their common interests by means of a Peace, Friendship, Commerce, and Extradition Treaty, have agreed to start negotiations towards this purpose..."

...

Article VII: "...particularly in regard to freedoms and personal and domiciliary guarantees, to the means of acquiring goods of any kind, to possess, preserve and transfer them ..."

...

Article XVIII: "...that the imports and exports made from one point to the other, either by sea or land, of the articles or natural products from the country...To avoid any doubt, as well as any fraud, it is stated: that the products mentioned in this article are those of free trade in the country where they are introduced and it is agreed that said products, when introduced into the territory or domains of one party, shall be accompanied by a bill of lading issued by the competent authorities of the other in which the origin of said products from that party shall be certified..."

...

Article XXVIII: When the extradition proceeds, all objects seized that have any relation to the crime and its perpetrators shall be rendered..."

...

Article XXXII: "The expenses incurred by the maintenance and transfer of the requested individual, as well as the delivery and transport of the objects that by having relation..."

...

TRATADO

—DE—

PAZ, AMISTAD,

COMERCIO Y EXTRADICION

ENTRE

NICARAGUA Y COSTA RICA

CHAMORRO-ESQUIVEL

1885

EL Presidente de la República de Nicaragua y el Presidente de la República de Costa Rica, deseosos de estrechar, tanto como sea posible las relaciones de ambos países y de servir á sus comunes intereses, por medio de un Tratado de Paz, Amistad, Comercio y Extradición, han convenido en abrir negociaciones para este objeto, dando el Presidente de Nicaragua sus amplios poderes al señor General don Pedro Joaquín Chamorro, Enviado Extraordinario y Ministro Plenipotenciario, ante el Gobierno de Costa Rica y el Presidente de Costa Rica al señor Licenciado don Ascensión Esquivel, Secretario de Estado en el Despacho de Relaciones Exteriores de la República, quienes después de haber presentado sus Plenos Poderes, de haberlos canjeado y encontrado con toda la regularidad debida, han convenido en los artículos siguientes:

Artículo I.

Habrá perfecta paz, perpetua y sincera amistad entre las Repúblicas de Nicaragua y Costa Rica.

Artículo II.

En ningún caso Nicaragua y Costa Rica se harán la guerra. Si entre ellas llegare á surgir alguna diferencia, se darán las debidas explicaciones; y no pudiendo avenirse en el asunto ocurrido, adoptarán precisa é ineludiblemente para terminarlo, el medio humanitario y civilizado del arbitraje.

Artículo III.

Las relaciones comerciales de una República con la otra,

en ningún caso podrán cerrarse, si no es á consecuencia de una declaratoria formal de guerra entre las partes contratantes, lo cual es casi imposible, desde luego que al deber y buen nombre de ellas cumple guardar lo estipulado en los artículos precedentes.

Artículo IV.

Si por desgracia alguna Nación hiciere la guerra á Nicaragua ó á Costa Rica, las partes contratantes convienen en no hacer alianza ofensiva, ni prestar ninguna clase de auxilios á los enemigos de ninguna de las dos Repúblicas; pero esto no obsta á que puedan celebrar alianzas para la defensa de sus derechos ó la de sus respectivos territorios en caso de ser invadidos.

Artículo V.

Si el desacuerdo ó desavenencia ocurriere entre otros Estados de Centro América, las partes contratantes, de común acuerdo, ó cada una por sí, ofrecerán á aquellos sus buenos oficios, y mediarán á fin de mantener la armonía general en Centro América.

Artículo VI.

Si se suscitare cuestión entre uno de los Gobiernos contratantes y alguna Potencia extranjera, el otro ofrecerá sus buenos oficios, excitando á la vez á los demás Gobiernos de Centro América, á que por su parte hagan lo mismo, hasta lograr un arreglo equitativo y satisfactorio. Este compromiso deberá cumplirse desde que se tenga conocimiento de la cuestión y los correspondientes informes de su naturaleza y circunstancias.

Artículo VII.

Debiendo las Repúblicas contratantes considerarse recíprocamente como hermanas, se declara y establece que, en cuanto lo permitan las Constituciones que ahora las rigen, y lo más, pero no lo menos, que franqueen las venideras, los nicaragüenses en Costa Rica y los costarricenses en Nicaragua, gozarán de los mismos derechos políticos que incumben á los naturales. En consecuencia, para que sea eficaz este propósito, el Gobierno de Costa Rica se compromete á procurar la reforma de su Constitución vigente, en el sentido de que se conceda á los nicaragüenses y demás centroamericanos el goce completo de los derechos políticos; pues por lo que hace

á Nicaragua, no presentando inconvenientes su Constitución actual, queda desde ahora otorgado á los costarricenses. En cuanto á los derechos civiles, dicho goce y equiparación serán desde luego absolutos, sin reserva ni diferencia alguna, especialmente en cuanto á libertades y seguridades personales y de domicilio: á los medios de adquirir bienes de toda clase, poseerlos, conservarlos, trasferirlos, y trasportarlos dentro y fuera de la República y al libre ejercicio del comercio y la navegación: todo sin otras limitaciones, formalidades é impuestos nacionales ó municipales, que aquellos á que están ó llegaren á estar sujetos los naturales.

Artículo VIII.

El ejercicio de derechos políticos, y la admisión y servicio de cualquier empleo ó cargo público, por parte de los ciudadanos de una República en la otra, nunca y en ningún caso podrán afectar la nacionalidad ni la ciudadanía de su origen, mas en la República donde tales derechos y empleos ó cargos ejerzan están sujetos á todos los cargos y servicios obligatorios á los naturales.

Artículo IX.

Los costarricenses en Nicaragua y los nicaragüenses en Costa Rica podrán ejercer, con arreglo á las leyes del país en que residan sus profesiones ú oficios, sin más requisitos que la presentación del título debidamente autenticado, la justificación de la identidad de la persona, si fuere necesaria, y el pase correspondiente del Gobierno Supremo. También tendrán el derecho de incorporar en la Universidad ó Colegio respectivo, sus cursos académicos, previa la autenticación ó identidad referidas.

Artículo X.

Los documentos, títulos académicos, diplomas profesionales y escrituras públicas de cualquiera naturaleza que sean, extendidos, ú otorgados conforme á las leyes de la una ó de la otra República, respectivamente, valdrán en aquella donde se presenten para que tengan sus efectos, y se les dará entera fe si conviniesen los requisitos necesarios de autenticidad. Los Tribunales evacuarán los exhortos y demás diligencias judiciales, habiendo para ello solicitud de autoridad legítima, enviada en forma, y un encargado de la parte interesada para proveer lo que el caso demande.

si no es en el caso de que hayan agotado en la respectiva demanda, todos los recursos que para ante autoridades del país las leyes del mismo franqueen á los naturales.

Artículo XV.

En cuanto á los daños ó perjuicios que el nacional de una de las Repúblicas contrayentes recibiese en el territorio de la otra, el Gobierno de ésta no será responsable, si no es que sean causados por agentes del mismo Gobierno ó autoridad del país, en cuyo caso los perjudicados deben ser atendidos por las autoridades de la República donde lo han sido, y obtener de ellas la debida justicia, bajo las mismas leyes á que están sujstos los nacionales, de tal suerte, que los naturales de una de las partes contratantes, en ningún caso serán de mejor condición que los de la otra.

Artículo XVI.

Ambas Repúblicas se comprometen á fijar las bases para establecer y mantener una representación común en el exterior, para procurar una legislación uniforme y para constituir un sistema común de pesas, medidas y monedas, sobre la base decimal, todo en el más corto plazo posible.

Artículo XVII.

Cuando la Constitución de Costa Rica abra el campo que la de Nicaragua y la oportunidad se presente, de celebrar concierto para la Unión centroamericana, los Gobiernos contratantes se empeñarán de consuno en la realización de esa grande idea. Cualquiera de los dos que la intente ó que sea invitado para ella, deberá dar al otro noticia inmediata y completa de las negociaciones que ocurran, desde el momento en que se inicien, y á medida que se vayan verificando.

Artículo XVIII.

No pudiendo considerarse rigurosamente las Repúblicas de Nicaragua y Costa Rica como Naciones extranjeras, por razón de su común origen, por las conexiones é intereses territoriales, comerciales y políticos que las han ligado y las ligan, se declara y establece, respecto de sus particulares y propias producciones: que las importaciones y exportaciones que se

hagan de uno á otro punto, ya sean por mar ó tierra, de los artículos ó productos naturales, propios del país que los remite, no pagarán derechos ni impuestos de ninguna clase, sean fiscales ó locales. Para evitar toda duda, lo mismo que cualquier fraude, se explica que los productos de que habla este artículo son los de libre comercio en el país donde se introducen; y se conviene en que dichos productos, al ser introducidos en el territorio ó dominios de la una parte, deberán ir acompañados de una guía expedida por las autoridades competentes de la otra, en que se hará constar ser de ellas el origen ó procedencia de dichos productos: esto por lo que hace á la importación: mas respecto á la exportación, el que la verifica tiene la obligación de presentar dentro de dos meses la correspondiente torna-guía, si esto se le exigiere.

Artículo XIX.

Las Repúblicas contratantes se entregarán recíprocamente los individuos prófugos de la una refugiados en la otra, que estuvieren procesados ó sentenciados como autores, cómplices ó encubridores de los delitos de homicidio, incendio, robo, abigeato, piratería, peculado, falsificación de moneda, sellos ó instrumentos públicos, bonos y documentos de crédito del Estado, billetes de banco, ó cualquier otro valor público, defraudación de las rentas públicas, quiebra fraudulenta, falso testimonio, y por cualquier otro delito que tenga señalada pena de muerte, penitenciaría, presidio, trabajos forzados ó prisión, que no baje de dos años en la Nación en que se hubiesen cometido, aunque la pena sea menor ó distinta en la del refugio.

Artículo XX.

La pena de dos años de prisión mencionada en el artículo anterior, señala solamente la naturaleza de los delitos que motivan la extradición, cuando ésta se pide durante el enjuiciamiento: pero no limita los efectos del juicio, si por circunstancias atenuantes ú otros esclarecimientos, favorables al reo, fuese éste sentenciado á sufrir pena menor.

Artículo XXI.

Para los efectos de la extradición, se comprenden en la jurisdicción de la República, á la cual aquella se pide, sus

arresto provisional se verificará en la forma y según las reglas establecidas por la legislación del país del asilo; pero cesará, si en el término de un mes contado desde que se verificó, no se formalizase la reclamación indicada en el artículo precedente.

Artículo XXVII.

Si el reo fuere ciudadano del país en que se ha refugiado y se solicitare su extradición para que sufra la pena impuesta por sentencia ejecutoriada, emitida con su audiencia, se entregará con sujeción á lo dispuesto en los artículos XXII, XXIII y XXIV; pero si la extradición se pidiese por causa de enjuiciamiento, el Gobierno no está obligado á concederla, si el reo prefiriese ser juzgado por los Tribunales de su país; en este caso, con los antecedentes recogidos en el punto donde se hubiese cometido el delito, y después de evacuarse los exhortos que se creyeren convenientes, el Juez del domicilio del reo, ó el de la capital, si no lo tuviere, deberá seguir el proceso hasta terminarlo; y el Gobierno del país del juzgamiento, informará al otro Gobierno del resultado definitivo.

Artículo XXVIII.

Cuando haya lugar á la extradición, todos los objetos aprehendidos que tengan relación con el delito y sus autores, se entregarán sin perjuicio del derecho de tercero, á la República reclamante. Dicha entrega se verificará aunque por la muerte ó fuga del inculpado, no pueda llevarse á efecto la extradición.

Artículo XXIX.

No será concedida la extradición si el reo reclamado hubiese sido ya juzgado y sentenciado por el mismo hecho en la República donde reside, ó si conforme á las leyes de la República que la solicita, hubiesen prescrito la acción ó la pena.

Artículo XXX.

Si el reo, cuya extradición se solicita estuviese acusado ó hubiese sido condenado por crimen ó delito cometido en la jurisdicción territorial de la República en que se encuentra, no será entregado sino después de haber sido absuelto ó indultado, y, en caso de condenación, después de haber sufrido la pena.

En los casos en que el reo, cuya entrega se pide, hubiese contraído obligaciones que no pueda cumplir á causa de la extradición, ésta se llevará siempre á efecto, quedando la parte interesada en libertad de gestionar sus derechos ante la autoridad correspondiente.

Artículo XXXI.

Cuando el acusado ó condenado, cuya extradición se solicite por una de las partes contratantes, fuere igualmente reclamado por otro ú otros Gobiernos, á causa de crímenes ó delitos, cometidos en jurisdicción de ellos por el mismo culpable, éste será entregado de preferencia al Gobierno que primero hubiese hecho la demanda de extradición.

Artículo XXXII.

Los gastos que causen el mantenimiento y trasporte del individuo reclamado, y también la entrega y traslación de los objetos que por tener relación con el delito deban restituirse y remitirse, serán á cargo de la República que solicite la entrega.

Artículo XXXIII.

Si además de los exhortos para la deposición de testigos domiciliados en el territorio del otro Estado, la autoridad del país del exhorto, conceptuase necesario el comparendo de dichos testigos ó de otros á quienes no se hubiese referido el exhorto, el Gobierno de quien dependen unos y otros testigos, procurará corresponder á la invitación que le haga el otro Gobierno solicitando el comparendo. Si los testigos consintiesen en ir, los Gobiernos respectivos se pondrán de acuerdo para fijar la indemnización debida, que se les abonará por el Estado reclamante, en razón de la distancia, y de la permanencia, anticipándoles la suma que necesiten. Igual convenio celebrarán las partes contratantes para proporcionarse recíprocamente, siempre que sea posible, los demás medios de prueba correspondientes á la instrucción criminal en el respectivo país.

Artículo XXXIV.

Los Gobiernos contratantes se comprometen á comunicarse recíprocamente la sentencia condenatoria por el crimen

Annex 25

Contract between the Government of the Republic of Nicaragua and the Nicaragua Canal Association of New York for the opening of an inter-oceanic canal (Cárdenas-Menocal), Managua, Articles VII, XIII, XVI, XXX and XL, 23 March 1887

Source: *Report of the Isthmian Canal Commission 1899-1901* (Washington: Government Printing Office, 1904), pp. 389-400

58TH CONGRESS, 2d Session. | SENATE. | DOCUMENT No. 222.

REPORT

OF THE

U.S.A.

ISTHMIAN CANAL COMMISSION,

1899-1901.

REAR-ADMIRAL JOHN G. WALKER,
UNITED STATES NAVY,
President.

HON. SAMUEL PASCO.
MR. GEORGE S. MORISON.
LIEUT. COL. OSWALD H. ERNST,
Corps of Engineers, U. S. Army.
LEWIS M. HAUPT, C. E.
ALFRED NOBLE, C. E.
COL. PETER C. HAINS,
Corps of Engineers, U. S. Army.
WILLIAM H. BURR, C. E.
PROF. EMORY R. JOHNSON.

LIEUT. COMMANDER SIDNEY A. STAUNTON,
UNITED STATES NAVY,
Secretary.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

The grantee company shall have the right to establish such telegraph lines as it may deem necessary for the construction, management, and operation of the canal. The Government shall have the right to occupy these lines for the public service without any remuneration to the company.

ARTICLE VI.

The Government of the Republic declares, during the term of this concession, the ports at each extremity of the canal, and the canal itself, from sea to sea to be neutral, and that consequently the transit through the canal in case of war between two powers or between one or more and Nicaragua shall not be interrupted for such cause; and that merchant vessels and individuals of all nations of the world may freely enter the ports and pass through the canal without molestation or detention.

In general, all vessels may pass through the canal freely, without distinction, exclusion, or preference of persons or nationality, provided that they pay the dues and observe the regulations established by the grantee company for the use of the said canal and its dependencies. The transit of foreign troops and vessels of war will be subjected to the prescriptions relating to the same established by treaties between Nicaragua and other powers or by international law. But entrance to the canal will be rigorously prohibited to vessels of war of such powers as may be at war with Nicaragua or with any other of the Central American Republics.

Nicaragua will endeavor to obtain from the powers that are to guarantee the neutrality, that in the treaties that shall be made for that purpose, they shall agree also to guarantee a zone of land parallel to the canal and also a maritime zone in both oceans, the dimensions of which will be determined in such treaties.

ARTICLE VII.

This present agreement, with all its charges and advantages, shall be the object of a company of execution in agreement with Articles I, X, and those following thereafter.

Said company shall be the grantee, and whenever said name is used in this present contract, reference is made to it.

ARTICLE VIII.

The present concession is transferable only to such company of execution as shall be organized by the Nicaragua Canal Association, and in no case to Governments or to foreign public powers. Nor shall the company cede to any foreign Government any part of the lands granted to it by this contract; but it may make transfers to private parties under the same restriction.

The Republic of Nicaragua cannot transfer its rights or shares by selling them to any Government.

ARTICLE IX.

The people of all nations shall be invited to contribute the necessary capital to the enterprise, and it shall be sufficient for the fulfillment of this requirement to publish an advertisement for thirty (30) consecutive days in one of the principal daily papers of each of the cities New York, London, and Paris.

The capital stock of the final company shall be composed of shares, bonds, or obligations of any other kind, in such proportion as it may deem convenient. The issue and transfer of these obligations shall be exempt from stamp dues and from any other imposts or taxes established or that may be hereafter established in the Republic.

Of the capital with which the company shall organize, and which it proposes to distribute among the different countries interested in the enterprise, there shall be reserved at least five (5) per cent for the Central American Government and citizens that may desire to subscribe.

As soon as the company is ready to open subscription books it shall advise the Government of Nicaragua, which will invite the other Governments and through them private parties to subscribe. All such shares not taken within six months, following the date on which the Government shall have been advised of that circumstance, shall remain subject to the free disposition of the company.

ARTICLE X.

The company shall be organized in the manner and under the conditions generally adopted for such companies. Its principal office shall be in New York, or where it may be deemed most convenient, and it may have branch offices in the different countries of Europe and America, where it may consider it expedient.

Its name shall be the "Maritime Canal Company of Nicaragua," and its board of directors shall be composed of persons, one-half at least of them, shall be chosen from the promoters who may yet preserve their quality as such.

ARTICLE XI.

The Government of Nicaragua in its character of shareholder in the company of execution, as hereinafter provided, shall have the perpetual right of naming one director, who shall be an integral part of the board of directors of the company, with all the rights, privileges, and advantages conferred upon them by the statutes of the company and the laws of the country under which it shall organize.

The Government shall also have the right, in its aforesaid capacity of shareholder, to take part in such elections as the company may hold.

ARTICLE XII.

The company is bound to keep a representative in Nicaragua vested with all powers necessary for the proper conduct of the service and for the transaction of its business with the Government.

ARTICLE XIII.

The canal will follow the valley of the River San Juan to Lake Nicaragua, through which will be designated the most convenient route for communication with the Pacific Ocean. In any event, the company shall have the most ample freedom to select the route which it considers most convenient between the two oceans, for the excavation of the canal and its dependencies and its ports, particularly those serving for entrance and exit on both oceans. The company shall have the same liberty to adopt the route which may be deemed most advantageous and economical for the construction of the canal, after the final survey by a commission of competent engineers.

However, should the company, after the survey of the river San Juan, find it necessary to abandon, in any place, the bed of the river, and cut a lateral canal, the Government of Nicaragua reserves the right of requiring from the company the duty of establishing a communication between the part of the San Juan, not used for canal purposes, and the dividing level of the canal, by means of a lock, or a series of locks, suitable for the navigation of ships of six feet draft. As soon as the final plans are adopted and laid before the Government, it shall notify the company within one month after their receipt whether or not they meet with its approval, in order that the company may proceed in accordance therewith. It is understood that this duty does not in any manner compel the company to place or maintain, in navigable condition for small craft, the lower part of the river which these locks may be intended to place in communication with the canal.

ARTICLE XIV.

Within three years, to be counted from the commencement of the work upon the Interoceanic Canal, the company shall, at its own expense, construct a navigable canal between Lake Managua and the navigable part of the Tipitapa River, near Pasquier, of sufficient dimensions to admit of the free passage of vessels drawing six feet and of 150 feet in length. When completed this canal shall be taken possession by the Government of Nicaragua, and will be, after that date, the property of the Republic, which, by virtue of its ownership, shall be bound to bear all expenses required in the future for the service, maintenance, repair, and operation of the canal. But the company shall have the right to make use of it for all purposes useful for the maritime canal enterprise, and to pass through it freely with its vessels, and those belonging to contractors employed in the service of the Interoceanic Canal, during the term of this concession, without being subject to any charge whatever, or to pay tolls or contributions of any kind to the Government of Nicaragua or to any person or company that may, through any cause, be in charge of the administration and operation of the work and its dependencies.

The Government of Nicaragua will place at the disposal of the company, free of all expenses and charges, all the lands that may be required, as well as the materials found thereon, or on those belonging to the Government and that may be utilized by the company in the execution of this work.

ARTICLE XV.

All expenditures for surveys, construction, maintenance, and operation of the Interoceanic Maritime Canal shall be borne by the concessionary company, without any subvention in money nor guaranty of interest on the part of the Republic, nor other concessions than those specified in the present agreement.

ARTICLE XVI.

The Company shall construct, at its expense, and maintain, in good condition, two large ports, one in the Atlantic and one in the Pacific, to serve as termini of the canal, each of them to have a lighthouse of the first order. It shall also construct at the two points on the borders of the lake, where the canal disembogues, two ports of lesser size, with the respective lighthouses.

The company is also obliged to maintain and improve said ports by means of dredges, dikes, piers, embankments, or any other works it may deem advisable, having always in view the good service of the traffic through the canal.

It may, for this purpose, select on the coasts of the two oceans, within the territory of Nicaragua, the localities which the surveys made indicate as preferable.

ARTICLE XVII.

All the space necessary, whether on the main land, in the lake, and its islands, at the ports, roadsteads, or rivers of the two oceans, for the establishment of the canal, its paths, and embankments, for depositing the materials from the excavations, and cuttings for the necessary spaces to be occupied by water after raising the dams which are to be constructed in the bed of the river, for all necessary deviations of streams, as well as for reservoirs, dikes, spaces about the locks, stations, lights and beacons, storehouses, buildings and workshops, deposits for materials, and also all those spaces necessary for the routes, service railways, and canals of the same nature for the transportation of the materials to the line of the work and for feeders for the canal; in short, all lands and places necessary to the construction and operation of the canal, as laid down in the drawings and plans made by the engineers of the company, shall be placed at the disposal of the company by the State, under the conditions set forth in the following articles.

ARTICLE XVIII.

Said lands belonging to the State will be given to the company without any compensation whatever; and, with regard to those belonging to private parties, the State charges itself with their expropriation if the company so requests. The compensation which may be required in this case shall be paid by the company.

ARTICLE XIX.

In all relating to the appropriation that may be made in conformity with the preceding article, the company shall enjoy all the immunities and privileges which the laws of the country accords to the State; so that in no case shall the company be obliged to pay more than the State would under similar circumstances.

ARTICLE XX.

The Government obliges itself to place the company, within six months after its request, in possession of up to one thousand (1,000) manzanas of land between the lake and the Pacific, at such places as the company shall designate, but they are to serve exclusively for cutting the canal, its havens, ports, and other accessory works. The Government shall on its own account cause the necessary expropriation to be made, and the company shall pay to it for all indemnity the sum of fifty thousand dollars ($50,000.00) American gold. This payment to be made by the company in Managua within four months after the date of its request.

ARTICLE XXI.

The company shall have the right to take, free of charge, from the public lands, for the purpose of construction, operation, and maintenance of the canal, whatever materials may be found on them, especially timber for construction and for fuel, the lime, stone, clay for bricks, and earth for fillings as may be necessary. As regards materials found on private lands, the company shall pay for what it may need thereof, enjoying in this respect the same rights and privileges which the State enjoys according to law.

ARTICLE XXII.

Should the company require to occupy, temporarily and during the construction of the canal, lands in the territory of Nicaragua which are not included in those designated in articles 17, 18, and 21, it shall not be obliged to pay any indemnity for them if they are public lands; and the State shall not have the right to sell or dispose of them in any other manner after the

make compensation to their owners according to law, without any right on the part of the expropriated owners to reclaim against the company.

Should the company have improved the lands so taken for purposes of use, ornament, or pleasure the State shall be bound to reimburse it for such damages as it may have suffered, according to the assessment of experts.

ARTICLE XXVI.

Mines of coal, stone, gold, silver, iron, or other metals situated in the lands granted to the company shall belong to it by right, without need of previous "denounciation," it having the right to work them when considered expedient, subject to the laws of the country.

ARTICLE XXVII.

The company shall also have the right to utilize for its account, for sale or exportation, the lumber in the forests, situated in the lands ceded to it by the State, from the time they enter into possession of them in accordance with this contract; that is, from the time of commencement of the works, always saving the acquired rights.

ARTICLE XXVIII.

From the day on which the present concession is ratified by Congress the public lands included in those necessary for the construction of the canal can not be sold, nor can any of those ceded to the company on the banks of the canal by article 23. Nor can they be leased to the prejudice of the company.

ARTICLE XXIX.

The company shall have the right, throughout the extent of the canal as well as at its mouths on both oceans, and in the lake and throughout the extent of the lands ceded by virtue of Articles 16, 17, 22, and 23, to enter upon the work of locating, leveling, excavating, dredging, and in general any other work of whatsoever nature that may be judged useful for the establishment and feeding of the canal, or for its operation, preservation, and maintenance. The company is specially authorized to execute along the canal line and on the banks of the River San Juan and its affluents, within the territory of Nicaragua, and also on the tributaries of Lake Nicaragua, the lakes or water courses which can be utilized in their flow to the Pacific, the system of dikes, rectifications, dredgings, embankments, dams, cuts, location of buoys, and in general all the works that in the opinions of the engineers of the company are deemed indispensable for the construction, feeding, navigation, and operation of the canal. The company may also do all works of like character deemed necessary at the entrances of the canal into Lake Nicaragua, as well as in the lake itself, in accordance with the route that may be determined upon in order to secure in it easy navigation, and as may be found necessary in the other lakes or lagoons that are to be traversed.

The embankments, fillings, and dikes formed in the mouths of the canal in the lake and in the ports on the ocean, by deposits of materials resulting from the excavations of the canal, shall belong in fee simple to the company; the Government having the right to use them if necessary, after compensation made. But it may never obstruct said ports nor widen the beaches in front of them, unless there is absolute necessity to do so, and in this case the embankments and fillings that it may be necessary to construct in front of the ports shall belong to the Republic.

In general the company shall have the right to use all the lakes and rivers of Nicaragua, the waters of which may be necessary, in the judgment of the engineers of the company, for the construction and supply of the canal and for maintaining its operations. It being understood that the damages caused to private parties by the deviation of the water courses shall be compensated for by the company according to a just assessment by experts in agreement with the laws of the Republic.

ARTICLE XXX.

The company shall not import merchandise into the territory of the Republic, for the purpose of trafficking, without paying the import duties established by law. But it may import free of custom duties, and of any tax whatsoever, the articles needed for the works of the enterprise, such as surveys, examination of localities, construction, use, operation, maintenance, repairs, and improvements of the canal; for the telegraphic service and for that of the railways: for running the workshops the company may keep in operation; and such articles may consist

of tools, machinery, apparatus, coal, limestone of all classes, lime, iron, and other metals, raw or manufactured, mining powder, dynamite, or any other analogous substance. These articles may be transported between whatever points they may be required during the works of opening of the canal, and be discharged and stored free of all local taxes.

The company may import free of duties and taxes, during the work on the canal, provisions and medicines absolutely necessary for its own consumption. Goods, the commerce of which is not free, are excepted from the privileges contained in this article, which goods, excepting powder, dynamite, and other explosives, remain subject to the requisites and duties prescribed by the laws.

ARTICLE XXXI.

The vessels employed by the company as tugboats or for the service of the canal shall be free from all duties and also the materials for their repair and the fuel they use. The vessels and appurtenances from whatever place they may be coming for the use of the company shall also be exempt from all duties.

ARTICLE XXXII.

The Government will establish such regulations as it may judge necessary to prevent smuggling and to maintain public order in the region of the canal.

The company is bound to lend its assistance for the enforcement of such regulations. But in the free zone along the margin of the canal, as hereinafter provided, measures for the prevention of smuggling shall be limited to vigilance on the part of the employe or employes whom it may concern without any further measures being taken against passengers, vessels, or their cargoes, excepting when an attempt at smuggling is discovered; it being the intention of the State that there should be the most ample liberty of transit by the canal for persons and property, with the sole limitations established by this contract. Consequently the company shall have the right to discharge and reload ships in transit at such points as may be necessary in order to make repairs, lighten the vessel, shift cargo, or on account of any accident that renders it absolutely necessary, without being subject to search, exactions, or contributions of any kind, provided that in each case, and before beginning operations, the nearest customhouse authority shall be notified.

