

DRAFT RESOLUTION

**APPOINTMENT OF A FACT-FINDING COMMISSION FOR THE SITUATION ON THE
BORDER BETWEEN COSTA RICA AND NICARAGUA**

(Presented by the Delegation of Costa Rica)

THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

TAKING INTO ACCOUNT that the Charter of the Organization of American States (OAS):

Determines that hemispheric peace and security are essential purposes of the Organization of American States and that the Organization is fully competent to take cognizance of deeds and events that jeopardize the fulfillment of said purposes;

Underscores, among the principles on which the Organization of American States is founded, respect for the personality, sovereignty, and independence of states and the faithful fulfillment of obligations derived from treaties and other sources of international law as elements essential for international order;

Likewise affirms that good faith and respect for international law are the standard of conduct of States in their reciprocal relations;

In its Article 21 emphasizes that “[t]he territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever” while also underlining that “No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.”;

Embraces, in Article 3. h), the principle that *“An act of aggression against one American State is an act of aggression against all the other American States”*, while also stipulating under Article 28, that *“[e]very act of aggression by a State against the territorial integrity or the inviolability of the territory or against the sovereignty or political independence of an American State shall be considered an act of aggression against the other American states”*;

Ratifies, in Article 29, the principles of continental solidarity and legitimizes the use of collective defense when *“the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an armed attack or by an act of aggression that is not an armed attack, or by an extra continental conflict, or by a conflict between two or more American States, or by any other fact or situation that might endanger the peace of America”*, and provides for measures and special procedures in such situations, a position which is moreover supported by other international instruments which reaffirm equivalent principles and norms, such as Article 51 of the Charter of the United Nations and Article 3 of the Inter-American Treaty for Reciprocal Assistance;

Reaffirms, in its Article 3 paragraph i, the principle that *“[c]ontroversies of an international character arising between two or more American States shall be settled by peaceful procedures”*; and

CONSIDERING:

That since Wednesday, October 20, 2010, in the border area of the San Juan River between the Republics of Costa Rica and Nicaragua, incidents have been reported, which Costa Rica has characterized as an invasion by the armed forces of Nicaragua, which affect, among others, its sovereignty and territorial integrity, while causing great environmental damage.

That since Sunday, October 31, 2010, a displacement of Nicaraguan military forces has been reported, heading towards the border area of the San Juan River, on the border with Costa Rica;

That Costa Rica has complained that, on Monday, November 1, 2010, Nicaraguan armed forces entered Costa Rican territory in the locality known as *“Finca Aragón”* in Isla Portillo-Isla Calero, in the Province of Limón, set up military camps, and hoisted the Nicaraguan flag, replacing

the Costa Rican flag placed by the Government of Costa Rica in that area in the exercise of its sovereignty.

That Costa Rica has classified these acts as a violation of its sovereignty and territorial integrity contrary to international law;

That the situation has caused a grave crisis which seriously undermines hemispheric peace and security;

That according to Article 84 of the Charter of the Organization of American States, it is the duty of the OAS to oversee the maintenance of friendly relations among its member states, applying the procedures indicated in that same Charter,

RESOLVES:

1. To reaffirm, the principle that the territory of a State is inviolable and it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly.

2. To call for respect and observance of the judgment made by the International Court of Justice on July 13, 2009, regarding the "Navigational and Related Rights in the San Juan River (Costa Rica vs. Nicaragua)" dispute.

3. To urge Nicaragua, in accordance with its obligations and commitments under international law, to immediately withdraw its military forces from Costa Rican territory and to abstain from carrying out acts that undermine the sovereignty and territorial integrity of Costa Rica or could in any way affect peace and security in the region.

4. To urgently request the Government of Nicaragua to suspend all work done on the San Juan River, resulting in the undermining of Costa Rica's territorial integrity or in damages to its environmental patrimony, as well as its sovereign rights.

5. To constitute a Commission headed by the Secretary General and composed of ambassadors designated by him, to verify the deeds denounced, covering the areas that the parties indicate and to present a report on the facts to the Permanent Council by no later than Monday, November 8, 2010.

6. To convene a Special Meeting of the Permanent Council on Tuesday, November 9th, 2010, at 10:00 a.m, to present the report and adopt the pertinent measures.