International relations between Colombia and Nicaragua: A political and historical study on their boundaries and their influence after the statements of the Hague

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Resumen

En la presente tesis se explica y analiza el conflicto limítrofe entre Colombia y Nicaragua, describiendo el contexto histórico de los diferentes acontecimientos que incidieron en los límites actuales como las participaciones de la Corona Española a principios del siglo XIX repasando sus dos Ordenes Reales (1803-1806) que marcaron los inicios de las disputas entre ambos países y más adelante las intervenciones de Inglaterra y Estados Unidos, ya que a través de los dos siglos de historia que tiene el conflicto limítrofe entre Colombia y Nicaragua han existido la participación de varias naciones que han incidido directa e indirectamente en el litigio.

De manera explícita se menciona el tratado Esguerra-Bárcenas el más importante y el único bilateral firmado por ambas naciones, donde específicamente se establecieron los límites marítimos entre los firmantes, fue por ello importante presentarlo y explicarlo desde el contexto histórico en el que fue establecido. Por último se analizaron los argumentos de defensa presentados por Colombia y Nicaragua y los criterios que utilizó la Corte Internacional de Justicia para tomar la decisión de fragmentar el territorio marítimo colombiano.

Palabras clave: Conflicto limítrofe Colombia- Nicaragua, Pérdida de territorio, Corte Internacional de Justicia, Fallo 2012, Tratado Esguerra – Bárcenas, Fronteras marítimas.

Abstract

This thesis explains and analyzes the border dispute between Colombia and Nicaragua, describing the historical context of the different events that impacted on the current limits as shares of the Crown Spanish early 19thcentury reviewing

its two orders real (1803-1806) that marked the beginning of the dispute between the two countries and later interventions by England and United States already that through two centuries of history that has the border dispute between Colombia and Nicaragua have been the participation of various Nations that have influenced directly and indirectly in the proceedings.

Explicitly mentioned the Treaty Esguerra - Bárcenas, the largest and the only bilateral signed by both Nations, where specifically established the maritime boundaries between the signatories, was therefore important present it and explain it from the historical context in which it was established. Last discussed the Defense arguments submitted by Colombia and Nicaragua and the criteria used by the International Court of Justice to decide to break up Colombian maritime territory

Keywords: Conflict bordering Colombia - Nicaragua, loss of territory, International Court of Justice, Ruling of 2012 Treaty Esguerra - Bárcenas, maritime borders.

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List of abbreviations

ICJ.	International Court of Justice
EEUU.	United States of America
kms.	Kilometres
km^2	Square kilometers
ONU.	Organization of the United Nations

Introduction

This thesis aims to explain and discuss the border dispute between Colombia and Nicaragua, an issue that has more than 200 years of history and at present still remains disputed between the two Nations, the latest so far has been the ruling issued by the ICJ in 2012 that to understand it and give a verdict on whether it was fair or unfair to Colombia is necessary to understand thoroughly this conflict; for this purpose in this work describes the historical context of various relevant events that took place at the time of the Spanish Crown and which occurred when both Nations were already independent, likewise, We'll discuss the relations between both countries and the different treaties and awards that allowed to define the territorial limits.

According to the above, it is necessary to contextualize the diplomatic history, the elements that allowed to formulate different international treaties affecting the current border establishment between both countries; also describe the intervention of the Spanish Crown in the early 19thcentury that marks the beginning of disputes and more later intervention that made England and United States in these territories which directly affected in the limits between Colombia and Nicaragua.

These more than two centuries of conflict, while Colombia and Nicaragua have been the protagonists and those directly interested, also existed the intervention of other nations who participated in the proceedings, by such reason is necessary to present the relationship they had with both countries and the different treaties signed.

The most important Treaty on the issue between Colombia and Nicaragua was both Nations which signed in 1928 known as the Esguerra-Bárcenas, since it was the only bilateral between the two countries were established specifically where the physical boundaries between the signatories, is therefore important present it and explain the historical context in which it was signed and approved.

Finally it is essential to know the policy of Colombia in particular, of the Colombian Ministry of Foreign Affairs in the defense of the interests of Colombia before international bodies, to maintain territorial unity and the defense of sovereignty, and at the same time know the position of Nicaragua regarding the topic and the current status of the conflict, since, in the still present and presented various demands on the part of Nicaragua to Colombia.

1. Project Formulation

1.1 Precedents

Political history in Colombia has been framed by all kinds of crisis, and from its consolidation as a Nation-State at the beginning of the 19th century to our present days, several conflicts that have not been offset still remain, reassuring the weakness of the State, a weakness reflected on the orthodox standings of a centralized model of State, forgetting about the Country's hinterland for more than two hundred years, in this particular case, the study will focus on the borderlines between Colombia and Nicaragua and the declaration stated by The Court of The Hague.

Facing this statement, the most recent case is what is happening with the Colombian-Nicaraguan conflict, where The Hague International Court cut off, amputated and separated the national territory, which makes us remember the loss of Panama a hundred years ago, and just like in other times, the weakness and lack of awareness of the national territory, particularly of its frontiers, has allowed external forces which are in divergence with Colombia's interests, have gradually fractured the territory on the Colombian State.

If the territory makes part of the constitutional elements of the modern State as it is the population, the nation, the governmental entities, the military forces, diplomacy and sovereignty, assumed arguments by theoretic politicians, it is not understandable, in light of those political proclamations developed five hundred years ago, where every contemporary State apply and defend fiercely, Colombia as a Nation-State, cannot forget those principles and let other States to exercise

their sovereignty over its own territory, providing a loophole in terms of domination and sovereignty, where other States, supported by supranational organisms have dismembered the National Territory, forgetting about agreements and treaties subscribed from the Colonial times, when Colombia was part of the Viceroyalty of the Nueva Granada and its territory extended from Central-America to the former Viceroyalty of Peru.

As a consequence, this research paper intends to analyze the history of the international relations between Colombia and Nicaragua in the last decade. By making this historical expedition, it is expected to analyze and understand from political science, which have been the international policy and the different international agreements regarding boundaries, initiated in these times of this rising nation, and its continued evolution, which has been a burden of the conformation of the national territory and its later fragmentation.

1.1.1 State of the Art

Ever from the beginning of the Nation-State promulgated by the theoretic scientists that allowed its philosophic foundation, one of the most outstanding aspects is oriented towards the defense of Sovereignty and the defense of the territory by which it is conformed. It is important to note that, the idea of State on its modern sense acquired its theoretical complexion by the end of the Medieval Age, with the approval of the territorial princedom as a quality of an empire, where sovereignty was considered beneath the limits of the State (Hernández, 1997).

The apparition of the Modern State, as proposed by Tilly (1992), surges from the intense intimidating way, whose main characteristic is the creation of professional military forces, which were well different from the hordes of mercenaries that served the nobles. The professionalization of the armies will become the core element on the formation of the European States. The relevance of the professionalization of those who carried the weapons, would be revealed in the capacity of the States to “compete against other States, whether it is a dispute

over territory, access to ports and rivers, obtaining specific commercial routes, tax collection or the adherence of inhabited territories of great importance", (Patiño, 2005, p. 31).

It is significant to highlight that, the Westphalia Peace permitted to guarantee the monopoly of violence, surging from the intense coercion way joint with the intense capital way as exposed by Tilly on its work "*Coerción, Capital y los EstadosEuropeos"*, 990-1990. This scenario will be adequate to create a network of political relations named international accord, which will promote agreements of mutual respect, respect for sovereignty expressed in the establishment of boundaries, politically ratified by States and promote international peace.

Facing this scenario, the struggle for dominance over the control of violence was the main cause for the existence of wars, and everyone who wanted to overtake power should come to the violent means. The former argument will turn into a crucial fact in the formation of the modern State, which surges in the 16thcentury, where European States were confronted in wars, looking for territorial dominance, motivated by capitalist expansion. Territorial control begins as a crossed road between chance and contingency, where the sovereign was forced to defend for maintain power, to undertake wars to enlarge its territory, thus entering a dynamic of conquers and war, where preparation to fight each battle turned in the engine that guaranteed its dominance. From there, diplomacy will become that contingency technique, which will avoid streaks against the international order and transgressions over its dominance on national frontiers by the means of treaties and accords.

In order to go deeper on this statement, it is important to retake the thoughts of theorists as Tilly (1990), where it is shown that dominance and territorial control is essential for the conformation of a State. Hence: "The States are fundamentally organizations born on military capacity for efficiently control a population and a territory, with certain degree of credible acceptation from the governed" (p.157).

Therefore, territory control and the maintenance of the institutions will become the pillars of the Modern State.

Ever since the formation of the States, its role over territorial control can be understood, which permitted the creation of the European model of State. Therefore, territorial control has been labeled by the capacity developed by Sates to reach control of the coercion. This way, the European States grasped control over territory, born in the necessity if the Sovereign to maintain power and obliged him to defend, to undertake wars in order to extend its territory and fall into a constant war and conquer dynamic where the preparation for war became the main engine guaranteeing its dominance and took it to the conquest and defense of its territory. Derived from this transcendent fact, diplomacy will upsurge as a way to contain the territorial advance of the powerful from the subscription of political agreements to maintain peace: This situation will be structured from the beginning of military alliances between States to dissuade the most powerful ones.

In the 19thcentury, the European States concentrated their administration over a triangle of power that guaranteed dominance and control of their territory. For our North American thinker, they divided by three their activities: Building the State, defending it and undertaking war. This triangle of power wants to attack and watch over the enemies of the State inside and outside its territory, which needed to obtain resources through the extraction of economic modes. The same way, the States consolidated three models for merging their influence and power: Arbitrage, distribution and production (Tilly, 1990).

The Modern State, achieved to impose its strength and will through the creation of an armed force, in order to negotiate with powerful groups, in this case, other rival States, so it could be subordinated. In this process, it is key the formation of the States based on the organization that surges in the military capacity of efficiently

controlling a territory. “With legitimacy from the governed, where territorial control and institutional maintenance allowed a continuous struggle for resources” (Patiño, 2003, p. 16).

The modern state must ensure sufficient armed forces trained and equipped for war or control the territory, using the force and mastery against any internal and external violent action, that want to try any group against the stability of a State or in a place of its territory.

It is to make clear, that the modern state, in the beginning did not exercise an unrestricted monopoly on violence and the different actors of power, in this case the monarchs had to negotiate with those who were their rivals to achieve its expansionist goals.Therefore, the State initiated two front struggle to achieve this monopoly; at first stripped of all its internal law the legitimate use of violence and eliminated all foreign competitors who were not at the state institutions.

Thus, the State assured its sovereignty through the monopoly of coercion within the territory governed by eliminating its competitors, but its sovereignty was half derived from other international institutions or by armed groups formed in other states.This is the result of internal contradictions that resulted in the formation of a State which should guarantee freedoms of its citizens from protecting the lives, property and provide security: if the above is not fulfilled, it will not be longer a State and another that provides these guarantees occupies its power.

Another aspect to highlight from the formation of the modern state is the *legal denomination*[1]based on legitimacy, since it rests on the legality of the rules.The domination executed in the modern legal state must be rational from a technical point of view and efficient accompanied by a process of rationalization of the law. Thus, the rationalization of modern law is manifested in the rationality of

[1] Dominance should mean the probability of finding obedience to a command of specific content among persons. WEBER, M. (2006).Basic sociological concepts. Madrid: Alianza Editorial. 175p.

formalization, which entails the exclusion of any right other than state and positive, in this case natural law: the legitimacy of the modern state is based on its legality.

To understand the phenomenon of international relations, it is important to know the evolution of the nation state and its influence on the consolidation of an international order that is projected from the Peace of Westphalia to the present day, in that order, concepts like international diplomacy, sovereignty leveraged by international policies of each of the nations have marked the development of peoples, in this case between Colombia and Nicaragua as central focus of this study.

1.2 ProblemExplanation

Colombian diplomacy is in crisis and we can evidence it in the last month when the Bolivarian State of Venezuela expelled from its territory 120,000 nationals declaring paramilitaries and common criminals and more delusional than Colombian institutions accused of wanting to assassinate its president Nicolas Maduro.The decision of the maximum OAS diplomatic body in the Americas vetoed the Colombian government to express on the humanitarian crisis on the border, where the Colombian diplomacy led by its own chancellor were defeated in this application.The Sandinista government of Daniel Ortega, president of Nicaragua, has asked the Court in The Hague to review the border agreements again and requested compliance with decisions on new limits between Colombia and Nicaragua where they gave 75,000 km2 of Caribbean Sea and irretrievable loss to Colombia.

These conflicts evidence the loss of sovereignty and control over Colombian territory and the various territorial disputes that had the Colombian government which has lost much of the strife in part because of weak foreign policy,

borderagreements are not respected and the internal conflict that has led to lose perspective about borders and its importance to national development.

In the international scenario, Colombia is a country of importance to have relevant resources, an extension and a population that make it one of the major Latin American countries because of its geographical position and natural resources, a relatively high level of industrial development and a position of regional leadership in peacekeeping, and a degree of political liberalization and economic modernization which place it as a country which is important for Latin America.

In addition, its geographical location and the nature of relations with the environment, has multiple seat in multilateral organisms.Indeed, by its Andean vocation it is an integral part of integration and cooperation agreements with their counterparts, especially within the framework of the Andean Pact. As a Caribbean country, it is interested in cooperation to this region, not only in regard to the Caribbean islands, but also in relation to Central America.An integral part of the Pacific Rim, which now becomes an economic bloc formed by Colombia, Mexico, Peru and Chile and considered as priority to American countries bordering this sea, in a vision that also includes the magnitude and current and potential importance of the Asian Pacific. At the same time, is an Amazonian country-exceptionallycircumstance- that gives it a share of the largest natural wealth of the globe.

But this recognition in the international arena resulting from its geostrategic position, have turn it into a fragile country in front of international interests, especially of the superpowers in the regional concert. This explains why throughout its existence has been in constant disputes with its neighbors that have brought it significant losses of its territory, accompanied by weak foreign policy in terms of military and diplomatic defense, which has served as the backdrop to fragment the country.

That's how from the rising republic the territory of the Viceroyalty of New Granada was dismantled to make way for states like Venezuela, former captain and Ecuador, former president of the Spanish Colony, conflicts persist and spread in the 20th century with territorial wars like the one between Colombia and Peru that led to a major loss of the Amazon basin and no less absurd, that the theft of a strip of the Orinoco at the hands of Brazil.