ARTICLE XXXIII.

The Government shall lend its protection, in conformity with the laws of the country, to the engineers, contractors, employes, and laborers engaged in the preliminary surveys or in the works of construction and operation of the canal.

ARTICLE XXXIV.

The company shall be exempt from all forced loans and military exactions in time of peace and of war. The foreign agents and employes shall likewise be exempt from direct contributions, forced loans, and military exactions during the time they are in the service of the canal, but they shall pay the taxes established by the laws if they acquire real property.

ARTICLE XXXV.

The company may freely introduce immigrants into the lands ceded to it, and the employes and workmen needed in its works and workshops. Asiatics, however, are excepted. Both the immigrants and the employes and workmen will be subject to the laws of the Republic and the regulations of the company. The Government assures them aid and protection and the enjoyment of their rights and guarantees in conformity with the constitution and the national laws during the time they remain on Nicaraguan territory.

ARTICLE XXXVI.

The Government of Nicaragua assures to the company and its agents, under the laws of the country, as it does to the other inhabitants, the full enjoyment of the guarantees and rights which the constitution and the same laws grant to them. And reciprocally the company and its agents bind themselves strictly to respect the laws and regulations that are in force in Nicaragua, and especially to comply with the executory judgments of the tribunals without considering themselves vested with other rights than those which the laws concede in favor of the Nicaraguans.

ARTICLE XXXVII.

The Government shall establish all along the line of the canal included between the two terminal ports, such police stations and revenue offices as in its judgment are necessary to preserve order in the region of the canal, and for the observance of the fiscal laws of the Republic. All expenses incident to this service, including those of buildings, endowments, salaries and allowances of employes, and transportation of the forces, shall be paid to the Government by the company on such terms and conditions as may be established, taking into consideration the requirements and necessities of such service. The company, however, shall have the power to establish guards and watchmen for the service of the canal and the enforcement of its regulations.

ARTICLE XXXVIII.

Contracts for labor on the canal shall enjoy the privileges which the laws of the country accord to agricultural contracts, provided they be clothed with the formalities that the laws require in such contracts. And the contracts in regard to canal labor that the company execute in foreign countries shall be valid and lawful in Nicaragua during the term stipulated in them, provided they do not violate the laws of the Republic; provided also the documents containing them be presented to the proper authorities, with due authentication, that they may be registered.

ARTICLE XXXIX.

The company shall be exempt during the period of this concession, in peace and in war, from all manner of taxes upon the real property it may acquire by virtue of this contract, and from every kind of direct contributions, local taxes, or any other tax relating to the property and use of the canal, its buildings, and constructions appertaining thereto, in its entire length, including those that are situated in the ports and maritime establishments on the two oceans, as also the lands conceded to the company for the whole term of the privilege. This franchise is not assignable to those who buy the real estate which the company may dispose of by virtue of this concession.

ARTICLE XL.

The Republic of Nicaragua shall not establish any tonnage, anchorage, pilot, lighthouse dues or charges of any kind whatsoever upon vessels of whatever class, or upon the merchandise, baggage, and passengers which may pass through the canal from one ocean to the other, all such dues being reserved for the benefit of the company, as hereinafter set forth in article 43.

But all such merchandise as shall be loaded or discharged at any point of the canal intended for sale shall pay the import and export duties fixed by the revenue laws of the State.

ARTICLE XLI.

With the view of securing the most ample freedom in the transit of persons and property, and in order to remove as far as possible occasions for disagreeable questions, there shall be on each side of the canal a free zone, the extent of which shall be one hundred yards measured from the water's edge in the canal, it being understood that the borders of the lake shall not be considered as margin of the canal for the purposes of this stipulation.

All traffic declared illegal by the laws of the Republic shall be prohibited within the said zone, and the revenue authorities charged with watching and preventing smuggling shall act in conformity with the stipulations in article 32.

It is expressly agreed that every vessel that passes through the canal shall carry on board an officer named by the Government when the authorities think it necessary, and this employe shall act in conformity with the law in case he discovers its infringement.

The two ports to be constructed for the entrance and exit of the canal on the two oceans shall be declared free ports, and they shall be recognized as such from the beginning of the work to the termination of this concession.

The Government in agreement with the company shall establish, by special decree, the limits of the freedom of these ports, which limits shall not extend beyond the waters of the port, which are those included between the mouth of the canal and the entrance to the said ports.

ARTICLE XLII.

For the proper administration of the canal and its appurtenances, and in order to facilitate its construction and operation, the company shall establish the necessary regulations, which shall be binding on all persons found in its waters or its appurtenances, the sole reservation being that the rights and sovereignty of the State be respected.

Annex 26

Cleveland Award upon the validity of the Treaty of Limits of 1858 between Costa Rica and Nicaragua, Washington DC, Spanish version of Award, Second Article and Third Article point 5, 22 March 1888

Source of Spanish version: *Memoria Anual de la Secretaría de Relaciones Exteriores y Carteras Anexas 1888 (San José: Imprenta Nacional, 1888)*

GROVER CLEVELAND,

Presidente de los Estados Unidos de América.

A quienes concierna, Salud:

Habiéndose conferido al Presidente de los Estados Unidos, por virtud del Tratado firmado en Guatemala en veinticuatro de diciembre de mil ochocientos ochenta y seis, entre las Repúblicas de Costa Rica y Nicaragua, la función de decidir como Arbitrador la cuestión pendiente entre los dos Gobiernos contratantes, con respecto á la validez del Tratado de límites celebrado entre ellos el quince de abril de mil ochocientos cincuenta y ocho, estipulándose además en dicho Tratado que si la decisión del Arbitrador fuese en el sentido de que el Tratado es válido, la misma decisión habrá de resolver si Costa Rica tiene el derecho de navegación en el río San Juan, con buques de guerra, ó embarcaciones fiscales, y fallar además, y en el mismo caso, sobre todos los puntos de interpretación dudosa, que cualquiera de las dos partes pudiera encontrar en el Tratado, y comunicara á la otra dentro de treinta días después del canje de las ratificaciones de dicho Tratado de veinticuatro de diciembre de mil ochocientos ochenta y seis.

Y habiendo la República de Nicaragua comunicado debidamente á la República de Costa Rica once puntos que encontró de dudosa interpretación en dicho Tratado de límites de quince de abril de mil ochocientos cincuenta y ocho; y no habiendo la República de Costa Rica comunicado á la República de Nicaragua ningún punto de interpretación dudosa que encontrara en el dicho Tratado.

Y habiendo las dos partes presentado en debida forma ante el Arbitrador sus alegatos y documentos, y después sus respectivas réplicas al alegato de la otra parte, según se provee en el Tratado de veinticuatro de diciembre de mil ochocientos ochenta y seis.

Y habiendo el Arbitrador, en cumplimiento de la cláusula quinta del Tratado últimamente mencionado, delegado sus poderes en el Honorable George L. Rives, Subsecretario de Estado, quien después de haber examinado y estudiado los referidos alegatos, documentos y réplicas, sometió por escrito su informe al referido Arbitrador;

Yo, Grover Cleveland, Presidente de los Estados Unidos de América, pronuncio la siguiente decisión y fallo:

Primero.—El antedicho Tratado de límites, firmado el quince de abril de mil ochocientos cincuenta y ocho, es válido.

Segundo.—La República de Costa Rica, no tiene según dicho Tratado, y conforme á las estipulaciones de su artículo sexto, el derecho de navegar el río San Juan con buques de guerra; pero puede hacerlo con embarcaciones del servicio fiscal, según corresponda y tenga que ver con el goce de los "objetos de comercio", que se le reconoce por dicho artículo, ó como se necesite para la protección de dicho goce.

Tercero.—Con respecto á los puntos de dudosa interpretación comunicados, como antes queda dicho, por la República de Nicaragua, decido lo siguiente:

1.—La línea divisoria entre las Repúblicas de Costa Rica y Nicaragua, del lado del Atlántico, empieza en la extremidad de Punta de Castilla, en la boca del río San Juan de Nicaragua, tales como ambas cosas existían el día quince de abril de mil ochocientos cincuenta y ocho. El dominio de toda accesión á dicha Punta de Castilla ha de regirse por las leyes aplicables á ese asunto.

2.—El punto céntrico de la Bahía de Salinas, ha de fijarse, trazando una línea recta, que cierre la boca de la Bahía y determinando matemáticamente el centro de la figura geométrica que resulte circunscrita por dicha línea recta y la orilla de la Bahía en la baja marea.

3.—Debe entenderse por punto céntrico de la Bahía de Salinas el centro de la figura geométrica formada como queda dicho. El límite de la Bahía hacia el Océano es una línea recta tirada desde la extremidad de Punta Arranca Barba, yendo casi directamente hacia el Sur, hasta la parte más Occidental de la tierra inmediata á Punta Sacate.

4.—La República de Costa Rica no está obligada á concurrir con la República de Nicaragua á los gastos necesarios para impedir que se obstruya la Bahía de San Juan del Norte, ó para mantener libre y desembarazada la navegación del río ó del puerto, ó mejorarla en beneficio común.

5.—La República de Costa Rica no está obligada á contribuír en proporción alguna á los gastos que la República de Nicaragua tenga que hacer para cualquiera de los objetos arriba mencionados.

6.—La República de Costa Rica no puede impedir á la República de Nicaragua que ejecute á su costa y dentro de su propio territorio las referidas obras de mejora, *con tal que* las dichas obras no ocasionen la ocupación ó anegamiento, ó perjuicio del territorio costarricense, ó la destrucción ó daño serio de la navegación de dicho río ó de cualquiera de sus brazos, en cualquier punto en que Costa Rica tiene derecho á navegarlos.—La República de Costa Rica tiene el derecho de exigir indemnización por los lugares pertenecientes á ella, en la margen derecha del río San Juan, que se ocupen sin su consentimiento, y por las tierras en la misma orilla que sean inundadas ó perjudicadas de cualquiera otra manera á consecuencia de las obras de mejoramiento.

7.—El brazo del río San Juan conocido con el nombre de "Río Colorado" no debe considerarse como límite entre las Repúblicas de Costa Rica y Nicaragua en ninguna parte de su curso.

8.—El derecho de la República de Costa Rica á la navegación del río San Juan con buques de guerra ó embarcaciones fiscales, está determinado y definido en el artículo segundo de este laudo.

9.—La República de Costa Rica puede negar á la República de Nicaragua el derecho de desviar las aguas del río San Juan, en caso de que dicha desviación ocasione la destrucción, ó serio daño de la navegación de dicho río ó de cualquiera de sus brazos, en cualquier punto en que Costa Rica tiene derecho á navegarlos.

10.—La República de Nicaragua queda obligada á no hacer concesiones para objetos de canal al través de su territorio, sin pedir primero la opinión de la República de Costa Rica, según determina el artículo VIII del Tratado de límites de quince de abril de mil ochocientos cincuenta y ocho. Los derechos naturales de la República de Costa Rica, á que alude dicha estipulación, son los derechos que en virtud de los límites fijados por dicho Tratado posee ella sobre el suelo que se reconoce perpetecerle exclusivamente; los

que ella posee en los puertos de San Juan del Norte y Bahía de Salinas, y los que también posee en toda aquella parte del río San Juan que queda á más de tres millas inglesas abajo del Castillo Viejo, empezando la medida desde las fortificaciones exteriores de aquel Castillo, según existían en el año de 1858; y tal vez otros derechos que aquí no se especifican particularmente. Estos derechos deben considerarse dañados en todos los casos en que se ocupe ó inunde el territorio perteneciente á la República de Costa Rica, ó donde se haga algo perjudicial á Costa Rica en cualquiera de los dos puertos antedichos, ó donde se verifique tal obstrucción ó desviamiento del río San Juan que destruya ó impida seriamente la navegación del mismo ó de cualquiera de sus brazos en cualquier punto donde Costa Rica tiene derecho á navegarlos.

11.—El Tratado de límites de quince de abril de mil ochocientos cincuenta y ocho no da á la República de Costa Rica el derecho de ser parte en las concesiones para canal interoceánico que haga Nicaragua; aunque en los casos en que la construcción del Canal envuelva perjuicio á los derechos naturales de Costa Rica, su parecer ó dictamen tenga que ser, según menciona el artículo VIII del Tratado, más que simple voto consultivo. Parece que en tales casos su consentimiento es necesario; y que ella puede por lo tanto exigir compensación por las concesiones que se le pida que otorgue; pero ella no puede exigir como un derecho suyo la participación en las ganancias que la República de Nicaragua se reserve para sí misma en compensación de los favores y privilegios que ésta á su vez conceda.

En testimonio de lo cual así lo firmo y sello con el sello de los Estados Unidos, aquí estampado.

Hecho por triplicado en la ciudad de Wáshington, el veintidós de marzo de mil ochocientos ochenta y ocho, el ciento doce de la independencia de los Estados Unidos.

GROVER CLEVELAND.

Por el Presidente.

T. F. BAYARD,

Secretario de Estado.

——:o:——

Annex 27

Contract between the Government of the Republic of Costa Rica and the Nicaragua Canal Association for the opening of an inter-oceanic canal (Pérez-Menocal), San José, Preamble, Articles VI, VII, XXVI, XXXVI, XXXVII, XXXIX, XL and XLV, 31 July 1888

Sources:

English version: AR Colquhoun, *The Key of the Pacific: The Nicaragua Canal* (Westminster: Archibald Constable & Co., 1895), pp. 386-407

Spanish version: Archivo Nacional de Costa Rica

The Key of the Pacific

The Nicaragua Canal

BY

ARCHIBALD ROSS COLQUHOUN

ASSOC. MEMBER INST. C.E., F.R.G.S., ETC.; GOLD MEDALLIST R.G.S.; FIRST ADMINISTRATOR OF MASHONALAND, AND FORMERLY DEPUTY COMMISSIONER, BURMAH

Formerly Special Correspondent of "The Times" in the Far East and South Africa, and lately in Central America

WITH NUMEROUS ILLUSTRATIONS, PLANS AND MAPS

WESTMINSTER

ARCHIBALD CONSTABLE AND COMPANY

Publishers to the India Office

1895

APPENDIX V.

CONCESSIONS AND DECREES OF THE REPUBLIC OF COSTA RICA TO THE NICARAGUA CANAL ASSOCIATION.

THE CONSTITUTIONAL CONGRESS OF THE REPUBLIC OF COSTA RICA, IN THE EXERCISE OF THE POWERS GRANTED TO IT BY SECTION 4, ARTICLE 73 OF THE CONSTITUTION.

ARTICLE FIRST.

DECREES.

The contract entered into on the 21st of July last, between the Honourable Minister of Public Works, authorized for this purpose by the Honourable President of the Republic, on behalf of the Government of the same, and Mr. Aniceto G. Menocal on behalf of the Nicaragua Canal Association, for excavating and operating an inter-oceanic canal, crossing, either in whole or in part, through the territory of the Republic, or running along the whole or part of its boundary with Nicaragua, is hereby approved.

The aforesaid contract with the modifications agreed to by Congress reads literally as follows:

The undersigned, PEDRO PEREZ ZELEDON, *Secretary of State for the Bureau of Public Works, especially authorized by the Honourable General, President of the Republic, to celebrate ad referendum the present contract, party of the first part, and* ANICETO G. MENOCAL, *representing the Nicaragua Canal Association, with full powers from it, and also authorized for this purpose by the Executive Committee of the said Association, party of the second part, have revised the contract for the canal made in Washington on the 17th of last May, by the party hereto of*

the first part, in his capacity as Envoy Extracrdinary and Minister Plenipotentiary of the Republic of Costa Rica, to the Government of the United States of America, and MR. HIRAM HITCHCOCK, *President of the aforesaid association; the said contract with the modifications now agreed to by the undersigned, reads of follows:*

ARTICLE I.

The Republic of Costa Rica grants to the NICARAGUA CANAL ASSOCIATION, its successors and assigns, the exclusive privilege to excavate and operate a maritime canal between the Atlantic and the Pacific Oceans, running either wholly or in part through the territory of the said Republic or along the whole, or a part of her border line with the Republic of Nicaragua.

To render this contract fully efficient between the contracting parties hereto, it will be sufficient if the association aforesaid should use or occupy for the works of the said canal, or for any of its ports in one or the other oceans, any Costa Rican waters or at least waters in which Costa Rica has joint ownership or has rights of use and navigation.

Whenever the word "ASSOCIATION" is used in this present document reference is made to the "NICARAGUA CANAL ASSOCIATION," its successors and assigns.

ARTICLE II.

The canal shall be of sufficient dimensions for the free and commodious passage of vessels of the same size as the large steamers used for ocean navigation between Europe and America.

ARTICLE III.

The State declares this work to be one of public utility.

ARTICLE IV.

The duration of the present privilege shall be for ninety-nine years, to be counted from the day on which the canal shall be opened to universal traffic.

During the aforesaid period the association shall have the right to construct and operate within the territory of Costa Rica, a railroad along the whole extent of the said canal, or those parts of the same which it may consider convenient for the better service and operation of the said work.

The Republic binds itself not to make any subsequent concessions

for the opening of a canal between the two oceans as long as the present privilege lasts.

The Republic will also abstain during the same period, from granting, within a zone of twenty-five miles along the canal, concessions for railroads from sea to sea, that might compete with the canal in the traffic between foreign nations. This restriction shall not prevent the construction of new railroads that may be convenient for Costa Rica to build to the canal, or to any point on the northern frontier of the Republic, either connecting or not with any other railroads.

ARTICLE V.

The grantee association shall have the right to establish such telegraph lines as may be considered necessary for the construction, management and operation of the canal.

The government shall have the right to use the telegraph lines of the company from any station to any station that may be included within the line from sea to sea, without being obliged to pay the company for such service.

ARTICLE VI.

The Government of the Republic declares and accepts that the ports at each extremity of the canal and the canal itself from sea to sea, during the time of this concession, shall be neutral; and consequently in case of war between other nations, or between one or more nations and Costa Rica, the transit through the canal shall not be interrupted for such cause, and the merchant vessels and individuals of all nations of the world may freely enter the aforesaid ports or pass through the canal without molestation or detention.

In general, all vessels shall freely pass through the canal without distinction, exclusion or preference, whether of persons or nationalities, provided that they pay the dues and comply with the rules established by the association for the use of the said canal and its dependencies.

The transit of foreign troops and vessels of war shall be regulated by such provisions in regard thereto as are now or may be hereafter established in the treaties between Costa Rica and other powers, or by international law. But the entrance of the canal shall be strictly forbidden to vessels of war of any nation which may be at war with Costa Rica, or with any other of the republics of Central America.

Costa Rica shall endeavour to obtain from the powers that are to guarantee the neutrality, that in the treaties to be made for that

purpose, they shall also bind themselves to guarantee the same conditions to a zone of land parallel to the canal, and also to a maritime zone in both oceans, the dimensions of which shall be fixed by such treaties.

ARTICLE VII.

The present concession shall be transferable only to such company or companies as may be organized for the purpose of constructing or operating the canal, and in no case to foreign governments or to foreign public powers.

Nor shall the association have the right to transfer to any foreign government or public power any part of the lands granted to it by this contract. But it shall have the right to make such transfers to private parties under the same restrictions.

The Republic of Costa Rica shall not *transfer* its rights and privileges in this respect to the canal to any foreign government or public power.

The people of all nations shall be invited to contribute the necessary capital to the enterprise, and it shall be sufficient for the fulfilment of this requirement to publish an advertisement for twenty consecutive days in one of the principal daily papers of each of the cities, New York, London, and Paris.

ARTICLE VIII.

The capital stock (*capital social*) of the final company which is to operate the canal shall consist of shares of the face value of one hundred dollars each, which shall be issued in such amounts as may be deemed necessary. The issue and transfer both of these shares and of all the bonds and obligations that the company may issue shall be exempt from stamp dues and from all other taxes or imposts now established or to be hereafter established in the Republic.

A five per centum, at least, of the capital stock with which the said company may be organized shall be reserved for such Central American Governments and citizens as may wish to subscribe.

As soon as the said company is ready to open subscription books, notice shall be given by it to the Governments of Costa Rica and Nicaragua, which shall invite the other governments of Central America, and through them private parties, to subscribe.

The shares which, within six months to be counted from the date of the notice given to the government of the opening of the subscription books, are not paid for shall remain at the free disposition of the company.

the two oceans, by using materials resulting from the excavation of the canal, shall belong in fee simple to the association; but the government shall have the right to occupy them in whole or in part after compensation made. Should any port of the canal be within the territory of Costa Rica the association shall not obstruct such port nor widen its beaches unless there is absolute necessity to do so, and in this case the embankments and fillings that it may be necessary to construct in front of said port, shall belong to the Republic.

In general the association shall have the right to use all the lakes and rivers of Costa Rica, the waters of which may be necessary in the judgment of the engineers of the association to construct and feed the canal and to maintain its operations, but this right shall have the following restrictions, to wit:

1st. The navigation of the Costa Rican rivers, which the association may dam or otherwise use for the benefit of the canal shall remain at the termination of the respective works in as good condition as it was before they were made.

2nd. In the places where the waters of said rivers may overflow in consequence of the erection of dams or other artificial obstructions made by the association, the said association shall be obliged to do whatever may be practicable to prevent the formation of swamps and marshes.

3rd. Such damages as may be caused to private parties in consequence of the deviation or elevation of the streams shall be compensated for by the association according to appraisals made by experts in conformity with the laws of the Republic, but the association shall not be obliged to pay more than the State would under similar circumstances.

Article XXVI.

The association cannot import merchandise into the territory of the Republic for the purposes of trafficking with it without paying the custom duties established by law, but it shall have the right to import free from custom duties and of any other imposts whatsoever, the articles needed for the works of the enterprise, its surveys, explorations, examination of localities, constructions, use, operation, maintenance, repairs and improvements of the canal, and also for the telegraphic and railroad service of the same, and for the works and workshops of the company, and the said articles may consist of implements, machinery, apparatus, coal, limestone of all classes, lime, iron and other metals, whether raw or manufactured, mining powder, dynamite or any other analogous substance. These articles may be transported between whatever points

they may be needed during the work of the construction of the canal, and shall be landed and stored free from all local taxes.

The association shall also have the right to import free from duties or imposts during the work of constructing the canal, such provisions, clothing for the workmen, and medicines as may be absolutely necessary for its own consumption.

Those articles the commerce of which is not free are excepted from the privileges granted in this Article, and shall remain subject, with the exception of gunpowder, dynamite and other explosives, to such requisites and duties as are established by law.

Article XXVII.

The vessels that the association may employ as tugboats or for the service of the canal shall be free from all imposts or taxes of any kind whatever, and also the material to be used for their repair and the fuel that they may consume.

The vessels and their appurtenances from whatever place they may come for the service of the association shall be exempt from all duties and imposts.

Article XXVIII.

The government shall enact such regulations as it may deem necessary to prevent smuggling, and for the preservation of public order in the region of the canal lying within the territory of Costa Rica or bordering on it, and in the waters where it may exert joint jurisdiction. The company shall be bound to lend its assistance for the enforcement of such regulations. But in the free zone along the margin of the canal, as hereinafter provided, measures for the prevention of smuggling shall be limited to vigilance on the part of the employé or employés whom it may concern, without right to any further measures either against passengers, vessels or their cargoes excepting when an attempt at smuggling may be discovered; it being the intention of the State that there shall be most ample freedom of transit through the canal for persons and property with the sole limitations established by this contract. Consequently the association shall have the right to unload and reload ships in transit at such points as may be necessary in order to make repairs or lighten the vessels or shift their cargoes, or on account of any accident that unavoidably may render it necessary, without being subject thereby to search, exactions or contributions of any kind, provided in each case, and before beginning operations, notice is given to the nearest custom house authority.

waters appertaining to it in ownership or joint jurisdiction such police stations and revenue offices as in its judgment may be necessary for the preservation of order in the region of the canal and for the observance of the fiscal laws of the Republic.

The expenses incident to said services including those of buildings, salaries, wages, and allowances of the employés and transportation of the forces and which may be in excess of such as are now borne by the Government for the Custom House actually established at the mouth of the San Carlos, or on any other point that may be crossed by the canal, shall be paid to the Public Treasury by the company on such terms and conditions as may be established hereafter, taking into consideration the requirements and necessities of such services.

The association shall also have the right to establish guards and watchmen for the service of the canal and the enforcement of its regulations.

ARTICLE XXXIV.

All contracts in regard to the works of the canal that the association may enter into in foreign countries shall be valid and effective, and shall have full force and effect in Costa Rica, provided they do not violate the laws of the Republic.

ARTICLE XXXV.

The association shall be exempt during the period of this concession, both in time of peace and in time of war, from all kinds of taxes upon the real estate that it may acquire by virtue of this contract, and from all kinds of direct taxes, local charges, or any other imposts relating to the property and use of the canal, or of its buildings and the construction and dependencies thereof, all along its extent, including those situated in the ports and maritime establishments on the two oceans.

This franchise is not transferable to the purchasers of the real estate which the association may alienate under this grant.

ARTICLE XXXVI.

The Republic of Costa Rica shall not establish any tonnage, anchorage, pilot or lighthouse dues, or any other charges of any kind whatsoever, upon vessels of any class whatever, or upon the merchandise, baggage and passengers which may pass through the canal from one ocean to the other; all such dues are reserved for the benefit of the association, as provided in Article 39.

ARTICLE XXXVII.

For the purpose of securing the most ample liberty or the transit of persons and property, a free zone shall be established on each side of the canal, and the width thereof shall be 90 metres and 288 millimetres, measured from the water's edge in the canal.

All traffic declared illegal by the laws of the Republic shall, however, be prohibited within the said zone, and the revenue authorities whose duty it is to watch for and prevent smuggling, shall act in conformity with the stipulations of Article 28.

It is expressly agreed that every vessel that may pass through the part of the canal which may be within the territory of Costa Rica, or along its borders or in waters over which it exerts co-jurisdiction, shall carry on board an officer appointed by the government whenever the authorities may deem it convenient, and that officer shall act in conformity with the law should he discover that it is being violated.

The two ports to be constructed for the entrance and exit of the canal on both oceans, which may be wholly or in part within the territory or in waters of Costa Rica, shall be declared free ports, and shall be recognized as such from the opening of the canal to the end of this concession.

The government, in agreement with the company, shall establish, by means of a special decree, the limits of this franchise, which shall never extend beyond the waters of the ports comprised between the mouth of the canal and the entrance of said ports.

All merchandise that shall be loaded or discharged at any point of the canal within the territory of Costa Rica, and intended for internal commerce, shall pay the import and export duties fixed by the revenue laws of the State.

ARTICLE XXXVIII.

For the proper administration of the canal and its dependencies, and in order to facilitate its construction and operation, the association shall establish the proper regulations, which shall be binding upon every person who may be found in its waters or in its dependencies; the sole reservation being that the rights and sovereignty of the State be respected.

It is understood that the association, in the exercise of the powers conferred by this Article, shall not make other regulations than those necessary for the administration and particular management of the canal; and that, before carrying them into effect, they shall be submitted for

the approval of the government. The State shall lend the aid of its authority to enforce these regulations.

ARTICLE XXXIX.

By way of compensation for the expenses incurred in the surveys, construction, maintenance and operation of the canal, or any part thereof, during the period of said privilege, the said association shall have the right to establish and collect for the passage of all kinds of ships, vessels, travellers and merchandise through the canal, and in the waters and ports pertaining to it, such dues of navigation, tonnage, pilotage, towage, stowage, lay days, anchorage, light, roadsteads, wharfage, hospital dues and any other similar charges, in conformity with the tariffs to be established by it in accordance with Article 45 of this contract.

These tariffs may be modified by the association at any time on condition that all modifications that may be introduced in it shall be previously communicated to the government, which, in case of finding them within the limits established by said Article 45, shall cause them to be complied with as if they were regulations enacted by itself.

The payment of all the tariff dues shall be exacted without any exception or preference, and under identical conditions, from all vessels, whatever be the place they come from or their nationality, with the exception stipulated in the following Article.

ARTICLE XL.

In compensation for the privileges and concessions that Costa Rica grants by this contract, it is hereby stipulated that the Republic shall enjoy the special privilege that Costa Rican vessels, navigating under the flag of Costa Rica, shall be entitled to navigate the canal at a reduction of fifty per centum of the general tariff while engaged in the coasting trade, or in the reciprocal trade with the other Republics of Central America.

To enjoy this privilege, the said vessels shall be necessarily of the register of the Republic, and belong to citizens of the same.

A reduction of fifty per centum of the general tariff is also granted to all vessels that begin their voyage for a foreign country at any of the ports belonging to the Republic, with a cargo wholly consisting of products of the country.

