

No. 4797

**UNITED STATES OF AMERICA
and
NICARAGUA**

**Agreement (with annex and drawing attached thereto) for
the establishment of a Loran transmitting station.
Signed at Managua, on 5 September 1958**

Official texts: English and Spanish.

Registered by the United States of America on 24 June 1959.

**ÉTATS-UNIS D'AMÉRIQUE
et
NICARAGUA**

**Accord (avec annexe et plan joint) relatif à la création
d'une station de transmission Loran. Signé à Managua,
le 5 septembre 1958**

Textes officiels anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 24 juin 1959.

No. 4797. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF NICARAGUA FOR THE ESTABLISHMENT OF A LORAN TRANSMITTING STATION. SIGNED AT MANAGUA, ON 5 SEPTEMBER 1958

The Government of the United States of America and the Government of Nicaragua,

Having decided that the construction of a Loran Station on the territory of Nicaragua near Puerto Cabezas would promote the security and the economic well-being of the Western Hemisphere by providing an additional aid to safe navigation,

Desiring that this Agreement shall be fulfilled in a spirit of good neighborliness between the Governments concerned, and that details of its practical application shall be arranged by friendly cooperation,

Have agreed as follows :

Article I

SITE AND EASEMENTS

The Government of Nicaragua shall, without cost to the Government of the United States of America, furnish the Government of the United States of America the Site described in Annex A,² free of encumbrances, together with the necessary easements, rights, and licenses for the construction and exclusive use and operation by the United States Coast Guard of a Loran Station, including the rights to construct and use access roads and accesses to utilities.

Article II

ADDITIONAL RIGHTS

The Government of the United States of America shall have the following additional rights :

(1) The right to station members of the United States Coast Guard at the Loran Station for the purposes specified in this Agreement and to provide for their maintenance and welfare;

¹ Came into force on 5 September 1958, the day of signature, in accordance with article XII.

² See p. 48 of this volume.

(2) The right to use, in the condition in which they may be found, anchorages, beaches, wharves, and airport facilities belonging to the Nicaraguan Government which may be available at Puerto Cabezas and in the vicinity of the site, it being understood that in all these facilities the Government of the United States may make all improvements and additions which the Government of the United States considers desirable;

(3) The rights necessary to function within the Site, including rights of transit through the adjacent lands, territorial waters, and overlying air space by those vehicles, vessels, and aircraft which may be necessary for the purpose of constructing, supporting, and operating the Loran Station;

(4) The right to transmit radio communications and Loran signals on such normal Coast Guard frequencies as may be agreed upon by the appropriate United States and Nicaraguan authorities.

Article III

TRAINING

The United States Coast Guard will train a limited number of personnel of the Nicaraguan National Guard in the maintenance and operation of Loran equipment and will make no charge to the Government of Nicaragua for such training. The number of Nicaraguan personnel to be trained during any given period of time will be established by agreement between the United States Coast Guard and the appropriate Nicaraguan authorities.

Article IV

CLAIMS

(1) The Government of the United States of America agrees to pay, in Nicaraguan currency, in accordance with and to the extent possible under the applicable laws of the United States of America, all meritorious claims for damage to, or loss or destruction of, property, or injury or death, arising out of acts or omissions in the performance of official duties of members of the United States Coast Guard in connection with the establishment, maintenance, and operation of the Loran Station.

(2) It is understood that in the determining of compensation with regard to claims described in paragraph (1), due consideration shall be given to any provisions of Nicaraguan law which would determine the liability of the Government of Nicaragua in similar circumstances.

(3) Settlement of any claims by the Government of the United States of America shall operate as a complete satisfaction of such claims and as a release

of the Government of the United States of America and the individuals on whose acts or omissions the claim is based from all liability arising out of such acts or omissions.

(4) Members of the United States Coast Guard shall be immune from the civil jurisdiction of Nicaragua in matters arising from acts or omissions in the performance of their official duties in connection with the establishment, maintenance, and operation of the Loran Station.

Article V

ESTABLISHMENT AND OPERATION COSTS

Except as otherwise provided in this Agreement, the Government of the United States of America shall bear all costs occasioned by any United States activities related to the establishment, maintenance, and operation of the Loran Station.

Article VI

MOTOR VEHICLE TAXES

No national tax or fee for registration or licensing for use in Nicaragua shall be required with respect to motor vehicles belonging to the Government of the United States of America.