With Venezuela there is still feeling of enemity hidden by the loss of Gulf of Coquivacoa and differences due to limitations in the cays of the monks leading the Guajira Peninsula and the most dramatic case when during the civil war at the beginning of the 20th century we lost Panama by intrigues of the United States of America, the famous polar star Marco Fidel Suarez talked so much, and that the result of an expansionary policy from the Monroe Doctrine of America for Americans , the strait that forms the Isthmus were taken to build the Panama Canal.

But these facts were not left into the past and modern times continue to live full amputation of the Colombian State whose stage moved to Nicaragua , former province of the Viceroyalty of New Granada , which was part of the United Provinces of Central America and the disappearance of Colonia , New Granada gave them the Mosquito Coast in exchange for maintaining sovereignty over San Andres and Providenicia and the Cays Roncador Quitasueño and the Court of the Hague , ignoring international treaties and the rights of *UtisPossidetisIure*[2],coming from Cologne Hispanic irrationally to modify the limits and alter all treaties on the Caribbean. The defense of the Nation has been weak and disappointing; showing a hidden pleasure at this arbitrariness and indolent attitude towards decisions without historic basis accompanied by geopolitical factors carefully and continues

[2] This doctrine was four main elements: 1. the right to the full and indisputable sovereignty irrespective of material proof of possession; 2. the single criterion for checking that law offered by emanating the Spanish sovereign titles until 1810; 3. the presumption of sovereignty in favour of the successor States of the viceroyalties and captaincy General which made up the Spanish colonial rule; The principle of the non-existence of vacant territories or res nillius in the region occupied by those former colonies of Spain, which were subject to annexation or colonization by other States. Vasquez C. Alfredo. *Relatos de Historia diplomática de Colombia*. *La Gran Colombia*. Bogota: Javeriana. Volume I, p. 307.

to violate the unity of the country. Given this situation, the following question arises: What has been the role of Colombian diplomacy and effectiveness of international treaties to avoid the disintegration of the Colombian state?

1.3 Justification

After the pronouncement of the Court of The Hague in 2012, on the decision by the high court of the United Nations about boundaries between Colombia and Nicaragua, led to all national areas a sense of misery and frustration about the change of sovereignty of a considerable part of the country and historically evokes the lack of a foreign policy that defends national interests to supranational institutions, in this case the International Court of the Hague.

The Foreign Ministry, with many manifestations proposed an institutional weakness in failing to uphold fully and with any resolution the national interest and caused a shadow of doubt on the case, saying he would respect any decision, relying on the common sense of the judges, but forgetting interests who run countries in relation to games and power interests .Thus, the study of this line of research on international relations in particular, based on international boundaries and the role played by the Colombian Foreign Ministry in the enactment , ratification and defend them through a historical political analysis, will allow evidence from political history the fragmentation of the nation state, aspects that go against modern principles that gave origin to the emergence of the modern state , principles that enable basics foundations such as territory, population , sovereignty , diplomacy , army and bureaucracy. Within these areas, it stands diplomacy, arising to prevent conflicts between states. Postulates that can be tracked in the history of international relations Esther and Charles Tilly who make a thorough study of them. In the Colombian case, scholars Liévano Enrique Gaviria, Jaime Paredes and Alfredo Vasquez Carrizosa.

These elements allow us to understand the evolution of international relations in the Colombian case, and at this very conflict that the Colombian government lives derived from policy decisions in the international and national scenario, which has caused a national discontent with this. Therefore , a study from the colony when Colombia was part of the old Viceroyalty of New Granada established by Royal Charter in 1717 until its dissolution in the 19thcentury gave rise to the Republic of Colombia, after fragmentation Gran Colombia that allowed the emergence of countries like Ecuador , by the handoff the dictator Juan Jose Florez and Venezuela, whose dictator Paez took the first step so that after two centuries continue to lose territory of geostrategic importance for Colombia .Thus, this study will be based on primary sources as historical background based on the Official Journal of the New Granada, collection found in the Historical Archive of Antioquia, which was the official organ where the Senate of New Granada exposed different border agreements and the disclosure of causes since 1819. In historical and political studies in addition to the press that will expand in the field of research.

It should be noted that during the first decade of the 19thcentury derived from the formation of the nation state, there were in all the Americas, especially in Latin America, international agreements that ratify sovereignty of the new nations , where continental European countries recognized the autonomy of countries that were gradually becoming independent.To that extent,arised bilateral agreements where Colombia , formerly the New Granada , signed agreements to ratify the limits that came from the Cologne defined as *UtisPossidetisJuris*[3]Hence, this research is of such importance; Colombia requires political historical reflections in

[3] The possession by legal use is based on the occupation of the territory from the legal qualification, allowing border disputes to be resolved through international treaties. Since the Congress of Angostura in 1819, Colombia proclaimed the validity of the utipossidetisjuris principle that is reiterated in article 101 of the Constitution of 1991 which establishes that «the limits of Colombia are laid down in international treaties approved by Congress, duly ratified by the President of the Republic, and defined by arbitral awards that are part the nation». Gálvez V, a. (2004) the UtiPossidetisJuris and the International Court of Justice. In: Law review. Universidad Del Norte. (21: 131-138). Paper presented at the Forum «La Demanda de Nicaragua». Universidad Jorge Tadeo Lozano, Bogotá, 29 September 2003.

front of decisions that were taken and that today affect us all Colombians. From this theoretical foundation, peers into the historical documents of the time the emergence of such conflicts, as we have said to throughout this text.

1.4 Objectives

1.4.1 General Objective

Analyze the international relations between Colombia and Nicaragua from the history of international relations and the various treaties and rulings that allowed defining the boundaries.

1.4.2 Specific Objectives

- Contextualize from diplomatic history, the elements that led to the formulation of international treaties, particularly the boundary between Colombia and Nicaragua.

- To present the various treaties signed by Colombia on issues of borders between Colombia and Nicaragua.

- Know the foreign policy of Colombia in particular, of the Colombian Foreign Ministry in defending the interests of Colombia before international entities to maintain territorial unity and defense of sovereignty.

1.5 Methodological Framework

1.5.1 Method

The method of research for the realization of this academic work is historical hermeneutic and descriptive. The first method is to take historical sources to perform an interpretation of facts relating to foreign policy and border conflicts, the second method is to define or characterize the different awards that have led to this conflict.

1.5.2 Methodology

Primary sources will be analyzed from consultations to the Official Journal of the Senate of Colombia where treaties were approved by the legislature organs and where discussions on the border agreement are reported .Similarly, various studies will be consulted on conducting a parallel on these two sources of information. Furthermore, the use of documentary sources Research court, accompanied by secondary sources such as magazines, newspapers, books and articles. These documentaries primary and secondary sources will be analyzed in a historical perspective in the light of political science and international relations.

1.6 Variables

Diplomatichistory of Colombia

History of the International Relations

Border conflicts between Colombia and Nicaragua.

Treaties and arbitration awards about boundaries between Colombia and Nicaragua.

2. Execution of the project.

Chapter I: Between the State and the nation: Genesis of a new international political order.

From mid-19th century and beginning of the 20th century, the nation became the epicenter for excellence of the great ideological and social conflicts that occurred in this period continental and insular Europe. Its overwhelming force allowed catapulting the disputes in terms of race that would be the engine of the modern conflicts around the world on the international stage. It is important to note, that the national fact is a historical reality, and featuring characters different according to different constraints such as: sociological, political and ideological. Historical consideration of the national problem is based on a genesis that explains its evolution, manifestations and its timeliness. It is a serious mistake to refer the national concept to historical periods that had not reached nature letter yet. Speaking of nation has geographical implications.

The centuries XVI and XVII outline the features that integrate the national definition, and will not be until the introduction of the model of capitalist production and its political aspect, based on liberalism.[4]Therefore, we must understand the concept of liberal onstage around the nation in its two meanings: progressive and

[4][…] liberalism appeared on the horizon of Western culture basically as a theory of natural rights founded on an individualistic anthropological idea. […] liberalism is a theory where the isolated individual and their rights have become the explicit reference and himself at the same time is the legitimizing entity for both morality and politics. MOLANO SUAREZ, Jose Olympus. Syllabus on political philosophy.UPB.Medellin, 2003.No. 3 collection contemporary political thought.p. 143.

conservative, those they confluirán in the second half of the 19th century to serve the expansive movements of colonialism and ideology to give rise to World War I.

Nationalist phenomena would become stronger from here, where it prompted the emergence of new Nations, collecting the liberating sense of nationalism or its relationship with the Socialist doctrines or the fascist systems established in the interwar period.[5]

To clarify each of the terms, it is important to define them: the nationality will be built on the special features, some objective factors of type economic, social and culture. If that personality is perceived and taken with a will to active to maintain it and to develop it, we will be at a national fact. It is a primary phenomenon rooted in the community. The nation is a more advanced stage, in which the development of collective consciousness comes to raise a number of claims to achieve political power. Nationalism is the movement that aims to activate and make the national consciousness at different levels that make it up. Adrian Hastings performs the following classification:

> "1- For the creation of the nationality from one or more ethnic groups, the factor by far most important and most widely present is an extended work written in the vernacular. […] A nation may precede or follow a State of their own, but, certainly, this allows you to become more aware of itself. 2. An ethnic group is a group of people with common spoken language and a cultural identity. […] 3. a nation is a much more consistent Community of itself as an ethnic group. […] 4. a nation State is a State that is identified on the basis of a specific nation whose citizens are not considered simple subjects of the sovereign, but as a society with horizontal linkages which in a certain sense belongs to the State. There is thus a call sign character between the State and the people[…] 5. The term nationalism has two components: one theoretical and the other practical. … 6. Religion is an integral element of many cultures, most of the ethnic groups and some States. The Bible provided, to the Christian world at least, the original model of nation[…]". (Hastings, 2000, p. 13-15)

The above presents the complexity that has required to form identities around nation States and thus different worldviews that affect different human and social

[5]Ibidem., p. 141. The heart of this historical period is based on a blind faith in the human faculty of reason, faculty which would enable man solving all the problems that had haunted him. […]from a purely political point of view, we must recognize that ideological products of modernity are represented by three major concepts of politics: liberalism, conservatism and socialism.

groups for to a reality and a historical, homogeneous becoming anchor and Integrator which makes it difficult to its relationship with other worlds and cultures, therefore, since these aspects explain conflicts that we currently live and that part of these deep differences in the composition of an identity that called us nation and that it brings the existential structure to be in the world, as Martín Heidegger letters exposes you to humanism and that he was accused by belong or favour the party of the National Socialist of Germany allow to express that the German nation would take over their shoulders a manifest destiny of global proportions (Hastings, 2000).

States agree with the Nations in the case of the so-called national States. A basic requirement for the existence of a State is the spatial dimension, characterised by the material support of a territory delimited by boundaries within which extends the State sovereignty. The synthesis between the nation and the State gives rise to the national States, which come to match the historical, social reality of the nation and the limits of the sovereignty of the State, that articulate within themselves an identity that has existed since the beginning of human history, which are: "of territory, gender, age, social roles ", of religion" (Ikonomova, 2005, p. 21) where the human being is the articulator of these realities that we call a nation.

The formation of the State requires the structuring or formation of a society, organized into classes, which is the expression of social reality. Nationalism will be dynamic processes marked by the action of a group that determines ultimately the creation of the State, in addition, if the Nations and nationalism is not embodied in social classes and are not expressed through it, the State would lack real sense, as opposed to expressing Hastings, who exposes that nationalism has been greatly harmful for peace (, tolerance and common sense, and complements stating that "the nation State has always been largely a myth" Hastings, 2000 p. 18). In many cultures it has not adapted to the reality of human society, but is still a characteristic of our contemporary model that applies to all over the world.

The first manifestations of democratic principles would be decisive for the achievement in the construction of a constitutional basis, basis to form a nation. The French Revolution of 1789 establish the national essence lay in the whole of the citizens who enjoyed few rights articulated to laws and represented by a same legislature, therefore with the bourgeois revolutions, the nation in the modern sense would become reality.

From the bourgeois revolutions, nationalists pursued a purpose clear, that the State had a national basis and coincide with the reality of the nation, which became a specific form of collective identity as stated by JürgenHabermans, where "After the break with the Ancienregime, and the dissolution of the traditional orders of the first bourgeois societies, individuals foundations are within the framework of abstract liberties". (Habermas. 1989, p. 89). This line of action since the beginning of the 19thcentury, would consolidate the formation of national States, prominently the so-called principle of nationalities, which served as a means to a nation or a people in the process of forming its own political identity, and that will strengthen the different conceptions food partner policy to negotiate treaties with other States and promote spaces of understanding from the differentiation and therefore settle pacts of non-aggression within a Network International called international diplomacy.

The reasons that prompted the formation of national States, was to find an appropriate framework for the purposes of economic structuring, social order and political institutionalization that sought the bourgeoisie, a class which became hegemonic, from the following guidelines as explained by Francisco Gutiérrez Contreras (1985).

1. "Creation of a single framework of political action, eliminating all particularism and privilege at the local level. It was necessary that nothing escaped the oversight and control of the power of the nation-State.
2. Break with any vestige of feudal roots, and establishment of a system that put the accent on the human right to the enjoyment of the freedoms on the basis of the premise of equality before the law.

3. from the economic consequences are referred to that individuals not linked is no Lordly power, becoming in hand of free work.By identifying the bourgeoisie the nation with the State, the territorial limits of the same could define different national products integrated and homogeneous market area." (p. 22-23)

The nation, in terms of idea and reality that integrating all citizens, was going to turn into the frame and end of all activity: contribute to the tasks that imply a benefit to the nation was a duty of all. The nation was over and included to all walks of life to becoming an arbitrator where were resolved the conflict without the danger of a struggle between the different layers of society that were threatening the social order.

Towards the last quarter of the 19thcentury, the bourgeoisie capitalizaría to their advantage the movements and nationalist ideologies with a strong conservative content, which would later affect the imperialism as a response to the capitalist crisis of 1873, with the need to expand markets. The most significant text which claims conservative nationalism is exhibited in the famous Conference of Renan what is the nation? Posted in 1882, where it is stated that the nation was a soul, a spiritual principle forged along a historical evolution, of a common heritage that is projected in the present and provided the basis for making solid will live in community. (Gutierrez. 1985, p. 33)

Supported basically with the conservative nationalist ideology, imperialist nationalism is a realization of that one, in how much driving ideological power of the processes of colonial expansion. It is nationalism which enhances the power and prestige of a country, and considered as the Mission of the national community prolongation of their sovereignty to colonial domains. With this they were covered up and justify the deep economic motivations, expansion of markets, possibility to get new sources of raw materials and policy as the domain of strategic areas, a greater influence in the field of international relations of the imperialist countries.