Costa Rican vessels of war and revenue cutters shall pay no dues in passing through the canal. No dues shall be paid by the vessels of the National Register navigating either Costa Rican waters connected with

the canal or the canal itself, without passing out of the locks, but said vessels are not in any way to obstruct the free navigation of the canal.

Costa Rica, on its part, shall not object to the enjoyment by Nicaraguan ships of the advantage granted in this Article to those of Costa Rica, provided that Nicaragua, on its part, consents that the ships of Costa Rica shall enjoy in Nicaraguan waters the said privilege.

All the concessions to which this Article refers shall be extended to the other Republics of Central America, or any of them, whenever Costa Rica and Nicaragua shall find themselves free from international obligations which may prevent it, or whenever one or more of said Republics shall form a single nation with Costa Rica.

Article XLI.

In case it may be possible to utilize the waters of the canal and its dependencies for the irrigation of plantations, gardens and streets, or for the supply of towns that may be without it, or as motive power for private enterprises, the company shall have the power to supply it, collecting dues in proportion to the amount furnished, according to the tariff that it may establish in agreement with the government.

Article XLII.

The association shall undertake at its expense the final surveys of the ground and the location of the line of the canal by a commission of competent engineers. The Government of Costa Rica shall have the right of visiting and inspecting the final surveys which are in progress, and those already completed by an engineer appointed by said government, and whose salary shall be paid by the association, the amount thereof to be fixed hereafter by special agreement between the government and the company.

A period of two years and a half to be counted from the date of the ratification of the contract is granted the association for the final surveys of the canal, and within the said time the association shall have to make the said final surveys, organize the company, which is to carry on the work, and begin the work of construction.

The work of construction shall be understood to have commenced if within three years after its inception two millions of dollars have been expended on it.

The period herein provided for shall admit of extension by the Republic at the request of the association, and upon grounds of justice, in the judgment of the government.

ARTICLE XLIII.

A term of ten years is also granted to the association for the construction, completion and opening to traffic the canal for maritime navigation. However, should events of main force arise duly justified, and sufficient to impede the regular progress of the works during the period of the said ten years, an extension shall be granted equal in duration to the time that may have been lost by such delays.

If at the expiration of the ten years aforesaid the works should not be completed, so as to have the maritime communication between the two oceans opened, in consideration of the great capital the company may have invested in the enterprise, and the good will and ability it may have shown, and the difficulties encountered, the Republic binds itself to grant a new extension.

ARTICLE XLIV.

As a guaranty of the fulfilment of the obligations which the final company which is to construct the canal incurs in accordance with Article 42, it shall deposit to the order of the Government of Costa Rica, in a bank or in a mercantile house in this city, or with an agent which the government may designate immediately after the certificates are issued, one thousand shares of its capital stock of the nominal value of $100 each. The said one thousand shares of capital stock shall be considered an advance to the government of the payment of the police and revenue expenses to be made under Article 33, and the association shall be credited with the actual value of said shares at the time such payments are made.

ARTICLE XLV.

In consideration of the valuable privileges, franchises and concessions granted by virtue of this contract to the association, the Republic shall receive in shares, certificates or other values representing the capital stock of the final company, an amount equal to one and one half per centum of the total amount of the issue of said capital stock in shares or certificates of $100 each. This sum shall in no event be less than $1,500,000. Said shares shall be considered as fully paid up, and two-thirds thereof shall not be transferable. All these shares shall participate in the benefits, interests, distributions, dividends, amortizations, rights, privileges, and all other advantages granted to paid-up shares without any difference whatever. These shares together with the other privileges

herein granted by the association to the government shall be in full compensation to the Republic for all public unappropriated lands that may be flooded and for all the privileges, and concessions conferred by this contract, and shall cover completely all claims of this description on the part of the State against the association or the final company. The shares to which this Article refers shall be delivered to the agent appointed by the government for this purpose as soon as the company may be ready to issue certificates of its capital.

ARTICLE XLVI.

From the earnings of the enterprise the company shall take, in the first place, the necessary amount to cover all the expenses for maintenance, operation and administration; all the sums necessary to secure the interest, which shall not exceed six per centum, and the amortization of the obligations and of the shares, and what remains shall form the net profits, of which at least eighty per centum (80 per cent.) shall be divided among the shareholders, it being understood that after the lapse of ten years after the completion of the canal the company shall in no case divide among the shareholders in payment of dividends, directly or indirectly, by issue of shares or otherwise, more than fifteen per centum (15 per cent.) annually or in this proportion, from dues collected from the aforesaid canal and where it shall appear that these dues yield a greater profit, they shall be reduced to the fixed limit of fifteen per cent. per annum.

ARTICLE XLVII.

The present concession shall be forfeited :

1st. Through the failure on the part of the company to comply with any one of the conditions contained in Articles 7, 42, and 43.

2nd. If the service of the canal, after it is completed, is interrupted for six months, unless in case of unforeseen accidents or main force.

When the concession shall have been declared forfeited from whichever of these causes, the public lands granted by virtue of the present contract shall revert to the Republic in whatever condition they may be, and without compensation, such lands as may have been alienated by the company with the formalities prescribed by law, shall be excepted, provided that such alienations shall not have taken place within the six months preceding the date on which the company may have become legally liable to the penalty herein established.

Los infrascritos PEDRO PÉREZ ZELEDÓN, *Secretario de Estado en el Despacho de Fomento, autorizado especialmente por el Benemérito General Presidente de la República para celebrar ad-referendum el presente contrato,—por una parte,—y* ANICETO G. MENOCAL, *Representante de la Asociación del Canal de Nicaragua, con poder bastante de ella y autorizado también para el dicho objeto por la Comisión Ejecutiva de la misma,—por la otra parte,—han procedido á rever la Contrata de Canal celebrada en Wáshington el día 17 de mayo último, por el primero en su carácter de Enviado Extraordinario y Ministro Plenipotenciario de la República de Costa Rica ante el Gobierno de los Estados Unidos de América, y el señor* HIRAM HITCHCOCK, *Presidente de la expresada Compañía; la cual contrata, con las modificaciones ahora acordadas por los infrascritos, dice así:*

ARTÍCULO I.

La República de Costa Rica concede á la Asociación del Canal de Nicaragua, sus sucesores y causa-habientes, el privilegio exclusivo de excavar y explotar un Canal marítimo entre los océanos Atlántico y Pacífico, que cruce en todo ó en parte el territorio de dicha República ó corra á lo largo del todo ó parte de su frontera limítrofe con la República de Nicaragua.

Mientras dure el presente privilegio se compromete la República á no otorgar ninguna concesión ulterior, para la apertura de un canal entre los dos océanos.

Se abstendrá tanbién durante el mismo tiempo de otorgar dentro de una zona de veinticinco millas á lo largo del Canal, concesiones para ferrocarriles de mar á mar que puedan hacer competencia al Canal en el tráfico entre naciones extranjeras. Esta restricción no impide la construcción de las nuevas líneas férreas que á Costa Rica pueda convenir construir hasta el Canal ó hasta cualquier punto de la frontera setentrional de la República, ya se enlacen ó no con cualesquiera otros ferrocarriles.

ARTÍCULO V.

La Asociación concesionaria tendrá el derecho de establecer las líneas telegráficas que se consideren necesarias para la construcción, manejo y explotación del Canal.

El Gobierno podrá usar las líneas telegráficas de la Empresa desde y para cada una de las estaciones que comprenda la red del uno al otro mar, sin que por tal servicio tenga que hacer remuneración alguna á la Asociación.

ARTÍCULO VI.

El Gobierno de la República declara y acepta como neutrales, durante el término de esta concesión, los puertos de uno y otro extremo del Canal, y el Canal mismo de uno á otro mar; y en consecuencia, en caso de guerra entre otras naciones ó entre alguna ó algunas de éstas y Costa Rica, el tránsito por el Canal no se interrumpirá por tal motivo, y los buques mercantes y los individuos de todas las naciones del mundo, podrán entrar libremente por dichos puertos y transitar por el Canal, sin ser molestados ni detenidos.

En general, todos los barcos podrán pasar libremente por el Canal, sin distinción, exclusión, ó preferencia de personas ó nacionalidades, mediante el pago de los de-

rechos y la observancia de los Reglamentos establecidos por la Asociación para el uso de dicho Canal y sus dependencias. En cuanto al tránsito de tropas extranjeras y de buques de guerra, se estará á las prescripciones que sobre el particular se hallen establecidas ó establezcan en los tratados entre Costa Rica y otras naciones ó por el Derecho Internacional. Pero la entrada al Canal queda rigurosamente prohibida á los buques de guerra de cualquiera nación que se halle en guerra con Costa Rica, ó con cualquiera otra de las Repúblicas de Centro América.

Costa Rica procurará obtener de las Potencias que garanticen la neutralidad, el que en las convenciones que se celebren con tal objeto, se comprometan también á garantizar con el mismo carácter una zona de tierra paralela al Canal, y una zona marítima en ambos océanos, cuyas dimensiones se fijarán en los pactos respectivos.

Artículo VII.

La presente concesión sólo será trasmisible á la Compañía ó Compañías que se organicen con el objeto de construir ó explotar el Canal, y en ningún caso á Gobiernos ni á Poderes Públicos extranjeros.

Tampoco podrá la Asociación ceder á ningún Gobierno ó Poder Público extranjero, parte alguna de los terrenos que se le conceden por este contrato; pero sí podrá hacerlo á particulares, con la misma restricción.

La República de Costa Rica no podrá ceder sus derechos y privilegios respecto del Canal, á ningún Gobierno ó Poder Público extranjero.

Se invitará á todas las naciones para la formación del capital necesario á esta Empresa, y con tal objeto será bastante la publicación de un anuncio durante veinte días consecutivos en uno de los principales diarios de cada una de las ciudades de Nueva York, Londres y París.

Artículo XXVI.

La Asociación no podrá introducir en el territorio de la República mercancías con el objeto de traficar con ellas, sino fuere pagando los derechos de Aduana establecidos por la ley; sin embargo, podrá introducir libre de tales derechos y de cualesquiera otros impuestos, los artículos necesarios para los trabajos de la Empresa, sus estudios, exploraciones, reconocimientos, construcciones, uso, explotación, reparación y mejora del Canal, y también para el servicio telegráfico y de ferrocarriles del mismo, y para los trabajos y talleres de la Compañía: consistirán dichos artículos en utensilios, máquinas, aparatos, carbón, piedras de cal de todas clases, cal, hierro y otros metales en bruto ó manufacturados, pólvora para minas, dinamita ó cualquiera otra sustancia análoga. Estos objetos podrán transitar entre cualesquiera puntos donde haya necesidad, durante los trabajos de la construcción del Canal, y descargarse y almacenarse libres de toda contribución local.

La Asociación podrá introducir también libre de derechos ó impuestos, durante los trabajos de apertura del Canal, los víveres, vestidos para los trabajadores y medicamentos, absolutamente necesarios para su propio consumo.

Se exceptúan de la franquicia contenida en este artículo, los objetos que no sean de libre comercio, los cuales quedan sujetos, fuera de la pólvora y dinamita y otras sustancias explosivas, á los requisitos é impuestos señalados por las leyes.

Artículo XXVII.

Los buques que la Asociación emplee como remol-

La Asociación tendrá derecho, al propio tiempo, de establecer guardianes y celadores para el servicio del Canal y la observancia de sus reglamentos.

ARTÍCULO XXXIV.

Todos los contratos para trabajos del Canal, que la Asociación celebrare en naciones extranjeras, serán válidos y subsistentes y tendrán pleno vigor y efecto en Costa Rica, en cuanto no contraríen lo establecido en las leyes de la República.

ARTÍCULO XXXV.

La Asociación quedará exenta durante el término de la concesión, así en tiempo de paz como de guerra, de toda clase de impuestos sobre la propiedad raíz que adquiera en virtud de este contrato, y de toda especie de contribuciones directas, impuestos locales, ó de cualquier otro derecho relativo á la propiedad y al uso del Canal ó sus edificios y las construcciones que de él dependan, en todo su trayecto, incluso las que se hallen situadas en los puertos y establecimientos marítimos en los dos océanos.

Esa franquicia no es trasmisible á los compradores de los bienes raíces que la Asociación pueda enajenar con arreglo á esta concesión.

ARTÍCULO XXXVI.

La República de Costa Rica no establecerá derecho de tonelaje, anclaje, pilotaje, faro, ó ningún otro sobre las embarcaciones de cualquiera clase que sean, ni sobre

las mercancías, equipajes y pasajeros, que transiten por el Canal del uno al otro océano, quedando todos estos derechos reservados á beneficio de la Asociación, como se consigna en el artículo trigésimo nono.

Artículo XXXVII.

A fin de asegurar la más amplia libertad de tránsito para personas y propiedades, habrá en cada margen del Canal una zona libre, cuya extensión será de 90 metros, 288 milímetros, medidos desde el punto hasta donde alcancen las aguas de dicho Canal.

Será prohibido, no obstante, en dicha zona el tráfico declarado ilegal por las leyes de la República, y las autoridades fiscales encargadas de celar y prevenir el contrabando, obrarán según las estipulaciones del artículo vigésimo octavo.

Queda expresamente convenido que todo buque que transite por la parte del Canal que esté dentro del territorio de Costa Rica ó á lo largo de su frontera ó en aguas sobre las cuales ejerza co-soberanía, llevará á su bordo un guarda de nombramiento del Gobierno, cuando la Autoridad lo crea conveniente, y ese empleado obrará conforme á la ley, caso de descubrir que se la infrinje.

Los dos puertos de entrada y salida del Canal en uno y otro océano, que en todo ó en parte se hallen en territorio ó aguas de Costa Rica, serán declarados puertos francos y se reconocerán como tales desde la apertura del Canal hasta el fin de esta concesión.

El Gobierno de acuerdo con la Compañía, señalará por una disposición particular los límites de la franquicia, la cual no deberá exceder nunca de las aguas de los mismos puertos comprendidas entre la desembocadura del Canal y la entrada de éstos.

Las mercancías que se embarquen ó desembarquen en cualquier puerto del Canal dentro del territorio de Costa Rica, destinadas al comercio interior, pagarán los derechos de importación y de exportación, fijados por las leyes fiscales del Estado.

Artículo XXXVIII.

Para la buena administración del Canal y sus dependencias, y para facilitar su construcción y explotación, la Compañía formulará los correspondientes reglamentos, los cuales serán obligatorios para toda persona que se halle en sus aguas ó en sus dependencias, bajo la sola reserva del respeto á los derechos y soberanía del Estado.

Es entendido que la Asociación en uso de las facultades que le concede este artículo, no podrá hacer otros reglamentos que los que exija la administración y particular manejo del Canal, y que antes de ponerlos en ejecución, habrá de someterlos á la aprobación del Gobierno.—El Estado prestará el apoyo de su autoridad para hacer observar estos reglamentos.

Artículo XXXIX.

Por vía de compensación de los gastos de estudios, construcción, conservación y explotación del todo ó parte del Canal, durante el término del privilegio, tendrá la Asociación el derecho de establecer y percibir por el pasaje de los buques y embarcaciones de toda clase, el de viajeros y mercancías á través del Canal y en las aguas y puertos de su dependencia, impuestos de navegación, de tonelaje, pilotaje, remolcaje, bodegaje, estadía, anclaje, faros, radas, muellaje, hospitales y cualesquiera otros semejantes, conforme á las tarifas que se establezcan, concordantes con el artículo cuarenta y cinco de este contrato,

Estas tarifas podrán modificarse por la Asociación en todo tiempo, bajo la condición de que todas las modificaciones que en ellas se introduzcan sean previamente comunicadas al Gobierno, quien encontrándolas dentro de los límites establecidos por dicho artículo cuarenta y cinco, las hará cumplir, como si fueran reglamentos emitidos por él mismo.

El pago de todos los derechos de tarifa se exigirá sin excepción ni preferencia alguna, y bajo condiciones idénticas, á todos los buques de cualquier procedencia y nacionalidad, salvo las reservas estipuladas en el artículo siguiente.

Artículo XL.

En compensación de los privilegios y concesiones que Costa Rica otorga por este contrato, queda estipulado que la República gozará del privilegio especial de que los buques costarricenses que naveguen con la bandera de Costa Rica, podrán transitar por el Canal con una reducción de un cincuenta por ciento de la tarifa general, mientras se ocupen en el comercio de cabotaje, ó en el recíproco con las demás Repúblicas de Centro América.

Para gozar de este privilegio dichos buques han de ser precisamente de la matrícula de la República y han de pertenecer á ciudadanos de la misma.

También se concede una rebaja de un cincuenta por ciento de la tarifa general á cualquier buque que comience su navegación con destino al extranjero, en cualquiera de los puertos pertenecientes á la República, y cuyo cargamento se componga en su totalidad de productos del país.

Los buques de guerra costarricenses, lo mismo que los del servicio fiscal de la República no pagarán derecho de tránsito por el Canal. Tampoco pagarán derechos los buques de la matrícula nacional que circulen en

aguas costarricenses conexionadas con el Canal, y en este mismo, sin salir de las exclusas; pero dichos buques no podrán en manera alguna estorbar la expedita navegación del Canal.

Por parte de Costa Rica no habrá dificultad para que desde luego los buques nicaragüenses gocen en aguas costarricenses de las ventajas acordadas en este artículo á los de Costá Rica, siempre que por parte de Nicaragua se consienta en reciprocidad que los buques de Costa Rica gocen en aguas nicaragüenses de dichas ventajas.

Todas las concesiones á que se refiere este atículo serán extensivas á las otras Repúblicas de Centro América, ó cualquiera de ellas, si Costa Rica y Nicaragua se hallaren libres de compromisos internacionales que lo impidan, ó cuando alguna ó algunas de dichas Repúblicas formen con Costa Rica una sola nación.

Artítulo XLI

En caso de que sea posible utilizar las aguas del Canal y sus dependencias, para riego de plantaciones, jardines y calles, ó para el abastecimiento de poblaciones que carezcan de ella, ó como fuerza motriz para empresas particulares, la Compañía tendrá facultad de suministrarla, percibiendo, según la tarifa que establezca de acuerdo con el Gobierno, un derecho proporcional á la cantidad que suministre.

Artículo XLII.

La Asociación emprenderá á su costa los estudios definitivos del terreno y trazado de la línea del Canal, por medio de una cómisión de ingenieros competentes. El Gobierno de Costa Rica tendrá el derecho de visitar é inspeccionar los trabajos de estudio definitivo que estén haciéndose y los yá terminados, por medio de un

Artículo XLIV.

En garantía del cumplimiento de lo estipulado en el artículo cuadragésimo segundo, la Compañía definitiva, depositará á la orden del Gobierno de Costa Rica en un Banco ó casa de comercio de Nueva York ó en el Agente designados por el Gobierno, y tan pronto como sean emitidos los certificados, mil acciones del capital social del valor nominal de cien pesos cada una. Dichas acciones serán consideradas como un adelanto hecho al Gobierno para el pago de los gastos de policía y resguardo, que deben hacerse según el artículo trigèsimo tercero, y se acreditará á la Asociación el valor real de dichas acciones en la época en que se hagan dichos pagos.

Artículo XLV.

En consideración á los valiosos privilegios, franquicias y concesiones que se otorgan á la Asociación, por virtud de este contrato, la República recibirá en acciones, certificados ú otros valores que representen el capital social de la Compañía definitiva, una suma igual al uno y medio por ciento del valor total de la emisión de dicho capital social en acciones ó certificados del valor de cien pesos cada uno: esa suma en ningún caso bajará de un millón y quinientos mil pesos. Las acciones se entenderán pagadas por completo; dos tercios serán intransferibles, y todas ellas participarán de los beneficios, intereses, reparticiones, dividendos, amortizaciones, derechos, privilegios y demás ventajas señaladas á las acciones pagadas, sin diferencia alguna.

Estas acciones junto con los demás privilegios concedidos por la Asociación al Gobierno por este contrato, servirán de plena compensación á la República por todas

las tierras baldías que sean innundadas, y por todos los privilegios, concesiones otorgados en este contrato, y cubrirán por completo todas las reclamaciones de esta clase por parte del Estado contra la Asociación ó la Compañía definitiva.

Las acciones á que se refiere este artículo se entregarán al Agente que nombre el Gobierno con este objeto, tan pronto como la Compañía esté lista para emitir los certificados de su capital.

Artículo XLVI.

De los productos de la Empresa la Compañía tomará en primer lugar lo necesario para cubrir todos los gastos de conservación, explotación y administración; todas las sumas necesarias para asegurar los intereses, que no excederán del seis por ciento, y la amortización de las obligaciones y de las acciones; lo que reste formará el beneficio neto, del cual se dividirá entre los accionistas por lo menos un ochenta por ciento, siendo entendido que después de diez años de la conclusión del Canal, la Compañía no podrá nunca repartir entre los accionistas, por pago de dividendos directa ó indirectamente, por emisión de acciones, ó de otro modo, más de un quince por ciento anual, ó en esa proporción por impuestos colectados en la referida vía; y cuando se descubra que esos impuestos rinden una utilidad mayor se reducirán á la regla fija de quince por ciento al año.

Artículo XLVII.

La presente concesión caduca:

Primero: por falta de cumplimiento por parte de la Compañía, de cualquiera de las condiciones de los ar-

Annex 28

Report regarding the Province of Costa Rica, presented by Luis Diez Navarro to the Captain General of Guatemala, 1744

Source: *Revista de los Archivos Nacionales*, Año III- setiembre y octubre de 1939- No. 11 y 12, (San José: Imprenta Nacional, 1939), p. 581

English translation by Costa Rica

TRANSLATION

Report concerning the Province of Costa Rica from Engineer Luis Diez Navarro to the Captain General of Guatemala Tomás de Rivera y Santa Cruz
Year of 1744

On December six of the present and past year seventeen hundred and forty three, I left this Capital to continue my visit of what was left of the Province of Costa Rica...

...Cap. 2- On the nineteenth of January of the present year I arrived at the Mount of Nicaragua, where the Jurisdiction of said Province ends (as I was explained in my first trip) and I entered the Jurisdiction of Nicoya, that although it is a separated Mayoralty, from here it is reputed as the Province of Costa Rica.

Cap. 3- This Mayoralty is located in the coast of the Southern Sea, at a distance of eight leagues: It runs from West to East with twenty three and a half leagues and from North to South with a bit more than twenty. From the West it borders with the Province of Nicaragua; from the North, the Lake of Granada or of Nicaragua, which is the same, and some rough mountains called the Cordillera: from the East, the Jurisdiction of Costa Rica: and from the South said Sea. All this jurisdiction is unpopulated, in all of it there is nothing more than the town of Nicoya which is located on the bank of a famous river called Alvarado, with a distance of fourteen leagues from the Sea, and which is used to go up and close to the town of Nauios, entering first through the Port of Caldera, which belongs to the Jurisdiction of Costa Rica.

...Cap. 5- On the twenty third of said month, I arrived at Salto River, where the Jurisdiction of the Government of Cartago commences, and from there to the City there are seventy eight and a half leagues of roads, flat in parts and mountainous in others. On the second of February of said year I arrived at the City of Cartago, Capital of said Province of Costa Rica. Her term and jurisdiction are: from the north, from the mouths of the San Juan River until the Shield of Veraguas, at the Kingdom of Tierra Firme: from the South, from the Salto River until Boruca or Chiriqui Viejo, which also bordes with Tierra Firme.

...

Annex 29

Secretary of State of the United States, T.F. Bayard, to Nicaraguan Envoy Extraordinary and Minister Plenipotentiary, Horacio Guzmán, 31 October 1887

Source: United States Department of State Archives

exist between those two Republics may be adjusted, the outcome may establish a permanent basis of accord.

Accept, Sir, &c.

T. F. Bayard.

Department of State,
Washington, October 4, 1887.

Señor Don Horacio Guzman,
&c, &c, &c.

Sir,

I have the honor to acknowledge the receipt of your note of the 1st instant saying that the treaty lately signed by the Presidents of Nicaragua and Costa-Rica, for the settlement of their boundary dispute, had not been ratified by the Nicaraguan Congress, and that consequently recourse to the friendly arbitration of the President of the United States might yet be required, to effect a satisfactory and permanent adjustment of the matter.

Accept, Sir, &c.

T. F. Bayard.

Department of State,
Washington, October 31, 1887.

Señor Don Horacio Guzman,
&c, &c, &c.

Sir,

I have the honor to acknowledge the receipt of the original and duplicate copies of the case of the Republic of Nicaragua, under the Arbitration Treaty

of December 24, 1886, which were left by you at this Department on the 27th instant, unaccompanied by any formal note of transmission.

This method of delivery is accepted by the President as a full and complete communication to him, on that date, of the Nicaraguan case, in conformity with the pertinent provision of Article 5 of the aforesaid treaty, which defines the procedure to be observed in the submission to the Arbitrator.

As the case of Nicaragua is presented in the English language, I have the honor to inquire whether, in that form, it is regarded by your Government as the original, or whether it is intended to be accompanied by a spanish original and to be regarded as a translation and of collateral force and effect therewith. In the latter alternative, it would be requisite for you to admit the correctness and authenticity of the English text, upon which the arbitrator must necessarily depend for his understanding of the issues before him.

By direction of the President, and in conformity with the requirements of the said 5th Article of the Convention, I shall have pleasure in duly communicating to you the case of Costa Rica, which was likewise received from the Representative of Costa Rica at this capital on the same day, the 27th instant.

Accept, Sir, &c.

T. F. Bayard.

Annex 30

Nicaraguan Envoy Extraordinary and Minister Plenipotentiary, Horacio Guzmán, to Secretary of State of the United States, T.F. Bayard, 1 November 1887

Source: United States Department of State Archives

Legación de la República de Nicaragua.

Translate

Washington D.C. Nov. 1st 1887

Sir:

I have the honor to acknowledge the receipt of your communication of the 31st ultimo, acknowledging, on behalf of the President, the receipt of the original and duplicate copies of the Case of the Republic of Nicaragua, and inquiring, as it is presented in the English language, whether in that form it is regarded by my Government as the original, or whether it is intended to be accompanied by a Spanish original and to be regarded as a translation and of collateral force and effect therewith.

I have the honor to reply that the copy marked "original" was intended to be and is the original copy of the

Honorable T. F. Bayard,
etc., etc., etc.

presentation of the Case of Nicaragua; and the English language was adopted as being the language of the Arbitrator, the purpose being to relieve the Arbitrator from the responsibility of a translation from the Spanish to the English language; and, therefore, all papers and communications relating to this Case, that it may be necessary for me to present for the consideration and use of the Arbitrator, will be in the English language.

The accompanying copy marked "duplicate" was filed for the Arbitrator to present to the representative of Costa Rica.

Accept, Sir, the renewed assurances of my highest consideration.

D. Guzman

Annex 31

Note from Commandant of the Rosalía Revenue Guard to the Deputy Inspector of the Treasury, 20 October 1915

Source: Archivo Nacional de Costa Rica

English translation by Costa Rica

TRANSLATION

Rosalía, 20 October 1915

Deputy Inspector of the Treasury

San Carlos

With pleasure I report on the service provided by this Revenue Guard Post from 21st past present to 20th present in regards to the movement of vessels, assignments and the list of workers who have provided their services during the present month. The movement of vessels was as follows:

Sept. 21st at 11 am a boat docked coming from Tres Amigos, guided by David Salazar. Crew: Segundo Alvarez. Departed to Boca de San Carlos, without cargo.
22nd at 2 pm a boat docked coming from Castillo, guided by Federico Méndez. Passengers: Carmen Reyes and 2 children. Departed to La Ceiba. ...

...Oct. 4th at 3pm a boat docked coming from San Juan del Norte guided by Ester Arce. Crew: Ambrosio Jirón and José Castillo. Departed to Aguas Zarcas, without cargo.
4th at 2 pm a boat docked coming from Sarapiquí, guided by Mr. Leslie E. Lynn, a crew member and three passengers. ...

...The operational service between passed 21st to the 20th present was as follows: September 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 only daily and nocturnal service. October 1, an assignment by Arturo Gonzalez and Zacarias Esquivel, departed to Boca the Rio San Carlos, returning without incident on the 3rd ...

...
Yours sincerely

Narciso Quirós M. (Signature illegible)
Deputy Inspector of the Treasury

Annex 32

Note from Commandant of the Rosalía Revenue Guard to the Deputy Inspector of the Treasury, 18 December 1915

Source: Archivo Nacional de Costa Rica

English translation by Costa Rica

TRANSLATION

No. 28

Rosalía, 18 December 1915

Deputy Inspector of the Treasury

San Carlos

I transmit the report on the service provided by this Revenue Guard Post this month, from 20th past present to 18th present in regard to the movement of vessels, assignments, the tax collection for the introduction of merchandise and the list of workers who have provided their services during the present month. The movement of vessels was as follows:

Nov. 20th at 3 pm a boat docked coming from Boca de Tres Amigos, guided by Felix P. Mejia. Passengers: Santiago Duarte, José Sequeira and Ermelnida Castro. Departed to Boca de San Carlos, without cargo. ...