Article VII

CUSTOMS DUTIES AND OTHER TAXES

(1) No national import or customs duty, or excise, consumption, or other tax shall be charged on :

- (a) Material, equipment, supplies, or goods for use in the construction, maintenance, or operation of the Loran Station;
- (b) The personal belongings, supplies for use or consumption, and household effects of members of the United States Coast Guard.

(2) No national tax shall be charged on the export of the material, equipment, supplies, or goods referred to in paragraph (1) of this Article in the event of reshipment from Nicaragua.

(3) The exemptions to which paragraphs (1) and (2) refer shall not include extraordinary administrative expenses agreed to be necessary to cover the cost of services rendered.

(4) Administrative measures shall be taken by the United States Coast Guard authorities to prevent the resale of goods which are imported under paragraph (1) (b) of this Article to anyone not entitled to free importations and

generally to prevent abuse of the customs privileges granted under this Article. There shall be cooperation between such authorities and the authorities of the Government of Nicaragua to effect this end.

Article VIII

TAXATION

(1) No member of the United States Coast Guard who is serving in Nicaragua in connection with the construction, maintenance, or operation of the Loran Station shall be liable to pay income tax in Nicaragua in respect of income derived from employment in connection with the Loran Station or income derived from sources outside of Nicaragua.

(2) No such person shall be liable to pay in Nicaragua any national poll tax or similar national tax on his person, or any national tax on ownership or use of property normally situated within the Site or outside of Nicaragua.

(3) No person or corporation shall be liable to pay any readily identifiable national tax in Nicaragua the incidence of which will impose a burden upon the Government of the United States of America in connection with the construction, operation, or maintenance of the Loran Station.

Article IX

JURISDICTION OVER OFFENSES

(1) Subject to the provisions of this Article :

(a) The authorities of the United States of America shall have the right to exercise within Nicaragua all criminal and disciplinary jurisdiction conferred on them by the law of the United States of America over all members of the United States Coast Guard.

(b) The authorities of Nicaragua shall have jurisdiction over the members of the United States Coast Guard with respect to offenses committed within the territory of Nicaragua and punishable by the law of Nicaragua.

(2) (a) The authorities of the United States of America shall have the right to exercise exclusive jurisdiction over members of the United States Coast Guard with respect to offenses, including offenses relating to its security, punishable by the law of the United States of America, but not by the law of Nicaragua.

(b) The authorities of Nicaragua shall have the right to exercise exclusive jurisdiction over members of the United States Coast Guard with respect to offenses, including offenses relating to the security of Nicaragua, punishable by its law but not by the law of the United States of America.

(c) For the purposes of this paragraph and of paragraph (3) of this Article, a security offense against a State shall include :

- (i) treason against the State;
- (ii) sabotage, espionage, or violation of any law relating to official secrets of that State, or secrets relating to the national defense of that State.

(3) In cases where the right to exercise jurisdiction is concurrent the following rules shall apply :

(a) The authorities of the United States of America shall have the primary right to exercise jurisdiction over members of the United States Coast Guard in relation to :

- (i) offenses solely against the property or security of the United States of America, or offenses solely against the person or property of another member of the United States Coast Guard;
- (ii) offenses arising out of any act or omission done in the performance of official duty.

(b) In the case of any other offense the authorities of Nicaragua shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of Nicaragua, recognizing that it is the primary responsibility of the United States authorities to maintain good order and discipline when persons subject to United States military law are concerned, will, upon the request of the United States authorities, waive their primary right to exercise jurisdiction under this Article, except where they determine that it is of particular importance that jurisdiction be exercised by the authorities of Nicaragua.

(4) (a) The authorities of the United States of America and the authorities of Nicaragua shall assist each other in the arrest of members of the United States Coast Guard in the territory of Nicaragua and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Nicaragua shall notify promptly the authorities of the United States of America of the arrest of any member of the United States Coast Guard.

(c) The custody of an accused member of the United States Coast Guard over whom Nicaragua is to exercise jurisdiction shall be the responsibility of the United States of America pending completion of judicial proceedings. The United States authorities will make such an accused immediately available to the authorities of Nicaragua, upon their request, for purposes of investigation and trial.