Great Britain was the great European colonial power, and on its soil would be a great predicament the imperialist national idea between 1882 and 1902, supported by the theories of classical economists as the sociologist explains in detail Erick Pernett G (2005) stating that:

> "With the theories of Adam Smith and David Ricardo, late 18th century and early 19th Centuries, economic liberalism takes shape at the head of Great Britain, which as a global hegemonic Empire, built on its emerging technology of steam and its naval power, imposes free trade as a key economic and political doctrine for trade and international relations." (p 27)

This hegemony by Britain, "consolidates a world geopolitical order of unipolar cut that cornerstone will be the development of a global market and promoting the industrialization of the pre-capitalist periphery, outdoing the period of mercantilism" (Pernett, 2005, p. 28), as way of economic organization, considered as precious as gold and silver metals they constituted the basis of the wealth of Nations, situation that had arisen during the mercantilism. For Schumpeter (1971) "one of the processes of colonization was precisely to accumulate gold and precious stones. As wealth is sterile money form, however, does not constitute the true economic power of the State, several of them are ruined. (p 386-429).

Hence the rise of the concept of nation as ideology accompanied by the State as political, social and military establishment, they will be forming that framework which will source to a world dominated by a system of imperial court, with a purpose remains unanswered or applied with the robes of the philanthropic spread Western civilization to the colonies. All this heyday was developed under the aegis of diplomacy, from which it became the epicentre of international relations.

Colonial imperialism was essentially an extension of the political and economic model of the dominated countries European capitalism, in this case, in Latin America. Colonies were subject some politically to the metropolis and, on the other, forced to contribute to the progress of Metropolitan economies with human potential and natural resources and consume the products of powers colonizing.

Independence or nationalist liberation movements are gave birth to escape domination. In the national liberation movements converge indigenous components and contributions of the powers colonizing that affected anticolonialism.

Today we are witnessing multiple situations in that, despite giving a political independence, there are in fact a series of economic, technological and cultural mechanisms through which the great centers of capitalism has under its dependence on most of the countries of the world. This new reality of domination is leveraged by international treaties that oblige national States to join system of control and domination by cuts dominated or manipulated by States or powers that dominate the international order and impose his vision of international justice. Landmark case, the Court in the Hague, where countries come to redeem his low conflicts the look of a system handling world who decides under its economic interests regardless of the political, social, and cultural history of a nation or a people.

This new form of indirect rule constitutes a new phase of imperialism, which no longer needs to complete as in colonial control. Centers monopolize the capital, direct the functioning of the international economic life, and benefit from an accelerated development. In the dependent countries that process is, on the contrary, slow, remote which is reached in the developed areas, and fits the guidelines that mark the centers of power.

As noted above, the criteria for defining the nation are related to the concept of State characterized by the institutions that comprise them, their legal and political organization, but how did the modern State? As were clamping absolutist systems in Western Europe in the 16th and 18th centuries, is would be forming around them the State apparatus, whose most significant representative is the King Luis XIV with his famous phrase "I am the State".

The wars of religion that infected overwhelmingly insular and continental Europe and which led to the end of the thirty years war, the signing of a treaty known as the peace of Westphalia, which enabled a moderate and lasting peace and gave the foundations of modern nation-States and the emergence of the powers that dominate the rest of the world. This phenomenon, in the history of international relations, it is the space to strengthen the relations between the States and its Eurocentric architecture will become the most efficient mechanism to understand the relations of power between States.

In this way, this unprecedented event in the history of the relational international and international diplomacy, which emerged from political, social and economic organization model that has prevailed, with some ups and downs, until today, and which is based on four events that have marked this discipline. 1. The invention of the modern State and its definition as a nation; 2. the emergence, appropriation and extensive implementation of the various processes and social mechanisms that gave rise to the so-called industrial revolutions in the 18th, 19thand late 20th century; 3. The establishment of a professionalized military and; 4. The emergence of an ideology that marked a few so-called Western values.(Patiño, 2002).

These aspects can be sustained, on the conceptual basis to Tilly, (1992) two important elements to understand the emergence of the modern State as the epicenter of international relations. First, via intense coercion, which focuses on the creation of professional armed forces to defend the sovereignty of the King and whose extension was going to expand territory and settle in strategic places such as rivers and ports that would later allow the development of trade whose preponderance was referred to the State as Supreme entity. Secondly, the via intensive in capital, characterized by the flow of money and that will allow to develop a system based on the capital managed by the bourgeoisie who then become the ally of the monarch for the concentration of financial power, and in this way will give life to a political system called absolute State.

This centralization of military, political and economic power, will allow the modern State, rejecting any kind of adverse power and fight adverse forces, as they were: the Church, the Empire, the Greek city-States and feudal lords. (Patiño, 2002). As a result, power was concentrated on par with the capacity to govern a population that would give the essential elements for the creation of a real and specific State from the consolidation of a territory, the loyalty of some military forces, and that by surrendering his will to be governed, the King promised is to preserve life for them Security and property, as well Thomas Hobbes puts it in his classic text, the Leviathan.

In this order of ideas, the State will be taking the present form, from a political and administrative force called bureaucracy, and you own a quick and efficient system for the collection of taxes called customs, external legitimacy will be ensured by a diplomacy that will be the bastion to expand their domains and to use it, in the event that you require gain allies and keep the peace, the importantica of international relations for the Western world.

All this political scaffolding derived from conflicts which developed in 17TH-century Europe, and had its epicenter in the wars of religion that will mark a milestone in the formation of the modern State, and that will end with the peace of Westphalia. The thirty years war, (1618-1648) will mark a momentous step in the creation of a secular State and the formation of blocks linked to political allegiances that marked international relations in Europe. From there, as Heraclitus, Greek thinker had anticipated theme, stating that the war is the mother of all things; the modern State will be the reaffirmation of this philosophical thesis, where conflicts will be the catalyst for moving from a feudal State to a modern State.

Therefore, the civil and religious wars of modern Europe, created this natural scenario to form States and in addition to this, the relations international than derived from interests, intrigues, alliances and conflicts of all kinds by the

maintenance of a State or Interstate order, will shape the Foundation of the international diplomacy on the one hand, the international policies of States to other States, and international relations in general as agreements or alliances to maintain a harmonious peace in an international society in constant bid for control and domination.

To expand these tips, the professed Patiño (2002) in his text the source of power in the West. State, war and international order, says the following:

> […] "the practice of continuous war led to that the State could not allow the war appeared and practiced as a spontaneous activity that it contained direct institutional features, that the war was an activity governed directly by the State to defend its interests." (p. 89-90)

But, what is kind of interest? In this context, the interests are varied, but the most important are issues related to political stability, defeat his more powerful opponents from strategic alliances, the monopoly of violence as the axis of a policy of control over the lives of its citizens and as a policy designed to build legitimacy and credibility among his peers. Therefore, "war was the building through the States, and States were structured through the exercise of the war". (Patiño, 2002, p. 90).

War, as building through the modern international system, origin was the need to maintain its dominance, prolong the time his inheritance and even more, that their decisions were followed as a way to make prevail his power. As a result, "the war became a basic attribute of the political institutions that wanted to survive and not be absorbed by enemies such as the Church, the Empire, the nobles and City-States" (Patiño, 2002, p. 91).

The experience of the thirty years war, shall remind the European world, that a State may not last over time without a professional corps, trained to make war, subjects in fidelity to the direction of a State or Government to comply with the strategic needs and safety of this one, which was subsequently called living space,

as a mechanism to safeguard sovereignty in a specific territory leveraged by the need to prevail from this right, the domain and control on its population. Thus: "such a condition was that sovereignty, i.e., the power exercised by a monarch as sovereign on their territory and among its population, it acquired a direct territorial definition by the political concept associated with this term became […] is a feature of the modern State." (Patiño, 2002, p. 92).

From the emergence of that abstract State molded by Hobbes in his iconic work Leviathan, from combating repression to keep the hegemonic order and territorial control, and the wars of religion on the continent convulsed by fighting between States, will be brewing for the modern world a concept that will be the epicenter of historical facts periods more emblematic of the history of international relations, the concept of nation. Why this concept is so important for international relations, and even more, to understand the contemporary conflicts and the related between Colombia and Nicaragua?

This legacy of modern Europe, will set up for the rest of the Western world a way to settle as a State and as a nation, what we have taken from the colony, as ecclesiastical, territorial, political, economic and legal system. These elements will come to light during the process of emancipation of the Spanish Crown and which will generate the State nation formed in the first period of the 19thcentury in Latin America, which left us as a legacy the bordering conflicts that today we live.

Chapter II: The conflict between the Colombian Government and Nicaragua.

To understand the border dispute between Colombia and Nicaragua you must review the different treaties and political events that somehow impacted directly or indirectly on the dispute, the first major event that should be considered is when the old MOSQUITIA coast and adjacent islands of the archipelago of San Andres and Providencia become part of Colombian territory , this event is given at the beginning of the 19thcentury, more exactly in 1803 when Colombia had not yet independent, by the time those territories were part of the captaincy General of Guatemala, but by order of the Spanish Crown became part of the Viceroyalty of New Granada, this movement was recorded in the Royal order of 1803, in which you can read the following :

> "King has resolved that the yslas de San Andres, and the part of the mosquito coast from Cape thank you God even acia Rio Chagres, are segregated from the general captaincy of Goatemala, and dependent on the Viceroyalty of Santa Fe, and it has served S.M. grant to the Governor of the expressed yslas Don Tomás O. Neille the salary of two thousand strong pesos per year rather than the thousand and two hundred who currently enjoys." This notice to your excellence of Royal order to which correspond to the fulfillment of this sovereign resolution issued by the Ministry in charge. "God bless to you many years, Sn Lorenzo 20 November 1803."(Barros)

No doubt this decision of 1803 is an argument that has important relevance in the defense of the Colombian interests, since it granted at its sovereignty over the Nicaraguan Atlantic coast and adjacent islands.

As it was assumed the Royal order of 1803 was not well received by the captaincy General of Guatemala, since they considered that these territories had always belonged to them and assumed as unfair that falls off them; for this reason their commanders expressed nonconformity and managed that three years later would be given place to the Royal Decree of 1806 which repealed the previous and returned the MOSQUITIA coast to the captaincy General of Guatemala, taking you to New Granada which had been granted three years ago; the following is a

summary of the order:

> "it has solved his Majesty who is your Lordship should be understood in the absolute knowledge of all businesses, occurring in the colony of Trujillo and other military posts of the Mosquito Coast concerning a four causes concerned, in accordance with the actual orders issued since 1782, authorizing him to occupy, defend and populate the coast" ", until verified this object, in whole or in part, is his Majesty suitable to change the current system, etc."(Dirección de Relaciones Internacionales Partamentarias de Nicaragua, 2012)

Later in 1821 the captaincy General of Guatemala comes to an end since the provinces that were part of the same became independent from the Spanish Crown, then tried to unify in the Federal Republic of Central America, but finally remained as separate States, being born this way the Nations we know today as Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica; in such a way that the territory on the Central American Caribbean coast that was granted to Colombia in the Royal order of 1803 was divided between Nicaragua and Costa Rica

In 1825 Colombia formally claimed the coast the coast of MOSQUITOS and in addition all the Caribbean coast of Costa Rica, territories that were given to him in the Royal order of 1803 and then snapped up by the Royal order of 1806, this new claim triggered a border dispute between Colombia and Costa Rica, which sought to solve through neighbouring agreements but none had the full acceptance of the parties by what finally turned to the arbitration of the President of France at the time Emileloubetquien to resolve the conflict on September 11, 1900, failed to Costa Rica maintained the dominance of its coasts and to Colombia to retain the islands of San Andres

> "The border between the republics of Colombia and Costa Rica will be formed by the buttress of the mountain range that starts from the Punta Mona in the Atlantic Ocean and close to the Valley of the Tarire River North or Sixaola River, and then by the chain of the waters between the Atlantic and the Pacific division, up to 9 ° latitude Continue after the division of the water line between the old Chiriqui and the tributaries of the GolfoDulce to terminate to the Punta Burica in the Pacific Ocean"(Ch., 1969)
> "The Islands parts of the continent between the Mosquito Coast and the isthmus of Panama, especially mangrove guy, big mangrove, Albuquerque, San Andrés, Santa Catalina, Providence, Escudo de Veraguas and any other island, islet and banks before you dependías in the Canton of San Andrés belong without exception to the United States from Colombia. Name that had the country under the force of the Constitution of

> 1886 and which also included Roncador, Quitasueño, and Serrana, which depended on the Canton of San Andrés" (Revista Credencial Historial, 2003)

The MOSQUITOSCoast had a particular history, belonged to a group of natives called the *MISQUITOS* which had remained isolated from the Spanish conquest in the 17thcentury had contact with the English joining them and remain allies until 1787 when Spain and England are in a period of peace and England decides to withdraw from those territories However, at the beginning of the 19thcentury when Spain began to lose dominion over the American continent, England again takes control of the MOSQUITIAS coasts in 1824, thus complicating all the pretensions of Colombia as the of the Central American Nations to exercise sovereignty over those territories.

In 1860 was signed the Treaty of Managua where England recognizes the sovereignty of Nicaragua over the MOSQUITIA Coast provided Nicaragua to respect the autonomy of the *MISQUITO* people; the official reinstatement of la MOSQUITIA to Nicaragua is specifically made in 1894 and the Treaty where the Covenant is enshrined is the Altamirano-Harrison where England Nicaragua recognizes the sovereignty of the MOSQUITIA, the following can be read in this sentence

> "ARTICLE I
> The High Contracting Parties agree that it is repealed and thus remain the Treaty of Managua in January 28, 1860.
> ARTICLE II
> His Britannic Majesty recognizes absolute sovereignty over the territory which formed the ancient willows reserve, referred to in the abovementioned Treaty of Managua Nicaragua."(Asamblea Nacional de la República de Nicaragua, 1906)

Beginning 20thcentury a new player comes to be protagonists in the dispute, United States is interested in the territory of Nicaragua, since it was intended to build an interoceanic canal and considered ideal the Central American country to carry it out, however, their access to Nicaraguan territory wasn't easy in those days, since the then President José Santos Zelaya implement a foreign policy that denied to foreigners any access to the natural resources of the country;

Consequently this in 1909 the North American country decides to support Zelaya to the opposition of the Government, but that same year opponents suffer a hard blow because they were executed them 500 revolutionaries, situation which served as an excuse to the United States to send warships and begin this way the intervention in that country and thus overthrow the Government of Zelaya and triggering a civil war between those who were still in power and United States-backed conservatives who would finally win the war eimpondrian as President Adolfo Díaz.