... The operations that took place between the past 20th to the 18thpresent were as follows:...

30th at 6 am a task force departed to Muelle de San Carlos, formed by the guards Eliseo Villalobos and Ismael Trejos...
15th a task force formed by the guards Raf Fallas and Ismael Trejos departed to Buena Vista...
20th a mail assignment by Raf Fallas departed ...

... Yours sincerely

Narciso Quirós M.
Corporal of the Guard Post

(Signature illegible)
Deputy Inspector of the Treasury

Annex 33

Note from Sub Inspector of the Revenue Guard in Boca de San Carlos to Lieutenant Lopez of the General Inspectorate of the Treasury, 26 July 1968

Source: Archivo Nacional de Costa Rica

English translation by Costa Rica

TRANSLATION

MINISTRY OF THE TREASURY
General Inspectorate
(Revenue Guard)

San José, Costa Rica

26 July, 1968
MOUTH OF THE SAN CARLOS RIVER

Lieutenant López
General Inspectorate of the Treasury
San José

Dear Sir:

For your information, I am sending a complaint filed in this office by Mr. Pablo Lozano, regarding Ipecac located in the place named INFIERNITO, by the San Juan River. I went to said place in company of the Fiscal Guard MISAEL MURILLO BARBOZA, and indeed there was Ipecac. I made an inventory which showed the following: the plantation measures 1000 cubic "varas", 500 "varas" are 18 months old and the other 500 are 12 months old. The Ipecac needs two years before it can be harvested and sold. I will be checking on it because it could be harvested prematurely.

I brought a few samples of the Ipecac which I will send to you soon.

Sincerely yours,

Manuel V. Rodríguez Reyes
Deputy Inspector of the Treasury
MOUTH OF THE SAN CARLOS RIVER

Misael Murillo Barboza
Fiscal Guard
MOUTH OF THE SAN CARLOS RIVER

Note: The owner of this Ipecac is Mr. JUAN RODRIGUEZ OLLES

Annex 34

Note from Sub Inspector of the Revenue Guard in Boca de San Carlos to Lieutenant Lopez of the General Inspectorate of the Treasury, 29 July 1968

Source: Archivo Nacional de Costa Rica

English translation by Costa Rica

TRANSLATION

MINISTRY OF THE TREASURY
General Inspectorate
(Revenue Guard)

San José, Costa Rica

29 July 1968
Mouth of the San Carlos
River

Lieutenant López
General Inspectorate of the Treasury
San José

Dear Sir:

On Monday 29 July 1968, I went on assignment accompanied by Fiscal Guard MISAEL MURILLO BARBOZA and Mouth of Sarapiquí Park Ranger Mr. RUBEN LAO HERNANDEZ, to the place called POCO SOL by the San Juan River, in order to verify the felling of trees, of approximately two hundred and fifty "varas", when we arrived to the place we verified that, as had been denounced by Captain Scot of Los Chiles de Grecia, said felling had taken place.

The case was forwarded to the Main Police Agency of Los Chiles de Grecia, where it was signed and sealed. I am sending you the report on the tree felling for your information.

Sincerely yours,

Manuel V. Rodríguez Reyes
Deputy Inspector of the Treasury
Mouth of the San Carlos River
Carlos River

Misael Murillo Barboza
Fiscal Guard
Mouth of the San

Annex 35

Note from the Revenue Guard of Boca de San Carlos to Chief of Personnel of the General Inspectorate of the Treasury, 5 August 1968

Source: Archivo Nacional de Costa Rica

English translation by Costa Rica

TRANSLATION

MINISTRY OF THE TREASURY
General Inspectorate
(Revenue Guard)

San José, Costa Rica

5 August 1968

Captain
Jorge Gamboa G.
Chief of Personnel
General Inspectorate of the Treasury
San José

Dear Sir:

I herewith allow myself to inform you about the assignments carried out during the month of July, complaints filed with the Inspection.-

On 24 July one for the revision of commercial licenses along the San Carlos River.
On 26 July one in El Dorado on the San Juan River, concerning some Ipecac.
On 26 July one in Infiernito concerning some Ipecac.
On 29 July one in Pocosol in relation to the felling of trees

Total assignments for complaints: four (4).

I would also like to remind you about Guard Carlos Oviedo Rojas. As per your recommendation, I spoke to the Colonel and he said he would speak to you about the transfer.

At the same time, I would like to remind you that I was transferred from the Customs Guard to the Revenue Guard. To keep track of my record, I would like to remind you that my vacation period starts on September 1, for the necessary arrangements.

Sincerely yours,

(signed)

Manuel V. Rodríguez Reyes
Deputy Inspector of the Treasury
Mouth of the San Carlos River

Annex 36

Costa Rican Police Major, Francisco Cordoba Cordoba, to Costa Rican Minister of Public Security, Luis Fishman Z., Note No. C.D. 0666-91, 19 August 1991

English translation by Costa Rica

TRANSLATION

MINISTRY OF PUBLIC SECURITY
SAN JOSE, COSTA RICA

No. C.D. 0666-91

Puerto Viejo de Sarapiquí
19 August, 1991

Mr. Luis Fishman Z.
Minister of the Interior and Public Security

Dear Sir:

I proceed to report the essential needs of the Border Police at Sarapiquí.

SITUATION

Section 1:

The district of Puerto Viejo belongs to the canton of Sarapiquí, which is the tenth canton of the province of Heredia; located on the north-eastern side of our country, next to the San Juan River of the neighbouring country of Nicaragua. It currently has a population of thirty thousand (30,000) people which tends to grow considerably, because of the banana companies that just began to operate here.

Section 2:

Perimeter of jurisdiction:

Hamlets that are serviced by land: Distrito La Virgen, Bajos de Chilamate, Pueblo Nuevo, El Roble, Chilamate, Cristo Rey, La Guaria, Puerto Viejo, El Muelle, Tres Rosales, El Estero, Caño San José, La Delia, El Tigre Sur, Flaminia, Isla Grande, Jugos del Campo, La Chávez, Horquetas, Las Marías, Colonia San José, and Zapote.

Hamlets that are serviced by waterway (Sector A): Sarapiqui River, Sucio River, Masaya, Los Arbolitos, Pangola, Los Angeles, La Ceiba, La Trinidad.

Hamlets that are serviced by waterway (Sector B): Ochoa, Palo Seco, Cureña, Isla Morgan, Cureñita, Remolino Grande, Remolinito, Caño Tambor, Caño Copalchí, Boca de Sarapiquí, Boca Las Marías, Boca La Tigra, Isla Culebra, Puerto Lindo, Caño Zapote, Caño Sardinal, Caño Chirripó, Caño Negro, Caño Valiente, and Quebrada la Yaca.

TOTAL: FIFTY HAMLETS

...

Services in Border Posts.

Second Platoon: With a total of 25 men, distributed as follows:

DELTA EIGHT (Mouth of the Sarapiquí River):	1 Head of Post 5 men
DELTA TWELVE (Puerto Lindo):	1 Head of Post 5 men
DELTA FOUR (BARRA DEL COLORADO SUR) :	1 Head of Post 1 Boatman 5 men
DELTA FIVE (BARRA DEL COLORADO NORTE):	1 Zone Officer 5 men

AREA OF JURISDICTION:

Barra del Colorado accounts for a community of about 5,500 inhabitants.

Our Jurisdiction Area extends approximately for 400 square kilometres.

To travel to the Barra del Colorado Unit, we navigate using an azimuth from south to north, of 180° to 360°, with an approximate distance of 170 kilometres of fluvial course.

Yours sincerely,

BORDER POLICE OF SARAPIQUI

(signature)

Police Mayor
Francisco Cordoba Cordoba
Chief of Post

Annex 37

Costa Rican Police Major and Chief of Post, Francisco Cordoba Cordoba, to Costa Rican Director of the Civil Guard, Lieutenant Colonel Guillermo Sáenz, Note No. C.D.O. 81-92, 29 April 1992

English translation by Costa Rica

TRANSLATION

C.D.O 081-92.

Puerto Viejo de Sarapiquí
29 April, 1992

Lieutenant Colonel
Guillermo Sáenz Brenes
Director of the Civil Guard

Dear Sir:

I proceed to inform you of the basic needs of the Border Police of Sarapiquí.

SITUATION

Section 1:

The district of Puerto Viejo belongs to the canton of Sarapiquí, which is the tenth canton of the province of Heredia; located on the north-eastern side of our country, next to the San Juan River of the neighbouring country of Nicaragua. It currently has a population of forty five thousand (45,000) people which tends to grow considerably, because of the banana companies that just began to operate here.

...

Hamlets that are serviced by water (Sector A): Río Sarapiquí, Río Sucio, Masaya, Los Arbolitos, Toro Amarillo, Los Angeles, Pangola, La Ceiba, Media Vuelta, and La Trinidad.

Hamlets that are serviced by water (Sector B): Ochoa, Palo Seco, Cureña, Isla Morgan, Cureñita, Remolinito Grande, Remolinito Caño , Caño La Tigra, Isla Cureña, Puerto Lindo, Caño Zapote, Caño Sardinal. Caño Chirripó, Caño Negro, Caño Valiente and Quebrada La Vaca, Caño Tambor, Caño Copalchí, Boca de Sarapiquí, Boca Las Marías, Boca La Tigra.

TOTAL: Sixty Five Hamlets

...

In what is called the Deltas (advanced posts) we need to open Delta No. 7, because that is the location of the mouth of the Colorado River and the San Juan del Norte River of Nicaragua, a location with a constant movement of tourists, as well as of immigrants from the neighbouring country of Nicaragua.

The Nicaraguan Government has a Park Rangers Post from IRENE, to control Sylvester Flora and Fauna of the area. It has been coordinated with the officials of the Sandinista Army, stationed across Delta No. 8, so that the Park Rangers do not intercept the tourists and Costa Rican farmers who navigate along the Río Colorado and San Juan, so they travel freely, observing the legal conditions in accordance with the navigation treaties between both countries.

Clause C:

The following is a summary of the Deltas:

Delta # 8: Mouth of the Río Sarapiquí and Río San Juan.
Delta # 12: Located in Puerto Lindo at the Río Colorado that flows into the Atlantic Ocean.
Delta # 4: Located in Barra del Colorado, on the northern side.
Delta # 5: Located in Barra del Colorado, on the southern side. Main part of the block of this town. The last three posts belong to the Province of Limón, in the District of Barra del Colorado. There is a total of 15 men in these four Deltas.

With five more men we could cover Delta # 7.

Clause D:

For the area of Puerto Viejo and the Deltas we currently have a budget of 109 posts on a national level and 9 individual posts.

Requirements of the Atlantic Commando: 140 Civil Guards.

INFORMATION

With that number of men we could very well cover all the area that goes from the south to the north of Chilamate to Barra del Colorado and from Trinidad, Mouth of the San Juan, on the western side, up to Horquetas, on the eastern side.

Sincerely,
Atlantic Border Police, Sarapiquí

(signed)

Mayor Francisco Córdoba Córdoba

Annex 38

Costa Rican Chief of Post, Major Francisco Cordoba Cordoba, to Costa Rican Director of the Civil Guard, Lieutenant Colonel Guillermo Sáenz, Note No. C. A. 372-92, 25 May 1992

English translation by Costa Rica

TRANSLATION

MINISTRY OF PUBLIC SECURITY

C.A. 372 - 92

SAN JOSE, COSTA RICA

Puerto Viejo de Sarapiquí
25 May 1992

Mr.
Colonel
Guillermo Sáenz Brenes
Director of the Civil Guard

Dear Sir:

As you know, based on Note No. 355-B-92 of 27 April, 1992, about a coffee berry borer plague, we are controlling coffee berries in vegetables and animals, in coordination with the Ministry of Agriculture and Livestock.

On 17 May, 1992, a group of Nicaraguan farmers came and filed a complaint with officers of the Sandinista Army because their products could not pass to Costa Rica. Through the E.P.S. (Sandinista Army) they were informed about the problem, showing them the notes and informing that the post of the Civil Guard could not grant such authorisation.

Whilst speaking to Lieutenant Mauricio Lezama Gaitàn, in charge of the post of the Sandinista Army, he told me that the farmers claimed that if officials of the Ministry of Agriculture and Livestock did not come to discuss with them this situation, they would retaliate against the vessels that navigate through the San Juan River or they would close or try to block the free navigation in that river.

The Officers of the Sandinista Army are willing to help in case this threat becomes real, and they will support the Costa Rican authorities.

I contacted Mr. Eduardo Artavia Lobo, Agricultural Engineer of the Agricultural Extension Agency of Puerto Viejo de Sarapiquí, and he said he would inform his superiors. So far, I have not heard from him on the matter explained in the circular or Note addressed to this Atlantic Command as copy, and sent to Engineer Omar Amin Fun, Quarantine Department, Vegetal Health Department, San José.

On Thursday, 21 May 1992, we patrolled on the San Juan River up to Islas Morgan and to the mouth of San Juan del Norte, and everything was normal.

In coordination with the owners of cabins in Delta 4 – Barra del Colorado, we are controlling the flow of fishing and tourist boats. The only problem is that we do not have outboard motors and the only one we have in Barra, can barely take us across the river for personnel shifts. In other words, it is not working properly, and the 40 H.P. we have at the Command is used for assignments in the area and for shifts in the border posts. In short, there are only two outboard motors in bad condition.

I hope of having duly informed you, I remain.

Sincerely yours,

Chief Francisco Córdoba Córdoba
First Commander – Border Police

Sarapiquì

Cc: Lic. Luis Fishman Z., Minister of Public Security
Colonel Marino Donato Magurno. Director General of the Public Force
File
FCC/ymch.

Annex 39

Costa Rican Foreign Minister, Roberto Tovar Faja, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-37-06, 26 January 2006

English translation by Costa Rica

TRANSLATION

The Minister of Foreign Affairs and Worship

January 26, 2006
DM-37-06

Excellency,

I am pleased to extend my greetings to Your Excellency, while referring to the information presented by the media, according to which the Illustrious Government of the Republic of Nicaragua has decided to begin works to dredge the San Juan River in its lower course.

In this respect, and if that information is true, according to the provisions of article 3, point 6, of the 1888 Arbitral Award of the President of the United States, Grover Cleveland, I respectfully request that Your Excellency provides us with the technical information concerning those works, particularly about the effect the dredging would have on the water level of the Colorado River of Costa Rica.

I take this opportunity to reiterate to Your Excellency, the assurances of my highest consideration.

Roberto Tovar Faja
Minister

His Excellency
Norman Caldera
Minister of Foreign Affairs
Republic of Nicaragua

Annex 40

Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-JI/262/02/06, 17 February 2006

English translation by Costa Rica

TRANSLATION

Republic of Nicaragua – Central America

The Minister of Foreign Affairs

Managua, February 17, 2006
MRE/DM-JI/262/02/06

Excellency:

I am honoured to address Your Excellency to acknowledge receipt of your kind note DM-37-06, of January 26 of the current year.

In this respect, I would like to let you know that my Government is surprised by Your Excellency's alleged juridical basis for the request made in the above-mentioned note, because article 3, paragraph 6 of the Arbitral Award of the President of the United States, Mr. Grover Cleveland, dated March 22, 1888, does not remotely grant the Republic of Costa Rica any right whatsoever to make such a request.

However, as a contribution to the good relations existing between our peoples and Governments, and without any detriment of what was indicated above, I am honoured to inform, *ex gratia*, to Your Excellency, that as an integral part of the National Development Plan of the Government of the Republic of Nicaragua, presided by Eng. Enrique Bolaños Geyer, and at the request of Mr. César Collado, Municipal Mayor of San Juan de Nicaragua, infrastructure and improvement works for social benefit are being carried out in the Municipality of San Juan de Nicaragua, with the purpose of guaranteeing communication and exchange of articles of trade between the communities in that area, as well as with the rest of the national territory.

The purpose of those works is also to make better use of the resources that are arriving to the southeastern zone of the country, through cooperation programs for border zones that the Government is carrying out, with the support of cooperating countries and agencies.

Your Excellency knows perfectly well that Nicaragua faithfully fulfils its international obligations, and in the case mentioned in your Note, each and every one of the terms agreed to in the Jerez-Cañas Border Treaty and the Cleveland Award, particularly on what concerns article VI of the Treaty, which grants Costa Rica navigation [*con objetos de comercio*], in a sector of the San Juan River of Nicaragua.

I would also like to express to Your Excellency that the Government of Nicaragua wishes, within the spirit of the good neighbour policy and cordiality that reigns over our bilateral relations, to reserve its position concerning the affirmations and the juridical significance that your Note might contain, especially any eventual implication in connection with the case submitted by the Government of Costa Rica on September 29, 2005, before the International Court of Justice.

I take this opportunity to reiterate to Your Excellency, my highest consideration and esteem.

Norman Caldera Cardenal
Minister of Foreign Affairs

His Excellency
Roberto Tovar Faja
Minister of Foreign Affairs and Worship
Republic of Costa Rica

Annex 41

Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-AJ/340/03/06, 16 March 2006

English translation by Costa Rica

TRANSLATION

Republic of Nicaragua – Central America

The Minister of Foreign Affairs

Managua, March 16, 2006
MRE/DM-AJ/03/06

Excellency:

I am pleased to address Your Excellency to acknowledge receipt of your kind note DM-484-05 of October 20, 2005, in which you refer to measures adopted for navigation in the San Juan River of Nicaragua.

In this respect, I must express to Your Excellency that the Government of Nicaragua categorically rejects the groundless affirmations contained in your Note, especially the one that refers to navigation in that river, which as you state in your note, is customary among the Costa Rican dwellers of the border zone with Nicaragua. I must remind Your Excellency that the only kind of navigation allowed for Costa Rican vessels, pursuant to the Jerez-Cañas Border Treaty and the Cleveland Award, the only international instruments that apply for the subject matter of your Note, is [*con objetos de comercio*] in a sector of the San Juan River of Nicaragua.

Therefore, taking into consideration the exclusive dominion and sovereign jurisdiction that Nicaragua has over the waters of the San Juan River, pursuant to the Jerez-Cañas Border Treaty and the Cleveland Award, Nicaragua has the right to establish regulations for navigation in that river, without affecting the provisions of the aforementioned international instruments.

I would also like to express to Your Excellency that the Government of Nicaragua wishes, within the spirit of the good neighbour policy and cordiality that reigns over our bilateral relations, to reserve its position concerning the affirmations and the juridical significance that your letter might have, especially any eventual implication in connection with the case submitted by the Government of Costa Rica on September 29, 2005, before the International Court of Justice.

I take this opportunity to reiterate to Your Excellency, my highest consideration and esteem.

Norman Caldera Cardenal

His Excellency
Roberto Tovar Faja
Minister of Foreign Affairs and Worship
Republic of Costa Rica

Annex 42

Costa Rican Foreign Minister, Roberto Tovar Faja, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-187-06, 5 May 2006

English translation by Costa Rica

TRANSLATION

The Minister of Foreign Affairs and Worship

May 5, 2006
DM-187-06

Excellency:

I am pleased to extend my greetings to Your Excellency while referring to your notes MRE/DM-JI/262/02/06, dated February 17, 2006 and MRE/DM-JI/340/03/06, dated March 16, 2006, respectively.

Concerning your note of February 17, 2006, I wish to state that Costa Rica greatly desires that navigation on the San Juan River be expeditious along its whole length, for the primordial benefit of the inhabitants of the zone. However, those improvement works must be carried out without causing any damage to Costa Rican territory, as provided for in the 1888 Award of the President of the United States.

Regarding your additional response of March 16, in connection with my note of October 20, 2005, in which Your Excellency expresses that my note contains "groundless affirmations", my Government naturally rejects such considerations and does not find any reason for them, considering that in any case it is matter that is under judicial consideration within the framework of international law.

Finally, I would like to express that the intention of the contents of my notes is to promote the understanding, cordiality, and good neighbour relations between our two countries, based on the fraternal relations that should exist between neighbouring and civilized nations, as well as on the provisions of international law.

I take this opportunity to reiterate to Your Excellency, my highest consideration and esteem.

Roberto Tovar Faja

His Excellency
Norman Caldera Cardenal
Minister of Foreign Affairs
Republic of Nicaragua

Annex 43

Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-JI/511/05/06, 8 May 2006

English translation by Costa Rica

TRANSLATION

Republic of Nicaragua – Central America

The Minister of Foreign Affairs

Managua, May 8, 2006
MRE/DM-JI/511/05/06

Excellency:

I am pleased to address Your Excellency to acknowledge receipt of your kind note DM-187-06, of May 5 of the current year.

In this respect, I would like to reiterate that the arguments used by Your Excellency in the above mentioned note, as has become the custom of Costa Rica, radically depart from the text of the 1858 Jerez – Cañas Border Treaty and the 1888 Award of President Cleveland, the only instruments that govern the juridical status of the San Juan River of Nicaragua.

To this effect, on behalf of my Government, it is my duty to reiterate the contents of my Notes MRE/DM-JI/262/02/06 and MRE/DM-JI/340/03/06 of February 17 and March 16, 2006, respectively.

My Government, also deeply regrets finding in the above mentioned note, phrases such as "**Costa Rica greatly desires that navigation on the San Juan River be expeditious along its whole length, for the primordial benefit of the inhabitants of the zone**" because it is a new example of the arbitrary, expansive, and groundless way in which the stipulations of the Jerez-Cañas Treaty and President Cleveland's Award are being violated.

I reiterate to Your Excellency that the Treaty only grants your country a limited navigation right [*con objetos de comercio*] in a section of the San Juan River of Nicaragua, and not along its whole length, as it could be inferred from your note, thus contradicting not only the above mentioned instruments, but also the statements made by Your Excellency as well as those of your predecessors, and proposing unusual pretensions that do not contribute at all to the stable relations and good will that should prevail between neighbouring countries, which Nicaragua seeks at all times.

Article 6 of the Treaty, which I reiterate and underline in its relevant parts, is clear and categorical and literally reads as follows:

"The Republic of Nicaragua," will have the dominion and sovereign jurisdiction over the waters of the San Juan River, from its origin in the Lake to its mouth in the Atlantic; but the Republic of Costa Rica will have perpetual right of free navigation in those waters, between the said mouth up to three English miles before reaching Castillo Viejo [con objetos de comercio], with Nicaragua or to the interior of Costa Rica through the San Carlos or Sarapiquí rivers or any other way originating from the part in the bank of the San Juan that corresponds to this Republic."

Finally, on behalf of my Government, I expressly reserve our position concerning the affirmations and the juridical significance that your letter might have, especially any eventual implication in connection with the case submitted by the Government of Costa Rica on September 29, 2005, before the International Court of Justice.

I take this opportunity to reiterate to Your Excellency, my highest consideration and esteem.

Norman Caldera Cardenal

His Excellency
Roberto Tovar Faja
Minister of Foreign Affairs and Worship
Republic of Costa Rica

Annex 44

Director, Costa Rican Social Security Fund, Health Area Puerto Viejo de Sarapiquí, Dr. Thais Ching Zamora, to First Cónsul, Nicaraguan Consulate, Ciudad Quesada, Licenciado Mario Rivas Baldelomar. Note No. 346-2006, 14 June 2006

English translation by Costa Rica

TRANSLATION

CAJA COSTARRICENSE DE SEGURO SOCIAL
(Costa Rican Social Security Fund)
PUERTO VIEJO DE SARAPIQUI HEALTH AREA
NORTHERN CENTRAL REGION

June 14, 2006
346-2006

Licenciado
Mario Rivas Baldelomar
First Consul
Nicaraguan Consulate, Ciudad Quesada

RE: REQUEST FOR COLLABORATION

Dear Sir:

We are hereby bringing to your attention the situation we have been facing since May 10, 2006. The Immigration officers at the Nicaraguan border post in the San Juan River are requiring from us that in order to continue with the medical tours on the river we must count with the approval of the Nicaraguan Vice-Consul in Sarapiquí.

Therefore this Medical Office, through letter 275 – 2006, submitted a request for that permit to Mr. Duilio Hernández, Nicaragua's Vice-Consul in Sarapiquí.

In his letter CNS 014/05/06, dated May 19, 2006, Mr. Hernández writes:

> "...In this respect, after the necessary consultations and inquiries with the immigration post mentioned by you as well as other competent authorities, I have been informed that if the Office under your honourable charge needs to use the San Juan River of Nicaragua to provide health services to the Costa Rican communities of Tambor, Fátima, and San Antonio, you must comply with the requirements that are normally established for the duly authorized entrance of foreign persons and vessels into Nicaraguan territory. Therefore, I must inform you that this Vice-Consulate is not in charge of granting navigation permits for vessels ...."
> (I enclose a copy of the letter).

Later he told me by phone that the normal requirements to navigate through Nicaraguan territory are: passport, visa, and a fee of $ 25 per person.

This measure harms the neediest people in that zone, who do not even have minimum health and education conditions and employment sources. We are talking of a total of 449 people, 123 families, 50% of which are from Nicaragua. Among these are 198 children between the ages of 0 and 9 years, 109 teenagers, 209 adults, and 23 senior citizens. This is also affecting the officers who work at the border post of the Nicaraguan Army in la Trinidad, to whom we have always provided our services whenever they have requested.

Since this is a humanitarian matter, whose main objective is to provide medical services to all the border population, regardless of their migratory, economic, or social conditions, we are asking for your good offices so that our functionaries can continue providing medical attention in that zone, as has always been done. The team in charge of this mission includes: a doctor, a nurse's aide, a pharmacy technician, a technical assistant for primary care and a network clerk.

We look forward to your prompt reply.

Sincerely yours,

PUERTO VIEJO DE SARAPIQUÌ HEALTH AREA
Dr. Thais Ching Zamora
Director

Cc: Dr. Amalia Carvajal Alvarado, Regional Director
Lic. Luz del Carmen Corea Mayorga, Head of Immigration and Foreign Status, District of the San Juan River
Colonel Ricardo Sánchez Méndez, Head of the Southern Military Detachment of the District of the San Juan River

Annex 45

Costa Rican Foreign Minister, Bruno Stagno Ugarte, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-254-06, 14 August 2006

English translation by Costa Rica

TRANSLATION

The Minister of Foreign Affairs and Worship

August 14, 2006
DM-254-06

Excellency:

I am pleased to extend my greetings to Your Excellency and inform you that the authorities of the Ministry of Health of Costa Rica have expressed their concern for the restrictions they have encountered to render basic health services and deliver food, education, and stimulation in the northern central region of the country. Since last June, the boat of the Ministry of Health that usually navigated along the San Juan River to provide those services to the people living in that zone has not been allowed to navigate in that river.

Because of this, Excellency, aside from the positions of our countries with respect to the subject of Costa Rican navigation on the San Juan River, my Government respectfully urges the Illustrious Government of Nicaragua to eliminate the restrictions imposed for the navigation of Costa Rican authorities of the Ministry of Health in that river, so that the integrity and health of the people of that zone will not be affected, who in their majority belong to very poor families. My Government trusts that Your Excellency and the Illustrious Government of Nicaragua understand the human significance of this situation, and will agree to take the necessary steps to solve it.

I take this opportunity to reiterate to Your Excellency, my highest consideration.

Bruno Stagno Ugarte

His Excellency
Norman Caldera Cardenal
Minister of Foreign Affairs
Republic of Nicaragua

Annex 46

Coordinator of the Northern Regional Office of the Ombudsman's Office, Licda. Laura Navarro Rodríguez, to Consul of Nicaragua at Ciudad Quesada, Mario Rivas, Note No. DHR-RN-051-2007, 22 May 2007

English translation by Costa Rica

TRANSLATION

DEFENSORÍA DE LOS HABITANTES

San Carlos, May 22, 2007

No. DHR – RN – 051 – 2007

TO: **Mr. Mario Rivas**
Consul
Nicaraguan Consulate

FROM: **Licda. Laura Navarro Rodríguez**
Coordinator Northern Regional Head Office
Ombudsman's Office

SUBJECT: **Authorization to navigate the San Juan River**

I respectfully request your authorization to navigate the San Juan River on the 25th, 26th, and 27th, because several organisations of the region will participate in the Environment and Health Fair that will be held by the high school of Boca del Río San Carlos. The roads are in bad condition and it is difficult to access the community of Cureña by land.

This permit is for officials of the Instituto Mixto de Ayuda Social (Joint Institute for Social Assistance) who will visit poor families in the community.

I appreciate your cooperation in this matter.