(5) (a) The authorities of the United States of America and the authorities of Nicaragua shall assist each other in the carrying out of all necessary investiga-

tions into offenses, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of the United States of America and the authorities of Nicaragua shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

(6) Where an accused has been tried in accordance with the provisions of this Article either by the authorities of the United States of America or by the authorities of Nicaragua and has been acquitted, or has been convicted and is serving, or has served, his sentence, or has been pardoned, he may not be tried again for the same offense within the territory of Nicaragua by the authorities of the other State. However, nothing in this paragraph shall prevent the authorities of the United State of America from trying a member of the United States Coast Guard for any violation of rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of Nicaragua.

(7) Whenever a member of the United States Coast Guard is prosecuted under the jurisdiction of Nicaragua he shall be entitled :

- (a) To a prompt and speedy trial;
- (b) To be informed, in advance of trial, of the specific charge or charges made against him;
- (c) To be confronted with the witnesses against him;
- (d) To have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of Nicaragua;
- (e) To have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in Nicaragua;
- (f) If he considers it necessary, to have the services of a competent interpreter; and
- (g) To communicate with a representative of the Government of the United States of America and to have such a representative present at his trial.

(8) The United States Coast Guard shall have the right to police any facilities or areas which it uses under the terms of this Agreement. The authorities of the United States Coast Guard may take all appropriate measures to ensure the maintenance of order and security within the Loran Site.

Article X

MISCELLANEOUS PROVISIONS

Members of the United States Coast Guard shall be exempt from Nicaraguan passport and visa regulations and immigration inspection on entering or leaving Nicaraguan territory. They shall also be exempt from Nicaraguan regulations on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of Nicaragua.

Article XI

UNITED STATES PROPERTY PLACED ON SITE

Any property brought into or acquired in Nicaragua by the Government of the United States of America in connection with the Loran Station shall remain the property of the Government of the United States of America and may be removed from Nicaragua at any time. On the expiration of this Agreement property affixed to the land will not be removed or disposed of without first being offered for sale to the Government of Nicaragua at a residual-value price, to the extent of consistency with the laws of the United States then in effect. Any such property not removed or disposed of within a reasonable time after the termination of this Agreement shall become the property of the Government of Nicaragua.

Article XII

EFFECTIVE PERIODS

This Agreement shall come into force on the day of signature and shall continue in force for the period of ten years, and thereafter until the expiration of one year from the date on which either contracting party shall give notice to the other of its intention to terminate the Agreement.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement and have affixed hereunto their seals.

DONE in duplicate, in the English and the Spanish languages, both equally authentic, at Managua, D.N., this fifth day of September, one thousand nine hundred and fifty-eight.

Thomas E. WHELAN

Ambassador Extraordinary and Plenipotentiary of the United States of America

Alejandro MONTIEL ARGUELLO

Minister of Foreign Affairs of Nicaragua

[SEAL]

ANNEX A

PUERTO CABEZAS, REPUBLIC OF NICARAGUA

SITE DESCRIPTION

The site shall comprise approximately 49.33 acres located about two miles north-easterly of Puerto Cabezas, Republic of Nicaragua and more particularly described as follows:

Starting at a standard United States Coast Guard Brass Monument marked "ANTENNA OMAN 3 1956" traverse on an azimuth of $287^{\circ} 56'$ a distance of 760 feet to a Standard Hydro marker "GRET" which is the true point of beginning of the land to be described, thence:

- a. Azimuth $330^{\circ} 00'$ a distance of 284 feet more or less to the northwest corner of the parcel, thence;
- b. Azimuth $60^{\circ} 00'$ a distance of 1880 feet to the northeast corner of the parcel, thence;
- c. Azimuth $150^{\circ} 00'$ a distance of 645 feet more or less to the low tide line of the Caribbean Sea, thence;
- d. Southwesterly by the low tide line of the Caribbean Sea to a point where a line projected on an Azimuth of $150^{\circ} 00'$ from Standard Hydro Marker "GRET" would intersect the low tide line of the Caribbean Sea, thence;
- e. Azimuth $330^{\circ} 00'$ a distance of 1282 feet more or less to the point of true beginning,

containing 49.33 acres more or less, all as shown on Coast Guard Drawing No. 105789, dated 30 July 1956 and revised 27 November 1956, which is attached hereto¹ and made a part hereof; together with the necessary easements, rights, and licenses for the construction and exclusive use and operation by the United States Coast Guard of a Loran Station, including access roads and utilities. An access road shall generally follow the existing truck path shown on vicinity map on Drawing No. 105789.

¹ See insert between pp. 58 and 59 of this volume.