United States finally achieved what I wanted in territory Nicaraguan, climb to power a President backed by his troops and thus a President who will make things easier to carry out the priority project that time for the North American country, the construction of an inter-oceanic canal, which although never built in that country, at that time in history if it was thought to build there and that both Nations on February 9, 1913 Nicaragua and United States sign the Treaty Weitzel-Chamorro, where the agreement between the two Nations to build the canal and the commitment of Nicaragua to lease for 99 years to United States the islands of the Caribbean Sea, the Great Corn Island and Little Corn Island, better known as the islands of corn, some islands of the archipelago of San Andrés was basically stated that Colombia considered theirs and thus saw the agreement as invalid , since denied its sovereignty over them.

The U.S. intervention in Nicaragua would be extended until 1933 period within which would take place the most important defensive arguments in the current border dispute between Nicaragua and Colombia the Colombian side his defense argues that in this period held the only bilateral agreement between the two Nations the Esguerra-Bárcenas which resolved the border issue and argue on the side of Nicaragua who said treated in invalid because in this period were seizedby the North American country.

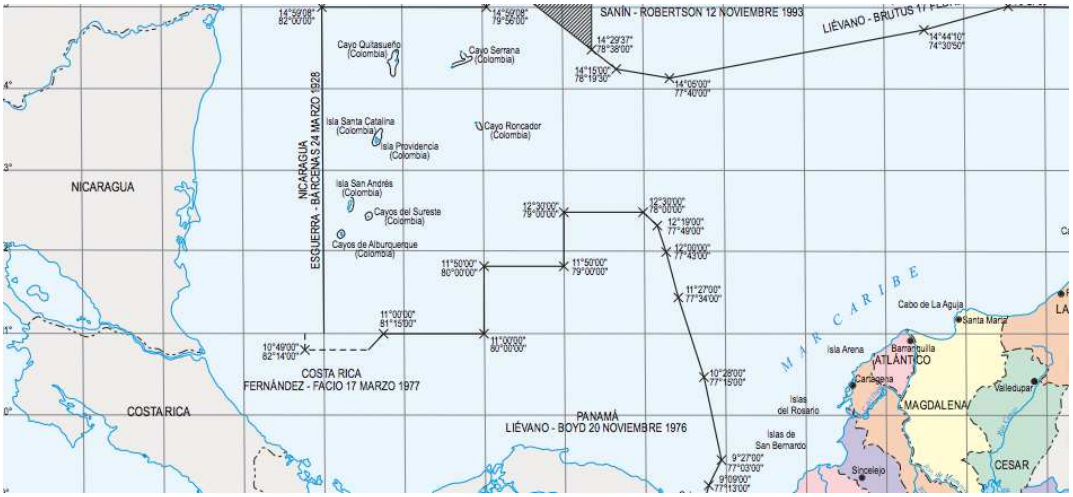
Colombia and Nicaragua signed the Esguerra-Bárcenas Treaty on 24 March 1928, its name is given in honor of men charged by both countries to agree to it in the side of Colombia Envoy Extraordinary and Minister Plenipotentiary to Nicaragua doctor Don Manuel Esguerra and the side of Nicaragua under Secretary of Foreign Affairs of that country doctor Don José BárcenasMeneses; as mentioned above this Treaty is the only bilateral existing between the two Nations, from there that has as much relevance in addressing any border issues between the two countries and which must inevitably be taken into account for any repetitive future dispute arising between the two States.

The Treaty basically established rights causing the long disputes between these countries territories, the MOSQUITIA Coast and the archipelago of San Andres, in the Article1 of this Treaty were recorded who would exercise sovereignty over the disputed territories:

> "Article 1: The Republic of Colombia recognizes the sovereignty and full control of the Republic of Nicaragua on the mosquito coast which included between cabo de Gracias a Dios and the san Juan River, and on the large mangrove Islands and mangrove chico, in the Atlantic Ocean (Great cornisland, littlecornisland);" and the Republic of Nicaragua recognizes the sovereignty and full control of the Republic of Colombia on the islands of San Andrés, Providencia, Santa Catalina and all the other islands, islets and cays that are part of the archipelago of San Andrés.
> Are not considered in this Treaty the cays Roncador, Quitasueño, and Serrana; the domain of which is in dispute between Colombia and the United States of America"
> (Ministerio de Relaciones Exteriores, 1928)

On the map below, extracted from the Colombian Foreign Ministry web site can clearly demonstrate the maritime limits established by the Esguerra-Bárcenas Treaty:

Illustration 1 Map with the maritime boundaries of Colombia-dividing line established in the Esguerra – Bárcenas



Source: (Ministerio de Relaciones Exteriores)

Colombia's Congress approved the Treaty through the 93 law of 1928, and is registered in the Official Journal No. 20.952 November 23 of 1928, President of the time was MIGUEL ABADÍA Méndez and the Minister of Foreign Affairs CARLOS URIBE.

Nicaragua by the Senate and the Chamber of Deputies approved the Treaty through the law of March 6, 1930 and was published in the Gazette No. 143 on July 1, 1930, President of the era was José MARIA MONCADA and the Minister for Foreign Affairs was JULIAN IRIAS.

Once was the Treaty approved by both Governments became the Act of exchange of ratifications on May 5, 1930, this document is essential in border issues between the two countries, since it establishes the exact boundary between territories in dispute being defined the 82 ° W mer idian of Grenwich as the reference for such purpose line thus complementing the Treaty Esguerra - Bárcenas that lacked a dividing point of reference, in the ratification was recorded as follows:

"The undersigned, under the plenipotencia that it has given them, and with instructions from their respective Governments, declared: that the archipelago of San Andres and Providencia, which is mentioned in the first clause of the concerned treaty does not extend to the West of the 82 meridian of Grenwich."
In witness whereof, the undersigned sign the present by being doubled, sealing it with their respective labels.
Made in Managua, in the fifth day of the month of may of thousand nine hundred thirty."
(Rodas, 2007)

On the map below, extracted from the Colombian Foreign Ministry web site is evidence of the exact maritime boundary between the two countries, the Meridian 82°W of Grenwich

Illustration 2 Map of the maritime division of Colombia and Nicaragua, the Meridian 82 °W of Grenwich

Source: (Ministerio de Relaciones Exteriores)

This limit is to infer that the territories located to the West as the mangrove Islands were under Nicaraguan command and territories to the East as the cays of Roncador, Quitasueño and Serrana, remained under Colombian control, this is very important because these last three cays are specifically named in the Treaty Esguerra - Barcenas which is said the following : "Are not considered included in

this Treaty the cays Roncador, Quitasueño, and Serrana; the domain of which is in dispute between Colombia and the United States of America"(Ministerio de Relaciones Exteriores , 1928)

Nicaragua currently demands sovereignty over these cays arguing that they were not included in the Treaty, but they forget that specifically in the Treaty I am consigned that these territories were in dispute between the United States and Colombia making it clear that he accepted that sovereignty and ownership of these cays not concerned and was a bilateral issue between the countries mentioned.

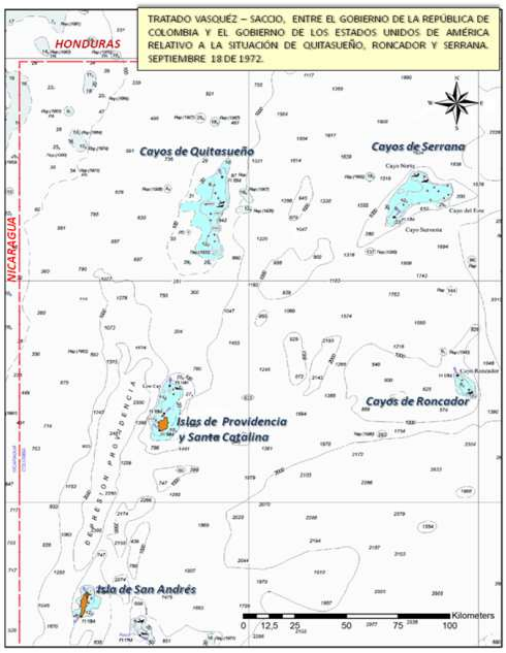
The litigation by these cays between Colombia and United States was generated because the U.S. had issued a law in 1856 which was called at the time as the law of the "Guano excrement" (excrement of bird that was used as fertilizer and was highly valued) which said that if a U.S. citizen discovered a territory without an owner that had this excrement presence he would consider as part of United States Therefore, they considered that they could exercise authority over the cays, however, they ignored something fundamental and was that there were no territories without an owner in America dominated by Spaniards and these cays were not the exception, since its sovereignty and property were appropriated in the Royal order of 1803 where the Spanish Crown granted the property to the Viceroyalty of New Granada.

At the beginning of the century 20thUnited States deemed owner of these territories and thus developed the extraction of such fertilizer and habiainstalado lighthouses as AIDS to navigation in the vicinity of the cays, facts that were not well viewed by Colombia tried as he was advancing the time give you a definitive solution to the dispute; in 1928, both Governments agreed that Colombia would allow the maintenance of lighthouses and the help to navigation on the part of the United States and at the same time the North American country undertook to provide an interim regime to enable Colombia to develop fishing in the keys; After

this transition, in 1972 agreement is da Treaty Vasquez-Saccio, where United States expressly his resignation to claim sovereignty over Roncador, Quitasueño and Serrana undertakes to deliver lighthouses and the help to navigation and in turn Colombia is committed to give right to the fishing vessels and citizens in this place.

Understood the foregoing it is clear that in the dispute of these cays, Nicaragua was never present to claim, did not care when United States through its law "Guano excrement" took the keys and not mind it when Colombia faced the North American country and got the longed sovereignty over them, is therefore absurd that eight years later the Treaty Vasquez-Saccio in 1980 the Central American country had initiated a new dispute by territories in mention.

Illustration 3 Map of the Roncador, Quitasueño and Serranía keys which were given to Colombia by the United States in the Treaty Vasquez - 1972 Saccio



Source:(Ministerio de Relaciones Exteriores)

Chapter III: Ruling of the International Court of Justice

For the development of this objective we will analyse the ruling of the International Court Justice (ICJ) of November 19 of 2012, with regard to the boundary dispute between the Republic of Colombia and the Republic of Nicaragua. It should be noted that this demand was created since 2001; therefore it is necessary to do a historical account from this date.

Nicaragua sued Colombia in 2001 as he sought to obtain sovereignty and exercise control over the archipelago of San Andrés, Providencia and Santa Catalina and additional wanted to establish new sea borders. The aim of this action was to settle all disputes which had generated since the end of the Colonizacion.como clearly explained in the above objective development, such disputes have developed since the time of the colony and apparently these lawsuits were solved through the Treaty Esguerra - Bárcenas signed in 1928 and ratified in the year 1930.

On February 4 of 1980, the Board of Government of national reconstruction, made up of Violeta B. de Chamorro, Sergio Ramirez M., Moisés Hassan Morales, Alfonso RobeloCallejas and Daniel Ortega Saavedra, declared that the Esguerra - Bárcenas was null, since at the time which was signed by the parties, they were under the Dominion of the United States, and wanted to claim their rights as the Convention of the United Nations for the law of the sea; implies which is one of the most comprehensive texts that exist on the sovereignty, jurisdiction, rights and duties of States with respect to oceans and sets limits on the issue of navigation, exploitation and conservation of resources, exploration, fishing and maritime traffic.(Naciones Unidas - Centro de Información, 2007)

The law of the sea stipulates that any State can establish their territorial sea

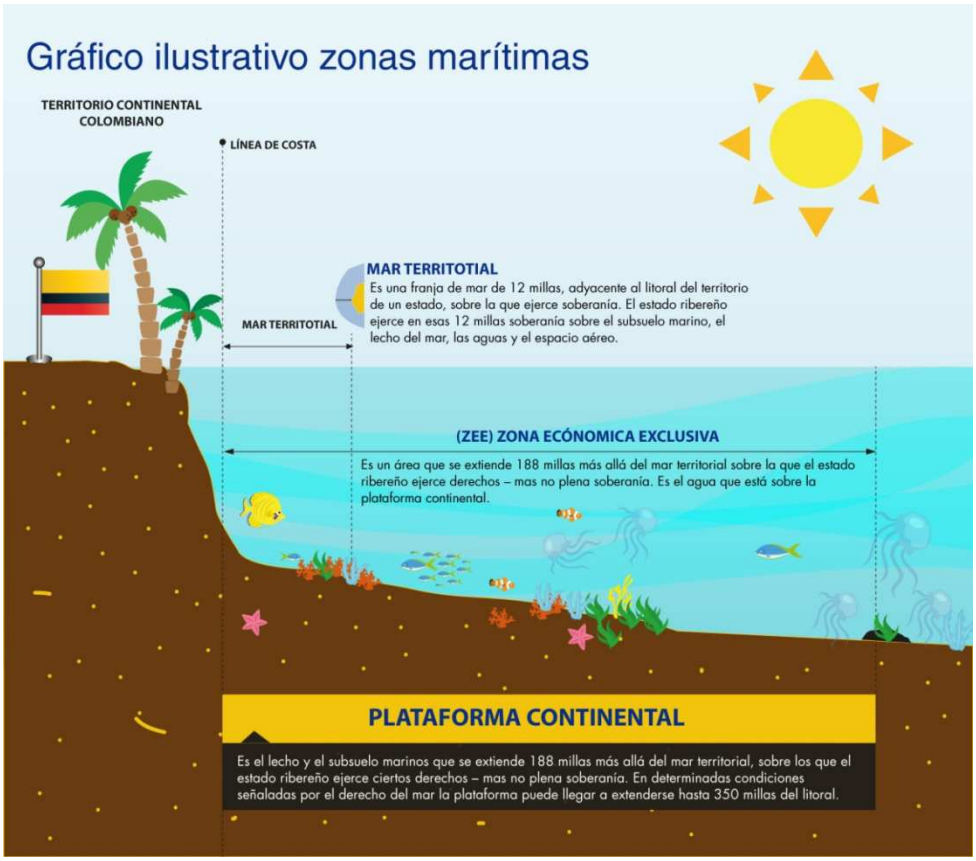
provided it does not exceed the 12 nautical miles counted from the baselines and further indicates that:

> "The continental shelf of a coastal State comprises the bed and subsoil of the submarine areas that extend beyond its territorial sea and throughout the natural prolongation of its territory to the outer edge of the continental margin, or to a distance of 200 nautical miles counted from the baselines from which the breadth of the territorial sea is measured"(Convención de las Naciones Unidas sobre el Derecho del Mar)

Under this rationale, Nicaragua ignored the Esguerra-Bárcenas Treaty, as "San Andres is approximately 105 nautical miles from Nicaragua. Old Providence and Santa Catalina are located approximately 125 nautical miles from Nicaragua and the three islands are approximately 380 nautical miles from the mainland coast of Colombia" (Corte Internacional de Justicia , 2012), and additional Nicaragua said that the 82 °W Meridian can not be considered as a limit.