Annex 47

Nicaraguan Minister Counsellor, Emilio Rappaccioli, to Coordinator of the Northern Regional Office of the Ombudsman's Office, Licda. Laura Navarro Rodríguez, Note No. ENCR/NF/EN/133/2007, 25 May 2007

English translation by Costa Rica

TRANSLATION

Embassy of Nicaragua

San José, May 25, 2007
ENCR/NF/EN/133/2007

Licenciada
Laura Navarro Rodríguez
Coordinator Northern Regional Head Office
Ombudsman Office
Republic of Costa Rica

Dear Licenciada Navarro:

I am pleased to answer your kind note of May 22, 2007, received on May 22, 2007, in which you request "**AN AUTHORISATION FROM THE NICARAGUAN GOVERNMENT TO NAVIGATE THE SAN JUAN RIVER TO PARTICIPATE IN THE HEALTH AND ENVIRONMENT FAIR THAT WILLL BE HELD BY THE LOCAL HIGH SCHOOL, AND VISIT POOR FAMILIES IN THE COMMUNITIES OF LA CUREÑA AND BOCA DE SAN CARLOS".** After this Embassy consulted with the Nicaraguan Ministry of Foreign Affairs, we extend a special authorisation to navigate the San Juan of Nicaragua River for the aforementioned purposes and it cannot be used for any other purposes or places different from the aforesaid ones, or in violation of Nicaragua's full sovereignty over the River.

This permit is a gesture of friendship, good neighbour policy, and good faith courtesy and it cannot be used in any other way or with purposes which are harmful to Nicaragua in any way or circumstance.

This permit will be valid only for the 25th, 26th and 27th of May, 2007.

With no further matters to discuss.

Emilio Rappaccioli Pasos
Minister Counsellor

Annex 48

Nicaraguan Embassy in Costa Rica, "Authorization to navigate" given to the Ombudsman's Office and the Ministry of Health Personnel, 25 May 2007

English translation by Costa Rica

TRANSLATION

EMBASSY OF NICARAGUA

AUTHORIZATION FOR NAVIGATION

The Embassy of Nicaragua in Costa Rica, by the authorisation of the Ministry of Foreign Affairs of Nicaragua, grants this special authorisation to navigate the San Juan of Nicaragua River, to the officials and vessels of the Ombudsman's Office and the Ministry of Health of the Republic of Costa Rica, as per the request received in this office on 22 May 2007, that requests "**AUTHORISATION FROM THE NICARAGUAN GOVERNMENT TO NAVIGATE THE SAN JUAN RIVER TO PARTICIPATE IN THE ENVIRONMENT AND HEALTH FAIR OF THE LOCAL HIGH SCHOOL, AND VISIT POOR FAMILIES IN THE COMMUNITIES OF LA CUREÑA AND BOCA DE SAN CARLOS**".

Nicaraguan authorities have the Right to cancel this permit in case of a violation of the laws of the Republic of Nicaragua. Also, the bearers of this permit should undergo routine checks from the corresponding authorities.

We hereby extend an authorization to navigate the San Juan River, valid only for the 25th, 26th and 27th of May, 2007.

Given in the city of San José, Costa Rica, on the 25th of May, 2007.

Emilio Rappaccioli Pasos
Minister Counsellor

Annex 49

IMAS Regional Manager in San Carlos, Marvin Chavez Thomas, to Nicaraguan Consulate, Ciudad Quesada, José Reinaldo Rodríguez Lindo, Note No. GRHN-188-08-07, 14 August 2007

English translation by Costa Rica

TRANSLATION

INSTITUTO MIXTO DE AYUDA SOCIAL
(Joint Institute for Social Assistance)

August 14, 2007
GRHN – 188 – 08 – 07

Licenciado
José Reinaldo Rodríguez Lindo
Nicaraguan Cónsul
Costa Rica – Northern Zone

Dear Sir:

I respectfully request your authorisation to navigate the San Juan River on the 22nd and 23rd of August, 2007, for the house visits from officials of the INSTITUTO MIXTO DE AYUDA SOCIAL (IMAS) to poor families living on the margins of the San Juan River on the Costa Rican side (many of which are from Nicaragua), in order to bring financial aid so that their teenagers can study at the high school in Boca del Río San Carlos.

Navigation along the San Juan River is necessary because the roads that travel to those communities have been destroyed by heavy rains, which makes them inaccessible.

This permit would have to be extended to the following officials from the INSTITUTO MIXTO DE AYUDA SOCIAL (IMAS):

Name of the Official	I.D. card Number
Ana Yadira Pizarro Palma	3-230-854
Marianela Rojas Gómez	1-1090-302
Cinthia Serracin Badilla	1-1108-207
Alexandra Loría Sánchez	2-485-067
Luis Arce Rojas	2-258-459
Hannia Valverde Hidalgo	1-784-858

I appreciate your cooperation in this matter which will benefit the families of this region.

Sincerely yours,
Lic. Marvin Chaves Thomas
Regional Manager IMAS, San Carlos

CC: Lic José Rodolfo Cambronero, Assistant IMAS Social Development Manager
Lic Ana Grace Fernández, Heredia Regional Manager, IMAS
Archives

Annex 50

Leonel Morales Chacón, 30 April 2007

English translation by Costa Rica

NUMBER TWO HUNDRED AND FORTY FOUR - ONE: Before me, **TATIANA VARGAS MASÍS**, Notary Public of San José, appears **LEONEL MORALES CHACON**, of Costa Rican nationality, of legal age, resident of Boca de San Carlos, farmer, identification card number **two – three hundred and twenty four – nine hundred and twenty nine,** who, having been warned about the penalties established by law in the Penal Code for the crimes of false testimony, perjury and ideological falsity, declares under oath: FIRST: That since the year one thousand nine hundred seventy nine he owns a cattle farm in the region of San Antonio de Cutris de San Carlos, which is located towards the west of Boca de San Carlos, where he resides, in which he also grows some crops. Due to the lack of any roads that connect those communities he had always used the San Juan River as communication waterway between his farm and Boca San Carlos. SECOND: He continues stating that before Costa Rica presented the case against Nicaragua he used to travel almost once a week to his farm, for which he took his boat, reported to the Army and MARENA post in Boca San Carlos, and went to San Antonio. He says that sometimes they charged him a departure clearance but other times they did not impose any charge. THIRD: He indicates that after Costa Rica presented the case against Nicaragua the Nicaraguan authorities started demanding Costa Rican residents in the area to fly the Nicaraguan flag in their boats. FOURTH: He says that due to the restrictions that the Nicaraguans began to impose on Costa Rican navigation on the San Juan River, and mainly because of the verbal abuse to which they were being subjected each time they reported themselves to the Nicaraguan Army posts, he had avoided using the river, and because of that he had not visited his farm for about six months. However, on twenty-four April of this year he had to go to his farm to take some calves, for which he went to the Army post to report himself. He says that to his surprise he was informed that that day he could

not be granted the authorization to navigate, and that he should come back in two days, that is, on Thursday twenty-six. He returned that day and again was refused the authorization to navigate, without being given any explanation, as a result he deemed it prudent not to insist on the subject, and thus he had to return to his residence without being able neither to go to his farm nor to transfer his cattle. FIFTH: He says that he knows of other cases of neighbours who also have had problems transporting their cattle through the San Juan River. SIXTH: He indicates that at present the neighbors in the area are forced to carry a courtesy departure clearance and that in order to avoid problems, he tries not to navigate through the San Juan River, but he knows that people who do not live in the area are demanded visas and passports to allow their navigation. However, the flying of the Nicaraguan flag is indispensable for the navigation on the River of any Costa Rican boat. That is all. I issue a first testimony hereof. Having read the foregoing text to the party hereto, he approved it, and we both sign in San Jose, at the sixteen hours and fifteen minutes of thirty April of two thousand and seven. ----------L.M.C. ---------- T.V.M. ----------THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER TWO HUNDRED AND FORTY FOUR-ONE, INNITIATED ON PAGE ONE HUNDRED AND FIFTY SEVEN FRONT OF VOLUME ONE OF MY PROTOCOL. HAVING COMPARED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, I APPROVE IT AND ISSUE A FIRST TESTIMONY THEREOF AFTER HAVING AUTHORIZED THE ORIGINAL WITH MY SIGNATURE.- (illegible signature)

Annex 51

Carlos Lao Jarquín, 28 July 2007

English translation by Costa Rica

NUMBER ONE HUNDRED AND FIFTY-THREE - SIX: Before me, **GUSTAVO ARGUELLO HIDALGO**, Notary Public with office in San José, San Pedro Monterrey, from Perimercados one hundred meters north, passing through the town of Puerto Viejo de Sarapiqui, in Hotel El Bambu, where Mr. **CARLOS LAO JARQUIN**, of Costa Rican nationality, of legal age, single, merchant, resident of Puerto Viejo de Sarapiqui, twenty five meters west and twenty five meters north from the Ministry of Health, identification card number **four – one hundred and thirty two – five hundred and seventy two**, appears AND SAYS: That having been warned about the penalties established by law for the crimes of perjury and false declaration, declares under oath the following: FIRST: He states that since the month of November of two thousand five, when the Government of Nicaragua imposed a requirement for Costa Ricans to carry a passport with a Nicaraguan visa for the navigation on the San Juan River, he has seen the activity of transportation of tourists from Puerto Viejo de Sarapiqui to Barra del Colorado and the Tortuguero Channels in Costa Rican territory very gravely affected, to the point that he is near to abandoning his business as a result of those and other restrictions that Nicaragua has imposed on Costa Rican navigation. SECOND: He continues stating that never, in the many years he has been navigating the San Juan River, has he requested any permission from Nicaraguan authorities to conduct such navigation. THIRD: He indicates in the past, when the Nicaraguan authorities made him report at the military posts of that country on the river, it was always with the purpose of charging the persons he was transporting the taxes Nicaragua imposed when the dispute with Costa Rica began, as well as to charge him the "departure clearance" tax, applied to his vessel, and occasionally to search people's belongings, and more recently check that passports held a Nicaraguan visa. Nevertheless, he states that the technical conditions of navigation of his vessel or the fulfillment of

security requirements have never been checked. He has never been informed by any Nicaraguan authority that he has to comply with any requirement or regulation about technical conditions for navigation and that he has never been notified of any regulation or law that requires the compliance with that type of requirement for the Costa Rican navigation on the San Juan River. He indicates that at the time of the Nicaraguan prohibition on navigation at night, when for reasons of emergency he was allowed to navigate, he was warned that said navigation was done under his own responsibility, stating that Nicaragua would not be responsible for any incident or accident. FOURTH: He says that he does comply with the navigation and security requirements set forth by Costa Rican law. That is all he wishes to state. I warned him of the value and legal scope of his statements. I postpone the issuance of a first testimony for tomorrow. Having read the foregoing it conforms, and we both sign in Sarapiqui, Province of Heredia, at eleven hours of the twenty-seven of July of two thousand and seven.----------CARLOS LAO JARQUIN---------- G.ARGUELLO H. ----------THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE HUNDRED AND FIFTY-THREE-SIX, WHICH COMMENCES ON PAGE ONE HUNDRED AND SEVENTY THREE FRONT OF VOLUME SIX OF MY PROTOCOL. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, I APPROVE IT AND ISSUE A FIRST TESTIMONY AT TEN HOURS FIFTEEN MINUTES OF THE DAY TWENTY EIGHT OF JULY TWO THOUSAND AND SEVEN.-
(illegible signature)

Annex 52

Jorge Manuel Lao Jarquín, 28 July 2007

English translation by Costa Rica

NUMBER ONE HUNDRED AND FIFTY-FOUR - SIX: Before me, **GUSTAVO ARGUELLO HIDALGO**, Notary Public with office in San José, San Pedro Monterrey, from Perimercados one hundred meters north, passing through the town of Puerto Viejo de Sarapiqui, where Mr. **JORGE MANUEL LAO JARQUIN**, of Costa Rican nationality, of legal age, single, merchant, resident of Puerto Viejo de Sarapiqui, from the School of Flaminia two hundred meters east, identification card number **four – one hundred and two – seven hundred and fourteen**, appear AND SAYS: That having been warned about the penalties established by law for the crimes of perjury and false declaration, declares under oath the following: FIRST: That since his last affidavit regarding the restrictions imposed by Nicaragua on Costa Rican navigation on the San Juan River, Nicaragua has imposed the obligation to carry a visa on Costa Ricans navigating the San Juan River. That this measure has harmed him as well as all other boatmen who obtain their living from the transportation of persons and tourists from Puerto Viejo de Sarapiqui to Tortuguero and other towns located in Costa Rican territory. SECOND: He continues stating that in the many years that he has had navigated the San Juan River, the Nicaraguan authorities have never asked him about the technical or safety conditions of his vessel, although he has been subjected to conditions regarding payment, visas and the seizure of particular goods, which is also applied to the people he transports. He says that on the thirty first of June of two thousand and six, when he was transporting missionaries carrying with them schooling material and health articles for the children of Remolinito, in Costa Rican territory, the Nicaraguan Military located in Boca de Sarapiqui ordered them that they could only stay for two hours in said town. THIRD: He says that he has never requested from the Nicaraguan authorities a written permission or anything else, for navigation on the San Juan River, though he has heard that in recent months Nicaraguan authorities

have been requesting said permissions. That is all he wishes to state. I warned him of the value and legal scope of his statements. I postpone the issuance of a first testimony for tomorrow. Having read the foregoing it conforms, and we both sign in Sarapiqui, Province of Heredia, at twelve hours of the twenty-seven of July of two thousand and seven.--------JORGE MANUEL LAO JARQUIN---------- G.ARGUELLO H. ----------THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE HUNDRED AND FIFTY-FOUR-SIX, WHICH COMMENCES ON PAGE ONE HUNDRED AND SEVENTY THREE REVERSE OF VOLUME SIX OF MY PROTOCOL. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, I APPROVE IT AND ISSUE A FIRST TESTIMONY AT TEN HOURS FIFTEEN MINUTES OF THE DAY TWENTY EIGHT OF JULY TWO THOUSAND AND SEVEN.-
(illegible signature)

Annex 53

Rodrigo Antonio Zamora Arroyo, 28 July 2007

English translation by Costa Rica

NUMBER ONE HUNDRED AND FIFTY FIVE - SIX: Before me, **GUSTAVO ARGUELLO HIDALGO**, Notary Public with office in San José, San Pedro Monterrey, from Perimercados one hundred meters north, passing through the town of Puerto Viejo de Sarapiqui, in Hotel El Bambu, where Mr. RODRIGO ANTONIO ZAMORA ARROYO, of Costa Rican nationality, of legal age, married, evangelical preacher, resident of Horquetas de Sarapiqui, Mahanaim, seven hundred meters from the Puerto Viejo crossroad, identification card number **one – nine hundred – one hundred and ninety two**, appear AND SAYS: That having been warned about the penalties established by law for the crimes of perjury and false testimony, declares under oath the following: FIRST: That in his condition as preacher of a Christian organization, he carries out charity activities for children of poor communities along the border area of Costa Rica, specifically in the towns of Tambor, Remolinito and Arbolito, the first two on the right bank of the San Juan River. The town of Arbolito is located at the bank of the Sarapiqui River, also in Costa Rican Territory. SECOND: That on nineteen March two thousand and seven, he accompanied a group of missionaries taking with them school and health articles to the communities of Tambor and Remolinito. At the mandatory stop point that the Nicaraguan Army imposes at their Post at the mouth of the Sarapiqui River, the Nicaraguan military boarded the vessel to search all belongings, seizing from them photographic cameras and the passports of all the people travelling and threatening them that they would bring dogs to search if they were carrying other cameras. The seized articles were given back at their return. Additionally, they only allowed them to visit the town of Remolinito, and prohibited them from visiting the town of Tambor, which is also in Costa Rican territory. THIRD: He continues stating that on occasion of this visit, he was informed that the Nicaraguan authorities were requiring written requests to allow the navigation; otherwise the

navigation of Costa Ricans would be prohibited. As a result, he made a request dated sixteen March two thousand seven, directed to the Nicaraguan Embassy in Costa Rica. He says that when he arrived at the Nicaraguan Embassy in San Jose, he was attended by a member of staff who told him that if the missionaries travelling on the San Juan River were Costa Ricans there would be problems, to which he replied that they were mostly foreign missionaries. That is all he wishes to state. I warned him of the value and legal scope of his statements. I postpone the issuance of a first testimony for tomorrow. Having read the foregoing it conforms, and we both sign in Puerto Viejo de Sarapiqui, Province of Heredia, at thirteen hours of the twenty-seven of July of two thousand and seven.----------

RODRIGO ANTONIO ZAMORA ARROYO----------G.ARGUELLO H..-

---------THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE HUNDRED AND FIFTY-FIVE-SIX, WHICH COMMENCES ON PAGE ONE HUNDRED AND SEVENTY FOUR FRONT OF VOLUME SIX OF MY PROTOCOL. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, I APPROVE IT AND ISSUE A FIRST TESTIMONY AT TEN HOURS THIRTY MINUTES OF THE DAY TWENTY EIGHT OF JULY TWO THOUSAND AND SEVEN.- (illegible signature)

Annex 54

Víctor Julio Vargas Hernández, Marleny Rojas Vargas, Mario Salas Jiménez and Leonel Morales Chacón, 29 July 2007

English translation by Costa Rica

NUMBER ONE HUNDRED AND FIFTY SEVEN - SIX: Before me, **GUSTAVO ARGUELLO HIDALGO**, Notary Public with office in San José, San Pedro Monterrey, from Perimercados one hundred meters north, passing through the bordering town of Boca de San Carlos, at Doña Julia's Restaurant, Province of Alajuela, appear: VICTOR JULIO VARGAS HERNANDEZ, of legal age, single, officer of the Public Force assigned to the border area of Boca de San Carlos, which is also his residence, identification card number **five – one hundred and forty three – two hundred and ninety nine**, MARLENY ROJAS VARGAS, of legal age, married, math teacher at the border zone of Boca de San Carlos, with residence one hundred meters south of the border post, identification card number **two – four hundred and thirty eight – four hundred and fifty nine**, MARIO SALAS JIMENEZ, of legal age, widower, merchant, neighbour of the border zone of Boca de San Carlos, San Juan Supermarket, identification card number **nine – cero six – five hundred and ninety**, LEONEL MORALES CHACON, of legal age, single, farmer, neighbour of the border zone of Boca de San Carlos, from Doña Julia's Restaurant four hundred meters east, identification card number **two – three hundred and twenty four – nine hundred and nineteen**, all Costa Ricans, AND SAY: That having been warned about the penalties established by law for the crimes of perjury and false testimony, they declare under oath the following: FIRST: **Victor Julio Vargas Hernandez**, of aforesaid personal details, declares that, until today, the Nicaraguan authorities at the San Juan River post in this area continue to impose restrictions on Costa Rican free navigation on the San Juan River, to wit: the flying only of the Nicaraguan flag on Costa Rican vessels to be able to navigate the River; the payment of taxes, particularly for those Costa Ricans who do not live in the zone; all children travelling to school must report like all other Costa Ricans travelling through the River; the imposition of timetables only on Costa Rican

vessels; search and inspections of private property; the prohibition on some Costa Rican riparians to navigate the river for having given opinions to the national press, and the seizure of artisanal fishing implements, including boats. He continues stating that said authorities continue to impose a prohibition on artisanal fishing for consumption on Costa Rican riparians. He also says that the application of restrictions and the threats to Costa Ricans are increased or made more severe when the guards are changed on posts. To allow Costa Rican navigation sometimes they demand payment in goods, through cigarettes, liquor or food. SECOND: **Marleny Rojas Vargas**, of aforementioned personal details, who is a teacher at the High School of Boca de Rio San Carlos, declares that because of her occupation the Nicaraguan military constantly demands that she submit lists bearing the names of the children students who must navigate the River in order to attend the High School, all of whom live in towns located in Costa Rican territory. In total there are sixteen children who must travel the River daily. She states that she knows that at the end of the year two thousand and six, the children were stopped by the Nicaraguan Military, who gave them a lecture for about an hour. She continues declaring that on one occasion a woman had a medical emergency, and urgently required some medicine, and when trying to help her, in order to obtain the medicine from the shop that sold it, in Costa Rican territory, she was forced to cross the San Juan River to request permission to make the purchase. THIRD: **Mario Salas Jimenez**, declares that on the occasion of a press report by national media about the situation of Costa Rican navigation on the San Juan River, personnel of the Nicaraguan Army came into Costa Rican territory to tell the media they could not take photographs from Costa Rican territory. He continues stating that in the same media report he was interviewed, and he described the restrictions suffered by the Costa Ricans on the River. The day after the interview, the officer in charge

of the Army post in the area sent him a message telling him that he had to go to the Nicaraguan post to speak to him about the interview he had given, to which he refused. Ever since then he has feared navigating the River as a result of the reprisals that could be taken against him. He says that he knows that the Nicaraguan authorities continue to impose a prohibition on all fishing by Costa Rican neighbours in the River. FOURTH: **Leonel Morales Chacon** declares that the restrictions and prohibition imposed by Nicaragua to Costa Rican riparians of the River to fish for their basic consumption continues to date, under the threat of detention and seizure of their fishing implements and boats. That is all. That is all they wish to state. I warned them of the value and legal scope of their statements. I postpone the issuance of a first testimony for tomorrow. Having read the foregoing it conforms, and we sign in the Province of Alajuela, at twelve hours of the twenty-eight of July of two thousand and seven.--------
--VICTOR JULIO VARGAS HERNANDEZ----------MARLENY ROJAS VARGAS---------MARIO SALAS JIMENEZ----------
LEONEL MORALES CHACON ---------- G.ARGUELLO H. ----------
-----THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE HUNDRED AND FIFTY-SEVEN-SIX, WHICH COMMENCES ON PAGE ONE HUNDRED AND SEVENTY FIVE REVERSE OF VOLUME SIX OF MY PROTOCOL. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, I APPROVE IT AND ISSUE A FIRST TESTIMONY AT TEN HOURS THIRTY MINUTES OF THE DAY TWENTY NINE OF JULY TWO THOUSAND AND SEVEN.- (illegible signature)

Annex 55

Thais Ching Zamora, 8 August 2007

English translation by Costa Rica

NUMBER ONE HUNDRED AND FIFTY NINE - SIX: Before me, **GUSTAVO ARGUELLO HIDALGO**, Notary Public with office in San José, San Pedro Monterrey, from Perimercados one hundred meters north, appears THAIS CHING ZAMORA, of Costa Rican nationality, of legal age, married, medical doctor, neighbour of Grecia, six hundred meters east of the public phone of Barrio Latino, identification card number three – two hundred and forty one – five hundred and twenty, AND SAYS: That having been warned about the penalties established by law for the crimes of perjury and false declaration, she declares under oath the following: FIRST: That she was appointed Director of the Health Area of Puerto Viejo de Sarapiqui, from the twenty third of August two thousand and four until the second of July two thousand and six. That her duties included the supervision of the execution of actions of morbidity care and the implementation of programs for health promotion and the prevention of and treatment of illnesses. The treatment is of particular relevance to the infant population, which is the most vulnerable to diseases. SECOND: She continues stating that she knows that the care activities are carried out with particular consideration at the border areas of Costa Rica, in the vicinity of the San Juan River, given the special conditions of poverty, vulnerability and distance of those communities, among other those of Tambor, Remolinito, San Antonio and Fatima, all located on the right bank of the San Juan River, in Costa Rican territory. That she knows that from time immemorial the health workers of Costa Rica have travelled to those communities by the San Juan River, as this is the only way to communicate to those places, and that during all this time, including the years two thousand and four and two thousand and five when she was in charge of that area, they were never required to request permission to conduct said navigation. THIRD: That on ten May two thousand and six, the Nicaraguan Military informed them that from that day on the usual navigation

on the San Juan River to Costa Rican health workers was prohibited and that in order for these health workers to navigate, they had to go to the Nicaraguan Consulates in Costa Rica to obtain a Nicaraguan visa. She states that given the vulnerability and exposure to infectious-contagious diseases of those populations, among others malaria and dengue, and the chance that there could be a sanitary crisis outbreak that could threaten the lives of many people, the Health Area decided to contact the Nicaraguan authorities in Costa Rica to find a solution. For this purpose she sent notes to Nicaragua's Vice-consul in Puerto Viejo de Sarapiqui, and later to Nicaragua's Vice-consul in Ciudad Quesada, requesting the collaboration to conduct visits to the populations adjacent to the San Juan River. She continues stating that the Nicaraguan Vice-consul in Ciudad Quesada informed her that she had to request a special permit before the Nicaraguan Embassy in Costa Rica. Accordingly, she visited the Nicaraguan Ambassador in Costa Rica at his office, to whom she requested the collaboration, in the same terms that she had done before the Vice-consuls. Whilst thinking that she would get a favourable answer given the imperative need to provide the urgent health services, nevertheless, the Ambassador told her that in order to analyze the request, she had to change the term "Request for collaboration" to "Request of Authorization to navigate the San Juan River", otherwise her request would not be processed. He also informed her that her petition would be resolved by the Ministry of Foreign Affairs of Nicaragua. FOURTH: She says that her job is not to make considerations of legal character, and that given the imperative need to provide urgent services to the populations in order to safeguard the health and the lives of people, particularly of children and other social groups in risk in the area of the San Juan River, she wrote the note under the terms demanded by the Ambassador, all done as a result of the urgent state of necessity, given the aforesaid imminent sanitary risks. She continues stating

that she does not know if Nicaragua answered her request. That is all she wishes to state. I warned her of the value and legal scope of her statements. I issue a first testimony at the time of printing the original. Having read the foregoing it conforms, and we sign in San Jose, at eleven hours of the eight of August of two thousand and seven.-----Illegible ---------- G.ARGUELLO H. ----------
-----THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE HUNDRED AND FIFTY-NINE-SIX, WHICH COMMENCES ON PAGE ONE HUNDRED AND SEVENTY SEVEN REVERSE OF VOLUME SIX OF MY PROTOCOL. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, I APPROVE IT AND ISSUE A FIRST TESTIMONY AT THE TIME OF PRINTING OF THE ORIGINAL.- (illegible signature)

Annex 56

Marvin Chavez Thomas, 5 November 2007

English translation by Costa Rica

NUMBER NINETY SEVEN - SIXTEEN: Before me, **LUIS PABLO ROJAS QUIROS**, Notary Public with office in Guadalupe, Cartago, fifty meters south of the Sports Court, and passing by the province of San José, in San Pedro Monterrey, from Perimercados one hundred meters north, in the Law Firm Arguello & Associates, appears Mr. MARVIN CHAVES THOMAS, of Costa Rican nationality, of legal age, married once, Social and Economical Planner, neighbour of San Carlos Ciudad Quesada, housing development two thousand, next to Cocique New Generation, identification card number four – one hundred and forty five – eight hundred and fifteen, AND SAYS: That having been warned about the penalties established by law for the crimes of perjury and false declaration, he declares under oath the following: FIRST: That he is the Regional Manager of the Joint Institute for Social Assistance (IMAS) in San Carlos, Costa Rica's northern zone, and that the responsibilities of the Institute include a responsibility to fight poverty and to financially and materially assist the poorest people in the country, which is carried out through direct financial help, food, clothing, housing and scholarships for children of primary and secondary school age. In particular, in the region that his Institute operates, the Costa Rican communities along the bank of the San Juan River are among the poorest and most vulnerable in the country, particularly because of the high number of Nicaraguan families resident there who have children born in Costa Rica, which make up the majority of the population in said area, which IMAS assists. SECOND: He says that before the year two thousand six, IMAS personnel visited those communities using the San Juan River without requesting for permission. However, he says that the Nicaraguan authorities have been requiring that Costa Rican officials request permission in order to visit and aid those communities. THIRD: He continues stating that given the urgent need for IMAS to provide economic support to poor people in those

communities, and in particular to support the children in those communities financially, so they can receive basic primary and secondary education, IMAS was placed in a position where it needed to request the authorization demanded by the Nicaraguan authorities to navigate the river, as there is no other means to reach those communities. Therefore that is the reason why he requested the permission from the Nicaraguan Consul in the Northern Zone on fourteen August two thousand seven. FOURTH: He says that up to the date of this affidavit, he has not received any answer from the Nicaraguan authorities, and that this is the only time he has made such request, since, as he stated at the beginning of this affidavit, said measure was imposed by Nicaragua recently. That is all he wishes to state. I warned him of the value and legal scope of his statements. I issue a first testimony. Having read the foregoing it conforms, and we sign in San Jose, at fifteen hours of the five November of two thousand and seven.------
----------MARVIN CHAVES THOMAS----------
-LUIS PABLO ROJAS QUIROS ----------THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE NINETY SEVEN – SIXTEEN, WHICH COMMENCES ON PAGE ONE HUNDRED AND SIXTY TWO FRONT OF VOLUME SIXTEEN OF THE PROTOCOL OF THIS NOTARY. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, AND ISSUE A FIRST TESTIMONY AT THE TIME OF PRINTING OF THE ORIGINAL.- (illegible signature)

Annex 57

Laura Navarro Rodríguez, 6 November 2007

English translation by Costa Rica

NUMBER NINETY EIGHT - SIXTEEN: Before me, **LUIS PABLO ROJAS QUIROS**, Notary Public with office in Guadalupe, Cartago, fifty metres south of the Sports Court, and passing by the province of San José, in San Pedro Monterrey, from Perimercados one hundred meters north, in the Law Firm Arguello & Associates, appears Mrs. LAURA PATRICIA NAVARRO RODRIGUEZ, of Costa Rican nationality, of legal age, single, attorney at law, neighbour of Guadalupe, three hundred meters south from the Rovert, identification card number one – eight hundred and thirteen – zero eleven, AND SAYS: That having been warned about the penalties established by law for the crimes of perjury and false declaration, she declares under oath the following: FIRST: That she is the Coordinator of the Northern Regional Office of the Ombudsman's Office. The responsibilities of the Office include assistance to other public institutions, particularly those in charge of improving the living conditions of inhabitants of the area of Boca de Rio San Carlos, Cureña and other surrounding communities, and in particular of those inhabitants residing in the border zone. SECOND: She states that as a result of the recent prohibition imposed by Nicaragua upon Costa Rican public workers to continue navigating the San Juan River, some institutions in charge of social security and the improvement of the living conditions of the inhabitants are no longer visiting some of the communities located on the Costa Rican bank of the San Juan River, given that navigation on the river is the only means to reach them. As a result of the danger that those communities face because they have no access to those services, a Health and Environmental Fair was planned, to take place in the area of Boca de San Carlos, including a visit to some of those communities. THIRD: In order to secure the access of the Costa Rican workers to those isolated communities, and as a result of Nicaragua's demands for the request of permits, a request to the Nicaraguan Consulate on twenty two May two thousand and seven was

made, so that the workers from the Joint Institute for Social Assistance could take financial assistance to the families living in the communities in the area of Cureña, at the Costa Rican bank of said river. FOURTH: She continues, stating that on twenty five May two thousand and seven she received an authorization from the Nicaraguan Embassy in Costa Rica, and not by the Consul, to whom she had originally sent the request. Despite having received the authorization, the trip was suspended due to weather conditions in the zone. That is all she wishes to state. I warned her of the value and legal scope of her statements. I issue a first testimony. Having read the foregoing it conforms, and we sign in San Jose, at twelve hours of six November of two thousand and seven.---------
----------LAURA PATRICIA NAVARRO RODRIGUEZ---------
----------LUIS PABLO ROJAS QUIROS ---
----------THE FOREGOING TEXT IS A TRUE COPY OF DEED NUMBER ONE NINETY EIGHT – SIXTEEN, WHICH COMMENCES ON PAGE ONE HUNDRED AND SIXTY TWO REVERSE OF VOLUME SIXTEEN OF THE PROTOCOL OF THIS NOTARY. CONFRONTED THIS COPY WITH ITS ORIGINAL, I DEEM IT CORRECT, AND ISSUE A FIRST TESTIMONY AT THE TIME OF PRINTING OF THE ORIGINAL.- (illegible signature)

Annex 58

"New Army Posts in the San Juan River", in *El Nuevo Diario*, Managua, 26 March 2007

English translation by Costa Rica

TRANSLATION

EL NUEVO DIARIO – Managua, Nicaragua
Monday, March 26, 2007

New Army Posts in the San Juan River

Conditions are improved for military personnel that protect sovereignty in the border zone between Nicaragua and Costa Rica

Tatiana Rothschuh
EL CASTILLO/ SAN JUAN DE NICARAGUA

Five new military posts along the San Juan River, furnished with solar-powered lighting and radio communications systems, were inaugurated by Army General Omar Halleslevens, who was accompanied by the Chiefs of Staff of the Nicaraguan Army.

In a marathon journey by boat, challenging the low flow of the river in some points, the Army retinue headed by Halleslevens, first inaugurated the military post in Bartola, located next to the Indio Maíz Reserve and in the San Juan River wildlife refuge. Then he inaugurated the post of Boca de San Carlos, and later those in Sarapiquí and Delta and, in view of the impassable way to Sanjuanillo, the military chiefs had to take a helicopter to end at the post of San Juan de Nicaragua.

Besides the new construction of the military post, which includes a waiting room, operations room, bedroom, kitchen with pantry, furnished dining room, storage room, waiting corridor, latrine, and water storage tank, the soldiers also have a T.V. set which is also powered by solar energy, although since the Nicaraguan satellite system does not reach that zone, they can only watch Costa Rican networks.

The Army General said that the efforts made by the military institution were aimed at improving living and working conditions for the members of the army stationed in the posts along the San Juan, where they protect national sovereignty at the border zone between Nicaragua and Costa Rica.

Stretching the Budget.

He said that the one million one hundred thousand Córdobas invested in the total construction and furnishing of the five military posts corresponds to the

first stage, and it came out of last year's Army budget. According to the military chief, the cost of each one ranges between 206 thousand and 230 thousand Córdobas.

Halleslevens explained that after some 15 years without investing in military infrastructure, the clear deterioration of the facilities made them think of doing the same in the second and sixth military regions, among which he mentioned Wiwilí, Waslala, and Río Blanco.

He added that they are planning to carry out a second stage in the Southern Military Detachment, with the budget approved for this year, of one million 600 thousand Córdobas. They are planning to build the posts of Sábalos, Río Frío, Papaturro, and Palo de Arco, as well as making improvements in Las Tablillas and El Castillo. They will also make some improvements to the headquarters of the detachment. He said this year the investment would mainly be addressed to the V Military Command.

The Nicaraguan Army Chief was accompanied by the inspector, Major General Ramón Calderón Vindell; Brigade General Miguel Guzmán Bolaños, the Head of the Logistics Division; Infantry Colonel S.G. Héctor Arguello, the Head of the Finance Division; the Head of the Southern Military Detachment, Infantry Colonel S.G. Roberto Sánchez; Chief Aide-de-camp, Colonel Guillermo González Ortega, and Lieutenant Colonel Oscar Alberto Estrada, Head of the Infrastructure Division.

Nicaragua is right in The Hague

In connection with the case submitted by the Government of Costa Rica before the International Court of The Hague to be allowed armed navigation, the Nicaraguan Army General said he would rather not make any comments because this is a delicate subject which should be left in the hands of specialists, and should be dealt with by the government through the Ministry of Foreign Affairs; however he said that "Nicaragua is absolutely right concerning its position. I think that the final decision of this honourable Court will favour the position of the government of Nicaragua", said the military chief.

Annex 59

"Neighbours from the San Juan plea for help" in *Al Día*, San José, 4 May 2007

English translation by Costa Rica

TRANSLATION

AL DIA – Monday, May 14, 2007, San José, Costa Rica.

Neighbours from the San Juan plea for help

There are more soldiers now at the Northern border with Nicaragua

Communities lack electricity, drinking water and access roads

Río San Juan – Here, nobody understands about law, or trials, but they do know they need to fix the roads, and get medical care, drinking water and electricity. "Of course, over there you've got everything. Here we are almost 50 years behind", said 74 year-old Eduardo Cerdas, of the border town of Cureña, next to the San Juan River.

123 days after Sandinista Daniel Ortega came to power in Nicaragua, the situation has become more stringent. Not even priests are able to say mass in the Costa Rican villages on the river margin, because they are charged US$25 (¢ 13 thousand) every time they pass.

On August 29 of last year, Costa Rica instituted proceedings against Nicaragua before the International Court of Justice (ICJ) in The Hague, Holland, to assure free navigation on the river.

Last December, it was announced that the period required for the proceedings could be shortened from four to two years. The cost of the proceedings, estimated in ¢800 millions could also be reduced.

Plenty of Needs

"We could go fishing before, but not now. If we get caught, they confiscate our boats and we could even be sent to jail in San Carlos de Nicaragua", added Cerdas.

He is the oldest inhabitant in Cureña, a community with more than 40 families that survive on the banks of the San Juan.

Last Friday, Cerdas commented that before they could sell a cow or a pig on the Nicaraguan side, but now it has been prohibited.

Nicaraguan military boats travel up and down the river once or twice a week, precisely to stop fishing or illegal navigation in the river.

"Here we have a rural life style, more than 50 years behind in comparison with the things you have in San José, but it is worse on the Nicaraguan side", said Cerdas.

Nocturnal Complicity.

In Cureña, nights act as accomplice to go fishing for shrimp and fish.

People here fish to take food to their families and also to sell their catch in bars, where shrimp is paid at ¢7.500 per kilo.

Some of the money they earn is used in fuel for their boats and the other part is used to buy groceries. Nobody pays for water or electricity because they do not have those services here.

Jarmir Aguilar, who lives in Cureña, is a tenth grader from Boca de San Carlos. She must cross the river to go to school. "If you are not seen on the other side, you will not have any problems", said the girl.

At 5 p.m. no one can move in the San Juan. None of the ticos, except if it is a medical emergency.

Adrián Lizano, who has been residing in Cureña for the last eight months, grows yams for a living. "Things are difficult when fishing is not allowed", he said.

Lizano remembered the day when he urgently had to take his sick wife to the nearest hospital, but he could not cross the river because he forgot the "zarpe" (a navigation permit for ticos in the San Juan).

"It all depends on the mood of the militaries. If they are in a good mood they will let you pass", he said.

A Vision for Tourism

In Boca de San Carlos, the tension is the same. You must have your papers on hand, or you will not be able to go anywhere.

María Dávila, a small entrepreneuse, only asks for a better access to the zone. She went through a lot of trouble to remodel her house to receive tourists, but she feels the Government has abandoned her.

To reach Boca de San Carlos you must travel more than 60 kilometres from Pital, along roads of gravel and mud.

"There has been no business activity in 15 days and you have to make ends meet. Nobody comes here", commented Dávila.

While Dávila waits for someone to listen to her needs, lawyers make copies, prepare pleas and travel to Holland.

The residents of the banks of the San Juan say their needs are inside the wooden houses and in their stomachs, but nobody wants to realize that. With the ¢800 millions of the proceedings: How many things could be done here?

A LONG STORY

June, 1998

The dispute started when the government of Arnoldo Alemán, invoking reasons of sovereignty, prohibited armed navigation of Costa Rican boats along the river.

October 1, 2005

The Nicaraguan Army took their military tanks out into the streets of Managua, two days after military presence in the San Juan River was increased to keep Costa Rican policemen from navigating the river armed.

August 29, 2006

Costa Rica took the case to the International Court of Justice (ICJ) in The Hague, Holland, to guarantee their right of free navigation in the San Juan of Nicaragua River.

ONE YEAR WITHOUT MASS

It has been a year since Father Mario Chavarría, from Pital de San Carlos, last visited the Costa Rican communities on the banks of the San Juan River, because every time he visited the area he had to pay US$25 (¢13 thousand).

"It has been a year since I last visited that area. On my last visit, an Immigration official told me I could pass, but that I would have to pay on my next visit", said Chavarría. More than 40 families there cannot receive mass, and on Sundays, they must leave their homes very early to hear the word of God.

They were the first

"We were the first to reach those communities because nobody visited those places. What we did was to give mass in Boca de San Carlos at 11 a.m., so people could go up there, because at 5 p.m. no one is allowed to navigate the

river", he said. Chavarría explained he took the case to the Pastoral Office of Ciudad Quesada, to see if they could reach an agreement.

The idea is that these communities can receive the Eucharist. "It is very important, specially for the children of the zone, that should learn about God's message and attend mass", said the priest.

Chavarría commented they do not stay in the area very long, and that they would need is a sort of permit to celebrate mass. "I hope this situation will be solved and that these communities will be able to hear and learn from the word of God", explained the prelate.

PEOPLE ARE AFRAID TO PASS

Rafael Palacios has lived for 10 years in Medio Queso, in Los Chiles de Upala. He takes people down the river in his boat. "If anyone asks me to go up to the San Juan I say no, I will not take any chances", said Palacios. He claims that when Daniel Ortega came to power, surveillance in the San Juan River has been strengthened. "Now there are more soldiers with fast boats. If they see you in the river, they will catch you faster", said Palacios.

Along that small affluent of Medio Queso, he goes up 500 meters from the Nicaraguan post. He does not go any further.

"One cannot take any chances. They can confiscate your boat and even take you to jail to San Carlos de Nicaragua. You must even pay a fine for trespassing the border", said Palacios.

It used to be easier before

Things were easier before, he said. You could take a chance and even go to the Nicaraguan post to ask for a permit.

"Now you cannot even do that. The situation is very difficult. It is better to stay here, and avoid getting into bigger problems", he said. Medio Queso is a zone that is widely used by Nicaraguans to enter into Costa Rica without a permit. Most of them come by boat.

From there they go to Los Chiles de Upala. Some four kilometres down the road there is a car waiting to take them to San José or San Carlos.

FROM 5 IN THE MORNING TO 5 IN THE AFTERNOON

Jorge Cerdas sails peacefully down the San Juan River. However he cannot fish or take out any shrimp.

He lives in the community of Cureña and has been affected because the health services do not reach there any more, nor can the priest go there to celebrate mass. He even waited to get help from the IMAS (Joint Social Assistance Institute), but they told him they could not visit the area until the situation with the river has been solved.

Cerdas makes a living selling cheese and raising pigs. He has five children. "We do not have problems with Nicaraguan authorities here. All we need are papers to navigate the river, that's all", he said. There are more problems on this side, without electricity, water and roads to take the products to Boca de San Carlos or even to other places.

"All we need is the Government to lend us a hand. We do not want anything for free, but rather that they give us some opportunities to get by with our families", he said.

Annex 60

"$34 fee marks the end of local tourism" in *La Nación,* San José, 10 June 2007

English translation by Costa Rica

TRANSLATION

LA NACION – Sunday, June 10, 2007

$ 34 fee marks the end of local tourism

Until a year ago, hundreds of tourists rented boats in Puerto Viejo de Sarapiquí to go to the San Juan River, and after paying US$7 at the Nicaraguan army post, they would head on to Tortuguero or Barra del Colorado.

No one complained about that fee they had to pay to go to the villages on Costa Rican territory.

But that situation changed drastically overnight, and had immediate effects.

According to Pablo Hernández, a local boatman, "Tourists are now an endangered species" in this zone.

The reason is financially simple. For the last year, Nicaragua has been charging US$25 for a visa plus another US$9 for a "right of passage" along the San Juan.

The results: Now almost no one visits this border zone, a popular tourist destination for its incomparable natural beauty.

Many have been affected. "We are going bankrupt. I used to transport tourists even four times a month and now I hardly do it once a month. Nobody wants to go to the San Juan because they must pay a lot of money", complains Pablo Hernández.

He says the drop in tourism also affects small entrepreneurs with cabins and restaurants along the Sarapiquí River, particularly those that are closer to the San Juan River, where nobody wants to go.

"I can assure you this town is dying ever since they started charging that US$34. This is outrageous because you must pay to go to Costa Rican towns", said the owner of some of those cabins.

Small farmers that must navigate the San Juan almost every day, and are not required to pay that fee, are not happy either. "There are towns by the San Juan where doctors and the Red Cross cannot go because they have to pay all that money", they say.

Police officers stationed at the mouth of the Sarapiquí have been ordered not to go near the San Juan to "avoid any incidents" and they follow orders to the letter.

"We don't go near that place; God forbid!, that would be a big problem. We know they charge a lot of money, even to Costa Rican paramedics and doctors; but that situation should be handled by others, not us", said officer Santiago Díaz.

Only very few visitors come here, for now, and most of them turn back because they refuse to pay the US$34 fee.

Annex 61

"The San Juan River should be militarized" in *El Nuevo Diario*, Managua, 7 October 2007

English translation by Costa Rica

TRANSLATION

EL NUEVO DIARIO – Managua, Nicaragua – Sunday, October 7, 2007

"The San Juan River should be militarized"

Congressman Enrique Quiñónez, recommends to detach police and army posts and even open a military school to have sovereign presence in the territory.

Congressman Enrique Quiñónez, of the Constitutional Liberal Party, PLC, wants a military training school of the Nicaraguan army to operate along the San Juan River as an irrefutable sign that the river belongs to Nicaragua and to stop Costa Ricans from using that waterway for tourist activities.

The statements made by the Liberal legislator came when President Daniel Ortega announced his intentions to withdraw the case on the dispute for the river from The Hague and reach an extrajudicial agreement with Costa Rica.

Ortega said he had a conversation with his Costa Rican counterpart, Oscar Arias, about that possibility and added this would be the most reasonable thing to do in order to save the money required for a case in the International Court of Justice and to release the tension in the relations between both countries.

Concerning this matter, Quiñónez said "many times Costa Ricans abuse their navigation rights and navigate the river armed and profit from tourism, something not even Nicaraguans have done."

The PLC Congressman, President of the Committee of the Interior of the National Congress, said this is a very simple situation. "I have always stated we should detach two strong police and army posts and even open a military training school and then just wait and see if any tourists will visit that zone with our soldiers practicing in their own territory."

According to the PLC politician, one thing is that Costa Ricans are allowed to navigate for the purpose of commerce and another that they aim to do it armed. This is not permitted and it should not cause any disputes.

"I have always said we want to see our army there, as a sign of sovereignty and by no means is it an aggression because it is our territory and we can have training commandos. Maybe Costa Rican and other foreign tourists will enjoy seeing how our soldiers train in the river", said Quiñónez.

Annex 62

"Health Authorities Watch the Northern Border for Leptospirosis" in *La Nación,* San José, 30 October 2007

English translation by Costa Rica

TRANSLATION

LA NACION – Costa Rica, Tuesday, October 30, 2007

Outbreak in Nicaragua.

Health authorities watch the northern border for leptospirosis

Although there is no impending danger for the country of an outbreak of leptospirosis that has caused nine deaths in Nicaragua, the Ministry of Health keeps watch on the northern border.

María Luisa Ávila Agüero, Minister of Health, said there are no outbreaks of the disease
in the northern zone of the country.

Leptospirosis is a disease caused by exposure to a bacteria called leptospira, which is found in warm climates in water that has been contaminated with the urine of animals, like rats.

According to news agencies, in several Nicaraguan communities the number of people that could have been infected with leptospirosis went from 743 to 1,490.

The infection has occurred in places like Managua, Estelí, Nueva Segovia, Chontales, Granada, and the northern Caribbean.

The Minister clarified that this disease is not spread from person to person, which means there is no risk of an outspread in the country for that reason.

Annex 63

Tabla para facilitar la elección de los diputados a Cortes, 28 July 1820

Source: Archivo Nacional de Costa Rica

TABLA PARA FACILITAR LA ELECCION DE LOS DIPUTADOS DE CORTES,

Suplentes y de Provincia de Leon y Cartago.

La Ciudad de Leon Capital de Provincia tiene siete partidos Leon, Granada, Realejo, Sutiaba, Segobia, Matagalpa, y Nicaragua.

Partidos.	*Parroquias.*	*Compr.*	*E. Pan.*	*E. Part.*	*D. Cort.*	*Sup.*	*D. Prov.*	*Sup.*
Leon.	Sagrario.	31	11	1			1	1
	Somotillo	11	1					
	Metapa	31	4					
	Nagarote	11	1					
Granada.	Ciudad de Granada.	31	7	1			1	1
	Masaya	31	5					
	Managua	31	6					
	Acoyapa.	21	2					
	Nindiri	11	1					
	Diria	9	1					
	Dirtiome	6						
	Niquinohomo	21	2					
	Masatepe	21	2					
	Jinotepe.	9	1					
	Nandayme.	11	1					
	Ometepet..	11	1					
Realejo.	Realejo	5	2	1	1	1	1	
	Viejo	21						
	Chinandega	31	3					
Sutiaba.	Sutiaba	31	4	1			1	
	Telica.	11	1					
	Posoltega	11	1					
Segovia.	La ciudad.	6	3	1				
	Estelí.	21						
	Jicaro.	11	1					
	Tepesomoto.	1	1					
	Palacaguina.	21	2					
Matagalpa.	Matagalpa.	31	8	1			1	
	Teustep.	31	7					
Nicaragua.	Nicaragua.	31	10	1				
	S. Jorge	4						
	Cartago Capital de Provincia tiene dos Partidos Cartago y Nicoya							
Cartago	Cartago.	31	9	4	1		1	1
	Villanueva	31	8					
	Ujarraz.	9	1					
	Villa vieja.	31	9					
	Esparza.	21	2					
	Barba.	9	1					
	Cot.	11	1					
	Quircot.							
	Tobosi							
	Quirradabat. . . .							
	Aserrit.							
Nicoya	Nicoya.	11	3	1			1	

Annex 64

Nicoya Act, 25 July 1824

Source: Archivo Nacional de Costa Rica

English translation by Costa Rica

TRANSLATION

ACT OF AGGREGATION OF THE PEOPLE OF NICOYA WITH COSTA RICA

In the Town of Nicoya, on twenty five July, eighteen hundred twenty four, and this council being together and congregated in the presence of the presiding Political Chief and all the citizens under his command, with the consent of the citizens, Sergeant and Corporals, and other soldiers and military chiefs and other townsfolk:

The Summons sent to this Municipality by the Government of Costa Rica was read textually, by which these towns are fraternally invited to spontaneously deliberate about union and aggregation, for which this council, by common consent of the other citizens, has deliberated freely about the aforementioned union analyzing the advantages this would bring for commerce through the Port of Puntarenas (Punta de Arenas), the fast dispensation of justice and encouragement of branches; the safety, quietude, and political regime existing, the demarcation of that State as set up by Nature and as required by public convenience, the compatibility of interests and other relations that join this district:
For the aforementioned considerations and the improvements that will result to the advantage of these towns by reason of the confederation of the state of Costa Rica to the rest of Central America, according to the enclosed authorized copy of the Decree, and the immediate and reciprocal participation in the benefits and progress that can be seen in the state of Costa Rica:

This council by unanimous agreement and jointly with its fellow townspeople, pursuant to this matter, also invited the Municipality of the town of Santa Cruz, of this same district, who having summoned the majority of townspeople, expressed the same opinion in response to the enclosed official note.

As a result, and considering the current indigent situation of the towns that belong to this district, as of this date (except Guanacaste) we consider ourselves as an integral part of the state of Costa Rica. In order to solve the lack of money to cover basic needs and while the corresponding tribunals fix the amounts to be allocated; tobacco warehouses should operate in this town as well as in Santa Cruz, after going through the usual formalities, using their proceeds to help in case of any event or disturbance. The towns of this district should get funds to create schools for the education and learning of young people. State tribunals shall fix, establish, and dictate the corresponding provisions for the allocation of the funds required for our protection.

Being the Military Chiefs of this district present in this Municipality, they said that in order to ensure there will be no disturbances in the free integration of this district to the state of Costa Rica, they are in a deplorable situation, without weapons and without sufficient funds to carry out their duties, because there are only twenty guns in bad condition. Therefore, it will be very necessary that the state appoints and designates the forces that will aid and protect us as an integral part of the same, to face the conspiracies and strife of the Province of Nicaragua, by whom we might be caught unaware, since we are now legitimately integrated to the government of Costa Rica, pursuant to this Act which has been solemnly formalized in the presence of the whole town and their military authorities. In witness whereof, all the members of the council, citizens, compatriots, and military authorities sign this document on the date mentioned above. We make a true certification to be submitted to the state of Costa Rica through the undersigned Secretary, all of with we certify:

MANUEL BRICEÑO – TORIBIO VIALES – UBALDO MARTINEZ – MANUEL GARCIA (REGIDORES) – ANTONIO BRICEÑO, 1st SARGEANT – ROQUE ROSALES 2nd SARGEANT, for me and Sargeant José Maria Jaen – SATURNINO GUTIÉRREZ – BLAS FELIZ ROJERIGUEZ – on behalf of Corporal Agustín Briceño – JUAN FELIPE GUTIERREZ – FELIPE MEDINA – MANUEL SOBENES – DECIDENIO DINANTE – SEVASTIAN GOMES – MOJON TORIBIO VIALES – Before me: JUAN FELIPE GUTIERREZ (3. SECRETARY)."z

Annex 65

Nicaraguan Constitution, Article II, 8 April 1826

Source: P. Pérez Zeledón, *Reply to the Argument of Nicaragua on the Question of the Validity or Nullity to the Treaty of Limits of April 15, 1858,* (Washington, D.C.: Gibson Bros, 1887), pp.107-108

REPLY

TO THE

ARGUMENT OF NICARAGUA

ON THE

QUESTION OF THE VALIDITY OR NULLITY OF THE TREATY OF LIMITS OF APRIL 15, 1858,

TO BE DECIDED BY

The President of the United States of America.

AS ARBITRATOR.

FILED ON BEHALF OF THE GOVERNMENT OF COSTA RICA

BY

PEDRO PÉREZ ZELEDÓN,

ITS ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY
IN THE UNITED STATES.

(TRANSLATED INTO ENGLISH BY J. I. RODRIGUEZ.)

WASHINGTON:
GIBSON BROS., PRINTERS AND BOOKBINDERS.
1887.

No. 5.

Extracts from the Constitution of the State of Nicaragua of April 8, 1826, *showing that at that time the District of Guanacaste or Nicoya was not an integral part of the State, but had been, by its own will, and with the sanction of the Federal Power, annexed to the bordering State of Costa Rica.*

In the presence of God, the Author and Supreme Legislator of the Universe:

We, the Representatives of the people of Nicaragua in Constituent Assembly convened, being fully and lawfully authorized *by our constituents*, and by the Federal Compact of the Republic, to enact an organic law which may secure the prosperity and happiness of the State, consisting in the perfect enjoyment of the rights of man and citizen, namely, liberty, equality, safety, and property, have hereby decreed and sanctioned the following political Constitution:

TITLE FIRST.

Of the State, its Territory, its Rights, and its Duties.

CHAPTER I.

Of the State and its Territory.

ARTICLE 1. THE STATE shall retain the name of STATE OF NICARAGUA. It consists of all its inhabitants; and it forms part of the Central American Confederation.

ARTICLE II. THE TERRITORY OF THE STATE EMBRACES THE DISTRICTS OF NICARAGUA, GRANADA, MANAGUA, MASAYA, MATAGALPA, SEGOVIA, LEON, SUBTIABA, AND EL REALEJO.[1]

Its limits are: On the east, the Sea of the Antilles; on the

[1] The District of Nicoya was not named in this description. It had been segregated from Nicaragua and incorporated into Costa Rica two years before.

north, the State of Honduras; on the west, the Gulf of Conchagua; on the south, the Pacific Ocean; and on the southeast, the free State of Costa Rica.

ARTICLE III. THE ABOVE-NAMED TERRITORY SHALL BE DIVIDED into Departments, and a special law, providing for the number and limits thereof, shall be enacted.

* * * * * *

ARTICLE CLXVIII. The present Constitution is solemnly sanctioned by this Constituent Assembly.

Given in the City of Leon, on April 8th, 1826.

MANUEL MENDOZA,
Deputy for Matagalpa, President.
ISIDRO REYES,
Deputy for Leon, Vice-President.
PEDRO MUÑOZ,
Deputy for Nicaragua.
RAMON PACHECO,
Deputy for Subtiaba.
GREGORIO PARRAS,
Deputy for El Realejo.
SILVESTRE SELVA,
Deputy for Granada.
FRANCISCO REÑASCO,
Deputy for Masaya.
JUAN JOSÉ ZAVALA,
Deputy for Managua.
JOSÉ VICENTE MORALES,
Deputy (substitute) for Leon.
JUAN MANUEL ZAMORA,
Deputy for Masaya.
FRANCISCO PARRALES,
Deputy for Nicaragua, Secretary.
SEBASTIAN ESCOVAR,
Deputy for Granada, Secretary.[1]

[1] As was natural and logical Nicoya was not represented in the Constituent Assembly of Nicaragua.

LEON, *April* 22, 1826.

Let it be executed.

Given under my hand, sealed with the seal of the State and countersigned by the Secretary in charge, *ad interim*, of all the Departments of the Government.

JOSÉ MIGUEL DE LA QUADRA.
JUAN ARGÜELLO,
Secretary.

Annex 66

F. Belly, *A Travers L'Amérique Centrale: le Nicaragua et le Canal Interocéanique*, Tome Second (Paris: Librairie de la Suisse Romande, 1867), pp. 150-165

A TRAVERS
L'AMÉRIQUE CENTRALE

LE NICARAGUA
ET LE CANAL INTEROCÉANIQUE

Par Félix BELLY

PUBLIÉ AVEC UNE CARTE ORIGINALE DU NICARAGUA
DRESSÉE PAR ORDRE DE S. E. LE CAPITAINE-GÉNÉRAL DON TOMAS MARTINEZ
PRÉSIDENT DE LA RÉPUBLIQUE

Hic locus est geminis junus vastis maris.
(Ovide.)