To make it clear the terms referred to in the previous paragraph, we will explain some concepts:

Illustration 4 Illustrative chart of maritime zones



Source: (Ministerio de Relaciones Exteriores)

- Territorial Sea: includes 12 miles counted from the coast line. The Government has sovereignty over all resources that is: the subsurface, air, waters and airspace.
- Continental Shelf: this covers 188 miles counted from the territorial sea, covers the highlights and marine subsoil. On this territory the Government has the right to make exploration and exploitation of all the resources that this space has.
- Exclusive Economic Zone: referstoallwaterthatislocatedonthe continental shelf, i.e. thatthiscomprises a total of 188 miles.

To continue, here we have some of the Junta of national reconstruction Government assertions, which were contained in the Decree 324 "Declaration on the islands of San Andrés, Providence and surrounding territories"

> "The historical circumstances that our people since the year of 1909, lived prevented a true defence of our Continental Shelf, territorial waters and island Territories that emerge from such a Continental Shelf, absence of sovereignty that is manifest in imposing our motherland of two treaties absolutely harmful for Nicaragua, which were the Treaty Chamorro-Bryan of August 5, 1914, whose repeal was one of the many parodies of the dictatorship once the American Government considered that useless" Treaty; and the known as Treaty Barcenas Meneses-Esguerra, whose signature was imposed to Nicaragua in 1928, and whose ratification, which was also due to reasons of force, took place in the year of 1930, i.e. both acts made under total occupation political and military of Nicaragua by the United States of America. "This BarcenasMeneses-Esguerra Treaty not only was the product of an imposition by a world power against a small and weak country, but was kept secret for some time and carried out in flagrant violation of the Nicaraguan Constitution existing at that time, prohibiting in absolute terms the signing of treaties involving injury to national sovereignty or the dismemberment of the homeland territory"
>
> "These circumstances impose us the patriotic and revolutionary obligation to declare the nullity and invalidity of the Treaty BarcenasMeneses-Esguerra, signed on 24 March 1928 and ratified on March 6, 1930, in a historical context that unable to as rulers the Presidents imposed by the US intervention forces in Nicaragua, and violated that, as already noted ", the principles of the current national Constitution."(Junta de Gobierno de Reconstrucción Nacional de la República de Nicaragua, 1980)

Immediately after this fact, the Colombian Government spoke out on the subject and former President Turbay Ayala immediately showed their rejection, stressing that Nicaragua was looking for with this attitude put the tightrope the stability that existed between the two Nations.

Many wonder why Colombia appeared before the International Court of Justice? Here we will give a brief explanation of this sharp questioning: the International Court of Justice is in charge of resolving disputes between States when they accept its jurisdiction. Meanwhile, Colombia in 1932 through a statement accepted the jurisdiction of the Court and subsequently made an amendment to the Declaration in 1937, which is assuming that this statement applies only to disputes of facts occurring after January 6 year 1932 and therefore the Esguerra-Bárcenas Treaty would be by outside the jurisdiction of the International Court of Justice Since it was signed in 1928 and ratified in the year 1930. At this point to argue your demand, Nicaragua says, that the problem is not specifically in the

Esguerras-Bárcenas Treaty, if not in what concerning the maritime delimitation, and these problems arose specifically in the years 60´s, when it began to generate disputes over the continental shelf, the cays and Islands and the exclusive economic zone. In view of these approaches of Nicaragua, on December 5, 2001 Colombia decided to withdraw from the Declaration of acceptance of the jurisdiction binding of the International Court, before that Nicaragua will present its demand on 6 December 2001.

On the other hand, Colombia signed the in the year 1948 the American Treaty of Pacific settlement or "Pact of Bogotá" and ratified it in 1968, in article XXXI of the said Treaty can note the following: (Departamento de Derecho Internacional , 1948)

> "In accordance with subsection 2 ° of article 36 of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize with respect to any other American State as compulsory ipso facto, without any special agreement while the present is in effect Treaty, the jurisdiction of the Court expressed in all legal controversies which may arise between them and that related on:
> (a) The interpretation of a treaty;
> (b) Any question of international law;
> (c) The existence of any fact which, if it is established, would constitute the breach of an international obligation;
> (d) The nature or extent of the reparation that should be done by the breach of an international obligation".

This is why Colombia had to appear before the International Court of Justice, since article 53 of the same statute provides as follows: "When a party fails to appear before the Court, or to refrain from defending its case, the other party may ask the Court to decide in their favor" (Corte Intenacional de Justicia)

Therefore, if Colombia was not brought before the International Court of Justice, this would have continued the process and had been forced to comply with elfallo of court, it was therefore much healthier to defend our territory and our sovereignty and present all the arguments for ratification of San Andrés, Providencia and Santa Catalina are part of the geographical map of Colombia and principles of international law are not members target.

Then we will detail the points exposed by Nicaragua in application of demand of 6 December of the year 2001(Ministerio de Relaciones Exteriores, 2012)

- The Republic of Nicaragua has sovereignty over the islands of San Andrés, Providencia and Santa Catalina, including all the cays: Roncador, Serrana, Serranilla, Bajo Nuevo, Quitasueño, Alburquerque and the Cayos Este-Sudeste
- The Esguerra-Bárcenas Treaty does not apply and hence no can give Colombia the sovereignty of the Islands and cays in dispute; It is also not agree with that the 82 ° W Meridian is considered a s the maritime boundary of the two countries.
- Nicaragua requests the Court to establish a new maritime border, which this chord on the principles of international law.
- Nicaragua indicates it will not claim any compensation of economic type to Colombia by the time our country to enjoy the resources and exploitation of those territories and seas.

After admitted the demand of the Court, Nicaragua presented the report, i.e. their initial allegation on 28 April 2003. In it, Nicaragua presented the following claims, which we transcribiremos of the judgment of November 19, 2012 TERRITORIAL DISPUTE AND MARITIME (NICARAGUA v. COLOMBIA) (Corte Internacional de Justicia, 2012)

- "The Republic of Nicaragua has sovereignty over the islands of San Andrés, Providencia and Santa Catalina, as well as the islets and corresponding cays;
- The Republic of Nicaragua has sovereignty over the following cays: the cays of Albuquerque; the cays of the south-southwest; the Cayo de Roncador; North Cay, Southwest Cay and any other cay on the Serrana Bank; East Cay and Beacon Cay and any other cay on the Serranilla Bank; and Low Cay and any other fell into the Bank's Bajo Nuevo;
- If the Court conclude that there are formations on the Bank of Quitasueño as islands in the light of international law, asks the Court to conclude that the sovereignty over these formations is up to Nicaragua;
- TheEsguerra-Bárcenas Treatysigned in Managua onMarch 24, 1928 wasnotlegallyvalid and, in particular, didnotprovide a legal basistotheclaims of Colombia over San Andres and Providence;

- In the event that the Court concluded that the Treaty Esguerra - Bárcenas was validly, celebrated the violation of this Treaty by Colombia authorized Nicaragua to declare its completion;
- In the event that the Court conclude that the Barcenas-Esguerra Treaty was validly celebrated and is still in force, determine that this Treaty did not establish a delimitation of the maritime areas along the Meridian 82 °W of length;
- In the event that the Court concluded that Colombia has sovereignty on the islands of San Andres and Providencia, is engage these islands and assigned right to a territorial sea of 12 miles, since this is the equitable solution which is justified given the context of geographical and legal;
- The equitable solution to the cays, in the event that it is concluded that they are Colombian, is the of delimiting a maritime boundary tracing a 3 nautical miles around the enclave;
- Appropriate form of delimitation, within the geographical and legal context constituted by the continental coasts of Nicaragua and Colombia, is a maritime border only in the form of midline between these shores"

As we see, the claims of Nicaragua were raised intelligently and cautious, since it took into account all the scenarios that might occur and those scenarios generated a pretense.

In this order of ideas, and then demand that Nicaragua filed, the ICJ acted based on the Pact of Bogotá, and on 21 July 2003, Colombia filed the preliminary objections to the Court, based on article XI of the Pact which says:

> "Such procedures also apply to issues already resolved by agreement of the parties, or by an arbitration award, or by a ruling of an international tribunal, or that are governed by agreements or treaties in force on the date of conclusion of the present Covenant"(Departamento de Derecho Internacional , 1948)

Therefore Colombia made it clear the preliminary objections, that the jurisdiction of the Court is unnecessary, since the Esguerra-Bárcenas Treaty, the sovereignty of Colombia and Nicaragua acceptance was completely clear and established, and all the controversies over San Andres, Providencia and Santa Catalina were given by finished. On the border issue, and according to the Esguerra-Bárcenas Treaty, the Meridian 82 °W was the boundary line establish ed in the Act of exchange of instruments of ratification of the Esguerra-Bárcenas Treaty and thus Colombia exercised jurisdiction over maritime and land territories.

The position of Colombia has always been clear, as it has exercised the sovereignty of the Islands and cays in dispute for more than 200 years continuously thanks to the Esguerra-Bárcenas Treaty as mentioned in the development of this work. The position of Colombia is also supported by the fundamental principle of public international law “EL PACTA SUNT SERVANDA" which indicates that every treaty in force is binding upon the parties and must be performed by them in good faith” (Ministerio de Industria y Turismo); that is to say that States are obliged to abide by all agreements and treaties which are taught by international bodies and therefore must be comply with the obligations and rights that States make creditors, always and when they are free of any defect.

After the filing of the preliminary objections by Colombia, Nicaragua presented some remarks written on the matter on 26 January 2006 and thus was the closure of hearings related to the preliminary objections.

Public hearings were held from 4 to 8 June 2007 and on December 13, 2007, the International Court of Justice ruled in its judgment on the preliminary objections and stated the following(Ministerio de Relaciones Internacionales, 2012):

- “The Esguerra-Bárcenas Treaty of March 24, 1928 is a valid and existing Treaty.
- Colombia has sovereignty over the archipelago of San Andrés, Providencia and Santa Catalina
- Theislands of San Andrés, Providencia and Santa Catalina are Colombia

Equally, the Court ruled in that ruling from 2007:

- Having competence to determine which other islands, islets and cays make part of the archipelago of San Andrés, Providencia and Santa Catalina, as well as sovereignty over the cays of Roncador, Quitasueño, and Serrana, and that
- The Court is competent to define the dispute concerning the maritime delimitation between the parties, since it was considered that the clause on the Meridian 82 °W in the Act of exchange of instruments of ratification of the Treaty of 19281930 was not intended to establish a maritime delimitation general but the western boundary of the archipelago in the sense of a line of attribution of island Territories."

In conclusion, in this judgment, the International Court of Justice, gave her favorability to Colombia and recognized the sovereignty of our country of San Andrés, Providencia and Santa Catalina, because he concluded that the

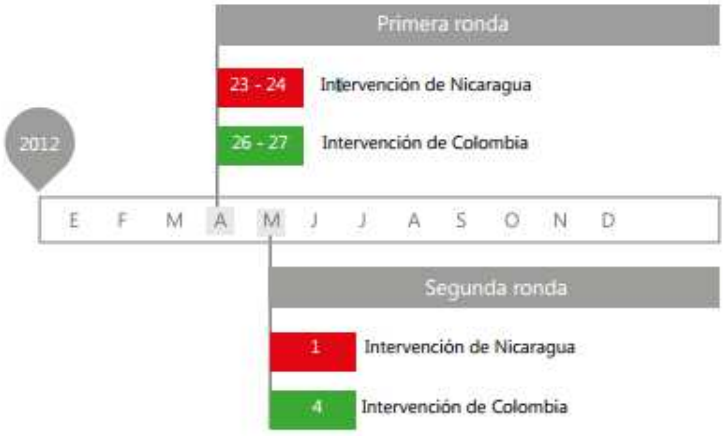
Esguerra-Bárcenas Treaty is completely legitimate. But for the judgment of Fund left pending issues such as the bordering maritime boundary and sovereignty over the other cays and islets. Therefore the parties involved (Colombia and Nicaragua) had to rethink your requests so they were presented again to the Court. With this ruling, Colombia felt a great relief, but we believe that he chose not the importance that the ICJ had still pending by defining important aspects regarding the maritime boundary and sovereignty of the other cays and islets.

After the failure of the year 2007, through a routine known as Providence court decision, the Court asked Colombia present contra memory to the day, November 11, 2008. Contra memory is part of the written allegation and consists of a response that presents the respondent with respect to memory which had already been filed by Nicaragua. Colombia submitted a contra memory within the prescribed period, then this and at the request of the Court, Nicaragua presented retort on September 18, 2009 and Colombia on June 18, 2010 presented the Rejoinder. The reply and the Rejoinder also are part of the written procedure, and occur when a second round of written pleadings is generated.

Costa Rica and Honduras fearful by the ruling that the Court could give to this case, came to the article 62, paragraph 1 of the Statute of the International Court of Justice which says: "If a State considers that it has an interest of a legal order that can be affected by the decision of the dispute, you can ask the Court to allow him to intervene"(Corte Internacional de Justicia)and in February and June 2010 respectively, these countries requested the Court be involved, because they believed claims that both Colombia and Nicaragua were of middle maritime areas over which these countries consider that they have sovereignty and are fairly interesting; but the Court rejected that request in its judgment of May 4, 2011.

Once the written process was closed with the submission of the reply and the Rejoinder submitted by Nicaragua and Colombia, has resulted in the oral stage. Publichearingstook place betweenApril 23 and may 4, 2012.

Illustration 5 Temporary line graph of interventions by Colombia and Nicaragua in the Hague



Source: (Ministerio de Relaciones Exteriores, 2012)

In the first round, Nicaragua had their opportunity to present their claims on 23 and 24 of April of 2012; at this date Nicaragua claimed sovereignty over the cays of of the Este-Sudeste, Albuquerque, Serrana, Serranilla, Roncador, and Bajo Nuevo.

For its part, Colombia had its intervention on 26 and 27 April and made it clear that the archipelago of San Andrés, Providencia and Santa Catalina and the cays in dispute have always been considered as a unit, and Colombia has exercised its sovereignty by more than 200 years. Additional Colombia maintains its position that the 82 ° W Meridian was the online medium that he is considered as the maritime boundary.