TOME SECOND

PARIS
LIBRAIRIE DE LA SUISSE ROMANDE
33, RUE DE SEINE
CHEZ L'AUTEUR, 6, RUE GRANGE-BATELIÈRE
1867

éclatante en faveur de l'union défensive, et par contre en faveur de l'œuvre qui assurait le salut commun. C'était le meilleur moyen de frapper de déchéance morale le traité Cass-Irizarri, s'il était ratifié, et de prouver à l'Europe que ces petits États méritaient de vivre. Qu'on juge de l'effet produit par cette heureuse combinaison si elle avait été réalisée! quelle autorité ne devait pas acquérir un contrat qui aurait obtenu la consécration de cinq gouvernements! Quelle meilleure recommandation pour les solutions politiques invoquées, que le spectacle de l'entente fraternelle qu'elles avaient déjà produite? Les misérables calculs de Paris ont fait avorter cette entente dans le seul moment peut-être où elle était possible. En renonçant, faute de ressources convenables, à agir moi-même, j'ai laissé libre carrière à de funestes influences, à des conseils perfides, à des jalousies intéressées, à l'hostilité partout la même des médiocrités contre les grandes choses. Le traité du Canal s'en est ressenti dès la première heure; et sans la fermeté du général Martinez, dont l'honneur était engagé à son maintien, il aurait été emporté, l'année suivante, dans un refus de ratification dû à des causes multiples, parmi lesquelles figurait le mauvais vouloir des États qu'il ne m'avait pas été permis de visiter.

IV

Je rentrais un soir à Cartago, après une excursion dans les vallées qui sillonnent les larges versants de l'Irazù, lorsqu'on me remit une lettre du ministre des affaires étrangères apportée par un exprès. M. Nazario Toledo m'apprenait deux événements pouvant renverser toutes mes combinaisons, l'acceptation par le gouvernement de

Nicaragua du traité Cass-Irizarri et l'arrivée à San José du général Jerès et du colonel Negretti, envoyés l'un comme négociateur, l'autre comme médiateur, pour régler une question de limites entre le Nicaragua et Costa-Rica. L'adoption du traité Cass-Irizarri, si elle était positive, ne me permettait plus de compter sur le général Martinez, et elle donnait aux Américains du Nord, si exclusifs dans leurs envahissements, un protectorat légal qui allait devenir un obstacle permanent à toute intervention européenne, même purement industrielle. Ce n'était, heureusement, qu'une fausse alerte. Le président du Nicaragua n'avait pas déserté ainsi la cause sacrée dont il était le plus noble représentant. Mais la nouvelle avait été apportée par les deux plénipotentiaires et elle s'appuyait sur un vote très-réel du congrès nicaraguien. Il en résulta une surexcitation du sentiment national à laquelle je dus prendre part, et qui me donna, malgré moi, une attitude politique que j'aurais évitée avec soin dans toute autre circonstance.

J'avais trouvé, à mon retour, toute la ville de San José occupée des préparatifs d'un bal qui devait avoir lieu en mon honneur, au palais du Gouvernement. M. Mora voulait ainsi combler la mesure des attentions dont il m'avait entouré (1), et peut-être m'offrir une occasion naturelle de m'associer aux protestations de l'opinion. Ce bal semblait fermer la période des deuils publics. Il me permit de cons-

(1) Voici le texte de la notification qui m'en fut faite : « M. le président de la république a disposé de donner un bal au palais du Gouvernement, le mercredi 7 du courant, en votre honneur (dedicado à V.), pour bien témoigner (demostrar), autant que les circonstances le permettent, au distingué défenseur des droits et des intérêts du Centre-Amérique, et spécialement de Costa-Rica, les sympathies et la considération que lui méritent ses honorables antécédents et ses hautes qualités personnelles. *Signé :* NAZARIO TOLEDO. » C'était donc à l'homme et à l'écrivain que s'adressait encore cette dernière manifestation.

tater que le goût et l'élégance sont de toutes les latitudes. Je me serais cru dans une de nos grandes préfectures, si la variété des nuances du teint et la cigarette sur les lèvres des femmes ne m'avaient rappelé l'Amérique espagnole. Il fut suivi d'un souper où le patriotisme éclata par les toasts les plus accentués, et où les discours prononcés, la salle debout et frémissante, et publiés le lendemain par le journal officiel, durent prouver aux Américains du Nord que, même avec le traité Cass-Irizarri, ils n'auraient pas été les maîtres du pays.

C'est à cette fête que je vis pour la première fois le général Maximo Jerès, dont mes lecteurs connaissent déjà la carrière tourmentée et inconséquente. La question des limites qui l'amenait à Costa-Rica, au moment où on s'y attendait le moins et où tout était décidé pour le départ du président, était au moins une complication. Controversée depuis trente ans, cette question avait failli plusieurs fois mettre les armes à la main aux deux républiques, et elle était la cause principale de leur mésintelligence traditionnelle. Le Nicaragua réclamait dans le principe, comme lui appartenant, toute la province de Guanacaste qui s'était donnée volontairement à Costa-Rica dès l'année 1824. L'annexion avait été approuvée par le congrès fédéral, sous la réserve des frontières à fixer pour chaque État. Mais comme les révolutions qui sapaient l'édifice de la fédération n'avaient pas permis de fixer ces frontières, le Guanacaste s'en était passé. Ses habitants avaient plusieurs fois renouvelé leur vote d'union, et depuis la proclamation de l'indépendance ils faisaient partie de la famille costaricienne. Quelles prétentions théoriques pouvaient contrebalancer des faits aussi concluants? Le Nicaragua avait fini par le comprendre, et les propositions nouvelles du général Jerès ne revendiquaient plus tout entier le district de Moracia; elles se présentaient comme une transaction, laissant l'intérieur du district à Costa-Rica et ne lui enle-

vaut que sa bordure. Toutefois cette transaction même portait l'empreinte de la jalousie étroite et invétérée qui l'avait dictée. Le Nicaragua refusait à Costa-Rica toute issue sur le lac et sur le fleuve, division naturelle des deux pays, jusqu'à trois milles au-dessous du fort Castillo. Il oubliait que, sans la présence des forces costa-riciennes dans les eaux du fleuve et du lac, il serait encore au pouvoir de Walker. Un pareil arrangement n'avait en lui-même aucune chance de succès, et l'intervention du médiateur salvadorien n'était pas faite pour lui en donner. La mission du général Jerès ouvrait donc de nouveau un débat irritant sans conclusion possible, et remettait même en question tout ce qui avait été décidé depuis huit jours, y compris le déplacement de M. Mora.

Ce fut le traité du Canal qui dégagea cette situation embarrassée. L'article 4 faisait du canal lui-même la limite définitive des deux États dans le cas où le tracé adopté déboucherait sur le Pacifique dans la baie de Salinas. Or le président, qui connaissait le pays, qui l'avait parcouru dans tous les sens, qui possédait même une mine de houille et une mine de cuivre dans les environs de la baie, ne doutait pas que ce passage ne fût praticable. Un géomètre allemand, envoyé sur les lieux, en avait rapporté des nivellements et un tracé de route terrestre dont les hauteurs confirmaient les études antérieures. La solution proposée par l'article 4 du traité du Canal semblait donc au président Mora devoir être la solution de l'avenir, et comme cette solution réparait les iniquités et les ingratitudes de la proposition Jerès et rendait à Costa-Rica toute la rive droite du fleuve et une issue sur le lac, peu importait qu'on fît un sacrifice provisoire, si l'on obtenait un résultat définitif. L'arrangement proposé par le Nicaragua perdait dès lors de son importance en perdant de sa durée. Costa-Rica n'abandonnait plus, en le signant, les droits qu'il avait toujours

maintenus. Ce n'était qu'une concession apparente qui devait faciliter les négociations ultérieures. Il ne s'agissait, pour tout sauver, que d'introduire dans la nouvelle convention de limites une réserve générale en faveur des obligations consignées dans les contrats présents ou futurs de canalisation. Cette considération l'emporta dans l'esprit de M. Mora sur les impressions fâcheuses qu'il avait d'abord éprouvées. Son plan fut dès lors tout tracé. Il accueillit les envoyés du Nicaragua et du San Salvador avec toutes les marques extérieures d'entente cordiale, et livra leurs propositions à la délibération du Congrès, sûr qu'il en sortirait pour lui une force nouvelle dont il pourrait user à Rivas.

Seulement le voyage projeté se trouva, par le fait même, singulièrement élargi dans son but. Il emportait l'idée d'une espèce de dictature morale allant résoudre, sur le sol du Nicaragua, toutes les difficultés de la situation. C'est ainsi qu'il fut annoncé par une proclamation insérée le 15 avril dans le journal officiel; et lorsque le surlendemain le cortége se mit en route pour Puntarénas, si le traité Cass-Irizarri m'inspirait encore quelques inquiétudes, les pouvoirs donnés à M. Mora par le Congrès et l'attitude décidée de son peuple, ne me permettait pas de craindre un échec. J'avais entendu discuter froidement la résolution de ne livrer San José qu'en cendres, comme Moscou, à commencer par le palais national.

Nous devions quitter San José le 17 avril. Un décret avait investi M. Escalante de l'*intérim* présidentiel. Le public était averti et les préparatifs étaient faits; mais il s'était produit la veille, au sein du Congrès, une explosion de mécontentements qui semblait devoir tout compromettre. Il s'agissait de la troisième lecture et de l'acceptation définitive du traité de limites sur les bases de la proposition Jerès. Les sacrifices que faisait Costa-Rica à un intérêt supérieur avaient paru exorbitants. Le bruit s'était même

répandu que le gouvernement se ralliait à cette opposition, et en faisait un des ressorts de sa politique vis-à-vis du Nicaragua. Beaucoup de gens en concluaient que M. Mora n'avait pris encore aucun parti, et que le voyage pourrait bien ne pas avoir lieu. Toute la journée du 16 s'était passée dans ces incertitudes, dont, plus que tout autre, je suivais les oscillations avec anxiété. Le soir, on m'assura que le général Jerès, très-inquiet de ces présages, avait fait une démarche suprême auprès du président, et qu'il l'avait ramené à sa première résolution. Le président avait donc insisté pour le vote immédiat; mais le Congrès ne pouvait se décider à cette trahison apparente. Des voix patriotiques avaient réclamé le maintien des prétentions de Costa-Rica sur la rive droite du San Juan et sur la côte méridionale du lac, et ce n'était qu'à dix heures du soir, après une séance orageuse qui durait depuis deux jours, que le traité avait été ratifié. Encore n'avait-il pu réunir que sept voix contre cinq, — juste la majorité légale, — ce qui ne s'était jamais vu depuis l'avénement de M. Mora à la présidence.

Le matin même du 17, je ne savais donc trop encore si le départ aurait lieu quand on vint me prévenir que le président montait à cheval avec son état-major, et que le rendez-vous était fixé sur le bord d'une jolie rivière qui coule au fond d'un ravin, à une demi-lieue de San José. Je trouvai en effet tout le cortége arrêté sur un versant du ravin. M. Mora portait un *poncho* très-élégant et un panama de prix; mais rien ne le distinguait des autres cavaliers que des étriers d'argent massif, d'une forme vieille et originale. Autour de lui, ministres, magistrats, députés, semblaient faire assaut de simplicité. On eût dit de bons propriétaires ruraux revenant d'une foire. Les *ponchos* péruviens étaient rares, quoique ce soit le meilleur costume de voyage sur des routes poudreuses. Les militaires ne se distinguaient

que par un grand sabre de cavalerie et par un large galon d'or sur un chapeau de feutre gris ; et il y avait parmi eux de véritables attitudes de mousquetaire, grâce à leurs immenses bottes en entonnoir que recouvraient les plis bariolés du *poncho*.

On ne compte que vingt-six lieues françaises de San José à Puntarénas, mais cette distance est quelque chose en Amérique, surtout avec une différence de niveau de 1,500 mètres entre les deux points extrêmes, et il faut deux ou trois jours pour la franchir. Ce ne fut même que le troisième jour que commença la descente de l'Aguacate, énorme charpente métallique dont les mines d'or étaient exploitées par l'Etat pour les besoins de son hôtel des monnaies. Nous avions presque constamment aperçu jusqu'alors, à notre droite, le rideau volcanique qui part de Barba pour aboutir à l'Orosi, entre le lac de Nicaragua et la baie de Salinas. Une fois sur le point culminant de l'Aguacate, tout l'espace parcouru s'évanouit derrière un massif de forêts, et un nouvel horizon s'ouvrit devant nous avec une splendeur indescriptible. C'était le golfe de Nicoya, épanchant ses flots bleus dans un bassin de verdure d'une forme ovale très-allongée, avec les pitons de la Herradura pour barrière au sud, une presqu'île montagneuse à l'ouest, et au delà, l'Océan sans fin, uni et miroitant comme un cristal. Les derniers échelons de l'Aguacate allaient se fondre dans une délicieuse plaine traversée par plusieurs rivières, et qui était elle-même un océan de verdure. J'avoue que l'idée ne me vint pas d'aller visiter les mines d'or. La beauté lumineuse de ce panorama, au bout duquel on distinguait vaguement le groupe de Puntarénas et plusieurs bâtiments à l'ancre, m'avait fait oublier tout le reste.

Jusque-là, nous n'avions traversé que des villages isolés ou des stations solitaires, dont l'une est devenue la jolie ville d'Atenas. Au pied de l'Aguacate, nous devions retrou-

ver la population et le mouvement. Esparza s'était pavoisée et avait préparé ses canons pour recevoir le président. Les drapeaux français n'y manquaient pas plus qu'à Alajuela, mais un détail de la route me fit trouver cette dernière étape ravissante. A peine avions-nous marché une lieue au delà d'Esparza, à travers des bois de mimosas, de palmiers et d'ébéniers, que nous arrivâmes devant de grands bâtiments construits au-dessus de la plus gracieuse rivière. Il y avait là tout un petit monde industriel : une scierie mécanique, une vaste exploitation de bois et un petit chemin de fer, le tout dirigé par quelques Anglais. Le chemin de fer allait jusqu'à Puntarénas, en ligne droite comme le sillon d'une flèche, à travers les arbres pressés d'une forêt vierge étonnée de cet hôte nouveau. Rien de plus modeste et de plus primitif que l'installation de cette voie. Pas de gare, pas de stations, pas d'employés spéciaux ; une trouée de 2 mètres de large et de trois lieues de long dans la forêt, deux rails posés sur des troncs d'arbres non dégrossis, quelques petits ponts de bois dont les planches n'étaient point ajustées, et une demi-douzaine de voitures-omnibus, simplement garnies de bancs et couvertes d'un toit de bois vernis. Les besoins du service n'exigeaient pas la locomotive ; car ce tronçon sans issue ne pouvait compter sur une grande circulation de voyageurs. Il ne servait, en dehors de l'exploitation forestière dont il était le débouché, qu'à des trains de plaisir ou de chasse, On y pouvait tirer le chevreuil sans descendre de l'omnibus.

Ce premier essai de voies ferrées n'avait alors d'autre analogue le long de la côte occidentale de l'Amérique que le railway jeté, sur un parcours de deux lieues, entre le Callao et Lima. M. Mora en avait accordé trois ans auparavant le privilège à une association anglaise, dans l'espérance de l'encourager à pousser son œuvre jusqu'à San José, si l'ascension de l'Aguacate ne présentait pas des obstacles in-

vincibles. La configuration du sol, exigeant des rachats de pente de plus de 5 p. 100, n'avait pas permis aux concessionnaires d'arriver même jusqu'à Esparza. Leur établissement a disparu un jour, après la mort de M. Mora, faute peut-être de rendement suffisant, et j'ai eu le regret de repasser depuis par le même chemin sans y retrouver la pittoresque installation qui m'avait semblé si prospère.

Nous avions pris place, un peu au hasard, dans des omnibus pavoisés et traînés par un cheval. La traversée de la forêt ressemblait à celle d'un tunnel étroit à parois de feuillages. La mer étincelait à l'orifice. Un air balsamique nous pénétrait, et la chaleur se sentait à peine sous ces voûtes d'ombre. De temps en temps, des coups de fusil tirés en l'air et de grands drapeaux tricolores dressés sur de petites maisons de bois nous faisaient souvenir de la présence d'un gouvernement. Nous entrâmes ainsi à Puntarénas, au bruit de l'artillerie, à travers une population en fête, des maisons décorées, des vivat retentissants, et tout l'appareil des réceptions officielles. Il y avait onze bâtiments en rade, tous couverts de leurs couleurs et répondant par leurs salves aux salves du port. Un de ces navires, le *Saint-Vincent-de-Paul*, véritable frégate de commerce, de 3,000 tonneaux, me fournit les moyens de ne pas rester complétement étranger à ces réjouissances.

Le capitaine de ce navire, M. Cazalis, s'était trouvé à San José au milieu des démonstrations dont j'avais été l'objet, et, comme tous les Français établis dans le pays (1),

(1) Il y a un certain nombre de Français établis à San José ou dans les environs, tous à leur aise, pour ne pas dire tous riches. Rien, du reste, n'est plus facile que de gagner de l'argent à Costa-Rica, quand on sait un métier quelconque. Le moindre ouvrier est payé une piastre par jour. Un domestique qu'on ne nourrit pas se paie aussi une piastre, soit 150 fr. par mois. Le commerce ne gagne jamais moins de 100 pour 150, souvent 200 et même 300. Les forgerons,

il était venu m'offrir ses services. Je ne savais comment reconnaître les témoignages de bienveillance et d'estime dont j'avais été comblé par M. Mora. Notre itinéraire, convenu d'abord à travers le Guanacaste, pour explorer en passsant l'isthme de Salinas, avait été modifié par l'arrivée des plénipotentiaires; j'eus l'idée de profiter de notre passage forcé à Puntarénas pour répondre à l'hospitalité costaricienne par une hospitalité de quelques heures toute française. M. Cazalis entra dans ces vues. Deux autres bâtiments français se montrèrent ravis de s'associer à une manifestation où le drapeau national flotterait à côté de celui de Costa-Rica. M. Mora avait accepté mon invitation. Toute la ville de Puntarénas prit part à cette fête de fusion internationale. Jamais le golfe profond du vieux cacique Nicoya n'avait assisté à un pareil spectacle : toutes les embarcations à la mer, la musique précédant le canot présidentiel, onze navires pavoisés, le pavillon costa-ricien à tous les mâts de misaine et le canon tonnant de minute en minute. M. Mora fut reçu en souverain à bord du *Saint-Vincent-de-Paul* avec une suite d'une centaine de personnes. Je n'avais pas la prétention de payer ainsi ma dette à l'homme à qui je devais mon succès, mais je lui prouvais du moins qu'il ne dépendrait pas de moi que le pavillon de la France ne fût toujours enlacé à celui de Costa-Rica.

Le jour suivant, sur les six heures du soir, au moment où la brise de terre venait remplacer la brise de mer qui s'élève régulièrement à dix heures du matin, nous longions, les pieds dans le sable, la grande rue de la ville, toute on-

charrons, charpentiers, modistes, couturières, etc., demandent à peu près ce qu'ils veulent. Le blanchissage se fait au prix courant d'un réal la pièce (62 cent. 1/2), et il se fait mal. Les mécaniciens et les industriels n'ont pas de prix. Un mécanicien de Puntarénas était engagé à raison de 5 piastres par jour (25 fr.), et les ouvriers spéciaux de la distillerie gagnaient de 15 à 20 fr.

doyante de drapeaux, toute frémissante encore des agitations de la veille. Une jeune femme, assise devant sa porte, se leva au passage du président et l'invita à entrer, en l'appelant, avec une familiarité gracieuse, *Don Juanito*. Il y avait d'autres personnes dans la maison, entre autres deux jeunes filles. On apporta des chaises et des guitares. Les femmes s'échelonnèrent sur les marches de l'escalier, et le cercle s'étendit peu à peu. Les vagues toujours murmurantes venaient expirer sur la rive en face de nous. La nuit tombait rapidement, mais une nuit étoilée, presque lumineuse, baignée de phosphorescences et de parfums, et bercée d'harmonies intraduisibles. Une jeune fille se mit à chanter, en s'accompagnant, je ne sais quel air national, mélodie douce et monotone, que j'avais déjà entendue un soir dans une *hacienda*, et que j'ai retrouvée depuis sur les bords du lac de Nicaragua. Les passants s'arrêtaient pour écouter. D'autres chants avaient succédé au premier; d'autres femmes étaient venues saluer M. Mora, en l'appelant toutes de son petit nom de *Juanito*. Il n'y avait plus assez de chaises. M. Mora profita d'un dérangement pour s'asseoir sur la première marche de l'escalier; et le concert de famille continua jusqu'à onze heures, sans plus de cérémonie, dans une atmosphère de cordialité, de modestie et de bonté qui n'étaient égalées que par la simplicité du chef de l'État.

Lorsque le *Columbus* nous emporta le lendemain vers la haute mer par le cap Blanco qui ferme la baie, les mêmes honneurs accompagnèrent le président dans son passage à travers les navires à l'ancre. Le *Saint-Vincent-de-Paul* et les *Deux-Eulalies* avaient rempli jusqu'au bout la mission qu'ils s'étaient donnée de représenter dignement la France. C'est la seule fois qu'il m'ait été donné d'apercevoir nos couleurs nationales dans les mers centre-américaines, et je puis dire que la présence et la conduite de nos marins avaient

provoqué dans la population des sympathies unanimes.

Vingt-quatre heures après, nous jetions l'ancre devant San Juan del Sûr, à un mille au large. Un canot s'était détaché du port et faisait force de rames pour nous accoster. Il nous apportait la nouvelle que le général Martinez était entré à Rivas et qu'il n'avait pas ratifié le traité Cass-Irizarri. Le général se montrait, au contraire, plus décidé que jamais à repousser tout engagement de ce genre à l'égard des Américains. Nature froide, ne se livrant pas facilement, mais cachant un cœur de lion sous des formes austères, il venait d'adresser à ses concitoyens, à la date du 10 avril, une proclamation d'un caractère antique, véritable manifeste d'une nouvelle confédération centre-américaine. Les forces entières de sa pensée semblaient tendre à ce but suprême. Il devait donc prêter les mains à tout ce qui élèverait une barrière contre ses éternels ennemis, à tout ce qui appellerait sur l'Amérique centrale l'attention et le patronage bienveillant de l'Europe. Je ne pouvais arriver plus à propos.

Les deux présidents se rencontrèrent enfin à une demi-lieue de Rivas, où tout leur rappelait de terribles souvenirs. L'entrevue fut simple, presque triste. Pas un sourire n'éclaira la figure des deux hommes qui avaient sauvé leur pays à force d'héroïsme, et qui venaient le sauver encore. Deux poignées de main échangées, une présentation mutuelle des personnes de leur suite, quelques paroles brèves et fermes, et rien de plus. On reprit ensuite la route de la ville, où nous attendait une réception plus empressée que brillante. Rivas n'était encore qu'un amas de décombres. Des drapeaux blancs et bleus décoraient ces débris. Une haie de soldats se tenaient l'arme au bras devant une maison trouée de boulets. Le canon tonnait, les clairons sonnaient aux champs; deux ou trois cents personnes étaient accourues au-devant du cortége, et le

saluaient de leurs *vivat*. Mais quelque chose de profondément douloureux pesait sur cette scène. L'aspect seul de la maison où nous descendîmes un moment, ancien quartier général de l'armée nationale, en disait plus que toutes les paroles sur l'acharnement de la lutte terminée par la capitulation de Walker. Pas un tronçon de muraille qui ne fût criblé de trous de canonnade ou de mousqueterie. Dans la pièce même où fut signé, huit jours après, le traité du Canal, et qui avait été tour à tour le cabinet de Walker et celui de M. Mora, le mur, fraîchement récrépi, dessinait encore le sillon des boulets; et j'en retrouvai autant au-dessus de mon lit, dans la chambre que m'avait préparée la prévoyante hospitalité d'un Nicaraguien que je n'ai jamais vu, Don Juan Ruiz de Bustamente.

Je touchais donc à cette semaine féconde, commencée le 24 avril et terminée le 1er mai, qui a été pour le Nicaragua, quoi qu'en disent mes détracteurs, le signal des mesures prises par l'Europe pour garantir sa sécurité, et pour les deux républiques riveraines, le point de départ de leur entente définitive. J'avais remarqué, par les attentions qu'il m'avait témoignées en route, que je n'étais pas indifférent au général Martinez. Il avait poussé la courtoisie castillane jusqu'à me reconduire à mon domicile, après avoir installé M. Mora dans le sien. J'allai lui faire une visite pour lui demander ses ordres sur la forme et le lieu des entrevues ultérieures. Je croyais le trouver seul; il avait auprès de lui son ministre de l'intérieur, M. Rosalio Cortez, et le général Bonilla, chef militaire du département de Rivas. Quelques instants après entra le ministre des affaires étrangères, M. Gregorio Juarès; puis le général Jerès et le colonel Negretti, de telle sorte que le gouvernement tout entier du Nicaragua se trouvait rassemblé. Je profitai de l'occasion; et devant ces six personnes, en y comprenant le se-

crétaire-interprète qui m'avait accompagné, j'abordai de plain-pied la question qui les intéressait tous.

Je débutai par cette phrase catégorique que je copie textuellement et sans y changer un iota, dans la page de mon journal, écrite une heure après : « Je ne voulais laisser pla-« ner aucun doute sur ma situation ; je ne voulais surtout « usurper aucun honneur officiel. Je n'étais ni ministre, ni « consul, ni agent quelconque de la France. Je n'étais qu'un « simple particulier, et je tenais à établir avant tout cette « position, pour empêcher tout malentendu(1). » Le général Martinez me répondit, en galant homme, que je n'avais pas besoin de caractère public pour être accueilli avec distinction, que c'était ma personne et non mon titre qu'on considérait, et que je pouvais compter sur l'empressement qu'on mettrait à me satisfaire.

J'expliquai alors, avec une égale franchise, l'objet de mon intervention dans les affaires du pays. Je venais réaliser le projet national par excellence, celui qui fermentait dans toutes les têtes intelligentes depuis l'émancipation, celui que toutes les cartes signalaient comme une nécessité de l'avenir. J'avais les pleins pouvoirs d'une maison de banque, l'appui moral des économistes, le concours de l'opinion du monde éclairé. J'apportais ainsi au Nicaragua et à l'isthme entier, non-seulement la richesse, mais la sécurité ; non-seulement l'accomplissement de leurs destinées, mais le patronage puissant des intérêts européens, désormais liés à leur indépendance. Je développai les principes de libéralisme sans réserve sur lesquels reposait le traité préparé, et pour la discussion de ses articles, je me mis à la dispo-

(1) J'étais loin de penser, en écrivant ces notes quotidiennes, par esprit d'ordre et pour me rendre compte à moi-même de mes propres impressions, que j'aurais jamais à leur emprunter une justification contre de honteuses calomnies administratives.

sition entière du président, le laissant libre de décider si cette discussion aurait lieu avec lui seul, ou en présence de M. Mora et de son ministre.

Pendant que je parlais, j'avais pu remarquer sur la figure impassible du général Martinez quelques signes non équivoques de son attention sympathique. Quant à M. Gregorio Juarès, arrivé la veille en toute hâte, il ne déguisait pas la satisfaction profonde qu'il éprouvait. C'était la première fois, depuis bien des années, qu'une parole amie, partie de l'Europe, venait leur ouvrir les horizons splendides que tous appelaient de leurs vœux. J'avais, dans ce rôle, l'immense avantage d'être cru sur parole, car ma loyauté ressortait de la déclaration même que j'avais faite en commençant. Je m'adressais, d'ailleurs, à des hommes préoccupés du lendemain, qui voyaient là une solution politique inattendue. Ce côté politique de la question, cet appel indirect aux sympathies européennes fut la raison déterminante des entraînements que l'idée du canal provoqua. Il explique la fameuse déclaration qui porte, comme le canal, la date patriotique du 1er mai, anniversaire de la capitulation de Rivas. Cette déclaration était contenue implicitement dans la proclamation du général Martinez. C'était le cri désespéré d'un peuple aux abois, qui n'avait plus de ménagements à garder vis-à-vis de ses impitoyables oppresseurs, et qui espérait se faire entendre ainsi du vieux monde imprévoyant et égoïste.

Le lundi 26 avril, s'engagea, en présence des deux présidents, la discussion des articles. J'avais déclaré d'avance que, n'étant pas le juge des relations réciproques des deux États, je me soumettais à toutes les modifications de détail que les deux gouvernements croiraient devoir introduire dans le traité, pourvu que ses principes généraux fussent sauvegardés. La lutte de générosité qui s'établit entre le général Martinez et M. Mora coupa court à ces modifications.