On May 1, 2012, Nicaragua presented their arguments and now seeks not a single line of delimitation of continental shelf and exclusive economic zone, now wants the Court to draw "a border of continental shelf which divides by equal parts of the platforms of both States, where these overlap". (Ministerio de Relaciones Exteriores , 2012)

Now to finish the second round of oral hearings, Colombia makes its intervention and indicates that the claim of Nicaragua to curtail the Colombian territory, would affect severely the population and those who live off the resources provided to them by the sea.

Illustration 6 The final claims of both countries

Source: (Ministerio de Relaciones Exteriores)

NICARAGUA: asked the Court to declare that:

- Nicaragua has dominion over the following cays: Albuquerque, Este-Sudeste, Roncador, Serrana, Serranilla and Bajo Nuevo and also over all formations that are not considered part of the archipelago was given to Colombia in the judgment of 2007
- Is requested the Court that if Quitasueño qualifies as island under the eyes of international law, is owed to grant sovereignty to Nicaragua.

- The maritime boundary of the two countries should be divided by a line that allows that the areas where overlap continental platforms produced by the coasts of both countries are equal.
- Given the failure of 2007 where recognized the sovereignty of Colombia over the islands of San Andrés, Providencia and Santa Catalina, Nicaragua requests the Court that these must have a territorial sea of 12 miles.
- Nicaragua proposes to give 3 nautical miles maritime boundary to each cay that the Court consider Colombian
- Colombia is going against international law, because not allows Nicaragua enjoying and benefiting from the resources that are located to the East of the Meridian 82 °W.

COLOMBIA: it asked the Court to declare:

- That the new claim of Nicaragua in relation to the line that divides areas by equal parts, is inadmissible, and asks that it be rejected
- The cays in dispute: Alburquerque, Este-Sudeste, Roncador, Serrana, Quitasueño, Bajo Nuevo and Serranilla, just like any other cay and small island that is part of the archipelago, belong to Colombia
- The maritime border between Nicaragua and Colombia, should be a middle line between the coasts of Nicaragua and the archipelago and other islands, as explained in the last image
- Therequest of Nicaragua ontheviolationby Colombia, lacksfundamentals and thereforemust be rejected.

To display a larger picture, we will discuss some formations in dispute in this ruling.(Corte Internacional de Justicia, 2012)

- Cayos de Alburquerque: is an oceanic coral island that has an area of 8 km. Albuquerque has two cays: El Cayo Norte and Cayo Sur, which are separated by a shallow water portion. These cays are 65 nautical miles from Nicaragua and 375 nautical miles from Colombia.

- Cayos del Este-Sudeste: are composed (Cayo Este, Cayo Bolívar (also known as Cayo Medio), Cayo West and Cayo Arena) are located on an oceanic coral island that stretches for about 13 km in a North-South direction. The East-Southeast cays are located 120 nautical miles from the coast of Nicaragua, and 360 nautical miles from the coast of Colombia
- Roncador: it is an oceanic coral island or atoll, is located on a Bank and has a length of 15 km and a width of 7 km. It is located approximately 190 nautical miles from Nicaragua and 320 nautical miles from Colombia. El CayoRoncador, which has a length of approximately 550 meters and a width of 300 meters, is located in the far North a half-mile of this bank.
- Serrana: Serrana Bank is located approximately 170 nautical miles from Nicaragua and 360 nautical miles from Colombia. On this bank can find the Cays of: South Cay, Little Cay, Narrow Cay, East Cay, North Cay, and the largest, Cayo Serrana (also known as Cayo Southwest) which has an approximate length of 1,000 meters and a width of 400 meters.
- Quitasueño: at the time of the failure, the name of this formation was controversial; this account with around 57 km long and 20 km wide. It has 54 formations and only has a lighthouse which is located on a reef. It is located 45 nautical miles west of Serrana, 38 nautical miles from Santa Catalina, 90 nautical miles from the Miskitos cays and 40 nautical miles from Providence.
- Serranilla: is a bank that is located approximately 400 nautical miles from Colombia and 200 nautical miles from Nicaragua. Is composed of several Cays: the Cayo East, Cayo Middle and Beacon Cay (also called Cayo Serranilla); this last is the largest of the cays as account with an estimated length of 650 metres and width is 300 meters; there we can find a small building of houses and a base of the national army of Colombia.
- Bajo Nuevo: is a bank that has three cays, of which the largest is Low Cay with 40 meters wide and 300 meters in length. This bench is located 265 nautical miles from Nicaragua and 360 nautical miles from Colombia

As noted in the explanation above on the disputed territories, there was a vacuum in terms of denomination of Quitasueño. In international law, it is clear that the Islands are thus very small they are susceptible of appropriation, but the formations of low tide which are located within the territorial sea are not susceptible of appropriation, since that State has sovereignty over the territorial sea.(Corte Internacional de Justicia, 2012)

For the Court and the parties, it is clear that Alburquerque, Cayos del Este-Sudeste, Roncador, Serrana, Serranilla and Bajo Nuevo, always remain above water even when there is high tide, are therefore considered Islands and are susceptible of appropriation, but this clearly did not have Quitasueño. After a detailed analysis on this topic, one of the 54 formations called Quitasueño QS32, is always above even at high tide is at high tide, it is therefore considered an island and is susceptible of appropriation. While this is a formation very small international law does not establish any minimum dimension which should have a training to be considered island. This one can note it in article 121, paragraph 1, of United NatiosConvention on the Law of the Sea, which says: "an island is a natural extension of land, surrounded by water, which is above this level at high tide"(Convención de las Naciones Unidas sobre el Derecho del Mar)

Failure of 2012, the Court concludes the following:

- Gives to Colombia sovereignty over the islands of Alburquerque, Bajo Nuevo, Cayos del Este-Sudeste, Quitasueño, Roncador, Serrana and Serranilla.
- The Court does not accept the claim of Nicaragua of an extended continental shelf.
- Takes the decision on the maritime boundary between both countries and trace the line of the maritime boundary provisional connecting points with the following coordinates:

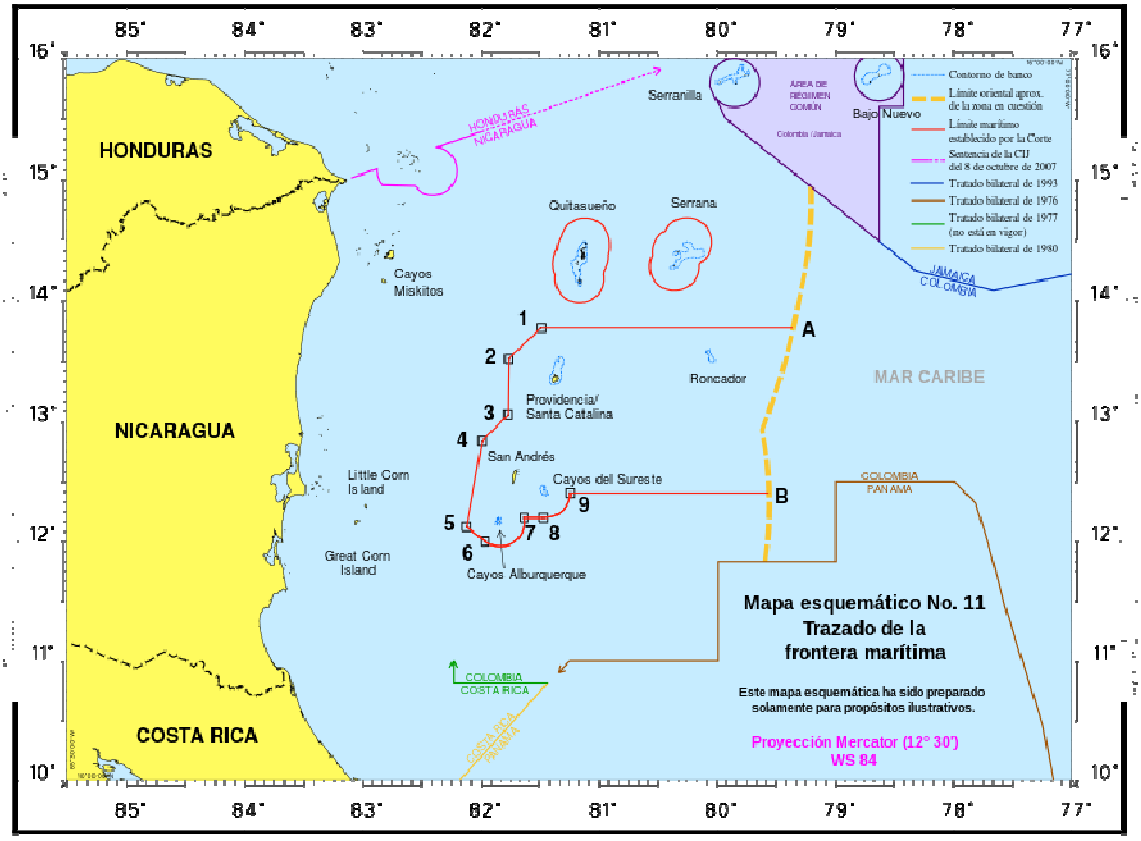
Illustration 7 Points of the lines of the maritime border between Colombia and Nicaragua

	Latitude north	Longitude west
1.	13° 46' 35.7"	81° 29' 34.7"
2.	13° 31' 08.0"	81° 45' 59.4"
3.	13° 03' 15.8"	81° 46' 22.7"
4.	12° 50' 12.8"	81° 59' 22.6"
5.	12° 07' 28.8"	82° 07' 27.7"
6.	12° 00' 04.5"	81° 57' 57.8"

Source: (Corte Internacional de Justicia , 2012)

“From point 1 the maritime border line continues eastward along the parallel of latitude (coordinates 13 ° 46 35.7 N) until it reaches the limit of 200 nautical miles from the baselines from which the territorial sea of Nicaragua is measured. Since point 6 (with coordinates 12 °00 04.5 N and 81 °57 57.8 W), located on an arc of a circle of 12 nautical miles around Albuquerque, the maritime boundary will continue along this arc of circles until it reaches point 7 (with coordinates 12 ° 11 53.5 N and 81 ° 38 16.6 W) which is located on the parallel passing through the point of the arc of a circle of 12 nautical miles South around the cays of the south-southwest. The border line then follows that parallel until it reaches the point more to the South of the arc of a circle of 12 miles around the cays of the south-southwest at point 8 (at coordinates 12 °11 53.5 N and 81° 28 29.5 W) and continues along this arc of circles until his point more to the East (9 point with coordinates 12 °24 09.3 N and 81 °14 43.9 W). From this point the border line follows the parallel of latitude (coordinates 12 ° 24 09.3 N) until it reaches the limit of 200 nautical miles from the baselines from which the territorial sea of Nicaragua is measured”. (Corte Internacional de Justicia , 2012)

Illustration 8 Colombia-Nicaragua new sea borders after the failure of the November 19, 2012



Source: (Corte Internacional de Justicia, 2012)

- As many as Serrana and Quitasueño cays were located in the sea of Nicaragua, but each was awarded a circle of 12 nautical miles.
- Rejects the request of Nicaragua that declare that Colombia is going against international law, therefore does not allow Nicaragua enjoying and benefiting from the resources that are located to the East of the Meridian 82°W .

The Court gave him sovereignty over the entire archipelago to Colombia including all of the cays and gave Quitasueño and Serrana territorial sea is 12 nautical miles. The claim of Nicaragua of an extended platform by 350 nautical miles as well as interlocking of San Andrés, Providencia and Santa Catalina in Nicaraguan waters, was also rejected. Additional granted Nicaragua 200 nautical miles at

some points of the North and South, all thanks to Nicaragua are protected under the international law of the sea.

It is noted that according to article 60 of the Statute of the International Court of Justice, this ruling is final. "The decision will be final and unappealable. In the event of disagreement about the meaning or scope of the judgment, the Court will perform it at the request of either party”(Corte Internacional de Justicia)

The Government of Juan Manuel Santos have agreed to this fact so grim for Colombian sovereignty, a total I disgust the decision taken by the International Court of Justice and has addressed all the legal ways to reverse a decision that hurts the Colombian territory again and again demonstrates the weakness of the State international demands, facts which fall on a passive state and on many occasions helpless against the international community which are supposed to be their allies and who should help to avoid or reduce these types of decisions.

Throughout history, and from the moment when it was consolidated as a nation State, the division of the Colombian territory has been the constant. Since the country began its life as independent nation has lost over half of its territory: it started with 2.583.000 square kilometers and has now 1,142,000 square kilometers.

Illustration 9 Map of the territories lost by Colombia throughout its history

Source: (Instituto Geográfico Agustín Codazzi , 2012)

In retrospect, we can make a brief analysis of the positions of each of the Colombian Presidents who were involved in this litigation.

- Ernesto Samper: He served as the power between the years 1994 to 1998. In his Government was negotiating with Nicaragua limits both countries without success. Additional all the necessary documents were collected because already sees saw coming a demand of Nicaragua.

- Andrés Pastrana. He was President of the Republic of Colombia between 1998 and 2002. Nicaragua filed the suit before the International Court of Justice. Pastrana and Julio Londoño the Minister of Foreign Affairs of the time, engaged in the way that was going to take the Court straight to that demand. Many experts in international law say that former President Andrés Pastrana was no answer to the demand of Nicaragua, as Colombia already was covered under the Esguerra-Bárcenas Treaty, because if you are not sure about the property, in this case the ownership of the archipelago and the sea; you are not obliged to answer the demand, and

therefore this was the starting point that became that successor Governments should appear in court. On the other hand expresdientePastrana says that Colombia had to respond to the demand, as article 53 of the Court makes clear that the process continues and this could even have ruled in favour of Nicaragua due to the absence of Colombia. On the other hand, if the Samper Government was displayed an impending demand by Nicaragua, the Government of Samper nor Pastrana's, they complained to the Pact of Bogota to avoid the jurisdiction of the Court in this case.

- Álvaro Uribe: He served his term between the years 2002-2006, and was re-elected President for the period 2006-2010. His Government presented the memory and the Rejoinder and carried out extensive research and research with former Presidents, Advisory Commission, etc. In his Government there was failure of 2007 was ratified where sovereignty over San Andres, Providencia and Santa Catalina.

- Juan Manuel Santos: He is President of the Republic since 2010 since he was re-elected in 2014. He had to face the final stage of the process, and his Government was the decision of November 19, 2012. While his Government has been little intervention as this litigation has developed many back. He has been questioned the prudence and socialization that Santos has had on this issue.

It is noted that all Governments that have been involved in this dispute, have always defended the sovereignty of Colombia in a solid and unwavering way. The International Court of Justice, tried to apply a ruling Solomonic in its discretion, as he sought to neither of the two parties leave completely victorious.

Beyond the 75,000 km2 of sea that was given to Nicaragua, Colombia lost the possibility to explore and exploit this area of the Caribbean Sea, which is rich in oil

and gas, also has rich fishing and abundant natural resources of the seabed. With this failure is reduced the possibility of fishing of the Islanders which translates to a decrease in income and growth; additional already close expectations about mining projects on an area which has great projections.

3. Findings

Colombia exercises sovereignty over the San Andres archipelago since the end of the colony, when the Spanish Crown through its royal order of 1803 awarded the Viceroyalty of New Granada islands along with the Costa de Mosquitos, territories that previously belonged to the captaincy General of Guatemala; However, Colombia loses the mosquito coast as a result with the Royal order of 1806 where the Spanish Crown expressed his decision to return these lands to the captaincy General of Guatemala, therefore, Colombia and the Central American Nations of Nicaragua and Costa Rica to enter neighbouring litigation ranging up to our days.

La costa de Mosquitos is overrun in 1824 by the British so any aspiration of empowerment by part of Colombia and Central American Nations was impossible. But in 1860 by the Treaty of Managua, England it gives the Mosquitia to Nicaragua fact it exacerbated the crisis bordering Colombia considered that this coast belonged to and in turn Nicaragua considered that the San Andres archipelago belonged in addition of the coast; These border dispute between Colombia and Nicaragua were solved in 1928 through the Treaty Esguerra - Bárcenas where Colombia recognized the sovereignty of Nicaragua over the Mosquitia coast and to turn Nicaragua recognized the sovereignty of Colombia over the archipelago of San Andres, two years later when the Treaty was approved by both Governments became the Exchange Act which established the Meridian 82 °W as a maritime and definitive bounda ry between the two Nations.

The Esguerra - Bárcenas Treaty is the only bilateral that exists between the two countries and is a fundamental part in the dispute of those territories; However, at

the time of its planning and approval Nicaragua was invaded by the United States and the central Government was influenced by the North American country, as a result Nicaragua argues that this Treaty has no validity but on the Colombian side, it is argued that this Treaty must be respected, since it was signed and approved by independent countries.

As evidenced in the development of chapter III, Nicaragua lambasted Colombia since 1980, when it ignored the Esguerra-Bárcenas Treaty. Since that time and until the current Government, Colombia has tried to deal with the aspirations of the Central American country.

In 2001 Nicaragua filed its suit before the International Court of Justice, and Colombia was forced to respond to this requirement since it had ratified the Pact of Bogotá in the year 1968 and through this signatory countries committed themselves to appear before the Court in cases of dispute; It is clear also that the Court ruling is final and unappealable.

In 2003, the mandate of President Álvaro Uribe Vélez, presented the preliminary objections, which indicated that the Court was not competent for this matter, which was already Starr through treaty Esguerra-Bárcenas signed in 1928 and ratified in 1930. The Court ruled in the year 2007 and left in clear that the Esguerra-Bárcenas Treaty was completely current and valid and gave Colombia sovereignty over San Andres, Providencia and Santa Catalina, but it makes clear that the 82 ° W Meridian was not sea of both countries limit and therefore it was him she set it, also not assigned the sovereignty of the other cays and islets to neither of the two parties.

Only until November 19, 2012 the International Court of Justice left to meet his verdict after written and verbal allegations between the representatives of both States. The Court gives Colombia sovereignty over above the islands of Albuquerque, Bajo Nuevo, cayos Este-Sudeste, Quitasueño, Roncador, Serrana

and Serranilla, and that decision was much welcomed by the Government of Juan Manuel Santos, because we considered it as a triumph against Nicaragua. But on the other hand Quitasueño and Serrana were locked sea Nicaragüense, a decision that was not much appreciation for the Colombian people, because it is said that this was it fragmented and has attacked the sovereignty that Colombia had exercised for many back. Further the court draws the lines bases of Nicaragua from the continental coast of this country and gives Nicaragua 200 nautical miles at some points of the North and South. It is important to clarify that these baselines are temporary, so leave a door open so Nicaragua can again make the request of the continental shelf beyond 200 nautical miles which, by right, the Convention of the law of the sea gives extended.

It is important that everyone understand that this decision have been developed under the eye of an international tribunal that has as guidelines the principles of international law and through its decision-making Nations acquire as a commitment to abide by his orders which are always based on the principles of equity and benefit of the parties involved.

To give its judgment, the International Court of Justice is protected fell jurisprudence, because within the ruling of November 19, 2012, this brings up similar specific cases of certain conflicts between States and the solution that was given to them. Additional it based its ruling in fundamental principles as the Convention of the law of the sea and took into account each portion of land to assign the territorial sea, the continental shelf that corresponds to them by law, because it took into account the formal sources of law to give its final and unappealable judgment.

4. Conclusions and recommendations

4.1 Conclusions

It was noticeable in the development of this work, both the Government and the Colombian people felt a deep defeat after the ruling of the International Court of Justice from November 19, 2012; This is understandable, because as you said not only a vast portion of sea, is lost if not the opportunity to exploit a territory full of natural resources, therefore, that the Government of President Juan Manuel Santos, still still looking for all existing roads to reverse the ruling without having present that judgements handed down by the ICJ are final and must be complied with. Additional all Colombians also lash out against the International Court of Justice, because they are filled with pessimism and criticism that come directly from the Colombian State entities.

If the ruling of November 19, 2012 is reviewed thoroughly, the ICJ did not accept all the claims which had Nicaragua (invalidity of the Treaty Esguerra - Bárcenas, complete sovereignty over the archipelago and other formations and delimitation of one maritime boundary further than 200 nautical miles). Thanks to the defense of Colombia, one could say that the country emerged victorious from this dispute, because it managed to prove that the Esguerra - Bárcenas is a valid and existing Treaty, and thus it could retain sovereignty over San Andres, Providencia and Santa Catalina, further found that the other cays and islets also form part of the archipelago and therefore belong to Colombia. It is also important to mention that the International Court of Justice did not consider neither the pretension of Colombia or Nicaragua to establish maritime of both countries boundaries because it based on international law and already resolved similar cases to make

its decision, which in its discretion was the fairer for all. Most likely Colombia will remain involved in this type of conflict with the Central American country, and even more so after the two demands which Nicaragua filed.

4.2 Recommendatios

After the failure of the November 19, 2012, Colombia decided to denounce the Pact of Bogotá on 27 November the same year, since this is meant to avoid possible claims of Nicaragua against Colombia. In the eyes of many, this decision goes against the legacy that has Colombia regarding the peaceful settlement of disputes and to the acceptance of this type of situations. Additional there has been strong criticism for the Government of Santos, because despite the disagreement with the ruling, they chose to not show any resource of interpretation or revision of judgement, which are enshrined in the Statute of the Court in articles 60 and 61 respectively.

In September of 2013 President Santos said this ruling as "irrelevant", arguing that according to article 101 of the Constitution of 199, borders and boundaries of Colombia can only be modified under treaties between countries, which must be approved by Congress and then ratified by the President of the Republic.
In view of the refusal of Colombia to comply with the ruling, Nicaragua filed two new demands during the year following the ruling, because while Colombia denounced the Pact of Bogotá in 2102 taken one more year so that the output becomes effective. Nicaragua filed its first lawsuit on September 16, 2013, she again stated its claim on an extended continental shelf and the second demand was filed with the ICJ on November 26, 2013, only 1 day that the exit of Colombia of the Pact of Bogota will take place. Onthislastdemand Nicaragua saysthat Colombia has notcompliedwiththelimits set out in thedecision of November 19, 2012.

Nicaragua presented two new demands due to the attitude of the Colombian State, since after the judgment that was awarded to Nicaragua 75,000 kilometers

pictures of sea, Colombia has had a negative position the Government to deliver this portion of sea to consider irrelevant the ICJ's decision. Therefore we believe that Colombia must abide by the ruling issued by the International Court of Justice on November 19, 2012, according to the Charter of the United Nations, a State cannot avoid the application of a failure, and in the case of Colombia that cannot be the exception, because doing it part of the ONU States are under the obligation to find peaceful solutions in the moment that there are disputes and controversies, additional it should start from the principle of good faith to comply with rulings that are enacted.

On the other hand with the ratification of the Pact of Bogotá, Colombia accepted the competence of the ICJ for this kind of issue and at the time that Colombia was presented before the Court to defend their interests, upheld the jurisdiction of the same; but when they lost the sovereignty over some portion of the Caribbean Sea criticized that decision and considered it unenforceable; additional Government cannot search by law how to evade an international obligation.
We must bear in mind that to Colombia not you want to Nicaragua to take that case to the Security Council of the ONU, which is the power to impart economic sanctions and even authorizing the use of the torque force to enforce the mandates.

In addition, we think that the attitude of the Government is leaving Colombia badly "stop", what refers to respect for international law and against future international lawsuits, as is left evidence that they fail to decisions by international courts.

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ANNEXES

A. Annex: Royal Order of 1803

LAS ISLAS DE SAN ANDRÉS SE INTEGRAN AL VIRREYNATO Por razones diversas los Borbones iniciaron desde su llegada al trono español una serie de reformas administrativas. Una de ellas fue la incorporación de las Islas de San Andrés y parte de la costa de Mosquitos al Virreynato de la Nueva Granada.Tal decisión se le comunica al Virrey del Nuevo Reino de Granada y al Presidente de Guatemala.

B. Annex: Royal Order of 20 November 1803 incorporated to San Andrés to the Viceroyalty

Excelentísimo señor

El Rey ha resuelto que las yslas de San Andrés, y la parte de la costa de Mosquitos desde el cabo de Gracias a Dios inclusive acia el Rio Chagres, queden segregadas de la capitania general de Goatemala, y dependientes del Virreinato de Santa Fe, y se ha servido S.M. conceder al governador de las expresadas yslas Don Tomas O. Neille el sueldo de dos mil pesos fuertes anuales en lugar de los mil y doscientos que actualmente disfruta. Lo aviso a Vuestra Excelencia de Real Orden a fin de que por el ministerio de su cargo se expidan las que corresponden al cumplimiento de esta soberana resolucion. Dios guarde a Vuestra Excelencia muchos años, Sn Lorenzo 20 de noviembre de 1803. Joseph Antonio Caballero Al Señor Don Miguel Cayetano Soler. Archivo General de Indias, Guatemala 844.

con tantos anexos como considere necesario.

C. Anexo: Royal Orden of 1806

La Real Orden del 13 de noviembre de 1806, dirigida al Capitán General de Guatemala, en su parte pertinente lee:

"Enterado el Rey, por las cartas de Vuestra Señoría, de 3 de Marzo de 1804, números 416 y 417, y de los documentos que con ellas acompañó dando cuenta de la creación de dos Alcaldes ordinarios y de un Síndico procurador en la colonia de Trujillo y de la cuestión suscitada por el coronel D. Ramón Anguiano, Gobernador intendente General de Comayagua, pretendiendo ejercer las facultades de Intendente según la ordenanza de la Nueva España, en los establecimientos de la Costa de Mosquitos y ser jefe único con entera independencia en las cuatro causas de justicia, policía, hacienda y guerra, de que han conocido los Presidentes de Guatemala en las nuevas colonias; ha resuelto Su Majestad que Vuestra Señoría es quien debe entender en el conocimiento absoluto de todos los negocios, que ocurran en la colonia de Trujillo y demás puestos militares de la Costa de Mosquitos concernientes á las cuatro causas referidas, en cumplimiento de las Reales Ordenes expedidas desde el año de 1782, que le autorizan para ocupar, defender y poblar aquella costa, hasta que verificado este objeto, en todo ó en parte, tenga Su Majestad por conveniente variar el sistema actual etc."

D. Annex: Treaty Harrison-Altamirano

SE APRUEBA TRATADO ENTRE LA REPÚBLICA DE NICARAGUA Y EL REINO UNIDO DE GRAN BRETAÑA

INSTRUMENTO INTERNACIONAL, Aprobado el 24 de Agosto de 1906 Publicado en La Gaceta No. 3056 del 6 de Noviembre de 1906 La Asamblea Nacional Legislativa,

DECRETA:

Articulo Único- Aprobar en todas sus partes el Tratado celebrado el 19 de abril de 1905 entre la República de Nicaragua y el Reino de Unido de la Gran Bretaña, etc. relativo al Territorio Mosquito.

Dado en el Salón de Sesiones – Managua, 27 de abril de 1905.- (f) Gustavo GuzmánD. P.- (f) Carlos A. García – D.S.- (f)- Adán Vivas – D.S.

Publíquese – Palacio del Ejecutivo – Managua, 29 de abril de 1905-(f) J.S. Zelaya – El Ministro de Relaciones Exteriores – (f) Adolfo Altamirano.

EDUARDO,

Por La Gran de Dios, Rey del Reino Unido de la Gran Bretaña e Irlanda y de los Dominios Británicos de Ultramar, Defensor de la Fé, Emperador de la India, etc.

etc. etc. A todos y cada uno de los que las presentes vieren, Salud. Por cuanto se concluyó y formó en Managua, entre Nos y Nuestro Buen Amigo el Presidente de la República de Nicaragua, el 19 de abril del año de Nuestro Señor de mil novecientos y cinco, por Nuestro Plenipotenciario y el de Nuestro dicho Buen Amigo, un Tratado que , palabra por palabra dice como sigue:

TRATADO ENTRE LA GRAN BRETAÑA Y LA REPÚBLICA DE NICARAGUA, RELATIVO AL TERRITORIO MOSQUITO.

Su Majestad el Rey del Reino Unido de la Gran Bretaña e Irlanda, y de los Dominios Británicos de Ultramar, Emperador de la India, etc, etc; y Su excelencia el señor Presidente de la República de Nicaragua, deseosos de terminar de una manera amigable las cuestiones pendientes con relación a la Reserva Mosquita, han dispuesto, celebrar el presente Tratado, designando por su Plenipotenciarios: Su Majestad el rey del Reino de la Gran Bretaña […] no se lee. Británicos de Ultramar, Emperador de la India, etc, etc, al Honorable señor Herbert William Broadley Harrison, Caballero Socio de la muy distinguida orden de San Miguel y San Jorge, Encargado de Negocios de Su Majestad Británica en Nicaragua; y Su Excelencia el Señor Presidente de la República de Nicaragua, al Señor Doctor don Adolfo Altamirano, Ministro de Relaciones Exteriores; Quienes habiéndose comunicado sus respectivos Plenos Poderes, y encontrándolos en buena y debida forma, han convenido en los siguientes artículos:

ARTICULO I Las Altas Partes Contratantes convienen en que quede abrogado y así permanezca el Tratado de Managua de 28 de enero de 1860.