Le débat fut sérieux, il aborda toutes les questions spéciales ; il me permit de développer toutes les conséquences économiques que j'entrevoyais ; mais il se maintint jusqu'au bout dans une sphère élevée où les rivalités locales et les intérêts privés disparaissaient devant l'urgence du salut public. Je n'ai jamais assisté à un spectacle plus consolant que celui de ces deux hommes faisant assaut de sacrifices et de désintéressement pour fonder enfin quelque chose de durable. La solennité des circonstances fortifiait toutes les âmes. Je desire, pour le bonheur de l'humanité, que la diplomatie rencontre souvent de pareilles aspirations. Je fus, quant à moi, profondément touché de tout ce que je vis et de tout ce que j'entendis dans les six jours que durèrent les conférences, et lorsque le général Martinez prit enfin la plume pour apposer sa signature au bas du traité, j'éprouvai une de ces joies profondes qui font date dans une vie. C'était le dernier acte et le couronnement d'une semaine bien remplie, qui avait vu s'aplanir toutes les difficultés pendantes, qui avait réglé honorablement tous les points en litige, qui avait commencé la reconstitution centro-américaine par l'alliance intime de deux États divisés depuis trente ans, et qui laissait après elle un courant d'opinion désormais assez fort pour faire avorter toutes les violences américaines.

Voici le texte du traité, débarrassé du nom compromettant que j'avais d'abord associé au mien, et vierge des mutilations qu'il a subies l'année suivante de la part du congrès du Nicaragua :

Annex 67

(a) "Departure Clearance Certificate" issued by the Costa Rican Revenue Guard in Boca del río Sarapiquí to a private citizen, 16 April 1968

(b) "Departure Clearance Certificate" issued by the Costa Rican Revenue Guard in Boca del río Sarapiquí to a Costa Rican Park Ranger, 13 June 1968

English translation by Costa Rica

TRANSLATION

16 April 1968 **No. 39243 R.F.**

REVENUE GUARD OF Boca of Río Sarapiquí (Mouth of the Sarapiquí River)

Queen Mety **THAT BELONGS TO** **José Com** **HEADED TO** Barra del Colorado **IS HEREBY AUTHORIZED TO DEPART.**

PORTS OF CALL: Delta **PILOT:** The same

PASSENGERS: 10

TIME OF DEPARTURE: 9:15 AM **TIME OF AUTHORIZATION:** 9:10 AM

Pascual González
Chief of the Guard

16 DE Abril DE 1968

Nº 39243 R. F.

RESGUARDO FISCAL DE Boca del Río Tarapiqui

PERMITASE EL ZARPE A Juan Mocby — DE José Dom.

No. _____ QUE VA CON DIRECCION A Barra del Colorado

Y ESCALAS Tulá PILOTO El mismo

TRIPULACION 1

CARGA

PASAJEROS 10

HORA DE SALIDA 9.15 hs AM HORA EN QUE SE EXTENDIO EL ZARPE 9.10 hs AM.

SELLO

Pascual Gonzalez

1er JEFE DEL RESGUARDO

TRANSLATION

Oficial
13 June 1968 **No. 39348 R.F.**

REVENUE GUARD OF Boca of Río Sarapiquí (Mouth of the Sarapiquí River)

Angel (outboard vessel) **THAT BELONGS TO** Park Ranger Rubén Lao **HEADED TO** Boca Río San Carlos-CR **IS HEREBY AUTHORIZED TO DEPART.**

PORTS OF CALL: Sarapiqui of Nicaragua **PILOT:** The same

TIME OF DEPARTURE: 11 hours **TIME OF AUTHORIZATION:** 10 ¾ hours

61

13 DE Junio DE 1968

Nº 39348 R. F.

RESGUARDO FISCAL DE Puerto Río Sarapiqui

PERMITASE EL ZARPE A Chayet (Lote Fuerzas) DE Guardo Forestal - Río Sao

NO. _____ QUE VA CON DIRECCION A Puerto Río Bl Coclar - C-R

Y ESCALAS Sarapiqui de Nicaragua PILOTO el mismo

TRIPULACION _____

CARGA _____

PASAJEROS _____

HORA DE SALIDA 11-H-S HORA EN QUE SE EXTENDIO EL ZARPE 10 3/4 H-S

SELLO

JEFE DEL RESGUARDO

2754 - Imp. Nacional - 1966

Annex 68

Speech by President of Nicaragua to the Diplomatic Corps, 14 September 2005

Source: Nicaraguan Presidency

English translation by Costa Rica

TRANSLATION

WORDS OF THE PRESIDENT OF THE REPUBLIC
ENRIQUE BOLAÑOS GEYER

GREETING TO THE DIPLOMATIC CORPS

CHINESE ROOM, WEDNESDAY, SEPTEMBER 14, 2005

"In the name of God and Nicaragua

....

3. Unfortunately we cannot forget that, since the beginning of our independent life as a nation, we have spent most of the time in confrontations, disagreements, conspiracies, riots, coups d'etat.

...

10. The solidarity shown by the Central American brothers-- especially that of the Costa Rican brothers -- was decisive for the withdrawal of the filibusters.

..."

PALABRAS DEL PRESIDENTE DE LA REPÚBLICA
ENRIQUE BOLAÑOS GEYER
SALÓN CUERPO DIPLOMÁTICO
SALON CHINO, MIERCOLES 14 DE SEPTIEMBRE DEL 2005

En el nombre de Dios y de Nicaragua

1. Todos los años nos damos cita en Septiembre, mes de la unidad y la soberanía para nosotros, para celebrar las Fiestas Patrias.

2. Fiestas, instituídas en celebración del magno acontecimiento de la Independencia de Centroamérica y la lucha heroica del pueblo nicaragüense, ayudado por nuestros hermanos centroamericanos, contra los invasores filibusteros que intentó establecer un Estado de esclavitud en nuestro suelo.

3. Desgraciadamente no podemos dejar de recordar que desde el inicio de nuestra vida independiente como nación, hemos pasado la mayor parte del tiempo en confrontaciones, desacuerdos, conspiraciones, asonadas, golpes de estado.

4. Estimados amigos Diplomáticos: Esta actitud, esta conducta, explica el atraso económico y social que hemos causado de manera tal que todavía luchamos contra problemas que otras naciones ya han definitivamente superado.

5. La Guerra Nacional que sufrimos a mediados del siglo XIX, fue prevista por uno de los próceres más sabios, y de mayor clarividencia política, de nuestra Independencia, don José Cecilio del Valle.

6. Al lamentarse del estado de anarquía que sobrevino en toda la región, como consecuencia del proceso independentista. "Cualquier aventurero", decía, "aprovechando el momento, vendrá a dictarnos leyes, y los pueblos, debilitados, abatidos y desgraciados, no tendrán la energía necesaria para conservar sus derechos y sucumbirán indecorosamente ante la fuerza del poder". (concluyo la cita)

7. Esta conducta tentó a William Walter, quien la aprovechó para apoderarse de Nicaragua, con pretensiones de avanzar a la conquista del resto de Centroamérica

8. De ahí que su lema fuera "Five or none" (cinco o ninguna), frase que se repitió en la década obscura, cuando también el totalitarismo marxista conquista con facilidad a Nicaragua y contamina al resto de la región en su afán de conquista expansionista.

9. Ante la conquista de Walter, los patriotas de nuestras hermanas repúblicas centroamericanas, se unieron a nuestra defensa, para también evitar así la amenaza a sus propios pueblos. A lo interno, también se logró hacer ***un pacto.*** — ¡pacto para salvar la Patria y no para repartirse el poder!

10. La solidaridad de los hermanos centroamericanos —especialmente la de los hermanos costarricenses— fue decisiva para lograr la retirada de los filibusteros

11. Aparte del general José Dolores Estrada, estratega de la Batalla de San Jacinto, aparte de los héroes Andrés Castro y Emmanuel Mongalo, es importante recordar también, el ejemplo del General Tomás Martínez, hombre que no dudó en ningún momento en anteponer sus intereses personales a los intereses sagrados de la Patria.

12. No me canso de repetir que fue un hombre cuyo ejemplo subyace en los principios que sustentan al gobierno de la Nueva Era, en su lucha contra la corrupción y la superación de la politiquería intrascendente.

Annex 69

Nicaraguan Presidential Decree No. 65-2005 of 28 September 2005

Source: Nicaraguan Official Gazette No. 188 of 29 September 2005

English translation by Costa Rica

TRANSLATION

THE GOVERNMENT OF NICARAGUA WILL NOT ALLOW IN ANY WAY ARMED NAVIGATION OF FOREIGN FORCES IN NICARAGUAN TERRITORIAL WATERS

DECREE No. 65-2005, approved on September 28, 2005

Published in La Gaceta No. 188 of September 29, 2005

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

WHEREAS

I

Article 1 of the Political Constitution of the Republic of Nicaragua states that: "National independence, sovereignty and self-determination, are unrenounceable rights of the people and the foundations of the Nicaraguan nation. Any foreign interference in the internal matters of Nicaragua or any attempt to lessen those rights, are attempts against the life of the people. It is a duty of all Nicaraguans to preserve and protect those rights.

II

Pursuant to article VI of the Border Treaty signed between Nicaragua and Costa Rica on April 15, 1858: "The Republic of Nicaragua shall have exclusive dominion and supreme control of the waters of the river San Juan, from its outlet from the Lake until it empties on the Atlantic ... ";

III

Sovereignty is the fundamental basis on which the international legal system rests.

IV

After the time limit fixed in the Declaration of Alajuela, of September 26, 2002 expired, Costa Rican authorities have resumed an intense campaign along with statements made by some officials, with the claim of carrying out armed navigation in Nicaragua's San Juan River.

V

Any claim from foreign forces to carry out armed navigation in Nicaraguan sovereign waters constitutes – in itself – a threat to the country's internal and external peace and safety and lessens the essential interests of its safety.

VI

The public claim to use sovereign Nicaraguan territory for armed navigation or in any other form related to such navigation, is not only inadmissible in the light of international law and treaties in force, but also constitutes a direct threat to the sovereignty and territorial integrity of the nation.

VII

The public claim to use the Nicaraguan sovereign waters of the San Juan River for the passing of armed personnel, relief, transportation of weapons, ammunition and any other foreign military or police activity, without an express authorisation, constitutes an intolerable challenge to the sovereign attributions of dominion and sovereign jurisdiction that Nicaragua has over its waters along its whole length.

VIII

Those claims are also a violation of community law and particularly, of the letter and spirit of the Framework Treaty on Democratic Security in Central America which establishes the obligation to help in the preservation of regional security and states that "...no country shall strengthen its own security at the expense of the security of other countries".

IX

The Declaration on Security in the Americas, of October 28, 2003, states that: " ... unlawful trafficking of firearms, ammunitions, explosives, and other related materials, is a threat to hemispheric security, ... exacerbates conflicts and poses a serious hazard to the safety of individuals. "

X

Article III (Sovereignty) Clause 2 of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials of November 13, 1997, reads: "A State Party shall not undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved to the authorities of that other State Party by its domestic law."

XI

Member states are obligated to apply the Action Program of the United Nations to Prevent, Fight, and Eliminate Illicit Trafficking of Small Arms and Light Weapons in all of its aspects.

XII

Article 92, first paragraph, of the Political Constitution of Nicaragua establishes that the Nicaraguan Army is the armed Institution for the defence of the sovereignty, the independence, and the territorial integrity.

By virtue of the powers invested in him by the Political Constitution

HAS ISSUED

The following

DECREE:

Article 1. – The Government of the Republic of Nicaragua will not allow in any way armed navigation of foreign forces in national waters, as it is a flagrant violation of national sovereignty, the Political Constitution, and the law.

Article 2. - The Nicaraguan Army is ordered to immediately increase its presence and permanent surveillance at the San Juan River in order to prevent, with all the means provided to it by national legislation, the transit of armed personnel, the relief and the transportation of weapons, ammunition and supplies, by foreign forces, as well as any other activity related to the illicit trafficking of arms in all of its aspects.

Article 3. – The Ministry of the Interior, through the National Police Department, is ordered to proceed immediately to confiscate all the arms that are seized and take the offenders before the Nicaraguan Courts of Justice so they can be tried with the full severity of the law for the crimes they may have committed.

Article 4. –The people of Nicaragua are summoned to maintain a monolithic and unitary position around national authorities in charge of defending the sovereignty of the country.

Article 5. –This Decree will come into force upon its publication in any communication media which does not preclude its publication in the official newspaper, La Gaceta.

Given in the city of Managua, Presidential Office, on September 28, 2005. **ENRIQUE BOLAÑOS GEYER,** President of the Republic of Nicaragua. **DEYANIRA ARGUELLO ARANA,** Minister of the Interior by law. – **AVIL RAMIREZ VALDIVIA,** Minister of Defence.

EL GOBIERNO DE NICARAGUA NO PERMITIRÁ DE NINGUNA FORMA QUE FUERZAS EXTRANJERAS NAVEGEN ARMADAS EN AGUAS PERTENECIENTES AL TERRITORIO NACIONAL

DECRETO No. 65-2005, Aprobado el 28 de Septiembre del 2005

Publicado en la Gaceta No. 188 del 29 de Septiembre del 2005

El PRESIDENTE DE LA REPÚBLICA DE NICARAGUA

CONSIDERADO

I

Que la Constitución Política de la República de Nicaragua dispone en su artículo 1 que: "La independencia, la soberanía y la autodeterminación nacional, son derechos irrenunciables del pueblo y fundamentos de la nación nicaragüense. Toda injerencia extranjera en los asuntos internos de Nicaragua o cualquier intento de menoscabar esos derechos, atenta contra la vida del pueblo. Es deber de todos los nicaragüenses preservar y defender estos derechos";

II

Que de conformidad con el artículo VI del Tratado de Límites entre Nicaragua y Costa Rica, del 15 de abril de 1858: "La República de Nicaragua tendrá exclusivamente el dominio y sumo imperio sobre las aguas del río San Juan desde su salida del Lago, hasta su desembocadura en el Atlántico...";

III

Que la Soberanía constituye la base fundamental sobre la cual reposa el orden jurídico internacional.

IV

Que habiendo concluido el plazo fijado en la *Declaración de Alajuela* del 26 de septiembre del año dos mil dos, autoridades de Costa Rica han reiniciado una intensa campaña acompañada de declaraciones de funcionarios con la ilegal pretensión de realizar acciones de navegación armada en el Río San Juan de Nicaragua.

V

Que cualquier pretensión de hacer efectiva la navegación armada por parte de fuerzas foráneas en aguas soberanas nicaragüenses constituye –en si misma- una amenaza a la paz y la seguridad interior y externa del país y menoscaba los intereses esenciales de su seguridad.

VI

Que la pretensión pública de utilizar territorio soberano nicaragüense para la navegación armada o en cualquier forma relacionada con la misma, no solo es

inadmisible a la luz del derecho internacional y los tratados vigentes, sino que constituye una amenaza directa a la soberanía e integridad territorial de la nación.

VII

Que la pretensión pública de paso de efectivos armados, avituallamiento, traslado de armas, municiones y cualquier otra actividad de carácter militar o policial foráneas, sin la debida autorización expresa, en las aguas soberanas nicaragüenses del Río San Juan, constituye un desafío intolerable a los atributos soberanos de dominio y sumo imperio que posee Nicaragua sobre sus aguas en toda su extensión.

VIII

Que esas pretensiones constituyen también una violación al derecho comunitario y, especialmente, a la letra y el espíritu del Tratado Marco de Seguridad Democrática en Centroamérica que establece la obligación de contribuir a preservar la seguridad regional y estipula que" ...ningún Estado fortalecerá su propia seguridad menoscabando la seguridad de los demás"

IX

Que la Declaración sobre Seguridad en las Américas, del 28 de octubre de 2003, expresa que:" ...el tráfico ilícito de armas de fuego, municiones, explosivos y otros materiales relacionados, son una menaza a la seguridad hemisférica,... Exacerban los conflictos y representan un serio peligro para la seguridad de las personas.".

X

Que según la Convención Interamericana contra la Fabricación y el Tráfico Ilícito de Armas de Fuego, Municiones, Explosivos y otros materiales relacionados del 13 de noviembre de 1997, en su artículo III (Soberanía). Inciso 2 expresa: "Un Estado Parte no ejercerá en el territorio de otro Estado Parte jurisdicción ni funciones reservadas exclusivamente a las autoridades de ese otro Estado Parte por su derecho interno."

XI

Que los Estados Miembros están obligados a aplicar el Programa de Acción de las Naciones Unidas para Prevenir, Combatir y Eliminar el Tráfico Ilícito de Armas Pequeñas y Ligeras en todos sus aspectos.

XII

Que el artículo 92, párrafo primero, de la Constitución Política de la República de Nicaragua establece que el Ejército de Nicaragua es la Institución armada para la defensa de la soberanía, de la independencia y la integridad territorial.

En uso de las facultades que le confiere la Constitución Política,

HA DICTADO

El siguiente

DECRETO:

Artículo 1.- El Gobierno de la República de Nicaragua no permitirá de ninguna forma que fuerzas extranjeras naveguen armadas en aguas pertenecientes al territorio nacional, por constituir una violación flagrante a la soberanía nacional, la Constitución Política y las leyes.

Artículo 2.- Se ordena al Ejército de Nicaragua incrementar de inmediato la presencia y vigilancia permanente en el Río San Juan a fin de impedir por todos los medios que pone a su disposición la legislación nacional, el paso de efectivos armados, el avituallamiento y el traslado de armas, municiones y pertrechos por parte de fuerzas extranjeras, así como cualquier actividad vinculada al tráfico ilícito de armas en todos sus aspectos.

Artículo 3.- Se ordena al Ministerio de Gobernación, por medio de la Dirección General de la Policía Nacional, proceder al decomiso inmediato de las armas que se incauten y a poner a los responsables a la orden de los Tribunales de Justicia Nicaragüenses para su debido juzgamiento con todo el rigor de la ley por los delitos que se cometieren.

Artículo 4.- Se hace un llamado al pueblo de Nicaragua a mantener una monolítica y unitaria posición alrededor de las autoridades nacionales encargadas de la Defensa de la Soberanía del país.

Artículo 5.- El presente Decreto entrará en vigencia a partir de su publicación en cualquier medio de comunicación sin perjuicio de su publicación en La Gaceta, Diario Oficial.

Dado en la ciudad de Managua, Casa Presidencial, el veintiocho de septiembre del año dos mil cinco. **ENRIQUE BOLAÑOS GEYER,** Presidente de la República de Nicaragua. **DEYANIRA ARGUELLO ARANA,** Ministro de Gobernación por la Ley.- **AVIL RAMÍREZ VALDIVIA,** Ministro de Defensa.

Annex 70

Nicaraguan Presidential Decree No. 97-2005 of 2 December 2005

Source: Nicaraguan Official Gazette No. 237 of 7 December 2005

English translation by Costa Rica

TRANSLATION

AMENDMENT TO DECREE No. 57-2005
DECREE No. 97-2005, approved on December 02, 2005

Published in La Gaceta N° 237 of December 7, 2005

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

WHEREAS

I

On September 29, 2005, the Government of the Republic of Costa Rica filed a formal case before the International Court of Justice in The Hague, Holland, against the Government of the Republic of Nicaragua, in connection with navigation on the San Juan of Nicaragua River.

II

It is the duty of the State of the Republic of Nicaragua to guarantee the preservation and defence of the territorial sovereignty of the Republic of Nicaragua.

III

In order to face the international proceedings on the groundless claims of the Government of the Republic of Costa Rica, there should be a team of specialists on the international and technical aspects of this matter, whose hiring signifies a charge to the General Budget of the Republic.

IV

Pursuant to Law No. 290 "Organization, Competence, and Procedures of the Executive Power" and its corresponding Rules, it is the exclusive attribution of the Ministry of Foreign Affairs to conduct the defence of Nicaragua against Costa Rica's claims.

By virtue of the powers invested in him by the Political Constitution,

HAS ISSUED

The following:

DECREE

Amendment to Decree No. 57-2005

Article 1.- A paragraph is added at the end of article 3 of Decree No. 57-2005, published in La Gaceta, Official Newspaper No. 172 of September 5, 2005, which reads as follows:

"The proceeds from the consular visa paid by Costa Rican citizens will go to the General Budget of the Republic, and will be allotted to the Ministry of Foreign Affairs as income for a specific purpose, to pay for the expenses incurred in the defence before the International Court of Justice in The Hague, Holland for the case filed by the Government of the Republic of Costa Rica, in connection with navigation in the San Juan of Nicaragua River."

Article 2,- This Decree will come into force upon its publication in La Gaceta, Official Newspaper.

Given in the city of Managua, Presidential Office on December 2nd, 2005. **Enrique Bolaños Geyer,** President of the Republic of Nicaragua.

REFORMA AL DECRETO No. 57-2005
DECRETO No. 97-2005, Aprobado el 02 de Diciembre del 2005

Publicado en La Gaceta No. 237 del 07 de Diciembre del 2005
EL PRESIDENTE DE LA REPÚBLICA DE NICARAGUA,

CONSIDERANDO

I

Que el veintinueve de septiembre de dos mil cinco el Gobierno de la República de Costa Rica interpuso formal demanda ante la Corte Internacional de Justicia con sede en La Haya, Holanda, en contra del Gobierno de la República de Nicaragua, en relación a la navegación en el Río San Juan de Nicaragua.

II

Que es deber del Estado de la República de Nicaragua garantizar la preservación y defensa de la soberanía territorial de la República de Nicaragua.

III

Que para hacer frente al proceso de demanda internacional sobre las infundadas pretensiones que tiene el Gobierno de la República de Costa Rica, se debe contar con un equipo de especialistas en temas Internacionales y técnicos en la materia, cuyas contrataciones representan erogaciones con cargo al Presupuesto General de la República.

IV

Que de conformidad con la Ley No. 290 "Ley de Organización, Competencia y Procedimientos del Poder Ejecutivo" y su correspondiente Reglamento, es atribución específica del Ministerio de Relaciones Exteriores, la conducción de la defensa de Nicaragua ante las pretensiones costarricenses.

En uso de las facultades que le confiere la Constitución Política,
HA DICTADO

El siguiente:
DECRETO
Reforma al Decreto No. 57-2005

Artículo 1.- Se adiciona un párrafo al final del arto. 3 del Decreto No. 57-2005, publicado en La Gaceta, Diario Oficial No. 172 del 5 de septiembre del 2005, el cual se leerá de la siguiente manera:

"Los ingresos obtenidos por concepto del pago de la visa consular que se emita a los nacionales de Costa Rica que ingresen al Presupuesto General de la República, serán destinados al Ministerio de Relaciones Exteriores como renta con destino específico para cubrir los gastos de defensa ante la Corte Internacional de Justicia con sede en La Haya, Holanda, por la

demanda del Gobierno de la República de Costa Rica, en relación a la navegación en el Río San Juan de Nicaragua."

Artículo 2.- El presente Decreto entrará en vigencia a partir de su publicación en La Gaceta, Diario Oficial.

Dado en la ciudad de Managua, Casa Presidencial el día dos de diciembre del año dos mil cinco. **Enrique Bolaños Geyer**, Presidente de la República de Nicaragua.

Annex 71

"Departure clearance certificate" charged to Jorge Lao, 25 October 2007

English translation by Costa Rica

TRANSLATION

Republic of Nicaragua
NAVAL FORCE-ARMY OF NICARAGUA

Official cash receipt N° 13777

25 October 2007 For: 6.000 colones

Received from Mr. Jorge Lao

The amount of 6.000 colones (six thousand colones exact)

Corresponding to payment of international departure clearance

Check N° _____ Bank _____

Cash V

(signature illegible) Jorge L

_____ _____

Signature of receiving party Signature of paying party

NOTE: THIS RECEIPT IS NOT VALID IF IT PORTRAYS BLEMISHES OR AMMENDMENTS

REPUBLICA DE NICARAGUA

FUERZA NAVAL - EJERCITO DE NICARAGUA

Recibo Oficial de Caja

Nº 13777

28 de OCTUBRE 2007 Por C$ 6.000 ¢

Recibo del Sr. (a) JORGE LAO.

La Cantidad de 6.000 ¢ (SEIS MIL COLONES NETOS.).

En concepto de PAGO ZAPPE INT.

Cheque No. _____ Banco _____

Efectivo ✓

Firma del que recibe

Firma del que entrega

NOTA: ESTE RECIBO NO ES VALIDO SI LLEVA BORRONES O ENMIENDAS.

LITOMIC Rnc 280865-3917 C.A. 096 OT 3817 80b 59((2) 12081 14500 7/06

ORIGINAL

Annex 72

(a) "Immigration dispatch" charged to Jorge Lao, 25 October 2007

(b) "Transit permit at border point" charged to Jorge Lao, 25 October 2007

English translation by Costa Rica

TRANSLATION

MINISTRY OF THE INTERIOR N° 1026635
GENERAL ADMINISTRATIVE FINANCIAL DIVISION
ACCOUNTING SYSTEM Cordobas ___

Dollars __X__

OFFICIAL CASH RECEIPT

Collecting Unit: Migracion y Ext 4=

Place and Date: Sarapiquí 25-10-97

Received from: Jorge Manuel Lao Jarquín

By account of: Himself

The amount of: Four dollars net

In concept of: (3010) Migratory Dispatch

Department: R. S. J. County: (Illegible) Administrative office: M y E

NOTE: NOT VALID IF IT PORTRAYS AMMENDMENTS OR BLEMISHES

ORIGINAL: CUSTOMER (Illegible)

Signature of cashier

358

MINISTERIO DE GOBERNACION
DIVISION GENERAL ADMINISTRATIVA FINANCIERA
SISTEMA DE CONTABILIDAD

No. 1026635 (1)

RECIBO OFICIAL DE CAJA

CORDOBAS ☐
DOLARES ☑

UNIDAD RECAUDADORA: Migracion y Ext

LUGAR Y FECHA (2): Sarapiquí 25-10-07

4=

RECIBI DE: Jorge Manuel Lao Jorquin (3)

POR CUENTA DE: El mismo (4)

LA CANTIDAD DE: Cuatro Dolares netos (5)

EN CONCEPTO DE: (3010) Desp migr (6)

DEPARTAMENTO: R.S.J MUNICIPIO: Sil (7) DEPENDENCIA: MyE

FORMULARIOS STANDARD NIC, S.A. RUC No. 050381-[illegible] D.T. No. 7810000[illegible]50 MODELO [illegible]/050001 AL 1900000[illegible]/07 AUTORIZACION FISCAL No [illegible]

NOTA: NO ES VALIDO CON ENMIENDAS O BORRONES
ORIGINAL: CLIENTE

FIRMA DEL CAJERO (8)

FORMULARIOS STANDARD NIC TEL PBX: 2665847 FAX: 2665869 - D.T. No 7810003

PRODUCTO C.A. HECHO EN C.R.

www.FormulariosStandard.com

TRANSLATION

N° 1026682

MINISTRY OF THE INTERIOR
GENERAL ADMINISTRATIVE FINANCIAL DIVISION
ACCOUNTING SYSTEM

Cordobas ___

Dollars __X__

OFFICIAL CASH RECEIPT

Collecting Unit: Migracion y Ext 5=

Place and Date: Sarapiquí 25-10-97

Received from: Jorge Manuel Lao Jarquín

By account of: Himself

The amount of: Five dollars net

In concept of: (3170) Transit permit in border point

Department: R. S. J. County: (Illegible) Administrative office: M y E

NOTE: NOT VALID IF IT PORTRAYS AMMENDMENTS OR BLEMISHES

ORIGINAL: CUSTOMER

(Illegible)

Signature of cashier

MINISTERIO DE GOBERNACION
DIVISION GENERAL ADMINISTRATIVA FINANCIERA
SISTEMA DE CONTABILIDAD

No. 1026682 (1)

RECIBO OFICIAL DE CAJA

CORDOBAS ☐
DOLARES ☑

UNIDAD RECAUDADORA: Migracion y Ext

LUGAR Y FECHA (2): Sarapiqui 25-10-07

5.=

RECIBI DE: Jorge Manuel Lao Jorquin (3)

POR CUENTA DE: El mismo (4)

LA CANTIDAD DE: Cinco Dolares netos (5)

EN CONCEPTO DE: (3140) permiso de transito en punto fronterizo (6)

DEPARTAMENTO: R.S.J MUNICIPIO: SIL (7) DEPENDENCIA: MYE

FORMULARIOS STANDARD TEL. PBX: 2563247 FAX: 2865858 O.T. No 7610003

FORMULARIOS STANDARD NIC, S.A. RUC No. 050[illegible]-0503 O.T. No. 7610[illegible] 350[illegible] DEL No. 950001 AL 1300000 [illegible] AUTORIZACION FISCAL No [illegible]

PRODUCTO C.A. HECHO EN CR.

www.FormulariosStandard.com

NOTA: NO ES VALIDO CON ENMIENDAS O BORRONES

ORIGINAL: CLIENTE

FIRMA DEL CAJERO (8)