ARTICULO II Su majestad Británica reconoce la absoluta soberanía de Nicaragua sobre el territorio que formó la antigua Reserva Mosquita, a que se refiere el Tratado de Managua antes citado.

ARTICULO III En consideración a que lo indios mosquitos estuvieron algún tiempo bajo la protección de la Gran Bretaña y atendiendo al interés que los

Gobiernos de Su Majestad y Nicaragua han mostrado en favor de ellos, el Gobierno de Nicaragua conviene en otorgarles las siguientes concesiones:

a) El Gobierno propondrá a la Asamblea Nacional, la emisión de una ley, por la que se exencione, por el término de cincuenta años, contados desde la fecha de la ratificación de este Tratado, a todos los indios mosquitos y a los criollosnacidos antes del año de 1894, del servicio militar y de todo (Oración ilegible, daño en Gaceta) (….)bienes, posesiones, animales y medios de subsistencia.

b) El Gobierno permitirá a los indios, vivir en sus aldeas, gozando de las concesiones otorgadas por esta Convención, y según sus propias costumbres, en tanto que no se opongan a las leyes del país y a la moralidad pública.

c) El Gobierno de Nicaragua les concederá una prórroga de dos años para que legalicen sus derechos a los bienes que hayan adquirido, de conformidad con las disposiciones que regían en la Reserva antes del año de 1894. El Gobierno de no les cobrará nada por las tierras y su medida, ni por el otorgamiento de los títulos. Con tal objeto, los títulos que se hallaban en poder de los indios y criollos antes de 1894, serán renovados de conformidad con las leyes, y en los casos que no existan tales títulos, el Gobierno dará a cada familia en el lugar de su residencia, ocho manzanas de terreno, si los miembros de la familia no excedieren de cuatro, y dos manzanas por cada persona si excedieren de ese número.

d) Se señalaran terrenos públicos de crianza para el uso de los habitantes, en la vecindad de cada aldea india.

e) En el caso de que algún indio mosquito o criollo pruebe que las tierras que tenía en conformidad con las disposiciones vigentes antes del año de 1894, han sido denunciadas o adjudicadas a otras personas, el Gobierno le indemnizara concediéndole terrenos baldíos de valor aproximado y cercanos en cuanto sea posible al lugar donde habite.

ARTICULO IV El Gobierno de Nicaragua permitirá al ex jefe de los indios mosquitos, Roberto Henry Clarence, residir en la República y gozar de completa protección, en tanto que no infrinja las leyes y con tal que sus actos no tiendan a concitar a los indios contra Nicaragua.

ARTICULO V Los indios mosquitos y demás habitantes de la antigua Reserva, gozarán de los mismos derechos garantizados por las leyes de Nicaragua a los ciudadanos nicaragüenses.

ARTICULO VI El presente Tratado será ratificado y las ratificaciones canjeadas en Londres, dentro del término de seis meses contados desde la fecha de la firma. En fe de lo cual los respectivos Plenipotenciarios han firmado el presente Tratado y sellándolo con sus sellos.

Hecho en Managua, el día diez y nueve de Abril de mil novecientos cinco. (L.S) (f) Adolfo Altamirano (L.S) (f) Herbert Harrison.

Nos, habiendo visto y considerando el Tratado preinserto, Hemos aprobado, aceptado y confirmado todos y cada uno de sus Articulo y Cláusulas, y por las presentes lo aprobamos, aceptamos, confirmamos y ratificamos, por Nos, Nuestros Herederos y Sucesores, comprometiéndonos y prometiendo, por Nuestra Real Palabra, que Nos ejecutaremos y observaremos sincera y fielmente todas y cada una de las cosas contenidas y expresadas en el referido Tratado, y que Nos jamás permitiremos que sea violado por nadie, o trasgredido en manera alguna, en cuanto esté en Nuestro Poder.

E. Annex: First treaty Canalero Weitzel-Chamorro – 9 February of 1913

El Gobierno de Nicaragua y el Gobierno de los Estados Unidos de América, animados del deseo de fortalecer su antigua y cordial amistad por la más sincera cooperación en todos los fines de intereses y ventajas mutuas a ambas naciones, y deseoso el Gobierno de Nicaragua de fortalecer por todos los medios el desarrollo económico y la prosperidad del país bajo un Gobierno ordenado y legal, mediante el mantenimiento de sus derechos asignados por las Convenciones de Washington; y estando el Gobierno de los Estados Unidos en perfecto acuerdo con estas miras, y deseando prestar al Gobierno de Nicaragua, el propio auxilio en estos propósitos, como también en el fomento de varias obras públicas y medidas consecuentes al bienestar y desarrollo económico del país, y siendo el anhelo de ambos gobiernos confirmar el principio del primer párrafo del primero del Protocolo del primero de diciembre de mil novecientos; y de prever a la futura posible construcción de un Canal Interoceánico, por la vía del Río San Juan y del Gran Lago de Nicaragua o cualquierotra ruta en el territorio Nicaragüense, cuando quiera que la construcción de dicho canal se estime conveniente a los intereses de ambos países: y deseando el Gobierno de Nicaragua, facilitar en todo lo posible el buen éxito en la construcción de dicho canal y el mantenimiento y servicio de dicho canal y también el mantenimiento y el servicio del Canal de Panamá, los dos gobiernos han convenido celebra una

Convención para dichos fines y consiguientemente han nombrado sus plenipotenciarios:

El Gobierno de Nicaragua a Diego Manuel Chamorro, de Relaciones exteriores de la República de Nicaragua. El Gobierno de los Estados Unidos, al honorable George T. Weitzel, Enviado Extraordinario y Ministro Plenipotenciario de los

Estados Unidos de América, y Quienes habiendo exhibidos sus respectivos Plenos Poderes, encontrados de buena fe y debida forma, han convenido y celebrado los siguientes artículos:

El gobierno de Nicaragua concede a perpetuidad al Gobierno de los Estados Unidos, los derechos exclusivos y saneados necesarios y convenientes para la construcción, operación y mantenimiento de un Canal Interoceánico, por la vía del Río San Juan y el Gran Lago de Nicaragua, o por cualquier ruta cualquiera sobre el territorio nicaragüense, debiendo fijarse los detalles de las condiciones en las que dicho canal será construido, servido y mantenido por ambos Gobiernos cuando quiera que la construcción del mencionado canal sea resuelta.

I. Para facilitar la protección del Canal de Panamá y al canal y ruta del canal así como los derechos propietarios considerados en la presente en la presente Convención y para que el Gobierno de los Estados Unidos, pueda dictar cualquier medida necesaria o auxiliar al Gobierno de Nicaragua, con aquellas que fueren necesarias para los fines aquí expresos, el Gobierno de Nicaragua por la presente, arrienda por un término de noventa y nueve años (99) al Gobierno de los Estados Unidos, las islas del Mar Caribe conocidas con el nombre de Great Corn Island y Little Corn Island y conviene en que, a la fecha, y en un sitio dado del Golfo de Fonseca, designado por el Gobierno de los Estados Unidos, el Gobierno de los Estados Unidos tendrá el derecho de establecer, servir y mantener por noventa y nueve años (99) una base naval. El Gobierno de los Estados Unidos tendrá opción de renovar una o ambas de las antes dichas,

contenidas en este artículo a la expiración de los expresados noventa y nueve años (99)

II. El Gobierno de Nicaragua concede por este acto a perpetuidad al Gobierno de los Estados Unidos, el derecho de navegación a la marina mercante de los Estados Unidos para dedicarse al cabotaje en Nicaragua, bien sea por la vía del canal antes mencionado o por otra cualquiera, con el derecho de embarcar o desembarcar total o parcialmente en todos los puertos de Nicaragua en los viajes de sus barcos que gozaran de idénticas condiciones a las que Nicaragua impone a sus ciudadanos y a sus barcos

III. En consideración de las anteriores estipulaciones y los fines de esta Convención, el Gobierno de los Estados Unidos pagara a beneficio del Gobierno de Nicaragua la suma de tres millones (3.000.000.00) de pesos oro acuñado de la moneda corriente de los Estados Unidos, y de su actual peso y pureza, pago que se hará como depositario a una corporación bancaria americana designada por el Secretario de Estado de los Estados Unidos, y se empleara en la construcción de obras públicas o en provecho de la instrucción pública o en el desarrollo de la prosperidad de Nicaragua en la manera que se determine por las dos altas partes contratantes, debiéndose efectuarse dicho empleo por órdenes libradas por el Ministro de Hacienda y aprobadas por el Secretario de Estado de Estados Unidos o por las personas que el designe. El pago antes dicho se hará dentro de un año después de la fecha del canje de las ratificaciones de esta Convención.

Esta Convención será ratificada por las Altas Partes Contratantes de acuerdo a sus leyes respectivas, y las ratificaciones se canjearan en Washington tan pronto como sea posible. En fe de lo cual, nosotros los respectivos Plenipotenciarios firmamos y sellamos. Hecho en duplicado en los idiomas español e inglés, a los cinco días del mes de agosto de mil novecientos catorce.

Diego Manuel Chamorro

George T. Weitzel

F. Annex: Treaty BárcenasMeneses – Esguerra

TRATADO SOBRE CUESTIONES TERRITORIALES ENTRE COLOMBIA Y NICARAGUA

Managua, marzo 24 de 1928

La República de Nicaragua y la República de Colombia, deseosas de poner termino al litigio territorial entre ellas pendiente, y de estrechar los vínculos de tradicional amistad que las unen, han resuelto celebrar el presente tratado, y al efecto han nombrado sus respectivos plenipotenciarios, a saber.

Su excelencia el presidente de la República de Nicaragua al Doctor Don José Bárcenas Meneses, subsecretario de Relaciones Exteriores; y Su excelencia el Presidente de la República de Colombia al Doctor Manuel Esguerra, enviado extraordinario y Ministro Plenipotenciario en Nicaragua. Quienes, después de canjearse sus plenos poderes, que hallaron en debida forma, han convenido en las siguientes estipulaciones.

ARTICULO 1

La República de Colombia reconoce la soberanía y pleno dominio de la República de Nicaragua sobre la costa de mosquitos comprendida entre el cabo de Gracias a Dios y el río san Juan, y sobre las islas mangle grande y mangle chico, en el

océano atlántico (Great cornisland, littlecornisland); y la Republica de Nicaragua reconoce la soberanía y pleno dominio de la República de Colombia sobre las islas de San Andrés, Providencia, santa catalina y todas las demás islas, islotes y cayos que hacen parte de dicho archipiélago de San Andrés.

No se consideran incluidos en este tratado los cayos Roncador, Quitasueño y Serrana; el dominio de los cuales está en litigio entre Colombia y los Estados Unidos de América.

ARTICULO 2

El presente tratado será sometido para su validez a los Congresos de ambos Estados, y una vez aprobados por éstos, el canje de las ratificaciones se verifican en Managua o Bogotá, dentro del menor término posible.

En fe de lo cual, nosotros, los respectivos Plenipotenciarios, firmamos y sellamos. Hecho en duplicado, en Managua, a veinticuatro de marzo de mil novecientos veintiocho.

(L.S.) J. BARCENAS MENESES

(L.S.) MANUEL ESGUERRA

G. Annex: Protocol of 1930

SE RATIFICA UN TRATADO CELEBRADO ENTRE NICARAGUA Y COLOMBIA

Aprobado el 6 de Marzo de 1930

Publicado en La Gaceta No. 143 del 1 de Julio de 1930

EL PRESIDENTE DE LA REPÚBLICA,

A sus habitantes SABED:

Que el Congreso ha ordenado lo siguiente:

EL SENADO Y CÁMARA DE DIPUTADOS DE LA REPÚBLICA DE NICARAGUA,

DECRETAN:

ÚNICO: Ratificase el Tratado celebrado entre Nicaragua y la República de Colombia el 24 de Marzo de 1928, que aprobó el Poder Ejecutivo el 27 del mismo mes y año, Tratado que pone término a la cuestión pendiente entre ambas Repúblicas sobre el Archipiélago de San Andrés y Providencia y la Mosquitia Nicaragüense; en la inteligencia de que el Archipiélago de San Andrés que se menciona en la cláusula primera del Tratado no se extiende al Occidente del

meridiano 82 de Greenwich, de la carta publicada en octubre de 1885, por la Oficina Hidrográfica de Washington, bajo la autoridad del Secretario de la Marina de los Estados Unidos de la América del Norte.

El presente decreto deberá incluirse en el Instrumento de Ratificación.

Dado en el Salón de Sesiones de la Cámara del Senado – Managua, 6 de marzo de 1930. V. M. ROMÁN, S. P., VICENTE F. ALTAMIRANO, S. S., J. CAJINA MORA, S. S. Managua, 3 de Abril de 1930. C. A. GONZÁLEZ, S. P., HERNÁN GÓNGORA, D. S., J. AGUSTÍN BÁEZ, D. S.

POR TANTO: EJECÚTESE. Palacio del Ejecutivo – Managua, 5 de Abril de 1930. J. M. MONCADA. El Ministro de Relaciones Exteriores, J. IRIAS.

H. Annex: Act of exchange of ratifications of 1930

Managua, mayo 5 de 1930

Habiéndose reunido en las oficinas del Ministerio de Relaciones Exteriores del Gobierno de Nicaragua el excelentísimo señor Doctor Don Manuel Esguerra, enviado extraordinario y Ministro Plenipotenciario de Colombia en Nicaragua, y el excelentísimo Sr. Dr. Don Julián Irias, ministro de Relaciones Exteriores, con el objeto de proceder al canje de las ratificaciones de sus respectivos Gobiernos, relativas al Tratado celebrado entre Colombia y Nicaragua, el dia 24 de marzo de 1928, para poner termino a la cuestión pendiente entre ambas Repúblicas, sobre el archipiélago de San Andrés y Providencia y la Mosquitia Nicaragüense; en vista de que los plenos poderes conferidos al efecto están en buena y debida forma, y habiendo encontrado dichas ratificaciones en un todo conformes, efectuaron al canje correspondiente.

Los infrascritos, en virtud de la plenipotencia que se les ha conferido, y con instrucciones de sus respectivos Gobiernos, declaran: que el Archipiélago de San Andrés y Providencia, que se menciona en la cláusula primera del tratado referido no se extiende al occidente del meridiano 82 de Grenwich.

En fe de lo cual, los infrascritos firman la presente por ser duplicado, sellándola con sus respectivos sellos.

Hecha en Managua, a los cinco días del mes de mayo de mil novecientos treinta.

(L.S.) Manuel Esguerra

(L.S.) J. Irias G.